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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 319

[Docket No. APHIS–2013–0018]

RIN 0579–AD80

Importation of Mangoes From Jamaica Into the Continental United States

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the regulations concerning the importation of fruits and vegetables to allow the importation of mangoes from Jamaica into the continental United States. As a condition of entry, the mangoes must be produced in accordance with a systems approach employing a combination of mitigation measures for certain fruit flies, soft scale insects, and diseases and must be inspected prior to exportation from Jamaica and found free of these pests and diseases. The mangoes must be imported in commercial consignments only and be treated to mitigate the risk of fruit flies. The mangoes must also be accompanied by a phytosanitary certificate. This action will allow the importation of mangoes from Jamaica while continuing to protect against the introduction of plant pests into the United States.

DATES: *Effective Date:* October 20, 2014.

FOR FURTHER INFORMATION CONTACT: Mr. Tony Román, Senior Regulatory Policy Specialist, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, MD 20737–1231; (301) 851–2242.

SUPPLEMENTARY INFORMATION:

Background

The regulations in ''Subpart–Fruits and Vegetables'' (7 CFR 319.56–1 through 319.56–70, referred to below as the regulations) prohibit or restrict the importation of fruits and vegetables into the United States from certain parts of the world to prevent the introduction and dissemination of plant pests that are new to or not widely distributed within the United States.

On April 15, 2014, we published in the **Federal Register** (79 FR 21153–21156, Docket No. APHIS–2013–0018) a proposal [1] to amend the regulations to allow the importation of mangoes from Jamaica into the continental United States. We prepared a pest risk assessment (PRA), titled ''Importation of Mango Fruit, *Mangifera indica,* from Jamaica into the Continental United States'' (March 2013). The PRA evaluated the risks associated with the importation of mangoes into the continental United States from Jamaica. Based on the information contained in the PRA, we determined that measures beyond standard port-of-entry inspection are required to mitigate the risks posed by the quarantine pests. To recommend specific measures to mitigate those risks, we prepared a risk management document (RMD).

Based on the RMD, we proposed to require the mangoes to be produced under a systems approach employing a combination of mitigation measures for five quarantine pests (*Anastrepha obliqua, Anastrepha suspensa, Coccus moestus, Phomopsis mangiferae,* and *Xanthomonas campestris* pv. *mangiferaeindicae*) and inspected prior to exportation from Jamaica and found free of those pests. We proposed to require the mangoes to be imported in commercial consignments only and to be treated in accordance with 7 CFR part 305 to mitigate the risk of *Anastrepha* spp. fruit fly. We also proposed to require the mangoes to be accompanied by a phytosanitary certificate with an additional declaration.

We solicited comments concerning the proposed rule for 60 days ending June 16, 2014. We received four comments by that date, all from private citizens. Three of the comments we received were in support of the proposed rule; however, one commenter raised several concerns that are addressed below.

[1] To view the proposed rule, PRA, RMD, and the comments we received, go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2013-0018.*

The commenter stated that the mitigation measures seemed adequate for detecting pests on the surface of the mangoes but that stricter measures would need to be in place to detect eggs and larvae inside the fruit. The commenter suggested that we consider additional safeguards to detect internal pests, particularly to mitigate the risk of fruit flies.

As stated earlier, the systems approach requires that mangoes be treated in accordance with 7 CFR part 305. Specifically, mangoes are treated with either a hot water dip treatment or by irradiation using 150 Gy as the minimum absorbed dose. These mitigation options have proven to be effective against all stages of the fruit flies including eggs and larvae.

The commenter questioned whether or not inspection of mangoes alone is enough to detect *P. mangiferae* and *X. campestris* pv. *Mangiferaeindicae.*

P. mangiferae and *X. campestris* pv. *Mangiferaeindicae* are surface pathogens with the former penetrating no deeper than 10–20 mm from the surface. Both cause symptoms that are easily discernable, making inspections an effective tool to detect them. However, as an additional precaution, we are requiring that unless the mangoes originate from orchards that are inspected and found free of the pathogens, they must be subjected to either a pre-harvest or post-harvest application of a fungicide. These measures are consistent with those currently used to import mangoes from other countries; therefore, we are confident they are adequate to reduce the risks associated with the importation of mangoes from Jamaica.

The commenter asked why the importation of mangoes from Jamaica was necessary when the amount of mangoes estimated to be imported is low (less than 0.08 percent of U.S. mango imports).

This action is the result of a market access request made by Jamaica in 2009. It is our responsibility to consider these requests and analyze the potential pest risks associated with the commodity. If our findings suggest that the pest risks can be effectively mitigated then we will proceed with the rulemaking process to grant the requesting country's request.

Therefore, for the reasons given in the proposed rule and in this document, we are adopting the proposed rule as a final rule, without change.

Note: In our April 2014 proposed rule, we proposed to add the conditions governing the importation of mangoes from Jamaica as § 319.56–67. In this final rule, those conditions are added as § 319.56–71.

Executive Order 12866 and Regulatory Flexibility Act

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

In accordance with the Regulatory Flexibility Act, we have analyzed the potential economic effects of this action on small entities. The analysis is summarized below. Copies of the full analysis are available on the Regulations.gov Web site (see footnote 1 in this document for a link to Regulations.gov) or by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**.

This final rule is in response to a request from Jamaica to be allowed to export fresh mangoes to the continental United States. The annual quantity that Jamaica expects to export to the United States, 261 metric tons, represents less than 0.08 percent of U.S. mango imports (349,692 metric tons in 2012, primarily from Mexico, Peru, Ecuador, Brazil, and Guatemala). While mangoes are grown in Florida and Hawaii, and in smaller quantities in California and Texas, U.S. annual production totals only about 3,000 metric tons.

Most if not all U.S. mango farms and wholesalers are small entities. However, given the small quantity expected to be imported from Jamaica relative to current imports, the rule will not have a significant impact on U.S. mango producers. Moreover, the Jamaican mango season, March to July, only partially overlaps with that of the United States (Florida's season is May to September). U.S. importers may benefit marginally in having Jamaica as another source of fresh mangoes.

There are no recordkeeping or other compliance costs associated with the rule for U.S. entities, other than the import documentation normally required.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12988

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

Paperwork Reduction Act

In accordance with section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this final rule, which were filed under 0579–0419, have been submitted for approval to the Office of Management and Budget (OMB). When OMB notifies us of its decision, if approval is denied, we will publish a document in the **Federal Register** providing notice of what action we plan to take.

E-Government Act Compliance

The Animal and Plant Health Inspection Service is committed to compliance with the E-Government Act to promote the use of the Internet and other information technologies, to provide increased opportunities for citizen access to Government information and services, and for other purposes. For information pertinent to E-Government Act compliance related to this rule, please contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 851–2908.

List of Subjects in 7 CFR Part 319

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

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

PART 319—FOREIGN QUARANTINE NOTICES

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

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

■ 2. Section 319.56–71 is added to read as follows:

§ 319.56–71 Mangoes from Jamaica.

Mangoes (*Mangifera indica*) may be imported into the continental United States from Jamaica only under the following conditions:

(a) *General requirements.* (1) The national plant protection organization (NPPO) of Jamaica must provide an operational workplan to APHIS that details the activities that the NPPO of Jamaica, subject to APHIS' approval of the workplan, will carry out to meet the requirements of this section.

(2) The mangoes must be grown at places of production that are registered with the NPPO of Jamaica and that meet the specifications detailed in the workplan. If a pest or disease is detected at the port of entry in the United States, the consignment of mangoes would be prohibited entry into the United States and further shipments from the place of production where the mangoes were grown will be prohibited until an investigation is conducted and APHIS and the NPPO of Jamaica agree that the risk has been mitigated.

(3) The mangoes may be imported in commercial consignments only.

(b) *Treatment.* The mangoes must be treated for *Anastrepha* spp. fruit flies in accordance with part 305 of this chapter.

(c) *Packaging.* The mangoes must be safeguarded from exposure to fruit flies from the time of treatment to export, including packaging that prevents access by fruit flies and other injurious insect pests. The package containing the mangoes could not contain any other fruit, including mangoes not qualified for importation into the United States.

(d) *Inspection.* The mangoes must be inspected by the NPPO of Jamaica and found free of *Coccus moestus.*

(e) *Plant pathogens.* The risks presented by *Phomopsis mangiferae* and *Xanthomonas campestris* pv. *mangiferaeindicae* must be addressed in one of the following ways:

(1) The mangoes are treated with a broad-spectrum pre- or post-harvest fungicidal application; or

(2) The mangoes are inspected prior to export from Jamaica and found free of *P. mangiferae* and *X. campestris* pv. *mangiferaeindicae.*

(f) *Phytosanitary certificate.* Each consignment of fruit must be inspected by the NPPO of Jamaica and accompanied by a phytosanitary certificate issued by the NPPO of Jamaica with one of the following additional declarations.

(1) For mangoes that were subject to treatment for *Anastrepha* spp. fruit flies in Jamaica, the additional declaration must state that the mangoes were subjected to treatment in accordance with 7 CFR part 305 for *Anastrepha* spp. fruit flies; that the mangoes were inspected and found free of *C. moestus;* and that the mangoes were either treated with a pre- or post-harvest fungicidal

application or they were inspected prior to export and found free of *P. mangiferae* and *X. campestris* pv. *mangiferaeindicae.*

(2) If the mangoes are to be treated for *Anastrepha* spp. fruit flies upon arrival in the United States, the additional declaration must state that the mangoes were inspected and found free of *C. moestus* and were either treated with a pre- or post-harvest fungicidal application or inspected prior to export and found free of *P. mangiferae* and *X. campestris* pv. *mangiferaeindicae.*

(Approved by the Office of Management and Budget under control number 0579–0419)

Done in Washington, DC, this 12th day of September 2014.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2014–22290 Filed 9–17–14; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Rural Housing Service

Rural Business-Cooperative Services

Rural Utilities Service

Farm Service Agency

7 CFR Parts 1940, 1942, 1944, 1948, and 1980

RIN 0575–ZA01

Eliminate the 6-Day Reservation Period Requirement for Rural Development Obligations

AGENCY: Rural Housing Service, Rural Business-Cooperative Service, Rural Utilities Service, and Farm Service Agency, USDA.

ACTION: Direct final rule.

SUMMARY: Rural Development (RD) is amending the regulations so that an obligation date for all guaranteed loans, direct loans, and grants will no longer be 6 working days from the date of request for reservation of authority. This action is necessary as the 6-day reservation period will be permanently removed from the Commercial Loan Servicing System (CLSS), Guaranteed Loan System (GLS), and Program Loan Accounting System (PLAS). The effect of this action will reduce system or manual intervention when legislative mandates direct cutoff for obligations and/or funding; eliminate program waivers on obligation date; increase consistency with other RD programs; reduce risks with new system implementations, such as the Financial Modernization Management Initiative; and eliminate numerous reconciliation issues between processed obligations and actual obligations for internal RD reports and USDA reporting requirements.

DATES: This rule will become effective January 16, 2015 without further action, unless the Agency receives written adverse comments on or before November 17, 2014. If the Agency receives adverse comments, the Agency will publish a timely document in the **Federal Register** withdrawing the amendment.

Any adverse comments received will be considered under the proposed rule published in this edition of the **Federal Register** in the proposed rule section. A second public comment period will not be held. Written comments must be received by the Agency or carry a postmark no later than November 17, 2014.

ADDRESSES: You may submit comments to this rule by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the instructions for submitting comments.
- *Mail:* Submit written comments via the U.S. Postal Service to the Branch Chief, Regulations and Paperwork Management Branch, U.S. Department of Agriculture, STOP 0742, 1400 Independence Avenue SW., Washington, DC 20250–0742.
- *Hand Delivery/Courier:* Submit written comments via Federal Express Mail or other courier service requiring a street address to the Branch Chief, Regulations and Paperwork Management Branch, U.S. Department of Agriculture, 300 7th Street SW., 7th Floor, Washington, DC 20024.

All written comments will be available for public inspection during regular work hours at 300 7th Street SW., 7th Floor address listed above.

FOR FURTHER INFORMATION CONTACT: Ms. Amanda Lammering, Rural Development, U.S. Department of Agriculture, 4300 Goodfellow Blvd., FC–33, St. Louis, MO 63120; email: *amanda.lammering@stl.usda.gov;* telephone (314) 457–4058; or Ms. Kristen Landwehr, Rural Development, U.S. Department of Agriculture, 4300 Goodfellow Blvd., FC–33, St. Louis, MO 63120; email: *kristen.landwehr@stl.usda.gov;* telephone (314) 457–4180.

SUPPLEMENTARY INFORMATION:

Background

Various RD automated accounting systems are designed to process obligations for Business, Community Facility, and Water and Environmental direct loan, guaranteed loan, and grant programs using a 6-day reservation period. The 6-day reservation period is a system edit in the PLAS, GLS, and CLSS that assigns an obligation date to an RD funded project 6 working days from the date funds are reserved.

When RD programs are funded through a continuing resolution, the accounting systems must be modified to waive the 6-day reservation edit. In Fiscal Year 2011, RD received six continuing resolutions followed by four continuing resolutions in Fiscal Year 2012 which resulted in cumbersome systems' modifications. These modifications have caused undue hardship to RD staff due to last minute continuing resolution decisions, manual system adjustments needed, and time consuming coordination efforts.

Several new RD programs have not implemented a 6-day reservation period for obligations. Under the American Recovery and Reinvestment Act of 2009 (ARRA) the Business and Industry (B&I) Guaranteed Loan Program disabled the 6 day reservation period along with the Biorefinery Assistance Program of the 2008 Farm Bill. Additionally, Rural Electric and Telecommunication, Single Family Housing, and Multi-Family Housing loans do not have a 6-day reservation requirement when obligating program funds.

To maintain consistency and uniformity across RD's automated accounting systems, RD will be removing the 6-day reservation system edit on obligations. As automation for this enhancement is completed, program staffs will have immediate knowledge of approved obligations as opposed to showing the obligations on reserved status. Field office personnel will adhere to a 6-working day waiting period prior to notifying an applicant/lender of loan and/or grant approval. Rural Development believes the removal of the 6-day reservation period on obligations for guaranteed loans, direct loans, and grants to be a noncontroversial change to the regulations with no impact on the public.

Programs Affected

The programs described by this rule are listed in the Catalog of Federal Domestic Assistance Programs under number(s) 10.350 Technical Assistance to Cooperatives, 10.352 Value-Added Producer Grants, 10.420 Rural Self-Help Housing Technical Assistance, 10.433 Rural Housing Preservation Grants, 10.446 Rural Community Development Initiative, 10.759 Part 1774 Special Evaluation Assistance for Rural

Communities and Household Program (SEARCH), 10.760 Water and Waste Disposal Systems for Rural Communities, 10.761 Technical Assistance and Training Grants, 10.762 Solid Waste Management Grants, 10.763 Emergency Community Water Assistance Grants, 10.766 Community Facilities Loans and Grants, 10.767 Intermediary Relending Program, 10.768 Business and Industry Loans, 10.769 Rural Business Enterprise Grants, 10.770 Water and Waste Disposal Loans and Grants (section 306C), 10.771 Rural Cooperative Development Grants, 10.773 Rural Business Opportunity Grants, 10.778 Research on the Economic Impact of Cooperatives, 10.781 Water and Waste Disposal Systems for Rural Communities—ARRA, 10.854 Rural Economic Development Loans and Grants, 10.856 1890 Land Grant Institutions Rural Entrepreneurial Outreach Program, 10.858 Denali Commission Grants and Loans, 10.862 Household Water Well System Grant Program, 10.864 Grant Program to Establish a Fund for Financing Water and Wastewater Projects, 10.866 Repowering Assistance, 10.868 Rural Energy for America Program, 10.870 Rural Micro entrepreneur Assistance Program.

Executive Order 12866—Classification

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

Non-Discrimination Statement

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because of all or part of an individual's income is derived from any public assistance program. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720–2600 (voice and TDD).

If you wish to file a Civil Rights program complaint of discrimination, complete the USDA Program Discrimination Complaint Form, found online at *http://www.ascr.usda.gov/complaint_filing_cust.html,* or at any USDA office, or call (866) 632–9992 to request the form. You may also write a letter containing all of the information requested in the form. Send your completed complaint form or letter to us by mail at U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue SW., Washington, DC 20250–9410, by fax (202) 690–7442 or email at *program.intake@usda.gov.* Individuals who are deaf, hard of hearing or have speech disabilities and you wish to file a program complaint please contact USDA through the Federal Relay Service at (800) 877–8339 or (800) 845–6136 (in Spanish). USDA is an equal opportunity provider and employer.

Civil Rights Impact Statement

No major civil rights impact is likely to result from the announcement of this notice. It will not have a negative civil rights impact on very-low income, low income, and moderate income and minority populations.

Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR part 1940, subpart G, ''Environmental Program.'' Rural Development has determined that this action does not constitute a major Federal action significantly affecting the quality of the human environment and, in accordance with the National Environmental Policy Act (NEPA) of 1969, 42 U.S.C. 4321 *et seq.,* an Environmental Impact Statement is not required.

Executive Order 12372, Intergovernmental Consultation

This program is not subject to the requirements of Executive Order 12372, ''Intergovernmental Review of Federal Programs,'' as implemented under USDA's regulations at 7 CFR part 3015.

Executive Order 12988, Civil Justice

This direct final rule has been reviewed under Executive Order 12988, Civil Justice Reform. In accordance with this rule: (1) All State and local laws and regulations that are in conflict with this rule will be preempted; (2) no retroactive effect will be given this rule; and (3) administrative proceedings in accordance with the regulations of the Department of Agriculture's National Appeals Division (7 CFR part 11) must be exhausted before bringing suit in court challenging action taken under this rule unless those regulations specifically allow bringing suit at an earlier time.

Executive Order 13132, Federalism

The policies contained in this direct final rule do not have any 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. Nor does this rule impose substantial direct compliance costs on State and local governments. Therefore, consultation with states is not required.

Regulatory Flexibility Act Certification

The Regulatory Flexibility Act (5 U.S.C. 601–602) (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act (''APA'') or any other statute. This rule, however, is not subject to the APA under 5 U.S.C 553(a)(2) and 5 U.S.C. 553(b)(3)(A) nor any other statute.

Unfunded Mandates

Title II of the Unfunded Mandate Reform Act of 1995 (UMRA, Pub. L. 104–4) requires Federal agencies to assess the effects of their regulatory actions on State, local, or Tribal governments or the private sector. Agencies generally must prepare a written statement, including a cost benefit analysis, for proposed and final rules with Federal mandates that may result in expenditures of $100 million or more in any 1 year for State, local, or Tribal governments, in the aggregate, or to the private sector. UMRA generally requires agencies to consider alternatives and adopt the more cost effective or least burdensome alternative that achieves the objectives of the rule.

This direct final rule contains no Federal mandates (under the regulatory provisions of Title II of the Unfunded Mandates Reform Act of 1995) for State, local, and tribal Governments or the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of the Unfunded Mandates Reform Act of 1995.

Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

This executive order imposes requirements on Rural Development in the development of regulatory policies that have tribal implications or preempt tribal laws. Rural Development has determined that the final rule does not have a substantial direct effect on one or more Indian tribe(s) or on either the relationship or the distribution of powers and responsibilities between the Federal Government and Indian tribes. Thus, this final rule is not subject to the requirements of Executive Order 13175. If a tribe determines that this rule has implications of which Rural

Development is not aware and would like to engage with Rural Development on this rule, please contact Rural Development's Native American Coordinator at *AIAN@wdc.usda.gov*.

Paperwork Reduction Act

This rule does not contain any information collection requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

E-Government Act Compliance

Rural Development is committed to complying with the E-Government Act, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

List of Subjects

7 CFR Part 1940

Agriculture, Grant programs-agriculture, Grant programs-housing and community development, Loan programs-agriculture, Loan programs-housing and community development, Rural areas.

7 CFR Part 1942

Business and industry, Community facilities, Grant programs-business, Grant programs-housing and community development, Grant programs-Indians, Indians, Loan programs-agriculture, Loan programs-housing and community development, Loan programs-Indians, Loan programs-natural resources, Rural areas, Waste treatment and disposal, Water supply, Watersheds.

7 CFR Part 1944

Administrative practice and procedure, Cooperatives, Grant programs housing and community development, Loan programs-housing and community development, Rural areas.

7 CFR Part 1948

Community facilities, Grant programs-housing and community development, Rural areas.

7 CFR Part 1980

Agriculture, Business and industry, Community facilities, Disaster assistance, Loan programs-agriculture, Loan programs-business, Loan programs-housing and community development, Rural areas.

For the reasons set forth in the preamble, chapter XVIII, title 7, of the Code of Federal Regulations is amended as follows:

CHAPTER XVIII—RURAL HOUSING SERVICE, RURAL BUSINESS–COOPERATIVE SERVICE, RURAL UTILITIES SERVICE, AND FARM SERVICE AGENCY, DEPARTMENT OF AGRICULTURE

PART 1940—GENERAL

■ 1. The authority citation for part 1940 continues to read as follows:

Authority: 5 U.S.C. 301; 7 U.S.C. 1989; and 42 U.S.C. 1480.

Subpart L—Methodology and Formulas for Allocation of Loan and Grant Program Funds

■ 2. Amend § 1940.588 by revising paragraph (i) to read as follows:

§ 1940.588 Business and Industry Guaranteed and Direct Loans

* * * * *

(i) Availability of the allocation. See § 1940.552(i) of this subpart.

* * * * *

PART 1942—ASSOCIATIONS

■ 3. The authority citation for part 1942 continues to read as follows:

Authority: 5 U.S.C. 301; 7 U.S.C. 1989.

Subpart A—Community Facility Loans

■ 4. Amend § 1942.5 by revising paragraph (d)(4) and the first sentence of paragraph (d)(6) to read as follows:

§ 1942.5 Application review and approval.

* * * * *

(d) * * *

(4) The date the applicant is notified of loan and/or grant approval is six working days from the date funds are reserved unless an exception is granted by the National Office.

* * * * *

(6) Loan approval and applicant notification will be accomplished by the State Director or designee by mailing to the applicant, 6 working days from the obligation date, a copy of Form FmHA or its successor agency under Public Law 103–354 1940–1 which has been previously signed by the applicant and loan approval official. * * *

* * * * *

PART 1944—HOUSING

■ 5. The authority citation for part 1944 continues to read as follows:

Authority: 5 U.S.C. 301; 42 U.S.C. 1480.

Subpart K—Technical and Supervisory Assistance Grants

■ 6. Amend § 1944.533 by revising the last sentence of paragraph (f)(2)(i) and the introductory text of paragraph (f)(4) to read as follows:

§ 1944.533 Grant approval and announcement.

* * * * *

(f) * * *

(2) * * *

(i) * * * The obligation date will be the date the request for obligation is processed.

* * * * *

(4) An executed form FmHA or its successor agency under Public Law 103–354 1940–1 will be sent to the applicant along with an executed copy of the Grant Agreement and scope of work 6 working days from the date funds are obligated.

* * * * *

PART 1948—RURAL DEVELOPMENT

■ 7. The authority citation for part 1948 continues to read as follows:

Authority: 5 U.S.C. 301, 7 U.S.C. 1932 note.

Subpart B—Section 601 Energy Impacted Area Development Assistance Program

■ 8. Amend § 1948.92 by revising the last sentence of paragraph (g)(3) and paragraph (g)(8) to read as follows:

§ 1948.92 Grant approval and fund obligation.

* * * * *

(g) * * *

(3) * * * The obligation date will be the date the request for obligation is processed.

* * * * *

(8) An executed copy of Form FmHA or its successor agency under Public Law 103–354 440–1 shall be sent to the applicant along with an executed copy of the grant agreement and scope of work 6 working days from the date funds are obligated.

* * * * *

PART 1980—GENERAL

■ 9. The authority citation for part 1980 continues to read as follows:

Authority: 5 U.S.C. 301 and 7 U.S.C. 1989. Subpart E also issued under 7 U.S.C. 1932(a).

Subpart E—Business and Industrial Loan Program

■ 10. In § 1980.452 under the heading ''Administrative'', revise the fifth

sentence of paragraph D.6. introductory text and the third sentences of paragraph D.6.d. to read as follows:

§ 1980.452 FmHA or its successor agency under Public Law 103–354 evaluation of application.

* * * * *

D. * * *

6. * * * Notice of approval to lender will be accomplished by providing or sending the lender the signed copy of Form FmHA or its successor agency under Public Law 103–354 1940–3 and Form FmHA or its successor agency under Public Law 103–354 449–14 six working days from the date funds are reserved, unless an exception is granted by the National Office. * * *

* * * * *

(d) * * * The obligation date will be the date of the request for reservation of authority which is being processed in the Finance Office. * * *

* * * * *

Dated: August 7, 2014.

Doug O'Brien,

Under Secretary, Rural Development.

Dated: September 3, 2014.

Michael Scuse,

Under Secretary, Farm and Foreign Agricultural Services.

[FR Doc. 2014–21704 Filed 9–17–14; 8:45 am]

BILLING CODE 3410–XT–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Parts 101 and 113

[Docket No. APHIS–2013–0034]

RIN 0579–AD86

Viruses, Serums, Toxins, and Analogous Products; Standard Requirements; Addition of Terminology To Define Veterinary Biologics Test Results

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the veterinary biological product regulations by defining the terms used for reporting the results of tests performed on veterinary biological products. Licensees and permittees of veterinary biological products must conduct these tests and report the results to the Animal and Plant Health Inspection Service so that the Agency can determine if the products are eligible for release. Defining these terms will clarify the circumstances under which the results of a prescribed test can be reported as satisfactory, unsatisfactory, inconclusive, or a No Test. We are also removing several obsolete testing standard requirements from the regulations. These changes will update our regulations and improve communication between regulators and product licensees and permittees with respect to reporting test results.

DATES: *Effective Date:* October 20, 2014.

FOR FURTHER INFORMATION CONTACT: Dr. Donna Malloy, Operational Support Section, Center for Veterinary Biologics Policy, Evaluation, and Licensing, VS, APHIS, 4700 River Road, Unit 148, Riverdale, MD 20737–1231; (301) 851–3426.

SUPPLEMENTARY INFORMATION:

Background

The Animal and Plant Health Inspection Service (APHIS) administers and enforces the Virus-Serum-Toxin Act (21 U.S.C. 151 *et seq.*). Under the Virus-Serum-Toxin Act, a veterinary biological product must be shown to be pure, safe, potent, and efficacious before a veterinary biological product license may be issued. The regulations in 9 CFR part 113, ''Standard Requirements'' (referred to below as the regulations), prohibit the release of biological products prior to the completion of tests identified in the regulations and in the Outline of Production, a document submitted by the licensee that explains how a serial of product is formulated, tested, packaged, dated, and recommended for use.

On May 30, 2014, we published in the **Federal Register** (79 FR 31054–31056, Docket No. APHIS–2013–0034) a proposal [1] to amend the regulations by defining the terms used for reporting the results of tests performed on veterinary biological products. We proposed to add definitions of the terms used to designate test results, ''satisfactory,'' ''unsatisfactory,'' and ''inconclusive,'' to § 101.5(l) and to revise the definition of ''No Test'' currently in that section in order to align the regulations in 9 CFR part 113 with current industry standards and practices. We also proposed to remove §§ 113.201, 113.202, 113.203, 113.211, 113.213, and 113.214 from the regulations. These standards, which involve testing on live animals, are no longer used by the industry because newer testing methods are available.

We solicited comments concerning our proposal for 60 days ending July 29, 2014. We did not receive any comments. Therefore, for the reasons given in the proposed rule, we are adopting the proposed rule as a final rule, without change.

[1] To view the proposed rule and supporting documentation, go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2013-0034.*

Executive Order 12866 and Regulatory Flexibility Act

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

In accordance with the Regulatory Flexibility Act, we have analyzed the potential economic effects of this action on small entities. The analysis is summarized below. Copies of the full analysis are available on the Regulations.gov Web site (see footnote 1 in this document for a link to Regulations.gov) or by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**.

APHIS is amending the regulations in order to better define the terminology used when reporting the results of tests performed on veterinary biological products, thereby bringing the regulations up to date with current industry standards.

The changes will clarify when the results of a prescribed test can be reported as satisfactory, unsatisfactory, inconclusive, or can be designated as a No Test. The definitional changes will improve communication between APHIS and the regulated industry, and enable APHIS to more efficiently process the release of a tested product using current industry standards for reporting of test results.

There are about 330 firms in the United States that manufacture biological products. It is not known how many of these firms are engaged in manufacturing biologic products specifically for veterinary purposes. The Small Business Administration (SBA) standard for a small business in this industry is a firm with not more than 500 employees; the average firm in this industry has 93 employees. While most firms that would be affected by this rule are small, the changes will not impose a financial burden on them, but rather help make the product approval process timelier.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires

intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12988

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. It is not intended to have retroactive effect. This rule will not preempt any State or local laws, regulations, or policies where they are necessary to address local disease conditions or eradication programs. However, where safety, efficacy, purity, and potency of biological products are concerned, it is the Agency's intent to occupy the field. This includes, but is not limited to, the regulation of labeling. Under the Act, Congress clearly intended that there be national uniformity in the regulation of these products. There are no administrative proceedings which must be exhausted prior to a judicial challenge to the regulations under this rule.

Paperwork Reduction Act

This final rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects

9 CFR Part 101

Animal biologics.

9 CFR Part 113

Animal biologics, Exports, Imports, Reporting and recordkeeping requirements.

Accordingly, we are amending 9 CFR parts 101 and 113 as follows:

PART 101—DEFINITIONS

■ 1. The authority citation for part 101 continues to read as follows:

Authority: 21 U.S.C. 151–159; 7 CFR 2.22, 2.80, and 371.4.

■ 2. In § 101.5, paragraph (l) is revised to read as follows:

§ 101.5 Testing terminology.

* * * * *

(l) *Test results.* Terms used to designate testing results are as follows:

(1) *No Test.* Designation used when a deficiency in the test system has rendered a test unsuitable for drawing a valid conclusion.

(2) *Satisfactory.* Designation is a final conclusion given to a valid test with results that meet the release criteria stated in the filed Outline of Production or Standard Requirement.

(3) *Unsatisfactory.* Designation is a final conclusion given to a valid test with results that do not meet the release criteria stated in the filed Outline of Production or Standard Requirement.

(4) *Inconclusive.* Designation used for an initial test when a sequential test design established in the filed Outline of Production or Standard Requirement allows further testing if a valid initial test is not satisfactory.

* * * * *

PART 113—STANDARD REQUIREMENTS

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

Authority: 21 U.S.C. 151–159; 7 CFR 2.22, 2.80, and 371.4.

■ 4. In § 113.5, paragraph (d) is revised to read as follows:

§ 113.5 General testing.

* * * * *

(d) When the initial or any subsequent test is declared a No Test, the reasons shall be reported in the test records, the results shall not be considered as final, and the test may be repeated. When a test is declared satisfactory, the test designation is considered to be a final conclusion. When a test is declared unsatisfactory, the test designation is considered to be a final conclusion. When the initial or any subsequent test is declared inconclusive, the reasons shall be reported in the test records, the result shall not be considered as final, and the test may be repeated as established in the filed Outline of Production or Standard Requirement. If a test is designated inconclusive or No Test and the biological product is not further tested, the test designation of unsatisfactory is the final conclusion.

* * * * *

§§ 113.33, 113.36, 113.38, 113.39, 113.40, 113.41, 113.44, 113.45, 113.47, 113.67, 113.70, 113.71, 113.108, 113.109, 113.111, 113.112, 113.116, 113.117, 113.118, 113.204, 113.205, 113.207, 113.208, 113.215, 113.216, 113.301, 113.302, 113.303, 113.304, 113.305, 113.306, 113.310, 113.311, 113.313, 113.314, 113.315, 113.316, 113.317, 113.318, 113.326, 113.327, 113.328, 113.329, 113.330, 113.331, 113.332, 113.406, 113.450, 113.454, and 113.455 [Amended]

■ 5. Sections 113.33, 113.36, 113.38, 113.39, 113.40, 113.41, 113.44, 113.45, 113.47, 113.67, 113.70, 113.71, 113.108, 113.109, 113.111, 113.112, 113.116, 113.117, 113.118, 113.204, 113.205, 113.207, 113.208, 113.210, 113.215, 113.216, 113.301, 113.302, 113.303, 113.304, 113.305, 113.306, 113.310, 113.311, 113.313, 113.314, 113.315, 113.316, 113.317, 113.318, 113.326, 113.327, 113.328, 113.329, 113.330, 113.331, 113.332, 113.406, 113.450, 113.454, and 113.455 are amended by removing the word ''inconclusive'' each time it occurs and by adding the words ''a No Test'' in its place.

§§ 113.109, 113.111, and 113.112 [Amended]

■ 6. Sections 113.109, 113.111, and 113.112 are amended by removing the word ''invalid'' each time it occurs and adding the words ''a No Test'' in its place.

§§ 113.201, 113.202, 113.203, and 113.211 [Removed and Reserved]

■ 7. Sections 113.201, 113.202, 113.203, and 113.211 are removed and reserved.

§ 113.212 [Amended]

■ 8. In § 113.212, paragraphs (b) and (d)(1) are amended by removing the word ''inconclusive'' each time it occurs and replacing it with the words ''a No Test''.

§§ 113.213 and 113.214 [Removed and Reserved]

■ 9. Sections 113.213 and 113.214 are removed and reserved.

■ 10. Section 113.325 is amended as follows:

■ a. By revising paragraph (b); and

■ b. In paragraphs (c)(4), (d)(1), and (d)(2)(ii), by removing the word ''inconclusive'' each time it occurs and replacing it with the words ''a No Test''.

The revision reads as follows:

§ 113.325 Avian Encephalomyelitis Vaccine.

* * * * *

(b) Each lot of Master Seed Virus shall be tested for pathogens by the chicken embryo inoculation test prescribed in § 113.37, except that, if the test is a No Test because of a vaccine virus override, the test may be repeated and if the repeat test is inconclusive for the same reason, the chicken inoculation test prescribed in § 113.36 may be conducted and the virus judged accordingly.

* * * * *

Done in Washington, DC, this 12th day of September 2014.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2014–22294 Filed 9–17–14; 8:45 am]

BILLING CODE 3410–34–P

BUREAU OF CONSUMER FINANCIAL PROTECTION

12 CFR Part 1005

[Docket No. CFPB–2014–0008]

RIN 3170–AA45

Electronic Fund Transfers (Regulation E)

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Final rule; official interpretation.

SUMMARY: The Bureau of Consumer Financial Protection (Bureau) is amending subpart B of Regulation E, which implements the Electronic Fund Transfer Act, and the official interpretation to the regulation (Remittance Rule). This final rule extends a temporary provision that permits insured institutions to estimate certain pricing disclosures pursuant to section 1073 of the Dodd-Frank Wall Street Reform and Consumer Protection Act. Absent further action by the Bureau, that exception would have expired on July 21, 2015. Based on a determination that the termination of the exception would negatively affect the ability of insured institutions to send remittance transfers, the Bureau is extending the temporary exception by five years from July 21, 2015, to July 21, 2020. The Bureau is also making several clarifications and technical corrections to the regulation and commentary.

DATES: This rule is effective on November 17, 2014.

FOR FURTHER INFORMATION CONTACT: Jane G. Raso and Shiri Wolf, Counsels; Eric Goldberg, Senior Counsel, Office of Regulations, at (202) 435–7700 or *CFPB_RemittanceRule@consumerfinance.gov.* Please also visit the following Web site for additional information about the Remittance Rule: *http://www.consumerfinance.gov/remittances-transfer-rule-amendment-to-regulation-e/.*

SUPPLEMENTARY INFORMATION:

I. Summary of the Final Rule

This final rule amends regulations that implement provisions of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) that establish a new system of federal protections for remittance transfers sent by consumers in the United States to individuals and businesses in foreign countries.[1] The amendments in this final rule extend by five years an exception in the rule that allows remittance transfer providers flexibility in meeting disclosure requirements that the Bureau believes would otherwise cause some remittance transfer providers to stop sending certain transfers, as well as making clarifications and technical corrections on various issues. The Bureau proposed these amendments in April 2014 (the April Proposal or the Proposal).

A. Temporary Exception for Estimated Disclosures

The Dodd-Frank Act provisions adopted by Congress as section 919(a)(4) of the Electronic Fund Transfer Act (EFTA) generally requires that consumers be provided with exact pricing disclosures before paying for a remittance transfer. However, Congress created a temporary provision that allowed insured institutions for several years to provide estimated disclosures where exact information could not be determined for reasons beyond their control. The provision was apparently designed to provide a transition period to allow credit unions, banks, and thrifts to develop better communication mechanisms with foreign financial institutions that may help execute wire transfers and certain other types of remittance transfers.

The statute provides that the exception shall expire five years after the enactment of the Dodd-Frank Act, or July 21, 2015, but permits the Bureau, if it determines that expiration of the temporary exception would negatively affect the ability of insured institutions to send remittances to locations in foreign countries, to extend the temporary exception for up to ten years after enactment of the Dodd-Frank Act (*i.e.,* to July 21, 2020). EFTA section 919(a)(4)(B). Having made that determination after a period of public comment, the Bureau is now extending the Regulation E estimation provision that implements this statutory provision, § 1005.32(a) in the Remittance Rule, to July 21, 2020.

B. Additional Clarifications

The Bureau is also adopting several clarifications and technical corrections to the Remittance Rule. First, the Bureau is clarifying that U.S. military installations abroad are considered to be located in a State for purposes of the Remittance Rule. Second, the Bureau is clarifying that whether a remittance transfer from an account is for personal, family, or household purposes (and thus, whether the transfer could be a remittance transfer) may be determined by ascertaining the primary purpose of the account. Third, the Bureau is clarifying that faxes are considered writings for purposes of satisfying certain provisions of the Remittance Rule that require remittance transfer providers to provide disclosures in writing, and that, in certain circumstances, a provider may provide oral disclosures after receiving a remittance inquiry from a consumer in writing. Fourth, the final rule permits providers to include the Bureau's new remittance-specific consumer Web pages as the Bureau Web site that providers must disclose on remittance transfer receipts. Finally, the Bureau is clarifying two of the rule's error resolution provisions: What constitutes an ''error'' caused by delays related to fraud and related screenings, and the remedies for certain errors, including the clarification of a comment in the official interpretation to the rule.

II. Background

A. Types of Remittance Transfers

As the Bureau discussed in more detail when it first published the Remittance Rule in February 2012, consumers can choose among several methods of transferring money to foreign countries (February 2012 Final Rule). 77 FR 6194 (Feb. 7, 2012). These methods generally involve either closed network or open network systems, although hybrids between open and closed networks also exist. Consistent with EFTA section 919, the Remittance Rule applies to remittance transfers sent through any electronic mechanism, including closed network and open network systems, or some hybrid of the two. As detailed below, in practice, the situations in which the temporary exception applies frequently involve remittance transfers sent through open networks.

Closed Networks and Money Transmitters

In a closed network, a remittance transfer provider uses either its own operations or a network of agents or other partners to collect funds from senders in the United States and disburse those funds to designated recipients abroad. Through the provider's contractual arrangements with those agents or other partners, the provider typically can exercise some control over the remittance transfer from end to end, including the ability to set, limit, and/or learn of fees, exchange rates, and other terms of service.

[1] Public Law 111–203 was signed into law on July 21, 2010. Between February 2012 and August 2013, the Bureau issued several final rules concerning remittance transfers pursuant to the Dodd-Frank Act (collectively, the 2013 Final Rule or the Remittance Rule). The Remittance Rule took effect on October 28, 2013.

Accordingly, the Bureau expects that a provider that is sending remittance transfers using some version of a closed network is likely able to leverage its control and knowledge of the transfer terms in order to be able to disclose the exact exchange rates and third-party fees that apply to remittance transfers.

Non-depository institutions, known generally as money transmitters, are the type of remittance transfer providers that most frequently use closed networks to send remittance transfers. Remittance transfers sent through money transmitters can be funded by the sender and received abroad using a variety of payments devices. However, the Bureau believes that most remittance transfers sent by money transmitters are currently sent and received abroad in cash, rather than as, for example, debits from and/or direct deposits to accounts held by depository institutions or credit unions.

Open Networks and Wire Transfers

As the data discussed below indicates, the most common form of open network remittance transfer is a wire transfer, an electronically transmitted order that directs a receiving institution to deposit funds into an identified beneficiary's account. Indeed, virtually all bank respondents to the March 2014 Federal Financial Institutions Examination Council (FFIEC) Consolidated Reports of Condition and Income (FFIEC Call Report) [2] who reported that they were remittance transfer providers said they provided wire transfer services to consumers.[3] Unlike closed network transactions, which generally can only be sent to entities that have signed on to work with the specific provider in question, wire transfers can reach most banks (or other similar institutions) worldwide through national payment systems that are connected through correspondent and other intermediary bank relationships. Also unlike closed networks, open networks are typically used to send funds from and to accounts at depository institutions, credit unions, or similar financial institutions. The Bureau believes that the great majority of open network transfers are provided by insured institutions (including credit unions) and that, in turn, open network transfers are the most common type of remittance transfer provided by insured institutions and broker-dealers. However, some money transmitters also use open networks to send some or all of their remittance transfers.

In an open network, the remittance transfer provider with which the consumer interfaces (*i.e.,* the originating institution), typically does not have control over, or a relationship with, all of the participants in transmitting the remittance transfer. The originating institution may communicate indirectly with the designated recipient's institution by sending funds and payment instructions to a correspondent institution, which will then transmit the instructions and funds to the designated recipient's institution directly, such as in the form of a book transfer, or indirectly through other intermediary institutions (a serial payment). Alternatively, under certain circumstances, the originating institution may send payment instructions directly to the designated recipient's institution, but it will nevertheless rely on a network of intermediary bank relationships to send funds for settlement (a cover payment). In some cases, depending on how the transfer is sent, any one of the intermediary institutions through which the remittance transfer passes may deduct a fee from the principal amount (sometimes referred to as a lifting fee). Likewise, if the originating institution does not conduct any necessary currency exchange, any institution through which the funds pass potentially could perform the currency exchange before the designated recipient's institution deposits the funds into the designated recipient's account.

Institutions involved in open network transfers may learn about each other's practices regarding fees or other matters through contractual or other relationships, through experience in sending such transfers over time, through reference materials, through information provided by consumers, or through surveying other institutions. However, at least until the implementation of the Remittance Rule, intermediary and designated recipient institutions did not, as a matter of uniform practice, communicate with originating institutions regarding the fees and exchange rates that institutions might apply to transfers. Further, the communication systems used to send these transfers typically do not facilitate two-way, real-time transmission of information about the exchange rate and fees associated with the transfers sent through an open network. *See generally* 78 FR 30662, 30663 (May 22, 2013).

International ACH

In recent years, some depository institutions and credit unions have begun to send remittance transfers through the automated clearing house (ACH) system, although use of ACH for consumer transfers is limited. In the FFIEC Call Report for the quarter ending March 31, 2014, only 78 of the 691 depository institutions that reported being remittance transfer providers also reported that they provide international ACH services for consumers. When the Bureau first issued the Remittance Rule in February 2012, the Bureau explained that it considered international ACH transfers to be open network transactions. Like wire transfers, international ACH transfers can involve payment systems in which a large number of institutions may participate, such that the originating institution and the designated recipient's institution may have no direct relationship. The Bureau acknowledged, however, that international ACH transfers also share some characteristics of closed network transfers. The agreements among gateway ACH operators in the United States and foreign entities involved may be used to control the amount and type of fees that are charged and/or exchange rates that are applied to a remittance transfer. To maintain consistency with the Bureau's prior rulemakings, international ACH transfers are discussed herein as open network transactions.

Available Remittance Transfer Market Share Data

Based on available information and as discussed in greater detail below, the Bureau believes that closed network transactions facilitated by money transmitters make up the great majority of the remittance transfers sent. Relatedly, the Bureau believes that money transmitters collectively send far more remittance transfers each year than depository institutions and credit unions. In January 2014, in connection with a ''larger participant'' rulemaking (discussed in greater detail below), the Bureau estimated that money transmitters annually send about 150 million international money transfers, most of which the Bureau believes would likely qualify as remittance

[2] The remittance transfer data collected for the period beginning on January 1, 2014 and ending on March 31, 2014, is the first quarter in which data related to remittance transfers was collected as part of the FFIEC Call Report; the specific questions and responses are discussed below. The data for this one quarter is the only FFIEC Call Report data available to the Bureau for review and analysis. The Bureau has some concerns about some of the responses and has noted those concerns where relevant in this **Federal Register** notice. The Bureau expects to continue to monitor responses to future FFIEC Call Reports to questions related to remittance transfers in the FFIEC Call Report.

[3] The Bureau's analysis determined 691 depository institutions identified themselves as remittance transfer providers, and 680 of the said 691 institutions reported that they provide wire transfer services during the first quarter of 2014. *See generally* FFIEC Call Report data in response to the March 2014 Call Report, *available at https://cdr.ffiec.gov/public/.*

transfers pursuant to § 1005.30(e) and, thus, be covered by the Remittance Rule. *See* 79 FR 5302, 5306. (Jan. 31, 2014). By comparison, information reported by credit unions to the National Credit Union Administration (NCUA) through the NCUA Call Report and Credit Union Profile forms (NCUA Call Report) suggests that credit unions may have collectively sent less than one percent of this total in 2013 (*i.e.* less than 1 million remittance transfers collectively). Data from the FFIEC Call Report confirm that depository institutions send many more remittance transfers than credit unions, but still far fewer than money transmitters. Specifically, the data show that banks that are considered remittance transfer providers pursuant to § 1005.30(f) collectively sent about 2.2 million remittance transfers from October 28 through December 31, 2013.[4] Annualizing this figure (without any seasonal adjustments to account for the fact that this data cover the Christmas-New Year holiday season, which the Bureau understands to be traditionally a time of increased transfer volume), the Bureau estimates that depository institutions collectively sent at most 13.2 million international transfers in 2013. This figure is less than 10 percent of the estimated 150 million remittance transfers sent by money transmitters. Although the Bureau believes that money transmitters are responsible for sending the great majority of the remittance transfers, it believes that the typical size of transfers sent by depository institutions and credit unions is larger than the typical size of transfers sent by a money transmitter.[5] A transfer sent by a depository institution or credit union may be in the thousands of dollars, while the Bureau estimates that the typical size of remittance transfers sent by money transmitters is in the hundreds of dollars.[6]

B. Section 1073 of the Dodd-Frank Act

Section 1073 of the Dodd-Frank Act amended EFTA by establishing a new consumer protection regime for remittance transfers sent by consumers in the United States to individuals and businesses in foreign countries. For covered transactions sent by remittance transfer providers, section 1073 created a new EFTA section 919. It generally requires: (i) The disclosure of the actual exchange rate and remitted amount to be received prior to and at the time of payment by the consumer; (ii) cancelation and refund rights; (iii) the investigation and remedy of errors by providers; and (iv) liability standards for providers for the acts of their agents. 15 U.S.C. 1693o–1.

EFTA section 919 provides two exceptions to the requirement that providers disclose actual amounts.[7] The first, the temporary exception, is an accommodation for insured depository institutions and credit unions, in apparent recognition of the fact that these institutions might need additional time to develop the necessary systems or protocols to disclose the exchange rates and/or covered third-party fees that could be imposed on a remittance transfer. The temporary exception permits an insured institution that is sending a remittance transfer from the sender's account to provide reasonably accurate estimates of the amount of currency to be received where that institution is ''unable to know [the amount], for reasons beyond its control'' at the time that the sender requests a transfer through an account held with the institution. EFTA section 919(a)(4)(A). The temporary exception sunsets five years from the date of enactment of the Dodd-Frank Act (*i.e.,* July 21, 2015), but EFTA section 919, as added by section 1073 of the Dodd-Frank Act, permits the Bureau to extend that date up to five more years (*i.e.,* July 21, 2020), if the Bureau determines that the termination of the temporary exception on July 21, 2015, would negatively affect the ability of insured depository institutions and insured credit unions to send remittance transfers. EFTA section 919(a)(4)(B).

The second statutory exception in EFTA section 919 is permanent. The exception provides that if the Bureau determines that a recipient country does not legally allow, or that the method by which the transactions are made in the recipient country does not allow, a remittance transfer provider to know the amount of currency that will be received by the designated recipient, the Bureau may prescribe rules addressing the issue. EFTA section 919(c).

C. Remittance Rulemakings Under the Dodd-Frank Act

The Bureau initially issued regulations to implement section 1073 of the Dodd-Frank Act in February 2012, which was followed by two significant rounds of amendments and some additional minor clarifications and technical corrections. The consolidated Remittance Rule took effect on October 28, 2013.

The 2012 Final Rules

The Board of Governors of the Federal Reserve System (the Board) first proposed in May 2011 to amend Regulation E to implement the remittance transfer provisions in section 1073 of the Dodd-Frank Act. 76 FR 29902 (May 23, 2011). On February 7, 2012, the Bureau finalized the Board's proposal, as authority to implement the new Dodd-Frank Act provisions amending EFTA had transferred from the Board to the Bureau on July 21, 2011. *See* 12 U.S.C. 5581(a)(1); 12 U.S.C. 5481(12) (defining ''enumerated consumer laws'' to include EFTA).

The Remittance Rule includes provisions that generally require a remittance transfer provider to provide to a sender a written pre-payment disclosure containing detailed information about the transfer requested by the sender. The information includes, among other things, the exchange rate, certain fees and taxes, and the amount to be received by the designated recipient. In addition to the pre-payment disclosure, the provider also must furnish to a sender a written receipt when payment is made for the transfer. The receipt must include the information provided on the pre-payment disclosure, as well as additional information, such as the date of availability of the funds, the designated recipient's name and, if provided, contact information, and information regarding the sender's error resolution and cancellation rights. In some cases, a provider may provide the required disclosures orally or via text message. Section 1005.31(a)(3)–(5). As is noted below, the Bureau subsequently modified provisions regarding the disclosure of foreign taxes and certain recipient institution fees in May 2013.

The Remittance Rule generally requires that the required disclosures state the actual exchange rate, if any, that will apply to a remittance transfer, and the actual amount that will be received by the designated recipient of the transfer, unless an exception applies. Section 1005.32(a) implements the temporary exception. Section § 1005.32(b)(1) implements the

[4] Although the FFIEC Call Report covered the period from January 1 through March 31, 2014, this question, concerning the volume of transfers sent, asked about the period October 28 through December 31, 2013. (The remittance rule went into effect on October 28, 2013.)

[5] Pursuant to the Remittance Rule, transfers of $15 or less are not considered remittance transfers under the rule. Accordingly, although the FFIEC Call Report notes a very low median transaction amount for remittance transfers (approximately $9), the Bureau believes that the typical size of the transfers sent by depository institutions and credit unions is a larger number.

[6] The Bureau lacks data on remittance transfers sent by broker-dealers.

[7] The Bureau created two additional permanent exceptions by regulation in § 1005.32(b)(2) and (b)(3). They are discussed below.

permanent statutory exception. As implemented by the Bureau, this permanent exception permits a remittance transfer provider to rely on a list of countries published by the Bureau to determine whether estimates may be provided.[8] The Remittance Rule also implements EFTA sections 919(d) and (f), which direct the Bureau to promulgate error resolution standards and rules regarding appropriate cancellation and refund policies, as well as standards of liability for remittance transfer providers.

The Bureau amended the Remittance Rule on August 20, 2012.[9] These amendments include a safe harbor defining which persons are not remittance transfer providers for purposes of the Remittance Rule, because they do not provide remittance transfers in the normal course of their business. The amendments also include provisions that apply to remittance transfers that are scheduled significantly in advance of the date of transfer, including a provision that allows a provider to estimate certain disclosure information for such transfers. *See* § 1005.32(b)(2).

The 2013 Final Rule

Following the initial publication of the Remittance Rule in February 2012, the Bureau engaged in dialogue with both industry and consumer groups regarding implementation efforts and compliance concerns. As an outgrowth of those conversations, the Bureau proposed amendments to specific aspects of the Remittance Rule in a notice of proposed rulemaking published on December 31, 2012, in order to avoid potentially significant disruptions to the provision of remittance transfers. *See* 77 FR 77188 (Dec. 31, 2012). The Bureau then decided to delay temporarily the Remittance Rule's original effective date of February 7, 2013, in order to complete this additional rulemaking. *See* 78 FR 6025 (Jan. 29, 2013).

The Bureau finalized these proposed amendments in May 2013. 78 FR 30662 (May 23, 2013). In these amendments, the Bureau modified the Remittance Rule to make optional the requirement to disclose taxes collected on the remittance transfer by a person other than the remittance transfer provider and in certain circumstances, the requirement to disclose fees imposed by a designated recipient's institution (defined as non-covered third-party fees). In place of these two disclosure requirements, the Remittance Rule now requires providers, where applicable, to add disclaimers to the disclosures they must provide to sender. The disclaimers must inform senders that due to non-covered third-party fees and taxes collected on the transfer by a person other than the remittance transfer provider, the designated recipient may receive less than the amount listed on the disclosures as the total amount of funds that will be received by him or her. The May 2013 amendments also created an additional permanent exception that allows providers to estimate, if they choose to, non-covered third-party fees and taxes collected on the remittance transfer by a person other than the provider. *See* § 1005.32(b)(3). Finally, the Bureau revised the error resolution provisions that apply when a remittance transfer is not delivered to a designated recipient because the sender provided incorrect or insufficient information.[10] The Remittance Rule then became effective on October 28, 2013.

Notice of Proposed Rulemaking Regarding Larger Participants

Section 1024 of the Dodd-Frank Act establishes that the Bureau may supervise certain nonbank covered persons that are ''larger participants'' in consumer financial markets, as defined by rule. 12 U.S.C. 5514(a)(1)(B). Pursuant to this authority, the Bureau published a proposal on January 31, 2014, to identify a nonbank market for international money transfers and define ''larger participants'' of this market that would be subject to the Bureau's supervisory program. 79 FR 5302 (Jan. 31, 2014). Specifically, the proposal would extend Bureau supervisory authority to any nonbank international money transfer provider that has at least one million aggregate annual international money transfers to determine compliance with, among other things, the Remittance Rule. The comment period on this proposal ended on April 1, 2014, and the Bureau is in the process of preparing to issue a final rule.[11]

D. Implementation Initiatives for the Remittance Rule and Related Activities

The Bureau has been actively engaged in an initiative to support implementation of the Remittance Rule. For example, the Bureau has established a Web page that contains links to various industry and consumer resources.[12] These resources include a small entity compliance guide that provides a plain-language summary of the Remittance Rule and highlights issues that businesses, in particular small businesses, may want to consider when implementing the Remittance Rule. In conjunction with the release of this final rule, the Bureau is revising the compliance guide to update its text to reflect the changes to the Remittance Rule adopted herein and improve the guide's clarity. A video overview of the Remittance Rule and its requirements, model forms, and other resources are also available.

Consumer resources the Bureau has created include answers to frequently asked questions regarding international money transfers, and materials that consumer groups and other stakeholders can use to educate consumers about the new rights provided to them by the Remittance Rule.[13] Some of these resources are available in languages other than English. The Bureau has also conducted media interviews in English and Spanish and participated in other public engagements to publicize the new consumer rights available under the Remittance Rule. The Bureau continues to provide ongoing guidance support to assist industry and others with interpreting the Remittance Rule, and has sent staff to speak at conferences and in other for a, both to provide additional guidance on the Remittance Rule, and learn from providers and others about efforts to comply with the Rule.

III. Summary of the Rulemaking Process

A. Fact Gathering Concerning the Temporary Exception

As noted, EFTA section 919(a)(4)(B) permits the Bureau to issue a rule to

[8] *See* 78 FR 66251 (Nov. 5, 2013). The list, which is also maintained on the Bureau's Web site, contains countries whose laws the Bureau believes prevent remittance transfer providers from determining, at the time the required disclosures must be provided, the exact exchange rate for a transfer involving a currency exchange. However, if the provider has information that a country's laws or the method by which transactions are conducted in that country permit a determination of the exact disclosure amount, the provider may not rely on the Bureau's list. When the Bureau first issued the list of such countries on September 26, 2012, the Bureau stated that the list is subject to change, and invited the public to suggest additional countries to add to the list. The Bureau continues to accept suggestions on potential changes to this list and analyzes those suggestions as they are received.

[9] On July 10, 2012, the Bureau published a technical correction to the Remittance Rule. *See* 77 FR 40459 (Jul. 10, 2012).

[10] In August 2013, the Bureau adopted a clarification and a technical correction to the Remittance Rule. 78 FR 49365 (Aug. 14, 2013).

[11] The comments submitted regarding this proposed rule are *available at https://federalregister.gov/a/2014-01606.*

[12] *Available at http://www.consumerfinance.gov/remittances-transfer-rule-amendment-to-regulation-e/.*

[13] *Available at http://www.consumerfinance.gov/blog/category/remittances/.*

extend the temporary exception if it determines that the termination of the exception on July 21, 2015, would negatively affect the ability of insured institutions to send remittance transfers. In February 2012, the Bureau noted that some industry commenters urged the Bureau at that time to make the temporary exception permanent, or in the alternative, extend the exception to July 21, 2020. The Bureau declined to extend the exception in February 2012. It believed then that it would have been premature to make a determination on the extension of the temporary exception three years in advance of the July 2015 sunset date, prior to the rule's release, and before the market has had a chance to respond to the regulatory requirements. *See* 77 FR 6194, 6202, and 6243 (Feb. 7, 2012).

Since the Bureau first issued the Remittance Rule, the Bureau has supplemented its understanding of the remittance transfer market through information received in the course of subsequent rulemakings, additional research and monitoring of the market, and initiatives related to the implementation of the Remittance Rule. The additional research and monitoring have included in-depth conversations with several remittance transfer providers about how they have implemented the requirements of the Remittance Rule, participation in industry conferences and related meetings, as well as similar monitoring efforts. In addition, Bureau staff conducted interviews with approximately 35 industry stakeholders and consumer groups after the Remittance Rule took effect in connection with this rulemaking.[14] Through these interviews, the Bureau gathered information regarding providers' reliance on the temporary exception for certain remittance transfers, and whether viable alternatives currently exist for those transfers. The Bureau conducted the interviews in order to build on the Bureau's existing knowledge and assist it in making a determination as to whether expiration of the temporary exception on July 21, 2015, would negatively affect the ability of insured institutions to send remittance transfers.[15]

The industry stakeholders that the Bureau contacted included both remittance transfer providers and service providers. The Bureau contacted community banks, regional banks, credit unions, nonbank service providers, and very large banks that send remittance transfers on behalf of their retail customers and on behalf of other providers. The Bureau also contacted remittance transfer providers that are broker-dealers. The Bureau believes that broker-dealers may send transfers via open networks, similar to those used by many insured institutions.[16] The Bureau also contacted nonbank money transmitters that use open networks to send some of their transfers. Although the temporary exception only applies to insured institutions, the Bureau believed that interviewing certain nonbank money transmitters that send open network transfers without being able to rely on the temporary exception would help the Bureau better understand what methods exist for providing exact disclosures for open network transfers. The service providers that the Bureau contacted included correspondent banks and corporate credit unions, bankers' banks, and foreign banks that offer correspondent banking services to U.S.-based remittance transfer providers, or act as intermediaries in the payment clearing and settlement chain. Insofar as the conversations were voluntary, the Bureau did not ultimately speak with every institution it contacted.

As noted above, the Bureau has also reviewed NCUA Call Report.[17] The data provided information on the number and types of remittances sent by credit unions, the methods by which credit unions send remittance transfers, and the payment systems credit unions utilize to send remittance transfers. Additionally, as discussed above, the Bureau has reviewed FFIEC Call Report data about remittance transfer practices. On the forms due in April 2014 regarding the reporting period from January 1 through March 31, 2014, depository institutions were required to provide select information, including, as relevant here, information on the types of remittance transfers provided and, for institutions that provide more than 100 transfers per year, the number and dollar value of remittance transfers sent by the reporting institutions in their capacity as remittance transfer providers. The report also included information on the frequency with which a reporting institution uses the temporary exception in its role as a remittance transfer provider.[18]

The Bureau notes that the data from the NCUA and FFIEC Call Reports do not cover every practice, or every type of remittance transfer providers and service providers that the Bureau has researched and interviewed through its market monitoring efforts. However, as noted in the April Proposal, the FFIEC and NCUA Call Reports have the potential to provide valuable quantitative data to complement the more in-depth qualitative information that the Bureau has been able to gather through interviews and other sources because the scope of the data covers every depository institution and credit union reporting to the NCUA and FFIEC, respectively. At this point, the value of the data collected in the first quarter FFIEC Call Report is limited in part because there has only been one reporting cycle. The Bureau will continue to monitor the data, with a focus on trends over time. The Bureau also expects to continue to assess the data as depository institutions become more familiar with these new reporting requirements. Finally, to the extent that responses to the FFIEC Call Report can provide an accurate measure of the extent of the utilization of the temporary exception by insured institutions, this measure is not the only, nor necessarily the primary factor that the Bureau has considered in determining whether to extend the temporary exception under EFTA section 919(a)(4)(B).

The Bureau also notes that in connection with the April Proposal, it consulted with consumer groups to attempt to identify the effects, if any, that estimating covered third-party fees and exchange rates may have on consumers, as well as the potential effect on consumers of the expiration of the temporary exception, and, in the alternative, its extension to July 21, 2020.

B. Summary of the April Proposal

As noted above, in April 2014, the Bureau proposed amendments to various provisions of the Remittance Rule to extend a temporary provision that permits insured institutions to estimate certain third-party fees and exchange rates, and to clarify or revise

[14] The Office of Management and Budget (OMB) control number for this information collection is 3170–0032.

[15] *See* Consumer Financial Protection Bureau Request for Approval under the Generic Clearance: Compliance Costs and Other Effects of Regulation, *available at http://www.reginfo.gov/public/do/PRAViewIC?ref_nbr=201205-3170-003&icID=209232*.

[16] Staff of the Securities and Exchange Commission (SEC) wrote a no-action letter on December 14, 2012, that concludes it will not recommend enforcement actions to the SEC under Regulation E if a broker-dealer provides disclosures as though the broker-dealer were an insured institution for purposes of the temporary exception. The letter is *available at http://www.sec.gov/divisions/marketreg/mr-noaction/2012/financial-information-forum-121412-rege.pdf*.

[17] *See generally http://www.ncua.gov/dataapps/qcallrptdata/Pages/default.aspx*.

[18] *See* 79 FR 2509 (Jan. 14, 2014); FDIC Financial Institution Letter FIL 4–2014.

several regulatory provisions and official interpretations previously adopted by the Bureau.

The primary focus of the April Proposal was the temporary exception. The Bureau proposed to extend the Regulation E estimation provision in § 1005.32(a). That provision allows remittance transfer providers to estimate certain third-party fees and exchange rates associated with a remittance transfer, if certain conditions are met. Specifically, a remittance transfer provider may rely on the temporary exception if (1) the provider is an insured depository institution or credit union; (2) the remittance transfer is sent from the sender's account with the provider; and (3) the provider cannot determine the exact amounts for reasons outside of its control. Based on its outreach and internal research and analysis, the Bureau preliminarily determined that the termination of the temporary exception would negatively affect the ability of insured institutions to send remittance transfers. Thus, the Bureau proposed to amend § 1005.32(a)(2) by extending the temporary exception by five years from July 21, 2015, to July 21, 2020.

C. Additional Clarifications

The Bureau also proposed several clarificatory amendments and technical corrections to the Remittance Rule. First, the Bureau sought comment on whether (and if so, how) it should clarify treatment of U.S. military installations located in foreign countries for purposes of the Remittance Rule. The Bureau explained in the April Proposal that it believes there is a potential for confusion in the treatment of these transfers, because the Remittance Rule does not expressly address their status. Second, the Bureau proposed to clarify that whether a transfer from an account is for personal, family, or household purposes (and thus, whether the transfer is a remittance transfer) can be determined by ascertaining the purpose for which the account was created. Third, the Bureau proposed to clarify that faxes are considered writings for purposes of certain disclosure provisions of the Remittance Rule, and that, in certain circumstances, a remittance transfer provider may provide oral disclosures, after receiving a remittance inquiry from a consumer in writing. Finally, the Bureau proposed to clarify two of the rule's error resolution provisions. More specifically, the Bureau proposed to clarify what constitutes an ''error'' caused by delays related to fraud and related screening, and the remedies for certain errors.

D. Comments Received

The Bureau received more than 30 comments on the April Proposal. The majority of comments were submitted by industry commenters, including depository institutions of various sizes, money transmitters, and industry trade associations. In addition, the Bureau received comment letters from two consumer groups.

Industry commenters overwhelmingly supported the April Proposal, and agreed with the Bureau's preliminary determination that the expiration of the temporary exception would have a negative impact on the ability of insured institutions to send remittance transfers. In support of the April Proposal, several institutions and industry trade associations explained how and why they used the temporary exception. Industry commenters further asserted that the temporary exception is critical and that they would not have the ability to disclose exact amounts for all remittance transfers by July 2015. Other commenters expressed concern that the expiration of the temporary exception could cause many community banks to either exit the remittance transfer market, or significantly cut back the scope of their services.

The two consumer group commenters both opposed this part of the April Proposal. One consumer group commenter asserted that the Bureau should limit the extension of the temporary exception to situations where it was necessary, as defined by the Bureau, or for shorter period of time, rather than the full five years permitted by the Dodd-Frank Act. The other consumer group commenter asserted that if the Bureau were to extend the temporary exception, then it should require insured institutions that rely on the exception to disclose to customers that money transmitters (*i.e.,* remittance transfer providers that are not insured institutions and, thus, are not permitted by the Remittance Rule to rely on the temporary exception) would provide consumers with exact disclosures.

With respect to the Bureau's request for comment and data regarding the treatment of transfers to and from U.S. military installations located in foreign countries, the Bureau received several comments, but only limited data. Industry commenters generally urged the Bureau to determine that military installations located in foreign countries be treated as being located in a State, so that, for example, transfers from a State to a U.S. military installation located in a foreign country would not be covered by the Remittance Rule. These commenters asserted that transfers to or from a U.S. military installation were no different than domestic transfers that are already exempt from the Remittance Rule. One consumer group, however, urged that the Bureau take the opposite approach, and treat a U.S. military installation located in a foreign country as being located in the foreign country. This consumer group asserted that transfers received on a military installation in a foreign country should not be treated differently from transfers received outside the installation in the foreign country.

As for the Bureau's other proposed amendments, commenters generally supported the proposed changes, although some noted particular objections. Specifically, with respect to the proposed clarification concerning the treatment of faxes as writings, one commenter, a consumer group, opposed the change, arguing that faxes should only be allowed to comply with the Remittance Rule's disclosure requirements where the sender has consented to receive the disclosure by fax by providing E-Sign consent. Commenters also supported the Bureau's proposal that would permit alternatives to disclosing the URL for the Bureau's Web site on required receipts, as well as the Bureau's proposal that would permit remittance transfer providers to respond to written requests for a remittance transfer with oral disclosures, when providing written disclosures would be impractical. Commenters similarly supported the proposal to permit providers to look to the type of account from which the transfer is being sent to determine if the transfer is a remittance transfer (although, as discussed in greater detail below, one large money transmitter opposed the proposal, to the extent the proposal would have been a mandatory change).

The Bureau also received several comments regarding the proposed changes to the Remittance Rule's error resolution and remedy provisions. These comments were mixed. Regarding the proposed change clarifying the circumstances under which provider delay due to certain fraud screening would not be considered an error under the Rule, several commenters contended that the Bureau's proposed approach was too narrow, and that it would exclude several categories of screening-related delays that should be included in the Remittance Rule's exception. Other industry commenters disagreed; they supported the proposed change, and noted that it would cover the majority, if not all, of the delays financial institutions experience related to fraud screening. One consumer group

commenter also supported these proposed changes. With respect to the proposed clarifications to the remedies for certain errors, some industry commenters supported, or did not oppose, the proposed clarifications, although several argued that providers should not have to refund their fees, in cases where the designated recipient did not receive the remittance transfer by the date of availability disclosed by the provider, because the sender had provided incorrect or insufficient information. Finally, several commenters urged the Bureau to adjust other parts of the Remittance Rule that were beyond the scope of the April Proposal.

In addition to the comments received on the April Proposal, Bureau staff conducted outreach with various parties about the issues raised by the Proposal or raised in comments. Records of these outreach conversations are reflected in ex parte submissions included in the rulemaking record (accessible by searching by the docket number associated with this final rule at *www.regulations.gov*).

IV. Legal Authority

Section 1073 of the Dodd-Frank Act created a new section 919 of EFTA and requires remittance transfer providers to provide disclosures to senders of remittance transfers, pursuant to rules prescribed by the Bureau. As discussed above, the Dodd-Frank Act established a temporary exception in amending EFTA, which provides that subject to rules prescribed by the Bureau, insured depository institutions and insured credit unions may provide estimates of the amount to be received where the remittance transfer provider is ''unable to know [the amount], for reasons beyond its control'' at the time that the sender requests a transfer to be conducted through an account held with the provider. EFTA section 919(a)(4)(A). The Dodd-Frank Act further establishes that the exception shall terminate five years from the date of enactment of the Dodd-Frank Act (*i.e.,* July 21, 2015), unless the Bureau determines that the termination of the exception would negatively affect the ability of depository institutions and credit unions to send remittance transfers. In which case, the Bureau may extend the application of the exception to not longer than ten years after the enactment of the Dodd-Frank Act (*i.e.,* July 21, 2020). EFTA section 919(a)(4)(B).

In addition, EFTA section 919(d) provides for specific error resolution procedures and directs the Bureau to promulgate rules regarding appropriate cancellation and refund policies. Finally, EFTA section 919(f) requires the Bureau to establish standards of liability for remittance transfer providers, including those providers that act through agents. Except as described below, the final rule is adopted under the authority provided to the Bureau in EFTA section 919, and as more specifically described in this Supplementary Information.

V. Section-by-Section Analysis

Section 1005.30 Remittance Transfer Definitions

1005.30(c) Designated Recipient & 1005.30(g) Sender

Application of the Remittance Rule to U.S. Military Installations Abroad

As noted in the April Proposal, the Remittance Rule applies when a sender located in a ''State'' sends funds to a designated recipient at a location in a ''foreign country.'' *See* § 1005.30(c) and (g). Further, the Rule specifies that in the context of transfers to or from an account, the Rule's application depends on the location of the account rather than the account owner's physical location at the time of transfer. *See* comments 30(c)–2.ii and 30(g). The Rule does not, however, specifically address the status of a transfer that is sent to or from a U.S. military installation located in a foreign country, nor does the definition of ''State'' in subpart A of Regulation E (§ 1005.2(l)) directly address the definition's application to a U.S. military installation.

In the April Proposal, the Bureau recognized that the Remittance Rule's application to transfers sent to and from U.S. military installations located abroad could, in some cases, lead to confusion. Specifically, the Bureau had received inquiries about whether U.S. military installations located abroad should be treated as located in a State or in a foreign country. The Bureau noted that application of the Remittance Rule might also differ depending on whether the transfer was sent to or from a depository institution account or would be picked up by the recipient at a location on the military installation. For example, there could be confusion as to whether the Remittance Rule applies when a consumer in the United States sends a cash transfer to be picked up by a recipient at a financial institution (not into the recipient's account) on a U.S. military base in a foreign country. Depending on whether the financial institution is deemed to be at a location in a ''foreign country'' or a ''State,'' the Remittance Rule may or may not apply. There might also be confusion about whether a cash transfer from a consumer on a foreign military installation to a recipient in the surrounding country would be subject to the rule, again depending on whether the foreign military installation is deemed to be in a ''State.''

The Bureau noted in the April Proposal, however, that the application of the Remittance Rule could be different for transfers from accounts of persons located on U.S. military installations abroad. When a transfer is made from such an account, whether the sender is located in a State is determined by the location of the sender's account rather than the physical location of the sender at the time of the transaction. Similarly, whether or not the Remittance Rule applies to transfers from the United States to accounts of different persons stationed at U.S. military installations abroad could differ, depending on the locations of those recipients' accounts. Thus, there may also be confusion as to whether the Remittance Rule applies when a transfer is sent from an account in the United States to an account located at a U.S. military installation abroad, to the extent such accounts exist.

In light of the complexity of these issues, the Bureau sought comment on whether it would be advisable to provide further clarity on this point and also sought data regarding these issues. The Bureau acknowledged in the April Proposal that it did not then have sufficient information or data to make a determination regarding whether the Remittance Rule should (or should not) treat foreign military installations as ''States'' for purposes of the Remittance Rule, both in the context of transfers received in cash and in the context of transfers sent to or from an account that is located on a military installation. Accordingly, the Bureau sought data on the relative number of transfers sent to and from individuals and/or accounts located on U.S. military installations in foreign countries. In addition, the Bureau sought comment on the appropriateness of extending any clarification regarding U.S. military installations to other U.S. government installations abroad, such as U.S. diplomatic missions.

The Bureau received several comments on this issue. While a small number of commenters reported on the number of transfers they send to overseas military installations, commenters did not provide data on the relative number of transfers sent to and from such installations. The vast majority of commenters, however, recommended that the Bureau treat U.S.

military installations abroad as located ''on U.S. soil,'' and therefore exempt transfers sent to such installations from the Remittance Rule. Commenters favoring this approach provided various rationales. Several commenters, including a large bank, a community bank, and a State trade association, recommended exempting remittance transfers to U.S. military installations abroad from the Rule. They stated that such transfers present lower risks to consumers than remittance transfers sent from the United States to other foreign locations, because transfers involving U.S. military installations are generally sent to and from U.S. financial institutions, in U.S. dollars, using U.S. payment systems (thus subject to the rules of those systems). They further argued that such transfers do not involve fluctuating exchange rates, and will likely be subject to U.S. consumer protection laws (insofar as the recipient institution is a U.S. financial institution).

Other commenters, including community banks, large banks, credit unions, and trade associations, noted that other statutory and regulatory regimes currently treat U.S. military installations located abroad as located in the United States. For example, a large bank noted that deposits in foreign branches of U.S. financial institutions that are located on a U.S. military installation and governed by Department of Defense regulations are insured by the Federal Deposit Insurance Corporation, while deposits in foreign branches that are not located on such installations are not. A national trade association and a federal credit union similarly noted that the U.S. Postal Service treats mail sent from the United States to U.S. military installations overseas as domestic mail. Several other commenters, including a number of credit unions, urged the Bureau to exempt transfers to U.S. military installations abroad because, they claimed, many remittance transfer providers were already treating such installations as located on ''U.S. soil.''

A few commenters did not support treating U.S. military installations as ''States'' for purposes of the Remittance Rule. One consumer group argued that the Bureau should treat military installations abroad as located in a foreign country because individuals who send remittance transfers to family members stationed abroad should receive the protections of the Remittance Rule. Other commenters, including a group of national trade associations, noted that any solution that applied exclusively to military installations would pose logistical challenges, because it may be difficult to determine whether a recipient or a recipient's account is located on a military installation. These commenters were either silent about how the Bureau should resolve the issue of money transfers to U.S. military installations or advocated that the Bureau maintain the status quo.

Based on its review of the comments received and its own analysis of this issue, the Bureau is persuaded, for the reasons discussed below, that transfers to individuals and accounts located on U.S. military installations located abroad, as well as transfers from individuals and their accounts located on U.S. military installations abroad to designated recipients in the United States, should be excluded from the Remittance Rule's application. Accordingly, the Bureau is finalizing revisions to the commentary to the definitions of ''designated recipient'' (§ 1005.30(c)) and ''sender'' (§ 1005.30(g)). These revisions clarify that, for purposes of determining whether a transfer qualifies as a ''remittance transfer'' under the Rule, persons or accounts that are located on a U.S. military installation abroad are considered to be located in a State. Pursuant to these revisions, revised comment 30(c)–2.i explains that funds that will be received at a location on a U.S. military installation that is physically located abroad are received in a State, and revised comment 30(c)–2.ii explains that, for transfers that are sent to a recipient's account, an account that is located on a U.S. military installation abroad is considered to be located in a State. As revised, comment 30(g)–1 now explains that senders or senders' accounts that are located on U.S. military installations that are physically located abroad are located in a State for purposes of subpart B.

The Bureau believes this approach provides clarity without undermining the important consumer protections provided by the Remittance Rule. The Bureau agrees with the majority of commenters that transfers from the United States to a U.S. military installation located abroad share many of the characteristics of domestic transfers, and as such harbor less risk for consumers than a typical remittance transfer. In sum, while the Bureau agrees that servicemembers and their families deserve to receive the same consumer protections that are available to all other consumers, the Bureau agrees with those commenters who asserted that the consumer protection concerns associated with transfers sent to locations in a foreign country generally do not apply to transfers sent to U.S. military installations abroad. Meanwhile, the Bureau notes that transfers from locations on U.S. military installations abroad to recipients in foreign countries may, in many circumstances, qualify as remittance transfers. Unlike the quasi-domestic nature of transfers to the U.S. military installations abroad, transfers from those installations to foreign countries are typically sent without the protection of laws and rules in place for domestic transfers and are more likely to be involve a foreign currency exchange. The Bureau will continue to monitor, through its complaint intake processes and other channels, whether particular concerns arise with respect to transfers involving U.S. military installations abroad.

The Bureau declines to adopt the bright-line test proposed by one money transmitter commenter that would have allowed remittance transfer providers to determine an account's location by looking at whether the account was held with a United States or a foreign financial institution. The Bureau believes that such a rule would be over-broad in that it would exclude transfers that are sent to accounts located in foreign branches of U.S. financial institutions, of which the Bureau believes there are many. Such transfers, with the limited exception of transfers to foreign branches located on U.S. military installations abroad, as discussed above, currently qualify as remittance transfers under the Rule, and the Bureau did not intend to change this result when it proposed to clarify the treatment of U.S. military installations.

The Bureau acknowledges that, as noted by a few commenters, there may be some scenarios in which it is impossible for the remittance transfer provider to know that the transfer will be sent to a location or account located on a U.S. military installation. The Bureau notes, however, that such scenarios already exist regardless of whether the transfer involves a U.S. military installation located abroad; indeed, the Bureau has previously addressed these scenarios in existing comment 30(c)–2.iii, which explains that, where a sender does not specify information about a designated recipient's account, a provider may make the determination of whether funds will received in a foreign country based on ''other information.'' Thus, those providers who currently make a determination about the location of a recipient or a recipient's account by, for example, looking at the routing number and address of the branch of the financial institution receiving the transfer, can continue to do so; the

revised commentary merely provides that where they have specific information that the account is located on a U.S. military installation, they can treat the account as located in a State, notwithstanding any information to the contrary derived from the account's routing number.

Finally, the Bureau is not finalizing a provision that would address the application of the Remittance Rule to other U.S. government installations abroad. The Bureau did not receive any comments indicating that there is actual or potential confusion with respect to the Remittance Rule's application to non-military U.S. installations located in foreign countries.

Non-Consumer Accounts

Section 1005.30(g) provides that a ''sender'' under subpart B of Regulation E means a consumer in a State who primarily for personal, family, or household purposes requests a remittance transfer provider to send a remittance transfer to a designated recipient. Together with the definition of ''remittance transfer'' in § 1005.30(e), this means that for the Remittance Rule to apply to an electronic transfer of funds, the transfer must have been requested by a consumer primarily for personal, family, or household purposes.

In response to certain questions about how to determine whether the Remittance Rule applies to transfers sent from an account that is not an account for the purposes of Regulation E, such as a business account, the Bureau proposed to add comment 30(g)–2 to explain that a consumer is a ''sender'' only if the consumer requests a transfer primarily for personal, family, or household purposes. The proposed comment would have also explained that for transfers from an account, the primary purpose for which the account was established determines whether a transfer from that account is requested for personal, family, or household purposes. Accordingly, under the proposed clarification, a transfer is not requested primarily for personal, family, or household purposes if it is sent from an account that was not established primarily for personal, family, or household purposes, such as an account that was established as a business or commercial account or an account held by a business entity such as a corporation, not-for-profit corporation, professional corporation, limited liability company, partnership, or sole proprietorship, and a person requesting a transfer from such an account therefore is not a sender under § 1005.30(g). Having reviewed the comments received and for the reasons set forth below, the Bureau is adopting comment 30(g)–2 with the modifications explained below.

One of the two consumer group commenters supported this aspect of the April Proposal. Industry commenters generally supported clarifying that the Remittance Rule does not apply to transfers sent from business accounts. Several trade association commenters also supported the change but noted that some financial institutions may re-code accounts that were initially set up as consumer accounts as business accounts, based on the way an accountholder uses the account. The trade association commenters asserted that the Bureau should clarify that financial institutions could rely on the way the account is identified in their records at the time the transfer is requested to determine whether the transfer is made for personal, family, or household purposes. One large money transmitter commenter expressed concern about proposed comment 30(g)–2, because it interpreted the proposed comment to mean that a remittance transfer provider must apply the Remittance Rule to any transfer from a consumer account, even if the customer indicates that the transfer is for a business purpose. The commenter asserted that this interpretation would result in compliance burden for some money transmitters. It explained that it offers customers the ability to send transfers from accounts, but because it does not hold the accounts, it does not know whether those accounts are consumer or non-consumer accounts. Therefore, it relies on the purpose of a transfer, as indicated by its customer, to determine if the transfer is a remittance transfer for purposes of the Rule. A large bank commenter requested that the Bureau adopt additional commentary to clarify that the Remittance Rule does not apply to transfers from accounts held by a financial institution under a *bona fide* trust agreement because those accounts do not meet the definition of ''account'' under the general provisions of Regulation E.

The Bureau has considered the comments and, for reasons discussed in more detail below, is adopting as proposed the aspect of proposed comment 30(g)–2 that would have explained the definition of a ''sender.'' The Bureau is also adding new comment 30(g)–3, in which it is adopting the aspect of proposed comment 30(g)–2 that would have explained that a transfer sent from a non-consumer account is not requested primarily for personal, family, or household purposes, and therefore a consumer requesting a transfer from such an account is not a sender under § 1005.30(g).

Additionally, the Bureau is explaining in comment 30(g)–3 that a transfer from an account held by a financial institution under a *bona fide* trust agreement is also not requested for personal, family, or household purposes, and therefore a consumer requesting a transfer from such an account is not a sender under § 1005.30(g). Section 1005.2(b)(3) provides that the term ''account'' in Regulation E does not include an account held by a financial institution under a *bona fide* trust agreement. The Bureau believes that adding this clarification to comment 30(g)–3 is consistent with the Bureau's intent to clarify that insofar as a transfer is sent from an account, the Remittance Rule only applies to transfers from accounts that fall within the definition of ''account'' under the general provisions of Regulation E.

The Bureau is not adopting the aspect of the proposed comment 30(g)–2 that would have explained that the primary purpose for which the account was established determines whether a transfer from that account is for personal, family, or household purposes. Upon further consideration, the Bureau believes that this aspect of the proposed comment could have been interpreted to mean that a provider would have to apply the Remittance Rule to all transfers from a consumer account, even in situations in which the sender indicates that the primary purpose of the transfer is a non-consumer purpose. Although the Bureau continues to believes that a provider should be able to rely on the primary purpose for which the account was established to determine whether a transfer from that account is for personal, family, or household purposes, the Bureau believes that applying the Rule to all transfers from a consumer account, even in situations in which the sender indicates that the primary purpose of the transfer is a non-consumer purpose, would be in tension with the definition of a ''sender.'' The Bureau is also concerned that such a bright-line test could cause compliance burden, as suggested above by a large money transmitter, if required in all cases. The Bureau further believes that it is appropriate to draw a clear line with respect to the applicability of the Remittance Rule to transfers sent from accounts that were not established primarily for personal, family, or household purposes for providers who have access to that information.

Accordingly, as adopted, comment 30(g)–2 explains that a consumer is a ''sender'' only where he or she requests a transfer primarily for personal, family, or household purposes and that a consumer who requests a transfer primarily for other purposes, such as business or commercial purposes, is not a sender under § 1005.30(g). It further explains that if a consumer requests a transfer from an account that was established primarily for personal, family, or household purposes, then a remittance transfer provider may generally deem that the transfer is requested primarily for personal, family, or household purposes and the consumer is therefore a ''sender'' under § 1005.30(g). However, if the consumer indicates that he or she is requesting the transfer primarily for other purposes, such as business or commercial purposes, then the provider may deem the consumer not to be a sender under § 1005.30(g), even if the consumer is requesting the transfer from an account that is used primarily for personal, family, or household purposes.

Comment 30(g)–3 explains that a provider may deem that a transfer that is requested to be sent from an account that was not established primarily for personal, family, or household purposes, such as an account that was established as a business or commercial account or an account held by a business entity such as a corporation, not-for-profit corporation, professional corporation, limited liability company, partnership, or sole proprietorship, as not being requested primarily for personal, family, or household purposes. A consumer requesting a transfer be sent from such an account therefore is not a sender under § 1005.30(g). The comment also explains that a transfer that is sent from an account held by a financial institution under a *bona fide* trust agreement pursuant to § 1005.2(b)(3) is not requested primarily for personal, family, or household purposes, and a consumer requesting a transfer from such an account therefore is not a sender under § 1005.30(g).

Lastly, as discussed above, several trade association commenters suggested that the Bureau adopt guidance that would permit a financial institution to rely on the way an account is identified in its records at the time the transfer is requested (rather than when the account was established) to determine whether the transfer is made primarily for personal, family, or household purposes. The Bureau is not adopting this recommendation. The Bureau proposed comment 30(g)–2 to provide additional clarification that transfers from accounts that do not meet the definition of ''account'' under the general provisions of Regulation E are not subject to the Remittance Rule. Pursuant to § 1005.2(b)(1), an account at a financial institution is an ''account'' for purposes of Regulation E if it was ''*established* primarily for personal, family, or household purposes.'' (Emphasis added.) In other words, the primary purpose for which an account was established determines whether the account is an ''account'' for purposes of Regulation E. Accordingly, the Bureau believes that adopting this suggestion would be inconsistent with § 1005.2(b)(1), which is a long-standing part of Regulation E. Insofar as commenters did not suggest why accounts should be treated differently for purposes of subpart B of Regulation E, the Bureau is not adopting this suggestion.

Section 1005.31 Disclosures

31(a) General Form of Disclosures

31(a)(2) Written and Electronic Disclosures

EFTA, as implemented by the Remittance Rule, generally requires remittance transfer providers to provide disclosures required by subpart B of Regulation E to the sender in writing. § 1005.31(a)(2). But neither the statute nor the Remittance Rule specifies what qualifies as a writing (except to state that written disclosures may be provided on any size of paper, as long as the disclosures are clear and conspicuous, *see* comment 31(a)(2)–2). The Bureau proposed comment 31(a)(2)–5, which would have explained that disclosures provided pursuant to § 1005.31 or § 1005.36 by facsimile transmission (*i.e.,* fax) are written disclosures for purposes of providing disclosures in writing pursuant to subpart B of Regulation E, and are not subject to the requirements for electronic disclosures set forth in § 1005.31(a)(2). Pursuant to § 1005.31(a)(2) and comment 31(a)(2)–1, a provider may provide the pre-payment disclosure to a sender in electronic form, without regard to the applicable requirements of the E-Sign Act, only if a sender electronically requests the provider to send the remittance transfer. However, with respect to other disclosures required by subpart B of Regulation E, the provider would have to comply with the consumer consent and other applicable provisions of the E-Sign Act. Proposed comment 31(a)(2)–5 would have reflected similar guidance with respect to disclosures made by fax. For the reasons set forth below, comment 31(a)(2)–5 is adopted as proposed.

Industry commenters overwhelmingly supported this aspect of the April Proposal. Several commenters asserted that the Bureau should expand the interpretation of ''written disclosures'' to include any electronic disclosure if the provider has met its obligations to comply with the E-Sign Act. Consumer group commenters had mixed reactions: one consumer group commenter supported the proposal, but the other asserted that faxes should be subject to the requirements for electronic disclosures set forth in § 1005.31(a)(2) because they are considered electronic records under the Uniform Electronic Transaction Act of 1999.[19] The Bureau has considered the comments and believes it is appropriate to use the Bureau's interpretive authority under EFTA to treat disclosures provided pursuant to § 1005.31 or § 1005.36 by fax as ''written disclosures'' for purposes of the Remittance Rule.

As the Bureau explained in the April Proposal, it considers disclosures made by fax to be a ''writing'' under the Remittance Rule because such disclosures are generally received on paper in a form the sender can retain. Additionally, the Bureau does not believe that treating faxes as writings will have any significant negative impact on the benefits consumers derive from the Remittance Rule, both because many consumers have long communicated with remittance transfer providers via fax and those consumers accept faxes as a legitimate and efficient method of communication. The Bureau observes that the consumer group that opposed interpreting disclosures provided via fax as written disclosures did not contend that such an interpretation would have a significant negative impact on the benefits consumers derive from the Remittance Rule. Thus, the Bureau believes it appropriate to interpret faxes as ''a writing'' for purposes of providing disclosures pursuant to § 1005.31 and § 1005.36. The Bureau, however, does not believe that it is necessary to clarify that any electronic disclosure constitutes a ''writing'' if the provider complies with the E-Sign Act. As discussed above, the Remittance Rule permits a provider to provide electronic disclosures instead of written disclosures, when such electronic disclosures are provided pursuant to

[19] Uniform Electronic Transactions Act of 1999 section 2, comment 6 (2000), *available at http://www.uniformlaws.org/shared/docs/electronic%20transactions/ueta_final_99.pdf.*

§ 1005.31(a)(2) as clarified by comment 31(a)(2)–1.

31(a)(3) Disclosures for Oral Telephone Transactions

Section 1005.31(e)(1) states that a remittance transfer provider must provide the pre-payment disclosure when the sender requests the remittance transfer, but prior to payment for the transfer. Section 1005.31(a)(3) permits providers to make these pre-payment disclosures orally if the ''transaction is conducted orally and entirely by telephone'' and if certain other language and disclosure requirements are met. The Bureau recognized in the April Proposal that a provider may be uncertain as to how to comply with the timing requirements set forth in § 1005.31(e)(1) where a sender is neither physically present nor in ''real time'' communication with a provider's staff. To provide further clarification, the Bureau proposed to revise comment 31(a)(3)–2 to set forth that a remittance transfer provider may treat a written or electronic communication as an inquiry when it believes that treating the communication as a request would be impractical. In such circumstances, as long as the provider otherwise conducted the transaction orally and entirely by telephone, the provider could provide disclosures orally as permitted by § 1005.31(a)(3). The Bureau also proposed two conforming edits to comments 31(a)(3)–1 and 31(e)–1 to accommodate this change: the proposed revision to 31(a)(3)–1 would have distinguished the scenario proposed in revised 31(a)(3)–2 from a situation in which a sender requests a remittance transfer in person; the revision to 31(e)–1 would have clarified that a sender has not requested a remittance transfer for purposes of triggering the timing requirements set forth in § 1005.31(e)(1) where the provider treats the request as an inquiry.

All commenters who commented on this part of the Proposal generally supported the Bureau's proposed revisions, with the majority of commenters expressing support without reservation. Some commenters provided additional, specific feedback. For example, one consumer group stated that it supported the proposed revision only if the consumer who made the initial request in writing received a disclosure that his request was being treated as an inquiry. A number of trade associations sought additional illustrations of when it would be ''impractical'' for a provider to treat a communication as a request for a transfer. Finally, one community bank proposed that the Bureau allow providers to provide oral disclosures whenever a sender so requests.

The Bureau is finalizing the revisions as proposed with one change to improve clarity (specifically, removing ''For example''). The Bureau declines to adopt the suggestion that providers be allowed to give oral disclosures whenever a sender opts for oral disclosures. As stated in its February 2012 **Federal Register** notice, the Bureau believes that Congress did not intend to permit remittance transfer providers to satisfy the disclosure requirements orally, except in limited scenarios, as set forth in the Remittance Rule and in this final rule.

With respect to the comment that a remittance transfer provider should be required to inform the sender that the provider is treating the sender's communication as an inquiry, the Bureau does not believe this additional, independent disclosure requirement is necessary. By definition, the provider provides the pre-payment disclosure before the consumer has paid for the remittance transfer; at this point in the transaction, there is little risk of consumer harm. Further, the Bureau believes the sender is likely to know and understand the status of his or her transaction in the course of the sender's subsequent oral communication with the provider. Finally, with respect to the request for further clarity regarding when it would be impractical for a provider to treat a communication as a request, the Bureau believes that the proposed comment, which the Bureau is adopting with a non-substantive change to improve its clarity, provides sufficient guidance in the form of a specific example.

31(b) Disclosure Requirements

31(b)(2) Receipt

Section 1005.31(b)(2)(vi) requires a remittance transfer provider to disclose the contact information for the Bureau, including the Bureau's Web site URL and its toll-free telephone number. The Remittance Rule does not specify which Bureau Web site URL should be provided on receipts, but the Model Forms published by the Bureau list the Bureau's Internet homepage—*www.consumerfinance.gov. See* Model Forms A–31, A–32, A–34, A–35, A–39, and A–40 of appendix A. In the April Proposal, the Bureau explained that it was creating a single page that would contain resources relevant to remittance transfers at *www.consumerfinance.gov/sending-money,* as well as a Spanish language Web site that would have resources relevant to remittance transfers at *www.consumerfinance.gov/enviar-dinero.*[20] Accordingly, the Bureau proposed to add comment 31(b)(2)–4 to explain that: (1) Providers could satisfy the requirement to disclose the Bureau's Web site by disclosing the Web address shown on Model Forms A–31, A–32, A–34, A–35, A–39, and A–40 of appendix A, (2) alternatively, providers could, but were not required to, disclose the Bureau's remittance-specific Web site, currently, *www.consumerfinance.gov/sending-money,* and (3) providers making disclosures in a language other than English could, but were not required to, disclose a Bureau Web site that would provide information for consumers in the relevant language, if such Web site exists.

Commenters generally expressed support for the proposed comment. Several commenters, however, sought additional confirmation that the proposed optional disclosures would remain optional. In addition, a consumer group sought confirmation that providers would only be permitted to provide a link to the Bureau's non-English Web site where the disclosure was provided in that same non-English language.

As the Bureau stated in both the proposed comment text and the discussion of that text in the preamble of the April Proposal, the alternative disclosures included in comment 31(b)(2)–4 are *optional,* and do not require remittance transfer providers to change existing receipts. Thus, while it urges providers to provide consumers with the most relevant, updated information available from the Bureau, the Bureau confirms that, at this time, providers can continue to disclose the Web site previously listed on all Model Forms. Likewise, the April Proposal was clear that providers may only disclose the Bureau's non-English Web site if they make disclosures in the ''relevant'' language used in the non-English Web site. The Bureau will publish a list of any URLs it maintains containing specific information about remittances in foreign languages on its Web site, currently, *http://www.consumerfinance.gov/remittances-transfer-rule-amendment-to-regulation-e/.*

[20] At the time of the April Proposal, the additional URLs had not ''gone live.'' Since the April Proposal, the Bureau published the additional URLs, as well as pages containing the same information in Vietnamese, Mandarin, Korean, Tagalog, Russian, Arabic, and Haitian Creole. The pages contain information regarding consumers' rights under the Remittance Rule, how consumers can use the receipts that they receive from providers, and how and when to lodge a complaint with the Bureau.

For the reasons above, the Bureau is adopting proposed new comment 31(b)(2)–4 substantially as proposed, with minor revisions to include references to revised URLs and revised model forms that illustrated the alternative disclosures proposed by the comment. Specifically, the URLs for the English- and Spanish-language, remittance-specific Web sites are *consumerfinance.gov/sending-moneyandconsumerfinance.gov/envois,* respectively. The comment also clarifies that the Bureau will make available a list of other foreign-language URLs for Web sites that provide specific information about remittance transfers. In addition, to accommodate new comment 31(b)(2)–4, the Bureau is renumbering current comments 31(b)(2)–4, –5, and –6 as comments 31(b)(2)–5, –6, and –7, respectively, without any other changes. Finally, the Bureau is revising forms A–31 and A–40 of appendix A to illustrate the optional disclosures set forth in new comment 31(b)(2)–4. The other Model Forms remain unchanged.

Section 1005.32 Estimates

As discussed above, EFTA section 919(a)(4)(A) establishes a temporary exception for insured institutions with respect to the statute's general requirement that remittance transfer providers must disclose exact amounts to senders. EFTA 919(a)(4)(B) provides that the exception shall terminate five years after the enactment of the Dodd-Frank Act (*i.e.,* July 21, 2015), unless the Bureau issues a rule to extend the temporary exception up to five more years (*i.e.,* July 21, 2020). Specifically, the statute permits the Bureau to extend the temporary exception to July 21, 2020, if the Bureau determines that the termination of the temporary exception on July 21, 2015, would negatively affect the ability of insured institutions to send remittance transfers. EFTA section 919(a)(4)(B). The Bureau implemented the temporary exception by adopting § 1005.32(a) in the Remittance Rule.

Section 1005.32(a)(1) provides that a remittance transfer provider may give estimates for disclosures related to: (1) The exchange rate used by the provider; (2) the total amount that will be transferred to the designated recipient inclusive of covered third-party fees, if any; (3) any covered third-party fees and (4) the amount that will be received by the designated recipient (after deducting covered third-party fees), if the provider meets three conditions. The three conditions are: (1) The provider must be an insured institution; (2) the provider must not be able to determine the exact amounts for reasons beyond its control; and (3) the transfer must be sent from the sender's account with the provider. Section 1005.32(a)(2) provides that the temporary exception expires on July 21, 2015. Section 1005.32(a)(3) provides that insured depository institutions, insured credit unions, and uninsured U.S. branches and agencies of foreign depository institutions are considered ''insured institutions'' for purposes of the temporary exception.[21]

As discussed above, the Bureau proposed to amend § 1005.32(a)(2) to extend the expiration date of the temporary exception from July 21, 2015, to July 21, 2020, after it had reached a preliminary determination that the expiration of the temporary exception on July 21, 2015, would negatively impact the ability of insured institutions to send remittance transfers. The determination was based on the Bureau's own understanding of the remittance transfer market, information the Bureau gathered through approximately 35 interviews with remittance transfer providers, service providers, and consumer groups regarding the temporary exception, outreach to industry and consumers groups on the Remittance Rule generally, and a review of comment letters to prior remittance rulemakings and related materials. In the April Proposal, the Bureau sought comments on its preliminary determination that the expiration of the temporary exception on July 21, 2015, would have a negative impact on the ability of insured institutions to send remittance transfers. The Bureau also sought comments on whether it should extend the exception for a period less than the full five years permitted by statute or place other limits on the use of the temporary exception.

The Bureau additionally solicited comments on the current consumer impact of the temporary exception, as well as the potential consumer impact of either the expiration or the extension of the exception. For the reasons stated below, the Bureau has reached a final determination that the expiration of the temporary exception on July 21, 2015, would negatively affect the ability of insured institutions to send remittance transfers, and is therefore adopting the change to § 1005.32(a)(2) as proposed.

Industry commenters overwhelmingly supported the proposed extension of the temporary exception from July 21, 2015, to July 21, 2020. They generally agreed with the Bureau's description of the remittance transfer market and preliminary determination that the expiration of the temporary exception would have a negative impact on the ability of insured institutions to send remittance transfers, emphasizing that the expiration of the temporary exception on July 21, 2015, would cause some insured institutions to either exit the market or significantly reduce the number of destinations to which they send remittances.

Furthermore, comments from industry commenters were generally consistent with the Bureau's understanding of how insured institutions are complying with the Remittance Rule's requirements regarding disclosures of the applicable exchange rate and covered third party fees, including the compliance practices of small institutions. Some commenters, ranging from credit unions to a large bank, stated that they rely on larger service providers to help disclose covered third-party fees and exchange rates. Industry commenters also were largely in accord with the Bureau's understanding of the drawbacks to wire transfer alternatives such as international ACH and closed-network remittance transfer products that resemble products offered by money transmitters. Several trade association commenters asserted that even with the expansion of international ACH products and the development of new closed network systems, such expansion will provide a solution only for remittance transfers to a limited set of destination countries and that providers would have difficulty sending remittance transfers to some destinations without reliance on the temporary exception. This is consistent with the Bureau's understanding of current market conditions based on its interviews with many providers and service providers in the course of developing the April Proposal.

A number of bank and credit union commenters stated that they rely on the temporary exception, and trade association commenters stated that many of their members rely on the temporary exception for at least some portion of the remittance transfers sent by their customers and members. Several trade association commenters asserted that the ability of insured institutions to rely on the temporary exception is critical for certain remittance transfers and emphasized that there are real limitations that exist in open network payment systems that

[21] The Bureau understands that broker-dealers may also rely on the temporary exception because a SEC no-action letter concluded that the SEC staff would not recommend enforcement action to the SEC under Regulation E if a broker-dealer provides disclosures as if the broker-dealer were an insured institution for purposes of the temporary exception. The letter is *available at http://www.sec.gov/divisions/marketreg/mr-noaction/2012/financial-information-forum-121412-rege.pdf.*

currently prevent insured institutions from being able to disclose actual amounts in all cases. A number of community bank and credit union commenters, as well as the trade associations that represent them, stated that the expiration of the temporary exception could cause many community banks to either exit the remittance transfer market or significantly cut back the scope of their services.

Some industry commenters, including a correspondent bank and several trade associations, expressed concern that, even if the Bureau extended the temporary exception by five years, insured institutions would not be able to develop a comprehensive solution that would allow them to disclose exact covered third-party fees and exchange rates for every corridor they currently serve by July 2020. Several industry commenters also asserted that the Bureau should work with Congress to change the temporary exception into a permanent one, and one commenter suggested that the Bureau should make the temporary exception permanent without waiting for Congress to act.

As discussed above, the Bureau sought comments on the current consumer impact of the temporary exception, as well as the potential impact of either the expiration or the extension of the exception. One State credit union trade association stated that its member credit unions indicated that they have not received any complaints from members who received disclosures containing estimated disclosures. A number of community bank and credit union commenters, as well as the trade associations that represent them, stated that the expiration of the temporary exception could cause many community banks to either exit the remittance transfer market or significantly cut back the scope of their services. They asserted that such a reduction would negatively impact consumers, because it would reduce the availability of remittance transfer services. They also expressed the concern that such a reduction could limit competition and drive up prices.

The two consumer group commenters opposed this part of the April Proposal. One of the consumer group commenters asserted that, rather than extend the exception for the maximum of five years permitted by the Dodd-Frank Act, the Bureau should limit the extension of the temporary exception. Specifically, this commenter suggested that the Bureau should: (1) Only extend the temporary exception for up to two years and reassess a further extension then; (2) limit the use of the exception to remittance transfers for which disclosing exact amounts is particularly difficult or impossible; or (3) reissue the proposal for additional comment and provide more specific information on the current state of compliance. The other consumer group commenter asserted that if the Bureau were to extend the temporary exception, then it should also require insured institutions that rely on the temporary exception to disclose to customers that money transmitters would be able to provide consumers with exact disclosures.

The Bureau has considered the comments and, for the reasons discussed below, is finalizing as proposed the extension of the temporary exception to July 21, 2020, because the Bureau has made the determination that the expiration of the temporary exception would negatively affect the ability of insured institutions to send remittance transfers. Comments from industry commenters generally confirmed the Bureau's original understanding of the remittance transfer market and preliminary determination that the expiration of the temporary exception would have a negative impact on the ability of insured institutions to send remittance transfers.[22] In particular, the Bureau understands that insured institutions typically send remittances in the form of wire transfers over open networks. With respect to a wire transfer, the insured institution that acts as the remittance transfer provider typically does not have control over, or a relationship with, all of the participants involved in a remittance transfer, to facilitate the provider's ability to control or obtain information about the applicable exchange rate and covered third-party fees with exactitude. Additionally, the communication systems used to send wire transfers typically do not facilitate two-way, real-time transmission of such information. While the Bureau understands that industry is working to restructure relationships and communication systems to provide more precise pricing information, this process is not yet complete.

While some insured institutions provide exact disclosures of the exchange rate and covered third-party fees for all of their remittance transfers, the Bureau understands that many rely on the temporary exception when disclosing the exchange rate and/or covered third-party fees for at least some portion of transfers initiated by their own consumer customers and as applicable, transfers they send on behalf of other providers. The Bureau also understands that many insured institutions, in particular small institutions, rely almost entirely on larger, intermediary service providers to act as information aggregators to provide them with the applicable exchange rate to disclose and/or covered third-party fee information.[23]

With respect to the disclosure of the exchange rate, insured institutions have reported to the Bureau that they have found that one way to provide an exact exchange rate is to convert the funds to the applicable foreign currency based on a fixed exchange rate that the provider either obtains directly or from an information aggregator. However, the Bureau has learned that insured institutions cannot provide a fixed exchange rate for a number of currencies and rely on the temporary exception (or the Bureau's permanent exception for transfers to certain countries, § 1005.32(b)(2)) when disclosing the applicable exchange rate in such situations. The Bureau understands that these currencies are either (1) so thinly traded that insured institutions or their service providers find that purchasing such currencies and obtaining a fixed exchange rate for consumer wire transfers is impossible, impracticable, or economically undesirable, or (2) impracticable to purchase for other reasons (*e.g.,* foreign laws may bar the purchase of that currency in the United States). Further, even if obtaining and disclosing a fixed exchange rate were possible, the Bureau further understands that typically, the volume of remittance transfers involving such currencies is often low and providers believe that it is impracticable to expend significant resources to provide a fixed rate for these low-volume transactions.

With respect to covered third-party fees, the Bureau understands that information aggregators, described above, could directly generate the information from foreign banks in their correspondent banking networks or with whom they have other contractual relationships. Additionally, the Bureau understands that for a number of foreign destinations, these entities try to control

[22] The Bureau provided a detailed discussion of the reasons that lead to it making the preliminary determination that the termination of the temporary exception on July 21, 2015, would have a negative impact on the ability of insured institutions to send remittance transfers. *See generally* 79 FR 23234 (April 25, 2014).

[23] In the April Proposal, the Bureau stated that a particular institution may use one information aggregator to provide it with the covered third-party fee information, and another to provide it with the exchange rate information. 79 FR 23245 (Apr. 25, 2014). The Bureau also stated that it found that an insured institution that uses an information aggregator must generally also use that aggregator to help process the remittance transfer. *Id.*

the amount of covered third-party fees, or eliminate such fees altogether, by sending remittance transfers through nostro accounts they have established with various foreign banks,[24] using certain methods to send wire transfers that put participants processing the wire transfer on notice not to deduct a fee from the transfer amount, or through a combination of both.

The information aggregators have reported to the Bureau that as a result of proactively obtaining covered third-party fee information from foreign banks and using methods that control or eliminate such fees, they and, as applicable, their remittance transfer provider clients are typically disclosing exact covered third-party fees where they believe they are able to do so, even though they might have additional flexibility pursuant to the temporary exception to provide estimates instead. But at the same time, information aggregators have reported that the methods that allow insured institutions to control or eliminate covered third-party fees are not reliable in controlling or eliminating such fees for all of the destinations to which they send wire transfers. Additionally, with respect to obtaining covered third-party fees directly from foreign banks, a number of information aggregators have indicated that fee information gathered in this manner could be incomplete because it is not available for all institutions involved in all of the remittance transfers they send. Accordingly, a number of insured institutions have to rely on the temporary exception when sending at least some of their wire transfers.

The Bureau also sought information from insured institutions about their use of potential alternative methods of sending remittance transfers. In particular, the Bureau sought to understand whether insured institutions could control or eliminate covered third-party fees if they sent remittance transfers using international ACH instead of open network wire transfer systems. The Bureau understands that the Federal Reserve's international ACH product—FedGlobal ACH—generally restricts the deduction of fees from transfer amounts sent through the FedGlobal system, but is nonetheless used only for a small portion of insured institutions' remittance transfers. The Bureau has found that although a number of insured institutions use international ACH for commercial international money transfers, many did not see international ACH developing into an alternative to wire transfers in the near term. A number of insured institutions have reported that international ACH reaches far fewer destinations than wire transfers. They also expressed concern that developing an international ACH service for remittance transfers would involve costs and changes in operation systems that outweigh the potential long-term cost savings as well as any additional value of facilitating compliance with the Remittance Rule.

The Bureau also sought information from insured institutions about developing closed network remittance transfer products that resemble products offered by money transmitters that could allow them to control or eliminate covered third-party fees. The Bureau also understands that a small number of the largest institutions have already developed such products. However, most of the insured institutions that the Bureau interviewed did not set up closed network alternatives to wire transfers and indicated that they did not have plans to develop them. As discussed above, several trade association commenters believed that the expansion of international ACH products and the development of new closed network systems will not provide a comprehensive solution.

For the above reasons and those stated more fully in the April Proposal, the Bureau also believes that it is unlikely that there would be near-term solutions that would address the challenges in open-network payment systems that prevent insured institutions from being able to disclose exact amounts for all of the foreign destinations to which they send remittance transfers. Accordingly, the Bureau believes that it is appropriate to extend the length of the temporary exception for the full five years permitted by statute, rather than a shorter length of time (or not at all). The Bureau continues to believe that insured institutions will not be able to make the significant progress necessary for all institutions and corridors to warrant terminating the exception before July 2020, and does not believe that reassessing the situation after seeking additional public comment now or in two years would cause it to reach a different conclusion. At the same time, however, the Bureau believes that making the exception permanent in this rulemaking would be beyond its scope, which, pursuant to EFTA section 919(a)(4)(B), focused (on this issue) on whether the Bureau should extend the temporary exception by five additional years. Nevertheless, the Bureau will continue to monitor market and technological developments in open network payment systems. The Bureau expects insured institutions to continue to work towards providing actual disclosures for all remittance transfers by July 2020. The Bureau also notes that through its supervision of insured institutions it will continue to monitor the use of the exception, whether it is being abused, and whether and how providers are working towards finding a permanent solution for all remittance transfers.

The Bureau also believes that it is appropriate to extend the temporary exception without modifications or additional requirements. As noted above, the Bureau continues to believe that insured institutions are unable to make the significant progress necessary for the Bureau to cause the temporary exception to terminate before July 2020. Furthermore, the Bureau is not aware of evidence that insured institutions are improperly using the temporary exception or that consumers are being harmed by its use in particular or, more generally, by the receipt of disclosures containing estimates. The Bureau understands that although use of the temporary exception varies, the exception appears to be used for the minority of eligible transfers from insured institutions. The FFIEC Call Report asked banks to estimate the number of remittance transfers sent between October 28 and December 31, 2013, to which they applied the temporary exception. The FFIEC Call Report data suggest that the temporary exception is only used in approximately 10 percent of transfers sent by banks that are considered remittance transfer providers under the rule. Additionally, no data was submitted to the Bureau in response to the request in the April Proposal, and the Bureau is aware of no data, that contradicts its view that use of the temporary exception is limited to cases where providers (and their service providers) deem its use to be necessary.

Lastly, the Bureau believes that it would be inappropriate to require insured institutions that disclose estimates pursuant to the temporary exception to inform their customers that money transmitters may provide consumers with exact disclosures. The Bureau notes that Congress expressly permitted any remittance transfer provider to disclose estimates in lieu of exact amounts in certain cases without any additional disclosure. *See* § 1005.32(b)(1) (permanent exception for transfers to certain countries) and (b)(2) (advance transfers) without any additional disclosure. Insofar as money transmitters rely on these exceptions set

[24] Nostro accounts are accounts established by U.S. institutions with foreign banks, and funds in the accounts are funds in the account are typically denominated in the currency of that country. *See* 79 FR at 23245 (Apr. 25, 2014).

forth in the Remittance rule, it cannot be said that they are disclosing exact amounts in those cases.

Section 1005.33 Procedures for Resolving Errors

1005.33(a) Definition of Error

1005.33(a)(1) Types of Transfers or Inquiries Covered

Section 1005.33(a)(1)(iv)(B) provides that a delay is not an ''error'' if it is related to the remittance transfer provider's fraud screening procedures or in accordance with the Bank Secrecy Act, 31 U.S.C. 5311, et seq., Office of Foreign Assets Control requirements, or similar laws or requirements. Section 1005.33(a)(1)(iv)(B). In the April Proposal, the Bureau explained that it did not intend for this provision to apply to delays related to routine fraud screening procedures; accordingly, the Bureau proposed to revise § 1005.33(a)(1)(iv)(B) to apply only to delays related to individualized investigation or other special action. To provide additional guidance, the Bureau proposed a new comment 33(a)–7, which would have explained that a delay is not an error where it is caused by an investigation or other special action necessary to address potentially suspicious, blocked, or prohibited activity.

The proposed comment included two examples of the types of delays that would not constitute an error under proposed § 1005.33(a)(1)(iv)(B), namely, a delay that occurs after a screening process flags a designated recipient's name as a potentially blocked individual, and a delay that occurs because the transfer is flagged as being similar to previous fraudulent activity. The proposed comment contrasted these two examples with delays caused by ''ordinary fraud or other screening procedures, where no potentially fraudulent, suspicious, blocked or prohibited activity is identified,'' which would not have qualified for the exception.

The Bureau sought comment on whether the proposed change to the regulatory text and related examples and description in the commentary accurately reflected industry practice and/or provided sufficient guidance on the types of permissible delays. The single consumer group that commented on this issue expressed its support for the proposed changes. Some industry commenters, including a large bank and a community bank, generally expressed support for the Bureau's effort to provide further clarity on the types of delays that qualify for the error exception, opining that the revisions suggested would cover the majority of relevant, screening-related delays.

The majority of commenters who addressed the issue, however, opposed the Bureau's proposed changes, for a variety of different reasons. Commenters, including State and national trade associations, credit unions, small and large banks, and a bank holding company, generally expressed concern that the revised language would discourage important fraud, terrorism, and anti-money laundering screenings by exposing providers that regularly conduct such screenings to liability under Regulation E. Other commenters, including a large money transmitter and a number of State credit union trade associations, argued that there is a false dichotomy between procedures that are ''necessary'' or ''special'' and those that are ''ordinary.'' They noted that enhanced screening procedures are a standard, routine part of most remittance transfer providers' ''ordinary'' business, and that whether or not such procedures are ''necessary'' cannot always be determined at the outset of an investigation.

A similar concern was expressed by a large money transmitter commenter. Among other concerns, it argued that the two examples proposed by the Bureau in proposed comment 33(a)–7 were too narrow, and the commenter opposed the use of the term ''individualized'' to characterize the types of procedures that would qualify for the exception under revised § 1005.33(a)(1)(iv)(B). According to this commenter's description of its standard fraud screening procedures, the Bureau's choice of examples and terminology did not adequately capture screening procedures that apply to certain categories of transfers—known as ''block screenings''—rather than only to a particular transfer. For example, the commenter explained that remittance transfer providers sometimes receive real-time information from law enforcement that transfers going to a certain geographic area (*e.g.,* a particular country or part of a country) could have a high percentage likelihood of being related to a criminal operation. When the provider receives such information, it may temporarily delay all transfers that fit the characteristics identified by law enforcement. According to the commenter, under the proposed language, it would be unclear whether when such ''block screenings'' resulted in a delay, the commenter could would be able to rely on the § 1005.33(a)(1)(iv)(B) exception.

The Bureau is mindful that commenters are wary of any requirement that they view as creating potential liability for what they deem to be standard operational procedures. The Bureau believes, however, that the commenters have largely based their concerns on an inaccurate and overly narrow interpretation of the proposed revisions. The Bureau's proposal was related to disclosure; it did not dictate to remittance transfer providers the type of screening procedures they could adopt. The proposal would simply have required that, where a provider ordinarily applies a certain type of procedure in connection with a certain type of transfer, the provider account for any additional length of time associated with that screening into its disclosure of the estimated date of availability. This requirement would have applied whether the additional time was 30 minutes or five days—in other words, if the provider knew that a procedure would apply to a particular remittance transfer and would delay that remittance transfer for a period of time (whether it be 30 minutes or five days), the provider would have been required to adjust the disclosed date of availability accordingly.

Nonetheless, the Bureau understands that its attempt in proposed comment 33(a)–7 to draw a distinction between ''ordinary'' and ''necessary'' investigations could be construed as not accurately or completely capturing the types of procedures that the Bureau believes could qualify as an exception under § 1005.33(a)(1)(iv)(B). Accordingly, the Bureau is finalizing comment 33(a)–7 with a modification to clarify whether the remittance transfer provider could have reasonably foreseen the delay at the time the provider provided the date of availability disclosure. Specifically, comment 33(a)–7 now explains that a delay does not constitute an error, if such delay is related to the provider's or any third party's investigation necessary to address potentially suspicious, blocked or prohibited activity, and the provider did not, and could not have reasonably foreseen the delay so as to enable it to timely disclose an accurate date of availability when providing the sender with a receipt or combined disclosure. In addition, the Bureau is adding two additional examples to comment 33(a)–7 to illustrate the application of the revised language. The first example clarifies that there is no error where a provider delays a remittance transfer in order to investigate specific law enforcement information indicating that a remittance transfer may match a pattern of fraudulent activity if it was not reasonable to disclose that delay

when the provider disclosed the date of availability. The second example states that, if a provider knows in time to make a timely disclosure that all remittance transfers to a certain area undergo a two-day long screening procedure, the provider must include an additional two days in its disclosure of the date of availability.

The Bureau notes that these examples do not represent the only situations that could satisfy this exception. The unique nature of the screenings at issue and the variety of business practices and technical capabilities among remittance transfer providers do not allow the Bureau to address every possible scenario. Furthermore, the Bureau emphasizes that nothing in the changes adopted herein should be construed as limiting a provider's ability to perform necessary screenings. Instead, the Bureau intends the revision to clarify that providers cannot avoid liability for an error in situations where they could have reasonably foreseen the delay so as to enable them to timely disclose an accurate date of availability but failed to disclose that date to the sender. Whether a provider could have reasonably foreseen a delay in time to make changes to its disclosure depends on the facts and circumstances surrounding the transfer. The Bureau believes that its approach in the final rule, as opposed to the April Proposal, responds to commenters' concerns that the proposed language was perhaps too narrow and did not allow for flexibility arising out of the varied nature of fraud and other screenings.

Finally, as proposed, the Bureau is renumbering existing comments 33(a)–7 through –10 as comments 33(a)–8 through –11, respectively, to reflect the insertion of new comment 33(a)–7.

1005.33(c) Time Limits and Extent of Investigation

Section 1005.33(c)(2) implements EFTA section 919(d)(1)(B) and establishes procedures and remedies for correcting an error under the Remittance Rule. In particular, where there has been an error under § 1005.33(a)(1)(iv) for failure to make funds available to a designated recipient by the disclosed date of availability, § 1005.33(c)(2)(ii) generally permits a sender to choose either: (1) To obtain a refund of the amount the sender paid to the remittance transfer provider in connection with the remittance transfer that was not properly transmitted, or an amount appropriate to resolve the error, or (2) to have the provider resend to the designated recipient the amount appropriate to resolve the error, at no additional cost to the sender or designated recipient. However, if the error resulted from the sender providing incorrect or insufficient information, § 1005.33(c)(2)(iii) requires a provider to refund or, at the consumer's request, reapply to a new transfer, the total amount that the sender paid to the provider, but it permits the provider to deduct from this amount fees actually imposed and, where not otherwise prohibited by law, taxes actually collected as part of the first unsuccessful remittance transfer attempt. Comment 33(c)–12 provides guidance on how a remittance transfer provider should determine the amount to refund to the sender, or to apply to a new transfer, pursuant to § 1005.33(c)(2)(iii). As explained in comment 33(c)–12, § 1005.33(c)(2)(iii) does not permit a provider to deduct its own fees from the amount refunded or applied to a new transfer. The Bureau proposed to amend § 1005.33(c)(2)(iii) by incorporating this guidance in current comment 33(c)–12 in the text of proposed § 1005.33(c)(2)(iii).

Proposed § 1005.33(c)(2)(iii) would have stated that in the case of an error under § 1005.33(a)(1)(iv) that occurred because the sender provided incorrect or insufficient information in connection with the remittance transfer, the remittance transfer provider shall provide the remedies required by § 1005.33(c)(2)(ii)(A)(1) and (B) within three business days of providing the report required by § 1005.33(c)(1) or (d)(1) except that the provider may agree to the sender's request, upon receiving the results of the error investigation, that the funds be applied towards a new remittance transfer, rather than be refunded, if the provider has not yet processed a refund. Proposed § 1005.33(c)(2)(iii) also would have provided that the provider may deduct from the amount refunded or applied towards a new transfer any fees actually imposed on or, to the extent not prohibited by law, taxes actually collected on the remittance transfer as part of the first unsuccessful remittance transfer attempt except that the provider shall not deduct its own fee.

In connection with the proposed change to § 1005.33(c)(2)(iii), the Bureau also proposed to modify comment 33(c)–5 by adding an example to further explain how a remittance transfer provider should determine the appropriate amount to resolve any error under § 1005.33(a)(1)(iv). Proposed comment 33(c)–5 would have explained that if the designated recipient received the amount that was disclosed pursuant to § 1005.31(b)(1)(vii) before the provider must determine the appropriate remedy, the amount appropriate to resolve the error would be limited to the refund of the appropriate fees and taxes that the sender paid, as determined by § 1005.33(c)(2)(ii)(B) or (c)(2)(iii) as applicable.

One consumer group commented on this aspect of the Proposal and supported the proposed clarifications. Industry commenters had mixed reactions. Several bank commenters and trade associations supported, or did not object to, the specific clarifications that the Bureau had proposed. However, a number of industry commenters asserted the general concern that it was not fair to prohibit remittance transfer providers from deducting their own fees from the amount refunded to a sender or applied to a new transfer in the case of an error under § 1005.33(a)(1)(iv), due to the sender providing incorrect or insufficient information.

Current § 1005.33(c)(2)(iii), as clarified by current comment 33(c)–12, already prohibits remittance transfer providers from deducting their own fees in the situation described above. Proposed § 1005.33(c)(2)(iii) would have stated more explicitly what is already required under current § 1005.33(c)(2)(iii), and, relatedly, proposed comment 33(c)–5 would have illustrated the existing requirement regarding the appropriate refund amount required to resolve an error pursuant to § 1005.33(a)(1)(iv) with an example. Further, this refund requirement has been part of the Remittance Rule since it was initially adopted in February 2012 and has been was in place since the rule took effect in October 2013.[25] The Bureau did not intend for the April Proposal to reopen the issue of what the appropriate remedy would be in the case of an error under § 1005.33(a)(1)(iv) that occurred because a sender did not provide correct or sufficient information in connection with a remittance transfer. The Bureau simply intended for the April Proposal clarify § 1005.33(c)(2)(iii) as previously adopted. The Bureau considers comments from industry commenters regarding whether it is appropriate for them to have to deduct their own fees from the amount refunded to a sender or applied to a new transfer in the case of an error under § 1005.33(a)(1)(iv), due to the sender providing incorrect or insufficient information in connection with the transfer, to be outside the scope of this rulemaking.

Finally, consistent with the Bureau's intent to clarify the requirement with respect to the appropriate remedy under

[25] *See* 77 FR 6257 (Feb. 7, 2012); 78 FR 6025 (Jan. 29, 2013).

§ 1005.33(c)(2)(iii), the Bureau is adopting a technical correction to comment 33(c)–12.i to describe the total amount that a sender has paid the provider, the total amount of the refund that such sender will receive, and the portion of the total refund that is attributable to the provider's refund of its own fee in greater detail. The Bureau believes that revised comment 33(c)–12.i provides greater clarity with respect to how the total refund amount is calculated but the changes adopted do not alter the calculations. The Bureau believes that it is appropriate to adopt this technical correction without notice and comment because the correction is consistent with the Bureau's intent to clarify the requirement with respect to the appropriate remedy under § 1005.33(c)(2)(iii).[26]

For the above reasons, the Bureau is adopting § 1005.33(c)(2)(iii) and comment 33(c)–5 as proposed, with the addition of the technical correction to comment 33(c)–12.i.

VI. Effective Date

The Bureau proposed to have all of the changes included in the April Proposal take effect thirty days after publication of this final rule in the **Federal Register**. The Bureau had based the proposed implementation period on its belief that remittance transfer providers would only be required to make minimal changes to their practices to align them with the changes included in the Proposal. The Bureau sought comment on the proposed effective date, including on whether a later effective date would be more appropriate. Several industry commenters, including several trade associations representing credit unions and a money transmitter, asked the Bureau to adopt a longer implementation period, arguing that the changes proposed would require changes to compliance, training, and disclosure procedures. The majority of these commenters asked for a 90-day implementation period, while the money transmitter commenter asked for a 12-month implementation period. The Bureau agrees to provide a longer implementation period for this final rule in order to allow industry sufficient time to make the changes to systems and procedures that providers and their service providers deem necessary. Insofar as the clarifications adopted herein are largely optional or meant to clarify existing practices or requirements of the Remittance Rule, the Bureau does not believe that their implementation should result in significant operational changes for providers that would require a 12-month implementation period. Accordingly, the final rule will take effect 60 days from the date of publication in the **Federal Register**.

VII. Section 1022(b)(2) Analysis

A. Overview

In developing this final rule, the Bureau has considered potential benefits, costs, and impacts[27] and has consulted or offered to consult with the prudential regulators and the Federal Trade Commission, including regarding the consistency of this final rule with prudential, market, or systemic objectives administered by such agencies.[28]

The analysis below considers the benefits, costs, and impacts of the key provisions of this final rule against the baseline provided by the current Remittance Rule. This final rule makes the following changes to the Remittance Rule. First, this final rule extends the temporary exception in the Remittance Rule that permits insured depository institutions and insured credit unions to estimate the exchange rate and covered third-party fees under specified circumstances, from July 21, 2015, to July 21, 2020.

Second, this final rule makes several clarifying amendments and technical corrections to the current Remittance Rule concerning: The application of the Rule to transfers to and from locations on U.S. military installations abroad; the treatment of transfers from consumer and non-consumer accounts; the treatment of faxes; the treatment by a remittance transfer provider of a communication regarding a potential remittance transfer as an inquiry; the Web site addresses to be disclosed on consumer receipts; and error resolution provisions related to delays and remedies. With respect to these provisions, the analysis considers the benefits and costs to senders (consumers) and remittance transfer providers (covered persons). The Bureau has discretion in future rulemakings to choose the most appropriate baseline for that particular rulemaking.

The Bureau notes at the outset that the analysis below generally provides a qualitative discussion of the benefits, costs, and impacts of the final rule. The Bureau believes that quantification of the potential benefits, costs, and impacts of the provisions is not possible. There are limited data on consumer behavior, which would be essential for quantifying the benefits or costs to consumers. The Bureau also lacks information about the accuracy of estimates for exchange rates and covered third-party fees that could help inform the Bureau of the potential cost to consumers of extending the temporary exception to July 21, 2020, in terms of the benefit foregone of receiving actual (as opposed to estimated) information. Further, there are still limited data about the remittance transfer market such that the Bureau cannot presently quantify the potential benefits, costs, and impacts of the provisions on remittance transfer providers. Nonetheless, the Bureau has reviewed the available data about the remittance transfer market, which now includes responses in the NCUA and FFIEC Call Report filings. As noted above, the Bureau believes that the additional data have enhanced the Bureau's understanding of the remittance transfer offerings of credit unions and depositary institutions, including with respect to the number of transfer sent and the methods used to send those transfers. As is discussed above, and consistent with the Bureau's prior estimates, the data suggest that credit unions may have sent less than one percent, and depositary institutions less than 10 percent, of the estimated total of 150 million international remittance transfers sent by money transmitters in 2013.

B. Potential Benefits and Costs to Consumers and Covered Persons

1. Extension of the Temporary Exception to July 21, 2020

This final rule amends the current Remittance Rule by providing that remittance transfer providers may estimate exchange rates and covered third-party fees until July 21, 2020 (rather than July 21, 2015, as in the current Remittance Rule), if (1) the provider is an insured depository institution or credit union; (2) the remittance transfer is sent from the sender's account with the provider; and (3) the provider cannot determine the exact amounts for reasons outside of its

[26] One large bank commenter suggested that the Bureau clarify current comment 33(c)(12)–i by revising it to add the remittance transfer provider's fee to the total refund amount. The Bureau believes that the technical correction to comment 33(c)–12.i addresses the commenter's concern.

[27] Section 1022(b)(2)(A) of the Dodd-Frank Act directs the Bureau, when prescribing a rule under the Federal consumer financial laws, to consider the potential benefits and costs of a regulation to consumers and covered persons, including the potential reduction of access by consumers to consumer financial products or services; the impact on depository institutions and credit unions with $10 billion or less in total assets as described in section 1026 of the Dodd-Frank Act; and the impact on consumers in rural areas.

[28] The Bureau also solicited feedback from other agencies with supervisory and enforcement authority regarding Regulation E and the Remittance Rule.

control.[29] The analysis below considers the benefits, costs, and impacts of extending the exception against a baseline of allowing the exception to expire on July 21, 2015.

a. Benefits and Costs to Consumers

As the Bureau stated in its impact analysis in the April Proposal, relative to accurate disclosures, estimated disclosures strike a different balance between accuracy and access, potentially offering less accuracy but also potentially preserving greater access. 77 FR at 6274. The Bureau believes that extending the temporary exception may benefit those consumers who use insured institutions' remittance services because some of those services may otherwise be discontinued if the exception were to sunset on July 21, 2015. Specifically, the extension may benefit these consumers by preserving their current method of sending remittance transfers, particularly if alternatives are more expensive or less convenient, to the extent that such alternatives exist at all.

Extending the temporary exception may also provide benefits to consumers in the form of avoiding increased prices. This benefit depends on the extent to which providing exact information (as opposed to estimates) would require insured institutions or their service providers to take costly steps to provide that information, and the extent to which those institutions would then pass those costs to the consumers.

As stated above, the Bureau understands that disclosures containing estimates may be less accurate than those that disclose exact amounts. Disclosures that accurately reflect actual covered third-party fees and exchange rates may make it easier for a consumer to know whether a designated recipient is going to receive an intended sum of money, or the amount in U.S. dollars that the consumer must send to deliver a specific amount of foreign currency to a designated recipient. Extending the temporary exception may impose a cost on consumers in the form of these foregone benefits, if the estimated disclosures they receive from insured depository institutions and credit unions tend to deviate from the actual amount. Accurate disclosures may also make it easier for consumers to compare prices across providers. Accordingly, the Bureau believes there may be a cost associated with an extension of the temporary exception in that consumers may be less likely to engage in comparisons, if they believe that they cannot rely on estimated disclosures. However, as stated elsewhere in the preamble, the Bureau believes that the temporary exception is likely used in a small portion of all remittance transfers. To date, the Bureau is not aware of any evidence of abuse of the temporary exception; providers appear to use it only when necessary. Therefore, the Bureau believes that the overall costs to consumers of extending the temporary exception are not significant.

b. Benefits and Costs to Covered Persons

The information the Bureau has gathered with respect to how insured depository institutions and credit unions are, or are not, using the temporary exception, along with the Bureau's other efforts to understand industry's compliance with the requirements of the Remittance Rule, have provided the Bureau with a basis to determine that if the temporary exception were to sunset on July 21, 2015, its expiration would have a negative impact on the ability of insured institutions to send remittance transfers. The Bureau expects that extending the temporary exception to July 21, 2020, may benefit insured institutions that rely on the temporary exception to send remittance transfers by mitigating the negative impact of its earlier expiration. The Bureau believes that there may not be a cost to insured institutions of extending the exemption because it would not require them to alter current practices.

The Bureau understands that many insured institutions have already taken significant steps toward disclosing actual exchange rates and covered third-party fees when they believe they are able to do so. At the same time, the Bureau also understands that some small and some large insured institutions rely on the temporary exception for remittance transfers from accounts in which they believe covered third-party fee and/or exchange rate information are not readily available. Some of these institutions have indicated to the Bureau that they are unlikely to find an alternative to their reliance on the temporary exception by July 21, 2015, for at least some portion of the remittance transfers for which they currently use the temporary exception.

For insured institutions, the Bureau believes that a potential benefit associated with extending the temporary exception may come from preserving the segment of their business for which they rely on the temporary exception and for which they are unable to find a practical or cost-effective alternative. The Bureau acknowledges that the magnitude of this benefit is related to the overall significance of that particular segment of business for an insured institution and whether that institution uses the exception to estimate the disclosure of exchange rates or covered third-party fees (or both). With respect to the disclosure of exchange rates, the Bureau acknowledges that the magnitude of this benefit may be marginal because the exception's use for this purpose is limited. As for the disclosure of covered third-party fees, the Bureau believes that the benefit may be relatively greater to the extent that such estimation is more frequent.

An additional benefit of extending the temporary exception may be that it could provide additional time for insured institutions to search for efficient and cost-effective ways to disclose actual exchange rates and covered third-party fees in lieu of disclosing estimates. For instance, the Bureau believes that by 2020, insured institutions may develop more effective methods of communication between members of an open network that would allow for on-time verification of third-party fees and exchange rates.

2. Application of the Remittance Rule to U.S. Military Installations Abroad

The analysis below discusses the potential benefits and costs for consumers and covered persons that may result from clarifying that for purposes of the Remittance Rule: (1) Where a sender specifies that the funds will be received at a U.S. military installation that is physically located in a foreign country, a transfer will be considered as having been received in a State (and thus the Remittance Rule would not apply); (2) where a sender specifies that the funds will be received in an account that is located on a U.S. military installation abroad, the transfer will be considered as having been received in a State; and (3) a sender located on a U.S. military installation that is physically located in a foreign country is considered to be located in a State.

a. Benefits and Costs to Consumers

This clarification should not affect consumers who send remittance transfers to U.S. military installations located abroad using remittance transfer providers that currently treat such transfers as exempt from the Remittance Rule. As stated above, the Bureau

[29] As noted above in the Section-by-Section Analysis, the temporary exception does not apply to broker-dealers. However, SEC staff issued a no-action letter in December 2012 stating that it will not recommend an enforcement action under Regulation E against broker-dealers that provide disclosures consistent with the requirements of the temporary exception. *See http://www.sec.gov/divisions/marketreg/mr-noaction/2012/financial-information-forum-121412-rege.pdf.*

understands that the majority of providers already treat transfers to U.S. military installations abroad in this manner. A smaller number of consumers who send transfers to U.S. military installations using providers who are providing disclosures in such instances may incur a cost, insofar as their provider currently applies the Remittance Rule to such transfers, but will no longer be required to do so in the light of this clarification. However, the Bureau believes this cost to be minimal, for the following reasons.

The Bureau believes that transfers to U.S. military installations located abroad share many of the characteristics of domestic transfers, and as such harbor less risk related to, for example, disclosures of fees, inaccuracies in exchange rates, and the timing of availability of funds, than a typical remittance transfer. A majority of commenters agree. Therefore, the benefit to consumers of the additional protections provided by the Remittance Rule for the affected transfers is likely to be insubstantial. Further, to the extent that some providers treated U.S. military installations abroad as being in a foreign location, consumers may also receive potential benefits from this clarification in the form of more consistent service across providers. Finally, consumers who send transfers from a U.S. military installation to a designated recipient in a foreign country will benefit from the protections of the rule including, for example, cancellation and error resolution rights, if previously those transfers were not subject to its requirements.

b. Benefits and Costs to Covered Persons

As the Bureau explained in the April Proposal, it believed that without clarification, there was a potential for confusion about whether the requirements of the Remittance Rule apply to remittance transfers sent to and from U.S. military installations located in foreign countries. Accordingly, the Bureau believes that this clarification may benefit remittance transfer providers by facilitating compliance without the added cost of determining how to interpret the Remittance Rule as it relates to transfers involving U.S. military installations. The Bureau understands that most remittance transfer providers currently treat U.S. military installations located in foreign countries as being located in States for the purposes of the Rule. Because this clarification is consistent with most providers' existing practices, the Bureau does not expect any material costs on covered persons. To the extent that certain providers have interpreted the Remittance Rule to require disclosures to consumers sending remittance transfers to U.S. military installations located in foreign countries, those providers will now benefit from the cost savings associated with being able to stop providing those disclosures. Conversely, there may be a cost to providers to the extent that previously they did not apply the rule to transfers sent from a U.S. military installation abroad to a designated recipient in a foreign country and now will have to apply the rule to those transfers.

3. Application of the Remittance Rule to Consumer and Non-Consumer Accounts

The Remittance Rule only applies to transfers that are requested primarily for personal, family, or household purposes. This final rule clarifies that a remittance transfer provider may generally deem that the transfer is requested primarily for personal, family, or household purposes if the transfer is sent from an account that was established primarily for personal, family, or household purposes. The final rule also clarifies that a provider may deem that a transfer sent from a non-consumer account, such as a business account or account held by a financial institution under a bona fide trust agreement pursuant to § 1005.2(b)(3), as not being requested primarily for personal, family, or household purposes.

a. Benefit and Costs to Consumers

As discussed below, the Bureau believes that remittance transfer providers are currently treating transfers from non-consumer accounts as being outside the scope of the Remittance Rule, and transfers from consumer accounts as being within the scope of the rule. Thus, the Bureau does not foresee any material impact on the costs or benefits to consumers from the clarification.

b. Benefits and Costs to Covered Persons

The Bureau believes that remittance transfer providers are currently treating transfers from non-consumer accounts as being outside the scope of the Remittance Rule, and transfers from consumer accounts as being within the scope of the rule. Thus, the Bureau does not foresee any material impact on the costs or benefits to providers from the clarification. The Bureau also generally believes that it is less costly to determine whether a transfer is subject to the Rule on the account level than having to make a transfer-by-transfer determination of whether the Rule applies. To the extent that some covered persons are using the more costly transfer-by-transfer method to identify whether the Remittance Rule applies to a particular transfer and choose to change to this method, this final rule may reduce their compliance costs.

4. Disclosures Made by Fax; Disclosures for Oral Telephone Transactions; Bureau's Web Site on Receipts

The Bureau is adopting several clarifications regarding the format of disclosures. First, the final rule clarifies that disclosures provided pursuant to § 1005.31 and § 1005.36 that are transmitted by fax may be considered a ''writing'' under the Remittance Rule. Second, the final rule permits providers to treat a written or electronic communication as an inquiry in cases where treating such communication as a request would be impractical. In response to such inquiries, the provider may provide pre-payment disclosures orally—but only when transactions are conducted orally and entirely by telephone. Third, this final rule specifies that remittance transfer providers may satisfy the requirement to disclose the Bureau's Web site on the receipts by listing either the Bureau's main Web page, or the Bureau's Web page that provides information about remittance transfers, or the Bureau's Web page in a language other than English, if it exists, insofar as a provider is making disclosures in that language pursuant to § 1005.31(g).

a. Benefits and Costs to Consumers

The Bureau believes that the clarification regarding the treatment of faxes is consistent with current practice. Thus, the Bureau does not believe that there are any material benefits or costs to consumers. The clarification regarding written or electronic inquiries is unlikely to create any material benefits or costs to consumers, because the Bureau believes that the clarification would conform the rule to providers' current practice. As the Bureau develops its Web page dedicated to remittance transfers, including creating Web pages in languages other than English, consumers may benefit from more direct access to these resources. The Bureau does not expect any material cost to consumers from this clarification.

b. Benefits and Costs to Covered Persons

The Bureau believes that to the extent remittance transfer providers already send disclosures via fax, they treat those faxes as a ''writing.'' Accordingly, the Bureau does not expect any material benefits or costs to covered persons.

As discussed above, the Bureau believes that the clarification regarding

written or electronic inquiries would conform the rule to providers' current practice. Accordingly, the Bureau believes that the clarification would have minimal impact on covered persons. To the extent that it has any impact, the impact may be a positive one in that the clarification may benefit covered persons by clarifying that they have the option to respond to such inquiries orally if treating the communication as a request would be impractical. Further, because the clarification represents an option, but not a requirement, the Bureau does not believe that there will be material costs to covered persons, because it does not require a change in their current practices. The Bureau also does not believe that the clarification regarding Bureau's Web site will impose any material costs or benefits on covered persons. The clarification merely provides them with an option to display Bureau Web pages other than the Bureau's main Web site, but does not require a change in current practices.

5. Delays Related to Fraud Screening

The current Remittance Rule provides that a delay in relaying the funds is not an ''error'' if it is related to the remittance transfer provider's fraud screening procedures or in accordance with the Bank Secrecy Act, 31 U.S.C. 5311, *et seq.,* Office of Foreign Assets Control requirements, or similar laws or requirements. This final rule clarifies that a delay does not constitute an ''error'' if such delay is related to the provider's or any third party's investigation necessary to address potentially suspicious, blocked or prohibited activity, and the provider did not have, and could not have reasonably obtained, sufficient information about the delay to enable it to timely disclose an accurate date of availability when providing the sender with a receipt or combined disclosure.

a. Benefits and Costs to Consumers

The Bureau believes that this clarification will benefit consumers who currently experience delays due to fraud screening procedures, insofar as remittance transfer providers have or could have reasonably obtained sufficient information about the delay to enable them to timely disclose an accurate date of availability. As discussed above, the Bureau expects that the clarification will lead to some providers adjusting their existing disclosure practices to ensure compliance with the final rule. The Bureau believes that the consumers who are the customers of these providers will benefit from more accurate disclosure of the date of availability. The Bureau does not foresee any material costs on consumers from this clarification.

b. Benefits and Costs to Covered Persons

This change to the Remittance Rule is a clarification of what the Bureau intended the rule to be in the first instance. (The Bureau is making this revision because the Bureau believes the original rule may have been unclear.) This change does not impose any material costs on those providers that already include delays due to fraud screening in their method of disclosing the date of availability of funds to recipient. Other providers may incur costs to make adjustments to their practices to ensure that they are complying with the Rule; however, these are only costs intended to bring the disclosure practices up to the intended understanding of the Remittance Rule, and do not constitute additional costs imposed by this final rule.

6. Refunds in Case of Errors Resulting From the Sender Providing Incorrect or Insufficient Information

In cases of errors resulting from the sender providing incorrect or insufficient information, § 1005.33(c)(2)(iii) now explicitly states that a remittance transfer provider may not deduct its own fees from the amount refunded or applied to a new transfer.[30] This clarifies what was already required by the current Remittance Rule—a refund of the provider's own fee for errors that occur pursuant to § 1005.33(a)(1)(iv). Related to § 1005.33(c)(2)(iii), the Bureau is also adding an example to further explain how a remittance transfer provider should determine the appropriate amount to resolve any error under § 1005.33(a)(1)(iv).

a. Benefits and Costs to Consumers

The Bureau believes that there will be no material impact on consumers, because the Bureau believes that remittance transfer providers are not deducting their own fees when remedying an error pursuant to § 1005.33(a)(1)(iv) because the sender provided incorrect or insufficient information in connection with the transfer.

[30] Prior to the adoption of this final rule, § 1005.33(c)(2)(iii), as clarified by current comment 33(c)–12, already prohibited remittance transfer providers from deducting their own fees from the amount refunded to a sender or applied to a new transfer in the case of an error pursuant to § 1005.33(a)(1)(iv) because the sender provided incorrect or insufficient information in connection with the transfer.

b. Benefits and Costs to Covered Persons

The Bureau believes that there will be no material benefits or costs on covered persons, because this final rule has simply clarified existing requirements under the rule that have been in place as of the effective date in October 2013.

C. Access to Consumer Financial Products and Services

The Bureau expects that the amendments adopted in this final rule will not decrease consumers' access to consumer financial products and services. On the contrary, by extending the temporary exception, the Bureau believes that this final rule may preserve consumers' current set of options for sending remittance transfers to destinations for which insured institutions rely on the temporary exception, compared to a market in which the temporary exception expires in July of 2015. The Bureau believes that there will not be a material impact of the technical corrections and clarifications of this final rule on consumer access to remittance transfer services.

D. Impact on Depository Institutions and Credit Unions With $10 Billion or Less in Total Assets

As discussed above, the Bureau understands that with regard to remittance transfers sent from accounts, the majority of insured institutions that are remittance transfer providers obtain information about exchange rates and covered third-party fees from a limited number of service providers that are either very large insured institutions or large nonbank service providers. The Bureau believes that this applies to depository institutions and credit unions with $10 billion or less in total assets. Given that reliance, the nature of the impacts on these institutions is likely be similar to the effects on larger depository institutions.

In addition, the Bureau believes that the specific impacts of the extension of the temporary exception on depository institutions and credit unions depends on a number of factors, including whether such institutions are remittance transfer providers, the importance of remittance transfers for such institutions, the methods that such insured institutions use to send remittance transfers, and the number of institutions or countries to which they send remittance transfers. Information that the Bureau obtained during prior remittance rulemaking efforts, as well as data from the FFIEC and NCUA Call Reports, suggest that among depository institutions and credit unions that

provide any remittance transfers, an institution's asset size and the number of remittance transfers sent by the institution are positively, though imperfectly, related. The Bureau therefore expects that among depository institutions and credit unions with $10 billion or less in total assets that provide any remittance transfers, compared to such larger institutions, a greater share will qualify for the safe harbor related to the definition of ''remittance transfer provider'' and therefore would be entirely unaffected by the proposed extension, because they are not subject to the requirements of the Remittance Rule. *See* § 1005.30(f)(2).

E. Impact of the Proposal on Consumers in Rural Areas

Senders in rural areas may experience different impacts from this final rule than other senders. The Bureau does not have data with which to analyze these impacts in detail. To the extent that the extension of the temporary exception impacts remittance transfer providers by allowing them to continue to provide remittance transfer services, this final rule may disproportionately benefit senders living in rural areas. Consumers in rural areas may have fewer options for sending remittance transfers, and therefore may benefit more than other consumers from a change that keeps more providers in the market. The Bureau does not expect that any of the other changes will have a material impact on consumers in rural areas.

VIII. Regulatory Flexibility Act

A. Overview

The Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, requires each agency to consider the potential impact of its regulations on small entities, including small businesses, small governmental units, and small not-for-profit organizations.[31] The RFA defines a ''small business'' as a business that meets the size standard developed by the Small Business Administration pursuant to the Small Business Act.[32]

The RFA generally requires an agency to conduct an initial regulatory flexibility analysis (IRFA) and a final regulatory flexibility analysis (FRFA) 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.[33] The Bureau also is subject to certain additional procedures under the RFA involving the convening of a panel to consult with small entity representatives prior to proposing a rule for which an IRFA is required.[34]

The Bureau is certifying this final rule. A FRFA is not required for this rule because it will not have significant economic impact on a substantial number of small entities.

B. Affected Small Entities

The analysis below evaluates the potential economic impact of this final rule on small entities as defined by the RFA.[35] This final rule applies to entities that satisfy the definition of ''remittance transfer provider,'' which is any person that provides remittance transfers for a consumer in the normal course of its business, regardless of whether the consumer holds an account with such person. *See* § 1005.30(f).[36] Potentially affected small entities include insured depository institutions and credit unions that have $550 million or less in assets and that provide remittance transfers in the normal course of their business, as well as non-depository institutions that have annual receipts that do not exceed $20.5 million and that provide remittance transfers in the normal course of their business.[37] With respect to the non-depository institutions, the affected small non-depository entities may include State-licensed money transmitters, broker-dealers, and other money transmission companies.[38] This analysis examines the benefits, costs, and impacts of the key provisions of this final rule relative to the baseline provided by the current Remittance Rule. The Bureau has discretion in future rulemakings to choose the most appropriate baseline for that particular rulemaking.

C. Extension of the Temporary Exception

This final rule extends the temporary exception that permits insured institutions to provide estimated disclosures, instead of exact disclosures as is generally required under the Remittance Rule, under certain circumstances, from July 21, 2015, to July 21, 2020. The Bureau believes that the extension of the temporary exception would not impose a cost on any insured institutions, because the extension would not require them to alter current practices but instead maintain the status quo.

D. Additional Clarifications

With regard to changes in this final rule concerning the treatment of transfers sent from consumer and non-consumer accounts, the treatment of faxes, when a provider may treat a communication regarding a potential remittance transfer as an inquiry, the Web site addresses to be disclosed on consumer receipts, and error resolution provisions related to delays and remedies, the Bureau does not believe that any of the provisions would have any material cost impact on any remittance transfer providers for the reasons stated in the Section 1022(b)(2) Analysis.

With respect to the provisions of this final rule concerning the treatment of U.S. military installations located in

[31] 5 U.S.C. 601, *et seq.* The Bureau is not aware of any small governmental units or not-for-profit organizations to which the proposal would apply.

[32] 5 U.S.C. 601(3) (the Bureau may establish an alternative definition after consultation with the Small Business Administration and an opportunity for public comment).

[33] 5 U.S.C. 603–605.

[34] 5 U.S.C. 609.

[35] For purposes of assessing the impacts of this final rule on small entities, ''small entities'' is defined in the RFA to include small businesses, small not-for-profit organizations, and small government jurisdictions. 5 U.S.C. 601(6). A ''small business'' is determined by application of Small Business Administration regulations and reference to the North American Industry Classification System (''NAICS'') classifications and size standards. 5 U.S.C. 601(3). A ''small organization'' is any ''not-for-profit enterprise which is independently owned and operated and is not dominant in its field.'' 5 U.S.C. 601(4). A ''small governmental jurisdiction'' is the government of a city, county, town, township, village, school district, or special district with a population of less than 50,000. 5 U.S.C. 601(5).

[36] The definition of ''remittance transfer provider'' includes a safe harbor under which a person who provided 100 or fewer remittance transfers in the previous calendar year and provides 100 or fewer such transfers in the current calendar year, it is deemed not to be providing remittance transfers for a consumer in the normal course of its business, and is thus not a remittance transfer provider. *See* § 1005.30(f)(2).

[37] Small Bus. Admin., Table of Small Business Size Standards Matched to North American Industry Classification System Codes, *http://www.sba.gov/sites/default/files/files/Size_Standards_Table.pdf*. Under what were the relevant size standards in place when the Bureau issued the April Proposal, the thresholds were $500 million for insured depository institutions and credit unions, and $19 million for non-depository institutions that are remittance transfer providers. The SBA increased the threshold from $500 to $550 million for insured depository institutions and credit unions, and from $19 million to $20.5 million for non-depository institutions remittance transfer providers, but the adjustments do not does not change the Bureau's analysis. The Bureau adopts NAICS code 522390 (''Other Activities Related to Credit Intermediation'') as the most relevant code for remittance transfer providers that are not depository institutions. *See* 79 FR 33647 (June 12, 2014).

[38] Many State-licensed money transmitters act through agents. However, the Remittance Rule applies to remittance transfer providers and explains, in official commentary, that a person is not deemed to be acting as a provider when it performs activities as an agent on behalf of a provider. Comment 30(f)–1. Furthermore, for the purpose of this analysis, the Bureau assumes that providers, and not their agents, will assume any costs associated with implementing the modifications.

foreign countries for purposes of the Remittance Rule, the Bureau believes that remittance transfer providers that are small entities will not be significantly impacted, for the following reasons. This final rule clarifies that an account that is located on a U.S. military installation that is physically located in a foreign country is considered to be located in a State. It does not change the current Remittance Rule, insofar as the current rule does not contain specific guidance regarding how to treat such transfers. The final rule provides similar clarification with respect to transfers sent and received by senders (rather than from an account). The Bureau understands that many, if not most, servicemembers and other consumers stationed at U.S. military bases abroad opened their accounts in the United States. Accordingly, the Bureau believes that the impact on small insured institutions and credit unions that provide account-based transfers should be relatively limited, because this rule is not adjusting how transfers to and from those accounts are to be treated. For transfers to and from accounts located on a U.S. military installation abroad and for non-account based transfers, the Bureau believes that the impact will similarly be limited because the Bureau understands that the changes in the rule are largely in accordance with providers' current practice.

E. Cost of Credit for Small Entities

This final rule does not apply to credit transactions or to commercial remittances. Therefore, the Bureau does not expect this rule to increase the cost of credit for small businesses. With a few exceptions, this final rule generally does not change or lowers the cost of compliance for depositories and credit unions, many of which offer small business credit. Any effect of this final rule on small business credit, however, would be highly attenuated. This final rule also generally does not change or lowers the cost of compliance for money transmitters. Money transmitters typically do not extend credit to any entity, including small businesses.

F. Certification

Accordingly, the undersigned hereby certifies that this rule will not have a significant economic impact on a substantial number of small entities.

IX. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501, et seq.) (PRA), the Bureau may not conduct or sponsor and, notwithstanding any other provision of law, a respondent is not required to respond to, an information collection unless the information collection displays a valid OMB control number. Regulation E, 12 CFR Part 1005, currently contains collections of information approved by OMB. The Bureau's OMB control number for Regulation E is 3170–0014.

As discussed elsewhere in this preamble, the Bureau solicited comments concerning the relative number of transfers sent to and from individuals and/or accounts located on U.S. military installations located in foreign countries and understands that remittance transfers to and from U.S. military installations abroad constitute a very small percentage of the overall remittance transfer market. Furthermore, the Bureau understands, and received comments to support the understanding, that remittance transfer providers currently treat such transfers as being within the United States, *i.e.,* akin to domestic transfers not subject to the Remittance Rule. As such, the Bureau believes that remittance providers, in the ordinary course of their business, are in most instances already providing all applicable notices and disclosures required by this clarification, and therefore, there is no material change in burden of the previously identified information collections. Other changes required under this final rule do not affect information collection practices. Therefore, the Bureau does not believe that any of the changes adopted in this final rule will have a substantial impact on the Bureau's current collections of information pursuant to Regulation E approved by the Office of Management and Budget (OMB) under section 3507(d) of the PRA.

List of Subjects in 12 CFR Part 1005

Banking, Banks, Consumer protection, Credit unions, Electronic fund transfers, National banks, Remittance transfers, Reporting and recordkeeping requirements, Savings associations.

Authority and Issuance

For the reasons set forth in preamble, the Bureau amends 12 CFR part 1005 to read as follows:

PART 1005—ELECTRONIC FUND TRANSFERS (REGULATION E)

■ 1. The authority citation for part 1005 continues to read as follows:

Authority: 12 U.S.C. 5512, 5581; 15 U.S.C. 1693b. Subpart B is also issued under 12 U.S.C. 5601.

Subpart B—Requirements for Remittance Transfers

■ 2. Amend § 1005.32 to revise paragraph (a)(2) to read as follows:

§ 1005.32 Estimates.

(a) * * *

(2) *Sunset date.* Paragraph (a)(1) of this section expires on July 21, 2020.

* * * * *

■ 3. Amend § 1005.33 to revise paragraphs (a)(1)(iv)(B) and (c)(2)(iii) to read as follows:

§ 1005.33 Procedures for resolving errors.

(a) * * *

(1) * * *

(iv) * * *

(B) Delays related to a necessary investigation or other special action by the remittance transfer provider or a third party as required by the provider's fraud screening procedures or in accordance with the Bank Secrecy Act, 31 U.S.C. 5311 *et seq.,* Office of Foreign Assets Control requirements, or similar laws or requirements;

* * * * *

(c) * * *

(2) * * *

(iii) In the case of an error under paragraph (a)(1)(iv) of this section that occurred because the sender provided incorrect or insufficient information in connection with the remittance transfer, the remittance transfer provider shall provide the remedies required by paragraphs (c)(2)(ii)(A)(*1*) and (c)(2)(ii)(B) of this section within three business days of providing the report required by paragraph (c)(1) or (d)(1) of this section except that the provider may agree to the sender's request, upon receiving the results of the error investigation, that the funds be applied towards a new remittance transfer, rather than be refunded, if the provider has not yet processed a refund. The provider may deduct from the amount refunded or applied towards a new transfer any fees actually imposed on or, to the extent not prohibited by law, taxes actually collected on the remittance transfer as part of the first unsuccessful remittance transfer attempt except that the provider shall not deduct its own fee.

* * * * *

■ 4. Appendix A to part 1005 is amended by revising Model Forms A–31 and A–40 to read as follows:

APPENDIX A TO PART 1005—MODEL DISCLOSURES AND FORMS

BILLING CODE 4810–AM–P

A-31 – Model Form for Receipts for Remittance Transfers Exchanged into Local Currency (§ 1005.31(b)(2))

ABC Company
1000 XYZ Avenue
Anytown, Anystate 12345

Today's Date: March 3, 2014

RECEIPT

SENDER:
Pat Jones
100 Anywhere Street
Anytown, Anywhere 54321
222-555-1212

RECIPIENT:
Carlos Gomez
123 Calle XXX
Mexico City
Mexico

PICK-UP LOCATION:
ABC Company
65 Avenida YYY
Mexico City
Mexico

Confirmation Code: ABC 123 DEF 456

Date Available: March 4, 2014

Transfer Amount:	$100.00
Transfer Fees:	+$7.00
Transfer Taxes:	+$3.00
Total:	$110.00

Exchange Rate: US$1.00 = 12.27 MXN

Transfer Amount:	1,227.00 MXN
Other Fees:	-30.00 MXN
Total to Recipient:	1,197.00 MXN

Recipient may receive less due to fees charged by the recipient's bank and foreign taxes.

You have a right to dispute errors in your transaction. If you think there is an error, contact us within 180 days at 800-123-4567 or www.abccompany.com. You can also contact us for a written explanation of your rights.

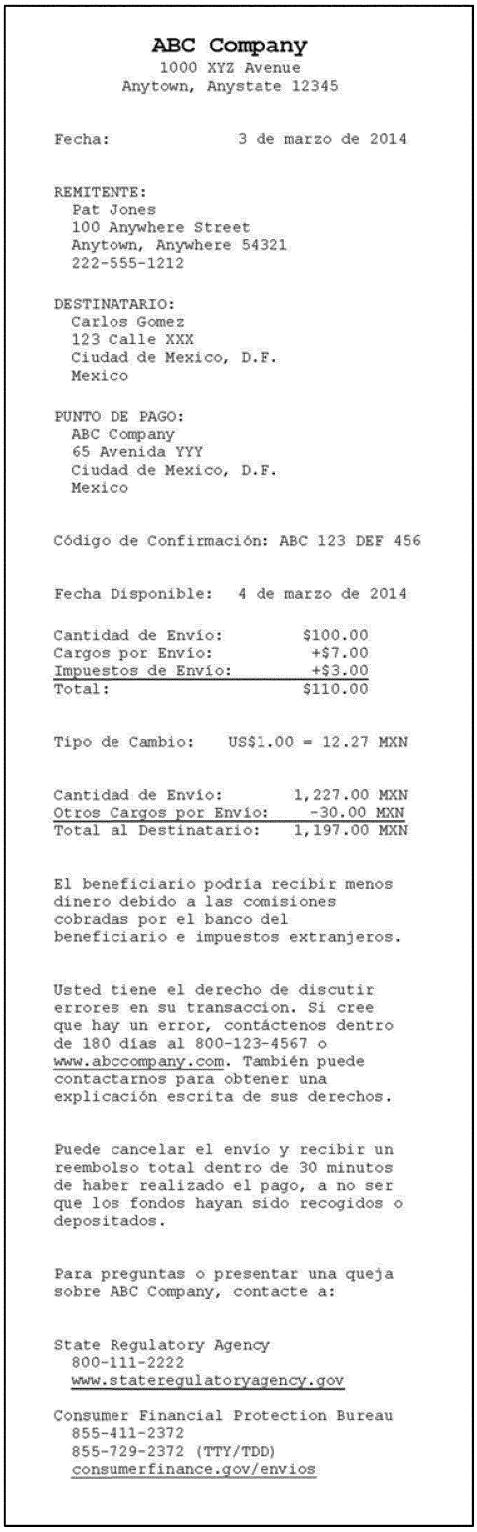
You can cancel for a full refund within 30 minutes of payment, unless the funds have been picked up or deposited.

For questions or complaints about ABC Company, contact:

State Regulatory Agency
800-111-2222
www.stateregulatoryagency.gov

Consumer Financial Protection Bureau
855-411-2372
855-729-2372 (TTY/TDD)
consumerfinance.gov/sending-money

A-40 – Model Form for Combined Disclosures for Remittance Transfers Exchanged into Local Currency – Spanish (§ 1005.31(b)(3))



ABC Company
1000 XYZ Avenue
Anytown, Anystate 12345

Fecha: 3 de marzo de 2014

REMITENTE:
Pat Jones
100 Anywhere Street
Anytown, Anywhere 54321
222-555-1212

DESTINATARIO:
Carlos Gomez
123 Calle XXX
Ciudad de Mexico, D.F.
Mexico

PUNTO DE PAGO:
ABC Company
65 Avenida YYY
Ciudad de Mexico, D.F.
Mexico

Código de Confirmación: ABC 123 DEF 456

Fecha Disponible: 4 de marzo de 2014

Cantidad de Envío:	$100.00
Cargos por Envío:	+$7.00
Impuestos de Envío:	+$3.00
Total:	$110.00

Tipo de Cambio: US$1.00 = 12.27 MXN

Cantidad de Envío:	1,227.00 MXN
Otros Cargos por Envío:	-30.00 MXN
Total al Destinatario:	1,197.00 MXN

El beneficiario podría recibir menos dinero debido a las comisiones cobradas por el banco del beneficiario e impuestos extranjeros.

Usted tiene el derecho de discutir errores en su transaccion. Si cree que hay un error, contáctenos dentro de 180 días al 800-123-4567 o www.abccompany.com. También puede contactarnos para obtener una explicación escrita de sus derechos.

Puede cancelar el envío y recibir un reembolso total dentro de 30 minutos de haber realizado el pago, a no ser que los fondos hayan sido recogidos o depositados.

Para preguntas o presentar una queja sobre ABC Company, contacte a:

State Regulatory Agency
800-111-2222
www.stateregulatoryagency.gov

Consumer Financial Protection Bureau
855-411-2372
855-729-2372 (TTY/TDD)
consumerfinance.gov/envios

BILLING CODE 4810–AM–C

* * * * *

■ 5. In Supplement I to Part 1005:

■ a. Under *Section 1005.30—Remittance Transfer Definitions:*

■ i. Under *Paragraph 30(c),* paragraphs 2.i and 2.ii are revised.
■ ii. Under *Paragraph 30(g),* paragraph 1 is revised and paragraphs 2 and 3 are added.
■ b. Under *Section 1005.31—Disclosures:*
■ i. Under *Paragraph 31(a)(2),* paragraph 5 is added.
■ ii. Under *Paragraph 31(a)(3),* paragraphs 1 and 2 are revised.
■ iii. Under *Paragraph 31(b)(2),* paragraphs 4, 5, 6 are redesignated as paragraphs 5, 6, and 7.
■ iv. Under *Paragraph 31(b)(2),* paragraph 4 is added.
■ v. Under *Paragraph 31(e),* paragraph 1 is revised.
■ c. Under *Section 1005.33—Procedures for Resolving Errors:*
■ i. Under *Paragraph 33(a),* paragraphs 7, 8, 9, 10 are redesignated as paragraphs 8, 9, 10, and 11.
■ ii. Under *Paragraph 33(a),* paragraph 7 is added.
■ iii. Under *Paragraph 33(c),* paragraph 5 is revised.
■ iv. Under *Paragraph 33(c),* paragraph 12.i is revised.

The revisions and additions read as follows:

Supplement I to Part 1005—Official Interpretations

* * * * *

Section 1005.30—Remittance Transfer Definitions

* * * * *

30(c) Designated Recipient

* * * * *

2. *Location in a foreign country.*

i. A remittance transfer is received at a location in a foreign country if funds are to be received at a location physically outside of any State, as defined in § 1005.2(l). A specific pick-up location need not be designated for funds to be received at a location in a foreign country. If it is specified that the funds will be transferred to a foreign country to be picked up by the designated recipient, the transfer will be received at a location in a foreign country, even though a specific pick-up location within that country has not been designated. If it is specified that the funds will be received at a location on a U.S. military installation that is physically located in a foreign country, the transfer will be received in a State.

ii. For transfers to a designated recipient's account, whether funds are to be received at a location physically outside of any State depends on where the recipient's account is located. If the account is located in a State, the funds will not be received at a location in a foreign country. Accounts that are located on a U.S. military installation that is physically located in a foreign country are located in a State.

* * * * *

30(g) Sender

1. *Determining whether a consumer is located in a State.* Under § 1005.30(g), the definition of ''sender'' means a consumer in a State who, primarily for personal, family, or household purposes, requests a remittance transfer provider to send a remittance transfer to a designated recipient. A sender located on a U.S. military installation that is physically located in a foreign country is located in a State. For transfers from a consumer's account, whether a consumer is located in a State depends on where the consumer's account is located. If the account is located in a State, the consumer will be located in a State for purposes of the definition of ''sender'' in § 1005.30(g), notwithstanding comment 3(a)–3. Accounts that are located on a U.S. military installation that is physically located in a foreign country are located in a State. Where a transfer is requested electronically or by telephone and the transfer is not from an account, the provider may make the determination of whether a consumer is located in a State based on information that is provided by the consumer and on any records associated with the consumer that the provider may have, such as an address provided by the consumer.

2. *Personal, family, or household purposes.* Under § 1005.30(g), a consumer is a ''sender'' only where he or she requests a transfer primarily for personal, family, or household purposes. A consumer who requests a transfer primarily for other purposes, such as business or commercial purposes, is not a sender under § 1005.30(g). For transfers from an account that was established primarily for personal, family, or household purposes, a remittance transfer provider may generally deem that the transfer is requested primarily for personal, family, or household purposes and the consumer is therefore a ''sender'' under § 1005.30(g). But if the consumer indicates that he or she is requesting the transfer primarily for other purposes, such as business or commercial purposes, then the consumer is not a sender under § 1005.30(g), even if the consumer is requesting the transfer from an account that is used primarily for personal, family, or household purposes.

3. *Non-consumer accounts.* A provider may deem that a transfer that is requested to be sent from an account that was not established primarily for personal, family, or household purposes, such as an account that was established as a business or commercial account or an account held by a business entity such as a corporation, not-for-profit corporation, professional corporation, limited liability company, partnership, or sole proprietorship, as not being requested primarily for personal, family, or household purposes. A consumer requesting a transfer from such an account therefore is not a sender under § 1005.30(g). Additionally, a transfer that is requested to be sent from an account held by a financial institution under a *bona fide* trust agreement pursuant to § 1005.2(b)(3) is not requested primarily for personal, family, or household purposes, and a consumer requesting a transfer from such an account is therefore not a sender under § 1005.30(g).

* * * * *

Section 1005.31—Disclosures

31(a) General Form of Disclosures

* * * * *

31(a)(2) Written and Electronic Disclosures

* * * * *

5. *Disclosures provided by fax.* For purposes of disclosures required to be provided pursuant to § 1005.31 or § 1005.36, disclosures provided by facsimile transmission (*i.e.,* fax) are considered to be provided in writing for purposes of providing disclosures in writing pursuant to subpart B and are not subject to the requirements for electronic disclosures set forth in § 1005.31(a)(2).

31(a)(3) Disclosures for Oral Telephone Transactions

1. *Transactions conducted partially by telephone.* Except as provided in comment 31(a)(3)–2, for transactions conducted partially by telephone, providing the information required by § 1005.31(b)(1) to a sender orally does not fulfill the requirement to provide the disclosures required by § 1005.31(b)(1). For example, a sender may begin a remittance transfer at a remittance transfer provider's dedicated telephone in a retail store, and then provide payment in person to a store clerk to complete the transaction. In such cases, all disclosures must be provided in writing. A provider complies with this requirement, for example, by providing the written pre-payment disclosure in person prior to the sender's payment for the transaction, and the written receipt when the sender pays for the transaction.

2. *Oral telephone transactions.* Section 1005.31(a)(3) applies to transactions conducted orally and entirely by telephone, such as transactions conducted orally on a landline or mobile telephone. A remittance transfer provider may treat a written or electronic communication as an inquiry when it believes that treating the communication as a request would be impractical. For example, if a sender physically located abroad contacts a U.S. branch of the sender's financial institution and attempts to initiate a remittance transfer by first sending a mailed letter, further communication with the sender by letter may be impractical due to the physical distance and likely mail delays. In such circumstances, a provider may conduct the transaction orally and entirely by telephone pursuant to § 1005.31(a)(3) when the provider treats that initial communication as an inquiry and subsequently responds to the consumer's inquiry by calling the consumer on a telephone and orally gathering or confirming the information needed to identify and understand a request for a remittance transfer and otherwise conducts the transaction orally and entirely by telephone.

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31(b) Disclosure Requirements

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31(b)(2) Receipt

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4. *Web site of the Consumer Financial Protection Bureau.* Section 1005.31(b)(2)(vi) requires a remittance transfer provider to disclose the name, toll-free telephone number(s), and Web site of the Consumer Financial Protection Bureau. Providers may satisfy this requirement by disclosing the Web site of the Consumer Financial Protection Bureau's homepage, *www.consumerfinance.gov,* as shown on Model Forms A–32, A–34, A–35, and A–39. Alternatively, providers may, but are not required to, disclose the Bureau's Web site as the address of a page on the Bureau's Web site that provides information for consumers about remittance transfers, currently, *consumerfinance.gov/sending-money*, as shown on Model Form A–31. In addition, providers making disclosures in a language other than English pursuant to § 1005.31(g) may, but are not required to, disclose the Bureau's Web site as a page on the Bureau's Web site that provides information for consumers about remittance transfers in the relevant language, if such Web site exists. For example, a provider that is making disclosures in Spanish under § 1005.31(g) may, but is not required to, disclose the Bureau's Web site on Spanish-language disclosures as the page on the Bureau's Web site that provides information regarding remittance transfers in Spanish, currently *consumerfinance.gov/envios.* This optional disclosure is shown on Model A–40. The Bureau will publish a list of any other foreign language Web sites that provide information regarding remittance transfers.

* * * * *

31(e) Timing

1. *Request to send a remittance transfer.* Except as provided in § 1005.36(a), pre-payment and combined disclosures are required to be provided to the sender when the sender requests the remittance transfer, but prior to payment for the transfer. Whether a consumer has requested a remittance transfer depends on the facts and circumstances. A sender that asks a provider to send a remittance transfer, and provides transaction-specific information to the provider in order to send funds to a designated recipient, has requested a remittance transfer. A sender that has sent an email, fax, mailed letter, or similar written or electronic communication has not requested a remittance transfer if the provider believes that it is impractical for the provider to treat that communication as a request and if the provider treats the communication as an inquiry and subsequently responds to that inquiry by calling the consumer on a telephone and orally gathering or confirming the information needed to process a request for a remittance transfer. *See* comment 31(a)(3)–2. Likewise, a consumer who solely inquires about that day's rates and fees to send to Mexico has not requested the provider to send a remittance transfer. Conversely, a sender who asks the provider at an agent location to send money to a recipient in Mexico and provides the sender and recipient information to the provider has requested a remittance transfer.

* * * * *

Section 1005.33 Procedures for Resolving Errors

33(a) Definition of Error

* * * * *

7. *Failure to make funds available by disclosed date of availability—fraud and other screening procedures.* Under § 1005.33(a)(1)(iv)(B), a remittance transfer provider's failure to deliver funds by the disclosed date of availability is not an error if such delay is related to the provider's or any third party's investigation necessary to address potentially suspicious, blocked or prohibited activity, and the provider did not and could not have reasonably foreseen the delay so as to enable it to timely disclose an accurate date of availability when providing the sender with a receipt or combined disclosure. For example, no error occurs if delivery of funds is delayed because, after the receipt is provided, the provider's fraud screening system flags a remittance transfer because the designated recipient has a name similar to the name of a blocked person under a sanctions program and further investigation is needed to determine that the designated recipient is not actually a blocked person. Similarly, no error occurs where, after disclosing a date of availability to the sender, a remittance transfer provider receives specific law enforcement information indicating that the characteristics of a remittance transfer match a pattern of fraudulent activity, and as a result, the provider deems it necessary to delay delivery of the funds to allow for further investigation. However, if a delay could have been reasonably foreseen, the exception in § 1005.33(a)(1)(iv)(B) would not apply. For example, if a provider knows in time to make a disclosure that all remittance transfers to a certain geographic area must undergo screening procedures that routinely delay such transfers by two days, the provider's failure to include the additional two days in its disclosure of the date of availability constitutes an error if delivery of the funds is indeed delayed beyond the disclosed date of availability.

* * * * *

33(c) Time Limits and Extent of Investigation

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5. *Amount appropriate to resolve the error.* For purposes of the remedies set forth in § 1005.33(c)(2)(i)(A), (c)(2)(i)(B), (c)(2)(ii)(A)(*1*), and (c)(2)(i)(A)(*2*) the amount appropriate to resolve the error is the specific amount of transferred funds that should have been received if the remittance transfer had been effected without error. The amount appropriate to resolve the error does not include consequential damages. For example, when the amount that was disclosed pursuant to § 1005.31(b)(1)(vii) was received by the designated recipient before the provider must determine the appropriate remedy for an error under § 1005.33(a)(1)(iv), no additional amounts are required to resolve the error after the remittance transfer provider refunds the appropriate fees and taxes paid by the sender pursuant to § 1005.33(c)(2)(ii)(B) or (c)(2)(iii), as applicable.

* * * * *

12. * * *

i. A sender instructs a remittance transfer provider to send US$100 to a designated recipient in local currency, for which the provider charges a transfer fee of US$10 (and thus the sender pays the provider $110). The provider's correspondent imposes a fee of US$15 that it deducts from the amount of the transfer. The sender provides incorrect or insufficient information that results in non-delivery of the remittance transfer as requested. Once the provider determines that an error occurred because the sender provided incorrect or insufficient information, the provider must provide the report required by § 1005.33(c)(1) or (d)(1) and inform the sender, pursuant to § 1005.33(c)(1) or (d)(1), that it will refund US$95 to the sender within three business days, unless the sender chooses to apply the US$95 towards a new remittance transfer and the provider agrees. Of the $95 that is refunded to the sender, $10 reflects the refund of the provider's transfer fee, and $85 reflects the refund of the amount of funds provided by the sender in connection with the transfer which was not properly transmitted. The provider is not required to refund the US$15 fee imposed by the correspondent (unless the $15 will be refunded to the provider by the correspondent).

* * * * *

Dated: August 21, 2014.

Richard Cordray,

Director, Bureau of Consumer Financial Protection.

[FR Doc. 2014–20681 Filed 9–17–14; 8:45 am]

BILLING CODE 4810–AM–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2014–0369; Airspace Docket No. 14–ANM–4]

RIN 2120–AA66

Modification of VOR Federal Airway V–298 in the Vicinity of Pasco, WA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies VOR Federal airway V–298 in the vicinity of Pasco, WA. The FAA is taking this action due to the Pasco, WA (PSC), VHF Omnidirectional Range (VOR)/Distance Measuring Equipment (DME) facility that provides navigation aid (NAVAID) guidance for a portion of V–298, being relocated. This action will ensure the safety and efficient management of

aircraft operating within the National Airspace System.

DATES: Effective date 0901 UTC, November 13, 2014. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

ADDRESSES: FAA Order 7400.9Y, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *http://www.faa.gov/air_traffic/publications/*. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal-regulations/ibr_locations.html.*

FAA Order 7400.9, Airspace Designations and Reporting Points, is published yearly and effective on September 15. For further information, you can contact the Airspace Policy and Regulations Group, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: 202–267–8783.

FOR FURTHER INFORMATION CONTACT: Colby Abbott, Airspace Policy and Regulations Group, Office of Airspace Services, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

History

The Tri-Cities Airport, located in Pasco, WA, is the fourth largest air carrier airport in Washington State. In the past five years, the number of enplanements at the airport has increased by nearly 100,000 per year. To accommodate this unprecedented growth, the Port of Pasco is expanding the Tri-Cities Airport terminal to nearly double the size of the existing terminal. However, the terminal expansion project creates a proximity issue to one of the taxiways on the airfield (taxiway D) by aircraft that will push back from the gates at the expanded terminal, as well as encroaches into the PSC VOR 1,000 foot clear zone.

To resolve the terminal expansion proximity issue with taxiway D, approximately two thirds of the taxiway is being relocated to the northeast, away from the terminal, to establish a straight, parallel taxiway to runways 12/30 for the entire length of the taxiway. As a result of the portion of taxiway D effected by the terminal expansion being relocated, the new taxiway will run through the PSC VOR/DME site. To overcome the airport terminal expansion encroaching on the PSC VOR clear zone and, subsequently, the new taxiway D being relocated through the VOR/DME site, the NAVAID will be moved north 0.44 nautical miles, away from the airport terminal expansion and the taxiway relocation. Moving the PSC VOR/DME enables the NAVAID to be retained and continue providing ground-based navigation aid coverage for the existing VOR Federal airway segments it supports today.

Due to the PSC VOR/DME NAVAID being relocated, VOR Federal airway V–298 requires amendment action. The FAA is modifying this airway by changing the PSC VOR radial information used to identify the intersection point in the legal description using corrected radial information from the PSC VOR/DME in its new location. Since this action merely involves editorial changes in the legal descriptions of VOR Federal Airways, and does not involve a change in the dimensions or operating requirements of that airspace, notice and public procedure under 5 U.S.C. 553(b) are unnecessary.

The Rule

The FAA is amending Title 14, Code of Federal Regulations (14 CFR) part 71 to modify VOR Federal airway V–298. The PSC VOR/DME relocation, due to the Tri-Cities Airport terminal expansion and taxiway D relocation projects, has made this action necessary. The route modification is outlined below.

V–298: V–298 extends between the Seattle, WA, VORTAC and Gillette, WY, VOR. This action modifies the route segment between the Yakima, WA, VORTAC and the PSC VOR/DME by changing the PSC radial used to describe the intersection between the two NAVAIDs from the Pasco 274° radial to the Pasco 273° radial. Additionally, this action removes reference to a south alternate airway designation previously deleted by regulatory action published in the **Federal Register** (48 FR 54829, December 7, 1983).

The navigation aid radials cited in this action are stated relative to True north.

Domestic VOR Federal airways are published in paragraph 6010(a) of FAA Order 7400.9Y dated August 6, 2014, and effective September 15, 2014, which is incorporated by reference in 14 CFR 71.1. The VOR Federal airway listed in this document would be subsequently published in the Order.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that only affects air traffic procedures and air navigation, it is certified that this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it modifies the route structure as necessary to preserve the safe and efficient flow of air traffic within the NAS.

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1E, ''Environmental Impacts: Policies and Procedures,'' paragraph 311a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.9Y, Airspace Designations and Reporting Points, dated August 6, 2014 and effective September 15, 2014, is amended as follows:

Paragraph 6010(a) Domestic VOR Federal Airways

* * * * *

V–298 [Amended]

From Seattle, WA; INT Seattle 107° and Yakima, WA, 331° radials; Yakima; INT Yakima 129° and Pasco, WA, 273° radials; Pasco; Pendleton, OR; 74 miles, 43 miles 115 MSL, 99 MSL Donnelly, ID; 41 miles 99 MSL, 89 miles 145 MSL, Dubois, ID; 68 miles 130 MSL, Dunoir, WY; 62 miles 135 MSL, Boysen Reservoir, WY; 9 miles, 34 miles 105 MSL, Muddy Mountain,WY; to Gillette, WY.

* * * * *

Issued in Washington, DC, on September 11, 2014.

Ellen Crum,

Acting Manager, Airspace Policy and Regulations Group.

[FR Doc. 2014–22237 Filed 9–17–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2014–0274; Airspace Docket No. 13–AGL–23]

RIN 2120–AA66

Modification and Revocation of Air Traffic Service (ATS) Routes in the Vicinity of Sandusky, OH

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends 5 VHF Omnidirectional Range (VOR) Federal airways (V–6, V–30, V–126, V–133, and V–416) and removes 1 VOR Federal airway (V–65) in the vicinity of Sandusky, OH. The FAA is taking this action due to the scheduled decommissioning of the Sandusky, OH, VOR/Distance Measuring Equipment (VOR/DME) facility that provides navigation guidance for a portion of the airways listed.

DATES: Effective date 0901 UTC, November 13, 2014. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

ADDRESSES: FAA Order 7400.9Y, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *http://www.faa.gov/air_traffic/publications/*. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal-regulations/ibr_locations.html.*

FAA Order 7400.9, Airspace Designations and Reporting Points, is published yearly and effective on September 15. For further information, you can contact the Airspace Policy and Regulations Group, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: 202–267–8783.

FOR FURTHER INFORMATION CONTACT: Colby Abbott, Airspace Policy and Regulations Group, Office of Airspace Services, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

History

The FAA published in the **Federal Register** a notice of proposed rulemaking (NPRM) to amend VOR Federal airways V–6, V–30, V–126, V-133, and V–416, and remove VOR Federal airway V–65 in the Sandusky, OH, area (79 FR 34453, June 17, 2014). Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal. No comments were received.

The Rule

The FAA is amending Title 14, Code of Federal Regulations (14 CFR) part 71 by modifying VOR Federal airways V–6, V–30, V–126, V–133, and V–416, and removing VOR Federal airway V–65 in the vicinity of Sandusky, OH. These airway modifications are necessary due to the Sandusky, OH, VOR/DME being decommissioned and the remaining ground-based navigation aid (NAVAID) coverage in the area being insufficient to enable the continuity of the affected airways. The route modifications are outlined below.

V–6: V–6 extends from the Oakland, CA, VOR Tactical Air Navigation (VORTAC) to the DuPage, IL, VOR/DME, and from the intersection of the Chicago Heights, IL, VORTAC 358° and Gipper, MI, VORTAC 271° radials (NILES fix) to the La Guardia, NY, VOR/DME. The route segment between the Waterville, OH, VOR/DME and Dryer, OH, VOR/DME is removed. Aircraft flying between the Waterville, OH, VOR/DME and Dryer, OH, VOR/DME will be routed using other existing adjacent airways.

V–30: V–30 extends from the Badger, WI, VORTAC to the Solberg, NJ, VOR/DME. The route segment between the Waterville, OH, VOR/DME and Dryer, OH, VOR/DME is removed. Aircraft flying between the Waterville, OH, VOR/DME and Dryer, OH, VOR/DME will be routed using other existing adjacent airways.

V–65: V–65 is removed.

V–126: V–126 extends from the intersection of the Peotone, IL, VORTAC 053° and Knox, IN, VOR/DME 297° radials (BEARZ fix) to the Stonyfork, PA, VOR/DME. The route segment between the Waterville, OH, VOR/DME and Dryer, OH, VOR/DME is removed. Aircraft flying between the Waterville, OH, VOR/DME and Dryer, OH, VOR/DME will be routed using other existing adjacent airways.

V–133: V–133 extends from the intersection of the Charlotte, NC, VOR/DME 305° and Barretts Mountain, NC, VOR/DME 197° radials (LINCO fix) to the Red Lake, ON, Canada (YRL), VOR/DME, excluding the airspace within Canada. The route segment between the Mansfield, OH, VORTAC and Salem, MI, VORTAC is removed. Aircraft flying between the Mansfield, OH, VORTAC and Salem, MI, VORTAC will be routed using other existing adjacent airways.

V–416: V–416 extends from the Rosewood, OH, VORTAC to the intersection of the Mansfield, OH, VORTAC 045° and Sandusky, OH, VOR/DME 107° radials (JAKEE fix). The JAKEE fix is redefined in its existing location using radials from the Mansfield, OH, VORTAC and Dryer, OH, VOR/DME.

The navigation aid radials cited in the VOR Federal airway descriptions in this action are stated relative to True north.

Domestic VOR Federal airways are published in paragraph 6010(a) of FAA Order 7400.9Y dated August 6, 2014, and effective September 15, 2014, which is incorporated by reference in 14 CFR 71.1. The VOR Federal airways listed in this document would be subsequently published in the Order.

The FAA has determined that this regulation only involves an established

body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that only affects air traffic procedures and air navigation, it is certified that this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it modifies the route structure as necessary to preserve the safe and efficient flow of air traffic within the NAS.

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1E, ''Environmental Impacts: Policies and Procedures,'' paragraph 311a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.9Y, Airspace Designations and Reporting Points, dated August 6, 2014 and effective September 15, 2014, is amended as follows:

Paragraph 6010(a) Domestic VOR Federal Airways

* * * * *

V–6 [Amended]

From Oakland, CA; INT Oakland 039° and Sacramento, CA, 212° radials; Sacramento; Squaw Valley, CA; Mustang, NV; Lovelock, NV; Battle Mountain, NV; INT Battle Mountain 062° and Wells, NV, 256° radials; Wells; 5 miles, 40 miles, 98 MSL, 85 MSL, Lucin, UT; 43 miles, 85 MSL, Ogden, UT; 11 miles, 50 miles, 105 MSL, Fort Bridger, WY; Rock Springs, WY; 20 miles, 39 miles 95 MSL, Cherokee, WY; 39 miles, 27 miles 95 MSL, Medicine Bow, WY; INT Medicine Bow 106° and Sidney, NE., 291° radials; Sidney; North Platte, NE; Grand Island, NE; Omaha, NE; Des Moines, IA; Iowa City, IA; Davenport, IA; INT Davenport 087° and DuPage, IL, 255° radials; to DuPage. From INT Chicago Heights, IL, 358° and Gipper, MI, 271° radials; Gipper; INT Gipper 092° and Waterville, OH, 288° radials; to Waterville. From Dryer, OH; Youngstown, OH; Clarion, PA; Philipsburg, PA; Selinsgrove, PA; Allentown, PA; Solberg, NJ; INT Solberg 107° and Yardley, PA, 068° radials; INT Yardley 068° and La Guardia, NY, 213° radials; to La Guardia. The airspace within R–4803, R–4813A, and R–4813B is excluded when active.

* * * * *

V–30 [Amended]

From Badger, WI; INT Badger 102° and Pullman, MI, 303° radials; Pullman; Litchfield, MI; to Waterville, OH. From Dryer, OH; Akron, OH; Clarion, PA; Philipsburg, PA; Selinsgrove, PA; East Texas, PA; INT East Texas 095° and Solberg, NJ, 264° radials; to Solberg.

* * * * *

V–65 [Removed]

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V–126 [Amended]

From INT Peotone, IL, 053° and Knox, IN, 297° radials; INT Knox 297° and Goshen, IN, 270° radials; Goshen; to Waterville, OH. From Dryer, OH; Jefferson, OH; Erie, PA; Bradford, PA; to Stonyfork, PA.

* * * * *

V–133 [Amended]

From INT Charlotte, NC, 305° and Barretts Mountain, NC, 197° radials; Barretts Mountain; Charleston, WV; Zanesville, OH; Tiverton, OH; to Mansfield, OH. From Salem, MI; INT Salem 346° and Saginaw, MI, 160° radials; Saginaw; Traverse City, MI; Escanaba, MI; Sawyer, MI; Houghton, MI; Thunder Bay, ON, Canada; International Falls, MN; to Red Lake, ON, Canada. The airspace within Canada is excluded.

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V–416 [Amended]

From Rosewood, OH; INT Rosewood 041° and Mansfield, OH, 262° radials; Mansfield; to INT Mansfield 045° and Dryer, OH, 123° radials.

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Issued in Washington, DC, on September 11, 2014.

Ellen Crum,

Acting Manager, Airspace Policy and Regulations Group.

[FR Doc. 2014–22238 Filed 9–17–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Part 744

[Docket No. 140609480–4770–01]

RIN 0694–AG21

Addition and Modification of Certain Persons on the Entity List; and Removal of Certain Persons From the Entity List

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Final rule.

SUMMARY: This rule amends the Export Administration Regulations (EAR) by adding twenty-eight persons under thirty-four entries to the Entity List. The twenty-eight persons who are added to the Entity List have been determined by the U.S. Government to be acting contrary to the national security or foreign policy interests of the United States. These twenty-eight persons will be listed on the Entity List under the destinations of Afghanistan, Armenia, Australia, China, Greece, Hong Kong, India, Ireland, Pakistan, Singapore, United Arab Emirates (U.A.E.), and United Kingdom (U.K.). There are thirty-four entries for twenty-eight persons because two persons are listed under multiple countries, resulting in six additional entries. Specifically, the six additional entries cover one person in China who also has addresses in Hong Kong and one person in Pakistan

who also has addresses in Armenia, Greece, India, the U.A.E., and the U.K.

This final rule makes modifications to two existing entries on the Entity List to provide additional addresses and subordinates in those entries. This rule also removes three persons from the Entity List, as the result of a determination made by the End-User Review Committee (ERC).

DATES: *Effective Date:* This rule is effective September 18, 2014.

FOR FURTHER INFORMATION CONTACT: Chair, End-User Review Committee, Office of the Assistant Secretary, Export Administration, Bureau of Industry and Security, Department of Commerce, Phone: (202) 482–5991, Fax: (202) 482–3911, Email: *ERC@bis.doc.gov.*

SUPPLEMENTARY INFORMATION:

Background

The Entity List (Supplement No. 4 to Part 744) notifies the public about entities that have engaged in activities that could result in an increased risk of the diversion of exported, reexported or transferred (in-country) items to weapons of mass destruction (WMD) programs. Since its initial publication, grounds for inclusion on the Entity List have expanded to include activities sanctioned by the State Department and activities contrary to U.S. national security or foreign policy interests. Certain exports, reexports, and transfers (in-country) to entities identified on the Entity List require licenses from BIS and are usually subject to a policy of denial. The availability of license exceptions in such transactions is very limited. The license review policy for each entity is identified in the license review policy column on the Entity List and the availability of license exceptions is noted in the **Federal Register** notices adding persons to the Entity List. BIS places entities on the Entity List based on certain sections of part 744 (Control Policy: End-User and End-Use Based) of the EAR.

The End-user Review Committee (ERC), composed of representatives of the Departments of Commerce (Chair), State, Defense, Energy and, where appropriate, the Treasury, makes all decisions regarding additions to, removals from, or other modifications to the Entity List. The ERC makes all decisions to add an entry to the Entity List by majority vote and all decisions to remove or modify an entry by unanimous vote.

ERC Entity List Decisions

Additions to the Entity List

This rule implements the decision of the ERC to add twenty-eight persons under thirty-four entries to the Entity List. These twenty-eight persons are being added on the basis of § 744.11 (License requirements that apply to entities acting contrary to the national security or foreign policy interests of the United States) of the EAR. There are thirty-four entries for twenty-eight persons because two persons are listed under multiple countries, resulting in six additional entries. The thirty-four entries added to the Entity List consist of one entry in Afghanistan, one entry in Armenia, one entry in Australia, one entry in China, two entries in Greece, five entries in Hong Kong, one entry in India, one entry in Ireland, nine entries in Pakistan, one entry in Singapore, ten entries in the U.A.E., and one entry in the U.K.

The ERC reviewed § 744.11(b) (Criteria for revising the Entity List) in making the determination to add these twenty-eight persons to the Entity List. Under that paragraph, persons for whom there is reasonable cause to believe, based on specific and articulable facts, have been involved, are involved, or pose a significant risk of being or becoming involved in, activities that are contrary to the national security or foreign policy interests of the United States and those acting on behalf of such persons may be added to the Entity List. Paragraphs (b)(1) through (b)(5) of § 744.11 include an illustrative list of activities that could be contrary to the national security or foreign policy interests of the United States.

The twenty-eight persons being added have been determined by the ERC to be involved in activities that are contrary to the national security or foreign policy interests of the United States, including the activities described under paragraphs (b)(1), (b)(2) and (b)(5) of § 744.11.

The ERC determined that nine of the persons being added to the Entity List under the destinations of Australia (one addition), Hong Kong (one addition), Pakistan (six additions), and Singapore (one addition) have been involved in activities contrary to the national security and foreign policy interests of the United States. Specifically, the ERC determined to add Pakistan's Advanced Engineering Research Organization (AERO) and entities working with AERO to the Entity List for their involvement in activities contrary to the national security and foreign policy interests of the United States related to the illicit export, reexport and transfer (in-country) of items subject to the EAR to unauthorized end users in Pakistan as described in § 744.11(b)(5) of the EAR. These entities' involvement in the procurement of sensitive U.S. technology in support of Pakistan's development of its missile and strategic unmanned aerial vehicle (UAV) programs is in violation of § 744.3 of the EAR, which requires a license to export, reexport or transfer (in-country) any item subject to the EAR that the exporter, reexporter, or in-country transferor knows will be used in the design, development, production or use of rocket systems by a country listed in the EAR's Country Group D:4 in Supplement No. 1 to part 740, in which Pakistan is included.

Since 2010, Pakistan's AERO has used intermediaries and front companies to procure U.S.-origin items by disguising the end-uses and end-users of the items from U.S. exporters thereby circumventing BIS licensing requirements. The intermediaries used by AERO have included Beijing Lion Heart International Trading Company (a.k.a., Wei Lai Xi Tong Ltd.); Izix Group Pte Ltd.; Future Systems Pvt. Ltd.; IKAN Engineering Services (a.k.a., IKAN Sourcing); Orion Eleven Pvt. Ltd.; Nazir and Sons International; LT Engineering and Trade Services (Pvt) Ltd. (LTE); and Vortex Electronics. AERO has procured items on behalf of Pakistan's Air Weapons Complex, a Pakistani government entity responsible for Pakistan's cruise missile and strategic UAV programs.

The ERC determined that four of the persons being added to the Entity List under the destination of Hong Kong have been involved in activities contrary to the national security and foreign policy interests of the United States. Specifically, the ERC made a determination to add Channel Rich Electronics Company Limited (Channel Rich) and Fortune Source Electronics Co. Ltd. (Fortune Source) and their employees, Sau Luen Chan (Chan) and Bako Cheung (Cheung), to the Entity List for their involvement in activities contrary to the national security and foreign policy interests of the United States as described in § 744.11(b)(5) of the EAR. Specifically, Cho-Man Wong (Wong), the owner of Channel Rich and Fortune Source, was placed on the Entity List along with Hang Tat Electronics (Hang Tat), a company owned by Wong, on October 12, 2011 for purchasing items subject to the EAR with the intention of reselling them to end-users in China without proper BIS authorization (*see* 76 FR 63184). Subsequent to Hang Tat's addition to the Entity List, Wong changed the name of Hang Tat to Channel Rich and then to Fortune Source to continue to receive U.S.-origin items and to evade BIS licensing requirements. Chan and Cheung, the two employees, actively

informed supplier companies of the name changes.

The ERC made a determination to add Mohammad Jan Mangal Construction Company to the Entity List under the destination of Afghanistan for involvement in activities contrary to the national security and foreign policy interests of the United States as described under § 744.11(b)(1) of the EAR. This entity has engaged in activities in support of persons designated by the Secretary of State as a Foreign Terrorist Organization (FTO). The persons designated as FTOs were so designated as a result of their activities against U.S. and coalition forces in Afghanistan contrary to the national security and foreign policy of the United States.

The ERC made a determination to add Rayyan Air Pvt Ltd., Veteran Avia LLC, Aerospace One, S.A., Agneet Sky Limited, Aeolus FZE, Aerospace Company FZE, Aircon Beibars FZE, and Aristeidis A. Pappas to the Entity List to prevent these entities from engaging in activities that are contrary to the national security and foreign policy interests of the United States as described under § 744.11(b)(5) of the EAR. Specifically, these companies owned, operated, or controlled by Jaideep Mirchandani (Mirchandani) and his family members, Indira Mirchandani and Nitin Mirchandani, have been involved in activities in support of the Syrian regime. In addition, Mirchandani and certain other entities were attempting to export a U.S. aircraft that would be used to further support the Syrian regime.

Specifically, Rayyan Air and affiliated companies and enterprises owned, operated and/or controlled by Jaideep Mirchandani and members of his family have supported flights into Syria in support of the Assad regime. These flights transported large amounts of Russian currency to the Syrian Government. Additionally, the Mirchandanis and their corporate officers/employees have engaged in transactions with individuals involved in weapons trafficking as well as individuals and companies named on the U.S. Treasury's Specially Designated Nationals (SDNs) list, including Mahan Air of Iran and its affiliates. Persons designated as SDNs were so designated for supporting the terrorist activities of the Islamic Revolutionary Guard Corps-Qods Force.

The ERC made a determination to add Reza Ghoreishi to the Entity List under the destination of the U.A.E. on the basis of his involvement in activities contrary to the national security and foreign policy of the United States as described under § 744.11(b)(2) of the EAR. Specifically, this person was involved in the attempted export of a lathe machine, an item used in the production of high grade steel or ''bright steel,'' an item used, among other things, in the manufacture of automobile and aircraft parts destined to Iran in violation of Department of the Treasury, Office of Foreign Assets Control regulations and the EAR.

The ERC made a determination to add Irum Mehboob Raja under the destination of Pakistan to the Entity List to prevent the export, reexport and transfer (in-country) of U.S.-origin items to unauthorized end users in Pakistan contrary to § 744.11(a) and (b)(5) of the EAR. The ERC determined that Irum, as well as National Institute of Lasers and Optronics (NILOP) described below under the *modifications to the Entity List,* procured items, including U.S.-origin items, for, or on behalf of, Pakistan's Atomic Energy Commission (PAEC), an entity on the Entity List, and its subordinate organization Pakistan Institute of Nuclear Science and Technology, which is included in PAEC's entry on the Entity List.

Pursuant to § 744.11(b)(1), (b)(2) and (b)(5) of the EAR, the ERC determined that the conduct of these twenty-eight persons raises sufficient concern that prior review of exports, reexports, or transfers (in-country) of items subject to the EAR involving these persons, and the possible imposition of license conditions or license denials on shipments to the persons, will enhance BIS's ability to prevent violations of the EAR.

For twenty-seven of the twenty-eight persons recommended for addition on the basis of § 744.11, the ERC specified a license requirement for all items subject to the EAR and a license review policy of presumption of denial. For Irum Mehboob Raja, the ERC specified a license requirement for all items subject to the EAR and a license review policy of case-by-case for all items listed on the CCL and a presumption of approval for EAR99 items, the same as the existing licensing policy for PAEC entities on the Entity List. The license requirements apply to any transaction in which items are to be exported, reexported, or transferred (in-country) to any of the persons or in which such persons act as purchaser, intermediate consignee, ultimate consignee, or end-user. In addition, no license exceptions are available for exports, reexports, or transfers (in-country) to the persons being added to the Entity List in this rule.

This final rule adds the following twenty-eight persons under thirty-four entries to the Entity List:

Afghanistan

(1) *Mohammad Jan Mangal Construction Company (MMCC),* Kolola Pushta, Charahi Gul-e-Surkh, Kabul, Afghanistan; *and* Maidan Sahr, Hetefaq Market, Paktiya, Afghanistan.

Armenia

(1) *Veteran Avia LLC,* a.k.a., the following one alias:

—Veteran Airline. 64, Baghramyam Avenue, Apt 16, Yerevan 0033, Armenia; *and* 1 Eervand Kochari Street, Room 1, 375070 Yerevan, Armenia (See also addresses under Greece, India, Pakistan, U.A.E., and U.K.).

Australia

(1) *Vortex Electronics,* 125 Walker Street, Quakers Hill, NSW 2763, Australia.

China

(1) *Beijing Lion Heart International Trading Company,* a.k.a., the following one alias:

—Wei Lai Xi Tong Ltd. Suite number 1819, The International Center of Times, Number 101, Shoa Yao Ju BeiLi, Chaoyang District, Beijing, China (See also address under Hong Kong).

Greece

(1) *Aerospace One, S.A.,* 4 Andrea Koumpi Str. Markopoulo19003 Attica, Greece; *and*

(2) *Veteran Avia LLC,* a.k.a., the following one alias:

—Veteran Airline. 24, A. Koumbi Street, Markopoulo 190 03, Attika, Greece (See also addresses under Armenia, India, Pakistan, U.A.E., and U.K.).

Hong Kong

(1) *Bako Cheung,*

—Unit 803, Fourseas Building, 208–212 Nathan Road, Kowloon, Hong Kong; *and*

—Room 803, Fourseas Bldg 208–212 Nathan Rd, Kowloon, Hong Kong;

(2) *Beijing Lion Heart International Trading Company,* a.k.a., the following one alias:

—Wei Lai Xi Tong Ltd. Room 1318–20, 13F, Hollywood Plaza, 610 Nathan Road, Mongkok Kowloon, Hong Kong (See also address under China);

(3) *Channel Rich Electronics Company Limited,*

—Unit 803, Fourseas Building, 208–212 Nathan Road, Kowloon, Hong Kong; *and*

—Room 803, Fourseas Bldg 208–212 Nathan Rd, Kowloon, Hong Kong;

(4) *Fortune Source Electronics Co. Ltd.,* Unit A, 7/F Capri Building, 130 Austin Road, KLN, Hong Kong; *and* Unit A7/F Capri Building, 130 Austin Road, KLN, Hong Kong; *and* Unit 803, Fourseas Building, 208–212 Nathan Road, Kowloon, Hong Kong; *and*

(5) *Sau Luen Chan,* Unit 803, Fourseas Building, 208–212 Nathan Road, Kowloon, Hong Kong; *and* Room 803, Fourseas Bldg 208–212 Nathan Rd, Kowloon, Hong Kong.

India

(1) *Veteran Avia LLC,* a.k.a., the following one alias:

—Veteran Airline. A–107, Lajpat Nagar—I New Delhi 110024, India; *and* Room No. 34 Import Cargo, IGI Aiport Terminal—II, New Delhi 110037, India; *and* 25B, Camac Street 3E, Camac Court Kolkatta, 700016, India; *and* Ali's Chamber #202, 2nd Floor Sahar Cargo Complex Andheri East Mumbai, 400099, India (See also addresses under Armenia, Greece, Pakistan, U.A.E., and U.K.).

Ireland

(1) *Agneet Sky Limited,* 12, Fitzwilliam Place Dublin, 2 Ireland.

Pakistan

(1) *Advanced Engineering Research Organization (AERO),* Lub Thatoo Hazara Road, The Taxila district, Rawalpindi, Pakistan;

(2) *Future Systems Pvt. Ltd.,* 10 Main Double Road F11/3, Islamabad, Pakistan;

(3) *IKAN Engineering Services,* a.k.a., the following one alias:

—IKAN Sourcing. 34–KM Shamki Bhattan Sultan Road, Lahore, Pakistan; *and* Plot 7, I–11/3 Markaz, Islamabad, Pakistan;

(4) *Irum Mehboob Raja,* Pakistan Institute of Nuclear Science and Technology (PINSTECH), Nilore, Islamabad, Pakistan;

(5) *LT Engineering and Trade Services (Pvt) Ltd. (LTE),* Lub Thatoo, Abbotabad Road, Hasan Abdal, Pakistan; *and* 30 Nazimud din Road, F–10/4, Islamabad, Pakistan;

(6) *Nazir and Sons International,* 2nd Floor, Pracha Plaza, Near Municipal Committee Office Road, Taxila, Pakistan;

(7) *Orion Eleven Pvt. Ltd.,* Street 11 Valley Road, Westridge Rawalpindi, Pakistan;

(8) *Rayyan Air Pvt Ltd.,* House No 614, Street No 58 I–8/2 Islamabad, Pakistan; *and* Office No 456, K Street No 57 I–8/3 Islamabad, Pakistan; *and*

(9) *Veteran Avia LLC,* a.k.a., the following one alias:

—Veteran Airline. Room No. 1, ALC Building, PIA Cargo Complex Jiap, Karachi, Pakistan (See also addresses under Armenia, Greece, India, U.A.E., and U.K.).

Singapore

(1) *Izix Group Pte Ltd.,* Number 26 Defu Lane 9, Singapore 539267; *and* 50 Bukit Batok Street, 23 #07–08 Midview Building, Singapore 659578.

United Arab Emirates

(1) *Aeolus FZE,* a.k.a., the following one alias:

—Aeolus Air Group. Sharjah Airport Saif Zone, P.O. Box 120435 Sharjah, U.A.E.;

(2) *Aerospace Company FZE,* a.k.a., the following one alias:

—Aerospace Consortium. 18, Fujairah Free Zone, P.O. Box 1729, Fujairah, U.A.E.; *and* Fujairah Free Zone, P.O. Box 7168, Fujairah, U.A.E.;

(3) *Aircon Beibars FZE,* Plot of Land L4—03, 04, 05, 06, P.O. Box 121095, Sharjah, U.A.E.;

(4) *Aristeidis A. Pappas,* Villa D71, Al Hamra Village, Ras Al Khaimah, U.A.E.;

(5) *Group Sky One,* a.k.a., the following one alias:

—Sky One FZE. Q4 76, Sharjah Airport Free Zone, Sharjah, U.A.E., *and* Executive Desk, Q1–05, 030/C, P.O. Box 122849, Sharjah, U.A.E.;

(6) *Indira Mirchandani,* Town House 1033 Uptown Mirdif, Mirdif, Algeria Street, Dubai, U.A.E.;

(7) *Jaideep Mirchandani,* a.k.a., the following one alias:

—Jaidip Merchandani. Villa No. W10 Emirates Hills, Dubai, U.A.E.;

(8) *Nitin Mirchandani,* a.k.a., the following one alias:

—Nithin Merchandani. H2601 Executive Towers, Business Bay, Dubai, U.A.E.;

(9) *Reza Ghoreishi,* P.O. Box 61342, Jebel Ali, U.A.E.; *and*

(10) *Veteran Avia LLC,* a.k.a., the following one alias:

—Veteran Airline. Sharjah SAIF Zone, Sharjah, U.A.E.; *and* Y2–307, Saif Zone, Sharjah International Airport, P.O. Box 122598, Sharjah, U.A.E. (See also addresses under Armenia, Greece, India, Pakistan, and U.K.).

United Kingdom

(1) *Veteran Avia LLC,* a.k.a., the following one alias:

—Veteran Airline. 1 Beckett Place, South Hamptonshire, London, U.K. (See also addresses under Armenia, Greece, India, Pakistan, and U.A.E.).

Modifications to the Entity List

This final rule implements a decision of the ERC to modify two existing entries on the Entity List. The first entry, for Cho-Man Wong, is listed under Hong Kong. The ERC made a determination to add two additional addresses for this person. The second entry, for Pakistan Atomic Energy Commission (PAEC), is listed under Pakistan. The ERC made a determination to add one additional subordinate entity to the entry. The additional subordinate entity will be subject to the same Entity List-based license requirements applicable to the other persons in this entity. Specifically, the ERC made a determination to add the National Institute of Lasers and Optronics (NILOP) to the Entity List to prevent the export, reexport and transfer (in-country) of U.S.-origin items to unauthorized end users in Pakistan contrary to § 744.11(a) of the EAR. See also the information provided above on Irum Mahboob Raja: The ERC determined that NILOP and Irum procured items, including U.S.-origin items, for, or on behalf of, Pakistan's Atomic Energy Commission (PAEC), an entity on the Entity List, and its subordinate organization Pakistan Institute of Nuclear Science and Technology, which is included in PAEC's entry on the Entity List.

This final rule makes the following modifications to two persons on the Entity List:

Hong Kong

(1) *Cho-Man Wong,* Room 2608, Technology Plaza 29–35 Sha Tsui Road Tsuen Wan, Hong Kong; *and* Unit 803, Fourseas Building, 208–212 Nathan Road, Kowloon, Hong Kong; *and* Room 803, Fourseas Bldg 208–212 Nathan Rd, Kowloon, Hong Kong.

Pakistan

(1) *Pakistan Atomic Energy Commission (PAEC),* a.k.a., the following one alias:

—Power Plant Workshops, P.O. Box 1114, Islamabad;

and the following four subordinate entities:

—National Development Complex (NDC), a.k.a., the following two aliases:

—National Development Centre; *and*

—National Defense Complex. Fateh Jang, Punjab, Rawalpindi, Pakistan; *and* P.O. Box 2216, Islamabad, Pakistan;

—Pakistan Institute for Nuclear Science and Technology (PINSTECH), Nilore, Islamabad;

—Nuclear reactors (including power plants), fuel reprocessing and

enrichment facilities, all uranium processing, conversion and enrichment facilities, heavy water production facilities and any collocated ammonia plants; *and*

—National Institute of Lasers and Optronics (NILOP), a.k.a., the following one alias:

—National Institute of Lasers.

Lethrar Road, Islamabad, 45650, Pakistan; *and*

Lethrar Road, Nilore, 45650, Islamabad, Pakistan; *and*

Hetrat Road, Nilore, 45650, Islamabad, Pakistan; *and*

House #453 St., #16 Sector, Islamabad, Pakistan.

Removal From the Entity List

This rule implements a decision of the ERC to remove three persons, Bruce Lam, Creative Electronics and United Sources Industrial Enterprises, all located in Hong Kong, from the Entity List. The three persons removed were determined to no longer meet the criteria for inclusion on the Entity List.

United Sources Industrial Enterprises was added to General Order No. 3 in Supplement No. 1 to part 736 of the EAR on June 8, 2007, due to its involvement in transactions involving Mayrow General Trading (''Mayrow'') (72 FR 31716) and was subsequently added to the Entity List when the entities identified in General Order No. 3 were added to the Entity List on September 22, 2008 (73 FR 54499). Bruce Lam and Creative Electronics were also added to the Entity List on September 22, 2008 (73 FR 54499) for the same reasons that United Sources Industrial Enterprises was added to the Entity List. These entities have reached agreements with BIS that include measures protecting U.S. national security and foreign policy interests. In light of the content of these agreements, the ERC deemed it no longer necessary to impose licensing requirements pursuant to § 744.11 on the three entities.

This final rule implements the decision to remove the following three persons located in Hong Kong from the Entity List:

Hong Kong

(1) *Bruce Lam,* 11/F Excelsior Bldg., 68–76, Sha Tsui Rd., Tsuen Wan, New Territories, Hong Kong;

(2) *Creative Electronics,* Room 2202c, 22/F, Nan Fung Centre, 264–298 Castle Peak Road, Hong Kong *and* G/F 1_J Wong Chuk Street Shamshuipo, Kowloon, Hong Kong; *and*

(3) *United Sources Industrial Enterprises,* 11/F, Excelsior Building, 68–76 Sha Tsui Road, Hong Kong.

The removal of the three entities referenced above, which was approved by the ERC, eliminates the existing license requirements in Supplement No. 4 to part 744 for exports, reexports and transfers (in-country) to these entities. However, the removal of these entities from the Entity List does not relieve persons of other obligations under part 744 of the EAR or under other parts of the EAR. Neither the removal of an entity from the Entity List nor the removal of Entity List-based license requirements relieves persons of their obligations under General Prohibition 5 in § 736.2(b)(5) of the EAR which provides that, ''you may not, without a license, knowingly export or reexport any item subject to the EAR to an end-user or end-use that is prohibited by part 744 of the EAR.'' Additionally this removal does not relieve persons of their obligation to apply for export, reexport or in-country transfer licenses required by other provisions of the EAR. BIS strongly urges the use of Supplement No. 3 to part 732 of the EAR, ''BIS's 'Know Your Customer' Guidance and Red Flags,'' when persons are involved in transactions that are subject to the EAR.

Savings Clause

Shipments of items removed from eligibility for a License Exception or export or reexport without a license (NLR) as a result of this regulatory action that were en route aboard a carrier to a port of export or reexport, on September 18, 2014, pursuant to actual orders for export or reexport to a foreign destination, may proceed to that destination under the previous eligibility for a License Exception or export or reexport without a license (NLR).

Export Administration Act

Although the Export Administration Act expired on August 20, 2001, the President, through Executive Order 13222 of August 17, 2001, 3 CFR, 2001 Comp., p. 783 (2002), as amended by Executive Order 13637 of March 8, 2013, 78 FR 16129 (March 13, 2013) and as extended by the Notice of August 7, 2014, 79 FR 46959 (August 11, 2014), has continued the Export Administration Regulations in effect under the International Emergency Economic Powers Act. BIS continues to carry out the provisions of the Export Administration Act, as appropriate and to the extent permitted by law, pursuant to Executive Order 13222.

Rulemaking Requirements

1. Executive Orders 13563 and 12866 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has been determined to be not significant for purposes of Executive Order 12866.

2. Notwithstanding any other provision of law, no person is required to respond to nor be subject to a penalty for failure to comply with a collection of information, subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA), unless that collection of information displays a currently valid Office of Management and Budget (OMB) Control Number. This regulation involves collections previously approved by OMB under control number 0694–0088, Simplified Network Application Processing System, which includes, among other things, license applications and carries a burden estimate of 43.8 minutes for a manual or electronic submission. Total burden hours associated with the PRA and OMB control number 0694–0088 are not expected to increase as a result of this rule. You may send comments regarding the collection of information associated with this rule, including suggestions for reducing the burden, to Jasmeet K. Seehra, Office of Management and Budget (OMB), by email to *Jasmeet_K._Seehra@omb.eop.gov,* or by fax to (202) 395–7285.

3. This rule does not contain policies with Federalism implications as that term is defined in Executive Order 13132.

4. For the twenty-eight persons added under thirty-four entries to the Entity List in this final rule and the modifications to the existing entries on the Entity List, the provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, the opportunity for public comment and a delay in effective date are inapplicable because this regulation involves a military or foreign affairs function of the United States. (*See* 5 U.S.C. 553(a)(1)). BIS implements this rule to protect U.S. national security or foreign policy interests by preventing items from being exported, reexported, or transferred (in-country) to the persons being added to or the entries being modified on the Entity List. If this rule were delayed to allow for notice

and comment and a delay in effective date, then entities being added to the Entity List by this action would continue to be able to receive items without a license and to conduct activities contrary to the national security or foreign policy interests of the United States. For the entities whose entries on the Entity List are being modified, allowing for notice and comment and a delay in the effective date would allow for continued transactions involving an additional address for a person already listed on the Entity List or for the continued procurement of items for an entity on the Entity List. In addition, because these parties may receive notice of the U.S. Government's intention to place these entities on the Entity List if a proposed rule is published, doing so would create an incentive for these persons to either accelerate receiving items subject to the EAR to conduct activities that are contrary to the national security or foreign policy interests of the United States, or to take steps to set up additional aliases, change addresses, and other measures to try to limit the impact of the listing on the Entity List once a final rule was published. Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by 5 U.S.C. 553, or by any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.,* are not applicable. Accordingly, no regulatory flexibility analysis is required and none has been prepared.

5. For the three removals from the Entity List in this final rule, pursuant to the Administrative Procedure Act (APA), 5 U.S.C. 553(b)(3)(B), BIS finds good cause to waive requirements that this rule be subject to notice and the opportunity for public comment because it would be contrary to the public interest.

In determining whether to grant removal requests from the Entity List, a committee of U.S. Government agencies (the End-user Review Committee (ERC)) evaluates information about and commitments made by listed persons requesting removal from the Entity List, the nature and terms of which are set forth in 15 CFR part 744, Supplement No. 5, as noted in 15 CFR 744.16(b). The information, commitments, and criteria for this extensive review were all established through the notice of proposed rulemaking and public comment process (72 FR 31005 (June 5, 2007) (proposed rule), and 73 FR 49311 (August 21, 2008) (final rule)). These three removals have been made within the established regulatory framework of the Entity List. If the rule were to be delayed to allow for public comment, U.S. exporters may face unnecessary economic losses as they turn away potential sales because the customer remained a listed person on the Entity List even after the ERC approved the removal pursuant to the rule published at 73 FR 49311 on August 21, 2008. By publishing without prior notice and comment, BIS allows the applicant to receive U.S. exports immediately since these three applicants already have received approval by the ERC pursuant to 15 CFR part 744, Supplement No. 5, as noted in 15 CFR 744.16(b).

The removals from the Entity List granted by the ERC involve interagency deliberation and result from review of public and non-public sources, including sensitive law enforcement information and classified information, and the measurement of such information against the Entity List removal criteria. This information is extensively reviewed according to the criteria for evaluating removal requests from the Entity List, as set out in 15 CFR part 744, Supplement No. 5 and 15 CFR 744.16(b). For reasons of national security, BIS is not at liberty to provide to the public detailed information on which the ERC relied to make the decision to remove these entities. In addition, the information included in the removal requests is information exchanged between the applicant and the ERC, which by law (section 12(c) of the Export Administration Act), BIS is restricted from sharing with the public. Moreover, the removal requests from the Entity List contain confidential business information, which is necessary for the extensive review conducted by the U.S. Government in assessing such removal requests.

Section 553(d) of the APA generally provides that rules may not take effect earlier than thirty (30) days after they are published in the **Federal Register**. BIS finds good cause to waive the 30-day delay in effectiveness under 5 U.S.C. 553(d)(1) because this rule is a substantive rule which relieves a restriction. This rule's removal of three persons from the Entity List removes a requirement (the Entity-List-based license requirement and limitation on use of license exceptions) on these three persons being removed from the Entity List. The rule does not impose a requirement on any other person for these three removals from the Entity List.

No other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this final rule. Because a notice of proposed rulemaking and an opportunity for public comment are not required under the APA or by any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are not applicable. As a result, no final regulatory flexibility analysis is required and none has been prepared.

List of Subject in 15 CFR Part 744

Exports, Reporting and recordkeeping requirements, Terrorism.

Accordingly, part 744 of the Export Administration Regulations (15 CFR parts 730–774) is amended as follows:

PART 744—[AMENDED]

■ 1. The authority citation for 15 CFR part 744 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.;* 50 U.S.C. 1701 *et seq.;* 22 U.S.C. 3201 *et seq.;* 42 U.S.C. 2139a; 22 U.S.C. 7201 *et seq.;* 22 U.S.C. 7210; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 12947, 60 FR 5079, 3 CFR, 1995 Comp., p. 356; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13099, 63 FR 45167, 3 CFR, 1998 Comp., p. 208; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; E.O. 13224, 66 FR 49079, 3 CFR, 2001 Comp., p. 786; Notice of September 18, 2013, 78 FR 58151 (September 20, 2013); Notice of November 7, 2013, 78 FR 67289 (November 12, 2013); Notice of January 21, 2014, 79 FR 3721 (January 22, 2014); Notice of August 7, 2014, 79 FR 46959 (August 11, 2014).

■ 2. Supplement No. 4 to part 744 is amended:

■ a. By adding under Afghanistan, in alphabetical order, one Afghani entity;

■ b. By adding under Armenia, in alphabetical order, one Armenian entity;

■ c. By adding in alphabetical order the destination of Australia under the Country Column, and one Australian entity;

■ d. By adding under China, People's Republic of, in alphabetical order, one Chinese entity;

■ e. By adding under Greece, in alphabetical order, two Greek entities;

■ f. By adding under Hong Kong, in alphabetical order, five Hong Kong entities;

■ g. By revising under Hong Kong, the Hong Kong entity, ''Cho-Man Wong'';

■ h. By removing under Hong Kong, three Hong entities, ''Bruce Lam, 11/F Excelsior Bldg., 68–76, Sha Tsui Rd., Tsuen Wan, New Territories, Hong Kong,'' ''Creative Electronics, Room 2202c, 22/F, Nan Fung Centre, 264–298 Castle Peak Road, Hong Kong *and* G/F

1_J Wong Chuk Street Shamshuipo, Kowloon, Hong Kong,'' and ''United Sources Industrial Enterprises, 11/F, Excelsior Building, 68–76 Sha Tsui Road, Hong Kong'';

■ i. By adding under India, in alphabetical order, one Indian entity;

■ j. By adding under Ireland, in alphabetical order, one Irish entity;

■ k. By adding under Pakistan, in alphabetical order, nine Pakistani entities;

■ l. By revising under Pakistan, the Pakistani entity: ''Pakistan Atomic Energy Commission (PAEC)'';

■ m. By adding under Singapore, in alphabetical order, one Singaporean entity;

■ n. By adding under United Arab Emirates, in alphabetical order, ten Emirati entities; and

■ o. By adding under United Kingdom, in alphabetical order, one British entity.

The additions and revisions read as follows:

SUPPLEMENT NO. 4 TO PART 744—ENTITY LIST

Country	Entity	License requirement	License review policy	**Federal Register** citation
AFGHANISTAN	* *	*	* *	*
	Mohammad Jan Mangal Construction Company (MMCC), Kolola Pushta, Charahi Gul-e-Surkh, Kabul, Afghanistan; *and* Maidan Sahr, Hetefaq Market, Paktiya, Afghanistan.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	79 FR [INSERT FR PAGE NUMBER] 09/18/14.
*	* * *	*	* *	*
ARMENIA	* *	*	* *	*
	Veteran Avia LLC, a.k.a., the following one alias: —Veteran Airline. 64, Baghramyam Avenue, Apt 16, Yerevan 0033, Armenia; *and* 1 Eervand Kochari Street Room 1, 375070 Yerevan, Armenia (See also addresses under Greece, India, Pakistan, U.A.E., and U.K.).	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	79 FR [INSERT FR PAGE NUMBER] 09/18/14.
AUSTRALIA	Vortex Electronics, 125 Walker Street, Quakers Hill, NSW 2763, Australia.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	79 FR [INSERT FR PAGE NUMBER] 09/18/14.
*	* * *	*	* *	*
CHINA, PEOPLE'S REPUBLIC OF	* *	*	* *	*
	Beijing Lion Heart International Trading Company, a.k.a., the following one alias: —Wei Lai Xi Tong Ltd. Suite number 1819, The International Center of Times, Number 101, Shoa Yao Ju BeiLi, Chaoyang District, Beijing, China (See also address under Hong Kong).	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	79 FR [INSERT FR PAGE NUMBER] 09/18/14.
*	* * *	*	* *	*
GREECE	* *	*	* *	*
	Aerospace One, S.A., 24 Andrea Koumpi Str. Markopoulo19003 Attica, Greece.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	79 FR [INSERT FR PAGE NUMBER] 09/18/14.
	* * *	*	* *	*

SUPPLEMENT NO. 4 TO PART 744—ENTITY LIST—Continued

Country	Entity	License requirement	License review policy	Federal Register citation
	Veteran Avia LLC, a.k.a., the following one alias: —Veteran Airline. 24, A. Koumbi Street, Markopoulo 190 03, Attika, Greece (See also addresses under Armenia, India, Pakistan, U.A.E., and U.K.).	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	79 FR [INSERT FR PAGE NUMBER] 09/18/14.
HONG KONG	* *	*	* *	*
	Bako Cheung, Unit 803, Fourseas Building, 208–212 Nathan Road, Kowloon, Hong Kong; *and* Room 803, Fourseas Bldg 208–212 Nathan Rd, Kowloon, Hong Kong.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	79 FR [INSERT FR PAGE NUMBER] 09/18/14.
	Beijing Lion Heart International Trading Company, a.k.a., the following one alias: —Wei Lai Xi Tong Ltd. Room 1318–20, 13F, Hollywood Plaza, 610 Nathan Road, Mongkok Kowloon, Hong Kong (See also address under China).	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	79 FR [INSERT FR PAGE NUMBER] 09/18/14.
	* *	*	* *	*
	Channel Rich Electronics Company Limited, Unit 803, Fourseas Building, 208–212 Nathan Road, Kowloon, Hong Kong; *and* Room 803, Fourseas Bldg 208–212 Nathan Rd, Kowloon, Hong Kong.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	79 FR [INSERT FR PAGE NUMBER] 09/18/14.
	* *	*	* *	*
	Cho-Man Wong, Room 2608, Technology Plaza 29–35 Sha Tsui Road Tsuen Wan, Hong Kong; *and* Unit 803, Fourseas Building, 208–212 Nathan Road, Kowloon, Hong Kong; *and* Room 803, Fourseas Bldg 208–212 Nathan Rd, Kowloon, Hong Kong.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	76 FR 63184, 10/12/11. 79 FR [INSERT FR PAGE NUMBER] 09/18/14.
	* *	*	* *	*
	Fortune Source Electronics Co. Ltd., Unit A, 7/F Capri Building, 130 Austin Road, KLN, Hong Kong; *and* Unit A7/F Capri Building, 130 Austin Road, KLN, Hong Kong; *and* Unit 803, Fourseas Building, 208–212 Nathan Road, Kowloon, Hong Kong.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	79 FR [INSERT FR PAGE NUMBER] 09/18/14.
	* *	*	* *	*
	Sau Luen Chan, Unit 803, Fourseas Building, 208–212 Nathan Road, Kowloon, Hong Kong; *and* Room 803, Fourseas Bldg 208–212 Nathan Rd, Kowloon, Hong Kong.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	79 FR [INSERT FR PAGE NUMBER] 09/18/14.
	* *	*	* *	*
INDIA	* *	*	* *	*

SUPPLEMENT NO. 4 TO PART 744—ENTITY LIST—Continued

Country	Entity	License requirement	License review policy	**Federal Register** citation
	Veteran Avia LLC, a.k.a., the following one alias: —Veteran Airline. A–107, Lajpat Nagar—I New Delhi 110024, India; *and* Room No. 34 Import Cargo, IGI Aiport Terminal—II, New Delhi 110037, India; *and* 25B, Camac Street 3E, Camac Court Kolkatta, 700016, India; *and* Ali's Chamber #202, 2nd Floor Sahar Cargo Complex Andheri East Mumbai, 400099, India (See also addresses under Armenia, Greece, Pakistan, U.A.E., and U.K.).	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	79 FR [INSERT FR PAGE NUMBER] 09/18/14.
*	* * *	*	* *	*
IRELAND	Agneet Sky Limited, 12, Fitzwilliam Place Dublin, 2 Ireland.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	79 FR [INSERT FR PAGE NUMBER] 09/18/14.
*	* * *	*	* *	*
PAKISTAN	* * *	*	* *	*
	Advanced Engineering Research Organization (AERO), Lub Thatoo Hazara Road, The Taxila district, Rawalpindi, Pakistan.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	79 FR [INSERT FR PAGE NUMBER] 09/18/14.
	* * *	*	* *	*
	Future Systems Pvt. Ltd., 10 Main Double Road F11/3, Islamabad, Pakistan.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	79 FR [INSERT FR PAGE NUMBER] 09/18/14.
	IKAN Engineering Services, a.k.a., the following one alias: —IKAN Sourcing. 34–KM Shamki Bhattan Sultan Road, Lahore, Pakistan; *and* Plot 7, I–11/3 Markaz, Islamabad, Pakistan.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	79 FR [INSERT FR PAGE NUMBER] 09/18/14.
	* * *	*	* *	*
	Irum Mehboob Raja, Pakistan Institute of Nuclear Science and Technology (PINSTECH), Nilore, Islamabad, Pakistan.	For all items subject to the EAR.	Case-by-case for all items listed on the CCL. Presumption of approval for EAR99 items.	79 FR [INSERT FR PAGE NUMBER] 09/18/14.
	* * *	*	* *	*
	LT Engineering and Trade Services (Pvt) Ltd. (LTE), Lub Thatoo, Abbotabad Road, Hasan Abdal, Pakistan; *and* 30 Nazimud din Road, F–10/4, Islamabad, Pakistan.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	79 FR [INSERT FR PAGE NUMBER] 09/18/14.
	* * *	*	* *	*
	Nazir and Sons International, 2nd Floor, Pracha Plaza, Near Municipal Committee Office Road, Taxila, Pakistan.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	79 FR [INSERT FR PAGE NUMBER] 09/18/14.
	* * *	*	* *	*
	Orion Eleven Pvt. Ltd., Street 11 Valley Road, Westridge Rawalpindi, Pakistan.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	79 FR [INSERT FR PAGE NUMBER] 09/18/14.

SUPPLEMENT NO. 4 TO PART 744—ENTITY LIST—Continued

Country	Entity	License requirement	License review policy	Federal Register citation
	Pakistan Atomic Energy Commission (PAEC), a.k.a., the following one alias: —Power Plant Workshops, P.O. Box 1114, Islamabad; *and* the following four subordinate entities: —National Development Complex (NDC), a.k.a., the following two aliases: —National Development Centre; *and* —National Defense Complex. Fateh Jang, Punjab, Rawalpindi, Pakistan; *and* P.O. Box 2216, Islamabad, Pakistan; —Pakistan Institute for Nuclear Science and Technology (PINSTECH), Nilore, Islamabad; —Nuclear reactors (including power plants), fuel reprocessing and enrichment facilities, all uranium processing, conversion and enrichment facilities, heavy water production facilities and any collocated ammonia plants; *and* —National Institute of Lasers and Optronics (NILOP), a.k.a., the following one alias: —National Institute of Lasers. Lethrar Road, Islamabad, 45650, Pakistan; *and* Lethrar Road, Nilore, 45650, Islamabad, Pakistan; *and* Hetrat Road, Nilore, 45650, Islamabad, Pakistan; *and*House #453 St., #16 Sector, Islamabad, Pakistan.	For all items subject to the EAR.	Case-by-case for all items listed on the CCL. Presumption of approval for EAR99 items.	63 FR 64322, 11/19/98. 65 FR 14444, 03/17/00. 66 FR 50090, 10/01/01. 77 FR 58006, 9/19/12. 79 FR [INSERT FR PAGE NUMBER] 09/18/14.
	* * *	*	*	*
	Rayyan Air Pvt Ltd., House No 614 Street No 58 I–8/2 Islamabad, Pakistan; *and* Office No 456, K Street No 57 I–8/3 Islamabad, Pakistan.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	79 FR [INSERT FR PAGE NUMBER] 09/18/14.
	* * *	*	*	*
	Veteran Avia LLC, a.k.a., the following one alias: —Veteran Airline. Room No. 1, ALC Building, PIA Cargo Complex Jiap, Karachi, Pakistan (See also addresses under Armenia, Greece, India, U.A.E., and U.K.).	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	79 FR [INSERT FR PAGE NUMBER] 09/18/14.
*	* * *	*	*	*
SINGAPORE	* * *	*	*	*
	Izix Group Pte Ltd., Number 26 Defu Lane 9, Singapore 539267; *and* 50 Bukit Batok Street, 23 #07–08 Midview Building, Singapore 659578.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	79 FR [INSERT FR PAGE NUMBER] 09/18/14.
*	* * *	*	*	*
UNITED ARAB EMIRATES	* * *	*	*	*

SUPPLEMENT NO. 4 TO PART 744—ENTITY LIST—Continued

Country	Entity	License requirement	License review policy	**Federal Register** citation
	Aeolus FZE, a.k.a., the following one alias: —Aeolus Air Group. Sharjah Airport Saif Zone, P.O. Box 120435 Sharjah, U.A.E.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	79 FR [INSERT FR PAGE NUMBER] 09/18/14.
	Aerospace Company FZE, a.k.a., the following one alias: —Aerospace Consortium. 18, Fujairah Free Zone, P.O. Box 1729, Fujairah, U.A.E.; *and* Fujairah Free Zone, P.O. Box 7168, Fujairah, U.A.E.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	79 FR [INSERT FR PAGE NUMBER] 09/18/14.
	* *	*	* *	*
	Aircon Beibars FZE, Plot of Land L4—03, 04, 05, 06, P.O. Box 121095, Sharjah, U.A.E.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	79 FR [INSERT FR PAGE NUMBER] 09/18/14.
	* *	*	* *	*
	Aristeidis A. Pappas, Villa D71, Al Hamra Village, Ras Al Khaimah, U.A.E.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	79 FR [INSERT FR PAGE NUMBER] 09/18/14.
	* *	*	* *	*
	Group Sky One, a.k.a., the following one alias: —Sky One FZE. Q4 76, Sharjah Airport Free Zone, Sharjah, U.A.E., *and* Executive Desk, Q1–05, 030/C, P.O. Box 122849, Sharjah, U.A.E.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial.	79 FR [INSERT FR PAGE NUMBER] 09/18/14.
	* *	*	* *	*
	Indira Mirchandani, Town House 1033 Uptown Mirdif, Mirdif, Algeria Street, Dubai, U.A.E.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	79 FR [INSERT FR PAGE NUMBER] 09/18/14.
	* *	*	* *	*
	Jaideep Mirchandani, a.k.a., the following one alias: —Jaidip Merchandani. Villa No. W10 Emirates Hills, Dubai, U.A.E.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial.	79 FR [INSERT FR PAGE NUMBER] 09/18/14.
	* *	*	* *	*
	Nitin Mirchandani, a.k.a., the following one alias: —Nithin Merchandani. H2601 Executive Towers, Business Bay, Dubai, U.A.E.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	79 FR [INSERT FR PAGE NUMBER] 09/18/14.
	* *	*	* *	*
	Reza Ghoreishi, P.O. Box 61342, Jebel Ali, U.A.E.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	79 FR [INSERT FR PAGE NUMBER] 09/18/14.
	* *	*	* *	*

SUPPLEMENT NO. 4 TO PART 744—ENTITY LIST—Continued

Country	Entity	License requirement	License review policy	Federal Register citation
	Veteran Avia LLC, a.k.a., the following one alias: —Veteran Airline. Sharjah SAIF Zone, Sharjah, U.A.E.; *and* Y2–307, Saif Zone, Sharjah International Airport, P.O. Box 122598, Sharjah, U.A.E. (See also addresses under Armenia, Greece, India, Pakistan, and U.K.).	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	79 FR [INSERT FR PAGE NUMBER] 09/18/14.
	* * *	* * *	* * *	* * *
UNITED KINGDOM	* * *	* * *	* * *	* * *
	Veteran Avia LLC, a.k.a., the following one alias: —Veteran Airline. 1 Beckett Place, South Hamptonshire, London, U.K. (See also addresses under Armenia, Greece, India, Pakistan, and U.A.E.).	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	79 FR [INSERT FR PAGE NUMBER] 09/18/14.
	* * *	* * *	* * *	* * *

Dated: September 15, 2014.

Kevin J. Wolf,

Assistant Secretary for Export Administration.

[FR Doc. 2014–22277 Filed 9–17–14; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 866

[Docket No. FDA–2014–N–1251]

Medical Devices; Immunology and Microbiology Devices; Classification of Tryptase Test System

AGENCY: Food and Drug Administration, HHS.

ACTION: Final order.

SUMMARY: The Food and Drug Administration (FDA) is classifying tryptase test system devices into class II (special controls). The Agency is classifying the device into class II (special controls) because special controls, in addition to general controls, will provide a reasonable assurance of safety and effectiveness of the device.

DATES: This order is effective October 20, 2014. The classification was applicable February 15, 2012.

FOR FURTHER INFORMATION CONTACT: Elizabeth Stafford, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5608, Silver Spring, MD 20993–0002, 301–796–6184.

SUPPLEMENTARY INFORMATION:

I. Background

In accordance with section 513(f)(1) of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 360c(f)(1)), devices that were not in commercial distribution before May 28, 1976 (the date of enactment of the Medical Device Amendments of 1976), generally referred to as postamendments devices, are classified automatically by statute into class III without any FDA rulemaking process. These devices remain in class III and require premarket approval, unless and until the device is classified or reclassified into class I or II, or FDA issues an order finding the device to be substantially equivalent, in accordance with section 513(i) of the FD&C Act, to a predicate device that does not require premarket approval. The Agency determines whether new devices are substantially equivalent to predicate devices by means of premarket notification procedures in section 510(k) of the FD&C Act (21 U.S.C. 360(k)) and part 807 (21 CFR part 807) of the regulations.

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

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

In accordance with section 513(f)(1) of the FD&C Act, FDA issued an order on January 3, 2012, classifying the ImmunoCAP Tryptase into class III, because it was not substantially equivalent to a device that was introduced or delivered for introduction into interstate commerce for commercial distribution before May 28, 1976, or a device which was subsequently reclassified into class I or class II. On January 12, 2013, Phadia U.S., Inc. submitted a request for de novo classification of the ImmunoCAP Tryptase under section 513(f)(2) of the FD&C Act. The manufacturer recommended that the device be classified into class II.

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

The device is assigned the generic name tryptase test system, and it is identified as a device that aids in the diagnosis of systemic mastocytosis. It is intended for in vitro diagnostic use as an aid in the clinical diagnosis of patients with a suspicion of systemic mastocytosis in conjunction with other clinical and laboratory findings.

FDA has identified the following risks to health associated with this type of device and the measures required to mitigate these risks in Table 1:

TABLE 1—IDENTIFIED RISKS TO HEALTH AND MITIGATION MEASURES

Identified risks to health	Mitigation measures
False negative result	Device description containing the information specified in the special control guideline. Analytical performance validation. Software. Clinical performance evaluation. Labeling.
False positive result	Device description containing the information specified in the special control guideline. Analytical performance validation. Software. Clinical performance evaluation. Labeling.
Inappropriate use	Labeling.

FDA believes that the measures set forth in the special controls guideline entitled ''Class II Special Controls Guideline: Tryptase Test System as an Aid in the Diagnosis of Systemic Mastocytosis'' are necessary, in addition to general controls, to mitigate the risks to health described in table 1.

Therefore, on February 15, 2012, FDA issued an order to the petitioner classifying tryptase test system devices into class II. FDA is codifying this device type by adding § 866.5760.

Following the effective date of this final classification order, any firm submitting a 510(k) premarket notification for this device type will need to comply with the special controls.

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

II. Environmental Impact

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

III. Paperwork Reduction Act of 1995

This final administrative order establishes special controls that refer to previously approved collections of information found in other FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in part 807, subpart E, regarding premarket notification submissions have been approved under OMB control number 0910–0120; the collections of information in 21 CFR part 820 have been approved under OMB control number 0910–0073; and the collections of information in 21 CFR part 801 and 21 CFR 809.10 have been approved under OMB control number 0910–0485.

List of Subjects in 21 CFR Part 866

Biologics, Laboratories, Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 866 is amended as follows:

PART 866—IMMUNOLOGY AND MICROBIOLOGY DEVICES

■ 1. The authority citation for 21 CFR part 866 continues to read as follows:

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

■ 2. Add § 866.5760 to subpart F to read as follows:

§ 866.5760 Tryptase test system.

(a) *Identification.* A tryptase test system is a device that aids in the diagnosis of systemic mastocytosis. It is intended for in vitro diagnostic use as an aid in the clinical diagnosis of patients with a suspicion of systemic mastocytosis in conjunction with other clinical and laboratory findings.

(b) *Classification.* Class II (special controls). The special control is FDA's guideline entitled ''Class II Special Controls Guideline: Tryptase Test System as an Aid in the Diagnosis of Systemic Mastocytosis.'' For availability of the document, see § 866.1(e).

Dated: September 12, 2014.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2014–22254 Filed 9–17–14; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2014–0610]

RIN 1625–AA00

Safety Zone; International Jet Sports Boating Association World Finals; Lake Havasu City, AZ

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone within the navigable waters of the Colorado River in Lake Havasu, AZ in support of the International Jet Sports Boating Association (IJSBA) World Finals. This safety zone is necessary to ensure the safety of participants, crew, spectators, participating vessels, and other vessels and users of the waterway. Unauthorized persons and vessels are prohibited from entering into, transiting through, or anchoring within this safety zone unless authorized by the Captain of the Port, or their designated representative.

DATES: This rule is effective from 6:30 a.m. to 6:30 p.m. on October 4, 2014 through October 12, 2014.

ADDRESSES: Documents mentioned in this preamble are part of docket [USCG–2014–0610]. To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Petty Officer Giacomo Terrizzi, Waterways Management, U.S. Coast Guard Sector San Diego, Coast Guard; telephone 619–278–7656, email *d11marineeventssandiego@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS Department of Homeland Security
FR Federal Register
NPRM Notice of Proposed Rulemaking
TFR Temporary Final Rule
IJSBA International Jet Sports Boating Association

A. Regulatory History and Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.''

Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because an NPRM would be impracticable. Logistical details did not present the Coast Guard enough time to draft, publish, and receive public comment on an NPRM. As such, the event would occur before the rulemaking process was complete. Immediate action is needed to help protect the safety of the participants, crew, spectators, and participating vessels from other vessels during the duration of this event.

Under 5 U.S.C. 553(d)(3), for the same reasons mentioned above, the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Any delay in the effective date of this rule would be contrary to the public interest, because immediate action is necessary to protect the safety of the participants from the dangers associated with other vessels transiting this area while the race occurs.

B. Basis and Purpose

The legal basis and authorities for this rule are found in 33 U.S.C. 1231, 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Public Law 107–295, 116 Stat. 2064; and Department of Homeland Security Delegation No. 0170.1, which collectively authorize the Coast Guard to propose, establish, and define regulatory safety zones.

IJSBA is sponsoring the IJSBA World Finals, which will involve approximately 800 personal water craft, 5 to 13 feet in length. The safety zone will encompass an area in the vicinity of the Crazy Horse Campgrounds. This temporary safety zone is necessary to provide for the safety of the participants, crew, spectators, sponsor vessels, other vessels, and users of the waterway, specifically in minimizing vessel wakes by transiting vessels in the vicinity of the racing area. Unnecessary wakes can disrupt the personal water craft and could cause injury or damage to the participants.

C. Discussion of the Final Rule

The Coast Guard is establishing a safety zone that will be enforced from 6:30 a.m. to 6:30 p.m. on October 4, 2014 through October 12, 2014. The effect of the temporary safety zone will be to restrict navigation in the vicinity of the race site until the conclusion of the races. The limits of the safety zone will encompass the waters of Lake Havasu, AZ in the area of Crazy Horse Campgrounds encompassed by the following positions:

34°28.32′ N, 114°21.71′ W
34°28.43′ N, 114°21.81′ W
34°28.55′ N, 114°21.56′ W
34°28.49′ N, 114°21.33′ W

The safety zone is necessary to provide for the safety of the crew, spectators, participants, and other vessels and users of the waterway. Persons and vessels will be prohibited from entering into, transiting through, or anchoring within this safety zone unless authorized by the Captain of the Port, or his designated representative, during the proposed times. Before the effective period, the Coast Guard will publish a local notice to mariners (LNM). Also, the event sponsor through Lake Havasu City has extensively advertised the marine event with the public.

D. Regulatory Analyses

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

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented

by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation is unnecessary. This determination is based on the size, location, and the limited duration of the safety zone. Additionally, to the maximum extent practicable, the event sponsor will assist with the movement of boaters desiring to transit the racing area during non-racing times.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit or anchor in the impacted portion of Lake Havasu from 6:30 a.m. to 6:30 p.m. on October 4, 2014 through October 12, 2014.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons. The safety zone applies to a small area in the vicinity of the Crazy Horse Campground and boating traffic would still be allowed to pass through the safety zone with Captain of the Port approval. The event sponsor will to their maximum extent assist boaters wishing to transit the racing area during non-racing times.

3. Assistance for Small Entities

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

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

4. Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

5. Federalism

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

6. Protest Activities

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

7. Unfunded Mandates Reform Act

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

8. Taking of Private Property

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

9. Civil Justice Reform

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

10. Protection of Children

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

11. Indian Tribal Governments

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

12. Energy Effects

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

13. Technical Standards

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

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves establishment of a safety zone on the navigable waters of Lake Havasu. This rule is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the

docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

List of Subjects in 33 CFR Part 165

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

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T11–657 to read as follows:

§ 165.T11–657 Safety Zone; International Jet Sports Boating Association World Finals; Lake Havasu City, AZ.

(a) *Location.* The limits of the safety zone will encompass the waters of Lake Havasu, AZ in the area of Crazy Horse Campgrounds encompassed by the following positions: 34°28.32′ N, 114°21.71′ W; 34°28.43′ N, 114°21.81′ W; 34°28.55′ N, 114°21.56′ W; 34°28.49′ N, 114°21.33′ W.

(b) *Enforcement period.* This section will be enforced on October 4, 2014 through October 12, 2014 from 6:30 a.m. to 6:30 p.m.

(c) *Definitions.* The following definition applies to this section: *Designated representative,* means any commissioned, warrant, or petty officer of the Coast Guard on board Coast Guard, Coast Guard Auxiliary, or local, state, and federal law enforcement vessels who have been authorized to act on the behalf of the Captain of the Port.

(d) *Regulations.* (1) Under the general regulations in subpart C of this part, entry into, transit through or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port of San Diego or his designated representative.

(2) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or his designated representative.

(3) Upon being hailed by U.S. Coast Guard or designated patrol personnel by siren, radio, flashing light or other means, the operator of a vessel shall proceed as directed.

(4) The Coast Guard may be assisted by other federal, state, or local agencies in patrol and notification of the regulation.

Dated: August 27, 2014.

J. S. Spaner,

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

[FR Doc. 2014–22195 Filed 9–17–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2014–0772]

RIN 1625–AA00

Safety Zone; 2014 Life Time Tri; Oceanside Harbor, Oceanside, CA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on the navigable waters of Oceanside Harbor in Oceanside, CA for the 2014 Life Time Triathlon on October 26, 2014. This temporary safety zone is necessary to provide safety for the swimmers, crew, rescue personnel, and other users of the waterway. Persons and vessels are prohibited from entering into, transiting through, or anchoring within this safety zone unless authorized by the Captain of the Port or his designated representative.

DATES: This rule is effective from 6:30 a.m. to 9:30 a.m. on October 26, 2014.

ADDRESSES: Documents mentioned in this preamble are part of docket [USCG–2014–0772]. To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Petty Officer Giacomo Terrizzi, Waterways Management, U.S. Coast Guard Sector San Diego, Coast Guard; telephone 619–278–7656, email *d11marineeventssandiego@uscg.mil* If you have questions on viewing or submitting material to the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS Department of Homeland Security
FR Federal Register
NPRM Notice of Proposed Rulemaking
TFR Temporary Final Rule

A. Regulatory History and Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because an NPRM would be impracticable. Logistical details did not present the Coast Guard enough time to draft, publish, and receive public comment on an NPRM. As such, the event would occur before the rulemaking process was complete. Immediate action is needed to help protect the safety of the swimmers, crew, spectators, and participating vessels from other vessels during this one day event.

B. Basis and Purpose

The legal basis and authorities for this rule are found in 33 U.S.C. 1231, 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Public Law 107–295, 116 Stat. 2064; and Department of Homeland Security Delegation No. 0170.1, which collectively authorize the Coast Guard to propose, establish, and define regulatory safety zones. The event will consist of 2,000 participants swimming a 1.5 KM course within Oceanside Harbor. The course starts at the Oceanside Harbor public boat launch, proceeds to the outer point of the submerged jetty, and back to the boat launch. A safety zone is established to protect the swimmers and assist with vessel traffic management.

C. Discussion of the Final Rule

The Coast Guard is establishing a safety zone that will be enforced from 6:30 a.m. to 9:30 a.m. on October 26, 2014. The safety zone includes the waters of Oceanside Harbor encompassed by drawing a line from

point to point along the following coordinates:

33°12′31.3″ N, 117°24′00.7″ W;
33°12′31.5″ N, 117°23′45.1″ W;
33°12′23.1″ N, 117°23′32.8″ W;
33°12′20.9″ N, 117°23′35.9″ W;
33°12′27.1″ N, 117°23′44.6″ W;
33°12′24.8″ N, 117°23′58.0″ W.

The safety zone is necessary to provide for the safety of swimmers, crew, rescue personnel, and other users of the waterway. Persons and vessels will be prohibited from entering into, transiting through, or anchoring within the safety zone unless authorized by the Captain of the Port, or his designated representative. Immediately before and during the swimming event, Coast Guard Sector San Diego Joint Harbor Operations Center will issue Broadcast Notice to Mariners on the location and enforcement of the safety zone.

D. Regulatory Analyses

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

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation is unnecessary. This determination is based on the safety zone being of a limited duration, three hours, and is also limited to a relatively small geographic area in Oceanside Harbor.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit or anchor in the impacted portion of the Oceanside Harbor from 6:30 a.m. to 9:30 a.m. on October 26, 2014.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons. The safety zone will only be in effect for three hours in the morning when vessel traffic is low. Vessel traffic can safely transit around the safety zone while the zone is in effect with the permission of the Captain of the Port.

3. Assistance for Small Entities

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

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

4. Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

5. Federalism

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

6. Protest Activities

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

7. Unfunded Mandates Reform Act

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

8. Taking of Private Property

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

9. Civil Justice Reform

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

10. Protection of Children

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

11. Indian Tribal Governments

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

12. Energy Effects

This action is not a ''significant energy action'' under Executive Order 13211, Actions Concerning Regulations

That Significantly Affect Energy Supply, Distribution, or Use.

13. Technical Standards

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

14. Environment

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

List of Subjects in 33 CFR Part 165

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

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T11–658 to read as follows:

§ 165.T11–658 Safety Zone; 2014 Life Time Tri; Oceanside Harbor, Oceanside, CA.

(a) *Location.* The limits of this temporary safety zone are the waters of Oceanside Harbor encompassed by drawing a line from point to point along the following coordinates: 33°12′31.3″ N, 117°24′00.7″ W; 33°12′31.5″ N, 117°23′45.1″ W; 33°12′23.1″ N, 117°23′32.8″ W; 33°12′20.9″ N, 117°23′35.9″ W; 33°12′27.1″ N, 117°23′44.6″ W; 33°12′24.8″ N, 117°23′58.0″ W.

(b) *Enforcement period.* This section will be enforced on October 26, 2014 from 6:30 a.m. to 9:30 a.m.

(c) *Definitions.* The following definition applies to this section: *Designated representative,* means any commissioned, warrant, or petty officer of the Coast Guard on board Coast Guard, Coast Guard Auxiliary, or local, state, and federal law enforcement vessels who have been authorized to act on the behalf of the Captain of the Port.

(d) *Regulations.* (1) Entry into, transit through or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port of San Diego or his designated representative.

(2) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or his designated representative.

(3) Upon being hailed by U.S. Coast Guard or designated patrol personnel by siren, radio, flashing light or other means, the operator of a vessel shall proceed as directed.

(4) The Coast Guard may be assisted by other federal, state, or local agencies in patrol and notification of this regulation.

Dated: August 27, 2014.

J. S. Spaner,

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

[FR Doc. 2014–22193 Filed 9–17–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2014–0695]

RIN 1625–AA00

Safety Zone; San Diego Sharkfest Swim; San Diego Bay, San Diego, CA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone within the navigable waters of San Diego Bay in San Diego, CA in support of the San Diego Sharkfest Swim. This safety zone is necessary to provide for the safety of the swimmers, crew, spectators, participating vessels, and other vessels and users of the waterway. Persons and vessels are prohibited from entering into, transiting through, or anchoring within this safety zone unless authorized by the Captain of the Port, or his designated representative.

DATES: This rule is effective from 9 a.m. to 10 a.m. on October 12, 2014.

ADDRESSES: Documents mentioned in this preamble are part of docket [USCG–2014–0695]. To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Petty Officer Giacomo Terrizzi, Waterways Management, U.S. Coast Guard Sector San Diego, Coast Guard; telephone 619–278–7656, email *d11marineeventssandiego@uscg.mil*. If you have questions on viewing or submitting material to the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS Department of Homeland Security
FR Federal Register
NPRM Notice of Proposed Rulemaking
TFR Temporary Final Rule

A. Regulatory History and Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because an NPRM would be impracticable. Logistical details did not present the Coast Guard enough time to draft, publish, and receive public comment on an NPRM. As such, the event would occur before the rulemaking process was complete. Immediate action is needed to help protect the safety of the swimmers, crew, spectators, and participating

vessels from other vessels during this one day event.

Under 5 U.S.C. 553(d)(3), for the same reasons mentioned above, the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Any delay in the effective date of this rule would be contrary to the public interest, because immediate action is necessary to protect the safety of the swimmers from the dangers associated with other vessels transiting this area while the race occurs.

B. Basis and Purpose

The legal basis and authorities for this rule are found in 33 U.S.C. 1231, 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Public Law 107–295, 116 Stat. 2064; and Department of Homeland Security Delegation No. 0170.1, which collectively authorize the Coast Guard to propose, establish, and define regulatory safety zones. Enviro-Sports Productions, Inc. is sponsoring the San Diego Sharkfest Swim, which will involve 400 swimmers. The safety zone will encompass the navigable waters from Seaport Village to the Coronado Ferry Landing. This temporary safety zone is necessary to provide for the safety of the swimmers, crew, spectators, sponsor vessels, other vessels, and users of the waterway.

C. Discussion of the Final Rule

The Coast Guard is establishing a safety zone that will be enforced from 9 a.m. to 10 a.m. on October 12, 2014. The limits of the safety zone will encompass the navigable waters from Seaport Village to the Coronado Ferry Landing within the following positions:

32°42.17′ N, 117°09.83′ W; 32°41.66′ N, 117°09.88′ W; along the shore line to: 32°41.29′ N, 117°09.77′ W; 32°41.50′ N, 117°09.73′ W; 32°42.05′ N, 117°09.68′ W; along the shore line to: 32°42.17′ N, 117°09.83′ W

The safety zone is necessary to provide for the safety of the swimmers, crew, spectators, and other vessels and users of the waterway. Persons and vessels will be prohibited from entering into, transiting through, or anchoring within this safety zone unless authorized by the Captain of the Port, or his designated representative. Before the effective period, the Coast Guard will publish a local notice to mariners (LNM).

D. Regulatory Analyses

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

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation is unnecessary. This determination is based on the size, location, and the limited duration of the safety zone.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which may be small entities: The owners or operators of vessels intending to transit or anchor in the impacted portion of San Diego Bay from 9 a.m. to 10 a.m. on October 12, 2014.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons. The safety zone would only apply to a small area of San Diego Bay from Seaport Village to the Coronado Ferry Landing. Also traffic would be allowed to pass through the zone with the permission of the Captain of the Port, or his designated representative. Before the effective period, the Coast Guard will publish a Local Notice to Mariners.

3. Assistance for Small Entities

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

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

4. Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

5. Federalism

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

6. Protest Activities

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

7. Unfunded Mandates Reform Act

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

8. Taking of Private Property

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

9. Civil Justice Reform

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

10. Protection of Children

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

11. Indian Tribal Governments

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

12. Energy Effects

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

13. Technical Standards

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

14. Environment

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

List of Subjects in 33 CFR Part 165

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

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T11–656 to read as follows:

§ 165.T11–656 Safety Zone; San Diego Sharkfest Swim; San Diego Bay, San Diego, CA.

(a) *Location.* The limits of the safety zone will encompass the navigable waters from Seaport Village to the Coronado Ferry Landing within the following positions: Beginning at 32°42.17′ N, 117°09.83′ W; thence to 32°41.66′ N, 117°09.88′ W; thence along the shore line to 32°41.29′ N, 117°09.77′ W; thence to 32°41.50′ N, 117°09.73′ W; thence to 32°42.05′ N, 117°09.68′ W; thence along the shore line to 32°42.17′ N, 117°09.83′ W.

(b) *Enforcement period.* This safety zone will be enforced on October 12, 2014 from 9 a.m. to 10 a.m.

(c) *Definitions.* The following definition applies to this section: *Designated representative,* means any commissioned, warrant, or petty officer of the Coast Guard on board Coast Guard, Coast Guard Auxiliary, or local, state, and federal law enforcement vessels who have been authorized to act on the behalf of the Captain of the Port.

(d) *Regulations.* (1) Entry into, transit through or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port of San Diego or his designated representative.

(2) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or his designated representative.

(3) Upon being hailed by U.S. Coast Guard or designated patrol personnel by siren, radio, flashing light or other means, the operator of a vessel shall proceed as directed.

(4) The Coast Guard may be assisted by other federal, state, or local agencies in patrol and notification of this regulation.

Dated: August 27, 2014.

J. S. Spaner,

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

[FR Doc. 2014–22189 Filed 9–17–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

[Docket No. 130722645–4769–02]

RIN 0648–BD53

International Fisheries; Pacific Tuna Fisheries; Fishing Restrictions in the Eastern Pacific Ocean, Whale Shark Conservation Measures

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

ACTION: Final rule.

SUMMARY: NMFS is issuing regulations under the Tuna Conventions Act to implement a resolution of the Inter-American Tropical Tuna Commission (IATTC) intended to conserve whale sharks (*Rhincodon typus*) in the Eastern Pacific Ocean (EPO). This final rule would prohibit setting a purse seine net on whale sharks, and would require certain measures to protect whale sharks in the event that a whale shark is encircled in a purse seine net. This rulemaking is necessary for the United States to satisfy its obligations as a member of the IATTC.

DATES: This final rule is effective October 20, 2014.

ADDRESSES: Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this final rule may be submitted to Chris Fanning, NMFS West Coast Region (see address above) and by email to *OIRA_Submission@omb.eop.gov.* Copies of the Regulatory Impact Review (RIR) and other supporting documents are available via the Federal e-Rulemaking Portal: *http://www.regulations.gov,* docket NOAA–NMFS–2013–0118 or

contact with the Regional Administrator, William W. Stelle, Jr., NMFS West Coast Regional Office, 7600 Sand Point Way NE., Bldg 1, Seattle, WA 98115–0070, or *RegionalAdministrator.WCRHMS@noaa.gov.*

FOR FURTHER INFORMATION CONTACT: Chris Fanning, NMFS, 562–980–4198 or Heidi Taylor NMFS, 562–980–4039.

SUPPLEMENTARY INFORMATION:

Background on the Proposed and Final Rulemaking

On June 9, 2014, NMFS published a proposed rule in the **Federal Register** (79 FR 32903) that would revise and add to regulations at 50 CFR part 300, subpart C. The purpose of the proposed rule was to implement whale shark conservation measures of the IATTC Resolution on Collection and Analysis of Data on Fish-Aggregating Devices (C–13–04). It was available for public comment through June 30, 2014. One comment was received in support of the proposed conservation and management measures. Additionally, in response to internal NOAA comments, the phrase ''as may be further specified by NMFS'' was added to the paragraph to clarify that the public may be directed to submit the report on a specific part of the form chosen to be used to fulfill the requirement (e.g. the South Pacific Regional Purse Seine Logsheet). The intent of this language is to allow flexibility for the whale shark interaction reporting obligation using one of multiple approved reporting forms, including the South Pacific Regional Purse Seine Logsheet for trips originating in the western and central Pacific Ocean, and the Seiner Fishing Record and Bridge Log for trips originating in the IATTC Convention Area.

This final rule is implemented under authority of the Tuna Conventions Act (16 U.S.C. 951–961), which authorizes the Secretary of Commerce, with approval by the Secretary of State, to promulgate such regulations as may be necessary to carry out the obligations of the United States as a member of the 1949 Convention for the Establishment of an Inter-American Tropical Tuna Commission (Convention), including the decisions of the IATTC. The authority to promulgate regulations has been delegated to NMFS.

The proposed rule included background information on the Convention and the IATTC, the international obligations of the United States under the Convention, and the basis for the proposed regulations. Therefore, this information is not repeated here.

Whale Shark Conservation Measures

This final rule implements the conservation measures for whale sharks contained in Resolution C–13–04. The regulations would apply to owners and operators of U.S. purse seine vessels while commercially fishing for tuna in the Convention Area. This final rule contains three specific provisions. The first prohibits the setting of any purse seine on a school of tuna associated with a live whale shark. In the event that a whale shark is encircled by a purse seine net, the second and third provisions require that purse seine vessel operators take all reasonable steps to ensure the safe release of the shark and report the incident to the relevant governmental authority, including the number of individual whale sharks, details of how and why the encirclement happened, where it occurred, steps taken to ensure safe release, and an assessment of the life status of the whale shark upon release (including whether the animal was released alive, but subsequently died).

Classification

The NMFS Assistant Administrator has determined that this final rule is consistent with the Tuna Conventions Act and other applicable laws.

This final rule has been determined to be not significant for purposes of Executive Order 12866.

Pursuant to the Regulatory Flexibility Act (RFA), 5 U.S.C. 605(b), the Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this action would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule and is not repeated here. No comments were received regarding this certification. As a result, a Final Regulatory Flexibility Analysis was not required and none was prepared.

This final rule contains a collection-of-information requirement subject to the Paperwork Reduction Act (PRA), which has been approved by the Office of Management and Budget (OMB) under control numbers 0648–0387 and 0648–0218. Public reporting burden for whale shark interaction reporting is estimated to average ten minutes 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. Send comments regarding this burden estimate, or any other aspect of this data collection, including suggestions for reducing the burden, to NMFS (see **ADDRESSES**) and by email to *OIRA_Submission@omb.eop.gov,* or fax to (202) 395–7285.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number.

List of Subjects in 50 CFR Part 300

Administrative practice and procedure, Fish, Fisheries, Fishing, Marine resources, Reporting and recordkeeping requirements, Treaties.

Dated: September 15, 2014.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 300, subpart C is amended as follows:

PART 300—INTERNATIONAL FISHERIES REGULATIONS

■ 1. The authority citation for 50 CFR part 300, subpart C, continues to read as follows:

Authority: 16 U.S.C. 951 *et seq.*

■ 2. In § 300.22, paragraph (a) is redesignated as paragraph (a)(1), and paragraph (a) heading and paragraph (a)(2) are added as follows:

§ 300.22 Eastern Pacific fisheries recordkeeping and written reports.

(a) *Logbooks.*

(1) * * *

(2) *Whale shark encirclement reporting.* The owner and operator of a purse seine fishing vessel of the United States that encircles a whale shark (Rhincodon typus) while commercially fishing in the Convention Area must ensure that the incident is recorded on the log that is required by this paragraph (a). The log must include the following information: The number of individual whale sharks with which the vessel interacted, details of how and why the encirclement happened, where it occurred, steps taken to ensure safe release, and an assessment of the life status of the whale shark upon release (including whether the animal was released alive, but subsequently died), as may be further specified by NMFS.

* * * * *

■ 3. In § 300.24, paragraphs (v), (w), and (x) are added to read as follows:

§ 300.24 Prohibitions.

* * * * *

(v) Fail to maintain, submit, or ensure submission of a log that includes all the information required in § 300.22(a).

(w) Set or attempt to set a purse seine on or around a whale shark (*Rhincodon typus*) in contravention of § 300.25(e)(5).

(x) Fail to release a whale shark encircled in a purse seine net of a fishing vessel as required in § 300.25(e)(6)

* * * * *

■ 4. In § 300.25, paragraphs (e)(5) and (e)(6) are added to read as follows:

§ 300.25 Eastern Pacific fisheries management.

* * * * *

(e) * * *

(5) Owners, operators, and crew of fishing vessels of the United States commercially fishing for tuna in the Convention Area may not set or attempt to set a purse seine on or around a whale shark (*Rhincodon typus*) if the animal is sighted prior to the commencement of the set or the attempted set.

(6) The crew, operator, and owner of a fishing vessel of the United States commercially fishing for tuna in the Convention Area must release as soon as possible, any whale shark that is encircled in a purse seine net, and must ensure that all reasonable steps are taken to ensure its safe release.

[FR Doc. 2014–22278 Filed 9–17–14; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 79, No. 181
Thursday, September 18, 2014

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

DEPARTMENT OF AGRICULTURE

Rural Housing Service

Rural Business-Cooperative Services

Rural Utilities Service

Farm Service Agency

7 CFR Parts 1940, 1942, 1944, 1948, and 1980

RIN 0575–ZA01

Eliminate the 6-Day Reservation Period Requirement for Rural Development Obligations

AGENCIES: Rural Housing Service, Rural Business-Cooperative Service, Rural Utilities Service, and Farm Service Agency, USDA.

ACTION: Proposed rule.

SUMMARY: Rural Development (RD) is proposing to amend the regulations so that an obligation date for all guaranteed loans, direct loans, and grants will no longer be 6 working days from the date of request for reservation of authority. This action is necessary as the 6-day reservation period will be permanently removed from the Commercial Loan Servicing System (CLSS), Guaranteed Loan System (GLS), and Program Loan Accounting System (PLAS). The effect of this action will reduce system or manual intervention when legislative mandates direct cutoff for obligations and/or funding; eliminate program waivers on obligation date; increase consistency with other RD programs; reduce risks with new system implementations, such as the Financial Modernization Management Initiative; and eliminate numerous reconciliation issues between processed obligations and actual obligations for internal RD reports and USDA reporting requirements.

DATES: Comments on the proposed rule must be received on or before November 17, 2014.

ADDRESSES: You may submit comments to this rule by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Submit written comments via the U.S. Postal Service to the Branch Chief, Regulations and Paperwork Management Branch, U.S. Department of Agriculture, STOP 0742, 1400 Independence Avenue SW., Washington, DC 20250–0742.
- *Hand Delivery/Courier:* Submit written comments via Federal Express Mail or other courier service requiring a street address to the Branch Chief, Regulations and Paperwork Management Branch, U.S. Department of Agriculture, 300 7th Street SW., 7th Floor, Washington, DC 20024. All written comments will be available for public inspection during regular work hours at 300 7th Street SW., 7th Floor address listed above.

FOR FURTHER INFORMATION CONTACT: Ms. Amanda Lammering, Rural Development, U.S. Department of Agriculture, 4300 Goodfellow Blvd., FC–33, St. Louis, MO 63120; email: *amanda.lammering@stl.usda.gov;* telephone (314) 457–4058; or Ms. Kristen Landwehr, Rural Development, U.S. Department of Agriculture, 4300 Goodfellow Blvd., FC–33, St. Louis, MO 63120; email: *kristen.landwehr@stl.usda.gov;* telephone (314) 457–4180.

SUPPLEMENTARY INFORMATION:

Background

Various RD automated accounting systems are designed to process obligations for Business, Community Facility, and Water and Environmental direct loan, guaranteed loan, and grant programs using a 6-day reservation period. The 6-day reservation period is a system edit in the PLAS, GLS, and CLSS that assigns an obligation date to an RD funded project 6 working days from the date funds are reserved.

When RD programs are funded through a continuing resolution, the accounting systems must be modified to waive the 6-day reservation edit. In Fiscal Year 2011, RD received six continuing resolutions followed by four continuing resolutions in Fiscal Year 2012 which resulted in cumbersome systems' modifications. These modifications have caused undue hardship to RD staff due to last minute continuing resolution decisions, manual system adjustments needed, and time consuming coordination efforts.

Several new RD programs have not implemented a 6-day reservation period for obligations. Under the American Recovery and Reinvestment Act of 2009 (ARRA) the Business and Industry (B&I) Guaranteed Loan Program disabled the 6 day reservation period along with the Biorefinery Assistance Program of the 2008 Farm Bill. Additionally, Rural Electric and Telecommunication, Single Family Housing, and Multi-Family Housing loans do not have a 6-day reservation requirement when obligating program funds.

To maintain consistency and uniformity across RD's automated accounting systems, the RD will be removing the 6-day reservation system edit on obligations. As automation for this enhancement is completed, program staffs will have immediate knowledge of approved obligations as opposed to showing the obligations on reserved status. Field office personnel will adhere to a 6-working day waiting period prior to notifying an applicant/lender of loan and/or grant approval. Rural Development believes the removal of the 6-day reservation period on obligations for guaranteed loans, direct loans, and grants to be a noncontroversial change to the regulations with no impact on the public.

Programs Affected

The programs described by this rule are listed in the Catalog of Federal Domestic Assistance Programs under number(s) 10.350 Technical Assistance to Cooperatives, 10.352 Value-Added Producer Grants, 10.420 Rural Self-Help Housing Technical Assistance, 10.433 Rural Housing Preservation Grants, 10.446 Rural Community Development Initiative, 10.759 part 1774 Special Evaluation Assistance for Rural Communities and Household Program (SEARCH), 10.760 Water and Waste Disposal Systems for Rural Communities, 10.761 Technical Assistance and Training Grants, 10.762 Solid Waste Management Grants, 10.763 Emergency Community Water Assistance Grants, 10.766 Community Facilities Loans and Grants, 10.767 Intermediary Relending Program, 10.768 Business and Industry Loans, 10.769 Rural Business Enterprise Grants,

10.770 Water and Waste Disposal Loans and Grants (section 306C), 10.771 Rural Cooperative Development Grants, 10.773 Rural Business Opportunity Grants, 10.778 Research on the Economic Impact of Cooperatives, 10.781 Water and Waste Disposal Systems for Rural Communities—ARRA, 10.854 Rural Economic Development Loans and Grants, 10.856 1890 Land Grant Institutions Rural Entrepreneurial Outreach Program, 10.858 Denali Commission Grants and Loans, 10.862 Household Water Well System Grant Program, 10.864 Grant Program To Establish a Fund for Financing Water and Wastewater Projects, 10.866 Repowering Assistance, 10.868 Rural Energy for America Program, 10.870 Rural Micro entrepreneur Assistance Program.

Executive Order 12866—Classification

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

Non-Discrimination Statement

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because of all or part of an individual's income is derived from any public assistance program. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720–2600 (voice and TDD).

If you wish to file a Civil Rights program complaint of discrimination, complete the USDA Program Discrimination Complaint Form, found online at *http://www.ascr.usda.gov/complaint_filing_cust.html,* or at any USDA office, or call (866) 632–9992 to request the form. You may also write a letter containing all of the information requested in the form. Send your completed complaint form or letter to us by mail at U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue SW., Washington, DC 20250–9410, by fax (202) 690–7442 or email at *program.intake@usda.gov.* Individuals who are deaf, hard of hearing or have speech disabilities and you wish to file a program complaint please contact USDA through the Federal Relay Service at (800) 877–8339 or (800) 845–6136 (in Spanish). USDA is an equal opportunity provider and employer.

Civil Rights Impact Statement

No major civil rights impact is likely to result from the announcement of this notice. It will not have a negative civil rights impact on very-low income, low income, and moderate income and minority populations.

Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR part 1940, subpart G, ''Environmental Program.'' Rural Development has determined that this action does not constitute a major Federal action significantly affecting the quality of the human environment and, in accordance with the National Environmental Policy Act (NEPA) of 1969, 42 U.S.C. 4321 *et seq.,* an Environmental Impact Statement is not required.

Executive Order 12372, Intergovernmental Consultation

This program is not subject to the requirements of Executive Order 12372, ''Intergovernmental Review of Federal Programs,'' as implemented under USDA's regulations at 7 CFR part 3015.

Executive Order 12988, Civil Justice

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. In accordance with this rule: (1) All State and local laws and regulations that are in conflict with this rule will be preempted; (2) no retroactive effect will be given this rule; and (3) administrative proceedings in accordance with the regulations of the Department of Agriculture's National Appeals Division (7 CFR part 11) must be exhausted before bringing suit in court challenging action taken under this rule unless those regulations specifically allow bringing suit at an earlier time.

Executive Order 13132, Federalism

The policies contained in this rule do not have any 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. Nor does this rule impose substantial direct compliance costs on State and local governments. Therefore, consultation with states is not required.

Regulatory Flexibility Act Certification

The Regulatory Flexibility Act (5 U.S.C. 601–602) (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act (''APA'') or any other statute. This rule, however, is not subject to the APA under 5 U.S.C. 553(a)(2) and 5 U.S.C 553(b)(3)(A) nor any other statue.

Unfunded Mandates

Title II of the Unfunded Mandate Reform Act of 1995 (UMRA, Pub. L. 104–4) requires Federal agencies to assess the effects of their regulatory actions on State, local, or Tribal governments or the private sector. Agencies generally must prepare a written statement, including a cost benefit analysis, for proposed and final rules with Federal mandates that may result in expenditures of $100 million or more in any 1 year for State, local, or Tribal governments, in the aggregate, or to the private sector. UMRA generally requires agencies to consider alternatives and adopt the more cost effective or least burdensome alternative that achieves the objectives of the rule.

This contains no Federal mandates (under the regulatory provisions of Title II of the Unfunded Mandates Reform Act of 1995) for State, local, and tribal Governments or the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of the Unfunded Mandates Reform Act of 1995.

Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

This executive order imposes requirements on Rural Development in the development of regulatory policies that have tribal implications or preempt tribal laws. Rural Development has determined that the rule does not have a substantial direct effect on one or more Indian tribe(s) or on either the relationship or the distribution of powers and responsibilities between the Federal Government and Indian tribes. Thus, this final rule is not subject to the requirements of Executive Order 13175. If a tribe determines that this rule has implications of which Rural Development is not aware and would like to engage with Rural Development on this rule, please contact Rural Development's Native American Coordinator at *AIAN@wdc.usda.gov.*

Paperwork Reduction Act

This rule does not contain any information collection requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

E-Government Act Compliance

Rural Development is committed to complying with the E-Government Act, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

List of Subjects

7 CFR Part 1940

Agriculture, Grant programs-agriculture, Grant programs-housing and community development, Loan programs-agriculture, Loan programs-housing and community development, Rural areas.

7 CFR Part 1942

Business and industry, Community facilities, Grant programs-business, Grant programs-housing and community development, Grant programs-Indians, Indians, Loan programs-agriculture, Loan programs-housing and community development, Loan programs-Indians, Loan programs-natural resources, Rural areas, Waste treatment and disposal, Water supply, Watersheds.

7 CFR Part 1944

Administrative practice and procedure, Cooperatives, Grant programs housing and community development, Loan programs-housing and community development, Rural areas.

7 CFR Part 1948

Community facilities, Grant programs-housing and community development, Rural areas.

7 CFR Part 1980

Agriculture, Business and industry, Community facilities, Disaster assistance, Loan programs-agriculture, Loan programs-business, Loan programs-housing and community development, Rural areas.

For the reasons set forth in the preamble, chapter XVIII, title 7, of the Code of Federal Regulations is proposed to be amended as follows:

CHAPTER XVIII—RURAL HOUSING SERVICE, RURAL BUSINESS–COOPERATIVE SERVICE, RURAL UTILITIES SERVICE, AND FARM SERVICE AGENCY, DEPARTMENT OF AGRICULTURE

PART 1940—GENERAL

■ 1. The authority citation for part 1940 continues to read as follows:

Authority: 5 U.S.C. 301; 7 U.S.C. 1989; and 42 U.S.C. 1480.

Subpart L—Methodology and Formulas for Allocation of Loan and Grant Program Funds

■ 2. Amend § 1940.588 by revising paragraph (i) to read as follows:

§ 1940.588 Business and Industry Guaranteed and Direct Loans.

* * * * *

(i) Availability of the allocation. See § 1940.552(i) of this subpart.

* * * * *

PART 1942—ASSOCIATIONS

■ 3. The authority citation for part 1942 continues to read as follows:

Authority: 5 U.S.C. 301; 7 U.S.C. 1989.

Subpart A—Community Facility Loans

■ 4. Amend § 1942.5 by revising paragraph (d)(4) and the first sentence of paragraph (d)(6) to read as follows:

§ 1942.5 Application review and approval.

* * * * *

(d) * * *

(4) The date the applicant is notified of loan and/or grant approval is six working days from the date funds are reserved unless an exception is granted by the National Office.

* * * * *

(6) Loan approval and applicant notification will be accomplished by the State Director or designee by mailing to the applicant, 6 working days from the obligation date, a copy of Form FmHA or its successor agency under Public Law 103–354 1940–1 which has been previously signed by the applicant and loan approval official. * * *

* * * * *

PART 1944—HOUSING

■ 5. The authority citation for part 1944 continues to read as follows:

Authority: 5 U.S.C. 301; 42 U.S.C. 1480.

Subpart K—Technical and Supervisory Assistance Grants

■ 6. Amend § 1944.533 by revising the last sentence of paragraph (f)(2)(i) and the introductory text of paragraph (f)(4) to read as follows:

§ 1944.533 Grant approval and announcement.

* * * * *

(f) * * *

(2) * * *

(i) * * * The obligation date will be the date the request for obligation is processed.

* * * * *

(4) An executed form FmHA or its successor agency under Public Law 103–354 1940–1 will be sent to the applicant along with an executed copy of the Grant Agreement and scope of work 6 working days from the date funds are obligated.

* * * * *

PART 1948—RURAL DEVELOPMENT

■ 7. The authority citation for part 1948 continues to read as follows:

Authority: 5 U.S.C. 301, 7 U.S.C. 1932 note.

Subpart B—Section 601 Energy Impacted Area Development Assistance Program

■ 8. Amend § 1948.92 by revising the last sentence of paragraph (g)(3) and paragraph (g)(8) to read as follows:

§ 1948.92 Grant approval and fund obligation.

* * * * *

(g) * * *

(3) * * * The obligation date will be the date the request for obligation is processed.

* * * * *

(8) An executed copy of Form FmHA or its successor agency under Public Law 103–354 440–1 shall be sent to the applicant along with an executed copy of the grant agreement and scope of work 6 working days from the date funds are obligated.

* * * * *

PART 1980—GENERAL

■ 9. The authority citation for part 1980 continues to read as follows:

Authority: 5 U.S.C. 301 and 7 U.S.C. 1989. Subpart E also issued under 7 U.S.C. 1932(a).

Subpart E—Business and Industrial Loan Program

■ 10. In § 1980.452 under the heading ''Administrative'' revise the fifth sentence of paragraph D6 and D6d to read as follows:

§ 1980.452 FmHA or its successor agency under Public Law 103–354 evaluation of application.

* * * * *

D * * *

6 * * * Notice of approval to lender will be accomplished by providing or sending the lender the signed copy of Form FmHA or its successor agency under Public Law 103– 354 1940–3 and Form FmHA or its successor agency under Public Law 103–354 449–14 six working days from the date funds are reserved, unless an exception is granted by the National Office. * * *

* * * * *

d * * * The obligation date will be the date of the request for reservation of authority which is being processed in the Finance Office. * * *

* * * * *

Dated: August 7, 2014.

Doug O'Brien,

Under Secretary, Rural Development.

Dated: September 3, 2014.

Michael Scuse,

Under Secretary, Farm and Foreign Agricultural Services.

[FR Doc. 2014–21702 Filed 9–17–14; 8:45 am]

BILLING CODE 3410–XV–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2014–0717; Directorate Identifier 2014–CE–026–AD]

RIN 2120–AA64

Airworthiness Directives; Pilatus Aircraft, Ltd. Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for all Pilatus Aircraft Ltd. Models PC–6, PC–6–H1, PC–6–H2, PC–6/350, PC–6/350–H1, PC–6/350–H2, PC–6/A, PC–6/A–H1, PC–6/A–H2, PC–6/B–H2, PC–6/B1–H2, PC–6/B2–H2, PC–6/B2–H4, PC–6/C–H2, and PC–6/C1–H2 airplanes that would supersede AD 2013–11–08. This proposed AD results from mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as a need to incorporate new revisions into the aircraft maintenance manual or in the limitations document of the FAA-approved maintenance program. We are issuing this proposed AD to require actions to address the unsafe condition on these products.

DATES: We must receive comments on this proposed AD by November 3, 2014.

ADDRESSES: You may send comments by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* (202) 493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact PILATUS AIRCRAFT LTD., Customer Liaison Manager, CH–6371 STANS, Switzerland; telephone: +41 (0) 41 619 65 80; fax: +41 (0) 41 619 65 76; Internet: *http://www.pilatus-aircraft.com;* email: *fodermatt@pilatus-aircraft.com.* You may review copies of the referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

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–2014–0717; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Doug Rudolph, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4059; fax: (816) 329–4090; email: *doug.rudolph@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2014–0717; Directorate Identifier 2014–CE–026–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

We will post all comments we receive, without change, to *http://regulations.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

On May 22, 2013, we issued AD 2013–11–08, Amendment 39–17468 (78 FR 37701; June 24, 2013). That AD required actions intended to address an unsafe condition on Pilatus Aircraft Ltd. Models PC–6, PC–6–H1, PC–6–H2, PC–6/350, PC–6/350–H1, PC–6/350–H2, PC–6/A, PC–6/A–H1, PC–6/A–H2, PC–6/B–H2, PC–6/B1–H2, PC–6/B2–H2, PC–6/B2–H4, PC–6/C–H2, and PC–6/C1–H2 airplanes and was based on mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country.

Since we issued AD 2013–11–08, Amendment 39–17468 (78 FR 37701; June 24, 2013), Pilatus Aircraft Ltd. has issued revisions to the Limitations section of the airplane maintenance manual (AFM) to incorporate new life limits for the fire extinguisher.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued AD No. 2014–0181, dated July 31, 2014 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

> The maintenance instructions and airworthiness limitations applicable to the Structure and Components of PC–6 aeroplanes are specified in the Aircraft Maintenance Manual (AMM) under Chapter 4 or in the Airworthiness Limitations Document (ALS), depending on aeroplane model.
>
> The instructions contained in the ALS document have been identified as mandatory actions for continued airworthiness and failure to comply with these instructions and limitations could potentially lead to an unsafe condition.
>
> Pilatus Aircraft Ltd. (Pilatus) recently issued PC–6 AMM, Chapter 04–00–00, Document Number 01975 issue 19 for PC–6 B2–H2 and PC–6 B2–H4 aeroplanes and PC–6 ALS, Document Number 02334 issue 4 for all other PC–6 aeroplane models to incorporate new life limits for the Fire Extinguisher.
>
> For the reason described above, this AD retains the requirements of EASA AD 2012–0268, which is superseded, and requires implementation of the new maintenance requirements and/or airworthiness limitations.

You may examine the MCAI on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0717.

Relevant Service Information

Pilatus Aircraft Ltd. has issued Airworthiness Limitations, document No. 02334, dated May 31, 2014; and Airworthiness Limitations, document 04–00–00, dated May 31, 2014. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of the Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with this State of Design Authority, they have notified us of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all information and determined the unsafe condition exists and is likely to exist or develop on other products of the same type design.

Costs of Compliance

We estimate that this proposed AD will affect 50 products of U.S. registry. We also estimate that it would take about 8 work-hours per product to comply with the basic requirements of this proposed AD.

Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $34,000, or $680 per product.

In addition, we estimate that any necessary follow-on actions would take about 1 work-hour and require parts costing $1,000, for a cost of $1,085 per product. We have no way of determining the number of products that may need these actions.

The only costs that would be imposed by this proposed AD over that already required by AD 2013–11–08 is 1 work-hour to incorporate the new airworthiness limitations section sections into the maintenance program, $1,085 for replacement of the fire extinguisher if needed, and the addition of 35 airplanes from 15 airplanes to 50 airplanes.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. ''Subtitle VII: Aviation Programs,'' describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in ''Subtitle VII, Part A, Subpart III, Section 44701: General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this proposed regulation:

(1) Is not a ''significant regulatory action'' under Executive Order 12866,

(2) Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979),

(3) Will not affect intrastate aviation in Alaska, and

(4) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

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

§ 39.13 [Amended]

■ 2. Amend § 39.13 by removing Amendment 39–17468 (78 FR 37701; June 24, 2013), and adding the following new AD:

Pilatus Aircraft Ltd.: Docket No. FAA–2014–0717; Directorate Identifier 2014–CE–026–AD.

(a) Comments Due Date

We must receive comments by November 3, 2014.

(b) Affected ADs

This AD supersedes AD 2013–11–08, Amendment 39–17468 (78 FR 37701; June 24, 2013).

(c) Applicability

This AD applies to Pilatus Aircraft Ltd. Models PC–6, PC–6–H1, PC–6–H2, PC–6/350, PC–6/350–H1, PC–6/350–H2, PC–6/A, PC–6/A–H1, PC–6/A–H2, PC–6/B–H2, PC–6/B1–H2, PC–6/B2–H2, PC–6/B2–H4, PC–6/C–H2, and PC–6/C1–H2 airplanes, all manufacturer serial numbers (MSN), including MSN 2001 through 2092 (see Note 1 of paragraph c), certificated in any category.

Note 1 of paragraph (c): For MSN 2001–2092, these airplanes are also identified as Fairchild Republic Company PC–6 airplanes, Fairchild Industries PC–6 airplanes, Fairchild Heli Porter PC–6 airplanes, or Fairchild-Hiller Corporation PC–6 airplanes.

(d) Subject

Air Transport Association of America (ATA) Code 5: Time Limits.

(e) Reason

This AD was prompted by mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as a need to incorporate new revisions into the aircraft maintenance manual (AMM) or in the Limitations document of the FAA-approved maintenance program. The limitations were revised to incorporate new life limits for the fire extinguisher. These actions are required to ensure the continued operational safety of the affected airplanes.

(f) Actions and Compliance

(1) *Actions retained from AD 2013–11–08, Amendment 39–17468 (78 FR 37701; June 24, 2013) for all Models PC–6 airplanes:* If the flap actuator has accumulated 3,500 hours time-in-service (TIS) or more since new or last overhauled or 7 years or more since new or last overhauled, whichever occurs first, replacement of the flap actuator (except part numbers 978.73.14.101 and 978.73.14.103) is required within 350 hours TIS after July 29, 2013, 2013 (the effective date retained from AD 2013–11–08) or 6 months after July 29, 2013, 2013 (the effective date retained from AD 2013–11–08), whichever occurs first. Flap actuators with less than 3,500 hours TIS or 7 years since new or last overhauled are covered by the airworthiness limitations document (ALS) requirement.

(2) *Actions new to this AD for all affected Models PC–6/B2–H2 and PC–6/B2–H4 airplanes:* Before further flight after the effective date of this AD incorporate the maintenance requirements as specified in Chapter 04–00–00 of the AMM document number 01975, issue 19, dated May 31, 2014, of the Pilatus PC–6 Maintenance Manual; into your FAA-accepted maintenance program (maintenance manual).

(3) *Actions new to this AD for all affected Models PC–6 other than the Models PC–6/B2–H2 and PC–6/B2–H4 airplanes:* Before further flight after the effective date of this AD incorporate the maintenance requirements as

specified in ALS document number 02334, issue 4, dated May 31, 2014, into your FAA-accepted maintenance program (maintenance manual).

(4) *Actions new to this AD for all airplanes:*

(i) For airplanes with Halon Fire Extinguishers that have not yet reached the 10 year life limit after the effective date of this AD, when the Halon Fire Extinguisher reaches its life limit of 10 years, before further flight, replace with an airworthy Halon Fire Extinguisher following Chapter 04–00–00 of the AMM, document number 01975, issue 19, dated May 31, 2014, of the Pilatus PC–6 Maintenance Manual; or ALS document number 02334, issue 4, dated May 31, 2014; as applicable.

(ii) For airplanes with Halon Fire Extinguishers that have reached the 10 year life limit on or before the effective date of this AD, within the next 30 days after the effective date of this AD or within the next 10 hours TIS after the effective date of this AD, whichever occurs first, replace with an airworthy Halon Fire Extinguisher following Chapter 04–00–00 of the AMM, document number 01975, issue 19, dated May 31, 2014, of the Pilatus PC–6 Maintenance Manual; or ALS document number 02334, issue 4, dated May 31, 2014; as applicable.

(iii) Repetitively, after replacing the airplanes Halon Fire Extinguisher as required in paragraphs (f)(4)(i) or (f)(4)(ii), within 10 years after each last replacement, replace with an airworthy Halon Fire Extinguisher.

(g) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Standards Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Doug Rudolph, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4059; fax: (816) 329–4090; email: *doug.rudolph@faa.gov.* Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

(2) *Airworthy Product:* For any requirement in this AD to obtain corrective actions from a manufacturer or other source, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they are approved by the State of Design Authority (or their delegated agent). You are required to assure the product is airworthy before it is returned to service.

(h) Related Information

Refer to European Aviation Safety Agency (EASA) AD No.: 2014–0181, dated July 31, 2014, for related information. You may examine the MCAI on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2041–0717. For service information related to this AD, contact PILATUS AIRCRAFT LTD., Customer Liaison Manager, CH–6371 STANS, Switzerland; telephone: +41 (0) 41 619 65 80; fax: +41 (0) 41 619 65 76; Internet: *http://www.pilatus-aircraft.com;* email: *fodermatt@pilatus-aircraft.com.* You may review this referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

Issued in Kansas City, Missouri, on September 12, 2014.

Earl Lawrence,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2014–22273 Filed 9–17–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2014–0561; Directorate Identifier 2014–NE–12–AD]

RIN 2120–AA64

Airworthiness Directives; Rolls-Royce plc Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain Rolls-Royce plc (RR) RB211 Trent 768–60, 772–60, and 772B–60 turbofan engines. This proposed AD was prompted by fractures of the high-pressure/intermediate-pressure (HP/IP) turbine support internal oil feed tube. This proposed AD would require inspection of the oil feed tube sealing sleeve and removal of those oil feed tube sealing sleeves that fail inspection. We are proposing this AD to prevent failure of the HP/IP turbine support internal oil feed tube, which could result in uncontained engine failure and damage to the airplane.

DATES: We must receive comments on this proposed AD by November 17, 2014.

ADDRESSES: You may send comments by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* 202–493–2251.

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–2014–0561; or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the mandatory continuing airworthiness information (MCAI), the regulatory evaluation, any comments received, and other information. The 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: Wego Wang, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; phone: 781–238–7134; fax: 781–238–7199; email: *wego.wang@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2014–0561; Directorate Identifier 2014–NE–12–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this proposed AD.

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA AD 2014–0168, dated July 16, 2014 (referred to hereinafter as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

There have been nine occurrences of high oil consumption, caused by fracture of the High/Intermediate Pressure (HP/IP) turbine support internal oil feed tube Part Number (P/N) FW45909.

The oil feed tube threaded end adaptor and sealing sleeve P/N FW15003 are designed to form a sliding joint which, if restrained, can compress the oil feed tube during thermal contraction of the turbine casing at the end

of the flight cycle. On each subsequent flight, the thermal growth and contraction of the turbine casing relative to the oil tube, during the heating and cooling phases of the flight cycle, apply a load cycle to the tube, which may lead to low cycle fatigue fracture.

This AD requires removal of certain HP/IP turbine support internal oil feed tube sealing sleeves to prevent oil exhaustion that could result in uncontained engine failure and damage to the airplane.

You may obtain further information by examining the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0561.

FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of the United Kingdom, and is approved for operation in the United States. Pursuant to our bilateral agreement with the European Community, EASA has notified us of the unsafe condition described in the MCAI. We are proposing this AD because we evaluated all information provided by EASA and determined the unsafe condition exists and is likely to exist or develop on other products of the same type design. This proposed AD would require a one-time on-wing or in-shop inspection of the affected engines and removal from service of all affected P/N FW15003 oil feed tube sealing sleeves.

Costs of Compliance

We estimate that this proposed AD affects 69 engines installed on airplanes of U.S. registry. We also estimate that it would take about 8.5 hours per engine to comply with this proposed AD. The average labor rate is $85 per hour. Based on these figures, we estimate the cost of this proposed AD on U.S. operators to be $49,853.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. ''Subtitle VII: Aviation Programs,'' describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in ''Subtitle VII, Part A, Subpart III, Section 44701: General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this proposed regulation:

(1) Is not a ''significant regulatory action'' under Executive Order 12866,

(2) Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979),

(3) Will not affect intrastate aviation in Alaska to the extent that it justifies making a regulatory distinction, and

(4) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

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

§ 39.13 [Amended]

■ 2. Amend § 39.13 by adding the following new airworthiness directive (AD):

Rolls-Royce plc: Docket No. FAA–2014–0561; Directorate Identifier 2014–NE–12–AD.

(a) Comments Due Date

We must receive comments by November 17, 2014.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Rolls-Royce plc (RR) RB211 Trent 768–60, 772–60, and 772B–60 turbofan engines serial numbers 41693–42309 inclusive, 42313, 42318, 42319, 42320, 42328, and 42330 with high-pressure/intermediate-pressure (HP/IP) turbine support internal oil feed tube sealing sleeve part number (P/N) FW15003 installed that is marked with the prefix ''B/N'' followed by a six digit batch number, and does not contain the marking 102013, 112013 or 102013L.

(d) Reason

This AD was prompted by fractures of the HP/IP turbine support internal oil feed tube. We are issuing this AD to prevent failure of the HP/IP turbine support internal oil feed tube, which could result in uncontained engine failure and damage to the airplane.

(e) Actions and Compliance

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

(1) Within 6 months after the effective date of this AD, perform on-wing or in-shop inspection for, and remove from service, any affected HP/IP turbine support internal oil feed tube sealing sleeve.

(2) Remove from service any HP/IP turbine support internal oil feed tube sealing sleeve on which markings cannot be sufficiently identified to determine whether said sealing sleeve is part of the affected population.

(3) From the effective date of this AD, you may install on engines HP/IP turbine support internal oil feed tube sealing sleeves, P/N FW15003, that are marked with the prefix ''B/N'' followed by a six digit batch number, provided that the part is marked with 102013, 112013 or 102013L.

(f) Alternative Methods of Compliance (AMOCs)

The Manager, Engine Certification Office, FAA, may approve AMOCs to this AD. Use the procedures found in 14 CFR 39.19 to make your request.

(g) Related Information

(1) For more information about this AD, contact Wego Wang, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; phone: 781–238–7134; fax: 781–238–7199; email: *wego.wang@faa.gov*.

(2) Refer to MCAI European Aviation Safety Agency AD 2014–0168, dated July 16, 2014, for more information. You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating it in Docket No. FAA–2014–0561.

Issued in Burlington, Massachusetts, on September 9, 2014.

Richard P. Warren,

Acting Assistant Directorate Manager, Engine & Propeller Directorate, Aircraft Certification Service.

[FR Doc. 2014–22351 Filed 9–17–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 872

[Docket No. FDA–2014–N–1243]

Dental Devices; Reclassification of Salivary Stimulatory System, To Be Renamed Electrical Salivary Stimulator System

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed Order.

SUMMARY: The Food and Drug Administration (FDA) is proposing to reclassify salivary stimulatory system, a class III device, into class II (special controls), subject to premarket notification. FDA is also identifying the proposed special controls that the Agency believes will provide a reasonable assurance of safety and effectiveness of the device. The Agency is proposing to rename the device ''electrical salivary stimulatory system.''

DATES: Submit either electronic or written comments by December 17, 2014. Please see section IX of this document for the proposed effective date of any final order that may publish based on this proposed order.

ADDRESSES: You may submit comments by any of the following methods:

Electronic Submissions

Submit electronic comments in the following way:

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

Written Submissions

Submit written submissions in the following way:

- Mail/Hand delivery/Courier (for paper submissions): Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

Instructions: All submissions received must include the Docket No. FDA–2014–N–1243 for this rulemaking. All comments received may be posted without change to *http://www.regulations.gov,* including any personal information provided. For additional information on submitting comments, see section X of this document.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Michael Ryan, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, rm. 1615, Silver Spring, MD 20993, 301–796–6283, *michael.ryan@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background—Regulatory Authorities

The Federal Food, Drug, and Cosmetic Act (the FD&C Act), as amended, 21 U.S.C. 301 *et seq.,* establishes a comprehensive system for the regulation of medical devices intended for human use. Section 513 of the FD&C Act (21 U.S.C. 360c) established three categories (classes) of devices, reflecting the regulatory controls needed to provide reasonable assurance of their safety and effectiveness. The three categories of devices are class I (general controls), class II (special controls), and class III (premarket approval).

Devices that were not in commercial distribution prior to May 28, 1976 (generally referred to as postamendments devices) are automatically classified by section 513(f)(1) of the FD&C Act into class III without any FDA rulemaking process. Those devices remain in class III and require premarket approval unless, and until, the device is reclassified into class I or II, or FDA issues an order finding the device to be substantially equivalent, in accordance with section 513(i) of the FD&C Act, to a predicate device that does not require premarket approval. The Agency determines whether new devices are substantially equivalent to predicate devices by means of premarket notification procedures in section 510(k) of the FD&C Act (21 U.S.C. 360(k)) and part 807 (21 CFR part 807).

A postamendments device that has been initially classified in class III under section 513(f)(1) of the FD&C Act may be reclassified into class I or class II under section 513(f)(3) of the FD&C Act. Section 513(f)(3) provides that FDA acting by order can reclassify the device into class I or class II on its own initiative, or in response to a petition from the manufacturer or importer of the device. To change the classification of the device, the proposed new class must have sufficient regulatory controls to provide reasonable assurance of the safety and effectiveness of the device for its intended use.

Reevaluation of the data previously before the Agency is an appropriate basis for subsequent action where the reevaluation is made in light of newly available regulatory authority (see *Bell* v. *Goddard,* 366 F.2d 177, 181 (7th Cir. 1966); *Ethicon, Inc.* v. *FDA,* 762 F. Supp. 382, 388–391 (D.D.C. 1991)), or in light of changes in ''medical science'' (*Upjohn* v. *Finch,* 422 F.2d 944, 951 (6th Cir. 1970)). Whether data before the Agency are old or new, the ''new information'' to support reclassification under 513(f)(3) must be ''valid scientific evidence'', as defined in section 513(a)(3) and 21 CFR 860.7(c)(2). (See, e.g., *General Medical Co.* v. *FDA,* 770 F.2d 214 (D.C. Cir. 1985); *Contact Lens Mfrs. Assoc.* v. *FDA,* 766 F.2d 592 (D.C. Cir.1985), cert. denied, 474 U.S. 1062 (1986)).

FDA relies upon ''valid scientific evidence'' in the classification process to determine the level of regulation for devices. To be considered in the reclassification process, the ''valid scientific evidence'' upon which the Agency relies must be publicly available. Publicly available information excludes trade secret and/or confidential commercial information, e.g., the contents of a pending premarket approval application (PMA) (see section 520(c) of the FD&C Act (21 U.S.C. 360j(c)). Section 520(h)(4) of the FD&C Act provides that FDA may use, for reclassification of a device, certain information in a PMA 6 years after the application has been approved. This includes information from clinical and preclinical tests or studies that demonstrate the safety or effectiveness of the device but does not include descriptions of methods of manufacture or product composition and other trade secrets.

Section 510(m) of the FD&C Act provides that a class II device may be exempted from the 510(k) premarket notification requirements, if the Agency determines that premarket notification is not necessary to assure the safety and effectiveness of the device.

II. Regulatory History of the Device and the Device Description

A salivary stimulatory system is a postamendments device classified into class III under section 513(f)(1) of the FD&C Act. A salivary stimulatory system is an intraoral device intended to stimulate a relative increase in saliva production.

III. Proposed Reclassification and Summary of Reason for Reclassification

FDA is proposing to reclassify these devices from class III into class II because sufficient information exists to establish special controls that can provide a reasonable assurance of the

device's safety and effectiveness. FDA believes that these special controls, together with general controls, will provide a reasonable assurance of safety and effectiveness.

In accordance with section 513(f)(3) of the FD&C Act and 21 CFR part 860, subpart C, FDA is proposing to reclassify this postamendments class III device into class II (special controls). FDA believes that there is sufficient information available to FDA through FDA's accumulated experience with these devices from review submissions, knowledge of similar devices, peer-reviewed literature, and the manufacturer's petition to demonstrate that the proposed special controls can effectively mitigate the risks to health identified in the next section.

FDA is proposing to identify the salivary stimulatory system under the new name of ''electrical salivary stimulator system'' to distinguish it from other devices that stimulate saliva flow via non-electrical means. Under this proposed order, if finalized, the electrical salivary stimulatory system device will be a prescription device restricted to patient use only upon the authorization of a dental practitioner or physician licensed by law to administer or use the device. (Proposed 21 CFR 872.5560(a); see 21 CFR 801.109 (*Prescription devices.*).) Prescription-use restrictions are a type of general control defined in section 513(a)(1)(A)(i) of the FD&C Act. The labeling of the device must bear all information required for the safe and effective use of prescription devices as outlined in § 801.109.

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

IV. Risks to Health

After considering the information available to FDA through review submissions, the manufacturer's petition, peer-reviewed literature, and knowledge of similar devices, FDA determined that the potential risks to health associated with the use of electrical salivary stimulatory systems are as follows:

- Hazards caused by electrical equipment—electrical salivary stimulatory systems have the potential to cause electrical shocks, thermal burns, and other hazards to a patient;
- hazards caused by electromagnetic interference and electrostatic discharge—electrical salivary stimulatory systems have the potential to cause electromagnetic interference or electrostatic discharge that can negatively affect the performance of the system or other electrical equipment in the vicinity of the system;
- damage to intraoral tissue or dentition—devices that malfunction or are poorly designed may damage intraoral tissue such as the gingiva or tongue or a patient's dentition; and
- adverse tissue reaction—devices with non-biocompatible materials may cause intraoral tissue infection, inflammation, irritation, or allergic reactions.

V. Summary of Data Upon Which the Reclassification Is Based

FDA has considered and analyzed the following information: A search of the Agency's Manufacturer and User Facility Device Experience (MAUDE) database, which shows no adverse events for electrical salivary stimulatory systems; data contained in PMAs approved 6 or more years before the date of this proposal (reviewed under section 520(h)(4) of the FD&C Act, also known as the 6-year rule); and a review of transcutaneous electrical nerve stimulators, which are similar devices technologically, and are currently regulated as class II devices.

VI. Proposed Special Controls

FDA tentatively concludes that the following special controls, together with general controls, are sufficient to mitigate the risks to health described in section IV:

- The design characteristics of the device must ensure that the geometry, material composition, and electrical output characteristics are consistent with the intended use;
- any element of the device that contacts the patient must be demonstrated to be biocompatible;
- appropriate analysis and/or testing must validate electromagnetic compatibility (EMC) and electrical safety, including the safety of any battery used in the device;
- software validation, verification, and hazard testing must be performed; and
- documented clinical experience must demonstrate safe and effective use for stimulating saliva production by addressing the risks of damage to intraoral tissue or dentition and of ineffective treatment and must capture any adverse events observed during clinical use.

Table 1 demonstrates how these special controls will mitigate each risk to health described in section IV.

TABLE 1—RISKS TO HEALTH AND MITIGATION MEASURES FOR ELECTRICAL SALIVARY STIMULATOR SYSTEM

Identified risk to health	Mitigation measures
Hazards caused by electrical equipment	Design characteristics. EMC and electrical safety analysis and/or testing Software validation, verification, and hazard testing. Documented clinical experience.
Hazards caused by electromagnetic interference and electrostatic discharge.	Design characteristics. EMC and electrical safety analysis and/or testing.
Damage to intraoral tissue or dentition	Design characteristics. Documented clinical experience.
Adverse tissue reaction	Biocompatibility.

VII. Environmental Impact

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

VIII. Paperwork Reduction Act of 1995

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

IX. Proposed Effective Date

FDA proposes that any final order based on this proposal become effective 30 days after the date of publication in the **Federal Register**.

X. Comments

Interested persons may submit either electronic comments regarding this document to *http://www.regulations.gov* or written comments to the Division of Dockets Management (see **ADDRESSES**). It is only necessary to send one set of comments. Identify comments with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday, and will be posted to the docket at *http://www.regulations.gov.*

List of Subjects in 21 CFR Part 872

Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321 *et seq.,* as amended) and under authority delegated to the Commissioner of Food and Drugs, it is proposed that 21 CFR part 872 be amended as follows:

PART 872—DENTAL DEVICES

■ 1. The authority citation for 21 CFR part 872 continues to read as follows:

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

■ 2. Add § 872.5560 to subpart F to read as follows:

§ 872.5560 Electrical salivary stimulatory system.

(a) *Identification.* An electrical salivary stimulatory system is a prescription intraoral device that is intended to electrically stimulate a relative increase in saliva production.

(b) *Classification.* Class II (special controls). The special controls for this device are:

(1) The design characteristics of the device must ensure that the geometry, material composition, and electrical output characteristics are consistent with the intended use;

(2) Any element of the device that contacts the patient must be demonstrated to be biocompatible;

(3) Appropriate analysis and/or testing must validate electromagnetic compatibility and electrical safety, including the safety of any battery used in the device;

(4) Software validation, verification, and hazard testing must be performed; and

(5) Documented clinical experience must demonstrate safe and effective use for stimulating saliva production by addressing the risks of damage to intraoral tissue and of ineffective treatment and must capture any adverse events observed during clinical use.

Dated: September 12, 2014.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2014–22255 Filed 9–17–14; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R8–ES–2014–0034; 4500030113]

Endangered and Threatened Wildlife and Plants; 12-Month Finding on a Petition To List Eriogonum kelloggii (Red Mountain buckwheat) and Sedum eastwoodiae (Red Mountain stonecrop) as Endangered or Threatened Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of 12-month petition finding.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce a 12-month finding on a petition to list *Eriogonum kelloggii* (Red Mountain buckwheat) and *Sedum eastwoodiae* (Red Mountain stonecrop) as endangered or threatened species under the Endangered Species Act of 1973, as amended (Act). After a review of the best available scientific and commercial information, we find that listing *Eriogonum kelloggii* and *Sedum eastwoodiae* is not warranted at this time. However, we ask the public to submit to us any new information that becomes available concerning threats to the two species or their habitat at any time.

DATES: The finding announced in this document was made on September 18, 2014.

ADDRESSES: This finding is available on the internet at *http://www.regulations.gov* under Docket No. FWS–R8–ES–2014–0034 and at *http://www.fws.gov/arcata/.* Supporting documentation we used in preparing this finding is available for public inspection, by appointment, during normal business hours at: U.S. Fish and Wildlife Service, Arcata Fish and Wildlife Office, 1655 Heindon Road, Arcata, CA 95521; telephone 707–822–7201; facsimile 707–822–8411. Please submit any new information, materials, or questions concerning this finding to the above street address.

FOR FURTHER INFORMATION CONTACT: Bruce Bingham, Field Supervisor, U.S. Fish and Wildlife Service, Arcata Fish and Wildlife Office, 1655 Heindon Road, Arcata, CA 95521; telephone 707–822–7201; facsimile 707–822–8411. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Background

Eriogonum kelloggii and *Sedum eastwoodiae* were first identified as candidate species for Federal listing on July 1, 1975 (40 FR 27823), and December 15, 1980 (45 FR 82479), respectively. The two species remained candidates, and information on their status and threats facing the two species were summarized in our annual candidate notices of review (CNORs). See the Species Profiles for *Eriogonum kelloggii* and *Sedum eastwoodiae* on our Environmental Conservation Online System (ECOS) at *http://ecos.fws.gov/ecos/home* for additional information on the history of candidate assessments for the two species.

In 2011, in resolution of litigation brought by WildEarth Guardians and the Center for Biological Diversity, we agreed to submit either a proposed rule or a not-warranted finding for 251 candidate species no later than September 30, 2016 (*re Endangered Species Act Section 4 Deadline Litigation,* Misc. Action No. 10–377 (EGS), MDL Docket No. 2165 (D.D.C., September 9, 2011)). This determination regarding whether *Eriogonum kelloggii* or *Sedum eastwoodiae* should be proposed for listing is made in compliance with the 2011 settlement.

Section 4(b)(3)(B) of the Act (16 U.S.C. 1531 *et seq.*) requires that, for any petition to revise the Federal Lists of Endangered and Threatened Wildlife and Plants that contains substantial scientific or commercial information that listing the species may be warranted, we make a finding within 12 months of the date of receipt of the

petition. As discussed above, in this finding, we have determined that adding *Eriogonum kelloggii* and *Sedum eastwoodiae* to the Federal List of Endangered or Threatened Plants is not warranted.

This finding is based upon the Species Report for Two Red Mountain Plants: Red Mountain Buckwheat (*Eriogonum kelloggii*) and Red Mountain Stonecrop (*Sedum eastwoodiae*) (Service 2014, entire) (Species Report) and scientific analyses of available information prepared by Service biologists from the Service's Arcata Fish and Wildlife Office, the Pacific Southwest Regional Office, and the Headquarters Office. The Species Report contains the best scientific and commercial data available concerning the status of *E. kelloggii* and *S. eastwoodiae,* including the past, present, and future threats to the species. As such, the Species Report provides the scientific basis that informs our regulatory decision in this document, which involves the further application of standards within the Act and its regulations and policies.

For a detailed discussion of *Eriogonum kelloggii's* or *Sedum eastwoodiae's* description, taxonomy, life history, habitat, soils, distribution, and abundance, please see the Species Report for Two Red Mountain Plants: Red Mountain Buckwheat (*Eriogonum kelloggii*) and Red Mountain Stonecrop (*Sedum eastwoodiae*) (Species Report, Service 2014, entire) available for review under Docket No. FWS–R8–ES–2014–0034 at *http://www.regulations.gov.* Also refer to the most recent species assessment forms for both species at *http://ecos.fws.gov/ecos/home* for a summary of additional species information (Service 2012a and 2012b, entire).

Previous Federal Action

On January 9, 1974, as directed by the Act, the Secretary for the Smithsonian Institution submitted a report to Congress on potential endangered and threatened plant species of the United States (Smithsonian 1975, entire). The report identified 1,999 plant species as either endangered or threatened, including *Eriogonum kelloggii* (Smithsonian 1975, p. 92). On July 1, 1975, we published in the **Federal Register** (40 FR 27823) our notification that we considered this report to be a petition to list *E. kelloggii* as either endangered or threatened under the Act. The notice solicited information from Federal and State agencies, and the public, on the status of the species. In 1978, the Smithsonian Institution submitted an additional report (Ayensu and DeFilipps 1978, entire) that revised the list of plant species to be considered as endangered or threatened. We considered this revised report as a supplement to the original 1975 petition. The revised report identified *Sedum eastwoodiae* [as *Sedum laxum* ssp. *eastwoodiae*] as a potential endangered or threatened species (Ayensu and DeFilipps 1978, p. 106). On December 15, 1980, we published in the **Federal Register** (45 FR 82479) our notice of review of plant taxa for listing as endangered or threatened species. Both *E. kelloggii* and *S. eastwoodiae* were identified as Category 1 species (taxa for which we had enough biological information to support listing as either endangered or threatened). As a result, we considered *E. kelloggii* and *S. eastwoodiae* to be candidates for addition to the Federal List of Endangered and Threatened Plants. The December 15, 1980, **Federal Register** notice (45 FR 82479) again solicited information from Federal and State agencies, and the public, on the status of the two species (Service 1981, pp. 1, 4–5).

Both species were included in our annual candidate notices of review (CNORs) between 1983 (48 FR 53640; November 28, 1983) and 2013 (78 FR 70103; November 22, 2013) for *Eriogonum kelloggii;* and between 1985 (50 FR 39525; September 27, 1985) and 2013, for *Sedum eastwoodiae.* In our September 19, 1997, CNOR (62 FR 49397), which identified listing priority numbers for candidate species, these two species were assigned priority numbers of 5 (threats facing the two species were of high magnitude but nonimminent) as outlined in our Listing Priority Guidance (48 FR 43098; September 21, 1983). We were petitioned to list both species by the Center for Biological Diversity and others on May 11, 2004 (Center for Biological Diversity, *et al.,* 2004). In the November 22, 2013, CNOR, we stated that we would be conducting a review of the two species for listing under the Act (78 FR 70103). This notice constitutes our review and final action regarding the petitions to list *E. kelloggii* or *S. eastwoodiae* as endangered or threatened under the Act.

Taxonomy

Eriogonum kelloggii: Gray (1870, p. 293) described this taxon from specimens collected in 1869, by Dr. A. Kellogg from the type locality at Red Mountain, Mendocino County, California. The species is sometimes known as Kellogg's buckwheat (Hickman 1993, p. 874; CDFG 2005, unpaginated; CDFW 2013, p. 9).

Sedum eastwoodiae: Nathaniel Britton first described this taxon as *Gormania eastwoodiae* in 1903, based on specimens from Red Mountain, Mendocino County, California, collected by Alice Eastwood (Britton and Rose 1903, p. 31). Nomenclatural changes followed, and in 1975, the taxon was reduced to the sub-specific level by Robert Clausen, renaming it *S. laxum* ssp. *eastwoodiae* (Clausen 1975, pp. 399–403). Melinda Denton returned the species to *S. eastwoodiae* (Denton 1982, p. 65; Denton 1993, pp. 531–533).

Distribution

The Red Mountain buckwheat (*Eriogonum kelloggii*) and Red Mountain stonecrop (*Sedum eastwoodiae*) are plant species endemic to serpentine habitat of lower montane forest in the northern Coast Range at Red Mountain in Mendocino County, California (Kruckeberg 1984, pp. 113, 121). *Eriogonum kelloggii* is found on dry ridges in rocky barren openings associated with serpentine habitat between 1,900 and 4,100 ft (580 and 1,250 m) in elevation (Munz and Keck 1973, p. 339; Jennings 2003, pp. 1–8). *Sedum eastwoodiae* occupies relatively barren rocky openings and cliffs, generally on west-faced slopes associated with serpentine habitats between 1,900 to 4,100 ft (580 to 1,250 m) in elevation (Jennings 2003, p. 2). Serpentine habitats are thinly soiled and usually contain high levels of heavy metals and other minerals and often support plant species which have become uniquely adapted to this harsher environment (Kruckeberg as cited in Whittaker 1954, pp. 258–288; Kruckeberg 1984, pp. 6–12, 18–21, 34–35, 48–50; University of California 1993, pp. 1–3). The majority of the range of both species overlap except where *E. kelloggii* extends farther south than *S. eastwoodiae* to a 900-square-foot (ft^2) (84-square-meter (m^2)) area on adjacent Little Red Mountain. The area occupied by both species at Red Mountain is scattered over approximately 4 square miles (mi^2) (10.4 square kilometers (km^2)). Limited monitoring indicates that both species have fairly stable populations relative to their distribution. The exact lifespans of *E. kelloggii* and *S. eastwoodiae* are not known. Other *Eriogonum* species occupying similar restricted habitats and which are adapted to similar environmental and ecological conditions (e.g., xeric conditions, limited resources, tolerance of unique soils) have long lifespans and tend to grow slowly and favor individual persistence (Anderson 2006, pp. 1–73). Based on the persistence of monitored

E. kelloggii and *S. eastwoodiae* populations we would expect the lifespan of plants to be long.

Land Ownership and Management

The Bureau of Land Management (BLM) and California Department of Fish and Wildlife (CDFW; formerly known as the California Department of Fish and Game (CDFG)) are the two largest land managers in the Red Mountain area. Both agencies support plant conservation and have participated in monitoring and reducing threats on the two species and their habitat.

In 1979, BLM designated 6,173 acres (ac) (2,498 hectares (ha)) of BLM land at Red Mountain as a wilderness study area (WSA). In 1984 (updated in 1989), BLM also designated 6,895 ac (2,790 ha) of the area as an Area of Critical Environmental Concern and Research Natural Area (ACEC/RNA). These designations provide protection and focused management direction toward conservation of the unique botanical and soils values of the Red Mountain area (BLM 1995, pp. 3–6 to 3–9). As a result of these designations, BLM developed a resource management plan (RMP) for the area (BLM 1995, pp. 2–32 to 2–37). The Red Mountain ACEC/RMP is site-specific and excludes livestock grazing and off-road vehicle use from the area and guides overall management activities within BLM's Arcata Field Office's jurisdiction. In addition, the BLM lands in the Red Mountain area (including those identified above) have also been designated by Congress as part of the South Fork Eel River Wilderness Area through the Northern California Coastal Wild Heritage Wilderness Act of October 17, 2006 (Pub. L. 109–362). The designation removed the WSA status for the area and officially designated the area as wilderness. Under the designation, BLM is directed to manage designated wilderness in a manner that retains the wilderness character for future generations. Within wilderness areas, no new roads can be developed and no mechanical equipment can be used. The BLM has acquired and is working to acquire additional private lands from willing landowners within the area that would help consolidate its ownership. The majority of areas containing *Eriogonum kelloggii* and *Sedum eastwoodiae* populations are within the Red Mountain ACEC and South Fork Eel River Wilderness Area (see Figure 5 of the Species Report (Service 2014)).

The portion of Little Red Mountain containing one population of *Eriogonum kelloggii* is owned and managed by CDFW as an ecological reserve (Little Red Mountain Ecological Reserve). State ecological reserves are established to provide protection for rare, endangered, or threatened native plants, wildlife, aquatic organisms and specialized terrestrial or aquatic habitat types. The CDFW designated *E. kelloggii* as a State endangered plant in April of 1982 (CDFG 2005, unpaginated; CDFW 2013, p. 9). Public entry and use of ecological reserves are to be compatible with the primary purposes of the reserve, and subject to the applicable general rules and regulations for conservation of the area as outlined in Title 14 of the California Code of Regulations at section 630 (CDFW 2014, pp. 1–14).

Summary of Factors Affecting the Species

Section 4 of the Act (16 U.S.C. 1533) and implementing regulations (50 CFR 424) set forth procedures for adding species to, removing species from, or reclassifying species on the Federal Lists of Endangered and Threatened Wildlife and Plants. Under section 4(a)(1) of the Act, a species may be determined to be endangered or threatened based on any of the following five factors:

(A) The present or threatened destruction, modification, or curtailment of its habitat or range;

(B) Overutilization for commercial, recreational, scientific, or educational purposes;

(C) Disease or predation;

(D) The inadequacy of existing regulatory mechanisms; or

(E) Other natural or manmade factors affecting its continued existence.

In making this finding, information pertaining to *Eriogonum kelloggii* and *Sedum eastwoodiae* in relation to the five factors provided in section 4(a)(1) of the Act is discussed below. In considering what factors might constitute threats, we must look beyond the mere exposure of the species to the factor to determine whether the species responds to the factor in a way that causes actual impacts to the species. If there is exposure to a factor, but no response, or only a positive response, that factor is not a threat. If there is exposure and the species responds negatively, the factor may be a threat and we then attempt to determine how significant a threat it is. If the threat is significant, it may drive or contribute to the risk of extinction of the species such that the species warrants listing as endangered or threatened as those terms are defined by the Act. This does not necessarily require empirical proof of a threat. The combination of exposure and some corroborating evidence of how the species is likely impacted could suffice. The mere identification of factors that could impact a species negatively is not sufficient to compel a finding that listing is appropriate; we require evidence that these factors are operative threats that act on the species to the point that the species meets the definition of an endangered or threatened species under the Act.

In making our 12-month finding on the petition we considered and evaluated the best available scientific and commercial information.

The primary stressor identified as impacting *Eriogonum kelloggii* and *Sedum eastwoodiae* and their habitat at the time the species were first considered as candidates was the potential for surface mining for chromium, nickel, and potentially cobalt. Other stressors identified throughout our CNORs between 1983 and 2013 consisted of unauthorized off-highway vehicle (OHV) use, illegal marijuana cultivation, wildfire, wildfire suppression, vegetation encroachment, small population size, and the effects of climate change. The potential threat of large-scale surface mining has greatly diminished. The following sections provide a summary of the current stressors impacting *E. kelloggii* and *S. eastwoodiae.*

Stressors previously identified as impacting *Eriogonum kelloggii* and *Sedum eastwoodiae* include mining activities (Factors A and E); habitat disturbance activities (unauthorized OHV use (Factors A and E), trail construction (Factor A), illegal marijuana cultivation (Factors A and E)); wildfire and wildfire management (alteration of the fire regime or fire suppression activities) (Factors A and E); vegetation encroachment (competition with native plant species (Factors A and E)); climate change (Factor A and E); small population size (Factor E); and the inadequacy of existing regulatory mechanisms (Factor D). Listing actions may be warranted based on any of the above factors, singly or in combination. The information pertaining to the two species organized by the five factors is discussed for the two species below. In addition, Table 1 below summarizes the stressors identified for both species over time since the two species were first identified as candidates for listing, and compares these with the situation today. A complete characterization and discussion of the stressors impacting these two species is in the Species Report (Service 2014, pp. 10–28).

TABLE 1—STRESSORS IDENTIFIED AS IMPACTING ERIOGONUM KELLOGGII AND SEDUM EASTWOODIAE OVER TIME

Stressor	At time of petitions 1974/1978	As candidates 1980–2012	Present 2013–2014	Current scope
Mining	Yes	Ongoing	Greatly Reduced or Eliminated.	Red Mountain.
OHV Use	Not Identified	Yes	Decreased	Red Mountain.
Road Construction	Not Identified	Yes	Decreased	Red Mountain.
Trail Construction (authorized)	Not Identified	Potential	Potential	Red Mountain.
Illegal Marijuana Cultivation	Not Identified	Yes	Decreased	Lower Elevations.
Wildfire (Mgt. and Suppression)	Not Identified	Yes	Stable	Everywhere.
Vegetation Encroachment/Mgt.	Not Identified	Yes	Potential	Portions of Range.
Effects of Climate Change	Not Identified	Yes	Stable (changes may offset each other).	Entire Range.
Small Population Size	Yes	Yes	Stable (adapted to small population size).	Entire Range.
Inadequacy of Regulatory Mechanisms	Yes	Yes	No	Entire Range.

Factor A. The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range

Some of the same potential activities that affect the habitat of *Eriogonum kelloggii* and *Sedum eastwoodiae* can also affect individual *E. kelloggii* and *S. eastwoodiae* plants. While these impacts to *E. kelloggii* and *S. eastwoodiae* fit under Factor E (Other Natural or Manmade Factors Affecting Its Continued Existence), they are included here in the Factor A discussion for ease of analysis.

Mining

Mining activities that occur, have occurred, or potentially could occur at Red Mountain include recreational, small-scale, and potential commercial (large-scale) mining operations. The historical mining activity that has occurred has been minimal (BLM 1994, pp. 1–2).

Recreational and Small-Scale Mining: Recreational mining includes individuals with hand equipment (e.g., shovels, picks), mostly collecting rocks or looking for other mineral deposits and would involve digging and movement of rocks and other small-impact disturbance. Such activity could also destroy or trample individual plants if it occurred within an area occupied by *Eriogonum kelloggii* or *Sedum eastwoodiae.* This type of recreational mining activity has occurred in the past but most likely has diminished due to designation of most of the Red Mountain area as an ACEC and Wilderness Area. Mining activity has also included small-scale mining efforts using mechanical equipment that have been conducted in the past by individuals prior to the area being designated as an ACEC or Wilderness Area or currently on private lands by individual landowners. These areas are typically localized and limited in scope. According to U.S. Geological Survey (USGS) information on mine locations at Red Mountain, 13 mine locations have been identified within the area (USGS-Mineral Resource On-line Spatial Data 2014). Of these mine sites, only two are located within the areas known to contain *E. kelloggii* and *S. eastwoodiae.* This type of activity if it was to occur within an area occupied by *E. kelloggii* or *S. eastwoodiae,* would most likely destroy individual plants by direct removal, crushing, or burying. Review of aerial imagery of these two mine sites shows very limited habitat disturbance of the two areas and no recent activity. In order for mining activities to resume at these small-scale mining sites, they would require authorization by BLM within the ACEC and Wilderness Area. See Figure 6 in the Species Report for mine sites identified in the Red Mountain area (Service 2014, entire).

If recreational or small-scale mining activities occur in areas occupied by *Eriogonum kelloggii* and *Sedum eastwoodiae,* there may be some limited destruction of plants and habitat. However, the amount of wide-scale recreational and small-scale mining activity on Red Mountain is minimal due to access constraints and these activities have not impacted *E. kelloggii* and *S. eastwoodiae* populations or habitat to a large degree since they were identified as candidate species.

Commercial Mining: Commercial mining activity has not occurred on Red Mountain to date, although the potential for large-scale mining activity exists for the entire Red Mountain area, as it contains widespread deposits of chromium, nickel, and potentially cobalt. The entire known distribution of *Eriogonum kelloggii* and *Sedum eastwoodiae* at Red Mountain is held under unpatented lode or placer mining claims, or occurs on privately owned lands owned by individuals with past or current mining interests (BLM 2009, unpaginated). The one population of *E. kelloggii* at Little Red Mountain within the Little Red Mountain Ecological Reserve is protected from any mining activity (recreational or commercial) through State regulation (CDFW 2014, pp. 1–14).

Commercial mining on Red Mountain would most likely be an open-face bench type mining that would involve removal and processing of the mineral-bearing ore containing nickel, chromium, and possibly cobalt (Service 1990, p. 14). Commercial mining activities would remove plants, degrade habitat, alter drainage, compact soils, and introduce contaminants in the affected area. Although an operation plan for such mining activities would require restoration of the affected areas, plant species composition would undoubtedly be altered. Moreover, there is no evidence in the literature indicating *Eriogonum kelloggii* and *Sedum eastwoodiae* are able to recolonize soils once they are disturbed.

With regard to the potential for Red Mountain to be commercially mined, a Bureau of Mines Preliminary Feasibility Study conducted at Red Mountain in 1978 concluded the nickel deposits met the minimum tonnage grade test at the time (i.e., 35 million short tons of material containing an average 0.8 percent nickel) (K. Geer, Service, pers. comm. 1995). However, commercial mining at Red Mountain was not considered economically feasible at the time due to the relatively low grade of the resource (low metal concentrations) and the high cost of mining the material (Geer, pers. comm. 1995). According to current USGS data (Kelly and Matos 2013 [Comps.], entire) on nickel and chromium production and pricing between 1900 and 2014, the unit value (as calculated in 1998 dollars) of both

nickel and chromium has not increased significantly since the values reported in 1978 (USGS 2014a, pp. 1–7; USGS 2014b, pp. 1–8). The unit value (1998 dollars) for cobalt as of 2012 has decreased since the values reported in 1978 (USGS 2014c, pp. 1–6). The likelihood and extent of future mining will depend on the future economic feasibility and demand for minerals found in the area. The economic feasibility of mining will be determined by the current market value of the mined ore, as well as cost of extraction, processing, and transportation. As discussed above, over the past 35 years since the last economic feasibility report, the price of nickel, chromium, and cobalt has either risen only slightly or decreased. In addition, because Red Mountain is within designated wilderness, avoidance and mitigation measures to reduce or offset impacts to wilderness characteristics may be added to the cost of extraction and feasibility of mining the area.

The majority of *Eriogonum kelloggii* and *Sedum eastwoodiae* occurrences are within the South Fork Eel River Wilderness Area. The legislation designating the wilderness area specifically retained valid land rights, such as mining claims, in existence on the date of enactment (October 17, 2006). However, the area was withdrawn from all new forms of: (1) Entry to, appropriation, or disposal of lands under the public land laws; (2) locating, entering, and establishing new patents under Federal Mining Law; and (3) disposition under all laws pertaining to mineral and geothermal leasing or mining of materials. Consequently, no new mining claims can be established within the South Fork Eel River Wilderness Area.

For the existing mining claims within the South Fork Eel River Wilderness Area, a plan of operation must be developed and approved by the BLM before any permitting of operations can take place (43 CFR 3809.11). Before BLM may approve a mining plan of operations on existing claims, it must conduct a validity examination to determine if the claim is valid and if so develop a Mineral Examination Report (S. Flanagan, BLM, pers. comm., 2014; 43 CFR 3809.100). The validity examination includes a determination of whether the mining claim was valid before the wilderness withdrawal, and whether it remains valid. Because there are different claimholders on Red Mountain that likely filed claims at different times, separate validity exams would need to be performed for each claim, raising the cost of conducting the examination. Due to the high cost of the validity examinations, BLM typically only does them when a plan of operations is filed by a claimholder (S. Flanagan, BLM, pers. comm., 2014). The BLM has 60 days to determine if sufficient information was provided to conduct a validity examination, and then 2 years to complete the examination. If the validity examination fails, the claim is cancelled. If the claim is determined to be valid, the claimant may file patent to gain ownership to the land, although for short-lived mining operations a patent is often not filed. The BLM does not have the right to deny such a patent; however, it can impose protective measures that avoid or reduce impacts to wilderness characteristics. However, the majority of recently conducted validity examinations in California have failed, and BLM does not expect any new validity examinations to be conducted within the area (S. Flanagan, BLM, pers. comm., 2014).

Currently, no small-scale or commercial mining activities are being conducted on BLM or adjacent private lands, and no validity exams have been conducted on any of the mining claims within the Red Mountain area. Some recreational mining activities have occurred in the area in the past; however, with the designation of the majority of the area as an ACEC and Wilderness Area, we do not expect these types of activities to be a major concern for *Eriogonum kelloggii* or *Sedum eastwoodiae* or their habitat now or in the future. As discussed above and in the Species Report, the majority of private lands where *E. kelloggii* or *S. eastwoodiae* occur has been acquired by BLM and are within designated wilderness, and subject to BLM's management. As a result of land use designation and management changes and continued economic infeasibility, we also do not consider large-scale mining to be a threat to *E. kelloggii* or *S. eastwoodiae* or their habitat now or in the future.

Habitat Disturbance Activities

Activities associated with habitat disturbance in the Red Mountain area other than those discussed above under mining include: Road construction, wildfire management construction activities, unauthorized off-highway vehicle (OHV) use, illegal marijuana cultivation, and trail development. The majority of past habitat disturbance in the Red Mountain area has been caused by road construction, both for access and fire control (Imper and Wheeler, unpubl. data 2009). However, due to the designation of the Red Mountain area as an ACEC and part of the South Fork Eel River Wilderness Area and Little Red Mountain as a State ecological reserve, no new road construction or use of mechanical equipment is permitted in the area. One exception that would still be permitted in the area is for the purpose of wildfire management activities (which may include presuppression, fire-break construction, and access road construction) (16 U.S.C. 1133(d)(1)). See the *Wildfire and Wildfire Management* section, below, for further discussion of these activities and how they may affect *Eriogonum kelloggii* and *Sedum eastwoodiae* and their habitat.

The current unauthorized OHV use and associated habitat disturbance at Red Mountain is largely related to illegal marijuana cultivation. Unauthorized OHV use by illegal marijuana growers crushes vegetation and loosens soil, making it more likely to erode during a rain event. Clearing of vegetation, creation of water impoundments, and diversion of streams can also greatly alter local site conditions. These types of activities should they occur in occupied areas would remove, crush, or destroy individual *Eriogonum kelloggii* or *Sedum eastwoodiae* plants and disturb or alter their habitat. However, currently the majority of known sites on Red Mountain where marijuana cultivation has occurred are at the lower elevation areas adjacent to private lands, near existing roads, or with access to streams, and not near locations where *E. kelloggii* and *S. eastwoodiae* occur (J. Knisley, BLM, pers. comm. 2014). The Red Mountain area where *E. kelloggii* and *S. eastwoodiae* occur is more open to observation and has less forest or vegetation cover, and as a result is most likely less desirable for illegal marijuana cultivation sites. BLM, CDFW, and County law enforcement officials have been working with a local nonprofit organization to remove the growing infrastructure (i.e., irrigation, planting materials, and other debris) from the area (Eel River Recovery Project 2014, pp. 1–6). General public access to the area by vehicle is controlled. Considering the extent of illegal marijuana cultivation in northern California, the potential for these activities to be a threat to *E. kelloggii* and *S. eastwoodiae* and their habitat is a concern. However, based on the current extent of these activities within the Red Mountain area and the best available scientific and commercial information, we do not consider these activities to result in significant impacts to *E. kelloggii* and *S. eastwoodiae* as a whole, or to their habitat, nor do we

expect them to become significant in the future.

A proposal to enhance recreational use of the South Fork Eel River Wilderness Area through construction of a foot or horse trail would encourage public use and likely discourage marijuana growing and unauthorized vehicle use (J. Wheeler, pers. comm. 2009). Trail construction will be considered once a wilderness management plan is developed for Red Mountain, and would likely be simple delineation using posts rather than soil disturbance (J. Wheeler, pers. comm. 2013). Habitat for *Eriogonum kelloggii* and *Sedum eastwoodiae* could also potentially be impacted by logging operations, such as cable logging (C. Golec, CDFW, pers. comm. 2005); however, logging of any kind in the absence of a wilderness management plan will not occur. BLM currently does not have a specific timeline for development of a wilderness management plan for the area, and as a result, no trail or logging activities will be authorized for the area in the near future. Due to the tendency of *E. kelloggii* and *S. eastwoodiae* to occur on rock outcrops and rocky slopes, none of the above activities is expected to impact a significant portion of the two species' habitat now or in the future.

Wildfire and Wildfire Management

Fire has been shown to be an important factor affecting vegetation patterns and maintenance of many open habitats, similar to the habitat of *Eriogonum kelloggii* and *Sedum eastwoodiae,* across the Klamath Bioregion (Skinner *et al.* 2006, pp. 175–178; Skinner *et al.* 2009, pp. 76–98). Historically in California, frequent natural and cultural ignitions maintained these disturbance-prone ecosystems dependent on recurrent fire (Holmes *et al.* 2008, pp. 551–552). Pre-European settlement fire-return intervals for mixed conifer stands are thought to have been variable and in some cases ranged as little as 6 to 8 years between events (Skinner *et al.* 2009, pp. 83–84). A decline in fire frequency since European settlement has allowed conifer encroachment or establishment of dense shrub stands in many areas of the region. BLM's general policy is to restore fire to its natural role in the ecosystem (BLM 2012a, pp. 1–25—1–27), except where these activities threaten human life, property, or high value resources on adjacent nonwilderness lands, or where these would result in unacceptable change to the wilderness resource. Wildfire or prescribed burning under certain specific conditions may be used as a wildlife management tool if carefully designed to maintain or enhance the wilderness resource (BLM 2012a, pp. 1–25—1–27).

BLM may conduct fire suppression activities within wilderness areas. Fire suppression activities involving uses generally prohibited in wilderness areas (use of motorized equipment or motor vehicles, mechanical transport, construction of roads, and construction of structures or installations) can only occur if authorized by the applicable BLM State Director, unless this authority has been delegated to the District or Field Manager (BLM 2012a, pp. 1–12—1–15, 1–26). These types of activities may have a direct impact on *Eriogonum kelloggii* and *Sedum eastwoodiae* by removing or crushing plants and their habitat.

Indirectly, fire suppression impacts *Eriogonum kelloggii* and *Sedum eastwoodiae* by allowing vegetation to encroach and to become decadent. Relatively dense growth adjacent to areas occupied by *E. kelloggii* and *S. eastwoodiae* can lead to shading, changing the micro-climate around plant clusters, and using moisture in a xeric landscape. Another consequence of long-term fire suppression is the increase in fire hazards when vegetation is permitted to become relatively dense in a dry environment. This could lead to a potential for more severe fire events, which may lead to greater habitat destruction. The threat of fire is lessened for *E. kelloggii* and *S. eastwoodiae* in that the plants occur mostly in rocky areas, which in most cases do not contain large build-ups of vegetation. Natural and prescribed fires will be supervised and may be allowed to burn under certain conditions. When fire threatens human life or property, motorized equipment may be used to eliminate or minimize the threat. However, in all cases, the equipment and tactics used to manage fires are designed to minimize the impact to wilderness values (BLM 2012a, pp. 1–25—1–27).

Two recorded fires appear to have influenced the Red Mountain area over the past 90 years: The 1952 Lynch Fire and the 2008 Red Mountain Fire (Baad 202, pp. 6–7; California Department of Forestry and Fire Protection 2009). An undocumented fire also occurred in the area and may have influenced localized vegetation patterns at Red Mountain (Goforth 1980, pp. 16–19; Service 2013, p. 18) (see *Vegetation Encroachment* section below). The 1952 Lynch Fire was the only fire included in the Fire and Resource Map Project's (FRAP) online historical fire database (California Department of Forestry and Fire Protection 2009) for the immediate area of Red Mountain since the 1920s. Evidence suggests the Lynch Fire may have stimulated germination and growth of *Pinus attenuata* (knobcone pine) in some areas within the distribution of *Eriogonum kelloggii* and *Sedum eastwoodiae* on the mountain, which has encroached on their habitat (Service 2013, p. 18), but only in a few cases (Goforth 1980, pp. 16–19). See the *Vegetation Encroachment* section, below, for further discussion of the potential effects of vegetation encroachment.

The 2008 Red Mountain fire, which was caused by lightning, burned approximately 3,000 ac (1,214 ha) within the South Fork Eel River Wilderness Area (BLM 2008, p. 1). The fire burned some 1,000 ac (405 ha) at the top of Red Mountain, with reportedly 80 percent mortality of brush and 10 percent tree mortality (J. Wheeler, BLM, pers. comm. 2008). The actual burn footprint was highly irregular, and the majority of the burned habitat appeared to have experienced a relatively low-intensity ground fire, with little crowning (Imper and Wheeler, unpublished data 2009). The fire also extended to Little Red Mountain and burned to near the boundary of one of the populations of *Eriogonum kelloggii;* the population may have been impacted by the fire control efforts, but no survey of the area was completed (S. Koller, CDFW, pers. comm. 2009). Regardless, in an attempt to restore the impacts of the fire suppression activities, CDFW staff worked extensively with California Department of Forestry and Fire Protection (CalFire) to redistribute the pushed up earth material back over the disturbed areas that had been created for safety zones during the 2008 fires (S. Koller, CDFW, pers. comm. 2014). Some 25 percent of the polygons occupied by *Sedum eastwoodiae* and 42 percent of the polygons occupied by *E. kelloggii* mapped by Jennings (2003, pp. 2 and 8) occur within the boundary of 2008 fire, but the extent to which habitat occupied by either species was directly affected by the fire is unknown.

The effects of climate change may also impact habitat conditions and fire frequency and intensity for the Red Mountain area. Changes to wildfire regimes (frequency and intensity) and factors influencing fire (temperature, precipitation, vegetation) have been predicted as a result of climate change (Lenihan *et al.* 2003, pp. 1678–1680; Fried *et al.* 2004, pp. 177–188; Westerling and Bryant 2008, pp. 244–248; Krawchuk *et al.* 2009, pp. 8–10; Cornwell *et al.* 2012, pp. 1–89). However, the results of fire modeling

are variable, as the likelihood of future fires and wildfire severity depend on many factors, including pre-suppression activities, fire suppression strategies, human settlement patterns, ignition sources, variability of local climatic conditions, vegetation type, and fuel loading (Fried *et al.* 2004, p. 185; Westerling and Bryant 2008, pp. 231–235; Krawchuk *et al.* 2009, p. 1; Point Reyes Bird Observatory (PRBO) Conservation Science 2011, pp. 1–59). A 2004 modeling study on the effects of climate change and fire frequency for northern California suggested that there may be an increase in fire risk for northern California as a whole (Fried *et al.* 2004, pp. 177–188), but that northern coastal areas (as represented by the CalFire Humboldt Ranger District and including Red Mountain and Little Red Mountain) would not change. This was attributed to the model's prediction of slower winds and higher humidity offsetting any temperature increases (Fried *et al.* 2004, p. 177). The researchers stated that the majority of fires under both present and predicted future climate scenarios would be of moderate intensity and rates of spread, and are unlikely to become large, damaging fires (Fried *et al.* 2004, p. 177). Consequently, we do not currently consider climate change and its potential effects on fire frequency to be a significant threat to the habitat of *Eriogonum kelloggii* or *Sedum eastwoodiae* now or into the future.

With the history of only two recorded fires over the past 90 years, with one of those fires being a low-intensity ground fire with little crowning, the Red Mountain area being more open and less vegetated than surrounding areas, and management focus increased as a result of its designation as wilderness in part for the conservation of rare plants, we do not currently consider wildfire or wildfire suppression to be a significant threat to *Eriogonum kelloggii* and *Sedum eastwoodiae* or their habitat, and do not expect the fire conditions or management to change significantly in the near future.

Vegetation Encroachment

Habitat modification as a result of natural vegetation changes in the absence of, or as a result of, fire is a stressor to *Eriogonum kelloggii* and *Sedum eastwoodiae.* Encroachment of vegetation into *E. kelloggii* and *S. eastwoodiae* habitat results in the modification of ecological conditions through shading, competition for resources (light, water, nutrients), and greater susceptibility to the effects of fire due to increased fuel. These habitat changes may result in conditions that are not suitable for populations of *E. kelloggii* and *S. eastwoodiae* and may lead to loss of individual plants for both species.

As stated above, an undocumented fire may have stimulated germination and growth of *Pinus attenuata* (knobcone pine) in some areas within the distribution of *Eriogonum kelloggii* and *Sedum eastwoodiae* on the mountain and encroached on their habitat, but only in a few cases (Goforth 1980, pp. 16–19; Service 2013, p. 18). In addition, Baad (2002, pp. 6–7) recognized suppressed reproductive output in *E. kelloggii* at one site on Red Mountain, and attributed the impact to conifer invasion following a fire that occurred 40 years previously. Baad's monitoring efforts (2002, entire) did not observe specific impacts from vegetation encroachment on *S. eastwoodiae,* but the study was not designed to provide that information. In absence of fire, Baad concluded that *S. eastwoodiae* located on rocky ridge tops and with little woody vegetation appeared relatively stable, but populations situated on deeper soils in more sheltered sites are more vulnerable to shading by competing vegetation (Baad 2002, pp. 6–7). The manner and degree to which the 2008 Red Mountain Fire affected *E. kelloggii* or *S. eastwoodiae,* either positively, by setting back natural succession within their habitat, or negatively, by killing plants, is not known.

Although vegetation encroachment is a concern for both *Eriogonum kelloggii* and *Sedum eastwoodiae,* based on the extent of observed effects, persistence of known populations, and increased management of the area, we do not consider vegetation encroachment to be a significant threat to *E. kelloggii* or *S. eastwoodiae* or to their habitat now or into the future.

Factor B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

Due to the remoteness of the area and access constraints, little visitor use occurs in the area. As a result there is a low potential for collection or overutilization for any purpose. Status surveys and other informal monitoring have not shown that overutilization is a concern. As a result, the best available scientific and commercial information does not indicate that overutilization for commercial, recreational, scientific, or educational purposes is now, or will be in the future, a threat to *Eriogonum kelloggii* or *Sedum eastwoodiae.*

Factor C. Disease or Predation

It is likely that predation from invertebrates, insects, and animals on *Eriogonum kelloggii's* and *Sedum eastwoodiae's* seeds, vegetative tissue, and roots is occurring on an ongoing basis. Service biologists have documented severed flowering stems, which most likely occurred from small mammal predation (Ken Fuller, U.S. Fish and Wildlife Service, pers. comm. 1994). Because *E. kelloggii* and *S. eastwoodiae* have evolved within this habitat, both species have adapted to some level of predation. There is no evidence from observations of predation on *E. kelloggii* and *S. eastwoodiae* that individuals have been killed from this activity. It is more likely that predation reduces the vigor, including reproductive output, of the two species. However, the best available scientific and commercial information indicates that this level of predation is not a current or expected future threat to *E. kelloggii* and *S. eastwoodiae.* In addition, disease is not known to be a current or expected future threat to *E. kelloggii* and *S. eastwoodiae.*

Factor D. The Inadequacy of Existing Regulatory Mechanisms

The Act requires that the Secretary assess available regulatory mechanisms in order to determine whether existing regulatory mechanisms are adequate to address threats to the species (Factor D). The Species Report includes a discussion of applicable regulatory mechanisms that apply to *Eriogonum kelloggii* and *Sedum eastwoodiae* (Service 2014, entire). In the Species Report, the Service examines the applicable Federal, State, and other statutory and regulatory mechanisms to determine whether these mechanisms provide protections to *E. kelloggii* or *S. eastwoodiae.* As described in the Species Report and outlined below, several Federal and State statutes provide protections to *E. kelloggii* and *S. eastwoodiae* and their habitat.

Under this factor, we examine whether existing regulatory mechanisms are inadequate to address the potential threats to *E. kelloggii* and *S. eastwoodiae* discussed under other factors. We give strongest weight to statutes and their implementing regulations, and management direction that stems from those laws and regulations. Such laws and regulations are nondiscretionary and enforceable, and are considered a regulatory mechanism under this analysis. Examples include State government actions enforced under a State statute or

constitution, or Federal action under statute.

Some other programs are more voluntary in nature or dependent upon available funding (see *Conservation Measures Planned or Implemented,* discussed below); in those cases, we analyze the specific facts for that effort to ascertain its effectiveness at mitigating the threat and the extent to which it can be relied upon in the future. Having evaluated the significance of the threat as mitigated by any such conservation efforts, we analyze under Factor D the extent to which existing regulatory mechanisms adequately address the specific threats identified for the species. We consider relevant Federal, State, and tribal laws and regulations when evaluating the status of a species. Regulatory mechanisms, if they exist, may preclude the need for listing if we determine that such mechanisms adequately address the threats to the species such that listing is not warranted. Only existing ordinances, regulations, and laws that have a direct connection to a stressor are applicable.

Federal Protections

Special Status Species Management: BLM's policy for Special Status Species Management (BLM Manual 6840) includes guidance for the conservation of BLM special status species and their habitat on BLM-administered lands. BLM special status plant species include federally endangered or threatened species and species requiring special management (as determined by BLM State Directors). Management actions are to promote the special status plant conservation for recovery and reduce the likelihood and need for any potential future listing under the Act. Species with ''Special Status'' receive a higher level of scrutiny on proposed projects with a greater emphasis on species conservation under existing environmental laws and implementing regulations. BLM accomplishes this by implementing proactive conservation measures that reduce or eliminate threats to species BLM has categorized as sensitive. These measures include: (1) Development of rangewide and or site-specific management plans; (2) implementation of BLM actions that are consistent with objectives for management of those species; (3) actions that at least maintain or improve the species and its habitat at each occurrence; and (4) monitoring populations to determine whether management objectives are being met (BLM 2012b, entire; BLM 2012c, entire). The California Native Plant Society has ranked plant species according to their conservation status and considers *Eriogonum kelloggii* and *Sedum eastwoodiae* as 1B species (endemic species considered rare throughout their range) (Smith and Berg 1988, pp. XV, 49, 104). The BLM California State Director has identified California 1B ranked species (including *Eriogonum kelloggii* and *Sedum eastwoodiae*) as BLM Special Status Plants for management and conservation purposes (BLM 2013, pp. 1–6).

Areas of Critical Environmental Concern: As stated above, BLM designated the Red Mountain Area as an Area of Critical Environmental Concern (ACEC) Research Natural Area (RNA) in 1984. The area was established in part to protect and conserve sensitive animal and plant species on the specialized habitat at Red Mountain (BLM 1989, p. 2). The management objectives include: (1) Protect and monitor existing populations of *E. kelloggii* and *S. eastwoodiae;* (2) acquire private lands from willing sellers to consolidate and enhance land management within the Red Mountain area; (3) develop a fire management plan and implement measures to reduce the impacts of suppression activities on sensitive species and their habitat; (4) close the area to public vehicle use and limit private vehicle access to existing roads; (5) close the area to grazing activities; and (6) post boundary signs to assist in appropriate visitor access (BLM 1989, pp. 1–17; BLM 1995, pp. 2–32 to 2–37).

South Fork Eel River Wilderness Area Designation: As stated above, the Red Mountain Area was designated as part of the South Fork Eel River Wilderness Area in 2006. Wilderness areas are those Federal lands recognized as an area where the earth and its community of life are untrammeled by human activity and retain their primeval character and influence, without permanent improvements or human habitation. These areas are protected and managed so as to preserve their natural conditions and (1) generally appear to have been affected primarily by the forces of nature, with the imprint of man's work substantially unnoticeable; (2) have outstanding opportunities for solitude or a primitive and unconfined type of recreation; (3) have at least 5,000 ac (2,023 ha) of land or are of sufficient size as to make practicable their preservation and use in an unimpaired condition; and (4) may also contain ecological, geological, or other features of scientific, educational, scenic, or historical value.

Under the designation, BLM is directed to manage the designated wilderness at Red Mountain in a manner that retains the wilderness character for future generations. Within wilderness areas, there shall be no commercial enterprise, no permanent roads, and except as necessary to meet minimum requirements for the administration of the area, there shall be no temporary roads, no use of motor vehicles, no use of motorized equipment, no landing of aircraft, no other form of mechanical transport, and no structure or installation within any such area.

State Protections

California Endangered Species Act: The California Endangered Species Act (CESA) makes it illegal to import, export, ''take,'' possess, purchase, sell, or attempt to do any of those actions to species that are designated as endangered, threatened, or candidates for listing, unless permitted by CDFW. ''Take'' is defined as ''hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill.'' Under CESA, CDFW may permit take or possession of endangered, threatened, or candidate species for scientific, educational, or management purposes, and may also permit take of these species that is incidental to otherwise lawful activities if certain conditions are met. Some of the conditions for incidental take are that the take is minimized and fully mitigated, adequate funding is ensured for this mitigation, and that the activity will not jeopardize the continued existence of the species.

California Native Plant Protection Act: The California Native Plant Protection Act (NPPA) was enacted in 1977, and allows the California Fish and Game Commission to designate plants as rare or endangered. The NPPA prohibits take of rare or endangered native plants, but includes some exceptions for agricultural, nursery, and timber operations; emergencies; mining assessments; and after properly notifying CDFW for vegetation removal from canals, roads, and other sites, changes in land use, and in certain other situations. Section 1911 of the NPPA requires that all State departments and agencies to consult with the CDFW, and use their authorities to carry out programs for the conservation of rare or endangered native plants. Such programs include, but are not limited to, the identification, delineation, and protection of habitat critical to the continued survival of rare or endangered native plants (California Fish and Game Code section 1900 *et seq.*).

California Environmental Quality Act: The California Environmental Quality Act (CEQA) is a law that requires public

agencies to analyze and publicly disclose the environmental impacts from projects they approve, and adopt feasible alternatives and mitigation measures to mitigate for the significant impacts they identify. During CEQA review, State public agencies must evaluate and disclose impacts to plant species protected under CESA, and in most cases must mitigate all significant impacts to these species to a level of less than significant. In addition, during the CEQA process, public agencies must also address plant species that may not be listed under CESA, but that may nevertheless meet the definition of rare or endangered provided in CEQA. The CDFW advises public agencies during the CEQA process to help ensure that the actions they approve do not significantly impact such resources and often advises that plant species with an appropriate California Rare Plant Rank (as identified by the State or California Native Plant Society) be properly analyzed by the lead agency during project review to ensure compliance with CEQA.

The State of California listed *Eriogonum kelloggii* as endangered under CESA in 1982 (CDFG 2005, unpaginated; CDFW 2014, p. 4). As a State-listed species, *E. kelloggii* is subject to the conservation provisions of CESA and NPPA, and to the provisions of CEQA. *Sedum eastwoodiae* is not listed by the State of California as an endangered, threatened, or candidate species, but it is identified as a 1B species (rare throughout its range) by the California Native Plant Society (CNPS) (Smith and Berg (eds.) 1988, pp. 49, 104). Therefore, impacts to *S. eastwoodiae* are evaluated by the lead agency under CEQA, and the lead agency must adopt feasible mitigation measures to mitigate for any significant impacts that they identify.

Based on the analyses contained within the Species Report and outlined above on the existing regulatory mechanisms for *Eriogonum kelloggii* and *Sedum eastwoodiae,* we conclude that the best available scientific and commercial information does not indicate that the existing regulatory mechanisms are inadequate to address impacts to *E. kelloggii* and *S. eastwoodiae* from the identified potential threats, and these mechanisms provide protections to these two species that were not available when the species were first identified as Federal candidate species.

Factor E. Other Natural or Manmade Factors Affecting Its Continued Existence

For ease of discussion, the impacts to individual *Eriogonum kelloggii* and *Sedum eastwoodiae* plants from mining, habitat disturbance activities (unauthorized OHV use, illegal marijuana cultivation, and trail development), wildfire suppression and management, and vegetation encroachment associated with this factor are discussed under Factor A. For a complete discussion of potential impacts to both habitat and individual plants from these activities, see our Factor A discussion, above.

Small Population Size

Other natural or human-caused stressors for *Eriogonum kelloggii* and *Sedum eastwoodiae* are related to its small distribution and overall population size, and the potential impacts of climate change on the species and its habitat. Generally, small populations are more prone to impacts from random environmental events, and from genetic impoverishment as a result of habitat fragmentation, genetic isolation, and declining effective population size (Saunders *et al.* 1991, pp. 18–32; Meffe and Carroll 1997, pp. 269–304).

General conservation principles indicate that endemic species limited to small areas are inherently more vulnerable to extinction than are widespread species, because of the increased risk of genetic bottlenecks; random demographic fluctuations; climate change effects; and localized catastrophes, such as drought and fire due to changes in demography, the environment, genetics, or other factors (Gilpin and Soulé 1986, pp. 24–34; Pimm *et al.* 1988, p. 757; Mangel and Tier 1994, p. 607). These problems are further magnified when these geographically restricted and small numbers of populations contain small numbers of individuals in these populations. Small, isolated populations can often also exhibit reduced levels of genetic variability, which diminishes the species' capacity to adapt and respond to environmental changes, thereby lessening the probability of long-term persistence (Barrett and Kohn 1991, p. 4; Newman and Pilson 1997, p. 361). Small, isolated populations are also more susceptible to reduced reproductive vigor due to ineffective pollination and inbreeding depression. Although a tenet of conservation biology is that larger, well-distributed populations of species are less vulnerable and insure persistence, many narrow endemic plants combine small population ranges and sizes with long-term persistence, depending on how they have adapted to their unique environments (Lavergne *et al.* 2004, pp. 505–518; Matthies *et al.* 2004, pp. 481–488; García 2008, pp. 106–113).

For *Eriogonum kelloggii* and *Sedum eastwoodiae,* their small population size and the extent of stress factors impacting the two species were among the primary reasons they were first identified as Federal candidate species. As stated above, the distribution of the two species is extremely limited, and the identified potential threats facing the two species occur throughout their distribution. However, the known distribution and population size of the species has always been limited and small in size. *Eriogonum kelloggii* and *S. eastwoodiae* are narrow endemic species that have evolved and adapted to the particular serpentine habitats in which they occur. Although there are stressors acting on the two species, their populations are dispersed throughout the Red Mountain area, making it less likely for a single or multiple single events to significantly impact the species. In addition, the populations of *E. kelloggii* and *S. eastwoodiae* have persisted and remained stable since the two species were first identified as Federal candidate species. As a result, we do not consider small population size a threat to *E. kelloggii* or *S. eastwoodiae* now or in the near future.

The Effects of Climate Change

The effects of climate change may be affecting both *Eriogonum kelloggii* and *Sedum eastwoodiae's* habitat (Factor A) and individual plants (Factor E) through several means. For the ease of analysis, the discussion of the effects of climate change has been included with discussion of each applicable threat or is discussed below.

The terms ''climate'' and ''climate change'' are defined by the Intergovernmental Panel on Climate Change (IPCC). The term ''climate'' refers to the mean and variability of different types of weather conditions over time, with 30 years being a typical period for such measurements (IPCC 2013a, p. 1450). The term ''climate change'' thus refers to a change in the mean or variability of one or more measures of climate (for example, temperature or precipitation) that persists for an extended period, whether the change is due to natural variability or human activity (IPCC 2013a, p. 1450). Various types of changes in climate can have direct or indirect effects on species. Scientific measurements spanning several decades demonstrate

that changes in climate are occurring, and that the rate of change has increased since the 1950s. Examples include warming of the global climate system, and substantial increases in precipitation in some regions of the world and decreases in other regions (for these and other examples, see Solomon *et al.* 2007, pp. 35–54, 82–85; IPCC 2013b, pp. 3–29; IPCC 2014, pp. 1–32).

Climate change predictions are variable for the area within the range of *Eriogonum kelloggii* and *Sedum eastwoodiae.* Predictions for terrestrial areas in the Northern Hemisphere indicate warmer air temperatures, more intense precipitation events, and increased summer continental drying (Field *et al.* 1999; Cayan *et al.* 2005; IPCC 2007). According to one downscaled climate model (California Natural Resources Agency 2012, pp. 7–12) for northern California, temperatures and drought intensity would increase. The effects of climate change can impact and influence any one of the stressors impacting *E. kelloggii* and *S. eastwoodiae* and outside the threat of large-scale mining may be the greatest influence on the two species. The effects of climate change may result in shifts in vegetation types, increased competition between species like *E. kelloggii* and *S. eastwoodiae* and other native and nonnative species (Loarie *et al.* 2008, pp. 1–10), or result in habitat changes resulting from altered fire frequency as discussed above. However, another study found that the area would experience slower winds (less drying effect) and higher humidity, thereby offsetting any temperature increases and limiting the effects of climate change (Fried *et al.* 2004, p. 177).

Predicting how *Eriogonum kelloggii* and *Sedum eastwoodiae* may react to the effects of climate change is difficult. The majority of the distribution of *E. kelloggii* and *S. eastwoodiae* occurs in upland, often exposed, xeric habitats that are expected to offer less refuge under drying or warming conditions. The distribution of both species is also limited to specific edaphic and geologic features on the landscape, which would limit the two plants' ability to spread to more hospitable or suitable habitat over time. Despite these concerns, the populations of both species have remained stable based on the limited survey information available. Although more recent modeling shows the area may be affected by climate change, without long-term information or observed population declines the impacts of such climate change are difficult to determine or predict. Based on the best available information, we do not find that the effects of climate change are negatively impacting populations of *E. kelloggii* and *S. eastwoodiae* now or into the foreseeable future.

Combination of Threats and Cumulative Threats

When conducting our analysis about the potential threats affecting *Eriogonum kelloggii* and *Sedum eastwoodiae,* we also assessed whether the two species may be affected by a combination of factors (see ''Combination of Threats and Cumulative Threats'' section of the Species Report (Service 2014, entire)). In the Species Report (Service 2014, entire), we identified multiple potential threats that may have interrelated impacts on *E. kelloggii* and *S. eastwoodiae* or their habitat.

For example, mining activities and exploration may result in the loss of habitat. Depending on the nature of mining activities, these impacts can be permanent and irreversible (conversion to land uses unsuitable to the species) or less so (minor ground-disturbance and loss of individual plants) (Factors A and E). When mineral development and exploration occurs in-between (but not within) populations, this can eliminate corridors for pollinator movement, seed dispersal, and population expansion. Fire suppression activities, such as grading fire breaks and maintaining access roads, may have direct impacts by removing and crushing plants and eliminating suitable habitat. Indirectly, fire suppression impacts *Eriogonum kelloggii* and *Sedum eastwoodiae* by allowing other vegetation to encroach and to become dominant. Relatively dense growth can lead to shading of *E. kelloggii* and *S. eastwoodiae,* changing the micro-climate around plant clusters, and can also result in competition for space, moisture, nutrients, and light with other plant species in a xeric (dry) landscape. Another consequence of long-term fire suppression is the increase in fire hazards when vegetation is permitted to become relatively dense in a dry environment, thereby leading to a potential of more severe or frequent fire events, which may lead to greater habitat destruction or alteration. Off highway vehicle and other road corridors can exacerbate habitat loss and fragmentation, and tend to be associated with (accompanying or following) fire suppression, recreational, or illegal marijuana cultivation activities (Factors A and E). Off highway vehicle and road corridors tend to create conditions that favor increased habitat disturbance beyond the footprint of the road or OHV corridor, leading to further deterioration of habitat because of increased access (Factors A and E). Climate change has the potential to alter landscape features and conditions, including precipitation and temperature regimes that in turn influence the establishment and persistence of vegetation, which then may influence the frequency and intensity of wildfire (Factors A and E). Because of the limited distribution and restricted nature of the habitat available to the two species, climate change and altered precipitation and temperature regimes may interfere with seedling recruitment and persistence of the two species on the landscape (Factors A and E).

However, the current best available scientific and commercial information does not show that these combined impacts are resulting in significant impacts to either species as a whole. Therefore, we do not consider the cumulative impact of threats to *Eriogonum kelloggii* and *Sedum eastwoodiae* to be substantial at this time, nor into the future.

All or some of the potential stressors could also act in concert to result as a cumulative threat to *Eriogonum kelloggii* and *Sedum eastwoodiae.* However, the best available scientific and commercial information currently does not indicate that these stressors singularly or cumulatively are causing now or will cause in the future a substantial decline of the total extant population of the species or have large impacts to *E. kelloggii* and *S. eastwoodiae* at the species level. Therefore, we do not consider the cumulative impact of these stressors to *E. kelloggii* and *S. eastwoodiae* to be a substantial threat at this time, nor into the future.

Conservation Measures Planned or Implemented

The designation of 6,173 ac (2,498 ha) of BLM land at Red Mountain as a wilderness study area (WSA) in 1979, and 6,895 ac (2,790 ha) as an Area of Critical Environmental Concern (ACEC)/Research Natural Area (RNA) in 1984 (updated in 1989), and the recent designation of the area as a Wilderness Area has focused management concern and direction toward conservation of the unique botanical and soils values of the Red Mountain area, including conservation of *Eriogonum kelloggii* and *Sedum eastwoodiae* (BLM 1995, pp. 3–6 to 3–9). Site visits to Red Mountain are generally conducted annually by BLM staff to ensure that no new road construction occurs (J. Wheeler, BLM, pers. comm. 2014). Most, or all, of the occupied or suitable habitat for *E. kelloggii* and *S. eastwoodiae* in the

vicinity of the South Fork Eel River Wilderness Area was recommended for acquisition (willing landowners) in the resource management plan (RMP) for the area (BLM 1995, pp. 2–32 to 2–37), and several parcels have been acquired. The RMP excludes livestock grazing and off-road vehicle use from the area, guides overall BLM management activities, and is site-specific. There is overlap with the management designations of the Red Mountain ACEC/RNA and the South Fork Eel River Wilderness Area as the entire ACEC/RNA is encompassed by the Wilderness Area designation (J. Wheeler, BLM, pers. comm. 2013).

Conservation measures implemented in 2009 for *Eriogonum kelloggii* and *Sedum eastwoodiae* included only a visual inspection and photo-documentation of a portion of their habitat. Previous conservation measures included initiation of the long-term life history and population monitoring in 1987 (Baad 2002, pp. 2–8); field mapping of occupied habitat on public lands in 2003 (Jennings 2003, pp. 1–8); and general ongoing public outreach activities, such as public field trips and academic visitation. BLM staff applied for grant funding in 2010, to conduct an ecological assessment for the two species. That effort was unsuccessful, but both Service and BLM staff will continue to seek funding to implement complete population inventories, and ecological assessments of the two species and their habitat.

South Fork Eel River Wilderness Area

The designation of the area as the South Fork Eel River Wilderness Area has invoked numerous conservation measures related to maintaining and protecting *Eriogonum kelloggii* and *Sedum eastwoodiae* and their habitat. Signs indicating the wilderness boundary have been posted in many locations. Mechanized or motorized vehicles are not allowed in the wilderness area. Camping is allowed but limited to 14 days. Campfires are allowed unless prohibited during seasonal fire restrictions. Gathering wood for campfires, when permitted, is limited to dead and down materials, and cutting live vegetation is prohibited.

Finding

The Act defines an endangered species as any species that is ''in danger of extinction throughout all or a significant portion of its range'' and a threatened species as any species ''that is likely to become endangered throughout all or a significant portion of its range within the foreseeable future.'' After review of the best available scientific and commercial information pertaining to *Eriogonum kelloggii* and *Sedum eastwoodiae* and their habitat, we have determined that the ongoing threats are not of sufficient imminence, intensity, or magnitude to indicate that *E. kelloggii* and *S. eastwoodiae* are presently in danger of extinction throughout all of their range or likely to become so in the foreseeable future. As stated in the Species Report (Service 2014, p. 11), the location, distribution, and abundance of *E. kelloggii* and *S. eastwoodiae* populations coincide with their known historical distribution and have remained stable relative to their distribution over at least the past 30 years. Both species have a relatively long lifespan, and thus their stable distribution and the persistence of the populations over time (1975–2014) allow us to predict to some degree their persistence into the future. We have determined that the risk of threats acting on these populations are minimal: The fire frequency for the area is low (2 recorded and one unrecorded fire over the past 90 years) and the impacts of those fires have been minimal due to the open nature of the habitat being less prone to intense habitat destruction (Service 2014, pp. 23–25). OHV use has decreased due to the designation of the area as ACEC and Wilderness. Mining interests have also greatly diminished due to numerous factors and no existing claims are currently active or anticipated in the future. If the two species continue to persist in their current distribution, we conclude that they will have sufficient resiliency, redundancy, and representation to persist now and into the future. For *E. kelloggii* and *S. eastwoodiae,* we define foreseeable future as approximately 20 to 30 years. This period is based on the timeframes associated with population studies and informal monitoring for the two species (1986–2014) and the persistence of the populations over time (1975–2014), which demonstrate stable populations over time that are likely to persist over a similar time frame into the future. The period is also based on the minimal fire frequency for the area, the future management of the area as an ACEC and Wilderness, and the relatively long lifespan of individual plants, all of which lead us to conclude that 20–30 years is a time period in which we can reasonably rely on predictions regarding the future populations, status, trends, and threats to each species.

Although some stressors still impact the two species and will continue to do so into the foreseeable future, these threats have either not materialized (commercial mining), or they are not of such magnitude to have population-level impacts. In addition, the implementation of conservation measures and regulatory actions has greatly reduced the imminence and severity of these stressors on *Eriogonum kelloggii* and *Sedum eastwoodiae* and their habitat.

Significant Portion of the Range Determination

Under the Act and our implementing regulations, a species may warrant listing if it is an endangered or a threatened species throughout all or a significant portion of its range. The Act defines ''endangered species'' as any species which is ''in danger of extinction throughout all or a significant portion of its range,'' and ''threatened species'' as any species which is ''likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.'' The term ''species'' includes ''any subspecies of fish or wildlife or plants, and any distinct population segment [DPS] of any species of vertebrate fish or wildlife which interbreeds when mature.'' On July 1, 2014, we published a final policy interpreting the phrase ''significant portion of its range'' (SPR) (79 FR 37578). The final policy states that (1) if a species is found to be an endangered or a threatened species throughout a significant portion of its range, the entire species is listed as an endangered or a threatened species, respectively, and the Act's protections apply to all individuals of the species wherever found; (2) a portion of the range of a species is ''significant'' if the species is not currently an endangered or a threatened species throughout all of its range, but the portion's contribution to the viability of the species is so important that, without the members in that portion, the species would be in danger of extinction, or likely to become so in the foreseeable future, throughout all of its range; (3) the range of a species is considered to be the general geographical area within which that species can be found at the time the Service or the National Marine Fisheries Service makes any particular status determination; and (4) if a vertebrate species is an endangered or a threatened species throughout an SPR, and the population in that significant portion is a valid DPS, we will list the DPS rather than the entire taxonomic species or subspecies.

The SPR policy is applied to all status determinations, including analyses for the purposes of making listing, delisting, and reclassification determinations. The procedure for

analyzing whether any portion is an SPR is similar, regardless of the type of status determination we are making. The first step in our analysis of the status of a species is to determine its status throughout all of its range. If we determine that the species is in danger of extinction, or likely to become so in the foreseeable future, throughout all of its range, we list the species as an endangered (or threatened) species, and no SPR analysis will be required. If the species is neither an endangered nor a threatened species throughout all of its range, we determine whether the species is an endangered or a threatened species throughout a significant portion of its range. If it is, we list the species as an endangered or a threatened species, respectively; if it is not, we conclude that listing the species is not warranted.

When we conduct an SPR analysis, we first identify any portions of the species' range that warrant further consideration. The range of a species can theoretically be divided into portions in an infinite number of ways. However, there is no purpose to analyzing portions of the range that are not reasonably likely to be significant and either an endangered or a threatened species. To identify only those portions that warrant further consideration, we determine whether there is substantial information indicating that (1) the portions may be significant and (2) the species may be in danger of extinction in those portions or likely to become so within the foreseeable future. We emphasize that answering these questions in the affirmative is not a determination that the species is an endangered or a threatened species throughout a significant portion of its range—rather, it is a step in determining whether a more detailed analysis of the issue is required. In practice, a key part of this analysis is whether the threats are geographically concentrated in some way. If the threats to the species are affecting it uniformly throughout its range, no portion is likely to warrant further consideration. Moreover, if any concentration of threats apply only to portions of the range that clearly do not meet the biologically based definition of ''significant'' (i.e., the loss of that portion clearly would not be expected to increase the vulnerability to extinction of the entire species), those portions will not warrant further consideration.

If we identify any portions that may be both (1) significant and (2) endangered or threatened, we engage in a more detailed analysis to determine whether these standards are indeed met. The identification of an SPR does not create a presumption, prejudgment, or other determination as to whether the species in that identified SPR is an endangered or a threatened species. We must go through a separate analysis to determine whether the species is an endangered or a threatened species in the SPR. To determine whether a species is an endangered or a threatened species throughout an SPR, we will use the same standards and methodology that we use to determine if a species is an endangered or a threatened species throughout its range.

Depending on the biology of the species, its range, and the threats it faces, it may be more efficient to address the ''significant'' question first, or the status question first. Thus, if we determine that a portion of the range is not ''significant,'' we do not need to determine whether the species is an endangered or a threatened species there; if we determine that the species is not an endangered or a threatened species in a portion of its range, we do not need to determine if that portion is ''significant.''

We consider the ''range'' of *Eriogonum kelloggii* and *Sedum eastwoodiae* to include all populations within the Red Mountain area in Mendocino County, California. The range of the populations of *E. kelloggii* and *S. eastwoodiae* overlap, except for the one population of *E. kelloggii* on adjacent Little Red Mountain. These populations account for the current and known historical distribution of the two species.

In considering any significant portion of the range of the two species, we considered whether the threats facing *Eriogonum kelloggii* and *Sedum eastwoodiae* might be different at any of the locations where the two species have been found. Our evaluation of the best available information indicates that the overall level of threats is not significantly different at any of the areas where the two species occur (Service 2014, entire), and that the threats that are impacting or have the potential to impact the range of the two species are widespread across the two species' ranges (Service 2014, entire). Therefore, it is our conclusion, based on our evaluation of the current potential threats to *E. kelloggii* and *S. eastwoodiae* at each of the locations where the two species occur (see Summary of Factors Affecting the Species section of this finding and the ''Discussion of Threats to the Species'' section of the Species Report (Service 2014, entire)), that threats are neither sufficiently concentrated nor of sufficient magnitude to indicate that either of the two species are in danger of extinction at any of the areas that support populations.

Our review of the best available scientific and commercial information indicates that neither *Eriogonum kelloggii* nor *Sedum eastwoodiae* is in danger of extinction (an endangered species) or likely to become endangered within the foreseeable future (a threatened species), throughout all or a significant portion of their ranges. Therefore, we find that listing either of these plant species as an endangered or threatened species under the Act is not warranted at this time.

We request that you submit any new information concerning the status of, or threats to, *Eriogonum kelloggii* or *Sedum eastwoodiae* to our Arcata Fish and Wildlife Office (see **ADDRESSES**) whenever it becomes available. New information will help us monitor these two species and encourage their conservation. If an emergency situation develops for either of these plant species, we will act to provide immediate protection.

References Cited

A complete list of all references cited in this final rule is available on the Internet at *http://www.regulations.gov* under Docket No. FWS–R8–ES–2014–0034 or upon request from the Field Supervisor, Arcata Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**).

Authors

The primary authors of this finding are staff from the Pacific Southwest Regional Office in Sacramento, California, in coordination with staff from the Arcata Fish and Wildlife Office in Arcata, California.

Authority

The authority for this section is section 4 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: September 8, 2014.

Stephen Guertin,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 2014–22224 Filed 9–17–14; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R4–ES–2014–0027; 4500030113]

Endangered and Threatened Wildlife and Plants; 12-Month Finding on a Petition To List Symphyotrichum georgianum as an Endangered or Threatened Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of 12-month petition finding.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce a 12-month finding on a petition to list the *Symphyotrichum georgianum* (Georgia aster) as an endangered species under the Endangered Species Act of 1973, as amended (Act). After review of the best available scientific and commercial information, we find that listing the *S. georgianum* is not warranted at this time. However, we ask the public to submit to us any new information that becomes available concerning the threats to the *S. georgianum* or its habitat at any time.

DATES: The finding announced in this document was made on September 18, 2014.

ADDRESSES: This finding is available on the Internet at *http://www.regulations.gov* at Docket Number FWS–R4–ES–2014–0027. Supporting documentation we used in preparing this finding is available for public inspection, by appointment, during normal business hours at the U.S. Fish and Wildlife Service, Asheville Ecological Services Field Office, 160 Zillicoa St., Asheville, NC 28801. Please submit any new information, materials, comments, or questions concerning this finding to the above address.

FOR FURTHER INFORMATION CONTACT: Janet Mizzi, Field Supervisor, Asheville Ecological Services Field Office (see **ADDRESSES**); by telephone at 828–258–3939; or by facsimile at 828–258–5330. If you use a telecommunications device for the deaf (TDD), please call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Background

Section 4(b)(3)(B) of the Act (16 U.S.C. 1531 *et seq.*) requires that, for any petition to revise the Federal Lists of Endangered and Threatened Wildlife and Plants that contains substantial scientific or commercial information that listing the species may be warranted, we make a finding within 12 months of the date of receipt of the petition. In this finding, we determine that the petitioned action is either: (1) Not warranted, (2) warranted, or (3) warranted, but the immediate proposal of a regulation implementing the petitioned action is precluded by other pending proposals to determine whether species are endangered or threatened, and expeditious progress is being made to add or remove qualified species from the Federal Lists of Endangered and Threatened Wildlife and Plants. Section 4(b)(3)(C) of the Act requires that we treat a petition for which the requested action is found to be warranted but precluded as though resubmitted on the date of such finding, that is, requiring a subsequent finding to be made within 12 months. We must publish these 12-month findings in the **Federal Register**.

Previous Federal Actions

Symphyotrichum georgianum was added to the Federal list of candidate species in 1990 (55 FR 6184) as a category 2 species. Category 2 species were those for which there was some evidence of vulnerability, but for which additional biological information was needed to support a proposed rule to list as endangered or threatened. Candidate categories were discontinued in 1996 (61 FR 7596) in favor of maintaining a list that only represented those species for which we have on file sufficient information on biological vulnerability and threats to support a proposal to list as endangered or threatened, but for which immediate preparation and publication of a proposal is precluded by higher priority listing actions. At that time, *S. georgianum* was removed from the candidate species list. In 1999, we returned *S. georgianum* to the candidate species list (64 FR 57534), and it has remained on the candidate list since that time. In the 2007 Candidate Notice of Review (CNOR) (72 FR 69034), the Service downgraded the species' listing priority number from 5 (magnitude of threat = high; immediacy of threat = nonimminent) to 8 (magnitude of threat = moderate; immediacy of threat = imminent) due to an increase in the number of known populations of *S. georgianum* and a corresponding reduction in the magnitude of threats.

On May 11, 2004, we received a petition, dated May 4, 2004, from the Center for Biological Diversity, requesting that *Symphyotrichum georgianum* be listed as an endangered species under the Act. Included in the petition was supporting information regarding the species' taxonomy and ecology, historical and current distribution, present status, and actual and potential causes of decline.

The standard for making a 12-month warranted but precluded finding on a petition to list a species is identical to our standard for making a species a candidate for listing. All candidate species identified through our own initiative already have received the equivalent of substantial 90-day and warranted-but-precluded 12-month findings. Nevertheless, we review the status of the newly petitioned candidate species and through the CNOR publish specific section 4(b)(3) findings (i.e., substantial 90-day and warranted-but-precluded 12-month findings) in response to the petitions to list these candidate species. We publish these findings as part of the first CNOR following receipt of the petition. At the time we received the petition, *Symphyotrichum georgianum* was already on the candidate species list. Therefore, we had determined it was warranted for listing but precluded by higher priority listing actions. We reviewed the status of *S. georgianum* in every CNOR since the petition was received in 2004.

Under the 2011 Multi-District Litigation (MDL) settlement agreements, the Service agreed to systematically, over a period of 6 years, review and address the needs of 251 candidate species to determine if they should be added to the Federal Lists of Endangered and Threatened Wildlife and Plants. *Symphyotrichum georgianum* was on that list of candidate species. Therefore, the Service is making this finding at this time in order to comply with the conditions outlined in the MDL agreement.

This notice constitutes a new 12-month finding and listing determination for *Symphyotrichum georgianum* and supersedes all previous findings.

Species Information

Symphyotrichum georgianum is a flowering plant with large heads, 5 centimeters (cm) (2 inches (in)) across (containing numerous flowers), with dark purple rays up to 2.5 cm (0.9 in) long, and thick, lanceolate (narrow, and tapering toward the apex of the leaf) to oblanceolate (having a rounded apex and a tapering base), scabrous (having small raised dots, scales, or points), clasping leaves. Flowering occurs from early October to mid-November. Disk flowers are white fading to a light or dull lavender, tan or white as they mature, resulting in a difference between colors of early and mature disk corollas (the inner envelope of floral leaves of a flower). The ribbed achenes

(small, dry, one-seeded fruit) are up to 4 millimeters (0.1 in) long, with evenly distributed spreading trichomes (small hairs from the outer layer of a plant). *Symphyotrichum georgianum* can be distinguished from the similar *S. patens* by its dark purple rays (compared to the light lavender rays of *S. patens*), and white to lavender disk flowers (compared to the yellow disk flowers of *S. patens*) (Weakley 2011, p. 968).

Various species of butterflies and bumblebees have been observed pollinating the flowers, but these have not yet been identified to species (Matthews 1993, p. 21). The main mode of reproduction is vegetative. Plants are usually colonial, with one to two stems arising from each underground part.

Taxonomy and Species Description

Alexander initially described the species as *Aster georgianus* based on a specimen collected by Cuthbert in 1898 from Augusta (Richmond County), Georgia (Small 1933, p. 1381). The distribution was listed as the coastal plain and piedmont of Georgia and South Carolina. When Cronquist (1980) prepared the treatment of the Asteraceae for the Southeastern Flora, he included *A. georgianus* as a variety of *A. patens*. Jones (1983), in a Ph.D. dissertation on the Systematics of *Aster* Section *Patentes* (Vanderbilt University, TN), provided morphological (relating to form and structure of a plant or animal or its parts), cytological (cell-based), geographic distributional, and ecological evidence that supported consideration of this taxon as a distinct species.

The genus *Aster* L. (*sensu lato* (in the broad sense)) contains 250–300 species that occur in the northern Hemisphere of Eurasia and North America, with a few species occurring in South America (Nesom 1994). Recent evidence (derived from morphological and molecular characters as well as chromosome counts) supports earlier contentions that North American species are distinct from Eurasian and South American species, and a major revision of the genus is needed (e.g., Nesom 1994; Noyes and Rieseberg, 1999; Brouillet *et al.* 2001; Semple *et al.* 1996). According to these findings, the currently accepted nomenclature for this taxon is *Symphyotrichum georgianum* (Alexander) Nesom.

Habitat

Symphyotrichum georgianum occupies woodlands and piedmont prairies. Soils vary from sand to heavy clay, with pH ranging from 4.4 to 6.8 at the sites sampled for a 1993 study on the species (Matthews 1993, p. 20). The primary controlling factor appears to be the availability of light. The species is a good competitor with other early successional species, but tends to decline when shaded by woody species. Populations can persist for an undetermined length of time in the shade, but these rarely flower (Matthews 1993, p. 20) and reproduce only by rhizomes (horizontal underground stems that put out lateral shoots and adventitious roots at intervals).

Distribution

Symphyotrichum georgianum is a relict species of post oak savanna/prairie communities that existed across much of the southeastern United States prior to widespread fire suppression and extirpation of large native grazing animals (e.g., bison). The species appears to have been extirpated from Florida (Leon County), one of the five States in which it originally occurred. *Symphyotrichum georgianum* is presumed extant in 5 counties in Alabama, 15 counties in Georgia, 9 counties in North Carolina, and 14 counties in South Carolina (Figure 1). The species has been documented at 283 site-specific locations that (due to the proximity of many sites) aggregate into 146 probable populations of the species. Of these 146 populations, 118 are presumed extant.

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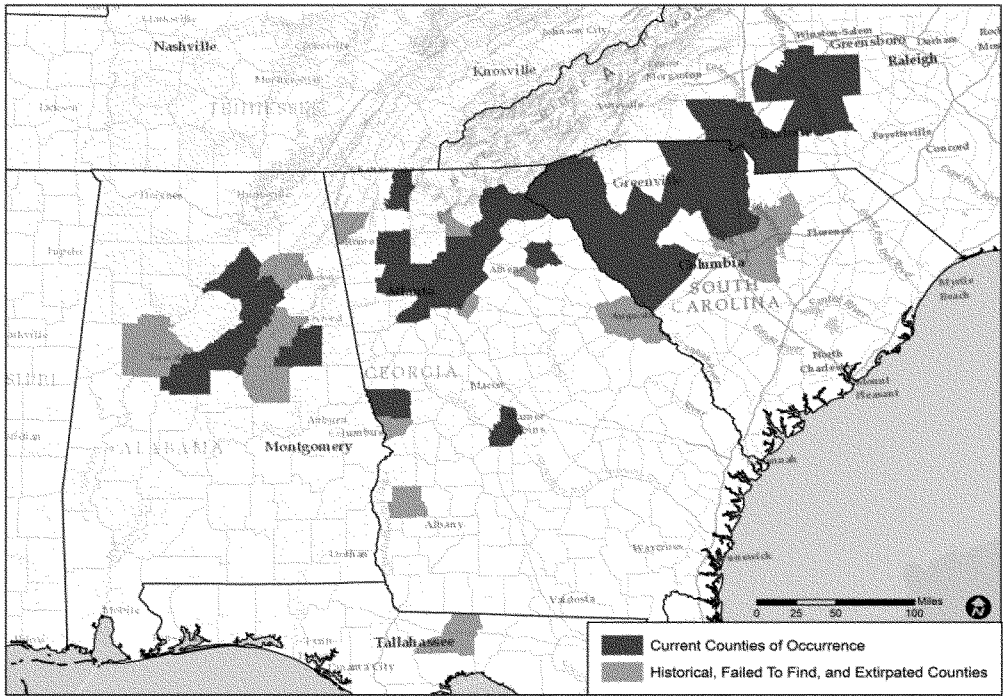
Figure 1. The current and historical county-scale distribution of *S. georgianum*.



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Life History

A genetic study completed in 2013 supports the hypothesis that *Symphyotrichum georgianum* is a perennial outcrossing species due to the majority of its genetic variation being partitioned within populations (87.5%) with less (12.3%) partitioned among populations within States. The genetic relationships among populations roughly reflected geographic proximity, with populations grouping into three groups: Alabama, Georgia, and the Carolinas. This genetic study suggests no difference in genetic variation or seed fitness between large and small populations of *S. georgianum* (Gustafson 2013, pp. 4–5). A seed viability analysis study, done by the Atlanta Botanical Garden, showed that across the range of the species, the percentage of filled seed ranged from 77 percent to 99 percent with a trend for smaller populations to have higher percentages of filled seed. Seed germination ranged from 20 to 90 percent, with seeds from North Carolina populations having significantly lower germination percentages than seeds from other States (Cruse-Sanders 2013, p. 1).

Summary of Information Pertaining to the Five Factors

Section 4 of the Act (16 U.S.C. 1533) and implementing regulations (50 CFR 424) set forth procedures for adding species to, removing species from, or reclassifying species on the Federal Lists of Endangered and Threatened Wildlife and Plants. Under section 4(a)(1) of the Act, a species may be determined to be endangered or threatened based on any of the following five factors:

(A) The present or threatened destruction, modification, or curtailment of its habitat or range;

(B) Overutilization for commercial, recreational, scientific, or educational purposes;

(C) Disease or predation;

(D) The inadequacy of existing regulatory mechanisms; or

(E) Other natural or manmade factors affecting its continued existence.

In making this finding, information pertaining to the *S. georgianum* in relation to the five factors provided in section 4(a)(1) of the Act is discussed below. In considering what factors might constitute threats, we must look beyond the mere exposure of the species to the factor to determine whether the species responds to the factor in a way that causes actual impacts to the species. If there is exposure to a factor, but no response, or only a positive response, that factor is not a threat. If there is exposure and the species responds negatively, the factor may be a threat, and we then attempt to determine how significant a threat it is. If the threat is significant, it may drive or contribute to the risk of extinction of the species such that the species warrants listing as endangered or threatened as those terms are defined by the Act. This finding does not necessarily require empirical proof of a threat. The combination of exposure and some corroborating evidence of how the species is likely impacted could suffice. The mere identification of factors that could impact a species negatively is not sufficient to compel a finding that listing is appropriate; we require evidence that these factors are operative threats that act on the species to the point that the species meets the definition of an endangered or threatened species under the Act.

In making our 12-month finding on the petition we considered and evaluated the best available scientific and commercial information.

Factor A. The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range

The destruction and loss of habitat due to development can detrimentally affect small populations of many rare or locally endemic species, including *Symphyotrichum georgianum.* Habitat loss due to development has been considered a threat to the species in the States where it currently is found, and historically throughout its range (M. (Franklin) Buchanan, pers. comm. 2007; A. Schotz, pers. comm. 2007). Disturbance (e.g., fire, native grazers) is a part of this species' habitat requirements. The historical sources of this disturbance have been virtually eliminated from *S. georgianum's* range, except where road, railroad, and rights-of-way (ROW) maintenance is mimicking the missing natural disturbances. The habitat of some existing populations continues to be subject to destruction, modification, or curtailment due to planned residential subdivision development, highway expansion/improvement projects, and woody succession due to fire suppression.

Conservation Efforts To Reduce Habitat Destruction, Modification, or Curtailment of Its Range

Conservation partners have been working to manage *Symphyotrichum georgianum,* and improvements are continually being made in population size and vigor. A few examples of work by our partners to conserve this plant are highlighted below.

Georgia Department of Natural Resources

Oaky Woods Wildlife Management Area in Georgia has used prescribed fires to help manage for this species. In October 2006, *Symphyotrichum georgianum* (one patch with five flowering-stems) was discovered on the largest prairie remnant in Oaky Woods. Regular winter and early growing season burns every 1 to 3 years on the *S. georgianum* prairie since 2007 greatly enhanced the prairie. By 2012, the small patch had increased to more than 80 flowering stems in a 30 meter (m) by 10 m area, and several new patches have been found on other parts of the prairie habitat (T. Patrick, pers. comm. 2013).

U.S. Forest Service (USFS)

The USFS has been thinning woody vegetation, conducting prescribed burns, and treating for nonnative invasive species to manage for *Symphyotrichum georgianum* on national forest land throughout the species' range. For example, management has aided many populations on the Chattahoochee National Forest in Georgia. As of 2013, nine populations, totaling roughly 5,000 *S. georgianum* stems, grow on the Chattahoochee National Forest. The Chattahoochee National Forest is also working with partners on propagation and out-planting (J. Baggs, pers. comm. 2013). The Talladega National Forest contains Alabama's largest population (approximately 4,000 individuals). In 2008, the Talladega National Forest thinned longleaf pine (*Pinus palustris*) stands to savannah conditions specifically to aid the *S. georgianum* population. The Talladega National Forest is partnering with Auburn University to grow and plant approximately 2,000 *S. georgianum* seedlings (G. Shurette, pers. comm. 2013). The Uwharrie National Forest in North Carolina reduced the basal area (average amount of an area occupied by tree stems) of an oak-hickory forest adjacent to a *S. georgianum* population from 100 square feet (ft^2) to less than 40 ft^2 in 2002. This area was burned in 2003 with the fireline constructed next to the original *S. georgianum* population of 60 stems. This population expanded into the fireline by 2004, and stem counts in 2010 and 2011 indicated a 25-fold increase from 1998 counts (G. Kauffman, pers. comm. 2013). Sumter National Forest is using propagation, out-planting, prescribed-fire, and woody vegetation thinning to increase *S. georgianum* population size (R. Mackie,

pers. comm. 2013). More than 7,000 individuals of *S. georgianum* from 13 populations grow on the Sumter National Forest in South Carolina.

National Park Service

The Chattahoochee River National Recreation Area in Georgia annually monitors the populations that grow in the park. In coordination with the Georgia Department of Transportation, plants were rescued from a road-widening site within the park in 2012 and planted near a parking lot which is maintained via weed-trimming in winter months. This site now has 256 stems showing good viability (Read and Pierson 2012).

State Departments of Transportation

In Georgia, North Carolina and South Carolina, populations have been relocated in advance of road improvement activities that would have destroyed or modified *S. georgianum* habitat.

Summary of Factor A

Since the Service added *Symphyotrichum georgianum* to the candidate list in 1999, more than 50 additional populations of the species have been discovered. There are currently 118 known populations of the species occurring in 4 States. While an unknown number of *S. georgianum* populations may be subject to future habitat loss due to development, a minimum of 55 populations occur on lands managed for conservation. These populations are not subject to development and are being managed to maintain and enhance *S. georgianum.*

Therefore, we conclude, based on the best scientific and commercial information available, that the present or threatened destruction, modification, or curtailment of its habitat or range is not considered a threat to this species, nor is it likely to become a threat in the foreseeable future.

Candidate Conservation Agreement (CCA)

The Service has also worked with partners to create a CCA to establish a formal framework for public and private landowners to continue to cooperate on actions (like those described above) that conserve, manage, and improve *Symphyotrichum georgianum* populations range-wide. Signed by multiple landowners in May 2014, the CCA is voluntary and flexible in nature and aims to continue to reduce habitat destruction, modification, or curtailment of *S. georgianum* range through management techniques designed to mimic natural disturbance by natural or prescribed fire or direct management such as mowing or silvicultural techniques.

Factor B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

This species is not currently known to be a significant component of the commercial trade, and the Service is not aware of any utilization of *Symphyotrichum georgianum* for recreational, scientific, or educational purposes. Furthermore, we found no information indicating that overutilization has led to the loss of populations or a significant reduction in numbers of individuals of this species. Therefore, we conclude based on the best scientific and commercial information available that overutilization for commercial, recreational, scientific, or educational purposes does not currently pose a threat to *S. georgianum,* nor is it likely to become a threat in the foreseeable future.

Factor C. Disease or Predation

In 2010 and 2011, researchers from the North Carolina Botanical Garden, USFS and the Service found larvae (not yet identified) feeding on seeds inside the heads of *Symphyotrichum georgianum* at all sites visited in North Carolina. This activity was also observed in other Asteraceae blooming in the fall during the same study period. Percent of infested heads varied by site and ranged from 10 percent to 40 percent of *S. georgianum* seed heads present. Seeds in infested heads seemed to have low to no viability.

There was evidence of deer browse and reduced seed set at one North Carolina site in 2011 (M. Kunz, pers. comm. 2012). The North Carolina Department of Transportation (NCDOT) found that one population they helped to conserve was heavily impacted by deer browse, prompting them to place deer fencing around transplants in a conservation area (Herman and Frazer 2012, p. 3). Many of Georgia's populations are also impacted by deer browse (M. Moffet and T. Patrick, pers. comm. 2013).

Conservation Efforts to Reduce Disease or Predation

The NCDOT placed deer fencing around one population of *S. georgianum* that they helped conserve.

Although there is evidence showing this species has been impacted by disease and predation, we found no information indicating that disease or predation on *Symphyotrichum georgianum* has led to the loss of populations or a significant reduction in numbers of individuals for this species. Therefore, we conclude, based on the best scientific and commercial information available, that disease or predation does not currently pose a threat to the species, nor is it likely to become a threat in the foreseeable future.

Factor D. The Inadequacy of Existing Regulatory Mechanisms

Section 4(b)(1)(A) of the Act requires the Service to take into account ''those efforts, if any, being made by any state or foreign nation, to protect such species . . .'' In relation to Factor D under the Act, we interpret this language to require the Service to consider relevant Federal, State and tribal laws, plans, regulations and other such mechanisms that may minimize any of the threats we describe in threat analyses under the other four factors or otherwise enhance conservation of the species. Having evaluated the significance of the threat as mitigated by any such conservation efforts, we analyze under Factor D the extent to which regulatory mechanisms are inadequate to address the specific threats to the species. Regulatory mechanisms, if they exist, may reduce or eliminate the impacts from one or more identified threats. We give strongest weight to statutes and their implementing regulations and to management direction that stems from those laws and regulations. An example would be State governmental actions enforced under a State statute or constitution or Federal action under statute.

State Regulations

The North Carolina Plant Conservation and Protection Act (NC State Code Article 19B, § 106–202.12) provides limited protection from unauthorized collection and trade of plants listed under that statute. However, this statute was not designed to protect the species or its habitat from destruction in conjunction with development projects or otherwise legal activities. Plant species are afforded some protection in South Carolina; they are protected from disturbance where they occur on properties owned by the State and specifically managed as South Carolina Heritage Preserves (SC State Code of Regulations Part 123 § 200–204). Portions of two South Carolina populations occur on State park land and are afforded some protection by this State statute. Collection of *S. georgianum* on public lands without a permit is prohibited in Georgia under the Georgia Wildflower Preservation Act of 1973. However, no such provisions

are afforded to plants found on privately owned lands in the State. The species does not receive any specific legal protections from State laws or regulations in Alabama.

Federal Regulations

Thirty-eight extant populations of *Symphyotrichum georgianum* occur on Federal lands (USFS National Forest lands, including the Chattahoochee-Oconee, Sumter, Talladega, and Uwharrie National Forests; National Park Service (NPS) lands, including the Chattahoochee River National Recreation Area and Kings Mountain National Military Park; the Cahaba River National Wildlife Refuge; and land owned by the U.S. Army Corps of Engineers).

The USFS has to maintain viability of this plant on each planning unit where it occurs because *Symphyotrichum georgianum* is a USFS region 8 sensitive species (USFS Handbook 2670 written in 1991, updated by the regional forester in 2001 with *S. georgianum* added). The USFS considers the effects of their actions on the viability of sensitive species through the National Environmental Policy Act process. As defined by USFS policy, actions should not result in loss of species' viability or create significant trends toward the need for Federal listing.

National Park Service policies (NPS 2006) state that ''The National Park Service will inventory, monitor, and manage state and locally listed species in a manner similar to its treatment of federally listed species to the greatest extent possible. In addition, the NPS will inventory other native species that are of special management concern to parks (such as rare, declining, sensitive, or unique species and their habitats) and will manage them to maintain their natural distribution and abundance.''

Management practices being implemented by the USFS and NPS through their policies help abate the threat of habitat destruction, modification, or curtailment to 36 *Symphyotrichum georgianum* populations on Federal lands.

Tribal Regulations

We are not aware of any populations of *Symphyotrichum georgianum* that occur on tribal lands; therefore, there are no tribal regulations that would apply.

Existing regulatory mechanisms are working as designed to reduce or minimize impacts to *Symphyotrichum georgianum.* Therefore, we conclude, based on the best scientific and commercial information available, that the inadequacy of existing regulatory mechanisms does not currently pose a threat to *S. georgianum,* nor is it likely to become a threat in the foreseeable future.

Factor E. Other Natural or Manmade Factors Affecting Its Continued Existence

Due to the elimination of historical sources of disturbance that helped maintain suitable habitat conditions for the species, most of the known populations of *Symphyotrichum georgianum* are now found adjacent to roads, railroads, utility ROW, and other openings where land management mimics natural disturbance regimes. However, at these locations *S. georgianum* also is inherently vulnerable to accidental destruction from herbicide application, road shoulder grading, and other maintenance activities. More utility companies and railroads are shifting to herbicide spraying instead of mowing for longer lasting control of vegetation growth. Repeated mowing of *S. georgianum* populations during the height of the growing season can reduce population vigor, and may eventually kill plants, but these effects take longer to manifest than direct application of herbicides during the growing season.

Several sites are impacted by the encroachment of invasive exotic plants. Examples of these invasive exotic plants include autumn olive (*Elaeagnus umbellata*), Japanese honeysuckle (*Lonicera japonica*), bicolor lespedeza (*Lespedeza bicolor*), sericea (*Lespedeza cuneata*), kudzu (*Pueraria lobata*), Johnson grass (*Sorghum halepense*) and Bahia grass (*Paspalum notatum*). At this time, however, we have no information on the nature or extent of the impacts of invasive plants.

Conservation Efforts To Reduce Other Natural or Manmade Factors Affecting Its Continued Existence

The NCDOT signed a Memorandum of Understanding (MOU) with the North Carolina Department of Environment and Natural Resources (NCDENR) in 1990. Under the MOU, NCDOT agrees to protect populations of North Carolina rare species that occur on NCDOT ROW. In addition to other management actions, under this agreement, NCDOT does not mow in the height of the growing season, and they do not use herbicides near known *Symphyotrichum georgianum* populations.

Since *Symphyotrichum georgianum* was added to the candidate species list in 1999, many threats have been reduced or abated, including potential threats from herbicide application, and other road and utility ROW maintenance activities.

Therefore, we conclude, based on the best scientific and commercial information available, that the threat of other natural or manmade factors has been reduced considerably, and these factors do not currently pose a threat to *Symphyotrichum georgianum,* nor are they likely to in the foreseeable future.

As described under *Factor A,* the CCA formalizes management activities that partners have already been implementing to protect and enhance *S. georgianum* and its habitat.

Cumulative Effects From Factors A through E

None of the cumulative impacts will rise to the level that warrants listing under the Act. The current and threatened destruction, modification, and curtailment of the habitat and range of the species (Factor A) are a concern for the species in the States where it currently is found. Residential subdivision development, highway expansion/improvement projects, and woody succession due to fire suppression are all stressors to habitat. However, these stressors are abated in a large percentage (45 percent) of known populations due to management practices currently being undertaken by USFS, NPS, and multiple State agencies. Existing State regulatory mechanisms were not designed to protect the species or its habitat from destruction in conjunction with development projects or otherwise legal activities, which is a concern. However, the Federal regulations implemented by the USFS and NPS help to protect 36 populations. As described in Factor E, management (mowing and herbicide applications) of roadside and utility ROW, where the majority of the known remaining populations occur, can directly kill the plants. This stressor has been abated in NCDOT ROW due to their MOU with NCDENR.

The CCA simply formalized these ongoing management practices. These management actions will continue to be implemented throughout the species' range.

Finding

As required by the Act, we considered the five factors in assessing whether *Symphyotrichum georgianum* is endangered or threatened throughout all of its range. We examined the best scientific and commercial information available regarding the past, present, and future threats faced by *S. georgianum.* We reviewed the petition, information available in our files, and other available published and

unpublished information, and we consulted with recognized *S. georgianum* experts and other Federal and State agencies.

The species is relatively widely distributed across 4 States with an estimated 118 existing populations. Recent information indicates the species is more abundant now than when we initially identified it as a candidate for listing in 1999 when approximately 60 populations were known. Due to this increase in known abundance of *Symphyotrichum georgianum,* the magnitude of threats has been reduced, as noted previously in our downgrading of the species' listing priority number in the Service's 2007 CNOR (72 FR 69034).

Based on our review of the best available scientific and commercial information pertaining to the five factors, we find that the threats are not of sufficient imminence, intensity, or magnitude to indicate that the *Symphyotrichum georgianum* is in danger of extinction (endangered), or likely to become endangered within the foreseeable future (threatened), throughout all of its range.

Distinct Vertebrate Population Segment (DPS)

Symphyotrichum georgianum is not a vertebrate, and therefore the Service's DPS policy does not apply.

Significant Portion of the Range

Under the Act and our implementing regulations, a species may warrant listing if it is an endangered or a threatened species throughout all or a significant portion of its range. The Act defines ''endangered species'' as any species which is ''in danger of extinction throughout all or a significant portion of its range,'' and ''threatened species'' as any species which is ''likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.'' The term ''species'' includes ''any subspecies of fish or wildlife or plants, and any distinct population segment [DPS] of any species of vertebrate fish or wildlife which interbreeds when mature.'' We published a final policy interpretating the phrase ''Significant Portion of its Range'' (SPR) (79 FR 37578). The final policy states that (1) if a species is found to be an endangered or a threatened species throughout a significant portion of its range, the entire species is listed as an endangered or a threatened species, respectively, and the Act's protections apply to all individuals of the species wherever found; (2) a portion of the range of a species is ''significant'' if the species is not currently an endangered or a threatened species throughout all of its range, but the portion's contribution to the viability of the species is so important that, without the members in that portion, the species would be in danger of extinction, or likely to become so in the foreseeable future, throughout all of its range; (3) the range of a species is considered to be the general geographical area within which that species can be found at the time FWS or NMFS makes any particular status determination; and (4) if a vertebrate species is an endangered or a threatened species throughout an SPR, and the population in that significant portion is a valid DPS, we will list the DPS rather than the entire taxonomic species or subspecies.

The SPR policy is applied to all status determinations, including analyses for the purposes of making listing, delisting, and reclassification determinations. The procedure for analyzing whether any portion is an SPR is similar, regardless of the type of status determination we are making. The first step in our analysis of the status of a species is to determine its status throughout all of its range. If we determine that the species is in danger of extinction, or likely to become so in the foreseeable future, throughout all of its range, we list the species as an endangered (or threatened) species and no SPR analysis will be required. If the species is neither an endangered nor a threatened species throughout all of its range, we determine whether the species is an endangered or a threatened species throughout a significant portion of its range. If it is, we list the species as an endangered or a threatened species, respectively; if it is not, we conclude that listing the species is not warranted.

When we conduct an SPR analysis, we first identify any portions of the species' range that warrant further consideration. The range of a species can theoretically be divided into portions in an infinite number of ways. However, there is no purpose to analyzing portions of the range that are not reasonably likely to be significant and either an endangered or a threatened species. To identify only those portions that warrant further consideration, we determine whether there is substantial information indicating that (1) the portions may be significant and (2) the species may be in danger of extinction in those portions or likely to become so within the foreseeable future. We emphasize that answering these questions in the affirmative is not a determination that the species is an endangered or a threatened species throughout a significant portion of its range—rather, it is a step in determining whether a more detailed analysis of the issue is required. In practice, a key part of this analysis is whether the threats are geographically concentrated in some way. If the threats to the species are affecting it uniformly throughout its range, no portion is likely to warrant further consideration. Moreover, if any concentration of threats apply only to portions of the range that clearly do not meet the biologically based definition of ''significant'' (i.e., the loss of that portion clearly would not be expected to increase the vulnerability to extinction of the entire species), those portions will not warrant further consideration.

If we identify any portions that may be both (1) significant and (2) endangered or threatened, we engage in a more detailed analysis to determine whether these standards are indeed met. The identification of an SPR does not create a presumption, prejudgment, or other determination as to whether the species in that identified SPR is an endangered or a threatened species. We must go through a separate analysis to determine whether the species is an endangered or a threatened species in the SPR. To determine whether a species is an endangered or a threatened species throughout an SPR, we will use the same standards and methodology that we use to determine if a species is an endangered or a threatened species throughout its range.

Depending on the biology of the species, its range, and the threats it faces, it may be more efficient to address the ''significant'' question first, or the status question first. Thus, if we determine that a portion of the range is not ''significant,'' we do not need to determine whether the species is an endangered or a threatened species there; if we determine that the species is not an endangered or a threatened species in a portion of its range, we do not need to determine if that portion is ''significant.''

We evaluated the current range of *Symphyotrichum georgianum* to determine if there is any apparent geographic concentration of potential threats for this species. We examined potential threats and found no concentration of threats that suggests that *S. georgianum* may be in danger of extinction in a portion of its range. We found no portions of the range where potential threats are significantly concentrated or substantially greater than in other portions of its range. Therefore, we find that the factors affecting *S. georgianum* are essentially uniform throughout its range, indicating no portion of the range warrants further

consideration of possible endangered or threatened status under the Act.

Our review of the best available scientific and commercial information indicates that the *Symphyotrichum georgianum* is not in danger of extinction (endangered) nor likely to become endangered within the foreseeable future (a threatened species), throughout all or a significant portion of its range. Therefore, we find that listing *Symphyotrichum georgianum* as an endangered or threatened species under the Act is not warranted at this time.

We request that you submit any new information concerning the status of, or threats to, *Symphyotrichum georgianum* to our Asheville Ecological Services Field Office (see **ADDRESSES**) whenever it becomes available. New information will help us monitor *S. georgianum* and encourage its conservation. If an emergency situation develops for *S. georgianum,* we will act to provide immediate protection.

References Cited

A complete list of references cited is available on the Internet at *http://www.regulations.gov* and upon request from the Asheville Ecological Services Field Office (see **ADDRESSES**).

Author(s)

The primary authors of this notice are the staff members of the Asheville Ecological Services Field Office.

Authority

The authority for this section is section 4 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: September 8, 2014.

Stephen Guertin,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 2014–22242 Filed 9–17–14; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

RIN 0648–BB02

Atlantic Highly Migratory Species; 2006 Consolidated Highly Migratory Species Fishery Management Plan; Amendment 9

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

ACTION: Notice of public hearings.

SUMMARY: On August 7, 2014, NMFS published a proposed rule on Draft Amendment 9 to the 2006 Consolidated Highly Migratory Species (HMS) Fishery Management Plan (FMP) to consider management measures in the smoothhound shark and other Atlantic shark fisheries. As described in the proposed rule, NMFS is proposing measures that would: (1) Establish an effective date for previously-adopted smoothhound shark management measures finalized in Amendment 3 to the 2006 Consolidated HMS FMP (Amendment 3) and the 2011 HMS Trawl Rule; (2) increase the smoothhound shark annual quota previously finalized in Amendment 3 using updated landings data; (3) implement the smooth dogfish-specific provisions in the Shark Conservation Act of 2010 (Pub. L. 111–348) (SCA); (4) implement the Atlantic shark gillnet requirements of a 2012 Shark Biological Opinion; and (5) modify current regulations related to the use of vessel monitoring systems (VMS) by Atlantic shark fishermen using gillnet gear. In this notice, NMFS announces the dates and logistics for two public hearings and two webinars to provide the opportunity for public comment on measures described in the proposed rule and Draft Amendment 9.

DATES: Written comments will be accepted until November 14, 2014. The public hearings and webinars will occur between September 24, 2014, and November 4, 2014. See **SUPPLEMENTARY INFORMATION** for dates, times, and locations.

ADDRESSES: A total of two public hearings (Toms River, NJ, and Manteo, NC) and two webinars will be held to provide the opportunity for public comment. See **SUPPLEMENTARY INFORMATION** for dates, times, and locations.

You may submit comments on the proposed rule identified by ''NOAA–NMFS–2014–0100,'' by any of the following methods:

- *Electronic Submissions:* Submit all electronic public comments via the Federal eRulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2014-0100,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to: Margo Schulze-Haugen, NMFS/SF1, 1315 East West Highway, National Marine Fisheries Service, SSMC3, Silver Spring, MD 20910. Instructions: Please include the identifier NOAA–NMFS–2014–0100 when submitting comments. Comments sent by any other method, to any other address or individual, or received after the close of the comment period, may not be considered by NMFS. All comments received are a part of the public record and generally will be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only. Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this proposed rule may be submitted to the Atlantic Highly Migratory Species Management Division by email to *OIRA_Submission@omb.eop.gov,* or fax to 202–395–7285.

FOR FURTHER INFORMATION CONTACT: LeAnn Hogan, Steve Durkee or Alexis Jackson at 301–427–8503.

SUPPLEMENTARY INFORMATION: Atlantic sharks, including smoothhound sharks, are managed under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), and the authority to issue regulations has been delegated from the Secretary to the Assistant Administrator (AA) for Fisheries, NOAA. Management of these species is described in the 2006 Consolidated HMS FMP and its amendments, which are implemented by regulations at 50 CFR part 635. Copies of the 2006 Consolidated HMS FMP and previous amendments are available from the Highly Migratory Species Management Division Web page at *http://www.nmfs.noaa.gov/sfa/hms/documents/fmp/index.html* or from NMFS on request (see **FOR FURTHER INFORMATION CONTACT**).

On August 7, 2014, NMFS published a proposed rule on Draft Amendment 9 to the 2006 Consolidated HMS FMP to consider management measures in the smoothhound and shark fisheries (79 FR 46217). As described in the proposed rule, NMFS is proposing measures that would: (1) Establish an effective date for previously-adopted smoothhound shark management measures finalized in Amendment 3 (75 FR 30484) and the 2011 HMS Trawl Rule (76 FR 49368); (2) increase the smoothhound shark annual quota previously finalized in

Amendment 3 using updated landings data; (3) implement the smooth dogfish-specific provisions in the SCA; (4) implement the Atlantic shark gillnet requirements of a 2012 Shark Biological Opinion; and 5) modify current regulations related to the use of VMS by Atlantic shark fishermen using gillnet gear. The SCA requires that all sharks landed from Federal waters in the United States be landed with their fins naturally attached to the carcass, but included a limited exception for smooth dogfish.

The call-in information for the webinar on September 24, 2014, is phone number 1–888–955–8966; participant pass code 5372339. Participants can join the webinar at *https://noaa-meets.webex.com/noaa-meets/j.php?MTID=m1b1d0c19ceabce58e2e6b2d9b9f0169c*. The call-in information for the webinar on November 4, 2014, is phone number 1–800–779–8718; participant pass code 9570597. Participants can join the webinar at *https://noaa-meets.webex.com/noaa-meets/j.php?MTID=mf7fa84affe231917855ca41093d776b5*. Enter your name and email address, and click the ''JOIN'' button. Participants that have not used WebEx before will be prompted to download and run a plug-in program that will enable them to view the webinar. Presentation materials and other supporting information will be posted on the HMS Web site at: *http://www.nmfs.noaa.gov/sfa/hms*.

Request for Comments

A total of two public hearings and two webinars will be held to provide the opportunity for public comment on potential management measures. See Table 1 for dates, times and locations of public hearings. During the public comment period, NMFS also consulted with the HMS Advisory Panel on September 10–11, 2014 (79 FR 48125). There were opportunities for public comment during open sessions held each day of the Advisory Panel meeting. See the following Web site for additional details on the Advisory Panel meeting, including the agenda, presentations and outreach materials: *http://www.nmfs.noaa.gov/sfa/hms/advisory_panels/hms_ap/index.html*. Once available, transcripts of the Advisory Panel meeting will be posted as well.

NMFS has also requested time on the meeting agendas of the relevant Regional Fishery Management Councils (i.e., the Gulf of Mexico, South Atlantic, and Mid-Atlantic Fishery Management Councils), as well as with the Atlantic States Marine Fisheries Commission and the Gulf States Marine Fisheries Commission, to present information on the proposed rule and Draft Amendment 9. Information on the date and time of those presentations will be provided on the appropriate council agendas.

TABLE 1—DATES, TIMES AND LOCATIONS OF UPCOMING PUBLIC HEARINGS

Date and time of public hearing	Meeting locations	Location contact information
September 24, 2014—2 p.m.–4 p.m	Webinar	1–888–955–8966; Participant pass code: 5372339; *https://noaa-meets.webex.com/noaa-meets/j.php?MTID=m1b1d0c19ceabce58e2e6b2d9b9f0169c*.
October 7, 2014—5 p.m.–8 p.m	Toms River, NJ	Public Administration Building, Freeholders Meeting Room 119, 101 Hooper Ave., Toms River, NJ 08753, 732–929–2147.
October 15, 2014—5 p.m.–8 p.m	Manteo, NC	Dare Country Administration Building, Commissioner's Meeting Room, 954 Marshall C. Collins Drive, Manteo, NC 27954, (252) 475–5700.
November 4, 2014—2 p.m.–4 p.m	Webinar	1–800–779–8718; Participant pass code: 9570597; *https://noaa-meets.webex.com/noaa-meets/j.php?MTID=mf7fa84affe231917855ca41093d776b5*.

Public Hearing Code of Conduct

The public is reminded that NMFS expects participants at public hearings, webinars, and the HMS Advisory Panel meeting to conduct themselves appropriately. At the beginning of each meeting, a representative of NMFS will explain the ground rules (e.g., alcohol is prohibited from the meeting room; attendees will be called to give their comments in the order in which they registered to speak; each attendee will have an equal opportunity to speak; attendees may not interrupt one another; etc.). NMFS representative(s) will structure the meeting so that all attending members of the public will be able to comment, if they so choose, regardless of the controversial nature of the subject(s). Attendees are expected to respect the ground rules, and those that do not will be asked to leave the meeting.

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

Dated: September 15, 2014.

Emily H. Menashes,

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

[FR Doc. 2014–22266 Filed 9–17–14; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register
Vol. 79, No. 181
Thursday, September 18, 2014

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–2014–0068]

Notice of Request for Extension of Approval of an Information Collection; Trichinae Certification Program

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Extension of approval of an information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request an extension of approval of an information collection associated with the voluntary Trichinae Certification Program to enhance the ability of U.S. pork producers to export pork and pork products to overseas markets.

DATES: We will consider all comments that we receive on or before November 17, 2014.

ADDRESSES: You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2014-0068*.
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2014–0068, 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-2014-0068* or in our reading room, which is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: For information on the Trichinae Certification Program, contact Dr. Troy Bigelow, Senior Staff Veterinarian-Swine, Surveillance, Preparedness and Response Services, VS, APHIS, 210 Walnut Street, Room 891, Des Moines, IA 50309; (515) 284–4121. For copies of more detailed information on the information collection, contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 851–2908.

SUPPLEMENTARY INFORMATION:

Title: Trichinae Certification Program.

OMB Control Number: 0579–0323.

Type of Request: Extension of approval of an information collection.

Abstract: Under the Animal Health Protection Act (7 U.S.C. 8301 *et seq.*), the Animal and Plant Health Inspection Service (APHIS) of the U.S. Department of Agriculture is authorized, among other things, to prohibit or restrict the importation and interstate movement of animals and animal products to prevent the introduction into and dissemination within the United States of livestock diseases and pests and to conduct programs to detect, control, and eradicate pests and diseases of livestock. In addition, under the Agricultural Marketing Act of 1946 (7 U.S.C. 1622), the APHIS Administrator has authority with respect to voluntary inspection and certification of animal products and the inspection, testing, treatment, and certification of animals.

APHIS regulations in 9 CFR part 149 contain certification requirements for the voluntary Trichinae Certification Program, which is a cooperative effort by APHIS and the U.S. pork industry. The program is intended to enhance the ability of swine producers, as well as slaughter facilities and other persons that handle or process swine from pork production sites that have been certified under the program, to export fresh pork and pork products to foreign markets.

There are a number of information collection activities for the voluntary Trichinae Certification Program, including notification to APHIS of program withdrawal, requests to APHIS for temporary program withdrawal, requests for review of audit results or other determinations, certification site audit form and requests for certification site audit, spot audits, animal disposal plans, animal movement records, rodent control logbook, feed mill quality assurance affidavits, slaughter test results, and recordkeeping.

Since the last approval of this collection, the estimated total annual burden on respondents has decreased from 7,492 hours to 2,118 hours, and the estimated annual number of responses has decreased from 14,189 to 3,793. These changes are due to several reasons. We discovered that we did not accurately estimate the number of herds that would be registered for the voluntary Trichinae Certification Program. Our estimates were created at the beginning of the program when it was assumed that the program would continue and grow; however, changes in trade practices have decreased participation in the program. In addition, we adjusted the hours per response for several of the information collection activities to more accurately reflect the time required to complete them.

We are asking the Office of Management and Budget (OMB) to approve our use of these information collection activities for an additional 3 years.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning our information collection. These comments will help us:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies; e.g., permitting electronic submission of responses.

Estimate of burden: The public reporting burden for this collection of information is estimated to average 0.56 hours per response.

Respondents: Auditors (accredited veterinarians or State animal health

officials), pork producers, mill managers, slaughter facility personnel, and personnel from approved laboratories.

Estimated annual number of respondents: 1,250.

Estimated annual number of responses per respondent: 3.03.

Estimated annual number of responses: 3,793.

Estimated total annual burden on respondents: 2,118 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Done in Washington, DC, this 12th day of September 2014.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2014–22256 Filed 9–17–14; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2014–0078]

Field Release of Diaphorencyrtus aligarhensis for the Biological Control of Asian Citrus Psyllid in the Contiguous United States; Availability of an Environmental Assessment

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of availability and request for comments.

SUMMARY: We are advising the public that a draft environmental assessment has been prepared by the Animal and Plant Health Inspection Service relative to the proposed release of *Diaphorencyrtus aligarhensis* for the biological control of the Asian citrus psyllid, *Diaphorina citri,* in the contiguous United States. We are making this environmental assessment available to the public for review and comment.

DATES: We will consider all comments that we receive on or before October 20, 2014.

ADDRESSES: You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2014-0078.*
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2014–0078, 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-2014-0078* 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. Shirley A Wager-Pagé, Assistant Director, Pest Permitting Branch, Registration, Identification, Permitting, and Plant Safeguarding, PPQ, APHIS, 4700 River Road, Unit 133, Riverdale, MD 20737–1236; (301) 851–2323.

SUPPLEMENTARY INFORMATION: The Asian citrus psyllid (*Diaphorina citri;* ACP), can cause economic damage to citrus in groves and nurseries by direct feeding. Both adults and nymphs feed on young foliage, depleting the sap and causing galling or curling of leaves. High populations feeding on a citrus shoot can kill the growing tip.

ACP's primary threat to citrus, however, is not as a direct plant pest, but as an efficient vector of the bacterial pathogen that causes citrus greening. Also known as Huanglongbing (HLB), citrus greening is considered to be one of the most serious citrus diseases in the world. HLB is a bacterial disease, caused by strains of the bacterial pathogen ''Candidatus Liberibacter asiaticus,'' that attacks the vascular system of host plants. The pathogen is phloem-limited, inhabiting the food-conducting tissue of the host plant, and causes yellow shoots, blotchy mottling and chlorosis, reduced foliage, and tip dieback of citrus plants. HLB greatly reduces production, destroys the economic value of the fruit, and can kill trees. Once infected, there is no cure for a tree with HLB. In areas of the world where the disease is endemic, citrus trees decline and die within a few years and may never produce usable fruit.

ACP is currently present in Alabama, American Samoa, Florida, Georgia, Guam, Hawaii, Louisiana, Mississippi, the Northern Mariana Islands, Puerto Rico, Texas, the U.S. Virgin Islands, and portions of Arizona, California, and South Carolina. The Animal and Plant Health Inspection Service (APHIS) is proposing to issue permits for the field release of a parasitic wasp, *Diaphorencyrtus aligarhensis,* to reduce the severity of infestations of ACP in the United States and retard the spread of HLB.

APHIS' review and analysis of the potential environmental impacts associated with this proposed release are documented in detail in an environmental assessment entitled ''Field Release of *Diaphorencyrtus aligarhensis* for the Biological Control of the Asian Citrus Psyllid in the Contiguous United States'' (June 2014). We are making this environmental assessment available to the public for review and comment. We will consider all comments that we receive on or before the date listed under the heading **DATES** at the beginning of this notice.

The environmental assessment may be viewed on the Regulations.gov Web site or in our reading room (see **ADDRESSES** above for a link to Regulations.gov and information on the location and hours of the reading room). You may request paper copies of the environmental assessment by calling or writing to the person listed under **FOR FURTHER INFORMATION CONTACT**. Please refer to the title of the environmental assessment when requesting copies.

The environmental assessment has been prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*); (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508); (3) USDA regulations implementing NEPA (7 CFR part 1b); and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

Done in Washington, DC, this 12th day of September 2014.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2014–22288 Filed 9–17–14; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Forest Service

Revision of the Land and Resource Management Plan for El Yunque National Forest, Puerto Rico

AGENCY: Forest Service, USDA.

ACTION: Notice of Intent to Revise the Land and Resource Management Plan and prepare an Environmental Impact Statement for El Yunque National Forest (El Yunque).

SUMMARY: As directed by the National Forest Management Act (NFMA), the

U.S. Forest Service is preparing the El Yunque National Forest's revised land management plan (forest plan) and will also prepare an Environmental Impact Statement (EIS) for this revised forest plan. This notice briefly describes the nature of the decision to be made, a proposed action based on the preliminary identified need to change the existing plan, and information concerning public participation. It also provides estimated dates for filing the EIS and the name and address of the responsible agency official and the individuals who can provide additional information. Finally, this notice identifies the applicable planning rule that will be used for completing this plan revision. The revised forest plan will supersede the existing forest plan that was approved by the Regional Forester in April 1997. The existing forest plan will remain in effect until the revised forest plan takes effect.

DATES: Comments concerning the proposed action provided in this notice will be most useful in the development of the draft revised forest plan and EIS if received by November 3, 2014. The agency expects to release a draft revised forest plan and draft EIS for formal comment by May 2015 and a final revised forest plan and final EIS by February 2016.

ADDRESSES: Send written comments to El Yunque National Forest, Attn: El Yunque Plan Revision, HC 01 Box 13490, Rio Grande, PR 00745. Comments may also be sent via email to *commentselyunqueplan@fs.fed.us,* or via facsimile to 787–888–5685. Electronic comments should include ''El Yunque Plan Revision'' in the subject line. Written comments may also be delivered to: El Yunque National Forest, Headquarter's Office, PR–191 Km. 4.4, Rio Grande, PR.

FOR FURTHER INFORMATION CONTACT: Planning Team Leader Pedro Rios or Public Affairs Specialist Carolyn Krupp, El Yunque National Forest at (787) 888–1880. Information on this revision is also available on the El Yunque National Forest's Web site at *http://www.fs.usda.gov/elyunque/planning.* Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at (800) 877–8339. Please call 8 a.m.–noon and 1 p.m.–4:30 p.m. Eastern Time Monday through Friday, except on federal holidays.

SUPPLEMENTARY INFORMATION:

A. Lead and Cooperating Agencies

The U.S. Forest Service is the lead agency on revision of the forest plan.

B. Name and Address of the Responsible Official

The responsible official who will approve the Record of Decision is Forest Supervisor Pablo Cruz, El Yunque National Forest, HC01 Box 13490, Rio Grande, PR 00745.

C. Nature of the Decision To Be Made

The El Yunque National Forest (NF) is preparing an EIS to revise the existing forest plan. The EIS process informs the Forest Supervisor so that he can decide which alternative best meets the public's diverse needs while conserving the forests' resources as required by the NFMA and the Multiple Use Sustained Yield Act.

The revised forest plan will:

- Describe the strategic intent of managing El Yunque NF into the next 10 to 15 years and address the identified needs to change the existing land management plan. Section D of this notice provides a description of the preliminary need to change and a description of the proposed action.
- Provide management direction in the form of desired conditions, objectives, suitability determinations, standards, guidelines and a monitoring program.
- Make changes to the structure and delineation of the Management Areas described in the existing plan along with possible changes to administratively designated areas and recommendations for changes to other designations.
- Provide a description of the plan area's distinctive roles and contributions within the broader landscape.

Some decisions will not be made within the revised forest plan. The following is an example:

- The authorization of project-level activities within El Yunque NF is not a decision made in the forest plan but occurs through subsequent project specific decision-making.

D. Need for Change and Proposed Action

According to the NFMA, forest plans are to be revised on a 10 to 15 year cycle. The purpose and need for revising the current forest plan is (1) since the forest plan was approved in 1997, there have been changes in economic, social, and ecological conditions, new policies and priorities, and new information based on monitoring and scientific research; (2) a Comprehensive Evaluation Report was completed in 2007 which identified a number of recommended changes to the 1997 forest plan; (3) the findings from the Assessment have identified changes that need to be made in the forest plan; and (4) extensive public involvement has further identifed areas in the plan that need to be changed. A fully developed description of these preliminary identified need to change areas is available for review on El Yunque NF's Web site at *http://www.fs.usda.gov/elyunque/planning.*

A proposed action to address the preliminary identified need to change areas and to address the planning, collaborative, sustainability, social, economic, and ecological needs has been developed. At this point, the proposed action is comprised of ideas that are strategic and will provide overall guidance. It is based on the roles and contributions of El Yunque NF as well as the management challenges ahead.

The major themes that the proposed action addresses are:

- Develop a plan that introduces social and economic sustainability as part of a balanced solution to planning.
- Improve collaboration at the local level and increase co-management opportunities.
- Create an improved recreation, access, and tourism system for the forest.
- Increase environmental literacy in local communities.
- Promote a stronger regional identity in and around the forest.
- Manage for the enhancement of ecosystem services from the forest.
- Improve the roads and trails.
- Adapt planning to climate change and other changing conditions.
- Align forest management and new research opportunities.
- Revise Wilderness management direction.
- Address the management of At-Risk Species.

A fully developed description of the proposed action is also available for review on El Yunque NF's Web site at *http://www.fs.usda.gov/elyunque/planning.*

In the sections that follow, organized by planning and resource topic areas, a brief description of what needs to be changed is provided, along with a summary of how the proposed action would address those areas that need to be changed.

Planning Direction

There is a need to reconsider the overall management area scheme used in the 1997 Plan. There is a fundamental need for the revised plan to consider reduced Forest budgets, increased use, changing climate and diverse social conditions. There is a need to better

recognize and potentially enhance the role of El Yunque NF in supporting local economies through a service-based economy focused on recreation and tourism. There is a need to include plan direction regarding potential climate change effects such as increases in storm events, flooding, and other extreme weather and to incorporate opportunities for working across boundaries to manage landscapes with adjacent land managers such as state and federal partners and other land management entities.

The Proposed Action is to: (1) Define the broader landscape as the eight municipalities surrounding the planning unit, (2) develop desired conditions that consider the broader landscape, (3) identify plan components that focus on sustainability, (4) modify the number, arrangement, and boundaries of the current plan's management areas to reduce complexity and increase flexibility, and (5) develop an integrated management strategy for NF lands within the municipalities of Ceiba, Naguabo, Las Piedras and Juncos, which recognizes the unique sub-regional landscape and social and economic conditions.

Collaborative Adaptive Management

There has been a change in the collaborative environment outside the Forest due to the establishment of new organizations and protected areas. The Proposed Action is to: (1) Shift from Forest Service driven management priorities to a more collaborative and social learning approach to management in which we work in a more cooperative manner to determine which actions should be taken, and (2) assist in the development of various participatory management activities in areas such as interpretation, recreation, economic development, conservation, restoration, research and monitoring.

Environmental Literacy and Education

There is a gap in knowledge regarding forest management among communities and the youth in particular. Closing such a gap would improve the public's capacity to participate in the forest's conservation and sustainability management. The Proposed Action is to develop management strategies that will: (1) Engage communities in forest restoration activities to sustain long-term change, and (2) consider allocation of areas dedicated for open classroom education.

Experimental Forest

Effectively managing tropical ecosystems in the face of multifaceted global change requires the understanding of ecological and social mechanisms that drive the function of forest systems. The International Institute of Tropical Forestry research continues its tradition of research with international applications based on a platform in Puerto Rico. Research focuses on understanding ecosystem dynamics in the face of global change across a gradient from wild lands to working lands to cities. A new emphasis on understanding societal and institutional interactions with the landscape will help to inform management and predict future states of tropical forests. The Proposed Action is to: (1) Revise plan components to facilitate research implementation focusing on tropical ecosystem dynamics at watershed and landscape scales, assessing effects of climate and land use change, and working lands, (2) create or revise plan components for an Air Research Site located near East Peak, and (3) integrate research needs and related standards and guidelines into the management direction for the Wilderness area.

Broader Landscape and Lands

Forested areas represent the largest portion of land cover in the region surrounding El Yunque NF, and forested cover has increased over the past several decades. Nonetheless, urban cover is increasing at a much more rapid pace, resulting in landscape fragmentation and negative effects on the Forest and other natural areas in the region. Moreover, many of the negative effects of urbanization are likely to be compounded in the context of global climate change. Plan direction should promote the maintenance of existing arrangements and the pursuit of new opportunities for land acquisition and conservation across Forest boundaries by working with adjacent and interested public and private land managers, land owners, and other stakeholders within a landscape approach. The Proposed Action is to: (1) Create a land acquisition plan that promotes conservation initiatives for stream corridors, riparian areas, and Wild & Scenic River corridors and connections to the Gran Reserva de Noreste Rivers Reserve, and (2) integrate lands programs to include conservation easements, donations, and private lands.

Social-Economic

The regional population is large, dense, and growing, albeit at a slower pace than in decades past. Per capita and family wealth in the region has increased over many decades, but only modestly outpacing inflation. Overall, poverty rates remain high among families and particularly, among children. Unemployment rates also are high, but slowly improving. Additionally, the regional population is aging, yet still maintains a significant portion that is young. The Forest Plan direction should provide a sustainable supply of goods and services to local and other populations, including the need to support community-based economic development and opportunities and to promote human health and well-being in and around the Forest. Plan direction also should update, adapt, or target the spectrum of recreation opportunities to better reflect current and projected demands and potential impacts from an aging population. Strategies should be directed to improve existing recreation opportunities and develop new services within a long-term vision. The Proposed Action is to: (1) Create recreational opportunities that consider regional population changes and new visitation patterns, and (2) design a forest plan that supports community-based economic interests and promotes human health and well-being.

Recreational Settings

Public access to different parts of the Forest beyond the high visitation corridor has been limited. Access to recreation areas needs to take into consideration carrying capacity. The Proposed Action is to: (1) Create new recreational opportunities at lower elevations, (2) use the recreational sustainability framework as a guide to developing plan components, (3) restore recreational settings that have been affected by climatic changes and inappropriate use to improve the quality of outdoor experiences, (4) resolve unmanaged recreation challenges through a planned and properly designed network of roads, trails, and facilities, (5) use educated citizen stewardship and partnerships, as well as field presence to provide quality recreation experiences, while reducing the effects of visitor use on the landscape, and (6) develop a Forest access strategy integrated with the regional elements such as tourism, recreation and existing protected areas while recognizing the opportunity to diversify access and alleviate high use on PR–191.

Recreational Operations

Visitation to the El Yunque National Forest continues to increase, creating more pressure on PR–191 Recreation Corridor. The Proposed Action is to develop plan direction that addresses recreation use capacity, which would

consider elements such as hosting, parking, and quality of facilities.

Connecting Communities Through Recreation

The recreation facilities are concentrated along the corridor of PR–191 North. These areas are deep inside the forest boundary and away from local communities. The Proposed Action is to develop management strategies that will connect urban areas and rural communities to the scenic attractions, historic places, and recreation opportunities in lower elevations of the forest.

Special Recreational Places in the El Yunque National Forest

El Toro Wilderness Law was signed in 2005. There is a need to update plan direction for managing wilderness. Particular management concerns include limited use, special use permitting, and control of non-native species. The Proposed Action is to: (1) Develop plan components for the El Toro Wilderness Area that will address limiting use when necessary and the control of non-native species, and (2) develop management components that would facilitate a PR 186 Scenic Route.

Know Our Visitors, Community Stakeholders, and Other Recreation Providers

There is a need to be responsive to changing trends in regard to services, activities, and types of facilities desired by the public, but at the same time balance those with fiscal reality and environmental constraints. The trends in demographics such as the expectation of an older and more ethnically diverse population will create a need to promote outdoor physical activities among this sector of the population and among youth. The desire to support local cultures and economies should be considered in establishing a direction for recreation management on El Yunque NF. The Proposed Action is to: (1) Create a Monitoring Program that will work closely with Research to stay current on demographic changes, changing values and demands, data sources, new technologies, and management tools.

Scenic Character

Visitors are drawn to El Yunque NF for its natural scenic beauty comprised of immensely diverse vegetation, steep landforms, clear streams, and waterfalls. The Proposed Action is to develop plan components using the Scenery Management System.

Cultural Resources

Although the Forest administration has made good progress in the inspection and nomination of heritage resources, only a small number of potential candidate sites have been nominated. Maintenance of cultural assets faces a critical challenge as a consequence of reduced economic resources. The Proposed Action is to develop management strategies that will reuse historic properties potentially at: Stone House, El Yunque Peak Quarters, Baño de Oro, Baño Grande, Casa Cubuy and El Verde House.

Infrastructure

There are a variety of structures and associated utilities across El Yunque NF that are used for recreation, administration, research, maintenance, storage, and other general management purposes. There are also a high number of vacant and abandoned structures in El Yunque NF. The Proposed Action is to develop management strategies that will: (1) Plan for reducing the backlog of accrued facility deferred maintenance, particularly those items associated with health and safety, (2) match the facility inventory with current management needs, including decommissioning and disposing of those facilities which are no longer required, and (3) promote local and new business opportunities.

Economic and Ecosystem Services

Ecosystem services provided by El Yunque National Forest include: Clean water, habitat for flora and fauna, air purification, recreation, and scenic value. The Proposed Action is to integrate ecosystem services into the development of resource plan components.

Wetlands

The land above 600 meters of elevation contains the soil, vegetation and hydrological elements of a functional wetland. This is a forest condition not dealt with in the 1997 Plan. The Proposed Action is to: (1) Develop plan components that protect the current condition, and (2) identify management strategies and/or plan components to ensure functional wetlands are administered in accordance with management requirements.

Vegetation

The 1997 Plan was developed based on four forest types. There is a need to review current management areas to consider new information about the 15 vegetation types present in El Yunque NF. The Proposed Action is to: (1) Develop management direction that will protect and conserve the Riparian areas, (2) identify suitable and non-suitable lands for anthropogenic uses, and (3) identify plan components for the new vegetation types that are rare for PR and endemic to El Yunque NF.

Water

Management strategies for water quality and quantity require an integrated approach to move toward our vision for healthy watersheds. The watercourses within El Yunque NF provide many beneficial uses including recreation, fish and wildlife maintenance, in-stream flow, and water level protection. The Proposed Action is to: (1) Provide for the beneficial uses of water, (2) incorporate the Watershed Condition Framework in the plan, and (3) maintain water quality on water runoff from national forest lands.

Flora

There are an estimated total of 636 native and endemic plant species in El Yunque NF, for which their conservation status was evaluated and At-Risk Species have been identified, including eight plant species that are federally listed as endangered or threatened with extinction by the US Fish and Wildlife Service (USFWS.) The Proposed Action is to identify and address the management needs for these At-Risk species (which include the Species of Conservation Concern).

Wildlife

There are an estimated total of 166 animal species found in El Yunque NF, which include: 32 species of snails and crustaceans (invertebrate species), 134 vertebrate species and about 11 orders of insects that include multiple families. At-Risk species have been identified, including four species federally listed as endangered or threatened by the USFWS (Puerto Rican Parrot, Puerto Rican Broad-winged and Sharp-shinned hawks, and the Puerto Rican Boa. The list of potential Species of Conservation Concern includes coquis, anole lizards, bats, birds, fishes, freshwater shrimp and snails. Since the 1997 El Yunque NF Plan was developed, new and better-defined ecosystem drivers for Forest Service policy such as climate change and invasive species has brought the need to address management concerns towards the viability of ''at risk'' fauna species.

There is a need to provide plan direction to better control the introduction and spread of invasive species on the national forest, including direction that would minimize the spread of invasive plants that may increase as a result of management

activities. There is a need to include direction for improving aquatic passage in streams where it is compromised. Direction should include restoring and expanding the range of native aquatic species and connectivity of fragmented populations.

The Proposed Action is to: (1) Modify the present Puerto Rican Parrot Management Situation Appendix since El Yunque NF is no longer the preferred habitat for the parrot, but habitat management recovery for remaining populations will continue in the broader landscape capacity through interagency collaborative effort, in compliance with the recovery plan for the Puerto Rican Parrot; (2) address the information gap of the coqui species that are identified as Species of Conservation Concern, focusing in on habitat conditions to better develop appropriate management strategies; (3) identify Wildlife Stand Improvement areas for all terrestrial vertebrate species; (4) identify aquatic passage barriers; (5) manage broader landscape needs collaboratively with partners and State agencies; (6) change from an integrated pest management strategy in the current plan to an invasive species management strategy, in compliance with the executive order; (7) control mongoose, rat, feral cat and dog populations actively in prioritized areas, and if needed, control invasive aquatic populations within the forest; and (8) update the flight restriction over the forest in compliance with the new FAA guidelines for wildlife and wilderness conservation.

E. Public Involvement

Listening sessions and a workshop focused on collaboration were conducted with the public in September and Decmber 2012 which identified public concerns and provided information about the planning process and collaboration. Between January and April 2014 four community meetings were conducted to solicit comments, opinions, data and ideas from members of the public as well as representatives of other governmental and non-governmental organizations. In May 2014 there was a forum to share information on the Plan Assessment and its key findings and to gather comments from the public. Approximatey 200 participants attended these meetings.

Comments received from the public meetings and from written electronic comments, along with information obtained from the assessment, were used to develop the preliminary need to change statements. A draft assessment was released to the public in March 2014. Comments that have already been received and any other comments relating to the assessment that may be received following the publication of this notice will be considered in completing the assessment and in describing the Affected Environment section of the EIS. It is anticipated that a completed assessment report will be posted on the forest's Web site *http://www.fs.usda.gov/elyunque/planning* within four months after the scoping period closes.

F. Issues and Preliminary Alternatives

Information gathered during this scoping period, as well as other information, will be used to prepare the draft EIS. At this time, El Yunque NF is seeking input on the proposed action. From these comments, the Forest Service will identify issues that will serve as a focus for developing a draft forest plan and alternatives to be analyzed in the EIS.

G. Scoping Process

Written comments received in response to this notice will be:

- Analyzed to complete the identification of the need to change the existing plan;
- Used to further develop the proposed action; and
- Used to identify potential significant issues.

Significant issues will, in turn, form the basis for developing alternatives to the proposed action. Comments on the preliminary need to change and proposed action will be most valuable if received by November 3, 2014 and should clearly articulate the reviewer's opinions and concerns. Comments received in response to this notice, including the names and addresses of those who comment, will be part of the public record. Comments submitted anonymously will be accepted and considered; however, see Section I concerning the objection process and the requirements for filing an objection. Refer to the El Yunque NF Web site at *http://www.fs.usda.gov/elyunque/planning* for information on when public meetings will be scheduled for refining the proposed action and identifying possible alternatives to the proposed action.

H. Applicable Planning Rule

Preparation of the revised forest plan for El Yunque NF began with the publication of a Notice of Initiation in the **Federal Register** on November 21, 2013 [78 FR 69814] and was initiated under the planning procedures contained in the 2012 Forest Service planning rule (36 CFR 219 (2012)).

I. Decision Will Be Subject to Objection

The decision to approve the Revised Land Management Plan for El Yunque National Forest will be subject to the objection process identified in 36 CFR 219 Subpart B (219.50 to 219.62). According to 36 CFR 219.53(a), those who may file an objection are individuals and entities who have submitted substantive formal comments related to a plan revision during the opportunities provided for public comment during the planning process.

J. Permits or Licenses Required to Implement the Proposed Action

No permits or licenses are needed for the development of a Land and Resource Management Plan.

K. Documents Available for Review

The complete preliminary need for change document, the assessment report including specialist reports, summaries of the public meetings and public meeting materials, and the El Yunque's proposed action are posted on the El Yunque NF Web site at: *http://www.fs.usda.gov/elyunqque/planning.* As necessary or appropriate, the material available on this site will be further adjusted as part of the planning process using the provisions of the Forest Service 2012 planning rule. (Authority: 16 U.S.C. 1600–1614; 36 CFR 219 [77 FR 21260–21273])

Dated: September 12, 2014.

Pablo Cruz,

Forest Supervisor, El Yunque National Forest.

[FR Doc. 2014–22274 Filed 9–17–14; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

National Agricultural Statistics Service

Notice of Intent To Request Revision and Extension of a Currently Approved Information Collection

AGENCY: National Agricultural Statistics Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 this notice announces the intention of the National Agricultural Statistics Service (NASS) to request revision and extension of a currently approved information collection, the Agricultural Labor Survey. Revision to burden hours will be needed due to changes in the size of the target population, sampling design, and/or questionnaire length.

DATES: Comments on this notice must be received by November 17, 2014 to be assured of consideration.

ADDRESSES: You may submit comments, identified by docket number 0535–0109, by any of the following methods:

- *Email: OMBofficer@nass.usda.gov.* Include docket number above in the subject line of the message.
- *eFax:* (855) 838–6382.
- *Mail:* Mail any paper, disk, or CD–ROM submissions to: David Hancock, NASS Clearance Officer, U.S. Department of Agriculture, Room 5336 South Building, 1400 Independence Avenue SW., Washington, DC 20250–2024.
- *Hand Delivery/Courier:* Hand deliver to: David Hancock, NASS Clearance Officer, U.S. Department of Agriculture, Room 5336 South Building, 1400 Independence Avenue SW., Washington, DC 20250–2024.

FOR FURTHER INFORMATION CONTACT: R. Renee Picanso, Associate Administrator, National Agricultural Statistics Service, U.S. Department of Agriculture, (202) 720–2707.

SUPPLEMENTARY INFORMATION:

Title: Agricultural Labor Survey.

OMB Control Number: 0535–0109.

Expiration Date of Approval: January 31, 2015.

Type of Request: Intent to Seek Approval to Revise and Extend an Information Collection for 3 years.

Abstract: The primary objective of the National Agricultural Statistics Service is to prepare and issue State and national estimates of crop and livestock production, disposition, and prices. The Agricultural Labor Survey provides quarterly statistics on the number of agricultural workers, hours worked, and wage rates. Number of workers and hours worked are used to estimate agricultural productivity; wage rates are used in the administration of the H–2A Program and for setting Adverse Effect Wage Rates. Survey data are also used to carry out provisions of the Agricultural Adjustment Act. NASS intends to request that the survey be approved for another 3 years.

Authority: These data will be collected under the authority of 7 U.S.C. 2204(a). Individually identifiable data collected under this authority are governed by Section 1770 of the Food Security Act of 1985 as amended, 7 U.S.C. 2276, which requires USDA to afford strict confidentiality to non-aggregated data provided by respondents. This Notice is submitted in accordance with the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3501, et seq.) and Office of Management and Budget regulations at 5 CFR part 1320.

NASS also complies with OMB Implementation Guidance, ''Implementation Guidance for Title V of the E-Government Act, Confidential Information Protection and Statistical Efficiency Act of 2002 (CIPSEA),'' **Federal Register**, Vol. 72, No. 115, June 15, 2007, p. 33362.

Estimate of Burden: This information collection consists of three individual surveys. In April, NASS will collect data for the January and April quarters and in October, NASS will collect data for both the July and October quarters. Following these two surveys NASS will re-contact approximately 1,000 operators to conduct quality control surveys to help insure the quality of the data collected. The sample sizes will be increased in 2015 to achieve statistical targets. The public reporting burden for this information collection is estimated to average 5 minutes for the quality control surveys and 30 minutes per response in April and October.

Respondents: Farms and businesses.

Estimated Number of Respondents: 16,000.

Estimated Total Annual Burden on Respondents: 15,500 hours.

Copies of this information collection and related instructions can be obtained without charge from David Hancock, NASS Clearance Officer, at (202) 690–2388.

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 will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, through the use of appropriate automated, electronic, mechanical, technological or other forms of information technology collection methods.

All responses to this notice will become a matter of public record and be summarized in the request for OMB approval.

Signed at Washington, DC, September 8, 2014.

R. Renee Picanso,

Associate Administrator.

[FR Doc. 2014–22270 Filed 9–17–14; 8:45 am]

BILLING CODE 3410–20–P

DEPARTMENT OF AGRICULTURE

National Agricultural Statistics Service

Notice of Invitation for Nominations to the Advisory Committee on Agriculture Statistics

AGENCY: National Agricultural Statistics Service (NASS), USDA.

ACTION: Solicitation of Nominations to the Advisory Committee on Agriculture Statistics.

SUMMARY: In accordance with the Federal Advisory Committee Act, 5 U.S.C. App. 2, this notice announces an invitation from the Office of the Secretary of Agriculture for nominations to the Advisory Committee on Agriculture Statistics.

On September 2, 2014, the Secretary of Agriculture renewed the Advisory Committee charter for a two-year term to expire on September 2, 2016. The purpose of the Committee is to advise the Secretary of Agriculture on the scope, timing, content, etc., of the periodic censuses and surveys of agriculture, other related surveys, and the types of information to obtain from respondents concerning agriculture. The Committee also prepares recommendations regarding the content of agriculture reports and presents the views and needs for data of major suppliers and users of agriculture statistics.

DATES: Written nominations must be received on or before October 24, 2014.

ADDRESSES: You may submit nominations by any of the following methods:

- *Email:* Scan the completed form and email to: *HQSDOD@nass.usda.gov.*
- *eFax:* (855) 593–5473
- *Mail:* Nominations should be mailed to Hubert Hamer, Executive Director, Agricultural Statistics Board, National Agricultural Statistics Service, U.S. Department of Agriculture, 1400 Independence Avenue SW., Room 5431 South Building, Washington, DC 20250–2010.
- *Hand Delivery/Courier:* Hand deliver to: Hubert Hamer, Executive Director, Agricultural Statistics Board, National Agricultural Statistics Service, U.S. Department of Agriculture, 1400 Independence Avenue SW., Room 5431 South Building, Washington, DC 20250–2010.

FOR FURTHER INFORMATION CONTACT: Hubert Hamer, Executive Director, Agricultural Statistics Board, National Agricultural Statistics Service, (202) 720–3896.

SUPPLEMENTARY INFORMATION: Each person nominated to serve on the

committee is required to submit the following form: AD–755 (Advisory Committee Membership Background Information, OMB Number 0505–0001), available on the Internet at *http://www.usda.gov/documents/OCIO_AD_755_Master_2012.pdf.* This form may also be requested by telephone, fax, or email using the information above. Completed forms may be faxed to the number above, mailed, or completed and emailed directly from the Internet site.

For more information on the Advisory Committee on Agriculture Statistics, see the NASS Web site at *http://www.nass.usda.gov.* At the top of the homepage, click on the tab titled ''About NASS''. The ''Advisory Committee on Agricultural Statistics'' button is along the right column.

The Committee draws on the experience and expertise of its members to form a collective judgment concerning agriculture data collected and the statistics issued by NASS. This input is vital to keep current with shifting data needs in the rapidly changing agricultural environment and keeps NASS informed of emerging issues in the agriculture community that can affect agriculture statistics activities.

The Committee, appointed by the Secretary of Agriculture, consists of 20 members representing a broad range of disciplines and interests, including, but not limited to, producers, representatives of national farm organizations, agricultural economists, rural sociologists, farm policy analysts, educators, State agriculture representatives, and agriculture-related business and marketing experts.

Members serve staggered 2-year terms, with terms for half of the Committee members expiring in any given year. Nominations are being sought for 6 open Committee seats. Members can serve up to 3 terms for a total of 6 consecutive years. The Chairperson of the Committee shall be elected by members to serve a 1-year term.

Equal opportunity practices, in line with USDA policies, will be followed in all membership appointments to the Committee. To ensure that the recommendations of the Committee have taken into account the needs of the diverse groups served by USDA, membership will include to the extent possible, individuals with demonstrated ability to represent the needs of all racial and ethnic groups, women and men, and persons with disabilities.

The duties of the Committee are solely advisory. The Committee will make recommendations to the Secretary of Agriculture with regards to the agricultural statistics programs of NASS, and such other matters as it may deem advisable, or which the Secretary of Agriculture; Under Secretary for Research, Education, and Economics; or the Administrator of NASS may request. The Committee will meet at least annually. All meetings are open to the public. Committee members are reimbursed for official travel expenses only.

Send questions, comments, and requests for additional information to the email address, fax number, or address listed above.

Signed at Washington, DC, September 8, 2014.

Renee Picanso,

Associate Administrator, National Agricultural Statistics Service.

[FR Doc. 2014–22271 Filed 9–17–14; 8:45 am]

BILLING CODE 3410–20–P

BROADCASTING BOARD OF GOVERNORS

Sunshine Act Meeting

DATE AND TIME: Friday, September 19, 2014, 4:00 p.m. EDT.

PLACE: Broadcasting Board of Governors, Cohen Building, Room 3321, 330 Independence Ave. SW., Washington, DC 20237.

SUBJECT: Notice of Closed Meeting of the Broadcasting Board of Governors

SUMMARY: The members of the Broadcasting Board of Governors (BBG) will meet in a special session, to be conducted telephonically, to discuss the results of a search effort for potential candidates for the position the Chief Executive Officer of U.S. International Media. This meeting will be closed to public observation pursuant to 5 U.S.C. 552b(c)(6) in order to protect the privacy interests of candidates considered but not selected for the position. In accordance with the Government in the Sunshine Act and BBG policies, the meeting will be recorded and a transcript of the proceedings, subject to the redaction of information protected by 5 U.S.C. 552b(c)(6), will be made available to the public. The publicly-releasable transcript will be available for download at *www.bbg.gov* within 21 days of the date of the meeting.

Information regarding member votes to close the meeting and expected attendees can also be found on the Agency's public Web site.

CONTACT PERSON FOR MORE INFORMATION: Persons interested in obtaining more information should contact Oanh Tran at (202) 203–4545.

Oanh Tran,

Director of Board Operations.

[FR Doc. 2014–22362 Filed 9–16–14; 4:15 pm]

BILLING CODE 8610–01–P

DEPARTMENT OF COMMERCE

[Docket No. 140710572–4756–02]

Privacy Act New System of Records

AGENCY: Department of Commerce.

ACTION: Notice; COMMERCE/NOAA–15, Monitoring of National Marine Fisheries Service Observers.

SUMMARY: The Department of Commerce (Commerce) publishes this notice to announce the effective date of a Privacy Act System of Records entitled Commerce/NOAA–15, Monitoring of National Marine Fisheries Service Observers.

The notice of proposed amendment to this system of records was published in the **Federal Register** on July 31, 2014.

DATES: The system of records becomes effective on September 18, 2014.

ADDRESSES: For a copy of the system of records please mail requests to Lee Benaka, National Marine Fisheries Service (F/ST4), 1315 East West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Lee Benaka, National Oceanic and Atmospheric Administration, 301–427–8554.

SUPPLEMENTARY INFORMATION: On July 31, 2014, the Department of Commerce published and requested comments on a proposed Privacy Act System of Records entitled Commerce/NOAA–15, Monitoring of National Marine Fisheries Service Observers (79 FR 147).

No comments were received in response to the request for comments. By this notice, the Department is adopting the proposed system as final without changes effective September 18, 2014.

Dated: September 5, 2014.

Brenda Dolan,

U.S. Department of Commerce, Freedom of Information and Privacy Act Officer.

[FR Doc. 2014–22252 Filed 9–17–14; 8:45 am]

BILLING CODE 3510–DT–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–64–2014]

Foreign-Trade Zone 263—Lewiston-Auburn, Maine; Application for Reorganization Under Alternative Site Framework

An application has been submitted to the Foreign-Trade Zones (FTZ) Board by the Lewiston-Auburn Economic Growth Council, grantee of FTZ 263, requesting authority to reorganize the zone under the alternative site framework (ASF) adopted by the FTZ Board (15 CFR 400.2(c)). The ASF is an option for grantees for the establishment or reorganization of zones and can permit significantly greater flexibility in the designation of new subzones or ''usage-driven'' FTZ sites for operators/users located within a grantee's ''service area'' in the context of the FTZ Board's standard 2,000-acre activation limit for a zone. The application was submitted pursuant to the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally docketed on September 11, 2014.

FTZ 263 was approved by the FTZ Board on October 1, 2004 (Board Order 1354, 69 FR 60840, 10/13/04). The current zone includes the following sites: *Site 1* (705 acres), Auburn-Lewiston Municipal Airport/Auburn Industrial Park, Kittyhawk Avenue and Lewiston Junction Road, Auburn; and, *Site 2* (55 acres), warehouse facilities, 123 Rodman Road, Auburn.

The grantee's proposed service area under the ASF would be the Counties of Androscoggin, Cumberland and Sagadahoc, as described in the application. If approved, the grantee would be able to serve sites throughout the service area based on companies' needs for FTZ designation. The proposed service area is within and adjacent to the Portland Customs and Border Protection port of entry.

The applicant is requesting authority to reorganize its existing zone to include the existing sites as ''magnet'' sites. The ASF allows for the possible exemption of one magnet site from the ''sunset'' time limits that generally apply to sites under the ASF, and the applicant proposes that Site 1 be so exempted. No subzones/usage-driven sites are being requested at this time.

In accordance with the FTZ Board's regulations, Kathleen Boyce of the FTZ Staff is designated examiner to evaluate and analyze the facts and information presented in the application and case record and to report findings and recommendations to the FTZ Board.

Public comment is invited from interested parties. Submissions shall be addressed to the FTZ Board's Executive Secretary at the address below. The closing period for their receipt is November 17, 2014. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to December 2, 2014.

A copy of the application will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 21013, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230–0002, and in the ''Reading Room'' section of the FTZ Board's Web site, which is accessible via *www.trade.gov/ftz.*

For Further Information Contact: Kathleen Boyce at *Kathleen.Boyce@trade.gov* or (202) 482–1346.

Dated: September 11, 2014.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2014–22218 Filed 9–17–14; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–65–2014]

Foreign-Trade Zone 186—Waterville, Maine; Application for Reorganization Under Alternative Site Framework

An application has been submitted to the Foreign-Trade Zones (FTZ) Board by the City of Waterville, Maine, grantee of FTZ 186, requesting authority to reorganize the zone under the alternative site framework (ASF) adopted by the FTZ Board (15 CFR 400.2(c)). The ASF is an option for grantees for the establishment or reorganization of zones and can permit significantly greater flexibility in the designation of new subzones or ''usage-driven'' FTZ sites for operators/users located within a grantee's ''service area'' in the context of the FTZ Board's standard 2,000-acre activation limit for a zone. The application was submitted pursuant to the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally docketed on September 11, 2014.

FTZ 186 was approved by the FTZ Board on August 4, 1992 (Board Order 586, 57 FR 36063, 8/12/92). The grant of authority was reissued to the City of Waterville on June 10, 2013 (Board Order 1903, 78 FR 36165, 6/17/13). The current zone includes the following site: *Site 1* (62 acres), Waterville Airport, Airport Road, Waterville.

The grantee's proposed service area under the ASF would be the Counties of Lincoln, Cumberland, Sagadahoc, Androscoggin, Kennebec, Waldo, Knox and Somerset (partial), as described in the application. If approved, the grantee would be able to serve sites throughout the service area based on companies' needs for FTZ designation. The proposed service area is adjacent to the Belfast Customs and Border Protection port of entry.

The applicant is requesting authority to reorganize its existing zone to include the existing site as a ''magnet'' site. The ASF allows for the possible exemption of one magnet site from the ''sunset'' time limits that generally apply to sites under the ASF, and the applicant proposes that Site 1 be so exempted. No subzones/usage-driven sites are being requested at this time.

In accordance with the FTZ Board's regulations, Kathleen Boyce of the FTZ Staff is designated examiner to evaluate and analyze the facts and information presented in the application and case record and to report findings and recommendations to the FTZ Board.

Public comment is invited from interested parties. Submissions shall be addressed to the FTZ Board's Executive Secretary at the address below. The closing period for their receipt is November 17, 2014. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to December 2, 2014.

A copy of the application will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 21013, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230–0002, and in the ''Reading Room'' section of the FTZ Board's Web site, which is accessible via *www.trade.gov/ftz.*

For Further Information Contact: Kathleen Boyce at *Kathleen.Boyce@trade.gov* or (202) 482–1346.

Dated: September 11, 2014.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2014–22216 Filed 9–17–14; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[S–119–2014]

Foreign-Trade Zone 29—Louisville, Kentucky, Application for Subzone, Kinder Morgan Operating L.P. ''C'', Hawesville, Kentucky

An application has been submitted to the Foreign-Trade Zones (FTZ) Board by the Louisville & Jefferson County Riverport Authority, grantee of FTZ 29, requesting subzone status for the facilities of Kinder Morgan Operating L.P. ''C'', located in Hawesville, Kentucky. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the FTZ Board (15 CFR part 400). It was formally docketed on September 10, 2014.

The proposed subzone would consist of the following sites: *Site 1* (17.73 acres) 1900 Highway 3543, Hawesville, Hancock County; and *Site 2* (16 acres) 2710 Highway 334, Hawesville, Hancock County. No authorization for production activity has been requested at this time. The proposed subzone would be subject to the existing activation limit of FTZ 29.

In accordance with the FTZ Board's regulations, Elizabeth Whiteman of the FTZ Staff is designated examiner to review the application and make recommendations to the Executive Secretary.

Public comment is invited from interested parties. Submissions shall be addressed to the FTZ Board's Executive Secretary at the address below. The closing period for their receipt is October 28, 2014. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to November 12, 2014.

A copy of the application will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 21013, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230–0002, and in the ''Reading Room'' section of the FTZ Board's Web site, which is accessible via *www.trade.gov/ftz.*

FOR FURTHER INFORMATION CONTACT: Elizabeth Whiteman at *Elizabeth.Whiteman@trade.gov* or (202) 482–0473.

Dated: September 10, 2014.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2014–22220 Filed 9–17–14; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–63–2014]

Foreign-Trade Zone (FTZ) 44—Morris County, New Jersey, Notification of Proposed Production Activity, Panasonic System Communications Company of North America, (Laptop Computers), Rockaway, New Jersey

The New Jersey Department of State, grantee of FTZ 44, submitted a notification of proposed production activity to the FTZ Board on behalf of Panasonic System Communications Company of North America (PSCNA), located in Rockaway, New Jersey. The notification conforming to the requirements of the regulations of the FTZ Board (15 CFR 400.22) was received on September 8, 2014.

The PSCNA facility is located within Subzone 44G. The facility is used for the assembly, customization, repackaging and distribution of laptop computers. Pursuant to 15 CFR 400.14(b), FTZ activity would be limited to the specific foreign-status materials and components and specific finished product described in the submitted notification (as described below) and subsequently authorized by the FTZ Board.

Production under FTZ procedures could exempt PSCNA from customs duty payments on the foreign status components used in export production. On its domestic sales, PSCNA would be able to choose the duty rates during customs entry procedures that apply to laptop computers (duty-free) for the foreign status inputs noted below. Customs duties also could possibly be deferred or reduced on foreign status production equipment.

The components and materials sourced from abroad include: Plastic labels and parts; leather laptop cases; packaging materials; paper and other labels; laptops; keyboards and laptop parts; laptop disk drives; data storage units; control and adaptor units; magnetic and optical readers; printed circuit assemblies; static converters (such as rectifiers); inductors for power supplies; printed circuit assemblies of electrical transformers, static converters and inductors; lithium-ion batteries; machines for the reception, conversion and transmission or regeneration of voice, images or other data, including switching and routing apparatus; apparatus for transmission or reception of voice, images or other data, including apparatus for communication in a wired or wireless network; cards incorporating a magnetic strip; recorded optical media; semiconductor media; solid-state non-volatile storage devices; television cameras; digital still image video cameras; radio navigational aid apparatus, other than radar; monitors, other than cathode-ray tube monitors; color video monitors with flat panel screens; antennas and antenna reflectors and parts; boards, panels, consoles, desks and cabinets equipped with apparatus for electric control, for a voltage not exceeding 1,000; mercury or sodium vapor discharge lamps; coaxial and Ethernet cables; camera lenses; and, testing and calibration equipment (duty rate ranges from duty-free to 5.8%).

Public comment is invited from interested parties. Submissions shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is October 28, 2014.

A copy of the notification will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 21013, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230–0002, and in the ''Reading Room'' section of the Board's Web site, which is accessible via *www.trade.gov/ftz.*

For Further Information Contact: Elizabeth Whiteman at *Elizabeth.Whiteman@trade.gov* or (202) 482–0473.

Dated: September 10, 2014.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2014–22219 Filed 9–17–14; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–423–808]

Stainless Steel Plate in Coils From Belgium: Rescission of Antidumping Duty Administrative Review; 2013–2014

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

DATES: *Effective Date:* September 18, 2014.

FOR FURTHER INFORMATION CONTACT: Jolanta Lawska, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration,

U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–8362.

SUPPLEMENTARY INFORMATION:

Background

On May 1, 2014, the Department of Commerce (the Department) published in the **Federal Register** a notice of Opportunity to Request Administrative Review of the antidumping duty order on stainless steel plate in coils from Belgium for the period of review (POR) May 1, 2013, through April 30, 2014.[1]

On June 2, 2014, in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act) and 19 CFR 351.213(b), the Department received a timely request from Aperam Stainless Belgium N.V. (ASB) to conduct an administrative review of the sales of ASB. ASB was the only party to request this administrative review.

On June 27, 2014, the Department published in the **Federal Register** a notice of initiation of an administrative review of the antidumping duty order on stainless steel plate in coils from Belgium covering one respondent, ASB.[2]

On August 21, 2014, ASB timely withdrew its request for review. Thus, we are rescinding this administrative review.

Rescission of Administrative Review

Pursuant to 19 CFR 351.213(d)(1), the Secretary will rescind an administrative review, in whole or in part, if the parties that requested a review withdraw the request within 90 days of the date of publication of the notice of initiation of the requested review. On August 21, 2014, ASB withdrew its request for an administrative review. ASB withdrew its request before the 90-day deadline, and no other party requested an administrative review of the antidumping duty order on stainless steel plate in coils from Belgium for the POR. Therefore, in response to ASB's withdrawal of its request for review, and pursuant to 19 CFR 351.213(d)(1), the Department hereby rescinds the administrative review of the antidumping duty order on stainless steel plate in coils from Belgium for the period May 1, 2013, through April 30, 2014.

[1] *See Antidumping or Countervailing Duty Order, Finding or Suspended Investigation; Opportunity to Request Administrative Review,* 79 FR 24670 (May 1, 2014).

[2] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 79 FR 36462 (June 27, 2014).

Assessment

The Department will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on all appropriate entries. For the company for which this review is rescinded, antidumping duties shall be assessed at rates equal to the cash deposit of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i). The Department intends to issue appropriate assessment instructions directly to CBP 15 days after publication of this notice.

Notification to Importers

This notice serves as a final reminder to importers for whom this review is being rescinded of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification Regarding Administrative Protective Order

This notice also serves as a reminder to parties subject to administrative protective orders (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under an APO in accordance with 19 CFR 351.305(a). 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 this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.213(d)(4).

Dated: September 10, 2014.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2014–22221 Filed 9–17–14; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–870]

Chlorinated Isocyanurates From Japan: Final Determination of Sales at Less Than Fair Value

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (''the Department'') determines that chlorinated isocyanurates (''chlorinated isos'') from Japan is being, or is likely to be, sold in the United States at less than fair value (''LTFV''), as provided in section 733(b) of the Tariff Act of 1930, as amended (''the Act''). The final weighted-average dumping margins are listed below in the section entitled ''Final Determination Margins.''

DATES: *Effective Date:* September 18, 2014.

FOR FURTHER INFORMATION CONTACT: Julia Hancock or Jerry Huang, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–1394 or (202) 482–4047, respectively.

SUPPLEMENTARY INFORMATION:

Background

On April 24, 2014, the Department published in the **Federal Register** the preliminary determination of sales at LTFV in the antidumping duty investigation of chlorinated isos from Japan.[1] The following events occurred since we issued the *Preliminary Determination*.

We issued supplemental sales and cost questionnaires to Nankai Chemical Co., Ltd. (''Nankai'') between April 16 and April 30, 2014. On April 24, 2014, and May 6, 2014, Nankai submitted its supplemental questionnaire responses. On May 9, 2014, Nankai submitted a letter notifying the Department that it was withdrawing from further participation in this investigation.[2]

We issued supplemental sales and cost questionnaires to Shikoku Chemicals Corporation (''Shikoku'') and its U.S. affiliate, Shikoku International

[1] *See Chlorinated Isocyanurates from Japan: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination* 79 FR 22800 (April 24, 2014) (''*Preliminary Determination*'').

[2] *See* Letter to the Secretary of Commerce from Nankai Chemical Co., Ltd., Re: Chlorinated Isocyanurates From Japan: Withdrawal From Participation in the Investigation (May 9, 2014) (''Nankai's Withdrawal Letter'').

Corporation (''SIC''), between April 16 through May 14, 2014. On April 17, 2014, May 8, 2014, and May 14, 2014, Shikoku submitted its supplemental questionnaire responses. On May 23, 2014, Shikoku requested that the Department hold a public hearing. On July 30, 2014, Shikoku withdrew its request.

On May 15, 2014, Clearon Corp. and Occidental Chemical Corporation (collectively ''Petitioners'') submitted pre-verification comments on Shikoku. The Department conducted the cost verification of Shikoku from May 19–23, 2014. Additionally, the Department conducted the home market sales verification of Shikoku from May 26–29, 2014, and the U.S. sales verification of SIC from June 9–10, 2014.

On June 20, 2014, the Department issued the cost verification report of Shikoku.[3] On June 30, 2014, the Department requested Shikoku to submit revised home market and U.S. sales databases based on the minor corrections submitted at verification. On July 9, 2014, Shikoku submitted revised home market and U.S. sales databases. On July 11, 2014, the Department issued the home market sales verification report for Shikoku and the U.S. sales verification report for SIC.[4]

On July 11, 2014, the Department notified interested parties of the case brief and rebuttal brief schedule. On July 18, 2014, Petitioners and Shikoku submitted case briefs. On July 23, 2014, Petitioners and Shikoku submitted rebuttal briefs.

Period of Investigation

The period of investigation is July 1, 2012, through June 30, 2013.

Scope of the Investigation

The products covered by this investigation are chlorinated isocyanurates. Chlorinated isocyanurates are derivatives of cyanuric acid, described as chlorinated s-triazine triones. There are three primary chemical compositions of chlorinated isocyanurates: (1) trichloroisocyanuric acid (''TCCA'') ($Cl_3(NCO)_3$), (2) sodium dichloroisocyanurate (dihydrate) ($NaCl_2(NCO)_3 \times 2H_2O$), and (3) sodium dichloroisocyanurate (anhydrous) ($NaCl_2(NCO)_3$). Chlorinated isocyanurates are available in powder, granular and solid (*e.g.,* tablet or stick) forms.

Chlorinated isocyanurates are currently classifiable under subheadings 2933.69.6015, 2933.69.6021, 2933.69.6050, 3808.50.4000, 3808.94.5000, and 3808.99.9500 of the Harmonized Tariff Schedule of the United States (''HTSUS''). The tariff classification 2933.69.6015 covers sodium dichloroisocyanurates (anhydrous and dihydrate forms) and trichloroisocyanuric acid. The tariff classifications 2933.69.6021 and 2933.69.6050 represent basket categories that include chlorinated isocyanurates and other compounds including an unfused triazine ring. The tariff classifications 3808.50.4000, 3808.94.5000 and 3808.99.9500 cover disinfectants that include chlorinated isocyanurates. The HTSUS subheadings are provided for convenience and customs purposes. The written description of the scope of the investigation is dispositive.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties in this investigation are addressed in the Issues and Decision Memorandum[5] which is hereby adopted by this notice. A list of the issues raised is attached to this notice as an Appendix. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS). IA ACCESS is available to registered users at *http://iaaccess.trade.gov* and it is available to all parties in the Central Records Unit, room 7046 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/index.html*. The signed and electronic versions of the Issues and Decision Memorandum are identical in content.

Changes Since the Preliminary Determination

Based on our analysis of the comments received and our findings at verification, we made certain changes to the margin calculations. For a discussion of these changes, *see* the ''Margin Calculations'' section of the Issues and Decision Memorandum.

Verification

As provided in section 782(i) of the Act, in May and June 2014, we verified the cost and sales information submitted by Shikoku for use in our final determination. We used standard verification procedures including an examination of relevant accounting and production records, and original source documents provided by Shikoku and its U.S. affiliate, SIC.[6]

Facts Available

As noted above, on May 9, 2014, Nankai informed the Department that it would no longer participate in the investigation. Pursuant to sections 776(a)–(b) of the Act, because Nankai failed to cooperate to the best of its ability in participating in the investigation, the application of facts otherwise available with adverse inferences is warranted in calculating the antidumping duty margin for Nankai. Because Nankai's withdrawal from participation prevented the Department from fully investigating and verifying Nankai's cost and sales information, Nankai failed to cooperate to the best of its ability.

It is the Department's practice to select, as adverse facts available (''AFA''), the higher of the (a) highest margin alleged in the petition, or (b) the highest calculated rate for any respondent in the investigation.[7] Accordingly, to ensure that the non-cooperative party, Nankai, does not benefit from its lack of participation, and to select a sufficiently adverse rate to induce cooperation in the future, for the final determination, we selected the higher of either (a) the highest margin alleged in the petition that we could corroborate or (b) the highest weighted-average calculated rate for any respondent in the investigation, subject to the corroboration requirement for

[3] *See* Memorandum to the File, through Neal Halper, Director, Office of Accounting, from Ernest Z. Gziryan and Peter Scholl, Accountants, Subject: Verification of the Cost of Production and Constructed Value Data Submitted by Shikoku Chemicals Corporation in the Antidumping Duty Investigation of Chlorinated Isocyanurates (Chlorinated Isos) from Japan, (June 20, 2014) (''Shikoku Cost Verification Report'').

[4] *See* Memorandum to the File, through Scot T. Fullerton, Program Manager, Office V, from Julia Hancock, Jerry Huang, and Justin Becker, Analysts, Subject: Verification of Home Market Sales of Shikoku Chemicals Corporation (''Shikoku''), (July 11, 2014) (''Shikoku Home Market Verification Report''); *See* Memorandum to the File, through Scot T. Fullerton, Program Manager, Office V, from Julia Hancock and Jerry Huang, Analysts, Subject: Verification of Shikoku International Corporation in the Antidumping Duty Investigation of Chlorinated Isocyanurates from Japan, (July 11, 2014) (''SIC Verification Report'').

[5] *See* ''Memorandum from Gary Taverman to Paul Piquado, Issues and Decision Memorandum for the Antidumping Duty Investigation of Chlorinated Isocyanurates from Japan,'' dated concurrently with this notice (''Issues and Decision Memorandum'').

[6] *See* Shikoku Cost Verification, Shikoku Home Market Verification Report; and SIC Verification Report.

[7] *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Orange Juice from Brazil,* 71 FR 2183, 2185 (January 13, 2006).

secondary information.[8] The calculated weighted-average margin for the other mandatory respondent, Shikoku, in this final determination is less than the 151.80 percent margin from the petition, *i.e.,* the highest corroborated margin alleged in the petition.[9] Therefore, as AFA, we have assigned to Nankai a margin of 151.80 percent. For a full description of the methodology and rationale underlying our conclusions, *see* the Issues and Decision Memorandum. A list of the topics included in the Issues and Decision Memorandum appears in the Appendix of this notice.

''All Others'' Rate

Section 735(c)(5)(A) of the Act provides that the estimated all others rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated excluding any zero or *de minimis* and margins based entirely under section 776 of the Act. Pursuant to section 735(c)(5)(B) of the Act, if the estimated weighted-average dumping margins established for all exporters and producers individually examined are zero, *de minimis* or determined based entirely under section 776 of the Act, the Department may use any reasonable method to establish the estimated weighted-average dumping margin for all other producers or exporters. Accordingly, because Shikoku is the only respondent in this investigation for which the Department calculated a company-specific rate which is not zero, *de minimis* or based entirely on facts available, pursuant to section 735(c)(5)(A) of the Act, we are using the weighted-average dumping margin calculated for Shikoku as the estimated weighted-average dumping margin assigned to all other producers and exporters of the merchandise under consideration.

Final Determination

The weighted-average dumping margin is as follows:

Producer or exporter	Weighted-average margin (percent)
Nankai Chemical Co., Ltd	151.80
Shikoku Chemicals Corporation	60.65
All Others Rate	60.65

Disclosure

We will disclose the calculations performed within five days of the date of publication of this notice to parties in this proceeding in accordance with 19 CFR 351.224(b).

Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, the Department will instruct U.S. Customs and Border Protection (''CBP'') to continue to suspend liquidation of all appropriate entries of chlorinated isos from Japan, as described in the ''Scope of the Investigation'' section, which were entered, or withdrawn from warehouse, for consumption on or after April 24, 2014, the date of publication of the *Preliminary Determination* in the **Federal Register**. CBP shall require a cash deposit equal to the estimated amount by which the normal value exceeds the U.S. price as follows: (1) The rates for Nankai and Shikoku will be the rates we have determined in this final determination; (2) if the exporter is not a firm identified in this investigation but the producer is, the rate will be the rate established for the producer of the subject merchandise; (3) the rate for all other producers or exporters will be 60.65 percent, as discussed in the ''All Others Rate'' section, above. These instructions suspending liquidation will remain in effect until further notice.

U.S. International Trade Commission (''ITC'') Notification

In accordance with section 735(d) of the Act, we will notify the ITC of our final affirmative determination of sales at LTFV. Because the final determination in this proceeding is affirmative, in accordance with section 735(b)(2) of the Act, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports or sales for importation of chlorinated isos from Japan no later than 45 days after our final determination. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing CBP to assess, upon further instruction by the Department, antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

Return or Destruction of Proprietary Information

This notice will serve as the only reminder to parties subject to administrative protective order (''APO'') of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

We are issuing and publishing this determination and notice in accordance with sections 735(d) and 777(i) of the Act.

Dated: September 8, 2014.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

Appendix—Issues and Decision Memorandum

I. Summary
II. Background
III. Scope of the Investigation
IV. Facts Available
V. Margin Calculations
VI. Discussion of the Issues
1. Treatment of Shikoku's Claimed Direct Selling Expenses
2. Treatment of Shikoku's Technical Service Expenses
3. Treatment for Input X [10] Between Shikoku and Shikoku Kosan Corporation (''SKC'')
4. Application of ''Transactions Disregarded'' Rule for Shikoku's Purchases of Product X [11]
5. Whether Packaging Should Be Included as a Physical Characteristic
6. Inclusion of Packaging Costs in Shikoku's Variable Cost of Manufacturing

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[8] *See Welded Stainless Pressure Pipe from Thailand: Final Determination of Sales at Less Than Fair Value,* 79 FR 31093 (May 30, 2014) and accompanying Issues and Decision Memorandum at Comment 2.

[9] *See* Memorandum to the File, from Jerry Huang, Senior Case Analyst, through Scot T. Fullerton, Program Manager, Office V, Subject: Corroboration of the Total AFA Rate for Nankai in the Final Determination of the Antidumping Duty Investigation of Chlorinated Isocyanurates from Japan, (September 8, 2014) (''Corroboration Memo'').

[10] Because Input X is business proprietary information, for further information, please *see* Shikoku Cost Verification Report at 20–21; and Shikoku's Case Brief at 21–24.

[11] Because Product X is business proprietary information, for further information, please *see* Shikoku's Case Brief at 26–28.

DEPARTMENT OF COMMERCE

International Trade Administration

Healthcare and Medical Trade Mission to the Philippines and Indonesia, February 9–13, 2015

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice.

Mission Description

The United States Department of Commerce, International Trade Administration, is organizing a Healthcare and Medical focused Trade Mission to Manila, Philippines and Jakarta, Indonesia February 9–13, 2015.

The Healthcare and Medical Trade Mission to the Philippines and Indonesia will include representatives from a variety of U.S. medical/healthcare industry manufacturers (equipment/devices, laboratory equipment, emergency equipment, diagnostic, physiotherapy and orthopedic, healthcare information technology, and other allied sectors), service providers, and trade associations and organizations. The mission will introduce the participants to the appropriate government agencies, end-users, and prospective partners whose needs and capabilities are best suited to each U.S. participant's strengths.

Participating in an official U.S. industry delegation, rather than traveling on their own, will enhance the participants' ability to secure meetings. The delegates will meet with government officials to obtain firsthand information about the regulations, policies and procedures in the healthcare industry in this region. It will also be an opportunity for participants to visit healthcare facilities to get acquainted with hospital operations.

Growing market demand, a Public-Private Partnership program aimed at addressing the needs of the healthcare industry, and government supported medical tourism drive the demand for quality in Philippine healthcare services. Some private hospitals are accredited or are in the process of receiving accreditation from international bodies such as the Joint Commission International (JCI). Aside from one-on-one appointments and briefings, mission delegates will have the opportunity to interact with Embassy/Consulate Officials and Commercial Service Manila staff to discuss industry developments, opportunities, and sales strategies.

Continued strong growth over the next few years and the Indonesian government's recent implementation of the National Health Insurance Plan earlier this year, provide an excellent opportunity for U.S.-based Healthcare manufacturers and service providers. The delegates will have access to Indonesian government officials and Commercial Service Jakarta staff to learn more about opportunities in the market and current industry developments. Mission delegates will also participate in one-on-one business matchmaking meetings, briefings led by government officials and industry experts, and a networking reception.

Commercial Setting

Philippines

Demand for healthcare in the Philippines continues to grow, driven by several factors—a growing population, growing annual per capita income, an increased spending on medical care and growing investments in healthcare facilities. Healthcare spending in the Philippines is estimated at USD 9 billion in 2013 with a projected 10% increase in 2014. Approximately 64% of the labor force is fully employed, many with access to health insurance for themselves and for their dependents (spouse and minor children and/or parents above 60 years old). Currently, there are more than 1,700 licensed hospitals in the country, of which more than 60% are privately owned. Total bed capacity is more than 90,000.

The Philippine healthcare industry presents a good opportunity for U.S. firms. Although relatively small, the medical device market is almost 100% imported, with a strong U.S. presence. Despite their perceived higher costs, American products enjoy a prominent place in the market due to U.S.-trained Filipino doctors and their preference for the high technology of American medical equipment and instruments. Most hospital managers also prefer U.S. technology over other foreign brands, although U.S. manufacturers are facing growing competition from Germany, the Netherlands, and Japan. U.S. products generally perform well with high value, low volume medical equipment and dominate the market for durables (medical devices) such as ultrasound equipment, magnetic resonance imaging (MRI) equipment, breathing equipment, and other radiology and electronic medical equipment. In addition to private investments, the government's Public-Private Partnership program allows private sector consortiums to finance, design, build, operate, and maintain a hospital for a maximum period of 25 years, after which time these hospitals will be turned over to the Department of Health. The Public Private Partnership will not only improve the facilities, but also the healthcare delivery system, making medical care accessible to more Filipinos.

Besides opportunities presented through the Public Private Partnership program, constant requirements for updated healthcare services, new technologies, and equipment replacement drive market growth. Hospitals continue upgrading facilities to remain competitive. Several investment companies have acquired stakes in the healthcare sector, providing much-needed capital for facilities to upgrade and modernize equipment. Real estate developers have also partnered with known healthcare providers to construct health and wellness centers in and around the communities that they are building, adding more appeal to the community and more value to the real estate.

Indonesia

Given the large population and steady economic growth, Indonesia presents excellent opportunities for U.S. companies. An increase in public awareness about the importance of healthcare, the expansion of public and private hospitals, and the government's plan to implement universal health insurance coverage in 2014, have led to an increased demand for more sophisticated and modern medical equipment and supplies. Total imports of medical equipment grew from USD 612 million in 2011 to USD 727 million in 2012, with U.S. imports accounting for 10 percent of this market. Continued strong growth is predicted over the next two years and U.S. manufacturers of medical devices should take advantage of this growing market.

Being the fourth most populous country in the world, Indonesia offers great potential for the medical equipment and supplies market. Healthcare is a top priority in Indonesia's national development agenda. In 2014, the Government of Indonesia allocated a total of USD 6.1 billion for healthcare, an increase of 26 percent over 2013. Over 20 percent of this amount is designated for medical equipment. In addition, the Ministry of Health will allocate a separate budget for the development of new hospitals and upgrades for existing hospitals and health care centers in the 33 provinces. Indonesia began implementing its National Health Insurance Plan this year with the goal of universal coverage of the country's population of 257 million people by 2019. The initial phase is

targeted at covering approximately 90 million citizens, which includes mostly the market segment that the government calls ''the poor and near-poor.''

Healthcare providers show a growing interest in high technology equipment to improve the delivery and quality of their services. The government is encouraging more private sector involvement. Ciputra Group, a major property developer, plans to build up to 10 hospitals within the next five years with an estimated investment of USD 130 million. In September 2013, the Siloam Hospital Group announced a plan to spend USD 400 million through 2017 to develop new hospitals and buy medical equipment. The group will open six new hospitals by the end of 2014, adding to its existing 14 hospitals. In October 2008, an official ground-breaking ceremony for the construction of a USD 7 billion Jababeka Medical City project took place. The city will consist of world-class healthcare facilities, a hotel and apartments, research centers, and shopping center. The city is scheduled for completion by 2015.

Government agencies such as the Ministry of Health and the National Food and Drug Control Agency (BPOM) are stepping up efforts to institute policies to protect the public from sub-standard and dangerous pharmaceuticals and medical equipment/supplies. For instance, agencies are participating in international programs to curb the entry of black market products and also increase the training of healthcare professionals and regulators. Associations are also encouraging company members to adopt international best practices.

Mission Goals

The goals of the Healthcare and Medical Trade Mission to the Philippines and Indonesia are to:

(1) Familiarize the participants with the current healthcare situations as well as and current developments taking place;

(2) Introduce participants to government officials and industry leaders to learn about various regulatory procedures and policies in the healthcare sector;

(3) Introduce participants to potential business partners.

Mission Scenarios

Philippines

On Monday, 9 February, the first official day of the Healthcare and Medical Trade Mission, Officers from various sections of the U.S. Embassy—Commercial Service, Economic, Consular, Political, and USAID, as well as the American Chamber of Commerce in the Philippines (AmCham), will give a country briefing. These briefings will be followed by a series of industry briefings from officers of the Department of Health (DOH); the Center for Device Regulation, Radiation Health, and Research (CDRRHR); the Food and Drug Administration (FDA); and the private sector Pharmaceutical and Healthcare Industry of the Philippines (PHAP). Mission participants will learn about the healthcare policies, procedures and opportunities in the market.

The briefings will be followed by a site visit to a local hospital for a tour of the facilities.

The Ambassador will host a networking reception arranged at the end of the day. Officials from the DOH, CDRRHR, FDA, PHAP, and importer-distributors of health devices, technology, and supplies, will be invited to this event.

On the second day (Tuesday, 10 February), delegates will have one-on-one meetings with prospective distributors and business partners who have expressed interest in the TM delegates' products.

Wednesday, 11 February, will be a travel day from Manila to Jakarta.

Indonesia

On Thursday morning, 12 February, the first official day of the Jakarta, Indonesia mission stop, delegates will attend briefings at the hotel conducted by the U.S. Embassy, the American Chamber of Commerce's Pharmaceutical and Life Sciences Committee, and Ministry of Health officials.

The briefings will be followed by one-on-one meetings with prescreened prospective distributors and business partners who have expressed interest in the TM delegates' products. Visits to hospital facilities may be arranged as an option.

The Ambassador will host a networking reception arranged at the end of the day. Government officials, representatives from industry associations and local business people will be invited to this event.

Friday, 13 February, will be focused on one-on-one meetings at the hotel. Additional site visits can be arranged depending on the interests and objectives of the participants.

Proposed Timetable

Mission participants are encouraged to arrive 1–2 days prior (7 or 8 February) to allow time to adjust to their new surroundings before the mission program begins on Monday, 9 February.

Monday, 9 February	Embassy, Department of Health, and Industry Association Briefing at the hotel.
	Hospital Site Visit.
	Networking reception at Ambassador's residence.
Tuesday, 10 February	One-on-One business matchmaking appointments.
Wednesday, 11 February	Travel day from Manila to Jakarta.
Thursday, 12 February	Indonesia Country Briefing with U.S. Embassy and Briefing with AmCham Healthcare Committee Leaders.
	Briefing with Ministry of Health and/or local industry associations.
	One-on-One business matchmaking appointments or site visits.
	Networking reception at Ambassador's residence.
Friday, 13 February	One-on-One business matchmaking appointments or site visits.

Participation Requirements

All parties interested in participating in the Healthcare and Medical Trade Mission to the Philippines must complete and submit an application for consideration by the Department of Commerce. All applicants will be evaluated on their ability to meet certain conditions and best satisfy the selection criteria as outlined below. A minimum of 15 and a maximum of 20 companies will be selected to participate in the mission from the applicant pool. U.S. companies already doing business in the Philippines and/or Indonesia as well as U.S. companies seeking to enter either market for the first time may apply.

Fees and Expenses

After a company or organization has been selected to participate on the mission, a payment to the Department of Commerce in the form of a participation fee is required.

The Healthcare and Medical Trade Mission participation fee will be $3,250 for SMEs [1] and $4,000 for Large Firms.

Personal expenses for lodging, some meals, incidentals, and travel (except for transportation to and from meetings/site visits/networking receptions) will be the responsibility of each mission participant.

Conditions for Participation

An applicant must submit a completed and signed mission application and supplemental application materials, including adequate information on the company's products and/or services, (or in the case of a trade association or trade organization, information on the products and/or services of the companies to be represented on the trade mission), primary market objectives, and goals for participation. If the Department of Commerce receives an incomplete application, the Department may reject the application, request additional information, or take the lack of information into account when evaluating the applications.

Each applicant must also certify that the products and services it seeks to export through the mission are either produced in the United States, or, if not, marketed under the name of a U.S. firm and have at least fifty-one percent U.S. content. In the case of a trade association or trade organization, the applicant must certify that, for each company to be represented by the trade association or trade organization, the products and services the represented company seeks to export are either produced in the United States, or, if not, marketed under the name of a U.S. firm and have at least fifty-one percent U.S. content.

Selection Criteria for Participation

Selection will be based on the following criteria:

- Suitability of a company's (or, the case of a trade association or trade organization, represented companies') products or services to the mission's goals.
- Company's (or, in the case of a trade association or trade organization, represented companies') potential for business in the target market, including likelihood of exports resulting from the trade mission.
- Consistency of the applicant's goals and objectives with the stated scope of the trade mission.

Referrals from political organizations and any documents containing references to partisan political activities (including political contributions) will be removed from an applicant's submission and not considered during the selection process.

Timeframe for Recruitment and Applications

Mission recruitment will be conducted in an open and public manner, including publication in the **Federal Register** (*http://www.gpoaccess.gov/fr*), posting on ITA's trade mission calendar—*www.trade.gov/trade-missions*—and other Internet Web sites, press releases to general and trade media, direct mail, broadcast fax, notices by industry trade associations and other multiplier groups, and publicity at industry meetings, symposia, conferences, and trade shows.

Recruitment for the mission will begin immediately and conclude no later than 21 November, 2014. The U.S. Department of Commerce will review applications and make selection decisions as applications are received. We will inform all applicants of selection decisions as soon as possible after the applications are reviewed. Applications received after the November 21st deadline will be considered only if space and scheduling constraints permit.

Contacts

U.S. Commercial Service Healthcare Team:

Ms. September Secrist, International Trade Specialist, U.S. Export Assistance Center—Seattle, 2001 6th Avenue, Suite 2610, Seattle, WA 98121, Phone: (206) 553–5615 x229, *Tembi.Secrist@trade.gov*

Mr. Michael Waters, International Trade Specialist, U.S. Export Assistance Center—Atlanta, 75 Fifth St. NW., Suite 1060, Atlanta, GA 30308, Phone: (404) 815–1498, *Michael.Waters@trade.gov*

Ms. Dey Robles, Commercial Specialist, U.S. Commercial Service—Philippines, 1201 Roxas Boulevard, Ermita, Manila 1000, Philippines, Phone: (63–2) 301–2260, Fax: (63–2) 521–0416, *Dey.Robles@trade.gov*

Ms. Sharon Chandra, Commercial Specialist, U.S. Commercial Service—Indonesia, Wisma Metropolitan II, 3rd Floor Jl. Jend. Sudirman Kav. 29–31 Jakarta 12920, Indonesia, Phone: +62–21–526–2850, Fax: +62–21–526–2855, *Sharon.Chandra@trade.gov*

Elnora Moye,

Trade Program Assistant.

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[1] An SME is defined as a firm with 500 or fewer employees or that otherwise qualifies as a small business under SBA regulations (see *http://www.sba.gov/services/contractingopportunities/sizestandardstopics/index.html*). Parent companies, affiliates, and subsidiaries will be considered when determining business size. The dual pricing reflects the Commercial Service's user fee schedule that became effective May 1, 2008 (see *http://www.export.gov/newsletter/march2008/initiatives.html* for additional information).

DEPARTMENT OF COMMERCE

International Trade Administration

Infrastructure Business Development Mission to Morocco, Egypt, and Jordan December 3–11, 2014

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: The United States Department of Commerce, International Trade Administration, is amending the Notice published at 79 FR 23933 (April 29, 2014), regarding the executive-led Infrastructure Business Development Mission to Morocco, Egypt and Jordan, scheduled for December 3–11, 2014, to extend the date of the application deadline from September 12, 2014 to the new deadline of September 30, 2014.

SUPPLEMENTARY INFORMATION:

Amendments to Revise the Dates

Background

Due to the summer holidays, it has been determined that additional time is needed to allow for additional recruitment and marketing in support of the Mission. Applications will now be accepted through September 30, 2014 (and after that date if space remains and scheduling constraints permit). Interested U.S. companies and trade associations/organizations providing infrastructure goods and services which have not already submitted an application are encouraged to do so.

The U.S. Department of Commerce will review applications and make selection decisions on a rolling basis in accordance with the Notice published at 79 FR 23933 (April 29, 2014) The applicants selected will be notified as soon as possible.

Contact Information

Gemal Brangman, International Trade Specialist, Trade Missions, U.S. Department of Commerce, Washington, DC 20230, Tel: 202–482–3773, Fax: 202–482–9000, *Gemal.Brangman@trade.gov*.

Elnora Moye,

Trade Program Assistant.

[FR Doc. 2014–22223 Filed 9–17–14; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD503

Mid-Atlantic Fishery Management Council (MAFMC); Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Mid-Atlantic Fishery Management Council (Council) will conduct a question and answer session via webinar with NMFS's Marine Recreational Information Program (MRIP).

DATES: The meeting will be held on Friday, October 03, 2014, from 10 a.m. until noon.

ADDRESSES: The meeting will be held via Webinar at this link: *http://mafmc.adobeconnect.com/mrip-qa/.* When the webinar begins, once attendees click/navigate to this link audio connection details are provided.

Council address: Mid-Atlantic Fishery Management Council, 800 North State Street, Suite 201, Dover, DE 19901; telephone: (302) 674–2331.

FOR FURTHER INFORMATION CONTACT: Christopher M. Moore Ph.D., Executive Director, Mid-Atlantic Fishery Management Council, 800 N. State Street, Suite 201, Dover, DE 19901; telephone: (302) 526–5255.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to brief the Council on ongoing MRIP efforts to improve recreational data collection and to provide a forum for Council Members to ask questions regarding MRIP. NMFS MRIP staff will be on the webinar to respond to questions. There will also be an opportunity for questions and comments from any public attendees. The meeting will be informational in nature.

Special Accommodations

This meeting is accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aid should be directed to M. Jan Saunders, (302) 526–5251, at least 5 days prior to the meeting date.

Dated: September 12, 2014.

Tracey L. Thompson,

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

[FR Doc. 2014–22200 Filed 9–17–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD174

Takes of Marine Mammals Incidental to Specified Activities; Seabird Monitoring and Research in Glacier Bay National Park, Alaska, 2014

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

ACTION: Notice; issuance of an incidental harassment authorization.

SUMMARY: In accordance with the Marine Mammal Protection Act (MMPA) regulations, we, NMFS, hereby give notification that the National Marine Fisheries Service has issued an Incidental Harassment Authorization (IHA) to Glacier Bay National Park (Glacier Bay NP), to take marine mammals, by Level B harassment, incidental to conducting seabird monitoring and research activities in Alaska, September 2014.

DATES: Effective September 1 through September 30, 2014.

ADDRESSES: The public may obtain an electronic copy of Glacier Bay NP's application, supporting documentation, the authorization, and a list of the references cited in this document by visiting: *http://www.nmfs.noaa.gov/pr/permits/incidental.htm#applications.* In the case of problems accessing these documents, please call the contact listed here (see **FOR FURTHER INFORMATION CONTACT**).

The Environmental Assessment and associated Finding of No Significant Impact, prepared pursuant to the National Environmental Policy Act of 1969, are also available at the same site.

FOR FURTHER INFORMATION CONTACT: Jeannine Cody, NMFS, Office of Protected Resources, NMFS (301) 427–8401.

SUPPLEMENTARY INFORMATION:

Background

Section 101(a)(5)(D) of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*) directs the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals of a species or population stock, by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if, after NMFS provides a notice of a proposed authorization to the public for review and comment: (1) NMFS makes certain findings; and (2) the taking is limited to harassment.

An Authorization shall be granted for the incidental taking of small numbers of marine mammals if NMFS finds that the taking will have a negligible impact on the species or stock(s), and will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant). The Authorization must also set forth the permissible methods of taking; other means of effecting the least practicable adverse impact on the species or stock and its habitat; and requirements pertaining to the mitigation, monitoring and reporting of such taking. NMFS has defined ''negligible impact'' in 50 CFR 216.103 as ''an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.''

Except with respect to certain activities not pertinent here, the MMPA defines ''harassment'' as: any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].

Summary of Request

On April 7, 2014, NMFS received an application from Glacier Bay NP requesting that we issue an Authorization for the take of marine mammals, incidental to conducting monitoring and research studies on glaucus-winged gulls (*Larus glaucescens*) within Glacier Bay National Park and Preserve in Alaska. NMFS determined the application complete and adequate on May 1, 2014.

Glacier Bay NP proposes to conduct ground-based and vessel-based surveys to collect data on the number and distribution of nesting gulls within five study sites in Glacier Bay, AK during September, 2014.

The proposed activities are within the vicinity of pinniped haulout sites and the following aspects of the proposed activities are likely to result in the take of marine mammals: noise generated by motorboat approaches and departures; noise generated by researchers while conducting ground surveys; and human presence during the monitoring and research activities. There are two species with confirmed occurrence in

the action area: harbor seals (*Phoca vitulina*) and Steller sea lions (*Eumetopia jubatus*). Of the two species, only harbor seals would most likely be harassed incidental to conducting the seabird monitoring and research activities due to the researchers avoiding any site with Steller sea lions present. Thus, by incorporation of this mitigation measure for Steller sea lions, we anticipate that take, by Level B harassment only, of individuals of harbor seals could result from the specified activity.

Description of the Specified Activity

Overview

Glacier Bay NP proposes to identify the onset of gull nesting; conduct mid-season surveys of adult gulls, and locate and document gull nest sites within the following study areas: Boulder, Lone, and Flapjack Islands, and Geikie Rock. Each of these study sites contains harbor seal haulout sites and Glacier Bay NP proposes to visit each site up to five times during the research season.

Glacier Bay NP must conduct the gull monitoring studies to meet the requirements of a 2010 Record of Decision for a Legislative Environmental Impact Statement (NPS 2010) which states that Glacier Bay NP must initiate a monitoring program for the gulls to inform future native egg harvests by the Hoonah Tlingit in Glacier Bay, AK. Glacier Bay NP actively monitors harbor seals at breeding and molting sites to assess population trends over time (e.g., Mathews & Pendleton, 2006; Womble *et al.,* 2010). Glacier Bay NP also coordinates pinniped monitoring programs with National Marine Mammal Laboratory and the Alaska Department of Fish & Game and plans to continue these collaborations and sharing of monitoring data and observations in the future.

Dates and Duration

The Authorization would be effective from September 1, 2014 through September 30, 2014. Following is a brief summary of the activities.

Glacier Bay NP proposes to conduct a maximum of three ground-based surveys per each study site and a maximum of two vessel-based surveys per each study site.

Specified Geographic Region

The proposed study sites would occur in the vicinity of the following locations: Boulder (58°33′18.08″ N; 136°1′13.36″ W), Lone (58°43′17.67″ N; 136°17′41.32″ W), and Flapjack (58°35′10.19″ N; 135°58′50.78″ W) Islands, and Geikie Rock (58°41′39.75″ N; 136°18′39.06″ W) in Glacier Bay, Alaska. Glacier Bay NP will also conduct studies at Tlingit Point Islet located at 58°45′16.86″ N; 136°10′41.74″ W; however, there are no reported pinniped haulout sites at that location.

Detailed Description of Activities

Glacier Bay NP proposes to conduct: (1) Ground-based surveys at a maximum frequency of three visits per site; and (2) vessel-based surveys at a maximum frequency of two visits per site.

Ground-Based Surveys: These surveys involve two trained observers visiting the largest gull colony on each island to: (1) Obtain information on the numbers of nests, their location, and contents (i.e., eggs or chicks); (2) determine the onset of laying, distribution, abundance, and predation of gull nests and eggs; and (3) record the proximity of other species relative to colony locations.

The observers would access each island using a kayak, a 32.8 to 39.4-foot (ft) (10 to 12 meter (m)) motorboat, or a 12 ft (4 m) inflatable rowing dinghy. The landing craft's transit speed would not exceed 4 knots (4.6 miles per hour (mph). Ground surveys generally last from 30 minutes to up to two hours depending on the size of the island and the number of nesting gulls. Glacier Bay NP will discontinue ground surveys after they detect the first hatchling to minimize disturbance to the gull colonies.

Vessel-Based Surveys: These surveys involve two trained observers observing and counting the number of adult and fledgling gulls from the deck of a motorized vessel which would transit around each island at a distance of approximately 328 ft (100 m) to avoid flushing the birds from the colonies. Vessel-based surveys generally last from 30 minutes to up to two hours depending on the size of the island and the number of nesting gulls.

Comments and Responses

We published a notice of receipt of Glacier Bay NP's application and proposed Authorization in the **Federal Register** on June 4, 2014 (79 FR 32226). During the 30-day comment period, we received one comment from the Marine Mammal Commission (Commission) which recommended that we issue the requested Authorization, provided that Glacier Bay NP carries out the required monitoring and mitigation measures as described in the notice of the proposed authorization (79 FR 32226, June 4, 2014) and the application. We have included all measures proposed in the notice of the proposed authorization (79 FR 32226, June 4, 2014) in the final Authorization.

We also received comments from one private citizen who opposed the authorization on the basis that NMFS should not allow any Authorizations for harassment. We considered the commenter's general opposition to Glacier Bay NP's activities and to our issuance of an Authorization. The Authorization, described in detail in the **Federal Register** notice of the proposed Authorization (79 FR 32226, June 4, 2014) includes mitigation and monitoring measures to effect the least practicable impact to marine mammals and their habitat. It is our responsibility to determine whether the activities will have a negligible impact on the affected species or stocks; will have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses, where relevant; and to prescribe the means of effecting the least practicable adverse impact on the affected species or stocks and their habitat, as well as monitoring and reporting requirements.

Regarding the commenter's opposition to authorizing harassment, the MMPA allows U.S. citizens (which includes Glacier Bay NP) to request take of marine mammals incidental to specified activities, and requires us to authorize such taking if we can make the necessary findings required by law and if we set forth the appropriate prescriptions. As explained throughout the **Federal Register** notice (79 FR 32226, June 4, 2014), we made the necessary preliminary findings under 16 U.S.C. 1371(a)(5)(D) to support issuance of Authorization.

Description of Marine Mammals in the Area of the Specified Activity

The marine mammals most likely to be harassed incidental to conducting seabird monitoring and research are Pacific harbor seals. We do not anticipate harassment of Steller sea lions due to the researchers avoiding any site with Steller sea lions present.

We refer the reader to Allen and Angliss (2013) for general information on these species which we presented in the notice of proposed authorization (79 FR 32226, June 4, 2014). The 2013 NMFS Marine Mammal Stock Assessment Report is available at: *http://www.nmfs.noaa.gov/pr/sars/pdf/ak2013_final.pdf.*

Other Marine Mammals in the Proposed Action Area

Northern sea otters (*Enhydra lutris kenyoni*) and polar bears (*Ursis maritimus*) listed as threatened under the Endangered Species Act could occur in the proposed area. The U.S. Fish and Wildlife Service manages these species

and we do not consider them further in this notice of issuance of an Authorization.

Potential Effects of the Specified Activities on Marine Mammals

Acoustic and visual stimuli generated by: (1) Noise generated by kayak, motorboat, or dinghy approaches and departures; (2) human presence during seabird monitoring and research activities, have the potential to cause Pacific harbor seals hauled out on Boulder, Lone, and Flapjack Islands, and Geikie Rock to flush into the surrounding water or to cause a short-term behavioral disturbance for marine mammals.

We expect that acoustic and visual stimuli resulting from the proposed activities has the potential to harass marine mammals. We also expect that these disturbances would be temporary and result, at worst, in a temporary modification in behavior and/or low-level physiological effects (Level B harassment) of harbor seals.

We included a summary and discussion of the ways that the types of stressors associated with Glacier Bay NP's specified activities (i.e., visual and acoustic disturbance) have the potential to impact marine mammals in the notice of proposed authorization (79 FR 32226, June 4, 2014).

Vessel Strike: The potential for striking marine mammals is a concern with vessel traffic. However, it is highly unlikely that the use of small, slow-moving kayaks or boats to access the research areas would result in injury, serious injury, or mortality to any marine mammal. Typically, the reasons for vessel strikes are fast transit speeds, lack of maneuverability, or not seeing the animal because the boat is so large. Glacier Bay NP's researchers will access areas at slow transit speeds in easily maneuverable kayaks or small boats negating any chance of an accidental strike.

Rookeries: No monitoring or research activities would occur on pinniped rookeries and breeding animals are concentrated in areas where researchers would not visit. Therefore, we do not expect mother and pup separation or crushing of pups during flushing.

Anticipated Effects on Marine Mammal Habitat

We considered these impacts in detail in the notice for the proposed authorization (79 FR 32226, June 4, 2014). Briefly, we do not anticipate that the proposed research activities would result in any significant or long-term effects on the habitats used by the marine mammals in the proposed area, including the food sources they use (i.e., fish and invertebrates). While we anticipate that the specified activity could potentially result in marine mammals avoiding certain areas due to temporary ensonification and human presence, this impact to habitat is temporary and reversible. We do not consider behavioral modification to cause significant or long-term consequences for individual marine mammals or their populations.

Mitigation

In order to issue an incidental take authorization under section 101(a)(5)(D) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to such activity, and other means of effecting the least practicable adverse impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stock for taking for certain subsistence uses (where relevant).

The Glacier Bay NP has reviewed the following source documents and has incorporated a suite of proposed mitigation measures into their project description.

(1) Recommended best practices in Womble *et al.* (2013); Richardson *et al.* (1995); Pierson *et al.* (1998); and Weir and Dolman, (2007).

To reduce the potential for disturbance from acoustic and visual stimuli associated with the activities Glacier Bay NP and/or its designees has proposed to implement the following mitigation measures for marine mammals:

- Perform pre-survey monitoring before deciding to access a study site;
- Avoid accessing a site based on a pre-determined threshold of animals present; sites used by pinnipeds for pupping; or sites used by Steller sea lions;
- Perform controlled and slow ingress to the study site to prevent a stampede and select a pathway of approach to minimize the number of marine mammals harassed;
- Monitor for offshore predators. Avoid approaching the study site if killer whales (Orcinas orca) are present. If Glacier Bay and/or its designees see predators in the area, they must not disturb the animals until the area is free of predators.
- Maintain a quiet research atmosphere in the visual presence of pinnipeds.

Pre-Survey Monitoring: Prior to deciding to land onshore to conduct the study, the researchers would use high-powered image stabilizing binoculars from the watercraft to document the number, species, and location of hauled out marine mammals at each island. The vessels would maintain a distance of 328 to 1,640 ft (100 to 500 m) from the shoreline to allow the researchers to conduct pre-survey monitoring.

Site Avoidance: Researchers would decide whether or not to approach the island based on the species present, number of individuals, and the presence of pups. If there are high numbers (greater than 25) of hauled out harbor seals and/or young pups or there are any Steller sea lions present, the researchers will not approach the island and will not conduct gull monitoring research.

Controlled Landings: The researchers would determine whether to approach the island based on the number and type of animals present. If the island has fewer than 25 individuals without pups, he/she would approach the island by motorboat at a speed of approximately 2 to 3 knots (2.3 to 3.4 mph). This would provide enough time for any marine mammals present to slowly enter the water without panic or stampede. The researchers would also select a pathway of approach farthest from the hauled out harbor seals to minimize disturbance.

Minimize Predator Interactions: If marine predators (i.e. killer whales) are present in the vicinity of hauled out marine mammals, the researchers would not approach the study site.

Noise Reduction Protocols: While onshore at study sites, the researchers would remain vigilant for hauled out marine mammals. If marine mammals are present, the researchers would move slowly and use quiet voices to minimize disturbance to the animals present.

Mitigation Conclusions

NMFS has carefully evaluated Glacier Bay NP's proposed mitigation measures in the context of ensuring that we prescribe the means of effecting the least practicable impact on the affected marine mammal species and stocks and their habitat. Our evaluation of potential measures included consideration of the following factors in relation to one another:

- The manner in which, and the degree to which, the successful implementation of the measure is expected to minimize adverse impacts to marine mammals;
- The proven or likely efficacy of the specific measure to minimize adverse impacts as planned; and
- The practicability of the measure for applicant implementation.

Any mitigation measure(s) prescribed by NMFS should be able to accomplish, have a reasonable likelihood of

accomplishing (based on current science), or contribute to the accomplishment of one or more of the general goals listed here:

1. Avoidance or minimization of injury or death of marine mammals wherever possible (goals 2, 3, and 4 may contribute to this goal).

2. A reduction in the numbers of marine mammals (total number or number at biologically important time or location) exposed to kayak, motorboat, or dinghy operations or visual presence that we expect to result in the take of marine mammals (this goal may contribute to 1, above, or to reducing harassment takes only).

3. A reduction in the number of times (total number or number at biologically important time or location) individuals exposed to kayak, motorboat, or dinghy operations or visual presence that we expect to result in the take of marine mammals (this goal may contribute to 1, above, or to reducing harassment takes only).

4. A reduction in the intensity of exposures (either total number or number at biologically important time or location) to kayak, motorboat, or dinghy operations or visual presence that we expect to result in the take of marine mammals (this goal may contribute to a, above, or to reducing the severity of harassment takes only).

5. Avoidance or minimization of adverse effects to marine mammal habitat, paying special attention to the food base, activities that block or limit passage to or from biologically important areas, permanent destruction of habitat, or temporary destruction/disturbance of habitat during a biologically important time.

6. For monitoring directly related to mitigation—an increase in the probability of detecting marine mammals, thus allowing for more effective implementation of the mitigation.

Based on the evaluation of Glacier Bay NP's proposed measures, NMFS has determined that the proposed mitigation measures provide the means of effecting the least practicable impact on marine mammal species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

Monitoring

In order to issue an ITA for an activity, section 101(a)(5)(D) of the MMPA states that NMFS must set forth ''requirements pertaining to the monitoring and reporting of such taking.'' The MMPA implementing regulations at 50 CFR 216.104(a)(13) indicate that requests for Authorizations must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that we expect to be present in the proposed action area.

Glacier Bay NP submitted a marine mammal monitoring plan in section 13 of their Authorization application. NMFS or the Glacier Bay NP has not modified or supplemented the plan based on comments or new information received from the public during the public comment period.

Monitoring measures prescribed by NMFS should accomplish one or more of the following general goals:

1. An increase in the probability of detecting marine mammals in order to generate more data to contribute to the analyses mentioned later;

2. An increase in our understanding of how many marine mammals would be affected by the research activities and the likelihood of associating those exposures with specific adverse effects, such as behavioral harassment, temporary or permanent threshold shift;

3. An increase in our understanding of how marine mammals respond to acoustic and visual stimuli that we expect to result in take and how those anticipated adverse effects on individuals (in different ways and to varying degrees) may impact the population, species, or stock (specifically through effects on annual rates of recruitment or survival) through any of the following methods:

a. Behavioral observations in the presence of stimuli compared to observations in the absence of stimuli (i.e., we need to be able to accurately predict received level, distance from source, and other pertinent information);

b. Physiological measurements in the presence of stimuli compared to observations in the absence of stimuli (i.e., we need to be able to accurately predict received level, distance from source, and other pertinent information);

c. Distribution and/or abundance comparisons in times or areas with concentrated stimuli versus times or areas without stimuli;

4. An increased knowledge of the affected species; and

5. An increase in our understanding of the effectiveness of certain mitigation and monitoring measures.

As part of its Authorization application, Glacier Bay NP proposes to sponsor marine mammal monitoring during the present project, in order to implement the mitigation measures that require real-time monitoring, and to satisfy the monitoring requirements of the Authorization.

The Glacier Bay NP researchers will monitor the area for pinnipeds during all research activities. Monitoring activities will consist of conducting and recording observations on pinnipeds within the vicinity of the proposed research areas. The monitoring notes would provide dates and location of the researcher's activities and the number and type of species present. The researchers would document the behavioral state of animals present, and any apparent disturbance reactions or lack thereof.

Reporting

Glacier Bay NP will submit a final monitoring report to us no later than 90 days after the expiration of the Incidental Harassment Authorization, if we issue it. The final report will describe the operations conducted and sightings of marine mammals near the proposed project. The report will provide full documentation of methods, results, and interpretation pertaining to all monitoring. The final report will provide:

1. A summary and table of the dates, times, and weather during all research activities.

2. Species, number, location, and behavior of any marine mammals observed throughout all monitoring activities.

3. An estimate of the number (by species) of marine mammals exposed to acoustic or visual stimuli associated with the research activities.

4. A description of the implementation and effectiveness of the monitoring and mitigation measures of the Authorization and full documentation of methods, results, and interpretation pertaining to all monitoring.

In the unanticipated event that the specified activity clearly causes the take of a marine mammal in a manner prohibited by the authorization, such as an injury (Level A harassment), serious injury, or mortality (e.g., vessel-strike, stampede, etc.), Glacier Bay NP shall immediately cease the specified activities and immediately report the incident to the Chief, Permits and Conservation Division, Office of Protected Resources, NMFS, at 301–427–8401 and/or by email to *Jolie.Harrison@noaa.gov* and *ITP.Cody@noaa.gov* and the Alaska Regional Stranding Coordinator at (907) 586–7248 (*Aleria.Jensen@noaa.gov*). The report must include the following information:

• Time, date, and location (latitude/longitude) of the incident;
• Description and location of the incident (including water depth, if applicable);
• Environmental conditions (e.g., wind speed and direction, Beaufort sea state, cloud cover, and visibility);
• Description of all marine mammal observations in the 24 hours preceding the incident;
• Species identification or description of the animal(s) involved;
• Fate of the animal(s); and
• Photographs or video footage of the animal(s) (if equipment is available).

Glacier Bay NP shall not resume its activities until NMFS is able to review the circumstances of the prohibited take. We will work with Glacier Bay to determine what is necessary to minimize the likelihood of further prohibited take and ensure MMPA compliance. Glacier Bay NP may not resume their activities until notified by us via letter, email, or telephone.

In the event that Glacier Bay NP discovers an injured or dead marine mammal, and the lead researcher determines that the cause of the injury or death is unknown and the death is relatively recent (i.e., in less than a moderate state of decomposition as we describe in the next paragraph), Glacier Bay NP will immediately report the incident to the Chief, Permits and Conservation Division, Office of Protected Resources, NMFS, at 301–427–8401 and/or by email to *Jolie.Harrison@noaa.gov* and *ITP.Cody@noaa.gov* and the Alaska Regional Stranding Coordinator at (907) 586–7248 (*Aleria.Jensen@noaa.gov*). The report must include the same information identified in the paragraph above this section. Activities may continue while we review the circumstances of the incident. We will work with Glacier Bay NP to determine whether modifications in the activities are appropriate. Activities may continue while we review the circumstances of the incident.

In the event that Glacier Bay NP discovers an injured or dead marine mammal, and the lead visual observer determines that the injury or death is not associated with or related to the authorized activities (e.g., previously wounded animal, carcass with moderate to advanced decomposition, or scavenger damage), Glacier Bay will report the incident to the Incidental Take Program Supervisor, Permits and Conservation Division, Office of Protected Resources, NMFS, at 301–427–8401 and/or by email to *Jolie.Harrison@noaa.gov* and *ITP.Cody@noaa.gov* and the Alaska Regional Stranding Coordinator at (907) 586–7248 (*Aleria.Jensen@noaa.gov*) within 24 hours of the discovery. Glacier Bay NP researchers will provide photographs or video footage (if available) or other documentation of the stranded animal sighting to us. Glacier Bay NP can continue their research activities. Activities may continue while we review the circumstances of the incident.

Estimated Take by Incidental Harassment

Except with respect to certain activities not pertinent here, the MMPA defines ''harassment'' as: Any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].

Acoustic (i.e., increased sound) and visual stimuli from the proposed research activities may have the potential to result in the behavioral disturbance of some marine mammals. Thus, NMFS proposes to authorize take by Level B harassment only for the proposed seabird monitoring and research activities on Boulder, Lone, and Flapjack Islands, and Geikie Rock, Alaska.

Based on pinniped survey counts conducted by Glacier Bay NP (e.g., Mathews & Pendleton, 2006; Womble *et al.,* 2010), NMFS estimates that the research activities could potentially affect by Level B behavioral harassment 400 harbor seals over the course of the Authorization (Table 3). This estimate represents 12.6 percent of the Glacier Bay/Icy Strait stock of harbor seals and accounts for a maximum disturbance of 20 harbor seals each per visit at Boulder, Lone, and Flapjack Islands, and Geikie Rock, Alaska over a maximum level of five visits.

There is no evidence that Glacier Bay NP's planned activities could result in injury, serious injury, or mortality within the action area. Moreover, the required mitigation and monitoring measures would minimize further any potential risk for injury, serious injury, or mortality. Thus, we do not propose to authorize any injury, serious injury, or mortality. We expect all potential takes to fall under the category of Level B harassment only.

Encouraging and Coordinating Research

Glacier Bay NP actively monitors harbor seals at breeding and molting haul out locations to assess trends over time (e.g., Mathews & Pendleton, 2006; Womble *et al.* 2010, Womble and Gende, 2013b). This monitoring program involves collaborations with biologists from the Alaska Department of Fish and Game, and the National Marine Mammal Laboratory. Glacier Bay NP will continue these collaborations and encourage continued or renewed monitoring of marine mammal species. Additionally, they would report vessel-based counts of marine mammals, branded, or injured animals, and all observed disturbances to the appropriate state and federal agencies.

Analysis and Determinations

Negligible Impact

Negligible impact' is ''an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival'' (50 CFR 216.103). The lack of likely adverse effects on annual rates of recruitment or survival (i.e., population level effects) forms the basis of a negligible impact finding. Thus, an estimate of the number of Level B harassment takes, alone, is not enough information on which to base an impact determination. In addition to considering estimates of the number of marine mammals that might be ''taken'' through behavioral harassment, NMFS must consider other factors, such as the likely nature of any responses (their intensity, duration, etc.), the context of any responses (critical reproductive time or location, migration, etc.), as well as the number and nature of estimated Level A harassment takes, and the number of estimated mortalities, effects on habitat, and the status of the species.

In making a negligible impact determination, NMFS considers:
• The number of anticipated injuries, serious injuries, or mortalities;
• The number, nature, and intensity, and duration of Level B harassment; and
• The context in which the takes occur (e.g., impacts to areas of significance, impacts to local populations, and cumulative impacts when taking into account successive/contemporaneous actions when added to baseline data);
• The status of stock or species of marine mammals (i.e., depleted, not depleted, decreasing, increasing, stable, impact relative to the size of the population);

• Impacts on habitat affecting rates of recruitment/survival; and

• The effectiveness of monitoring and mitigation measures to reduce the number or severity of incidental take.

For reasons stated previously in this document and based on the following factors, Glacier Bay NP's specified activities are not likely to cause long-term behavioral disturbance, permanent threshold shift, or other non-auditory injury, serious injury, or death. These reasons include:

1. The effects of the research activities would be limited to short-term startle responses and localized behavioral changes due to the short and sporadic duration of the research activities. Minor and brief responses, such as short-duration startle or alert reactions, are not likely to constitute disruption of behavioral patterns, such as migration, nursing, breeding, feeding, or sheltering.

2. The availability of alternate areas for pinnipeds to avoid the resultant acoustic and visual disturbances from the research operations. Anecdotal reports from previous Glacier Bay NP activities have shown that the pinnipeds returned to the various sites and did not permanently abandon haul-out sites after Glacier Bay NP conducted their research activities.

3. The low potential for large-scale movements leading to injury, serious injury, or mortality because the researchers would delay ingress into the landing areas only after the pinnipeds have slowly entered the water.

4. Glacier Bay NP limiting access to Boulder, Lone, and Flapjack Islands, and Geikie Rock if more than 25 animals are present or if Steller sea lions are present in the research areas.

NMFS does not anticipate that any injuries, serious injuries, or mortalities would occur as a result of Glacier Bay's proposed activities, and NMFS does not propose to authorize injury, serious injury, or mortality at this time.

Due to the nature, degree, and context of Level B (behavioral) harassment anticipated and described (see ''Potential Effects on Marine Mammals'' section in the in the notice of proposed authorization (79 FR 32226, June 4, 2014), we do not expect the activity to impact rates of recruitment or survival for any affected species or stock. In addition, the research activities would not take place in areas of significance for marine mammal feeding, resting, breeding, or calving and would not adversely impact marine mammal habitat.

NMFS finds that Glacier Bay NP's proposed activities will have a negligible impact on the affected species or stocks based on the analysis contained in this notice of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the mitigation and monitoring measures.

Small Numbers

As mentioned previously, NMFS estimates that Glacier Bay NP's activities could potentially affect, by Level B harassment only, one species of marine mammal under our jurisdiction. For harbor seals, this estimate is small (12.6 percent) relative to the population size.

Based on the analysis contained in this notice of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the mitigation and monitoring measures, NMFS finds that Glacier Bay NP's proposed activities would take small numbers of marine mammals relative to the populations of the affected species or stocks.

Impact on Availability of Affected Species or Stock for Taking for Subsistence Uses

There are no relevant subsistence uses of marine mammals implicated by this action. Glacier Bay National Park prohibits subsistence harvest of harbor seals within the Park (Catton, 1995).

Endangered Species Act (ESA)

NMFS does not expect that Glacier Bay NP's proposed research activities would affect any species listed under the ESA. Therefore, NMFS has determined that a section 7 consultation under the ESA is not required.

National Environmental Policy Act (NEPA)

To meet our NEPA requirements for the issuance of an Authorization to Glacier Bay NP, we prepared an Environmental Assessment (EA) titled, ''Environmental Assessment for the Issuance of an Incidental Harassment Authorization To Take Marine Mammals by Harassment Incidental to Conducting Seabird Research in Glacier Bay Alaska.'' We provided relevant environmental information to the public through a previous notice for the proposed Authorization (79 FR 32226, June 4, 2014) and considered public comments received in response prior to finalizing our EA and deciding whether or not to issue a Finding of No Significant Impact (FONSI).

We conclude that issuance of an Incidental Harassment Authorization would not significantly affect the quality of the human environment and have issued a FONSI. Our EA and FONSI for this activity are available upon request (see **ADDRESSES**).

Authorization

As a result of these determinations, we have issued an Incidental Harassment Authorization to Glacier Bay National Park for conducting seabird research September 1 through September 30, 2014, provided they incorporate the previously mentioned mitigation, monitoring, and reporting requirements.

Dated: September 15, 2014.

Perry F. Gayaldo,

Deputy Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2014–22269 Filed 9–17–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

[Docket No. PTO–P–2014–0046]

Notice on Roundtable on International Harmonization of Substantive Patent Law

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Notice of roundtable.

SUMMARY: The United States Patent and Trademark Office (USPTO) is seeking input on certain matters relating to the international harmonization of substantive patent law. In view of the importance of harmonization of substantive patent law to the successful reutilization of the examination work of one intellectual property office by another, or work sharing, the USPTO is particularly interested in stakeholder comments on the following key patent examination-related issues: The definition and scope of prior art; the grace period; and standards for assessing novelty and obviousness/inventive step. To assist in gathering this information, the USPTO is holding a public roundtable which interested members of the public are invited to attend.

DATES: The roundtable will be held on November 19, 2014. The roundtable will begin at 8:30 a.m. and end at 12:00 p.m.

ADDRESSES: The roundtable will be held at the United States Patent and Trademark Office, Madison Building, 600 Dulany Street, Alexandria, Virginia 22314.

FOR FURTHER INFORMATION CONTACT: For further information regarding the roundtable, please contact Summer

Kostelnik or Elizabeth Shaw at the Office of Policy and International Affairs, by telephone at (571) 272–9300, by email at *IP.Policy@uspto.gov,* or by postal mail addressed to: Mail Stop OPIA, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450, ATTN: Summer Kostelnik or Elizabeth Shaw. Please direct all media inquiries to the Office of the Chief Communications Officer, USPTO, at (571) 272–8400.

SUPPLEMENTARY INFORMATION:

1. Background

The United States has participated in several international efforts to harmonize substantive patent law across different jurisdictions. The most recent discussions toward this end have been conducted under the auspices of the ''Tegernsee Group,'' which is comprised of the leaders and patent law experts from the patent offices of Denmark, France, Germany, Japan, the United Kingdom, and the United States, as well as from the European Patent Office. The Group was formed in 2011 to consider the state of patent law harmonization and to facilitate progress toward greater harmonization by means of fact finding and information gathering. The Group published a Final Report in June 2014, consolidating stakeholder views on key issues across various jurisdictions. The Final Report, entitled ''Consolidated Report on the Tegernsee User Consultation on Substantive Patent Law Harmonization,'' is available for review at *http://www.uspto.gov/ip/global/patents/tegernsee_survey/teg-final_consol_report_june_2014.pdf.* The Tegernsee Group is currently on hiatus pending further developments.

In parallel with the Tegernsee Group discussions and earlier efforts focused on substantive harmonization, the USPTO has also been engaged with other patent offices on several work sharing initiatives, such as the Patent Prosecution Highway. Work sharing allows one office to leverage work done by another office on a corresponding application in order to improve quality and reduce duplicative search and examination efforts. Substantive harmonization can enhance the effectiveness of work sharing by better aligning the patentability standards of the various offices, thereby making it easier for those offices to use one another's work.

2. Issues for Public Comment

Past studies and experiences indicate that the areas of substantive law that are most relevant for work-sharing purposes are those related to the search and application of prior art. That is because prior art is determinative of patentability in most cases, and because prior art searching is a critical aspect of the examination process. Accordingly, the USPTO is particularly interested in stakeholder views on the following key patent examination-related issues: The definition and scope of prior art; the grace period; and standards for assessing novelty and obviousness/inventive step.

The roundtable will begin with an introduction on the current state of play of substantive harmonization efforts including an update on the work of the Tegernsee Group. The roundtable will continue with a panel discussion consisting of two sessions. The first session will include a discussion on the substantive harmonization issues most suitable for further progress, with a particular focus on those key patent examination-related issues: Definition of prior art; prior art effect of published applications; prior art not affecting patentability (grace period), and conditions for patentability—novelty and obviousness/inventive step. During the second session, the USPTO is interested in hearing stakeholder views as to how to best advance substantive patent law harmonization discussions.

Time will be reserved at the end of each session for interested members of the public to comment upon the topics discussed. Individuals interested in serving as a panelist should submit their name, contact information (telephone number and email address), the name of the organization(s) the person represents, if any, relevant biographical information as it pertains to the topic(s) to be discussed during the session(s), and a few brief comments on the topic(s) to *IP.Policy@uspto.gov* before October 24, 2014. Panelists will be selected approximately two weeks in advance of the roundtable.

Instructions and Information on the Public Roundtable

The roundtable will be held on November 19, 2014, at the United States Patent and Trademark Office, Madison Building, 600 Dulany Street, Alexandria, Virginia 22314. The roundtable will begin at 8:30 a.m. and end at 12:00 p.m. The agenda and Web cast information will be available a week before the roundtable on the USPTO's Office of Policy and International Affairs Web site at *http://www.uspto.gov/ip/officechiefecon/hearings_round_tables.jsp.* Registration is available at *http://events.SignUp4.com/Patharm.* Attendees may also register at the door. Sign in will commence at 8:00 a.m. prior to the beginning of the roundtable.

The roundtable will be physically accessible to people with disabilities. Individuals requiring accommodation, such as sign language interpretation or other ancillary aids, should communicate their needs to Hollis Robinson at the Office of Policy and International Affairs, by telephone at (571) 272–9300, by email at *hollis.robinson@uspto.gov,* or by postal mail addressed to: Mail Stop OPIA, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450, ATTN: Hollis Robinson, at least seven (7) business days prior to the roundtable.

Dated: September 12, 2014.

Michelle K. Lee,

Deputy Under Secretary of Commerce for Intellectual Property and Deputy Director of the United States Patent and Trademark Office.

[FR Doc. 2014–22222 Filed 9–17–14; 8:45 am]

BILLING CODE 3510–16–P

DEPARTMENT OF EDUCATION

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Applications for New Awards; Preschool Development Grants—Expansion Grants; Correction

AGENCIES: Department of Education and Department of Health and Human Services.

ACTION: Notice; correction.

Catalog of Federal Domestic Assistance (CFDA) Number: 84.419B.

SUMMARY: On August 18, 2014, the Departments of Education and Health and Human Services published in the **Federal Register** (79 FR 48874) a notice inviting applications for new awards for fiscal year 2014 for the Preschool Development Grants—Expansion Grants program. This notice corrects the *Executive Summary* Selection Criterion (A)(7)(b).

DATES: Effective September 18, 2014.

SUPPLEMENTARY INFORMATION:

Correction

In the **Federal Register** of August 18, 2014 (79 FR 48874), on page 48884, in the left-hand column under the selection criterion (A)(7)(b), the text of the selection criterion refers to ''one or more'' High-Need Communities. In order to align Selection Criterion (A)(7)(b) with Absolute Priority 1 and the introductory text to Selection Criterion (D), we correct the paragraph to read ''two or more'' High-Need Communities, as follows:

(b) Subgrants to Early Learning Providers to implement voluntary, High-Quality Preschool Programs for Eligible Children in two or more High-Need Communities, including how it will—

Program Authority: Sections 14005 and 14006 of the ARRA, as amended by section 1832(b) of division B of the Department of Defense and Full-Year Continuing Appropriations Act, 2011 (Pub. L. 112–10), the Department of Education Appropriations Act, 2012 (title III of division F of Pub. L. 112–74, the Consolidated Appropriations Act, 2012), and the Department of Education Appropriations Act, 2014 (title III of division H of Pub. L. 113–76, the Consolidated Appropriations Act, 2014).

FOR FURTHER INFORMATION CONTACT: Rebecca Marek, U.S. Department of Education, 400 Maryland Ave. SW., Room 3E344, Washington, DC 20202–6200. Telephone: 202–260–0968 or by email: *PreschoolDevelopmentGrants.Competition@ed.gov.*

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

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

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

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

Deborah S. Delisle,

Assistant Secretary for Elementary and Secondary Education, U.S. Department of Education.

Mark H. Greenberg,

Acting Assistant Secretary for Children and Families, U.S. Department of Health and Human Services.

[FR Doc. 2014–22320 Filed 9–17–14; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

List of Correspondence From July 1, 2013, Through September 30, 2013

AGENCY: Office of Special Education and Rehabilitative Services; Department of Education.

ACTION: Notice.

SUMMARY: The Secretary is publishing the following list of correspondence from the U.S. Department of Education (Department) to individuals during the previous quarter. The correspondence describes the Department's interpretations of the Individuals with Disabilities Education Act (IDEA) or the regulations that implement the IDEA. This list and the letters or other documents described in this list, with personally identifiable information redacted, as appropriate, can be found at: *http://www2.ed.gov/policy/speced/guid/idea/index.html.*

FOR FURTHER INFORMATION CONTACT: Jessica Spataro or Mary Louise Dirrigl. Telephone: (202) 245–7605.

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

Individuals with disabilities can obtain a copy of this list and the letters or other documents described in this list in an accessible format (e.g., braille, large print, audiotape, or compact disc) by contacting Jessica Spataro or Mary Louise Dirrigl at (202) 245–7605.

SUPPLEMENTARY INFORMATION: The following list identifies correspondence from the Department issued from July 1, 2013, through September 30, 2013. Under section 607(f) of the IDEA, the Secretary is required to publish this list quarterly in the **Federal Register**. The list includes those letters that contain interpretations of the requirements of the IDEA and its implementing regulations, as well as letters and other documents that the Department believes will assist the public in understanding the requirements of the law. The list identifies the date and topic of each letter, and it provides summary information, as appropriate. To protect the privacy interests of the individual or individuals involved, personally identifiable information has been redacted, as appropriate.

Part B—Assistance for Education of All Children With Disabilities

Section 612—State Eligibility

Topic Addressed: Free Appropriate Public Education

- Dear Colleague Letter dated July 19, 2013, addressing concerns expressed by stakeholders about the unique educational needs of highly mobile children with disabilities under Part B of the IDEA.
- Dear Colleague Letter dated August 20, 2013, providing an overview of a school district's responsibilities under Part B of the IDEA to address bullying of students with disabilities.

Topic Addressed: Least Restrictive Environment

- Letter dated July 31, 2013, to University of Wisconsin's Center on Disability Health and Adapted Physical Activity Professor Garth Tymeson, regarding physical education for preschool children with disabilities.

Topic Addressed: Methods of Ensuring Services

- Letter dated September 5, 2013, to PAVE Parent Training and Information Program Director Vicky McKinney, regarding requirements governing the use of public benefits or insurance to pay for services under Part B of the IDEA.

Section 614—Evaluations, Eligibility Determinations, Individualized Education Programs, and Educational Placements

Topic Addressed: Evaluations, Parental Consent, and Reevaluations

- Letter dated September 10, 2013, to Lehigh University Professor of Education and Law Perry A. Zirkel, regarding whether a particular general education intervention could be considered a process based on a child's response to scientific, research-based intervention.

Topic Addressed: Individualized Education Programs (IEPs)

- Letter dated September 3, 2013, to Colorado attorney W. Kelly Dude, regarding whether secondary transition services identified in the IEPs of high school students with disabilities could include the opportunity to take courses at postsecondary institutions prior to high school graduation.
- Letter dated September 24, 2013, to Maine Department of Education Special Services Director Jan Breton, regarding the State's assessment of a school district's policy regarding written

submissions by parents prior to IEP Team meetings.

Topic Addressed: Educational Placements

○ Letter dated August 5, 2013, to National Center for Homeless Education Director Diana Bowman, regarding the requirements in Part B of the IDEA that apply to the school of origin and transportation for homeless children with disabilities.

Section 615—Procedural Safeguards

Topic Addressed: Due Process Complaints

○ Letter dated August 1, 2013, to New Jersey attorney Michael Inzelbuch, regarding due process complaint procedures and criteria for independent educational evaluations at public expense.

Part C—Infants and Toddlers With Disabilities

Section 635—Requirements for Statewide System

Topic Addressed: Implementation of a Statewide System

○ Letter dated September 24, 2013, to Marilyn Arons, President of the Melody Arons Center of Applied Preschool Research and Education, Inc., clarifying the central directory and State complaint requirements in Part C of the IDEA.

Section 640—Payor of Last Resort

Topic Addressed: Use of Family's Public and Private Insurance for Early Intervention Services

○ Letter dated July 19, 2013, to IDEA Infant and Toddler Coordinators Association Executive Director Maureen Greer, responding to several questions regarding the requirements for parental consent, use of private insurance, and family fees when a State implements a system of payments (using public benefits or insurance, private insurance, and/or family fees) under Part C of the IDEA.

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

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

Dated: September 15, 2014.

Michael K. Yudin,

Acting Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 2014–22322 Filed 9–17–14; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13–030]

Green Island Power Authority; Albany Engineering Corporation; Notice of Application for Transfer of License and Soliciting Comments and Motions To Intervene

On August 14, 2014, Green Island Power Authority (transferor) and Albany Engineering Corporation (transferee) filed an application for a partial transfer of license of the Green Island Project located on the Hudson River in Saratoga and Rensselaer counties, New York.

The transferor and transferee seek Commission approval to partially transfer the license for the Green Island Project to add the transferee as a co-licensee.

Applicant Contacts: For Transferor: Kristin Swinton, Green Island Power Authority, 69 Hudson Avenue, Green Island, NY 12183, Phone: 518–271–9397, Email: *kristin@greenislandpowerauthority.com.* For Transferor and Transferee: William S. Huang and Rebecca J. Baldwin, Spiegel & McDiarmid LLP, 1875 Eye Street NW., Suite 700, Washington, DC 20006, Phone: 202–879–4000, Emails: *william.huang@spiegelmcd.com* and *rebecca.baldwin@spiegelmcd.com.* For Transferee: James A. Besha, P.E. and Wendy Jo Carey, P.E., Albany Engineering Corporation, 5 Washington Square, Albany, NY 12205, Phone: 518–456–7712, Emails: *jim@albanyengineering.com* and *wendy@albanyengineering.com.*

FERC Contact: Patricia W. Gillis, (202) 502–8735.

Deadline for filing comments and motions to intervene: 30 days from the issuance date of this notice, by the Commission. The Commission strongly encourages electronic filing. Please file motions to intervene and comments using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. The first page of any filing should include docket number P–13–030.

Dated: September 11, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–22281 Filed 9–17–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Effectiveness of Exempt Wholesale Generator or Foreign Utility Company Status

	Docket Nos.
Danskammer Energy, LLC	EG14–59–000
Beebe 1B Renewable Energy, LLC	EG14–60–000
Selmer Farm, LLC	EG14–61–000
Mulberry Farm, LLC	EG14–62–000
Limon Wind III, LLC	EG14–63–000
Grand Ridge Energy Storage, LLC	EG14–64–000
CED White River Solar 2, L.L.C	EG14–65–000
CED White River Solar, L.L.C	EG14–66–000
RE Astoria, LLC	EG14–67–000
RE Astoria 2, LLC	EG14–68–000
Ector County Energy Center, LLC	EG14–69–000
Keechi Wind, LLC	EG14–70–000
Blackspring Ridge I Wind Project GP, Inc	FC14–14–000
East Durham Wind, LP	FC14–15–000

Take notice that during the months of August 2014, the status of the above-captioned entities as Exempt Wholesale Generators or Foreign Utility Companies became effective by operation of the Commission's regulations. 18 CFR 366.7(a).

Dated: September 11, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–22280 Filed 9–17–14; 8:45 am]

BILLING CODE 6717–01–P

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Sunshine Act Notice; Cancellation of Meeting Notice

September 15, 2014.

The following Commission meeting has been cancelled. No earlier announcement of the cancellation was possible.

TIME AND DATE: 10:00 a.m., Thursday, September 18, 2014.

PLACE: The Richard V. Backley Hearing Room, Room 511N, 1331 Pennsylvania Avenue NW., Washington, DC 20004 (entry from F Street entrance).

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following in open session: *Secretary of Labor* v. *State of Alaska, Department of Transportation,* Docket No. WEST 2008–1490–M. (Issues include whether MSHA has regulatory jurisdiction over certain equipment because the process in question constitutes ''milling.'')

Any person attending this meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 29 CFR 2706.150(a)(3) and 2706.160(d).

CONTACT PERSON FOR MORE INFO: Emogene Johnson (202) 434–9935/(202) 708–9300 for TDD Relay/1–800–877–8339 for toll free.

Emogene Johnson,

Administrative Assistant.

[FR Doc. 2014–22346 Filed 9–16–14; 11:15 am]

BILLING CODE 6735–01–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 October 14, 2014.

A. Federal Reserve Bank of Philadelphia (William Lang, Senior Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105–1521:

1. *ESSA Bancorp, Inc.,* Stroudsburg, Pennsylvania; to convert from a savings and loan holding company to a bank holding company. ESSA Bancorp, Inc., controls ESSA Bank & Trust Company, Stroudsburg, Pennsylvania.

Board of Governors of the Federal Reserve System, September 15, 2014.

Michael J. Lewandowski,

Associate Secretary of the Board.

[FR Doc. 2014–22267 Filed 9–17–14; 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 October 14, 2014.

A. Federal Reserve Bank of St. Louis (Yvonne Sparks, Community Development Officer), P.O. Box 442, St. Louis, Missouri 63166–2034:

1. *Bank of the Ozarks, Inc.,* Little Rock, Arkansas; to merge with Intervest Bancshares Corporation, and thereby indirectly acquire Intervest National Bank, both in New York, New York.

In connection with this application, Applicant also has applied to acquire to engage in lending activities, pursuant to section 225.28(b)(1).

Board of Governors of the Federal Reserve System, September 15, 2014.

Michael J. Lewandowski,

Associate Secretary of the Board.

[FR Doc. 2014–22268 Filed 9–17–14; 8:45 am]

BILLING CODE 6210–01–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 October 2, 2014.

A. Federal Reserve Bank of Richmond (Adam M. Drimer, Assistant Vice

President) 701 East Byrd Street, Richmond, Virginia 23261–4528:

1. *Benjamin M. Susman, and Dixie L. Susman,* both of Beckley, West Virginia, as members of the Susman family control group; to acquire voting shares of Mount Hope Bankshares, Inc., and thereby indirectly acquire voting shares of Bank of Mount Hope, Inc., both in Mount Hope, West Virginia.

B. Federal Reserve Bank of St. Louis (Yvonne Sparks, Community Development Officer) P.O. Box 442, St. Louis, Missouri 63166–2034:

1. *Jeffrey Harris Lowrey MD, Millennium Trust Company LLC, custodian for Jeffrey Lowrey MD SEP IRA, both of Eads, Tennessee; Jennifer Lauren Watson, Louisville, Kentucky; John Allen Lowrey; James Richard Lowrey, and Nancy Kemp Lowrey,* all of Fairborn, Ohio; as members of the Lowrey family control group, to acquire voting shares of Germantown Capital Corporation, Inc., and thereby indirectly acquire voting shares of First Capital Bank, both in Germantown, Tennessee.

C. Federal Reserve Bank of Minneapolis (Jacquelyn K. Brunmeier, Assistant Vice President) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. *James C. Hays, Miami Beach, Florida, individually and as a member of a group acting in concert consisting of: Barlow Banking Corporation, Iowa Falls, Iowa; John R. Barlow, Mound, Minnesota; the John R. Barlow IRA, Mound, Minnesota; William L. Mershon, Miami Beach, Florida; Stephen T. Lerum, Hamel, Minnesota; and Howard B. Wenger,* Iowa Falls, Iowa; to acquire voting shares of Northfield Bancshares, Inc., and thereby indirectly acquire voting shares of Community Resource Bank, both in Northfield, Minnesota.

Board of Governors of the Federal Reserve System, September 12, 2014.

Michael J. Lewandowski,

Associate Secretary of the Board.

[FR Doc. 2014–22209 Filed 9–17–14; 8:45 am]

BILLING CODE 6210–01–P

GOVERNMENT ACCOUNTABILITY OFFICE

[GAO–14–704G]

2014 Revision—Standards for Internal Control in the Federal Government

AGENCY: U.S. Government Accountability Office.

ACTION: Notice of document availability.

SUMMARY: The US Government Accountability Office (GAO) has issued its 2014 revision to the Standards for Internal Control in the Federal Government, known as the ''Green Book,'' under the authority provided in 31 U.S.C. 3512 (c), (d), commonly known as the Federal Managers' Financial Integrity Act (FMFIA). To help ensure that the standards continue to meet the needs of government managers and the audit community it serves, the Comptroller General of the United States established the Green Book Advisory Council to provide input on revisions to the ''Green Book.'' This 2014 revision of the standards includes the Advisory Council's input regarding the changes. It also includes input from public comments received on the proposed revisions in the 2013 exposure draft. The changes contained in the 2014 revision to the Standards for Internal Control in the Federal Government reflect major developments in the accountability and financial management profession and emphasize specific considerations applicable to the government environment.

The 2014 revision to Standards for Internal Control in the Federal Government is available in electronic format for download from GAO's Web page at *www.gao.gov* using GAO–14–704G as a report number. It will also be available for sale in hardcopy from the Government Printing Office in the near future at *http://bookstore.gpo.gov* or other GPO locations listed there. GAO–14–704G may be used to find its GPO stock number and ISBN.

DATES: The 2014 revision will be effective beginning with fiscal year 2016 and the FMFIA reports covering that year. Management, at their discretion, may elect to adopt the 2014 Green Book early.

FOR FURTHER INFORMATION CONTACT: For information on the Standards for Internal Control in the Federal Government, please submit questions electronically to *GreenBook@gao.gov* or telephonically to 202–512–9535.

Authority: 31 U.S.C. 3512(c), (d).

Steven J. Sebastian,

Managing Director, Financial Management and Assurance, U.S. Government Accountability Office.

[FR Doc. 2014–22188 Filed 9–17–14; 8:45 am]

BILLING CODE 1610–02–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Findings of Research Misconduct

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Office of Research Integrity (ORI) has taken final action in the following case:

Takao Takahashi, M.D., Ph.D., University of Texas Southwestern Medical Center: Based on the report of an investigation conducted by the University of Texas Southwestern Medical Center (UT Southwestern) and analysis conducted by ORI in its oversight review, ORI found that Dr. Takao Takahashi, currently a faculty member in the Department of Surgical Oncology, Gifu University, Graduate School of Medicine, Gifu, Japan, and formerly a Visiting Scientist in the Hamon Center for Therapeutic Oncology Research, UT Southwestern, engaged in research misconduct in research supported by National Cancer Institute (NCI), National Institutes of Health (NIH), grant U01 CA084971.

ORI found that Respondent knowingly, intentionally, and recklessly falsified data reported in four (4) publications:

- Takahashi, T., Shivapurkar, N., Reddy, J., Shigematsu, H., Miyajima, K., Suzuki, M., Toyooka, S., Zöchbauer-Müeller, S., Drach, J., Parikh, G., Zheng, Y., Feng, Z., Kroft, S.H., Timmons, C., McKenna, R.W., & Gazdar, A.F. ''DNA methylation profiles of lymphoid and hematopoietic malignancies.'' *Clin Cancer Res.* 10(9):2928–35, 2004 May 1 (hereafter referred to as ''*CCR* 2004''); Retraction in: *Clin Cancer Res.* 19(1):307, 2013 Jan 1
- Takahashi, T., Suzuki, M., Shigematsu, H., Shivapurkar, N., Echebiri, C., Nomura, M., Stastny, V., Augustus, M., Wu, C.W., Wistuba, I.I., Meltzer, S.J., & Gazdar, A.F. ''Aberrant methylation of Reprimo n human malignancies.'' *Int J Cancer* 115(4):503–10, 2005 Jul 1 (hereafter referred to as ''*IJC* 2005''); Retraction in: *Int J. Cancer* 132(2):498, 2013, Jan 15
- Takahashi, T., Shigematsu, H., Shivapurkar, N., Reddy, J., Zheng, Y., Feng, Z., Suzuki, M., Noomura, M., Augustus, M., Yin, J., Meltzer, S.J., & Gazdar, A.F. ''Aberrant promoter methylation of multiple genes during multistep pathogenesis of colorectal cancers.'' *Int J Cancer* 118(4):924–31, 2006 Feb 15 (hereafter referred to as ''*IJC* 2006''); Retraction in: *Int J Cancer* 132(2):499, 2013 Jan 15
- Tokuyama, Y., Takahashi, T., Okumura, N., Nonaka, K., Kawaguchi, Y., Yamaguchi, K., Osada, S., Gazdar, A., & Yoshida, K., ''Aberrant methylation of heparan sulfate

glucosamine 3–O-sulfotransferase 2 genes as a biomarker in colorectal cancer.'' *Anticancer Res.* 30(12):4811–8, 2010 Dec (hereafter referred to as ''*AR* 2010''); Retraction in: *Anticancer Res.* 32(11):5138, 2012 Nov.

Respondent falsified data representing glyceraldehyde 3-phosphate dehydrogenase (GAPDH) loading controls and methylated/unmethylated polymerase chain reaction (PCR) in reverse transcription-PCR (RT–PCR) gel panels.

Specifically, ORI found by a preponderance of the evidence that Respondent engaged in research misconduct by knowingly, intentionally, and recklessly falsely reporting the results of RT–PCR experiments by:

1. Reusing and relabeling an image and claiming it represents different experiments of human tumor cell lines subjected to different treatments; specifically, an identical image was used to represent the:

(a) GAPDH RT–PCR panels of several lymphoma, leukemia, multiple myeloma, and colorectal cancer cell lines in *CCR* 2004, Figures 1A and 1B, *IJC* 2005, Figure 1A, *IJC* 2006, Figures 1A and 2A, and AR 2010, Figure 1A

(b) GAPDH RT–PCR panels of the lymphoma cell lines BC–1 and Raji in *CCR* 2004, Figure 1B, lanes 1–3, and the colorectal cancer cell lines HCT116 and COLO201 in *AR* 2010, Figure 1C, lanes 4–6

(c) unmethylated form of p16 (p16UM) controls in the methylation-specific PCR (MSP) panels for the leukemia (Le) and multiple myeloma (MM) samples in *CCR* 2004, Figure 2

(d) p16UM MSP panels for the lymphoma (Ly) and Le samples in *CCR* 2004, Figure 2, and the unmethylated (UM) bands MSP panel for the colorectal cancer (CRC) cell line in *IJC* 2005, Figure 5.

2. Manipulating an image and claiming it represents a gel with contiguous lanes; specifically, the RT–PCR products in the lanes of gels were cropped, spliced, and pasted together to form a single image for the MSP panels in *IJC* 2006, Figure 3.

Dr. Takahashi has entered into a Voluntary Settlement Agreement (Agreement) and has voluntarily agreed for a period of three (3) years, beginning on August 26, 2014:

(1) To have his research supervised; Respondent agrees that prior to the submission of an application for U.S. Public Health Service (PHS) support for a research project on which the Respondent's participation is proposed and prior to Respondent's participation in any capacity on PHS-supported research, Respondent shall ensure that a plan for supervision of Respondent's duties is submitted to ORI for approval; the supervision plan must be designed to ensure the scientific integrity of Respondent's research; Respondent agrees that he shall not participate in any PHS-supported research until such a supervision plan is submitted to and approved by ORI; Respondent agrees to maintain responsibility for compliance with the agreed upon supervision plan;

(2) that any institution employing him shall submit, in conjunction with each application for PHS funds, or report, manuscript, or abstract involving PHS-supported research in which Respondent is involved, a certification to ORI that the data provided by Respondent are based on actual experiments or are otherwise legitimately derived and that the data, procedures, and methodology are accurately reported in the application, report, manuscript, or abstract; and

(3) to exclude himself voluntarily from serving in any advisory capacity to PHS including, but not limited to, service on any PHS advisory committee, board, and/or peer review committee, or as a consultant.

FOR FURTHER INFORMATION CONTACT: Acting Director, Office of Research Integrity, 1101 Wootton Parkway, Suite 750, Rockville, MD 20852, (240) 453–8200.

Donald Wright,

Acting Director, Office of Research Integrity.

[FR Doc. 2014–22191 Filed 9–17–14; 8:45 am]

BILLING CODE 4150–31–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Findings of Research Misconduct

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Office of Research Integrity (ORI) has taken final action in the following case:

Makoto Suzuki, M.D., University of Texas Southwestern Medical Center: Based on the report of an investigation conducted by the University of Texas Southwestern Medical Center (UT Southwestern) and analysis conducted by ORI in its oversight review, ORI found that Dr. Makoto Suzuki, currently a Professor in the Department of Thoracic Surgery, Kumamoto University Hospital, Kumamoto, Japan, and formerly a Visiting Scientist in the Hamon Center for Therapeutic Oncology Research, UT Southwestern, engaged in research misconduct in research supported by National Cancer Institute (NCI), National Institutes of Health (NIH), grants P50 CA070907 and U01 CA084971.

ORI found that Respondent knowingly, intentionally, and recklessly falsified data reported in six (6) publications:

- Suzuki, M., Hao, C., Takahashi, T., Shigematsu, H., Shivapurkar, N., Sathyanarayana, U.G., Iizasa, T., Fujisawa, T., Hiroshima, K., & Gazdar, A.F. ''Aberrant methylation of SPARC in human lung cancers.'' *Br J Cancer* 92(5):942–8, 2005 Mar 14 (hereafter referred to as ''*BJC* 2005–1''); Retraction in: *Br J Cancer* 108(3):744, 2013 Feb 19
- Suzuki, M., Shigematsu, H., Shames, D.S., Sunaga, N., Takahashi, T., Shivapurkar, N., Iizasa, T., Frankel, E.P., Minna, J.D., Fujisawa, T., & Gazdar, A.F. ''DNA methylation associated inactivation of TGFbeta-related genes DRM/Gremlin, RUNX3, and HPP1 in human cancers.'' *Br J Cancer* 93(9):1029–37, 2005 Oct 31 (hereafter referred to as ''*BJC* 2005–2''); Retraction in: *Br J Cancer* 109(12)3132, 2013 Dec 10
- Suzuki, M., Shigematsu, H., Takahashi, T., Shivapurkar, N., Sathyanarayana, U.G., Iizasa, T., Fujisawa, T., & Gazdar, A.F. ''Aberrant methylation of Reprimo in lung cancer.'' *Lung Cancer* 47(3):309–14; 2005 Mar (hereafter referred to as ''*LC* 2005''); Retraction in: *Lung Cancer* 85(2):337, 2014 August
- Suzuki, M., Toyooka, S., Shivapurkar, N., Shigematsu, H., Miyajima, K., Takahashi, T., Stastny, V., Zern, A.L., Fujisawa, T., Pass, H.I., Carbone, M., & Gazdar, A.F. ''Aberrant methylation profile of human malignant mesotheliomas and its relationship to SV40 infection.'' *Oncogene* 24(7):1302–8, 2005 Feb 10 (hereafter referred to as ''*ONC* 2005''); Retraction in: *Oncogene* 33(21):2814, 2014 May 22
- Suzuki, M., Shigematsu, H., Shivapurkar, N., Reddy, J., Miyajima, K., Takahashi, T., Gazdar, A.F., & Frenkel, E.P. ''Methylation of apoptosis related genes in the pathogenesis and prognosis of prostate cancer.'' *Cancer Lett.* 242(2):222–30, 2006 Oct 28 (hereafter referred to as ''*CL* 2006'')
- Suzuki, M., Shigematsu, H., Shames, D.S., Sunaga, N., Takahashi, T., Shivapurkar, N., Iizasa, T., Minna, J.D., Fujisawa, T., & Gazdar, A.F. ''Methylation and gene silencing of

the Ras-related GTPase gene in lung and breast cancers.'' *Ann Surg Oncol.* 14(4):1397–404, 2007 Apr (hereafter referred to as ''*ASO* 2007'').

Respondent falsified data representing glyceraldehyde 3-phosphate dehydrogenase (GAPDH) loading controls and methylated/unmethylated polymerase chain reaction (PCR) in reverse transcription-PCR (RT–PCR) gel panels.

Specifically, ORI found by a preponderance of the evidence that Respondent engaged in research misconduct by knowingly, intentionally, and recklessly falsely reporting the results of RT–PCR experiments by:

1. Reusing and relabeling an image and claiming it represents different experiments of human tumor cell lines subjected to different treatments; specifically, an identical image was used to represent the:

(a) GAPDH RT–PCR panels in *BJC* 2005–01, Figure 1A, lanes 4–12, and Figure 1C, lanes 4–12

(b) GAPDH RT–PCR panels in *BJC* 2005–2, Figures 1A and 1B, and *ASO* 2007, Figures 1A and 1B

(c) unmethylated form of p16 (p16U) RT–PCR panel in CL 2006, Figure 1, lanes 3–10, positive (P) and negative (N) controls, and the p16 U RT–PCR panel in *ONC* 2005, Figure 2A.

2. Manipulating an image and claiming it represents a gel with contiguous lanes; specifically, the RT–PCR products in the lanes of gels were cropped, spliced, and pasted together to form a single image for the:

(a) GAPDH RT–PCR panels in *LC* 2005, Figures 1A and 1B

(b) methylated form of Decoy receptor 2 (DcR2 M) methylation-specific PCR (MSP) panel in *CL* 2006, Figure 1

(c) methylated form of small Ras-related GTPase (RRAD M) MSP panel in *ASO* 2007, Figure 3B.

Dr. Suzuki has entered into a Voluntary Settlement Agreement (Agreement) and has voluntarily agreed for a period of three (3) years, beginning on August 26, 2014:

(1) To have his research supervised; Respondent agrees that prior to the submission of an application for U.S. Public Health Service (PHS) support for a research project on which the Respondent's participation is proposed and prior to Respondent's participation in any capacity on PHS-supported research, Respondent shall ensure that a plan for supervision of Respondent's duties is submitted to ORI for approval; the supervision plan must be designed to ensure the scientific integrity of Respondent's research; Respondent agrees that he shall not participate in any PHS-supported research until such a supervision plan is submitted to and approved by ORI; Respondent agrees to maintain responsibility for compliance with the agreed upon supervision plan;

(2) that any institution employing him shall submit, in conjunction with each application for PHS funds, or report, manuscript, or abstract involving PHS-supported research in which Respondent is involved, a certification to ORI that the data provided by Respondent are based on actual experiments or are otherwise legitimately derived and that the data, procedures, and methodology are accurately reported in the application, report, manuscript, or abstract; and

(3) to exclude himself voluntarily from serving in any advisory capacity to PHS including, but not limited to, service on any PHS advisory committee, board, and/or peer review committee, or as a consultant.

FOR FURTHER INFORMATION CONTACT: Acting Director, Office of Research Integrity, 1101 Wootton Parkway, Suite 750, Rockville, MD 20852, (240) 453–8200.

Donald Wright,

Acting Director, Office of Research Integrity.

[FR Doc. 2014–22192 Filed 9–17–14; 8:45 am]

BILLING CODE 4150–28–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Multi-Agency Informational Meeting Concerning Compliance With the Federal Select Agent Program; Public Webcast

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice of public Webcast.

SUMMARY: The HHS Centers for Disease Control and Prevention's Division of Select Agents and Toxins (DSAT) and the USDA Animal and Plant Health Inspection Service (APHIS), Agriculture Select Agent Services (AgSAS) are jointly charged with the oversight of the possession, use and transfer of biological agents and toxins that have the potential to pose a severe threat to public, animal or plant health or to animal or plant products (select agents and toxins). This joint effort constitutes the Federal Select Agent Program. The purpose of the Webcast is to provide guidance related to the Federal Select Agent Program for interested individuals.

DATES: The Webcast will be held on Friday, November 14, 2014 from 10 a.m. to 4 p.m. EST. All who wish to join the Webcast must register by October 24, 2014. Registration instructions can be found on the Web site *http://www.selectagents.gov.*

ADDRESSES: The Webcast will be broadcast from the Centers for Disease Control and Prevention's facility, 1600 Clifton Road, Atlanta, GA 30333. This will only be produced as a Webcast, therefore no accommodations will be provided for in-person participation.

FOR FURTHER INFORMATION CONTACT:

CDC: Ms. Diane Martin, Division of Select Agents and Toxins, Office of Public Health Preparedness and Response, CDC, 1600 Clifton Road MS A–46, Atlanta, GA 30333; phone: 404–718–2000; email: *lrsat@cdc.gov.*

APHIS: Dr. Keith Wiggins, APHIS Agriculture Select Agent Services, 4700 River Road, Unit 2, Riverdale, MD 20737; phone: 301–851–3300 (option 3); email: *AgSAS@aphis.usda.gov.*

SUPPLEMENTARY INFORMATION: The public Webcast is an opportunity for the affected community (i.e., registered entity responsible officials, alternate responsible officials, and entity owners) and other interested individuals to obtain specific regulatory guidance and information concerning biosafety, security and incident response issues related to the Federal Select Agent Program.

Representatives from the Federal Select Agent Program will be present during the Webcast to address questions and concerns from the Web participants.

Individuals who want to participate in the Webcast must complete their registration online by October 24, 2014. The registration instructions are located on this Web site: *http://www.selectagents.gov.*

Dated: September 15, 2014.

Ron A. Otten,

Acting Deputy Associate Director for Science, Centers for Disease Control and Prevention.

[FR Doc. 2014–22253 Filed 9–17–14; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[CDC–2013–0007; Docket Number NIOSH–233]

Issuance of Final Guidance Publication

AGENCY: National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice of issuance of final guidance publication.

SUMMARY: The National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control and Prevention (CDC) announces the publication of the following document entitled ''NIOSH List of Antineoplastic and Other Hazardous Drugs in Healthcare Settings, 2014.''

ADDRESSES: This document is available at the following link: *http://www.cdc.gov/niosh/docs/2014–138/pdfs/2014–138.pdf.*

FOR FURTHER INFORMATION CONTACT: Barbara MacKenzie, NIOSH, 1090 Tusculum Avenue, MS–C26, Cincinnati, Ohio 45226, telephone (513) 533–8132, email *hazardousdrugs@cdc.gov.*

Dated: September 11, 2014.

John Howard,

Director, National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention.

[FR Doc. 2014–22275 Filed 9–17–14; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review Amended; Notice of Meeting

Notice is hereby given of a change in the meeting of the Center for Scientific Review Special Emphasis Panel, October 10, 2014, 12:00 p.m. to October 10, 2014, 01:00 p.m., Sir Francis Drake Hotel, 450 Powell Street at Sutter, San Francisco, CA 94102 which was published in the **Federal Register** on September 12, 2014, 79 FR 54734.

The meeting will be held at the Pier 2620 Hotel, 2620 Jones Street, San Francisco, CA 94133. The meeting date and time remain the same. The meeting is closed to the public.

Dated: September 12, 2014.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–22297 Filed 9–17–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Allergy, Immunology, and Transplantation Research Committee.

Date: October 15–16, 2014.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Room 3147, 6700B Rockledge Drive, Bethesda, MD 20817, (Telephone Conference Call).

Contact Person: James T. Snyder, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities/NIAID, National Institutes of Health, 6700B Rockledge Drive, MSC 7616, Bethesda, MD 20892–7616, 301–435–1614, *james.snyder@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: September 12, 2014.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–22298 Filed 9–17–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Biomedical Imaging and Bioengineering; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Biomedical Imaging and Bioengineering Special Emphasis Panel, P41 BTRC review.

Date: October 21–23, 2014.

Time: 6:00 p.m. to 12:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Beechwood Hotel, 363 Plantation Street, Worcestor, MA 01605.

Contact Person: Manana Sukhareva, Ph.D., Scientific Review Officer, National Institute of Biomedical Imaging and Bioengineering, National Institutes of Health, 6707 Democracy Boulevard, Room 959, Bethesda, MD 20892, 301–451–3397, *sukharem@mail.nih.gov.*

Name of Committee: National Institute of Biomedical Imaging and Bioengineering Special Emphasis Panel, P41 BTRC review.

Date: November 4–6, 2014.

Time: 6:00 p.m. to 12:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The Inn at Longwood Medical, 342 Longwood Avenue, Boston, MA 02115.

Contact Person: Manana Sukhareva, Ph.D., Scientific Review Officer, National Institute of Biomedical Imaging and Bioengineering, National Institutes of Health, 6707 Democracy Boulevard, Room 959, Bethesda, MD 20892, 301–451–3397, *sukharem@mail.nih.gov.*

Name of Committee: National Institute of Biomedical Imaging and Bioengineering Special Emphasis Panel, P30 Biomedical Technology Service Center Review.

Date: December 2, 2014.

Time: 12:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892.

Contact Person: Manana Sukhareva, Ph.D., Scientific Review Officer, National Institute of Biomedical Imaging and Bioengineering, National Institutes of Health, 6707

Democracy Boulevard, Room 959, Bethesda, MD 20892, 301–451–3397, *sukharem@mail.nih.gov.*

Dated: September 12, 2014.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–22211 Filed 9–17–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; ''NIAID Investigator Initiated Program Project Applications'' (P01).

Date: October 14, 2014.

Time: 11:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Room 3257, 6700–B Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Robert C. Unfer, Ph.D., Scientific Review Officer, Scientific Review Program, DEA/NIAID/NIH/DHHS, 6700–B Rockledge Dr., MSC–7616, Bethesda, MD 20892–7616, 301–496–3775, *robert.unfer@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: September 12, 2014.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–22212 Filed 9–17–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center For Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Member Conflict: Musculoskeletal Development.

Date: October 15, 2014.

Time: 1:30 p.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Maria Nurminskaya, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, Bethesda, MD 20892, (301) 435–1222, *nurminskayam@csr.nih.gov.*

Name of Committee: Oncology 1—Basic Translational Integrated Review Group, Cancer Genetics Study Section.

Date: October 16–17, 2014.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Kinzie Hotel, 20 West Street, Chicago, IL 60654.

Contact Person: Michael L. Bloom, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6187, MSC 7804, Bethesda, MD 20892, 301–451–0132, *bloomm2@mail.nih.gov.*

Name of Committee: Oncology 2—Translational Clinical Integrated Review Group, Drug Discovery and Molecular Pharmacology Study Section.

Date: October 16–17, 2014.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: JW Marriott New Orleans, 614 Canal Street, New Orleans, LA 70130.

Contact Person: Jeffrey Smiley, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6194, MSC 7804, Bethesda, MD 20892, 301–594–7945, *smileyja@csr.nih.gov.*

Name of Committee: Biobehavioral and Behavioral Processes Integrated Review Group, Cognition and Perception Study Section.

Date: October 16–17, 2014.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The Fairmont Washington, DC, 2401 M Street NW., Washington, DC 20037.

Contact Person: Dana Jeffrey Plude, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3176, MSC 7848, Bethesda, MD 20892, (301) 435–2309, *pluded@csr.nih.gov.*

Name of Committee: Oncology 1—Basic Translational Integrated Review Group, Tumor Microenvironment Study Section.

Date: October 16–17, 2014.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Mayflower Park Hotel, 405 Olive Way, Seattle, WA 98101.

Contact Person: Angela Y Ng, Ph.D., MBA, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6200, MSC 7804, Bethesda, MD 20892, 301–435–1715, *ngan@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Sensory and Motor Neurosciences, Cognition and Perception.

Date: October 16–17, 2014.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Arlington Capitol View, 2850 South Potomac Avenue, Arlington, VA 22202.

Contact Person: Sharon M. Low, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5104, MSC 7846, Bethesda, MD 20892, 301–237–1487, *lowss@csr.nih.gov.*

Name of Committee: Molecular, Cellular and Developmental Neuroscience Integrated Review Group; Synapses, Cytoskeleton and Trafficking Study Section.

Date: October 16–17, 2014.

Time: 8:00 a.m. to 12:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Palmer House Hilton Hotel, 17 East Monroe Street, Chicago, IL 60603.

Contact Person: Christine A. Piggee, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4186, MSC 7850, Bethesda, MD 20892, 301–435–0657, *christine.piggee@nih.gov.*

Name of Committee: Molecular, Cellular and Developmental Neuroscience Integrated Review Group; Biophysics of Neural Systems Study Section.

Date: October 16, 2014.

Time: 8:00 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Palomar Hotel, 2121 P Street NW., Washington, DC 20037.

Contact Person: Geoffrey G. Schofield, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of

Health, 6701 Rockledge Drive, Room 4040–A, MSC 7850, Bethesda, MD 20892, 301–435–1235, *geoffreys@csr.nih.gov.*

Name of Committee: Population Sciences and Epidemiology Integrated Review Group; Kidney, Nutrition, Obesity and Diabetes Study Section.

Date: October 16–17, 2014.

Time: 8:30 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Marriott Wardman Park Washington DC Hotel, 2660 Woodley Road NW., Washington, DC 20008.

Contact Person: Fungai Chanetsa, Ph.D., MPH, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3135, MSC 7770, Bethesda, MD 20892, 301–408–9436, *fungai.chanetsa@nih.hhs.gov.*

Name of Committee: Brain Disorders and Clinical Neuroscience Integrated Review Group; Clinical Neuroimmunology and Brain Tumors Study Section.

Date: October 16–17, 2014.

Time: 8:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites DC Convention Center, 900 10th Street NW., Washington, DC 20001.

Contact Person: Jay Joshi, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5196, MSC 7846, Bethesda, MD 20892, (301) 408–9135, *joshij@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR–13–095: Differentiation and Integration of Stem Cells (Embryonic and Induced-Pluripotent) into Developing or Damaged Tissues.

Date: October 17, 2014.

Time: 10:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Washington DC/Downtown, 1199 Vermont Avenue, Washington, DC 20005.

Contact Person: Rass M. Shayiq, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institute of Health, 6701 Rockledge Drive, Room 2182, MSC 7818, Bethesda, MD 20892, (301) 435–2359, *shayiqr@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: September 12, 2014.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–22213 Filed 9–17–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospective Grant of Exclusive License: Therapeutics for the Treatment of Lysosomal Storage Disorders

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: This is notice, in accordance with 35 U.S.C. 209 and 37 CFR part 404, that the National Institutes of Health (NIH), Department of Health and Human Services (HHS), is contemplating the grant of an exclusive license to practice the following invention as embodied in the following patent applications:

1. U.S. Provisional Patent Application No. 61/365,712, filed July 19, 2010 HHS Ref. No. E–294–2009/0–US–01
   Titled: Use of Delta-Tocopherol for the Treatment of Lysosomal Storage Disorders
2. PCT Application No. PCT/US2011/044590, filed July 19, 2011 HHS Ref. No. E–294–2009/0–PCT–02
   Titled: Use of Delta-Tocopherol for the Treatment of Lysosomal Storage Disorders
3. European Patent Application No. 11741023.3, filed July 19, 2011 HHS Ref. No. E–294–2009/0–EP–03
   Titled: Use of Delta-Tocopherol for the Treatment of Lysosomal Storage Disorders
4. U.S. Patent Application No. 13/810,774, filed January 17, 2013 HHS Ref. No. E–294–2009/0–US–04
   Titled: Use of Delta-Tocopherol for the Treatment of Lysosomal Storage Disorders
5. U.S. Provisional Patent Application No. 61/679,668, filed on August 3, 2012 HHS Ref. No. E–050–2012/0–US–01
   Titled: Cyclodextrin for the Treatment of Lysosomal Storage Diseases
6. PCT Patent Application No. PCT/US2013/053527, filed on August 3, 2013 HHS Ref. No. E–050–2012/0–PCT–02
   Titled: Cyclodextrin for the Treatment of Lysosomal Storage Diseases
7. U.S. Provisional Patent Application No. 61/727,296, filed November 16, 2012 HHS Ref. No. E–148–2012/0–US–01
   Titled: Tocopherol and Tocopheryl Quinone Derivatives as Correctors of Lysosomal Storage Disorders
8. PCT Application No. PCT/US2013/070156, November 14, 2013 HHS Ref. No. E–148–2012/0–PCT–02
   Titled: Tocopherol and Tocopheryl Quinone Derivatives as Correctors of Lysosomal Storage Disorders,

to Vtesse, Inc., having a place of business in Cambridge, Massachusetts, United States of America. The patent rights in these inventions have been assigned to the United States of America.

DATES: Only written comments and/or application for a license which are received by the NIH Office of Technology Transfer on or before October 3, 2014 will be considered.

ADDRESSES: Requests for a copy of the patent application, inquiries, comments and other materials relating to the contemplated license should be directed to: Suryanarayana Vepa, Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, MD 20852–3804; Email: *vepas@mail.nih.gov;* Telephone: (301) 435–5020; Facsimile: (301) 402–0220.

SUPPLEMENTARY INFORMATION: These technologies relate to the use of cyclodextrin (CD), delta-tocopherol and their derivatives for the treatment of lysosomal storage disorders (LSDs). LSDs are inherited metabolic disorders caused by a deficiency in lysosomal enzymes, of which approximately fifty (50) have been described to date. These diseases usually affect children, many of whom die within several years of birth and some following years of dealing with symptoms of the disease that may include developmental delay, movement disorders, seizures, dementia, deafness and blindness. LSDs affect a significant number of individuals and some can be treated with enzyme-replacement therapies. However, because enzymes cannot cross the blood–brain barrier, replacement therapeutics are unable to address the central nervous system manifestations of the disorders. The inventors have identified an unexpected and previously unrecognized use for delta-tocopherol, which is a form of vitamin E, in the treatment of diseases and conditions related to LSDs. Further, the inventors showed that CD (alpha-, beta- and gamma-CDs) in combination with delta-tocopherol synergistically/additively reduced cholesterol accumulation in cells derived from patients suffering from Niemann Pick Type C disease (NPC) and Wolman diseases. The inventors have also discovered that tocopherol and tocopheryl quinone derivatives with side chain modifications (such as terminal tri-halogenated methyl groups) exhibit improved pharmacokinetics, modulation of mitochondrial potential

and restoration of some LSDs phenotypes. These technologies can be used to develop novel therapeutics for LSDs including NPC, Wolman, Niemann Pick Type A, Farber, TaySachs, MSIIIB and CLN2 (Batten) diseases.

The prospective exclusive license will be royalty bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404. The prospective exclusive license may be granted unless, within fifteen (15) days from the date of this published Notice, NIH receives written evidence and argument that establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.

The fields of use may be limited to ''Use of cyclodextrin, delta-tocopherol, or derivatives thereof, alone or in combination, for the treatment of lysosomal storage disorders in humans.''

Properly filed competing applications for a license filed in response to this notice will be treated as objections to the contemplated license. Comments and objections submitted in response to this notice will not be made available for public inspection, and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

Dated: September 12, 2014.

Richard U. Rodriguez,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. 2014–22210 Filed 9–17–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG–2014–0664; OMB Control Number 1625–0012]

Information Collection Request to Office of Management and Budget

AGENCY: Coast Guard, DHS.

ACTION: Sixty-day notice requesting comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the U.S. Coast Guard intends to submit an Information Collection Request (ICR) to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), requesting approval of an extension to the following collection of information: 1625–0012, Certificate of Discharge to Merchant Mariner. Our ICR describes the information we seek to collect from the public. Before submitting this ICR to OIRA, the Coast Guard is inviting comments as described below.

DATES: Comments must reach the Coast Guard on or before November 17, 2014.

ADDRESSES: You may submit comments identified by Coast Guard docket number [USCG–2014–0664] to the Docket Management Facility (DMF) at the U.S. Department of Transportation (DOT). To avoid duplicate submissions, please use only one of the following means:

(1) *Online: http://www.regulations.gov*.

(2) *Mail:* DMF (M–30), DOT, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.

(3) *Hand delivery:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

(4) *Fax:* 202–493–2251. To ensure your comments are received in a timely manner, mark the fax, to attention Desk Officer for the Coast Guard.

The DMF maintains the public docket for this Notice. Comments and material received from the public, as well as documents mentioned in this Notice as being available in the docket, will become part of the docket and will be available for inspection or copying at Room W12–140 on the West Building Ground Floor, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find the docket on the Internet at *http://www.regulations.gov*.

Copies of the ICR are available through the docket on the Internet at *http://www.regulations.gov*. Additionally, copies are available from: COMMANDANT (CG–612), ATTN PAPERWORK REDUCTION ACT MANAGER, US COAST GUARD, 2703 MARTIN LUTHER KING JR AVE SE. STOP 7710, WASHINGTON, DC 20593–7710.

FOR FURTHER INFORMATION CONTACT: Mr. Anthony Smith, Office of Information Management, telephone 202–475–3532, or fax 202–372–8405, for questions on these documents. Contact Ms. Cheryl Collins, Program Manager, Docket Operations, 202–366–9826, for questions on the docket.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

This Notice relies on the authority of the Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended. An ICR is an application to OIRA seeking the approval, extension, or renewal of a Coast Guard collection of information (Collection). The ICR contains information describing the Collection's purpose, the Collection's likely burden on the affected public, an explanation of the necessity of the Collection, and other important information describing the Collection. There is one ICR for each Collection.

The Coast Guard invites comments on whether the ICR should be granted based on the Collections being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) The practical utility of the Collections; (2) the accuracy of the estimated burden of the Collections; (3) ways to enhance the quality, utility, and clarity of information subject to the Collections; and (4) ways to minimize the burden of the Collections on respondents, including the use of automated collection techniques or other forms of information technology. In response to your comments, we may revise these ICRs or decide not to seek approval of revisions of the Collections. We will consider all comments and material received during the comment period.

We encourage you to respond to this request by submitting comments and related materials. Comments must contain the OMB Control Number of the ICR and the docket number of this request, [USCG–2014–0664], and must be received by November 17, 2014. We will post all comments received, without change, to *http://www.regulations.gov*. They will include any personal information you provide. We have an agreement with DOT to use their DMF. Please see the ''Privacy Act'' paragraph below.

Submitting Comments

If you submit a comment, please include the docket number [USCG–2014–0664], indicate the specific section of the document to which each comment applies, providing a reason for each comment. You may submit your comments and material online (*via http://www.regulations.gov*), by fax, mail, or hand delivery, but please use only one of these means. If you submit a comment online via *www.regulations.gov,* it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the DMF. We recommend you include your name, mailing address, an email address, or other contact information in

the body of your document so that we can contact you if we have questions regarding your submission.

You may submit your comments and material by electronic means, mail, fax, or hand delivery to the DMF at the address under **ADDRESSES**; but please submit them by only one means. To submit your comment online, go to *http://www.regulations.gov,* and type ''USCG–2014–0664'' in the ''Search'' box. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and will address them accordingly.

Viewing comments and documents: To view comments, as well as documents mentioned in this Notice as being available in the docket, go to *http://www.regulations.gov,* click on the ''read comments'' box, which will then become highlighted in blue. In the ''Search'' box insert ''USCG–2014–0664'' and click ''Search.'' Click the ''Open Docket Folder'' in the ''Actions'' column. You may also visit the DMF in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy Act

Anyone can search the electronic form of comments received in dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act statement regarding Coast Guard public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

Information Collection Request

1. *Title:* Certificate of Discharge to Merchant Mariner.

OMB Control Number: 1625–0012.

Summary: Title 46, United States Code 10311, requires each master or individual in charge of a vessel, for each merchant mariner being discharged from the vessel to prepare a Certificate of Discharge to Merchant Mariners and two copies. These documents are used to establish evidence of sea service aboard U.S. flagged merchant vessels for merchant mariners to upgrade their credentials, establish proof of eligibility for union and other benefits, and in litigation where vessel service is an issue.

Need: The information collected provides the U.S. Coast Guard evidence of sea service used in determining eligibility for issuance of a merchant mariner credential, to determine eligibility for various benefits such as medical and retirement, and to provide information to the U.S. Maritime Administration (MARAD) on the availability of mariners in a time of a national emergency.

Forms: CG–718A.

Respondents: Shipping companies, masters or individuals in charge of a vessel.

Frequency: On occasion.

Burden Estimate: The estimated burden remains the same at 1,478 per year.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended.

Dated: September 11, 2014.

Thomas P. Michelli,

U.S. Coast Guard, Deputy Chief Information Officer.

[FR Doc. 2014–22198 Filed 9–17–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG–2014–0665; OMB Control Number 1625–0068]

Information Collection Request to Office of Management and Budget

AGENCY: Coast Guard, DHS.

ACTION: Sixty-day notice requesting comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the U.S. Coast Guard intends to submit an Information Collection Request (ICR) to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), requesting approval of an extension to the following collection of information: 1625–0068, State access to the Oil Spill Liability Trust Fund for removal costs under the Oil Pollution Act of 1990. Our ICR describes the information we seek to collect from the public. Before submitting this ICR to OIRA, the Coast Guard is inviting comments as described below.

DATES: Comments must reach the Coast Guard on or before November 17, 2014.

ADDRESSES: You may submit comments identified by Coast Guard docket number [USCG–2014–0665] to the Docket Management Facility (DMF) at the U.S. Department of Transportation (DOT). To avoid duplicate submissions, please use only one of the following means:

(1) *Online: http://www.regulations.gov.*

(2) *Mail:* DMF (M–30), DOT, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.

(3) *Hand delivery:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

(4) *Fax:* 202–493–2251. To ensure your comments are received in a timely manner, mark the fax, to attention Desk Officer for the Coast Guard.

The DMF maintains the public docket for this Notice. Comments and material received from the public, as well as documents mentioned in this Notice as being available in the docket, will become part of the docket and will be available for inspection or copying at Room W12–140 on the West Building Ground Floor, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find the docket on the Internet at *http://www.regulations.gov.*

Copies of the ICR are available through the docket on the Internet at *http://www.regulations.gov.* Additionally, copies are available from: COMMANDANT (CG–612), ATTN PAPERWORK REDUCTION ACT MANAGER, US COAST GUARD, 2703 MARTIN LUTHER KING JR AVE SE. STOP 7710, WASHINGTON, DC 20593–7710.

FOR FURTHER INFORMATION CONTACT: Mr. Anthony Smith, Office of Information Management, telephone 202–475–3532, or fax 202–372–8405, for questions on these documents. Contact Ms. Cheryl Collins, Program Manager, Docket Operations, 202–366–9826, for questions on the docket.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

This Notice relies on the authority of the Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended. An ICR is an application to OIRA seeking the approval, extension, or renewal of a Coast Guard collection of information (Collection). The ICR contains information describing the Collection's purpose, the Collection's likely burden on the affected public, an explanation of the necessity of the Collection, and other important information describing the Collection. There is one ICR for each Collection.

The Coast Guard invites comments on whether the ICR should be granted based on the Collections being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) The practical utility of the Collections; (2) the accuracy of the estimated burden of the Collections; (3) ways to enhance the quality, utility, and clarity of information subject to the Collections; and (4) ways to minimize the burden of the Collections on respondents, including the use of automated collection techniques or other forms of information technology. In response to your comments, we may revise these ICRs or decide not to seek approval of revisions of the Collections. We will consider all comments and material received during the comment period.

We encourage you to respond to this request by submitting comments and related materials. Comments must contain the OMB Control Number of the ICR and the docket number of this request, [USCG–2014–0665], and must be received by November 17, 2014. We will post all comments received, without change, to *http://www.regulations.gov.* They will include any personal information you provide. We have an agreement with DOT to use their DMF. Please see the ''Privacy Act'' paragraph below.

Submitting Comments

If you submit a comment, please include the docket number [USCG–2014–0665], indicate the specific section of the document to which each comment applies, providing a reason for each comment. You may submit your comments and material online (via *http://www.regulations.gov*), by fax, mail, or hand delivery, but please use only one of these means. If you submit a comment online via *www.regulations.gov,* it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the DMF. We recommend you include your name, mailing address, an email address, or other contact information in the body of your document so that we can contact you if we have questions regarding your submission.

You may submit your comments and material by electronic means, mail, fax, or delivery to the DMF at the address under **ADDRESSES**; but please submit them by only one means. To submit your comment online, go to *http://www.regulations.gov,* and type ''USCG–2014–0666'' in the ''Search'' box. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and will address them accordingly.

Viewing comments and documents: To view comments, as well as documents mentioned in this Notice as being available in the docket, go to *http://www.regulations.gov,* click on the ''read comments'' box, which will then become highlighted in blue. In the ''Search'' box insert ''USCG–2014–0665'' and click ''Search.'' Click the ''Open Docket Folder'' in the ''Actions'' column. You may also visit the DMF in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy Act

Anyone can search the electronic form of comments received in dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act statement regarding Coast Guard public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

Information Collection Request

1. *Title:* State Access to the Oil Spill Liability Trust Fund for removal costs under the Oil Pollution Act of 1900.

OMB Control Number: 1625–0068.

Summary: This information collection is the mechanism for a Governor, or their designated representative, of a state to make a request for payment from the Oil Spill Liability Trust Fund (OSLTF) in an amount not to exceed $250,000 for removal cost consistent with the National Contingency Plan required for the immediate removal of a discharge, or the mitigation or prevention of a substantial threat if discharge, of oil.

Need: This information collection is required by, 33 CFR part 133, for implementing 33 U.S.C. 2712(d)(l) of the Oil Pollution Act of 1990 (OPA 90). The information provided by the State to the NPFC is used to determine whether expenditures submitted by the state to the OSLTF are compensable, and, where compensable, to ensure the correct amount of reimbursement is made by the OSLTF to the state. If the information is not collected, the unable to justify the resulting expenditures, and thus be unable to recover costs from the parties responsible for the spill when they can be identified.

Forms: N/A.

Respondents: Governor of a state or their designated representative.

Frequency: On occasion.

Burden Estimate: The estimated burden remains the same at 3 hours per year.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended.

Dated: September 11, 2014.

Thomas P. Michelli,

U.S. Coast Guard, Deputy Chief Information Officer.

[FR Doc. 2014–22204 Filed 9–17–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG–2014–0666; OMB Control Number 1625–0022]

Information Collection Request to Office of Management and Budget

AGENCY: Coast Guard, DHS.

ACTION: Sixty-day notice requesting comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the U.S. Coast Guard intends to submit an Information Collection Request (ICR) to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), requesting approval of a revision to the following collection of information: 1625–0022, Application for Tonnage Measurement of Vessels. Our ICR describes the information we seek to collect from the public. Before submitting this ICR to OIRA, the Coast Guard is inviting comments as described below.

DATES: Comments must reach the Coast Guard on or before November 17, 2014.

ADDRESSES: You may submit comments identified by Coast Guard docket number [USCG–2014–0666] to the Docket Management Facility (DMF) at the U.S. Department of Transportation (DOT). To avoid duplicate submissions, please use only one of the following means:

(1) *Online: http://www.regulations.gov.*

(2) *Mail:* DMF (M–30), DOT, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.

(3) *Hand delivery:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

(4) *Fax:* 202–493–2251. To ensure your comments are received in a timely manner, mark the fax, to attention Desk Officer for the Coast Guard.

The DMF maintains the public docket for this Notice. Comments and material received from the public, as well as documents mentioned in this Notice as being available in the docket, will become part of the docket and will be available for inspection or copying at room W12–140 on the West Building Ground Floor, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find the docket on the Internet at *http://www.regulations.gov.*

Copies of the ICR are available through the docket on the Internet at *http://www.regulations.gov.* Additionally, copies are available from: COMMANDANT (CG–612), ATTN PAPERWORK REDUCTION ACT MANAGER, US COAST GUARD, 2703 MARTIN LUTHER KING JR AVE SE., STOP 7710, WASHINGTON, DC 20593–7710.

FOR FURTHER INFORMATION CONTACT: Mr. Anthony Smith, Office of Information Management, telephone 202–475–3532, or fax 202–372–8405, for questions on these documents. Contact Ms. Cheryl Collins, Program Manager, Docket Operations, 202–366–9826, for questions on the docket.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

This Notice relies on the authority of the Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended. An ICR is an application to OIRA seeking the approval, extension, or renewal of a Coast Guard collection of information (Collection). The ICR contains information describing the Collection's purpose, the Collection's likely burden on the affected public, an explanation of the necessity of the Collection, and other important information describing the Collection. There is one ICR for each Collection.

The Coast Guard invites comments on whether the ICR should be granted based on the Collections being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) The practical utility of the Collections; (2) the accuracy of the estimated burden of the Collections; (3) ways to enhance the quality, utility, and clarity of information subject to the Collections; and (4) ways to minimize the burden of the Collections on respondents, including the use of automated collection techniques or other forms of information technology. In response to your comments, we may revise these ICRs or decide not to seek approval of revisions of the Collections. We will consider all comments and material received during the comment period.

We encourage you to respond to this request by submitting comments and related materials. Comments must contain the OMB Control Number of the ICR and the docket number of this request, [USCG–2014–0666], and must be received by November 17, 2014. We will post all comments received, without change, to *http://www.regulations.gov.* They will include any personal information you provide. We have an agreement with DOT to use their DMF. Please see the ''Privacy Act'' paragraph below.

Submitting Comments

If you submit a comment, please include the docket number [USCG–2014–0666], indicate the specific section of the document to which each comment applies, providing a reason for each comment. You may submit your comments and material online (*via http://www.regulations.gov*), by fax, mail, or hand delivery, but please use only one of these means. If you submit a comment online via *www.regulations.gov,* it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the DMF. We recommend you include your name, mailing address, an email address, or other contact information in the body of your document so that we can contact you if we have questions regarding your submission.

You may submit your comments and material by electronic means, mail, fax, or hand delivery to the DMF at the address under **ADDRESSES**; but please submit them by only one means. To submit your comment online, go to *http://www.regulations.gov,* and type ''USCG–2014–0666'' in the ''Search'' box. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and will address them accordingly.

Viewing comments and documents: To view comments, as well as documents mentioned in this Notice as being available in the docket, go to *http://www.regulations.gov,* click on the ''read comments'' box, which will then become highlighted in blue. In the ''Search'' box insert ''USCG–2014–0666'' and click ''Search.'' Click the ''Open Docket Folder'' in the ''Actions'' column. You may also visit the DMF in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy Act

Anyone can search the electronic form of comments received in dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act statement regarding Coast Guard public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

Information Collection Request

1. *Title:* Application for Tonnage Measurement of Vessels.

OMB Control Number: 1625–0022.

Summary: The information is used by the Coast Guard to determine a vessel's tonnage. Tonnage in turn helps to determine licensing, inspection, safety requirements, and operating fees.

Need: Under 46 U.S.C. 14104 certain vessels must be measured for tonnage. Coast guard regulations for this measurement are contained in 46 CFR part 69.

Forms: CG–5397.

Respondents: Owners of vessels.

Frequency: On occasion.

Burden Estimate: The estimated burden has decreased from 19,160 hours to 14,610 hours a year due to a decrease in the estimated number of responses.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended.

Dated: September 11, 2014.

Thomas P. Michelli,

U.S. Coast Guard, Deputy Chief Information Officer.

[FR Doc. 2014–22196 Filed 9–17–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Accreditation and Approval of Intertek USA, Inc., as a Commercial Gauger and Laboratory

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of accreditation and approval of Intertek USA, Inc., as a commercial gauger and laboratory.

SUMMARY: Notice is hereby given, pursuant to CBP regulations, that Intertek USA, Inc. has been approved to gauge petroleum and certain petroleum products and accredited to test petroleum and certain petroleum products for customs purposes for the next three years as of May 13, 2014.

DATES: *Effective Dates:* The accreditation and approval of Intertek USA, Inc., as commercial gauger and laboratory became effective on May 13, 2014. The next triennial inspection date will be scheduled for May 2017.

FOR FURTHER INFORMATION CONTACT: Approved Gauger and Accredited Laboratories Manager, Laboratories and Scientific Services Directorate, U.S. Customs and Border Protection, 1331 Pennsylvania Avenue NW., Suite 1500N, Washington, DC 20229, tel. 202–344–1060.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to 19 CFR 151.12 and 19 CFR 151.13, that Intertek USA, Inc., 149 Pintail St., St. Rose, LA 70087, has been approved to gauge petroleum and certain petroleum products and accredited to test petroleum and certain petroleum products for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 19 CFR 151.13. Intertek USA, Inc. is approved for the following gauging procedures for petroleum and certain petroleum products per the American Petroleum Institute (API) Measurement Standards:

API chapters	Title
3	Tank gauging.
7	Temperature determination.
8	Sampling.
12	Calculations.
17	Maritime measurement.

Intertek USA, Inc. is accredited for the following laboratory analysis procedures and methods for petroleum and certain petroleum products set forth by the U.S. Customs and Border Protection Laboratory Methods (CBPL) and American Society for Testing and Materials (ASTM):

CBPL No.	ASTM	Title
27–01	ASTM D 287	Standard Test Method for API Gravity of Crude Petroleum and Petroleum Products (Hydrometer Method).
27–03	ASTM D 4006	Standard test method for water in crude oil by distillation.
27–04	ASTM D 95	Standard test method for water in petroleum products and bituminous materials by distillation.
27–05	ASTM D 4928	Standard test method for water in crude oils by Coulometric Karl Fischer Titration.
27–06	ASTM D 473	Standard Test Method for Sediment in Crude Oils and Fuel Oils by the Extraction Method.
27–08	ASTM D 86	Standard Test Method for Distillation of Petroleum Products at Atmospheric Pressure.
27–11	ASTM D 445	Standard Test Method for Kinematic Viscosity of Transparent and Opaque Liquids (the Calculation of Dynamic Velocity).
27–13	ASTM D 4294	Standard test method for sulfur in petroleum and petroleum products by energy-dispersive x-ray fluorescence spectrometry.
27–14	ASTM D 2622	Standard Test Method for Sulfur in Petroleum Products (X-Ray Spectrographic Methods).
27–48	ASTM D 4052	Standard Test Method for Density and Relative Density of Liquids by Digital Density Meter.
27–50	ASTM D 93	Standard test methods for flash point by Pensky-Martens Closed Cup Tester.
27–54	ASTM D 1796	Standard test method for water and sediment in fuel oils by the centrifuge method (Laboratory procedure).
27–58	ASTM D 5191	Standard Test Method For Vapor Pressure of Petroleum Products (Mini Method).

Anyone wishing to employ this entity to conduct laboratory analyses and gauger services should request and receive written assurances from the entity that it is accredited or approved by the U.S. Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquiries regarding the specific test or gauger service this entity is accredited or approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344–1060. The inquiry may also be sent to *cbp.labhq@dhs.gov.* Please reference the Web site listed below for a complete listing of CBP approved gaugers and accredited laboratories. *http://www.cbp.gov/sites/default/files/documents/gaulist_3.pdf*

Dated: September 4, 2014.

Ira S. Reese,

Executive Director, Laboratories and Scientific Services Directorate.

[FR Doc. 2014–22248 Filed 9–17–14; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Accreditation and Approval of Columbia Inspection, Inc., as a Commercial Gauger and Laboratory

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of accreditation and approval of Columbia Inspection, Inc., as a commercial gauger and laboratory.

SUMMARY: Notice is hereby given, pursuant to CBP regulations, that Columbia Inspection, Inc. has been approved to gauge petroleum and certain petroleum products and accredited to test petroleum and certain petroleum products for customs purposes for the next three years as of April 11, 2014.

DATES: *Effective Dates:* The accreditation and approval of Columbia Inspection, Inc., as commercial gauger and laboratory became effective on April 11, 2014. The next triennial inspection date will be scheduled for April 2017.

FOR FURTHER INFORMATION CONTACT: Approved Gauger and Accredited Laboratories Manager, Laboratories and Scientific Services Directorate, U.S. Customs and Border Protection, 1331 Pennsylvania Avenue NW., Suite 1500N, Washington, DC 20229, tel. 202–344–1060.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to 19 CFR 151.12 and 19 CFR 151.13, that Columbia Inspection, Inc., 845 Marina Bay Parkway, Suite #8, Richmond, CA 94804, has been approved to gauge petroleum and certain petroleum products and accredited to test petroleum and certain petroleum products for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 19 CFR 151.13. Columbia Inspection, Inc. is approved for the following gauging procedures for petroleum and certain petroleum products per the American Petroleum Institute (API) Measurement Standards:

API chapters	Title
3	Tank gauging.
7	Temperature determination.
8	Sampling.
17	Maritime measurement.

Columbia Inspection, Inc. is accredited for the following laboratory analysis procedures and methods for petroleum and certain petroleum products set forth by the U.S. Customs and Border Protection Laboratory Methods (CBPL) and American Society for Testing and Materials (ASTM):

CBPL No.	ASTM	Title
27–06	ASTM D 473	Standard Test Method for Sediment in Crude Oils and Fuel Oils by the Extraction Method.
27–13	ASTM D 4294	Standard test method for sulfur in petroleum and petroleum products by energy-dispersive x-ray fluorescence spectrometry.
27–48	ASTM D 4052	Standard Test Method for Density and Relative Density of Liquids by Digital Density Meter.

Anyone wishing to employ this entity to conduct laboratory analyses and gauger services should request and receive written assurances from the entity that it is accredited or approved by the U.S. Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquiries regarding the specific test or gauger service this entity is accredited or approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344–1060. The inquiry may also be sent to *cbp.labhq@dhs.gov*. Please reference the Web site listed below for a complete listing of CBP approved gaugers and accredited laboratories. *http://www.cbp.gov/sites/default/files/documents/gaulist_3.pdf*

Dated: September 4, 2014.

Ira S. Reese,

Executive Director, Laboratories and Scientific Services Directorate.

[FR Doc. 2014–22249 Filed 9–17–14; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Accreditation and Approval of Inspectorate America Corporation, as a Commercial Gauger and Laboratory

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of accreditation and approval of Inspectorate America Corporation, as a commercial gauger and laboratory.

SUMMARY: Notice is hereby given, pursuant to CBP regulations, that Inspectorate America Corporation has been approved to gauge petroleum and certain petroleum products and accredited to test petroleum and certain petroleum products for customs purposes for the next three years as of April 21, 2014.

DATES: *Effective Dates:* The accreditation and approval of Inspectorate America Corporation, as commercial gauger and laboratory became effective on April 21, 2014. The next triennial inspection date will be scheduled for April 2017.

FOR FURTHER INFORMATION CONTACT: Approved Gauger and Accredited Laboratories Manager, Laboratories and Scientific Services Directorate, U.S. Customs and Border Protection, 1331 Pennsylvania Avenue NW., Suite 1500N, Washington, DC 20229, tel. 202–344–1060.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to 19 CFR 151.12 and 19 CFR 151.13, that Inspectorate America Corporation, 1 Estate Hope, Christiansted, St. Croix, Virgin Islands 00820, has been approved to gauge petroleum and certain petroleum products and accredited to test petroleum and certain petroleum products for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 19 CFR 151.13. Inspectorate America Corporation is approved for the following gauging procedures for petroleum and certain petroleum products per the American Petroleum Institute (API) Measurement Standards:

API chapters	Title
3	Tank gauging.
7	Temperature determination.
8	Sampling.
12	Calculations.
17	Maritime measurement.

Inspectorate America Corporation is accredited for the following laboratory analysis procedures and methods for petroleum and certain petroleum products set forth by the U.S. Customs and Border Protection Laboratory Methods (CBPL) and American Society for Testing and Materials (ASTM):

CBPL No.	ASTM	Title
27–02	ASTM D 1298	Standard Test Method for Density, Relative Density (Specific Gravity), or API Gravity of Crude Petroleum and Liquid Petroleum Products by Hydrometer Method.
27–08	ASTM D 86	Standard Test Method for Distillation of Petroleum Products at Atmospheric Pressure.
27–11	ASTM D 445	Standard Test Method for Kinematic Viscosity of Transparent and Opaque Liquids (the Calculation of Dynamic Velocity).
27–13	ASTM D 4294	Standard test method for sulfur in petroleum and petroleum products by energy-dispersive x-ray fluorescence spectrometry.

Anyone wishing to employ this entity to conduct laboratory analyses and gauger services should request and receive written assurances from the entity that it is accredited or approved by the U.S. Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquiries regarding the specific test or gauger service this entity is accredited or approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344–1060. The inquiry may also be sent to *cbp.labhq@dhs.gov.* Please reference the Web site listed below for a complete listing of CBP approved gaugers and accredited laboratories. *http://www.cbp.gov/sites/default/files/documents/gaulist_3.pdf.*

Dated: September 4, 2014.

Ira S. Reese,

Executive Director, Laboratories and Scientific Services Directorate.

[FR Doc. 2014–22251 Filed 9–17–14; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5753–N–07]

60-Day Notice of Proposed Information Collection; Application for Displacement/Relocation/Temporary Relocation Assistance for Persons

AGENCY: Office of Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

DATES: *Comments Due Date:* November 17, 2014.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Room 4176, Washington, DC 20410–5000; telephone 202–402–3400 (this is not a toll-free number) or email at *Colette.Pollard@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

FOR FURTHER INFORMATION CONTACT: Bryan O'Neill, Relocation Specialist, Relocation and Real Estate Division, CGHR, Department of Housing and Urban Development, 451 Seventh Street Southwest, Rm. 7168, Washington, DC 20410; email *Bryan.J.O'Neill@HUD.gov,* (202) 708–2684. This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. Copies of available documents submitted to OMB may be obtained from Mr. O'Neill.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

A. Overview of Information Collection

Title of Information Collection: Optional Relocation Payment Claim Forms.

OMB Approval Number: 2506–0016.

Type of Request: Extension of currently approved collection.

Form Numbers: HUD–40030, HUD–40054, HUD–40055, HUD–40056, HUD–40057, HUD–40058, HUD–40061, and HUD–40072.

Description of the need for the information and proposed use: Application for displacement/relocation assistance for persons (families, individuals, businesses, nonprofit organizations and farms) displaced by, or temporarily relocated for, certain HUD programs. No changes are being made for Forms HUD–40030, HUD–40054, 40055, HUD–40056, HUD–40057, HUD–40058, HUD–40061, and HUD–40072.

Respondents: Individuals, households, businesses, farms, nonprofits, state, local and tribal governments.

Estimated Number of Respondents: 37,800.

Estimated Number of Responses: 61,800.

Frequency of Response: 3.

Average Hours per Response: .8.

Total Estimated Burdens: 56,000.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: September 11, 2014.

Clifford Taffet,

General Deputy Assistant Secretary for Community Planning and Development.

[FR Doc. 2014–22323 Filed 9–17–14; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5760–N–01]

60-Day Notice of Proposed Information Collection: Regional Analysis of Impediments Guidance for Sustainable Communities Grantees

AGENCY: Office of the Economic Resilience, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

DATES: *Comments Due Date:* November 17, 2014.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410–5000; telephone 202–402–3400 (this is not a toll-free number) or email at *Colette.Pollard@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

FOR FURTHER INFORMATION CONTACT: Kathryn Dykgraaf, Program Analyst, Department of Housing and Urban Development, 451 7th Street SW., Room 10180, Washington, DC 20410; email at *Kathryn.C.Dykgraaf@hud.gov* or telephone 202–402–6731. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Dykgraaf.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

A. Overview of Information Collection

Title of Information Collection: Regional Analysis of Impediments Guidance for Sustainable Communities Grantees.

OMB Approval Number: 2501–0031.

Type of Request: Extension of currently approved collection.

Form Number: N/A.

Description of the need for the information and proposed use: HUD's Office of Sustainable Housing and Communities presently requires all Sustainable Communities Initiative (SCI) Regional Planning grantees to complete a Fair Housing Equity Assessment. The grantees each have the option of choosing to develop a Regional Analysis of Impediments (AI) in lieu of the FHEA, which (if prepared in accordance with the standards set forth below and in the Fair Housing Planning Guide) would fulfill the FHEA requirement as well as the HUD AFFH regulatory requirement for any participating jurisdiction or state that signed on. The option to prepare a regional AI also offers SCI grantees an opportunity to develop more meaningful deliverables while conserving resources and reducing duplication. This guidance, a written product reflecting the information shared in the 2012 online webinars, will assist grantees in structuring their fair housing analyses.

Respondents: Sustainable Communities Regional Planning Grantees.

Information collection	Number of respondents	Frequency of response	Responses per annum	Burden hour per response	Annual burden hours	Hourly cost per response	Annual cost
Total	40	Every 5 years	8	200	1600	$40	$64,000

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: September 12, 2014.

Harriet Tregoning,

Director, Office of Economic Resilience.

[FR Doc. 2014–22325 Filed 9–17–14; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R8–R–2014–N062; FXRS12610800000–145–FF08R00000]

Sonny Bono Salton Sea National Wildlife Refuge Complex; Final Comprehensive Conservation Plan and Finding of No Significant Impact

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the availability of our final Comprehensive Conservation Plan (CCP) and finding of no significant impact (FONSI) for the Sonny Bono Salton Sea National Wildlife Refuge (NWR) Complex, which includes the Sonny Bono Salton Sea NWR and Coachella Valley NWR. In the CCP, we describe how we will manage these Refuges for the next 15 years.

DATES: The CCP and FONSI are available now. The FONSI was signed on March 6, 2014. Implementation of the CCP will begin immediately.

ADDRESSES: You may view or obtain copies of the final CCP and FONSI by any of the following methods. You may request a CD–ROM. A limited number of paper copies are available.

Agency Web site: Download a copy of the document(s) at *http://www.fws.gov/refuge/Sonny_Bono_Salton_Sea/what_we_do/planning.html.*

Email: Victoria_Touchstone@fws.gov. Include ''Sonny Bono Salton Sea CCP'' in the subject line of the message.

Fax: Attn: Victoria Touchstone, 619–476–9149.

U.S. Mail: Victoria Touchstone, U.S. Fish and Wildlife Service, P.O. Box 2358, Chula Vista, CA 91912.

In-Person Viewing or Pickup: Copies of the final CCP and FONSI may also be viewed at the Sonny Bono Salton Sea NWR Office between 8 a.m. to 3 p.m.; call 760–348–5278 for directions.

FOR FURTHER INFORMATION CONTACT: Victoria Touchstone, Refuge Planner, at 619–476–9150, extension 103 (by telephone; you may also use one of the methods under **ADDRESSES**), or Chris Schoneman, Project Leader, at 760–348–5278, extension 227.

SUPPLEMENTARY INFORMATION: We, the U.S. Fish and Wildlife Service (Service), announce the availability of our final Comprehensive Conservation Plan (CCP) and finding of no significant impact (FONSI) for the Sonny Bono Salton Sea National Wildlife Refuge (NWR) Complex, which includes the Sonny Bono Salton Sea NWR and Coachella Valley NWR. The Refuge Complex is located in parts of Imperial and Riverside Counties, California. In the CCP, we describe how we will manage these Refuges for the next 15 years.

Background

The Sonny Bono Salton Sea NWR was established as a 32,766-acre sanctuary and breeding ground for birds and other wildlife in 1930 (Executive Order 5498). Additional leased lands have been added to the Refuge under the authorities of the Migratory Bird Conservation Act (16 U.S.C. 715d), ''for use as an inviolate sanctuary, or for any other management purpose, for migratory birds,'' and the Lea Act (16 U.S.C. 695), ''for the management and control of migratory waterfowl, and other wildlife.'' Today, with the original Refuge lands covered by the waters of the Salton Sea, management activities are focused on about 2,000 acres of primarily leased land. Approximately 900 acres consist of managed wetlands that support resident and migratory birds, and another 850 acres are farmed to provide forage for wintering geese and other migratory birds. Existing public uses include waterfowl hunting, fishing, wildlife observation, photography, environmental education, interpretation, and scientific research.

The Coachella Valley NWR was established in 1985 under the authorities of the Endangered Species Act of 1973 (16 U.S.C. 1534), ''to conserve (A) fish or wildlife which are listed as endangered species or threatened species or (B) plants.'' The 3,577-acre Refuge, which is part of the larger Coachella Valley Preserve, protects the federally listed endangered Coachella Valley milk-vetch (*Astragalus lentiginosus* var. *coachellae*) and threatened Coachella Valley fringe-toed lizard (*Uma inornata*), as well as other desert-dwelling species adapted to living in the sand dune habitat of the Coachella Valley. Access onto the Refuge is limited to a designated corridor for equestrian and hiking use.

We announce our decision and the availability of the FONSI for the final CCP for the Sonny Bono Salton Sea NWR Complex in accordance with National Environmental Policy Act (NEPA) (40 CFR 1506.6(b)) requirements. We completed a thorough analysis of impacts on the human environment, which we included in the environmental assessment (EA) that accompanied the draft CCP.

The National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd–668ee) (Administration Act), as amended by the National Wildlife Refuge System Improvement Act of 1997, requires us to develop a CCP for each national wildlife refuge. The purpose for developing a CCP is to provide refuge managers with a 15-year plan for achieving refuge purposes and contributing toward the mission of the National Wildlife Refuge System, consistent with sound principles of fish and wildlife management, conservation, legal mandates, and our policies. In addition to outlining broad management direction on conserving wildlife and their habitats, CCPs identify wildlife-dependent recreational opportunities available to the public, including opportunities for hunting, fishing, wildlife observation and photography, environmental education and interpretation. We intend to review and update the CCP at least every 15 years in accordance with the Administration Act.

Our draft CCP and EA were available for a 30-day public review and comment period, which we announced via several methods, including press releases, updates to constituents, and a **Federal Register** notice (78 FR 44144; July 23, 2013). The draft CCP/EA identified and evaluated three alternatives for managing the Sonny Bono Salton Sea NWR and three alternatives for managing the Coachella Valley NWR for the next 15 years.

Alternatives Considered

Sonny Bono Salton Sea NWR

Under Alternative A (no action), management would continue unchanged. Under Alternative B (preferred alternative), the Service would expand current habitat management activities to enhance habitat quality, particularly in managed wetlands and agricultural fields; initiate the phased restoration of shallow saline water habitat at Red Hill Bay, an area of the Salton Sea that has recently receded; implement predator management to protect nesting western gull-billed terns (*Gelochelidon nilotica vanrossemi*) and black skimmers (*Rynchops niger*); and implement an integrated pest management (IPM) plan to control invasive plants. Various actions were also proposed to improve existing public use facilities and provide additional opportunities for wildlife observation and photography.

Under Alternative C, the Service would implement wildlife and habitat management actions, including predator management and an IPM plan, similar to those proposed in Alternative B. The proposals for public use in Alternative C would focus on enhancing existing facilities in Units 1 and 2, rather than providing additional public use facilities.

Coachella Valley NWR

Under Alternative A (no action), management would continue unchanged. Under Alternative B (preferred alternative), the Service would increase listed and sensitive species management; implement an IPM plan to control invasive plants; enhance the habitat quality of an old agricultural site by reintroducing appropriate native plant species; and, in partnership with others, develop and implement a long-term sand transport monitoring plan. Also proposed is an expanded public outreach program. Occasional guided tours of the Refuge would continue at current levels, and the only public access onto the Refuge would occur on a designated trail corridor that extends along portions of the Refuge's western and northern boundary. The remainder of the Refuge would continue to be closed to the public.

Under Alternative C, the Service would expand current management to protect listed and sensitive species; implement an IPM Plan to control invasive plants; and initiate a comprehensive restoration plan for an old agricultural site on the Refuge to restore creosote bush scrub habitat. In addition, the existing public outreach program would be expanded and interpretive signs would be installed along the existing trail corridor. Occasional guided tours of the Refuge would continue at current levels, and public access would continue to be limited to the existing public trail corridor. All other areas within the

Refuge would remain closed to the public.

Selected Alternative for Each Refuge

During the review period for the draft CCP and EA, we received 13 letters containing over 85 comments. Comments focused on land tenure, Colorado River water history, water rights, water levels in the Salton Sea, groundwater availability in the Coachella Valley, cultural resource protection, water quality, geothermal development, restoration of Red Hill Bay, protection of nesting western gull-billed terns, and restoration and management of the Salton Sea. We incorporated comments we received into the CCP when appropriate, and we responded to the comments in an appendix to the CCP. In the FONSI, we selected Alternative B (restore and enhance habitat quality; expand opportunities for wildlife observation, environmental education, and interpretation) for implementation on the Sonny Bono Salton Sea NWR and Alternative B (expand management actions to support listed and sensitive species; expand public outreach) for implementation on the Coachella Valley NWR. The FONSI documents our decision and is based on information and analysis contained in the EA.

The alternative we selected for each of the Refuges within the Sonny Bono Salton Sea NWR Complex was determined to be the alternative that would most effectively achieve Refuge purposes, goals, and objectives; contribute to the National Wildlife Refuge System mission; and be consistent with principles of sound fish and wildlife management. Implementation of the selected alternative will be subject to the availability of funding and other resources, and may occur incrementally over the life of the 15-year plan. Based on the associated EA, the selected alternatives are not expected to result in significant environmental impacts and therefore do not require the preparation of an environmental impact statement.

Alexandra Pitts,

Acting Regional Director, Pacific Southwest Region, Sacramento, California.

[FR Doc. 2014–22272 Filed 9–17–14; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R1–R–2013–N221; 12560–0000–10137 S3]

Rose Atoll National Wildlife Refuge, American Samoa; Comprehensive Conservation Plan and Finding of No Significant Impact for Environmental Assessment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the availability of our comprehensive conservation plan (CCP) and finding of no significant impact (FONSI) for the environmental assessment (EA) for the Rose Atoll National Wildlife Refuge (NWR or Refuge). In this CCP, we describe how we will manage the Refuge for the next 15 years.

ADDRESSES: You may view or obtain copies of the CCP and FONSI by any of the following methods. You may request a hard copy or a CD of the document.

Agency Web Site: Download the CCP and FONSI at *www.fws.gov/pacific/planning* or *www.fws.gov/refuge/Rose_Atoll/what_we_do/planning.html.*

Email: FW1PlanningComments@fws.gov. Include ''Rose Atoll NWR CCP'' in the subject line of the message.

Fax: Attn: Project Leader, (808) 792–9586.

Mail: Pacific Reefs National Wildlife Refuge Complex, 300 Ala Moana Boulevard, Room 5–231, Box 50167, Honolulu, HI 96813.

In-Person Viewing or Pickup: Rose Atoll National Wildlife Refuge/Marine National Monument, c/o National Park Service, Pago Pago, AS 96799.

For more information on locations for viewing or obtaining documents, see ''Public Availability of Documents'' under **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: Susan White, Project Leader, phone (808) 792–9481.

SUPPLEMENTARY INFORMATION:

Introduction

With this notice, we finalize the CCP process for the Refuge. We started this process with a notice of intent published in the **Federal Register** (74 FR 57701; November 9, 2009). We released the Draft CCP/EA to the public in a notice of availability requesting comments published in the **Federal Register** (77 FR 61426; October 9, 2012).

We announce the availability of the FONSI for the CCP/EA in accordance with National Environmental Policy Act (40 CFR 1506.6(b)) requirements. We completed a thorough analysis of impacts on the human environment in the Draft CCP/EA.

Rose Atoll NWR, located in American Samoa, was established in 1973 to conserve and protect fish and wildlife resources. The CCP will guide us in managing and administering the Refuge for the next 15 years. Alternative B in the Draft CCP/EA was selected for implementation. To address public comments received on the Draft CCP/EA, changes and clarifications were made to the Final CCP where appropriate. A summary of the public comments we received is included in the Final CCP with our responses.

Background

The National Wildlife Refuge System Administration Act of 1966, as amended by the National Wildlife Refuge System Improvement Act of 1997 (together referred to as the Refuge Administration Act) and other acts, 16 U.S.C. 668dd–668ee, requires us to develop a CCP for each national wildlife refuge. We develop a CCP to provide refuge managers with a 15-year plan for achieving refuge purposes and contributing toward the National Wildlife Refuge System's mission, consistent with sound principles of fish and wildlife management, conservation, legal mandates, and our policies. We will review and update the CCP at least every 15 years in accordance with the Refuge Administration Act.

Selected Alternative

Under the selected alternative, refuge management will emphasize protecting, restoring and maintaining habitats including the lagoon, perimeter crustose coralline algal reef, ava (channel), beach strand, and littoral forest, as well as species that rely on these habitats (e.g., corals, fish, seabirds, shorebirds, sea turtles, native plants, giant clams, and other invertebrates). Strategies for accomplishing the above include developing monitoring protocols, installing a remote camera system, increasing surveys, implementing a rapid response program to control existing and prevent new nonnative species, restoring native plants, and increasing applied research.

Increasing the frequency of management trips to the Refuge and strengthening partnerships with the American Samoa Government, National Oceanic and Atmospheric Administration, National Park Service, U.S. Geological Survey, and other partners are key components of our management direction. More frequent

visits will allow for improved law enforcement oversight and compliance. In addition to monitoring atoll species, a remote camera system will also provide better management and documentation of any unauthorized entry to the Refuge. The Refuge will remain closed to the general public, with entry only allowed via special use permit.

Refuge staff will provide outreach and interpretation opportunities and develop an environmental education program focusing on ''bringing the refuge to the people.'' Appropriate cultural practices will also be facilitated through expanding refuge management activities related to cultural resources. We will work with the American Samoa Historical Preservation Office and other partners to conduct archaeological surveys at Rose Atoll NWR, integrate cultural resources into interpretation, and increase dialogue with the Office of Samoan Affairs and local villagers, among other activities.

Public Availability of Documents

In addition to any methods in **ADDRESSES**, you can view or obtain documents at the Feleti Barstow Public Library, National Park Office in Ofu, the High School in Ta'u and other places of public access in American Samoa.

Dated: July 30, 2014.

Stephen J. Zylstra,

Acting Regional Director, Pacific Region, Portland, Oregon.

[FR Doc. 2014–21667 Filed 9–17–14; 8:45 am]

BILLING CODE 4310–55–P

NATIONAL SCIENCE FOUNDATION

Agency Information Collection Activities: Comment Request

AGENCY: National Science Foundation.

ACTION: Submission for OMB Review; Comment Request.

SUMMARY: Under the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3501 et seq.), and as part of its continuing effort to reduce paperwork and respondent burden, the National Science Foundation (NSF) is inviting the general public and other Federal agencies to comment on this proposed continuing information collection. This is the second notice for public comment; the first was published in the **Federal Register** at 79 FR 26779 and no comments were received. NSF is forwarding the proposed submission to the Office of Management and Budget (OMB) for clearance simultaneously with the publication of this second notice. The full submission may be found at: *http://www.reginfo.gov/public/do/PRAMain.*

DATES: Comments regarding these information collections are best assured of having their full effect if received by OMB within 30 days of publication in the **Federal Register**.

ADDRESSES: Written comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of NSF, including whether the information will have practical utility; (b) the accuracy of NSF's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; or (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for National Science Foundation, 725—17th Street, NW. Room 10235, Washington, DC 20503, and to Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Boulevard, Suite 1265, Arlington, Virginia 22230 or send email to *splimpto@nsf.gov.* Copies of the submission may be obtained by calling (703) 292–7556.

FOR FURTHER INFORMATION CONTACT: Suzanne H. Plimpton, NSF Reports Clearance Officer at (703) 292–7556 or send email to *splimpto@nsf.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339, which is accessible 24 hours a day, 7 days a week, 365 days a year (including Federal holidays).

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

SUPPLEMENTARY INFORMATION:

Title of Collection: Graduate Research Fellowship Application.

OMB Control No.: 3145–0023.

Abstract: Section 10 of the National Science Foundation Act of 1950 (42 U.S.C. 1861 et seq.), as amended, states that ''The Foundation is authorized to award, within the limits of funds made available . . . scholarships and graduate fellowships for scientific study or scientific work in the mathematical, physical, biological, engineering, social, and other sciences at accredited U.S. institutions selected by the recipient of such aid, for stated periods of time.''

The Graduate Research Fellowship Program has two goals:

- To select, recognize, and financially support individuals early in their careers with the demonstrated potential to be high achieving scientists and engineers;
- To broaden participation in science and engineering of underrepresented groups, including women, minorities, persons with disabilities, and veterans.

The list of GRFP Fellows sponsored by the Foundation may be found via FastLane through the NSF Web site: *http://www.fastlane.nsf.gov.* The GRF Program is described in the Solicitation available at: *http://www.nsf.gov/publications/pub_summ.jsp?WT.z_pims_id=6201&ods_key=nsf14590.*

Estimate of Burden: This is an annual application program providing three years of support to individuals, usable over a five-year fellowship period. The application deadline is in early November. It is estimated that each submission is averaged to be 16 hours per respondent, which includes three references (on average) for each application. It is estimated that it takes two hours per reference for each applicant.

Respondents: Individuals.

Estimated Number of Responses: 15,000.

Estimated Total Annual Burden on Respondents: 240,000 hours.

Frequency of Responses: Annually.

Dated: September 12, 2014.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 2014–22241 Filed 9–17–14; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Request for Information (RFI)—National Privacy Research Strategy

AGENCY: The National Coordination Office (NCO) for Networking and Information Technology Research and Development (NITRD).

ACTION: Notice.

FOR FURTHER INFORMATION CONTACT: Tomas Vagoun at *vagoun@nitrd.gov* or (703) 292–4873.

DATES: To be considered, submissions must be received no later than October 17, 2014.

SUMMARY: Agencies of the Federal Networking and Information Technology Research and Development (NITRD) Program are planning to develop a joint National Privacy Research Strategy. On behalf of the agencies, the Cyber Security and Information Assurance Research and Development Senior Steering Group seeks public input on the vital privacy objectives that should be considered for the goals of the strategy. The National Privacy Research Strategy will be used to guide federally-funded privacy research and provide a framework for coordinating research and development in privacy-enhancing technologies.

SUPPLEMENTARY INFORMATION:

Background

Life in the 21st century is inextricably interconnected with cyberspace and information systems. The computing revolution is enabling advances in many sectors of the economy, but at the same time our social realm has been profoundly affected by the rise of the Internet. Privacy in the digital era is challenged by our capabilities to store and process vast quantities of information. On the one hand, large-scale data analytics is indispensable to progress in science and engineering, but on the other hand, when information about us and our activities in cyberspace can be tracked and repurposed without our understanding, opportunities for crime, discrimination, and misuse are created.

Respect for privacy is a cornerstone principle of our democracy. A variety of laws and policies guide collection and use of data by the government, corporations, and organizations. However, because technology advances can outpace law, respect for privacy must be a guiding principle in the technological domain and our information systems must be designed to provide the means for protecting privacy.

Privacy harms to individuals can arise from actions taken with personal information, including from unapproved disclosure of personal information, to tracking and profiling of our actions, preferences, and habits in cyberspace, to analytical inferences from unrelated data sources. Protection of privacy in this context will require the development of both specific technologies targeted for particular use, as well as foundational science and engineering to develop the capabilities to be able to analyze the situations in the digital realm that might lead to privacy harms, and respond with actions and technologies to prevent or mitigate them.

The Federal Government already plays an important role in protecting certain aspects of privacy, as directed by various legislation (e.g., HIPAA, COPPA), and this Administration has further championed a number of initiatives (such as the ''Consumer Privacy Bill of Rights'' proposal) to improve the state of privacy. In the technical domain, Federal agencies already fund research aimed at a wide range of privacy aspects, from basic research to specific technologies (see [1] for a summary of Federal research in privacy). Nevertheless, privacy in the digital age is a topic of national (and global) importance and more needs to be done. Many challenges remain in areas such as privacy-preserving solutions for data integration and data mining, methods and solutions for managing privacy in electronic health information systems, usage-based controls on privacy and techniques to express user preferences related to data use, or methods for quantifying risks and harms to privacy of individuals. Furthermore, new technologies such as wearable computing (e.g., glasses with cameras, biomedical sensors), embedded computing (e.g., Internet of Things), or cyber-physical systems (e.g., the Smart Grid) create new contexts in which privacy can be challenged and that require targeted technologies to support personal privacy.

Objectives

Reports by the White House and the President's Council of Advisors on Science and Technology (PCAST) on big data and privacy [2] and [3], and reports on Federal networking and information technology research [4] and [5], call for serious increases in investments for research and development (R&D) in privacy-enhancing technologies and in encouraging multi-disciplinary research involving computer science, social science, and legal disciplines. The White House and PCAST cite challenges to personal privacy in the digital era as a significant impairment that is undermining societal benefits from large-scale deployments of networking and IT systems.

At the request of the White House Office of Science and Technology Policy (OSTP), the Cyber Security and Information Assurance Research and Development Senior Steering Group (CSIA R&D SSG) of the Federal Networking and Information Technology Research and Development (NITRD) Program [6] will lead the development of a National Privacy Research Strategy (NPRS). The NPRS will establish objectives and prioritization guidance for federally-funded privacy research, provide a framework for coordinating R&D in privacy-enhancing technologies, and encourage multi-disciplinary research that recognizes the responsibilities of the Government, the needs of society, and enhances opportunities for innovation in the digital realm. The NPRS will be a catalyst to concentrate Federal research resources against critical privacy challenges and to provide enduring objectives for research in privacy-enhancing technologies. The strategy will be developed by interagency collaboration and in a partnership with commercial and academic sector stakeholders and citizens interested in addressing the privacy needs of the nation.

The CSIA R&D SSG is issuing this Request for Information (RFI) to solicit input from the public on defining the most important goals for privacy in the digital world. As a strategy, the NPRS must focus research activities toward relevant and impactful objectives, and this RFI seeks to inform our understanding of societal needs where privacy-enhancing technologies would be beneficial. While there are social and legal solutions to many digital privacy issues, they are out of scope for the NPRS; our focus will be on the research directions for privacy-enhancing technologies, designs, and methods to enable privacy-preserving information systems. The submissions received under this RFI will be used as inputs in structuring the strategy.

Request

Through the NPRS, the CSIA R&D SSG seeks to establish objectives for research and a framework for organizing ideas to achieve the research purpose. Responders are asked to answer one or more of the following questions:

1. *Privacy objectives:* Describe one or more scenarios that illustrate a critical issue concerning privacy; describe what privacy problems arise in the scenario; describe why it is important to overcome the identified problems; describe the needed privacy and what capabilities are required to achieve it; and describe what barriers exist to achieving the needed privacy in the scenario. The use of particular domains in the scenario (e.g., healthcare, education, social media) to describe the desired privacy state is encouraged.

2. *Assessment capabilities:* Discuss concepts, methods, and constructs needed to assess privacy; discuss capabilities and models that can: Express privacy requirements, assess and quantify risks/benefits to privacy, evaluate effects of privacy risk

mitigation, and determine the fulfillment of privacy requirements.

3. *Multi-disciplinary approach:* Discuss how privacy challenges and objectives might be framed to bring many disciplines (e.g., computer science, economics, social and behavioral sciences, and law disciplines) together to jointly and collaboratively work to both strengthen privacy and support innovation in cyberspace and information systems; discuss how diverse national/cultural perspectives on privacy can be accommodated.

4. *Privacy architectures:* (a) The Big Data report [2] recommends adoption of a ''responsible use framework'' [pg. 61] that would provide greater focus on the use of data and hold entities that utilize data accountable for responsible use of the data. Describe an architecture implementing a ''responsible use framework'' incorporating the three questions above and taking into account issues as: Encoding privacy policies in machine-checkable forms and ensuring their compliance and auditability; managing the collection, retention, and dissemination of sensitive data; and ensuring the confidentiality and integrity of sensitive data, while enabling desired uses of them. (b) Describe other privacy architectures that would be effective for the design and implementation of privacy-preserving information systems. (c) Describe technological advances that can change privacy perceptions and how those advances would be incorporated into the ''responsible use framework'' architecture or other architectures submitted for 4(b).

Submission Instructions

Page limitation: All submissions must be 20 pages or less. Comments can be submitted by any of the following methods:

(a) *Email: nprs@nitrd.gov.*

(b) *Fax:* (703) 292–9097, Attn: National Privacy Research Strategy.

(c) *Mail:* Attn: National Privacy Research Strategy, NCO, Suite II–405, 4201 Wilson Blvd., Arlington, VA 22230.

Deadline for Submission under this RFI is October 17, 2014.

Responses to this RFI may be posted without change online, at *http://www.nitrd.gov*. The CSIA R&D SSG therefore requests that no business proprietary information, copyrighted information, or personally identifiable information be submitted in response to this RFI.

In accordance with FAR 15.202(3), responses to this notice are not offers and cannot be accepted by the Government to form a binding contract. Responders are solely responsible for all expenses associated with responding to this RFI.

References

[1] ''Report on Privacy Research within NITRD,'' April 2014, *http://www.nitrd.gov/Pubs/Report_on_Privacy_Research_within_NITRD.pdf.*

[2] ''Big Data: Seizing Opportunities, Preserving Values,'' May 2014, *http://www.whitehouse.gov/sites/default/files/docs/big_data_privacy_report_may_1_2014.pdf.*

[3] ''Big Data and Privacy: A Technological Perspective,'' May 2014, *http://www.whitehouse.gov/sites/default/files/microsites/ostp/PCAST/pcast_big_data_and_privacy_-_may_2014.pdf.*

[4] ''Designing a Digital Future: Federally Funded Research and Development in Networking and Information Technology,'' January 2013, *http://www.whitehouse.gov/sites/default/files/microsites/ostp/pcast-nitrd2013.pdf.*

[5] ''Designing a Digital Future: Federally Funded Research and Development in Networking and Information Technology,'' December 2010, *http://www.whitehouse.gov/sites/default/files/microsites/ostp/pcast-nitrd-report-2010.pdf.*

[6] Networking and Information Technology Research and Development (NITRD) Program provides a framework in which many U.S. Government agencies come together to coordinate networking and information technology research and development efforts. More information is available at *http://www.nitrd.gov*.

Submitted by the National Science Foundation for the National Coordination Office (NCO) for Networking and Information Technology Research and Development (NITRD) on September 12, 2014.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 2014–22239 Filed 9–17–14; 8:45 am]

BILLING CODE 7555–01–P

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

Public Meetings of the National Science and Technology Council; Committee on Technology; Nanoscale Science, Engineering, and Technology Subcommittee; National Nanotechnology Coordination Office

ACTION: Notice of Public Meetings.

SUMMARY: The National Nanotechnology Coordination Office (NNCO), on behalf of the Nanoscale Science, Engineering, and Technology (NSET) Subcommittee of the Committee on Technology, National Science and Technology Council (NSTC) and in collaboration with the European Commission, will host meetings for the U.S.-EU Communities of Research (CORs) on the topic of environmental, health, and safety issues related to nanomaterials (nanoEHS) between the publication date of this Notice and September 30, 2015. The CORs are a platform for scientists to develop a shared repertoire of protocols and methods to overcome research gaps and barriers. The co-chairs for each COR will convene meetings and set meeting agendas with administrative support from the European Commission and the NNCO.

DATES: The CORs will hold multiple webinars and/or conference calls between the publication date of this Notice and September 30, 2015.

ADDRESSES: Teleconferences and web meetings for the CORs will take place periodically between the publication date of this Notice and September 30, 2015. Meeting dates, call-in information, and other COR updates will be posted on the Community of Research page at *http://us-eu.org/*.

FOR FURTHER INFORMATION CONTACT: For information regarding this Notice, please contact Stacey Standridge at National Nanotechnology Coordination Office, by telephone (703–292–8103) or email (*sstandridge@nnco.nano.gov*). Additional information about the CORs and their upcoming meetings is posted at *http://us-eu.org/*.

SUPPLEMENTARY INFORMATION: There are currently six CORs addressing complementary themes:

- Exposure through Product Life, with Material Characterization
- Ecotoxicity Testing and Predictive Models, with Material Characterization
- Predictive Modeling for Human Health, with Material Characterization
- Databases and Ontologies
- Risk Assessment
- Risk Management and Control

The CORs directly address Objectives 4.1.4 (''Participate in international efforts, particularly those aimed at generating [nanoEHS] best practices'') and 4.2.3 (''Participate in coordinated international efforts focused on sharing data, guidance, and best practices for environmental and human risk assessment and management'') of the 2014 National Nanotechnology Initiative Strategic Plan. However, the CORs are not envisioned to provide any government agency with advice or recommendations.

Registration: Individuals wishing to participate in any of the CORs should send the participant's name, affiliation, and country of residence to *sstandridge@nnco.nano.gov* or mail the information to Stacey Standridge, 4201

Wilson Blvd., Stafford II, Suite 405, Arlington, VA 22230. NNCO will collect email addresses from registrants to ensure that they are added to the COR listserv(s) to receive meeting information and other updates relevant to the COR scope from other COR members. Email addresses are submitted on a completely voluntary basis.

Meeting Accommodations: Individuals requiring special accommodation to access these public meetings should contact Stacey Standridge (telephone 703–292–8103) at least ten business days prior to each meeting so that appropriate arrangements can be made.

Ted Wackler,

Deputy Chief of Staff and Assistant Director.

[FR Doc. 2014–22302 Filed 9–17–14; 8:45 am]

BILLING CODE 3270–F4–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE., Washington, DC 20549–2736.

Extension:

Form F–1, SEC File No. 270–249, OMB Control No. 3235–0258

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget this request for extension of the previously approved collection of information below.

Form F–1 (17 CFR 239.31) is used by certain foreign private issuers to register securities pursuant to the Securities Act of 1933 (15 U.S.C. 77a *et seq.*). The information collected is intended to ensure that the information required to be filed by the Commission permits verification of compliance with securities law requirements and assures the public availability of such information. Form F–1 takes approximately 1,807.12 hours per response and is filed by approximately 63 respondents. We estimate that 25% of the 1,807.12 hours per response (451.78 hours) is prepared by the registrant for a total annual reporting burden of 28,462 hours (451.78 hours per response × 63 responses).

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

The public may view the background documentation for this information collection at the following Web site, *www.reginfo.gov*. Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: *Shagufta_Ahmed@omb.eop.gov;* and (ii) Thomas Bayer, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549 or send an email to: *PRA_Mailbox@sec.gov.* Comments must be submitted to OMB within 30 days of this notice.

Dated: September 12, 2014.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–22244 Filed 9–17–14; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE., Washington, DC 20549–2736.

Extension: Rule 236

SEC File No. 270–118, OMB Control No. 3235–0095.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget this request for extension of the previously approved collection of information discussed below.

Rule 236 (17 CFR 230.236) under the Securities Act of 1933 (15 U.S.C. 77a *et seq.*) (''Securities Act'') provides an exemption from registration under the Securities Act for the offering of shares of stock or similar securities to provide funds to be distributed to security holders in lieu of fractional shares, scrip certificates or order forms, in connection with a stock dividend, stock split, reverse stock split, conversion, merger or similar transaction. Issuers wishing to rely upon the exemption are required to furnish specified information to the Commission at least 10 days prior to the offering. The information is needed to provide notice that the issuer is relying on the exemption. Public companies are the likely respondents. All information provided to the Commission is available to the public for review upon request. Approximately 10 respondents file the information required by Rule 236 at an estimated 1.5 hours per response for a total annual reporting burden of 15 hours (1.5 hours per response × 10 responses).

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

The public may view the background documentation for this information collection at the following Web site, *www.reginfo.gov*. Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: *Shagufta_Ahmed@omb.eop.gov;* and (ii) Thomas Bayer, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549 or send an email to: *PRA_Mailbox@sec.gov.* Comments must be submitted to OMB within 30 days of this notice.

Dated: September 12, 2014.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–22243 Filed 9–17–14; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE., Washington, DC 20549–2736

Extension:

Regulation S–T, SEC File No. 270–375, OMB Control No. 3235–424.+

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget this request for extension of the previously approved collection of information discussed below.

Regulation S–T (17 CFR 232.10 through 232.501) sets forth the general requirements and procedures for the

electronic submission of documents on the Electronic Data Gathering, Analysis and Retrieval (''EDGAR'') System. Regulation S–T is assigned one burden hour for administrative convenience because it does not directly impose any information collection requirements.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

The public may view the background documentation for this information collection at the following Web site, *www.reginfo.gov*. Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: *Shagufta_Ahmed@omb.eop.gov;* and (ii) Thomas Bayer, Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549 or send an email to: *PRA_Mailbox@sec.gov.* Comments must be submitted to OMB within 30 days of this notice.

Dated: September 12, 2014.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–22246 Filed 9–17–14; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE., Washington, DC 20549–2736

Extension:

Form 8–A; SEC File No. 270–54, OMB Control No. 3235–0056.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget this request for extension of the previously approved collection of information discussed below.

Form 8–A (17 CFR 249.208a) is a registration statement used to register a class of securities under Section 12(b) or Section 12(g) of the Securities Exchange Act of 1934 (15 U.S.C. 78*l*(b) and 78*l*(g)) (''Exchange Act''). Section 12(a) (15 U.S.C. 78*l*(a)) of the Exchange Act makes it unlawful for any member, broker, or dealer to effect any transaction in any security (other than an exempted security) on a national securities exchange unless such security has been registered under the Exchange Act (15 U.S.C. 78a *et seq.*). Exchange Act Section 12(b) establishes the registration procedures. Exchange Act Section 12(g) requires an issuer that is not a bank or bank holding company to register a class of equity securities (other than exempted securities) within 120 days after its fiscal year end if, on the last day of its fiscal year, the issuer has total assets of more than $10 million and the class of equity securities is ''held of record'' by either (i) 2,000 persons, or (ii) 500 persons who are not accredited investors. An issuer that is a bank or a bank holding company, must register a class of equity securities (other than exempted securities) within 120 days after the last day of its first fiscal year ended after the effective date of the JOBS Act if, on the last day of its fiscal year, the issuer has total assets of more than $10 million and the class of equity securities is ''held of record'' by 2,000 or more persons. The information must be filed with the Commission on occasion. Form 8–A is a public document. Form 8–A takes approximately 3 hours to prepare and is filed by approximately 946 respondents for a total annual reporting burden of 2,838 hours (3 hours per response × 946 responses).

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

The public may view the background documentation for this information collection at the following Web site, *www.reginfo.gov* . Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: *Shagufta_Ahmed@omb.eop.gov;* and (ii) Thomas Bayer, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549 or send an email to: *PRA_Mailbox@sec.gov.* Comments must be submitted to OMB within 30 days of this notice.

Dated: September 12, 2014.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–22245 Filed 9–17–14; 8:45 am]

BILLING CODE 8011–01–P

DEPARTMENT OF STATE

[Public Notice 8872]

30-Day Notice of Proposed Information Collection: 30-Day Notice of Proposed Information Collection: DS–573, DS–574, DS–575, and DS–576, Overseas Schools—Grant Request Automated Submissions Program (GRASP), OMB Control No. 1405–0036

ACTION: Notice of request for public comment.

SUMMARY: The Department of State has submitted the information collection described below to the Office of Management and Budget (OMB) for approval. In accordance with the Paperwork Reduction Act of 1995 we are requesting comments on this collection from all interested individuals and organizations. The purpose of this Notice is to allow 30 days for public comment.

DATES: Submit comments directly to the Office of Management and Budget (OMB) up to October 20, 2014.

ADDRESSES: Direct comments to the Department of State Desk Officer in the Office of Information and Regulatory Affairs at the Office of Management and Budget (OMB). You may submit comments by the following methods:

- *Email: oira_submission@omb.eop.gov*. You must include the DS form number, information collection title, and the OMB control number in the subject line of your message.
- *Fax:* 202–395–5806. Attention: Desk Officer for Department of State.

FOR FURTHER INFORMATION CONTACT: Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed collection instrument and supporting documents, to Keith Miller, Office of Overseas Schools, U.S. Department of State, Room H–328, 2201 C Street NW., Washington, DC 20522–0132, who may be reached on 202–261–8200 or at *millerkd2@state.gov*.

SUPPLEMENTARY INFORMATION:

- *Title of Information Collection:* Grant Request Automated Submissions Program (GRASP).
- *OMB Control Number:* 1405–0036.
- *Type of Request:* Extension of a Currently Approved Collection.
- *Originating Office:* Office of Overseas Schools, A/OPR/OS.
- *Form Number:* DS–573, DS–574, DS–575, and DS–576.
- *Respondents:* Recipients of grants.
- *Estimated Number of Respondents:* 196.
- *Estimated Number of Responses:* 196.

• *Average Time Per Response:* 90 minutes.

• *Total Estimated Burden Time:* 297 hours.

• *Frequency:* Annually.

• *Obligation to Respond:* Required to obtain a benefit.

We are soliciting public comments to permit the Department to:

• Evaluate whether the proposed information collection is necessary for the proper functions of the Department.

• Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used.

• Enhance the quality, utility, and clarity of the information to be collected.

• Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Please note that comments submitted in response to this Notice are public record. Before including any detailed personal information, you should be aware that your comments as submitted, including your personal information, will be available for public review.

Abstract of proposed collection:

In accordance with the Consolidated Overseas Schools Program as outlined in 2 FAM 610, the Office of Overseas Schools of the Department of State (A/OPR/OS) is responsible for determining that adequate educational opportunities exist at Foreign Service posts for dependents of U.S. Government personnel stationed abroad and for assisting American-sponsored overseas schools to demonstrate U.S. educational philosophy and practice. The information gathered enables A/OPR/OS to advise the Department and other foreign affairs agencies regarding current and constantly changing conditions, and enables A/OPR/OS to make judgments regarding assistance to schools for the improvement of educational opportunities.

Methodology:

Information is collected via electronic media.

Dated: September 11, 2014.

William S. Amoroso,

Executive Director, Bureau of Administration, Department of State.

[FR Doc. 2014–22285 Filed 9–17–14; 8:45 am]

BILLING CODE 4710–24–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Submission Deadline for Schedule Information for O'Hare International Airport, San Francisco International Airport, John F. Kennedy International Airport, and Newark Liberty International Airport for the Summer 2015 Scheduling Season

AGENCY: Federal Aviation Administration (FAA), Department of Transportation.

ACTION: Notice of submission deadline.

SUMMARY: Under this notice, the FAA announces the submission deadline of October 9, 2014, for summer 2015 flight schedules at Chicago's O'Hare International Airport (ORD), San Francisco International Airport (SFO), New York's John F. Kennedy International Airport (JFK), and Newark Liberty International Airport (EWR) in accordance with the International Air Transport Association (IATA) Worldwide Slot Guidelines. The deadline coincides with the schedule submission deadline for the IATA Slots Conference for the summer 2015 scheduling season.

SUPPLEMENTARY INFORMATION: The FAA has designated ORD as an IATA Level 2 airport, SFO as a Level 2 airport, JFK as a Level 3 airport, and EWR as a Level 3 airport. The FAA currently limits scheduled operations at JFK and EWR by Order until a final Slot Management and Transparency Rule for LaGuardia Airport, John F. Kennedy International Airport, and Newark Liberty International Airport (RIN 2120–AJ89) becomes effective but not later than October 29, 2016.[1]

The FAA is primarily concerned about planned passenger and cargo operations during peak hours, but carriers may submit schedule plans for the entire day. At ORD, the peak hours are 0700 to 2100 Central Time (1200 to 0200 UTC), at SFO from 0600 to 2300 Pacific Time (1300 to 0600 UTC), and at EWR and JFK from 0600 to 2300 Eastern Time (1000 to 0300 UTC). Carriers should submit schedule information in sufficient detail including, at minimum, the operating carrier, flight number, scheduled time of operation, frequency, and effective dates. IATA standard schedule information format and data elements (Standard Schedules Information Manual or SSIM) may be used.

The U.S. summer scheduling season for these airports is from March 29, 2015, through October 24, 2015, in recognition of the IATA northern summer period. The FAA understands there may be differences in slot times due to different U.S. daylight saving time dates and will accommodate these differences to the extent possible.

At JFK, there will be runway construction in summer 2015 that will impact airport operations and runway capacity. Runway 13L/31R will be closed from March 1 through April 9, 2015, and Runway 4L/22R will be closed from April 10 through September 21, 2015. Modeling suggests that delay impacts may be significant at the typical demand levels, especially when available runways or adverse weather conditions limit capacity. The Port Authority of New York and New Jersey, the FAA, and stakeholders have been meeting to determine ways to improve operations and mitigate delays to the extent possible. The FAA has issued a limited waiver of the minimum slot usage requirement to encourage carriers to temporarily reduce operations without losing historical precedence for slots.[2] The FAA will work with carriers to potentially retime flights to less congested periods. Slots for new flights will be limited to off-peak times to avoid adding to congestion during the construction.

DATES: Schedules must be submitted no later than October 9, 2014.

ADDRESSES: Schedules may be submitted by mail to the Slot Administration Office, AGC–200, Office of the Chief Counsel, 800 Independence Avenue SW., Washington, DC 20591; by facsimile to: 202–267–7277; or by email to: *7–AWA-slotadmin@faa.gov.*

FOR FURTHER INFORMATION CONTACT: Robert Hawks, Office of the Chief Counsel, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone number: 202–267–7143; fax number: 202–267–7971; email: *rob.hawks@faa.gov.*

Issued in Washington, DC, on September 12, 2014.

Mark W. Bury,

Assistant Chief Counsel for International Law, Legislation, and Regulations.

[FR Doc. 2014–22236 Filed 9–17–14; 8:45 am]

BILLING CODE 4910–13–P

[1] Operating Limitations at John F. Kennedy International Airport, 73 FR 3510 (Jan. 18, 2008) as amended 79 FR 16854 (March 26, 2014); Operating Limitations at Newark Liberty International Airport, 73 FR 29550 (May 21, 2008) as amended 79 FR 16857 (March 26, 2014).

[2] 79 FR 30925 (May 29, 2014).

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2012–0215]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of renewal of exemptions; request for comments.

SUMMARY: FMCSA announces its decision to renew the exemptions from the vision requirement in the Federal Motor Carrier Safety Regulations for 12 individuals. FMCSA has statutory authority to exempt individuals from the vision requirement if the exemptions granted will not compromise safety. The Agency has concluded that granting these exemption renewals will provide a level of safety that is equivalent to or greater than the level of safety maintained without the exemptions for these commercial motor vehicle (CMV) drivers.

DATES: This decision is effective October 23, 2014. Comments must be received on or before October 20, 2014.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) numbers: Docket No. [Docket No. FMCSA–2012–0215], using any of the following methods:

- Federal eRulemaking Portal: Go to *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- Mail: Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- Hand Delivery or Courier: West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.
- Fax: 1–202–493–2251.

Instructions: Each submission must include the Agency name and the docket number for this notice. Note that DOT posts all comments received without change to *http://www.regulations.gov,* including any personal information included in a comment. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Federal Docket Management System (FDMS) is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's Privacy Act Statement for the Federal Docket Management System (FDMS) published in the **Federal Register** on January 17, 2008 (73 FR 3316).

FOR FURTHER INFORMATION CONTACT: Elaine M. Papp, R.N., Chief, Medical Programs Division, 202–366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m. Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

I. Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may renew an exemption from the vision requirements in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce, for a two-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The procedures for requesting an exemption (including renewals) are set out in 49 CFR part 381.

II. Exemption Decision

This notice addresses 12 individuals who have requested renewal of their exemptions in accordance with FMCSA procedures. FMCSA has evaluated these 12 applications for renewal on their merits and decided to extend each exemption for a renewable two-year period. They are:

Kenneth C. Caldwell (NY), Roger A. Duester (TX), Kelvin Frandin Bombu (KY), Charlene E. Geary (SD), David N. Hinchliffe (TX), Michael C. Hoff (WA), Morris W. Lammert, Jr. (WI), Ray E. Myers II (MD), William J. Powell, Jr. (NC), Benny L. Sanchez (CA), Sandeep Singh (CA), James T. Stalker (OH)

The exemptions are extended subject to the following conditions: (1) That each individual has a physical examination every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the requirements in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provides a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file and retains a copy of the certification on his/her person while driving for presentation to a duly authorized Federal, State, or local enforcement official. Each exemption will be valid for two years unless rescinded earlier by FMCSA. The exemption will be rescinded if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315.

III. Basis for Renewing Exemptions

Under 49 U.S.C. 31315(b)(1), an exemption may be granted for no longer than two years from its approval date and may be renewed upon application for additional two year periods. In accordance with 49 U.S.C. 31136(e) and 31315, each of the 12 applicants has satisfied the entry conditions for obtaining an exemption from the vision requirements (77 FR 52381; 77 FR 64841). Each of these 12 applicants has requested renewal of the exemption and has submitted evidence showing that the vision in the better eye continues to meet the requirement specified at 49 CFR 391.41(b)(10) and that the vision impairment is stable. In addition, a review of each record of safety while driving with the respective vision deficiencies over the past two years indicates each applicant continues to meet the vision exemption requirements.

These factors provide an adequate basis for predicting each driver's ability to continue to drive safely in interstate commerce. Therefore, FMCSA concludes that extending the exemption for each renewal applicant for a period of two years is likely to achieve a level

of safety equal to that existing without the exemption.

IV. Public Participation and Request for Comments

FMCSA encourages you to participate by submitting comments and related materials.

Submitting Comments

If you submit a comment, please include the docket number for this notice (FMCSA–2012–0215), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so the Agency can contact you if it has questions regarding your submission.

To submit your comment online, got to *http://www.regulations.gov* and put the docket number, ''FMCSA–2012–0215'' in the ''Keyword'' box, and click ''Search.'' When the new screen appears, click on ''Comment Now!'' button and type your comment into the text box in the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope. FMCSA will consider all comments and material received during the comment period and may change this notice based on your comments.

Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov* and in the search box insert the docket number, ''FMCSA–2012–0215'' in the ''Keyword'' box and click ''Search.'' Next, click ''Open Docket Folder'' button choose the document listed to review. If you do not have access to the Internet, you may view the docket online by visiting the Docket Management Facility in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

Issued on: September 10, 2014.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2014–22260 Filed 9–17–14; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2014–0214]

Qualification of Drivers; Exemption Applications; Epilepsy and Seizure Disorders

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of applications for exemption, request for comments.

SUMMARY: FMCSA announces receipt of applications from 6 individuals for an exemption from the prohibition against persons with a clinical diagnosis of epilepsy or any other condition which is likely to cause a loss of consciousness or any loss of ability to operate a commercial motor vehicle (CMV) from operating CMVs in interstate commerce. The regulation and the associated advisory criteria published in the Code of Federal Regulations as the ''Instructions for Performing and Recording Physical Examinations'' have resulted in numerous drivers being prohibited from operating CMVs in interstate commerce based on the fact that they have had one or more seizures and are taking anti-seizure medication, rather than an individual analysis of their circumstances by a qualified medical examiner. If granted, the exemptions would enable these individuals who have had one or more seizures and are taking anti-seizure medication to operate CMVs for 2 years in interstate commerce.

DATES: Comments must be received on or before October 20, 2014.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket ID FMCSA–2014–0214 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.
- *Fax:* 1–202–493–2251.

Each submission must include the Agency name and the docket ID for this Notice. Note that DOT posts all comments received without change to *http://www.regulations.gov*, including any personal information included in a comment. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The FDMS is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on January 17, 2008 (73 FR 3316; January 17, 2008). This information is also available at *http://Docketinfo.dot.gov*.

FOR FURTHER INFORMATION CONTACT: Elaine Papp, Chief, Medical Programs Division, (202) 366–4001, or via email at *fmcsamedical@dot.gov,* or by letter FMCSA, Room W64–113, Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 31315 and 31136(e), FMCSA may grant an exemption for a 2-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The statutes also allow the Agency to renew exemptions at the end of the 2-year period. The 6 individuals listed in this notice have recently requested an exemption from the epilepsy prohibition in 49 CFR 391.41(b)(8), which applies to drivers

who operate CMVs as defined in 49 CFR 390.5, in interstate commerce. Section 391.41(b)(8) states that a person is physically qualified to drive a commercial motor vehicle if that person has no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause the loss of consciousness or any loss of ability to control a CMV.

FMCSA provides medical advisory criteria for use by medical examiners in determining whether drivers with certain medical conditions should be certified to operate CMVs in intrastate commerce. The advisory criteria indicate that if an individual has had a sudden episode of a non-epileptic seizure or loss of consciousness of unknown cause which did not require anti-seizure medication, the decision whether that person's condition is likely to cause the loss of consciousness or loss of ability to control a CMV should be made on an individual basis by the medical examiner in consultation with the treating physician. Before certification is considered, it is suggested that a 6-month waiting period elapse from the time of the episode. Following the waiting period, it is suggested that the individual have a complete neurological examination. If the results of the examination are negative and anti-seizure medication is not required, then the driver may be qualified.

In those individual cases where a driver had a seizure or an episode of loss of consciousness that resulted from a known medical condition (e.g., drug reaction, high temperature, acute infectious disease, dehydration, or acute metabolic disturbance), certification should be deferred until the driver has fully recovered from that condition, has no existing residual complications, and is not taking anti-seizure medication. Drivers who have a history of epilepsy/seizures, off anti-seizure medication and seizure-free for 10 years, may be qualified to operate a CMV in interstate commerce. Interstate drivers with a history of a single unprovoked seizure may be qualified to drive a CMV in interstate commerce if seizure-free and off anti-seizure medication for a 5-year period or more.

Submitting Comments

You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission. To submit your comment online, go to *http://www.regulations.gov* and in the search box insert the docket number ''FMCSA–2014–0214'' and click the search button. When the new screen appears, click on the blue ''Comment Now!'' button on the right hand side of the page. On the new page, enter information required including the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change this proposed rule based on your comments. FMCSA may issue a final rule at any time after the close of the comment period.

Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble, To submit your comment online, go to *http://www.regulations.gov* and in the search box insert the docket number ''FMCSA–2014–0214'' and click ''Search.'' Next, click ''Open Docket Folder'' and you will find all documents and comments related to the proposed rulemaking.

Summary of Applications

Michael G. Alimecco

Mr. Alimecco is a 58 year-old driver in Pennsylvania. He has a history of seizures and has remained seizure free since 1974. He takes anti-seizure medication with the dosage and frequency remaining the same since 2003. If granted an exemption, he would like to drive a CMV. His physician states he is supportive of Mr. Alimecco receiving an exemption.

Michael L. Grant

Mr. Grant is a 52 year-old driver in South Carolina. He has a history of seizures and has remained seizure free since 1995. He takes anti-seizure medication with the dosage and frequency remaining the same for over 2 years. If granted the exemption, he would like to drive a CMV. His physician states that he is supportive of Mr. Grant receiving an exemption.

Michael D. LaPlante

Mr. LaPlante is a 29 year-old driver in Illinois. He has a history of epilepsy and has remained seizure free since 2011. He takes anti-seizure medication with the dosage and frequency remaining the same since that time. If granted the exemption, he would like to drive a CMV. His physician states he is supportive of Mr. LaPlante receiving an exemption.

Jeffrey M. Phillips

Mr. Phillips is a 45 year-old driver in South Carolina. He has a history of epilepsy and has remained seizure free since 1989. He takes anti-seizure medication with the dosage and frequency remaining the same since 1994. If granted the exemption, he would like to drive a CMV. His physician states he is supportive of Mr. Phillips receiving an exemption.

William L. Swann

Mr. Swann is a 76 year-old driver in Maryland. He has a history of a seizure disorder and has remained seizure free since 2002. He takes anti-seizure medication with the dosage and frequency remaining the same since that time. If granted the exemption, he would like to drive a CMV. His physician states that he is supportive of Mr. Swann receiving an exemption.

James M. Zihlke

Mr. Zihlke is a 31 year-old driver in Iowa. He has a history of a single seizure in December 2010. He has never taken anti-seizure medication. If granted the exemption, he would like to drive a CMV. His physician states that he is supportive of Mr. Zihlke receiving an exemption.

Request for Comments

In accordance with 49 U.S.C. 31315 and 31136(e), FMCSA requests public comment from all interested persons on the exemption applications described in this notice. We will consider all comments received before the close of business on the closing date indicated earlier in the notice.

Issued On: September 12, 2014.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2014–22138 Filed 9–17–14; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2014–0011]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of applications for exemptions, request for comments.

SUMMARY: FMCSA announces receipt of applications from 13 individuals for exemption from the vision requirement in the Federal Motor Carrier Safety Regulations. They are unable to meet the vision requirement in one eye for various reasons. The exemptions will enable these individuals to operate commercial motor vehicles (CMVs) in interstate commerce without meeting the prescribed vision requirement in one eye. If granted, the exemptions would enable these individuals to qualify as drivers of commercial motor vehicles (CMVs) in interstate commerce.

DATES: Comments must be received on or before October 20, 2014. All comments will be investigated by FMCSA. The exemptions will be issued the day after the comment period closes.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket No. FMCSA–2014–0011 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.
- *Fax:* 1–202–493–2251.

Instructions: Each submission must include the Agency name and the docket numbers for this notice. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading below for further information.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The FDMS is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's Privacy Act Statement for the Federal Docket Management System (FDMS) published in the **Federal Register** on January 17, 2008 (73 FR 3316).

FOR FURTHER INFORMATION CONTACT: Elaine M. Papp, R.N., Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the Federal Motor Carrier Safety Regulations for a 2-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' FMCSA can renew exemptions at the end of each 2-year period. The 13 individuals listed in this notice have each requested such an exemption from the vision requirement in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce. Accordingly, the Agency will evaluate the qualifications of each applicant to determine whether granting an exemption will achieve the required level of safety mandated by statute.

II. Qualifications of Applicants

Terry L. Allen

Mr. Allen, 63, has a prosthetic left eye due to a traumatic incident during childhood. The visual acuity in his right eye is 20/20, and in his left eye, no light perception. Following an examination in 2014, his optometrist stated, ''Upon successfully passing the medical examination, it is in my professional opinion that Mr. Allen has sufficient vision to perform the driving tasks required to operate a commercial vehicle, provided the vehicle meets the states [*sic*] requirements for monocular drivers.'' Mr. Allen reported that he has driven straight trucks for 30 years, accumulating 390,000 miles. He holds an operator's license from Illinois. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Wilfred J. Brinkman

Mr. Brinkman, 79, has had amblyopia in his left eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/400. Following an examination in 2014, his optometrist, in a letter addressed to US DOT, stated, ''I examined Wilfred Brinkman . . . on April 21 2014 [*sic*]. His best corrected vision in his right eye is 20/20 and left eye is 20/400 . . . Mr. Brinkman's visual status is unchanged from previous exams and he is still capable of driving.'' Mr. Brinkman reported that he has driven straight trucks for 16 years, accumulating 96,000 miles, and tractor-trailer combinations for 39 years, accumulating 4.39 million miles. He holds a Class A CDL from Ohio. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Todd A. Carlson

Mr. Carlson, 51, has complete loss of vision in his right eye due to a traumatic incident during childhood. The visual acuity in his right eye is counting fingers, and in his left eye, 20/20. Following an examination in 2014, his optometrist stated, ''In my medical opinion Mr. Carlson has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Carlson reported that he has driven tractor-trailer combinations for 10 years, accumulating 1 million miles. He holds a Class A CDL from Minnesota. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Roderick L. Duvall

Mr. Duvall, 71, has had branch retinal vein occlusion in his left eye since 1997. The visual acuity in his right eye is 20/25, and in his left eye, 20/100. Following an examination in 2014, his ophthalmologist stated, ''The only pathology is an old branch retinal vein occlusion that occurred in 1997 and is stable since event. I cannot find any reason to not grant Mr. Duvall a commercial vehicle license from a visual standpoint, therefore I think he is capable of driving a commercial vehicle without any detriment.'' Mr. Duvall reported that he has driven straight trucks for 5 years, accumulating 60,000 miles, and tractor-trailer combinations for 43 years, accumulating 473,000 miles. He holds a Class A CDL from

Pennsylvania. His driving record for the last 3 years shows one crash, to which he did not contribute and for which he was not cited, and no convictions for moving violations in a CMV.

Ronald R. Gaines

Mr. Gaines, 44, has had a retinal detachment in his right eye since 2000. The visual acuity in his right eye is 20/50, and in his left eye, 20/15. Following an examination in 2014, his ophthalmologist stated, ''With glasses, I see no reason why Mr. Gaines cannot operate a commercial vehicle with excellent safety.'' Mr. Gaines reported that he has driven straight trucks for 9.5 years, accumulating 494,000 miles. He holds an operator's license from Florida. His driving record for the last 3 years shows one crash, for which he was cited for careless driving, and one conviction for a moving violation in a CMV.

Russel K. Gray

Mr. Gray, 47, has had amblyopia in his right eye since childhood. The visual acuity in his right eye is 20/50, and in his left eye, 20/15. Following an examination in 2014, his optometrist stated, ''Russell [*sic*] does have sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Gray reported that he has driven straight trucks for 3 years, accumulating 199,800 miles, and tractor-trailer combinations for 27 years, accumulating 999,000 miles. He holds a Class A CDL from Ohio. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Billy R. Hampton

Mr. Hampton, 53, has had a corneal transplant in his left eye since 2008. The visual acuity in his right eye is 20/20, and in his left eye, 20/80. Following an examination in 2014, his ophthalmologist stated, ''Per DMV regulations, patient's vision both eyes together is better than 20/40. Therefore, patient has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Hampton reported that he has driven straight trucks for 20 years, accumulating 850,000 miles, tractor-trailer combinations for 9 years, accumulating 702,000 miles, and buses for 2 years, accumulating 9,500 miles. He holds an operator's license from North Carolina. His driving record for the last 3 years shows one crash, to which he contributed, and no convictions for moving violations in a CMV.

Raymond A. Holt

Mr. Holt, 57, has had moderate hyperopia, astigmatism, and amblyopia in his right eye since 1996. The visual acuity in his right eye is 20/80, and in his left eye, 20/20. Following an examination in 2014, his optometrist stated, ''I certify that Raymond Holt has normal and sufficient vision to drive a commercial vehicle when he is wearing his prescribed glasses.'' Mr. Holt reported that he has driven straight trucks for 12 years, accumulating 312,000 miles. He holds an operator's license from California. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Christopher M. Keen

Mr. Keen, 40, has optic atrophy in his left eye due to a traumatic incident in 1995. The visual acuity in his right eye is 20/15, and in his left eye, no light perception. Following an examination in 2014, his optometrist stated, ''I believe he has sufficient vision to operate a commercial vehicle.'' Mr. Keen reported that he has driven straight trucks for 4 years, accumulating 240,000 miles. He holds a Class B CDL from Kansas. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Julie A. Mabry

Ms. Mabry, 52, has complete loss of vision in her left eye due to a traumatic incident during childhood. The visual acuity in her right eye is 20/20, and in her left eye, no light perception. Following an examination in 2014, her optometrist stated, ''In my medical opinion Julie Mabry has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Ms. Mabry reported that she has driven straight trucks for 3 years, accumulating 135,000 miles. She holds an operator's license from Arizona. Her driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

William L. Moore

Mr. Moore, 46, has had a macular scar in his left eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/60. Following an examination in 2014, his optometrist stated, ''In my medical opinion I believe Mr. Moore has vision sufficient to perform all driving tasks required to operate a commercial vehicle.'' Mr. Moore reported that he has driven straight trucks for 2 years, accumulating 80,000 miles, and tractor-trailer combinations for 15 years, accumulating 1.5 million miles. He holds a Class A CDL from Florida. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Benny R. Morris

Mr. Morris, 57, has complete loss of vision in his right eye due to a traumatic incident in 1990. The visual acuity in his right eye is no light perception, and in his left eye, 20/20. Following an examination in 2013, his ophthalmologist stated, ''Since he has been operating a commercial vehicle for approximately 20 years, and has had no change in his visual system for at least 10 years, I do not feel there are any more problems now than in the past with his operating a commercial vehicle.'' Mr. Morris reported that he has driven straight trucks for 5 years, accumulating 25,000 miles, and tractor-trailer combinations for 35 years, accumulating 4.38 million miles. He holds a Class A CDL from West Virgnia. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Juan C. Puente

Mr. Puente, 50, has retinal damage in his right eye due to a traumatic incident in 2003. The visual acuity in his right eye is light perception, and in his left eye, 20/20. Following an examination in 2014, his optometrist stated, ''The damage to his macula, while permanent is unchanged and is not progressing. . . . In my opinion there should be no question of his ability to drive any vehicle.'' Mr. Puente reported that he has driven straight trucks for 5 years, accumulating 300,000 miles, tractor-trailer combinations for 20 years, accumulating 2.56 million miles, and buses for 4 years, accumulating 336,000 miles. He holds a Class A CDL from Texas. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

III. Public Participation and Request for Comments

FMCSA encourages you to participate by submitting comments and related materials.

Submitting Comments

If you submit a comment, please include the docket number for this notice, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of

these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so the Agency can contact you if it has questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov* and put the docket number FMCSA–2014–0011 in the ''Keyword'' box, and click ''Search. When the new screen appears, click on ''Comment Now!'' button and type your comment into the text box in the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

FMCSA will consider all comments and material received during the comment period and may change this notice based on your comments.

Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov* and insert the docket number FMCSA–2014–0011 in the ''Keyword'' box and click ''Search.'' Next, click ''Open Docket Folder'' button and choose the document listed to review. If you do not have access to the Internet, you may view the docket online by visiting the Docket Management Facility in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

Issued On: September 10, 2014.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2014–22258 Filed 9–17–14; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2014–0008]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to exempt 5 individuals from the vision requirement in the Federal Motor Carrier Safety Regulations (FMCSRs). They are unable to meet the vision requirement in one eye for various reasons. The exemptions will enable these individuals to operate commercial motor vehicles (CMVs) in interstate commerce without meeting the prescribed vision requirement in one eye. The Agency has concluded that granting these exemptions will provide a level of safety that is equivalent to or greater than the level of safety maintained without the exemptions for these CMV drivers.

DATES: The exemptions were granted August 19, 2014. The exemptions expire on August 19, 2016.

FOR FURTHER INFORMATION CONTACT: Elaine M. Papp, R.N., Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., Monday through Friday, except Federal holidays. If you have questions on viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Electronic Access

You may see all the comments online through the Federal Document Management System (FDMS) at *http://www.regulations.gov.*

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* and/or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy Act: Anyone may search the electronic form of all comments received into any of DOT's dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, or other entity). You may review DOT's Privacy Act Statement for the Federal Docket Management System (FDMS) published in the **Federal Register** on January 17, 2008 (73 FR 3316).

II. Background

On July 17, 2014, FMCSA published a notice of receipt of exemption applications from certain individuals, and requested comments from the public (79 FR 41737). That notice listed 5 applicants' case histories. The 5 individuals applied for exemptions from the vision requirement in 49 CFR 391.41(b)(10), for drivers who operate CMVs in interstate commerce.

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption for a 2-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The statute also allows the Agency to renew exemptions at the end of the 2-year period. Accordingly, FMCSA has evaluated the 5 applications on their merits and made a determination to grant exemptions to each of them.

III. Vision and Driving Experience of the Applicants

The vision requirement in the FMCSRs provides:

A person is physically qualified to drive a commercial motor vehicle if that person has distant visual acuity of at least 20/40 (Snellen) in each eye without corrective lenses or visual acuity separately corrected to 20/40 (Snellen) or better with corrective lenses, distant binocular acuity of a least 20/40 (Snellen) in both eyes with or without corrective lenses, field of vision of at least 70° in the horizontal meridian in each eye, and the ability to recognize the colors of traffic signals and devices showing red, green, and amber (49 CFR 391.41(b)(10)).

FMCSA recognizes that some drivers do not meet the vision requirement but have adapted their driving to accommodate their vision limitation and demonstrated their ability to drive safely. The 5 exemption applicants listed in this notice are in this category. They are unable to meet the vision requirement in one eye for various reasons, including strabismus, cataract, optic nerve damage, complete loss of vision, corneal scar, Coats' disease, and macular scar. In most cases, their eye conditions were not recently developed. Four of the applicants were either born with their vision impairments or have had them since childhood.

The one individual that sustained his vision condition as an adult has had it for 5 years.

Although each applicant has one eye which does not meet the vision requirement in 49 CFR 391.41(b)(10), each has at least 20/40 corrected vision in the other eye, and in a doctor's opinion, has sufficient vision to perform all the tasks necessary to operate a CMV. Doctors' opinions are supported by the applicants' possession of valid commercial driver's licenses (CDLs) or non-CDLs to operate CMVs. Before

issuing CDLs, States subject drivers to knowledge and skills tests designed to evaluate their qualifications to operate a CMV.

All of these applicants satisfied the testing requirements for their State of residence. By meeting State licensing requirements, the applicants demonstrated their ability to operate a CMV, with their limited vision, to the satisfaction of the State.

While possessing a valid CDL or non-CDL, these 5 drivers have been authorized to drive a CMV in intrastate commerce, even though their vision disqualified them from driving in interstate commerce. They have driven CMVs with their limited vision in careers ranging from 5 to 38 years. In the past 3 years, none of the drivers were involved in crashes and none were convicted for moving violations in a CMV.

The qualifications, experience, and medical condition of each applicant were stated and discussed in detail in the July 17, 2014 notice (79 FR 41737).

IV. Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the vision requirement in 49 CFR 391.41(b)(10) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. Without the exemption, applicants will continue to be restricted to intrastate driving. With the exemption, applicants can drive in interstate commerce. Thus, our analysis focuses on whether an equal or greater level of safety is likely to be achieved by permitting each of these drivers to drive in interstate commerce as opposed to restricting him or her to driving in intrastate commerce.

To evaluate the effect of these exemptions on safety, FMCSA considered the medical reports about the applicants' vision as well as their driving records and experience with the vision deficiency.

To qualify for an exemption from the vision requirement, FMCSA requires a person to present verifiable evidence that he/she has driven a commercial vehicle safely with the vision deficiency for the past 3 years. Recent driving performance is especially important in evaluating future safety, according to several research studies designed to correlate past and future driving performance. Results of these studies support the principle that the best predictor of future performance by a driver is his/her past record of crashes and traffic violations. Copies of the studies may be found at Docket Number FMCSA–1998–3637.

FMCSA believes it can properly apply the principle to monocular drivers, because data from the Federal Highway Administration's (FHWA) former waiver study program clearly demonstrate the driving performance of experienced monocular drivers in the program is better than that of all CMV drivers collectively (See 61 FR 13338, 13345, March 26, 1996). The fact that experienced monocular drivers demonstrated safe driving records in the waiver program supports a conclusion that other monocular drivers, meeting the same qualifying conditions as those required by the waiver program, are also likely to have adapted to their vision deficiency and will continue to operate safely.

The first major research correlating past and future performance was done in England by Greenwood and Yule in 1920. Subsequent studies, building on that model, concluded that crash rates for the same individual exposed to certain risks for two different time periods vary only slightly (See Bates and Neyman, University of California Publications in Statistics, April 1952). Other studies demonstrated theories of predicting crash proneness from crash history coupled with other factors. These factors—such as age, sex, geographic location, mileage driven and conviction history—are used every day by insurance companies and motor vehicle bureaus to predict the probability of an individual experiencing future crashes (See Weber, Donald C., ''Accident Rate Potential: An Application of Multiple Regression Analysis of a Poisson Process,'' Journal of American Statistical Association, June 1971). A 1964 California Driver Record Study prepared by the California Department of Motor Vehicles concluded that the best overall crash predictor for both concurrent and nonconcurrent events is the number of single convictions. This study used 3 consecutive years of data, comparing the experiences of drivers in the first 2 years with their experiences in the final year.

Applying principles from these studies to the past 3-year record of the 5 applicants, none of the drivers were involved in crashes and none were convicted of moving violations in a CMV. All the applicants achieved a record of safety while driving with their vision impairment, demonstrating the likelihood that they have adapted their driving skills to accommodate their condition. As the applicants' ample driving histories with their vision deficiencies are good predictors of future performance, FMCSA concludes their ability to drive safely can be projected into the future.

We believe that the applicants' intrastate driving experience and history provide an adequate basis for predicting their ability to drive safely in interstate commerce. Intrastate driving, like interstate operations, involves substantial driving on highways on the interstate system and on other roads built to interstate standards. Moreover, driving in congested urban areas exposes the driver to more pedestrian and vehicular traffic than exists on interstate highways. Faster reaction to traffic and traffic signals is generally required because distances between them are more compact. These conditions tax visual capacity and driver response just as intensely as interstate driving conditions. The veteran drivers in this proceeding have operated CMVs safely under those conditions for at least 3 years, most for much longer. Their experience and driving records lead us to believe that each applicant is capable of operating in interstate commerce as safely as he/she has been performing in intrastate commerce. Consequently, FMCSA finds that exempting these applicants from the vision requirement in 49 CFR 391.41(b)(10) is likely to achieve a level of safety equal to that existing without the exemption. For this reason, the Agency is granting the exemptions for the 2-year period allowed by 49 U.S.C. 31136(e) and 31315 to the 5 applicants listed in the notice of July 8, 2014 (79 FR 41737).

We recognize that the vision of an applicant may change and affect his/her ability to operate a CMV as safely as in the past. As a condition of the exemption, therefore, FMCSA will impose requirements on the 5 individuals consistent with the grandfathering provisions applied to drivers who participated in the Agency's vision waiver program.

Those requirements are found at 49 CFR 391.64(b) and include the following: (1) That each individual be physically examined every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the requirement in 49 CFR 391.41(b)(10) and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy in his/her driver's qualification file if he/she is self-employed. The driver must have a copy

of the certification when driving, for presentation to a duly authorized Federal, State, or local enforcement official.

V. Discussion of Comments

FMCSA received no comments in this proceeding.

IV. Conclusion

Based upon its evaluation of the 5 exemption applications, FMCSA exempts the following drivers from the vision requirement in 49 CFR 391.41(b)(10), subject to the requirements cited above (49 CFR 391.64(b)):

Christopher D. Bolomey (MO), Leamon V. Manchester (LA), Leverne F. Schulte Jr. (OH), Paul M. Wooton (KY), Clark D. Workman (ID)

In accordance with 49 U.S.C. 31136(e) and 31315, each exemption will be valid for 2 years unless revoked earlier by FMCSA. The exemption will be revoked if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136 and 31315.

If the exemption is still effective at the end of the 2-year period, the person may apply to FMCSA for a renewal under procedures in effect at that time.

Issued on: September 10, 2014.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2014–22264 Filed 9–17–14; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2008–0106; FMCSA–2008–0266; FMCSA–2010–0161; FMCSA–2010–0187]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of renewal of exemptions; request for comments.

SUMMARY: FMCSA announces its decision to renew the exemptions from the vision requirement in the Federal Motor Carrier Safety Regulations for 13 individuals. FMCSA has statutory authority to exempt individuals from the vision requirement if the exemptions granted will not compromise safety. The Agency has concluded that granting these exemption renewals will provide a level of safety that is equivalent to or greater than the level of safety maintained without the exemptions for these commercial motor vehicle (CMV) drivers.

DATES: This decision is effective October 22, 2014. Comments must be received on or before October 20, 2014.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) numbers: Docket No. [Docket No. FMCSA–2008–0106; FMCSA–2008–0266; FMCSA–2010–0161; FMCSA–2010–0187], using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.
- Fax: 1–202–493–2251.

Instructions: Each submission must include the Agency name and the docket number for this notice. Note that DOT posts all comments received without change to *http://www.regulations.gov,* including any personal information included in a comment. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Federal Docket Management System (FDMS) is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's Privacy Act Statement for the Federal Docket Management System (FDMS) published in the **Federal Register** on January 17, 2008 (73 FR 3316).

FOR FURTHER INFORMATION CONTACT: Elaine M. Papp, R.N., Chief, Medical Programs Division, 202–366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m. Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

I. Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may renew an exemption from the vision requirements in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce, for a two-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The procedures for requesting an exemption (including renewals) are set out in 49 CFR part 381.

II. Exemption Decision

This notice addresses 13 individuals who have requested renewal of their exemptions in accordance with FMCSA procedures. FMCSA has evaluated these 13 applications for renewal on their merits and decided to extend each exemption for a renewable two-year period. They are:

Randall J. Benson (MN), James D. Drabek, Jr. (IL), Delone W. Dudley (MD), Irvin L. Eaddy (SC), James W. Lappan (KS), Jeromy W. Leatherman (PA), Ernest B. Martin (KY), Mark L. McWhorter (FL), Raymond C. Miller (AL), Dennis E. Palmer, Jr. (CT), John E. Rains (WA), Sylvester Silver (VA), James D. St. Peter (NC).

The exemptions are extended subject to the following conditions: (1) That each individual has a physical examination every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the requirements in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provides a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the

driver's qualification file and retains a copy of the certification on his/her person while driving for presentation to a duly authorized Federal, State, or local enforcement official. Each exemption will be valid for two years unless rescinded earlier by FMCSA. The exemption will be rescinded if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315.

III. Basis for Renewing Exemptions

Under 49 U.S.C. 31315(b)(1), an exemption may be granted for no longer than two years from its approval date and may be renewed upon application for additional two year periods. In accordance with 49 U.S.C. 31136(e) and 31315, each of the 13 applicants has satisfied the entry conditions for obtaining an exemption from the vision requirements (73 FR 35194; 73 FR 51689; 73 FR 63047; 75 FR 39725; 75 FR 47883; 75 FR 61883; 75 FR 63257; 75 FR 64396; 77 FR 64582). Each of these 13 applicants has requested renewal of the exemption and has submitted evidence showing that the vision in the better eye continues to meet the requirement specified at 49 CFR 391.41(b)(10) and that the vision impairment is stable. In addition, a review of each record of safety while driving with the respective vision deficiencies over the past two years indicates each applicant continues to meet the vision exemption requirements. These factors provide an adequate basis for predicting each driver's ability to continue to drive safely in interstate commerce. Therefore, FMCSA concludes that extending the exemption for each renewal applicant for a period of two years is likely to achieve a level of safety equal to that existing without the exemption.

IV. Public Participation and Request for Comments

FMCSA encourages you to participate by submitting comments and related materials.

Submitting Comments

If you submit a comment, please include the docket number for this notice (FMCSA–2008–0106; FMCSA–2008–0266; FMCSA–2010–0161; FMCSA–2010–0187), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so the Agency can contact you if it has questions regarding your submission.

To submit your comment online, got to *http://www.regulations.gov* and put the docket number, ''FMCSA–2008–0106; FMCSA–2008–0266; FMCSA–2010–0161; FMCSA–2010–0187'' in the ''Keyword'' box, and click ''Search.'' When the new screen appears, click on ''Comment Now!'' button and type your comment into the text box in the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope. FMCSA will consider all comments and material received during the comment period and may change this notice based on your comments.

Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov* and in the search box insert the docket number, ''FMCSA–2008–0106; FMCSA–2008–0266; FMCSA–2010–0161; FMCSA–2010–0187'' in the ''Keyword'' box and click ''Search.'' Next, click ''Open Docket Folder'' button choose the document listed to review. If you do not have access to the Internet, you may view the docket online by visiting the Docket Management Facility in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

Issued on: September 10, 2014.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2014–22263 Filed 9–17–14; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[FMCSA Docket No. FMCSA–2014–0018]

Qualification of Drivers; Exemption Applications; Diabetes Mellitus

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition.

SUMMARY: FMCSA confirms its decision to exempt 88 individuals from its rule prohibiting persons with insulin-treated diabetes mellitus (ITDM) from operating commercial motor vehicles (CMVs) in interstate commerce. The exemptions enable these individuals to operate CMVs in interstate commerce.

DATES: The exemptions were effective on August 19, 2014. The exemptions expire on August 19, 2016.

FOR FURTHER INFORMATION CONTACT: Elaine M. Papp, R.N., Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Room W64–224, Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

I. Electronic Access

You may see all the comments online through the Federal Document Management System (FDMS) at: *http://www.regulations.gov.*

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* and/or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy Act: Anyone may search the electronic form of all comments received into any of DOT's dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, or other entity). You may review DOT's Privacy Act Statement for the Federal Docket Management System (FDMS) published in the **Federal Register** on January 17, 2008 (73 FR 3316).

II. Background

On July 17, 2014, FMCSA published a notice of receipt of Federal diabetes exemption applications from 88 individuals and requested comments

from the public (79 FR 41723). The public comment period closed on August 18, 2014, and three comments were received.

FMCSA has evaluated the eligibility of the 88 applicants and determined that granting the exemptions to these individuals would achieve a level of safety equivalent to or greater than the level that would be achieved by complying with the current regulation 49 CFR 391.41(b)(3).

III. Diabetes Mellitus and Driving Experience of the Applicants

The Agency established the current requirement for diabetes in 1970 because several risk studies indicated that drivers with diabetes had a higher rate of crash involvement than the general population. The diabetes rule provides that ''A person is physically qualified to drive a commercial motor vehicle if that person has no established medical history or clinical diagnosis of diabetes mellitus currently requiring insulin for control'' (49 CFR 391.41(b)(3)).

FMCSA established its diabetes exemption program, based on the Agency's July 2000 study entitled ''A Report to Congress on the Feasibility of a Program to Qualify Individuals with Insulin-Treated Diabetes Mellitus to Operate in Interstate Commerce as Directed by the Transportation Act for the 21st Century.'' The report concluded that a safe and practicable protocol to allow some drivers with ITDM to operate CMVs is feasible. The September 3, 2003 (68 FR 52441), **Federal Register** notice in conjunction with the November 8, 2005 (70 FR 67777), **Federal Register** notice provides the current protocol for allowing such drivers to operate CMVs in interstate commerce.

These 88 applicants have had ITDM over a range of 1 to 38 years. These applicants report no severe hypoglycemic reactions resulting in loss of consciousness or seizure, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning symptoms, in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the past 5 years. In each case, an endocrinologist verified that the driver has demonstrated a willingness to properly monitor and manage his/her diabetes mellitus, received education related to diabetes management, and is on a stable insulin regimen. These drivers report no other disqualifying conditions, including diabetes-related complications. Each meets the vision requirement at 49 CFR 391.41(b)(10).

The qualifications and medical condition of each applicant were stated and discussed in detail in the July 17, 2014, **Federal Register** notice and they will not be repeated in this notice.

IV. Discussion of Comments

FMCSA received three comments in this proceeding. The comments are discussed below.

One anonymous commenter explained that all drivers with type 1 and type 2 diabetes spend much time and effort complying with local and state regulations.

Two anonymous commenters are in favor of granting the exemptions to the drivers.

V. Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the diabetes requirement in 49 CFR 391.41(b)(3) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. The exemption allows the applicants to operate CMVs in interstate commerce.

To evaluate the effect of these exemptions on safety, FMCSA considered medical reports about the applicants' ITDM and vision, and reviewed the treating endocrinologists' medical opinion related to the ability of the driver to safely operate a CMV while using insulin.

Consequently, FMCSA finds that in each case exempting these applicants from the diabetes requirement in 49 CFR 391.41(b)(3) is likely to achieve a level of safety equal to that existing without the exemption.

VI. Conditions and Requirements

The terms and conditions of the exemption will be provided to the applicants in the exemption document and they include the following: (1) That each individual submit a quarterly monitoring checklist completed by the treating endocrinologist as well as an annual checklist with a comprehensive medical evaluation; (2) that each individual reports within 2 business days of occurrence, all episodes of severe hypoglycemia, significant complications, or inability to manage diabetes; also, any involvement in an accident or any other adverse event in a CMV or personal vehicle, whether or not it is related to an episode of hypoglycemia; (3) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (4) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy in his/her driver's qualification file if he/she is self-employed. The driver must also have a copy of the certification when driving, for presentation to a duly authorized Federal, State, or local enforcement official.

VII. Conclusion

Based upon its evaluation of the 88 exemption applications, FMCSA exempts the following drivers from the diabetes requirement in 49 CFR 391.41(b)(10), subject to the requirements cited above 49 CFR 391.64(b)):

Charles Ackerman Jr. (NJ), William J. Applebee (WI), Matthew D. Barney (IA), Benjamin L. Baxter (MI), Stephen M. Berggren (MN), Robert A. Boyle (ID), Patrick J. Burns (MN), Mathew A. Cardon (AZ), Robert L. Caudill (OH), Vernon R. Cornish (AR), Charles L. Cran (WI), John W. Crook Jr. (IA), Michael A. Dinkel (NJ), William C. Dixon (TX), Donald R. Dunaway (OH), Kevin W. Elder (NC), Michael J. Eldridge, Sr. (IA), Johnathon C. Ely (IN), Kevin D. Erickson (WI), Wayne D. Erickson (MN), Walter C. Evans (CT), Joby E. Foshee, IV (MS), Lawrence H. Fox (NH), Troy C. Frank (NE), Robert T. Frankfruter (CO), Koby L. Garman (PA), Dale A. Godejohn (ND), Robert R. Gonzales (CA), Norman D. Groves (MO), Kenneth F. Gwaltney (IN), Mathew R. Hale (KS), Donald K. Hamilton (FL), John L. Holtzclaw (MO), Christopher H. Horn (NH), Donald L. Howard (TX), Jared E. Hubbard (TX), Roger C. Hulce (UT), Kip J. Kauffman (WI), Christopher J. Kittoe (WI), Joshua L. Kroetch (MN), Wesley S. Langham (IL), Andrew K. Lofton (AL), Salvador Lopez (AZ), Joseph M. Macias (NM), Robert J. Marino (NJ), Kasey L. Martin (TX), David J. McCoy (UT), William E. Medlin (MN), Anthony J. Miller (MN), Charles A. Napoles, Jr. (NJ), Kathryn J. Nelms (KS), Antonio C. Oliveira (PA), Kent E. Oswald (NY), Christopher P. Overton (IL), Ronald E. Patrick (IN), Ronald E. Patterson, Jr. (TN), Stephen J. Pelton (PA), Bryant S. Perry (NC), Kenneth R. Perschon (IL), Joseph R. Polhamus (LA), Brian J. Rajkovich (CA), Joseph E. Resetar (NJ), Donnell T. Rhone (TN), Charles E. Rich (KS), Rodney B. Roberets (MS), Arlan M. Roesler (WI), Mark J. Rone (IL), Ronny J. Sanders (UT), Barry J. Sanderson (MT), Russell E. Shipp (RI), David J. Standley (WA), John J. Steigauf (MN), Berton W. Stroup (PA), Scott W. Stutts (AR), Jason B. Taylor (NC), Ronnie P. Thomas (TN),

William L. Thompson (MN), Juan Villanueva (TX), Robert D. Watts (TX), Cindy L. Wells (NY), Charles W. White (IN), Herman D. Whitehurst (AR), Kermit D. Williams (KY), Michael D. Worl (MT), Tommy W. Wornick (TX), Robert T. Yeftich (IN), Alan C. Yeomans (CT), Chad C. Yerkey (PA)

In accordance with 49 U.S.C. 31136(e) and 31315 each exemption is valid for two years unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before I was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315. If the exemption is still effective at the end of the 2-year period, the person may apply to FMCSA for a renewal under procedures in effect at that time.

Issued on: September 12, 2014.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2014–22257 Filed 9–17–14; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2014–0021]

Qualification of Drivers; Exemption Applications; Diabetes Mellitus

AGENCY: Federal Motor Carrier Safety Administration (FMCSA).

ACTION: Notice of applications for exemptions request for comments.

SUMMARY: FMCSA announces receipt of applications from 78 individuals for exemption from the prohibition against persons with insulin-treated diabetes mellitus (ITDM) operating commercial motor vehicles (CMVs) in interstate commerce. If granted, the exemptions would enable these individuals with ITDM to operate CMVs in interstate commerce.

DATES: Comments must be received on or before October 20, 2014.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket No. FMCSA–2014–0021 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.
- *Fax:* 1–202–493–2251.

Instructions: Each submission must include the Agency name and the docket numbers for this notice. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading below for further information.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Federal Docket Management System (FDMS) is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's Privacy Act Statement for the Federal Docket Management System (FDMS) published in the **Federal Register** on January 17, 2008 (73 FR 3316).

FOR FURTHER INFORMATION CONTACT: Elaine M. Papp, R.N., Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

I. Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the Federal Motor Carrier Safety Regulations for a 2-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The statute also allows the Agency to renew exemptions at the end of the 2-year period. The 78 individuals listed in this notice have recently requested such an exemption from the diabetes prohibition in 49 CFR 391.41(b)(3), which applies to drivers of CMVs in interstate commerce. Accordingly, the Agency will evaluate the qualifications of each applicant to determine whether granting the exemption will achieve the required level of safety mandated by statute.

II. Qualifications of Applicants

Daniel S. Adams

Mr. Adams, 34, has had ITDM since 2012. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Adams understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Adams meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Maine.

Michael L. Agnitsch

Mr. Agnitsch, 66, has had ITDM since 2004. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Agnitsch understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Agnitsch meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from Nebraska.

Shaun M. Aguayo

Mr. Aguayo, 47, has had ITDM since 2005. His endocrinologist examined him in 2014 and certified that he has had no

severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Aguayo understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Aguayo meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds an operator's license from Texas.

Earl W. Avery

Mr. Avery, 70, has had ITDM since 1980. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Avery understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Avery meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Tennessee.

Douglas W. Baker, Sr.

Mr. Baker, 55, has had ITDM since 2014. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Baker understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Baker meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds an operator's license from Virginia.

Michael A. Baker

Mr. Baker, 50, has had ITDM since 2005. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Baker understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Baker meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Connecticut.

Douglas E. Barron

Mr. Barron, 47, has had ITDM since 1980. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Barron understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Barron meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds an operator's license from South Carolina.

Pablo H. Bilbao La Vieja Pozo

Mr. Bilbao La Vieja Pozo, 62, has had ITDM since 2011. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Bilbao La Vieja Pozo understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Bilbao La Vieja Pozo meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from Rhode Island.

Todd D. Bloomfield

Mr. Bloomfield, 53, has had ITDM since 2006. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Bloomfield understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Bloomfield meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Washington.

Sylvester G. Clements, Jr.

Mr. Clements, 78, has had ITDM since 2005. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Clements understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Clements meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class A CDL from Wisconsin.

Fred W. Click

Mr. Click, 60, has had ITDM since 1986. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Click understands diabetes management and monitoring,

has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Click meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class A CDL from Indiana.

Kenneth M. Coco

Mr. Coco, 47, has had ITDM since 1975. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Coco understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Coco meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he has stable nonproliferative diabetic retinopathy. He holds an operator's license from Texas.

Christopher R. Cook

Mr. Cook, 52, has had ITDM since 2013. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Cook understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Cook meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from New York.

Wygila M. Corliss

Ms. Corliss, 43, has had ITDM since 2011. Her endocrinologist examined her in 2014 and certified that she has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. Her endocrinologist certifies that Ms. Corliss understands diabetes management and monitoring, has stable control of her diabetes using insulin, and is able to drive a CMV safely. Ms. Corliss meets the requirements of the vision standard at 49 CFR 391.41(b)(10). Her optometrist examined her in 2014 and certified that she does not have diabetic retinopathy. She holds a Class B CDL from New Mexico.

Timothy J. Cornish

Mr. Cornish, 34, has had ITDM since 1997. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Cornish understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Cornish meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds an operator's license from Ohio.

Joshua D. Cresswell

Mr. Cresswell, 37, has had ITDM since 2004. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Cresswell understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Cresswell meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from New Hampshire.

Evan R. Dieken

Mr. Dieken, 29, has had ITDM since 2000. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Dieken understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Dieken meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds an operator's license from Minnesota.

Greg B. Duck

Mr. Duck, 58, has had ITDM since 2013. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Duck understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Duck meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Texas.

Arthur J. Dunn

Mr. Dunn, 62, has had ITDM since 2013. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Dunn understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Dunn meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Pennsylvania.

Richard A. Durr

Mr. Durr, 44, has had ITDM since 1990. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or

resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Durr understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Durr meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds an operator's license from Illinois.

Daniel R. Eloff

Mr. Eloff, 59, has had ITDM since 1974. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Eloff understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Eloff meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he has stable nonproliferative diabetic retinopathy. He holds an operator's license from Ohio.

Thomas O. Everett

Mr. Everett, 61, has had ITDM since 2014. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Everett understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Everett meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Washington.

Victor J. Flowers

Mr. Flowers, 55, has had ITDM since 2013. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Flowers understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Flowers meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from California.

Brian K. Forrest

Mr. Forrest, 50, has had ITDM since 2008. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Forrest understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Forrest meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class A CDL from Pennsylvania.

David S. Fortune

Mr. Fortune, 54, has had ITDM since 2014. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Fortune understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Fortune meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Virginia.

Michael S. Frederick

Mr. Frederick, 43, has had ITDM since 2007. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Frederick understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Frederick meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from New Jersey.

Peter E. Ganss

Mr. Ganss, 37, has had ITDM since 1999. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Ganss understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Ganss meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds an operator's license from Kansas.

David E. Gates

Mr. Gates, 53, has had ITDM since 2010. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Gates understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Gates meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that

he has stable nonproliferative diabetic retinopathy in his right eye and has stable proliferative diabetic retinopathy in his left eye. He holds a Class A CDL from Massachusetts.

Timothy L. Grant

Mr. Grant, 44, has had ITDM since 1987. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Grant understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Grant meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds an operator's license from North Carolina.

James T. Heck

Mr. Heck, 21, has had ITDM since 2009. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Heck understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Heck meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds an operator's license from Minnesota.

Rodney J. Hendricks

Mr. Hendricks, 49, has had ITDM since 2014. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Hendricks understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Hendricks meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Idaho.

Marcus T. Herring

Mr. Herring, 52, has had ITDM since 2012. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Herring understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Herring meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from California.

Charles R. Hoit

Mr. Hoit, 59, has had ITDM since2014. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Hoit understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Hoit meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Missouri.

Jason L. Hubbard

Mr. Hubbard, 34, has had ITDM since 1988. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Hubbard understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Hubbard meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds an operator's license from Maryland.

Andy L. Hughes

Mr. Hughes, 44, has had ITDM since 1972. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Hughes understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Hughes meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he has stable proliferative diabetic retinopathy. He holds a Class A CDL from Illinois.

Jammie L. Hughes

Mr. Hughes, 53, has had ITDM since 2004. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Hughes understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Hughes meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Ohio.

Charles J. Hurley

Mr. Hurley, 47, has had ITDM since 1981. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist

certifies that Mr. Hurley understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Hurley meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he has stable proliferative diabetic retinopathy. He holds an operator's license from Minnesota.

Rodney L. Johnson

Mr. Johnson, 54, has had ITDM since 2008. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Johnson understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Johnson meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Oregon.

Frederick B. Jones

Mr. Jones, 50, has had ITDM since 2011. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Jones understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Jones meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Texas.

Tito D. Jones

Mr. Jones, 41, has had ITDM since 2014. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Jones understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Jones meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Georgia.

Scott M. Klain

Mr. Klain, 51, has had ITDM since 2014. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Klain understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Klain meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Oregon.

Jeffrey P. Kloeckl

Mr. Kloeckl, 53, has had ITDM since 2013. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Kloeckl understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Kloeckl meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from South Dakota.

John J. Kress

Mr. Kress, 53, has had ITDM since 2011. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Kress understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Kress meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds an operator's license from Arizona.

Russell A. Krogstad

Mr. Krogstad, 59, has had ITDM since 1997. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Krogstad understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Krogstad meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Minnesota.

John B. Lebherz

Mr. Lebherz, 62, has had ITDM since 2012. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Lebherz understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Lebherz meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from Texas.

Alan S. Lewis

Mr. Lewis, 64, has had ITDM since 2012. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the

assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Lewis understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Lewis meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from New Mexico.

William M. Linskey

Mr. Linskey, 66, has had ITDM since 2011. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Linskey understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Linskey meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Massachusetts.

Jason D. Lowder

Mr. Lowder, 42, has had ITDM since 2014. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Lowder understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Lowder meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Ohio.

Arnold V. Magaoay

Mr. Magaoay, 42, has had ITDM since 2012. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Magaoay understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Magaoay meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Hawaii.

Norman C. Mallett

Mr. Mallett, 23, has had ITDM since 1997. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Mallett understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Mallett meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Arkansas.

Patrick Marcantuono

Mr. Marcantuono, 65, has had ITDM since 2005. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Marcantuono understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Marcantuono meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he has stable nonproliferative diabetic retinopathy. He holds an operator's license from New Jersey.

Daniel E. McDonald

Mr. McDonald, 57, has had ITDM since 2014. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. McDonald understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. McDonald meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Minnesota.

William F. McQueen, Jr.

Mr. McQueen, 47, has had ITDM since 2014. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. McQueen understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. McQueen meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Missouri.

Kenneth M. Miller

Mr. Miller, 31, has had ITDM since 2007. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Miller understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Miller meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist

examined him in 2014 and certified that he does not have diabetic retinopathy. He holds an operator's license from Idaho.

William F. Mitchell

Mr. Mitchell, 61, has had ITDM since 2009. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Mitchell understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Mitchell meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from Connecticut.

Donald L. Mitzel

Mr. Mitzel, 47, has had ITDM since 2014. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Mitzel understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Mitzel meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Pennsylvania.

Gino P. Monterio

Mr. Monterio, 42, has had ITDM since 2011. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Monterio understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Monterio meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Wisconsin.

Matthew K. Morrison

Mr. Morrison, 23, has had ITDM since 2014. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Morrison understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Morrison meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds an operator's license from Utah.

Gary R. Nelson

Mr. Nelson, 68, has had ITDM since 2009. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Nelson understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Nelson meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Minnesota.

Edward L. Norfleet

Mr. Norfleet, 58, has had ITDM since 1992. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Norfleet understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Norfleet meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class A CDL from Alabama.

Kyle R. Perry

Mr. Perry, 23, has had ITDM since 2013. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Perry understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Perry meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Pennsylvania.

Michael L. Plinski

Mr. Plinski, 64, has had ITDM since 1966. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Plinski understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Plinski meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from Washington.

Scott A. Porter

Mr. Porter, 48, has had ITDM since 2012. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in

the last 5 years. His endocrinologist certifies that Mr. Porter understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Porter meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Washington.

James A. Rambo

Mr. Rambo, 41, has had ITDM since 2014. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Rambo understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Rambo meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Virginia.

Rondo L. Rininger

Mr. Rininger, 53, has had ITDM since 2011. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Rininger understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Rininger meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Indiana.

Richard D. Sandison

Mr. Sandison, 65, has had ITDM since 2010. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Sandison understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Sandison meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from North Dakota.

Calvin R. Smith

Mr. Smith, 52, has had ITDM since 2012. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Smith understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Smith meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Illinois.

Wesley J. Summerville

Mr. Summerville, 62, has had ITDM since 2000. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Summerville understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Summerville meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Pennsylvania.

Jeffrey S. Thomas

Mr. Thomas, 47, has had ITDM since 2012. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Thomas understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Thomas meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds an operator's license from Pennsylvania.

Stephen M. Thompson

Mr. Thompson, 61, has had ITDM since 2009. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Thompson understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Thompson meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Georgia.

Randy L. Triplett

Mr. Triplett, 58, has had ITDM since 1997. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Triplett understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Triplett meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class A CDL from Ohio.

John E. Trygstad

Mr. Trygstad, 44, has had ITDM since 2012. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Trygstad understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Trygstad meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from South Dakota.

Jared M. Wabeke

Mr. Wabeke, 28, has had ITDM since 2013. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Wabeke understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Wabeke meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from Michigan.

Steven R. Weir

Mr. Weir, 56, has had ITDM since 2010. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Weir understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Weir meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds an operator's license from Massachusetts.

Donald D. Willard

Mr. Willard, 69, has had ITDM since 1984. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Willard understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Willard meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class A CDL from Iowa.

Gary W. Wozniak

Mr. Wozniak, 53, has had ITDM since 2009. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Wozniak understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Wozniak meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds an operator's license from Nebraska.

Steven L. Yokom

Mr. Yokom, 61, has had ITDM since 2011. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Yokom understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Yokom meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Idaho.

Daniel R. Zuriff

Mr. Zuriff, 39, has had ITDM since 2014. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Zuriff understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Zuriff meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Minnesota.

III. Request for Comments

In accordance with 49 U.S.C. 31136(e) and 31315, FMCSA requests public comment from all interested persons on the exemption petitions described in this notice. We will consider all comments received before the close of business on the closing date indicated in the date section of the notice.

FMCSA notes that section 4129 of the Safe, Accountable, Flexible and Efficient Transportation Equity Act: A Legacy for Users requires the Secretary to revise its diabetes exemption program established on September 3, 2003 (68 FR 52441) [1]. The revision must provide for individual assessment of drivers with diabetes mellitus, and be consistent with the criteria described in section 4018 of the Transportation Equity Act for the 21st Century (49 U.S.C. 31305).

Section 4129 requires: (1) Elimination of the requirement for 3 years of experience operating CMVs while being treated with insulin; and (2) establishment of a specified minimum period of insulin use to demonstrate stable control of diabetes before being allowed to operate a CMV.

In response to section 4129, FMCSA made immediate revisions to the diabetes exemption program established by the September 3, 2003 notice. FMCSA discontinued use of the 3-year driving experience and fulfilled the

[1] Section 4129(a) refers to the 2003 notice as a ''final rule.'' However, the 2003 notice did not issue a ''final rule'' but did establish the procedures and standards for issuing exemptions for drivers with ITDM.

requirements of section 4129 while continuing to ensure that operation of CMVs by drivers with ITDM will achieve the requisite level of safety required of all exemptions granted under 49 U.S.C. 31136(e).

Section 4129(d) also directed FMCSA to ensure that drivers of CMVs with ITDM are not held to a higher standard than other drivers, with the exception of limited operating, monitoring and medical requirements that are deemed medically necessary.

The FMCSA concluded that all of the operating, monitoring and medical requirements set out in the September 3, 2003 notice, except as modified, were in compliance with section 4129(d). Therefore, all of the requirements set out in the September 3, 2003 notice, except as modified by the notice in the **Federal Register** on November 8, 2005 (70 FR 67777), remain in effect.

IV. Submitting Comments

You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov* and in the search box insert the docket number FMCSA–2014–0021 and click the search button. When the new screen appears, click on the blue ''Comment Now!'' button on the right hand side of the page. On the new page, enter information required including the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

We will consider all comments and material received during the comment period and may change this proposed rule based on your comments. FMCSA may issue a final rule at any time after the close of the comment period.

V. Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble, To submit your comment online, go to *http://www.regulations.gov* and in the search box insert the docket number FMCSA–2014–0021 and click ''Search.'' Next, click ''Open Docket Folder'' and you will find all documents and comments related to the proposed rulemaking.

Issued on: September 12, 2014.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2014–22265 Filed 9–17–14; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2000–7165; FMCSA–2000–8398; FMCSA–2004–18885]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of renewal of exemptions; request for comments.

SUMMARY: FMCSA announces its decision to renew the exemptions from the vision requirement in the Federal Motor Carrier Safety Regulations for 14 individuals. FMCSA has statutory authority to exempt individuals from the vision requirement if the exemptions granted will not compromise safety. The Agency has concluded that granting these exemption renewals will provide a level of safety that is equivalent to or greater than the level of safety maintained without the exemptions for these commercial motor vehicle (CMV) drivers.

DATES: This decision is effective October 27, 2014. Comments must be received on or before October 20, 2014.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) numbers: Docket No. [Docket No. FMCSA–2000–7165; FMCSA–2000–8398; FMCSA–2004–18885], using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.
- *Fax:* 1–202–493–2251.

Instructions: Each submission must include the Agency name and the docket number for this notice. Note that DOT posts all comments received without change to *http://www.regulations.gov,* including any personal information included in a comment. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Federal Docket Management System (FDMS) is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's Privacy Act Statement for the Federal Docket Management System (FDMS) published in the **Federal Register** on January 17, 2008 (73 FR 3316).

FOR FURTHER INFORMATION CONTACT: Elaine M. Papp, R.N., Chief, Medical Programs Division, 202–366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m. Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

I. Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may renew an exemption from the vision requirements in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce, for a two-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The procedures for requesting an exemption (including renewals) are set out in 49 CFR part 381.

II. Exemption Decision

This notice addresses 14 individuals who have requested renewal of their exemptions in accordance with FMCSA procedures. FMCSA has evaluated these 14 applications for renewal on their merits and decided to extend each exemption for a renewable two-year period. They are:

Paul G. Albrecht (WI), David W. Brown (TN), Monty G. Calderon (OH), Awilda S. Colon (TN), Zane G. Harvey, Jr. (VA), Jeffrey M. Keyser (OH), Donnie A. Kildow (ID), Daniel A. McNabb (KS), David G. Meyers (NY), Rodney M. Pegg (PA), Zbigniew P. Pietranik (WI), John C. Rodriguez (PA), Charles E. Wood (IA), Joseph F. Wood (MS).

The exemptions are extended subject to the following conditions: (1) That each individual has a physical examination every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the requirements in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provides a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file and retains a copy of the certification on his/her person while driving for presentation to a duly authorized Federal, State, or local enforcement official. Each exemption will be valid for two years unless rescinded earlier by FMCSA. The exemption will be rescinded if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315.

III. Basis for Renewing Exemptions

Under 49 U.S.C. 31315(b)(1), an exemption may be granted for no longer than two years from its approval date and may be renewed upon application for additional two year periods. In accordance with 49 U.S.C. 31136(e) and 31315, each of the 14 applicants has satisfied the entry conditions for obtaining an exemption from the vision requirements (65 FR 33406; 65 FR 57234; 65 FR 78256; 66 FR 16311; 67 FR 57266; 69 FR 52741; 69 FR 53493; 69 FR 62742; 71 FR 53489; 71 FR 62148; 73 FR 61925; 75 FR 59327; 77 FR 64583). Each of these 14 applicants has requested renewal of the exemption and has submitted evidence showing that the vision in the better eye continues to meet the requirement specified at 49 CFR 391.41(b)(10) and that the vision impairment is stable. In addition, a review of each record of safety while driving with the respective vision deficiencies over the past two years indicates each applicant continues to meet the vision exemption requirements.

These factors provide an adequate basis for predicting each driver's ability to continue to drive safely in interstate commerce. Therefore, FMCSA concludes that extending the exemption for each renewal applicant for a period of two years is likely to achieve a level of safety equal to that existing without the exemption.

IV. Public Participation and Request for Comments

FMCSA encourages you to participate by submitting comments and related materials.

Submitting Comments

If you submit a comment, please include the docket number for this notice (FMCSA–2000–7165; FMCSA–2000–8398; FMCSA–2004–18885), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so the Agency can contact you if it has questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov* and put the docket number, ''FMCSA–2000–7165; FMCSA–2000–8398; FMCSA–2004–18885'' in the ''Keyword'' box, and click ''Search.'' When the new screen appears, click on ''Comment Now!'' button and type your comment into the text box in the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope. FMCSA will consider all comments and material received during the comment period and may change this notice based on your comments.

Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov* and in the search box insert the docket number, ''FMCSA–2000–7165; FMCSA–2000–8398; FMCSA–2004–18885'' in the ''Keyword'' box and click ''Search.'' Next, click ''Open Docket Folder'' button choose the document listed to review. If you do not have access to the Internet, you may view the docket online by visiting the Docket Management Facility in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

Issued on: September 10, 2014.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2014–22259 Filed 9–17–14; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. DOT–MARAD 2014–0124]

Request for Comments of a Previously Approved Information Collection

AGENCY: Maritime Administration (MARAD), DOT.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, this notice announces that the Information Collection Request (ICR) abstracted below is being forwarded to the Office of Management and Budget (OMB) for review and comments. A **Federal Register** Notice with a 60-day comment period soliciting comments on the following information collection was published on June 25, 2014 (**Federal Register** Vol. 79, No. 122, page 36120). No comments were received.

DATES: Comments must be submitted on or before October 20, 2014.

ADDRESSES: Send comments regarding the burden estimate, including suggestions for reducing the burden, to the Office of Management and Budget, Attention: Desk Officer for the Office of the Secretary of Transportation, 725 17th Street NW., Washington, DC 20503.

Comments are invited on: Whether the proposed collection of information

is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: Kimberly Brown, (202) 366–9363, Office of Security, Maritime Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

Title: Elements of Request for Course Approval.

OMB Control Number: 2133–0535.

Type of Request: Renewal of a Previously Approved Information Collection.

Abstract: Under this voluntary collection, public and private maritime security training course providers may choose to provide the Maritime Administration (MARAD) with information concerning the content and operation of their courses. MARAD will use this information to evaluate whether the course meets the training standards and curriculum promulgated under Section 109 of the Maritime Transportation Security Act of 2002 (MTSA) (Pub. L. 107–295). Courses found to meet these standards will receive a course approval.

Affected Public: Respondents are public and private maritime security course training providers.

Estimated Number of Respondents: 50.

Estimated Number of Responses: 75.

Annual Estimated Total Annual Burden Hours: 750.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.93.

Dated: September 8, 2014.

Julie P. Agarwal,

Maritime Secretary, Maritime Administration.

[FR Doc. 2014–22301 Filed 9–17–14; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. DOT–MARAD 2014–0123]

Agency Requests for Renewal of a Previously Approved Information Collection(s): Application for Construction Reserve Fund and Annual Statements (CRF)

AGENCY: Maritime Administration, DOT.

ACTION: Notice and request for comments.

SUMMARY: The Maritime Administration (MARAD) invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. The collection consists of an application required for all citizens who own or operate vessels in the U.S. foreign or domestic commerce and desire tax benefits under the Construction Reserve Fund (CRF) program. The annual statement sets forth a detailed analysis of the status of the CRF when each income tax return is filed. The information to be collected is required in order for MARAD to determine whether the applicant is qualified for the benefits of the CRF program. We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995.

DATES: Written comments should be submitted by November 17, 2014.

ADDRESSES: You may submit comments [identified by Docket No. DOT–MARAD–2014–0123] 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: Daniel Ladd, 202–366–1859, Office of Financial Approvals, Maritime Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 2133–0032.

Title: Application for Construction Reserve Fund (CRF) and Annual Statements.

Form Numbers: N/A.

Type of Review: Renewal of an information collection.

Background: The Construction Reserve Fund (CRF), authorized by 46 U.S.C. Chapter 533, is a financial assistance program which provides tax deferral benefits to U.S.-flag operators. Eligible parties can defer the gain attributable to the sale or loss of a vessel, provided the proceeds are used to expand or modernize the U.S. merchant fleet. The primary purpose of the CRF is to promote the construction, reconstruction, reconditioning, or acquisition of merchant vessels which are necessary for national defense and to the development of U.S. commerce.

Respondents: Owners or operators of vessels in the domestic or foreign commerce.

Number of Respondents: 17.

Frequency: Annually.

Number of Responses: 17.

Total Annual Burden: 153 hours/9 hours per respondent.

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.

Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78) or you may visit *www.regulations.gov.*

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.93.

Dated: September 8, 2014.

Julie P. Agarwal,

Secretary, Maritime Administration.

[FR Doc. 2014–22305 Filed 9–17–14; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2014–0121]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel KEANI KAI; Invitation for Public Comments

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before October 20, 2014.

ADDRESSES: Comments should refer to docket number MARAD–2014–0121. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Linda Williams, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W23–453, Washington, DC 20590. Telephone 202–366–0903, Email *Linda.Williams@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel KEANI KAI is:

Intended Commercial Use Of Vessel: ''Sailing tours in waters within 10nm of Kawaihae harbor, Island of Hawaii.''

Geographic Region: ''Hawaii.''

The complete application is given in DOT docket MARAD–2014–0121 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR Part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR Part 388.

Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78).

By Order of the Maritime Administrator.

Dated: September 9, 2014.

Julie P. Agarwal,

Secretary, Maritime Administration.

[FR Doc. 2014–22286 Filed 9–17–14; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2014 0122]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel SUNBOW; Invitation for Public Comments

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before October 20, 2014.

ADDRESSES: Comments should refer to docket number MARAD–2014–0122. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Linda Williams, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W23–453, Washington, DC 20590. Telephone 202–366–0903, Email *Linda.Williams@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel SUNBOW is:

Intended Commercial Use Of Vessel: ''day charter.''

Geographic Region: ''Hawaii.''

The complete application is given in DOT docket MARAD–2014–0122 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR Part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR Part 388.

Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78).

By Order of the Maritime Administrator.

Dated: September 9, 2014.

Julie P. Agarwal,

Secretary, Maritime Administration.

[FR Doc. 2014–22284 Filed 9–17–14; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA–2014–0040]

Pipeline Safety: Guidance for Pipeline Flow Reversals, Product Changes and Conversion to Service

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Notice; issuance of advisory bulletin

SUMMARY: PHMSA is issuing this advisory bulletin to alert operators of hazardous liquid and gas transmission pipelines of the potential significant impact flow reversals, product changes and conversion to service may have on the integrity of a pipeline. Failures on natural gas transmission and hazardous liquid pipelines have occurred after these operational changes. This advisory bulletin describes specific notification requirements and general operating and maintenance (O&M) and integrity management actions regarding flow reversals, product changes and conversion to service. This advisory bulletin also recommends additional actions operators should take when these operational changes are made including the submission of a comprehensive written plan to the appropriate PHMSA regional office regarding these changes prior to implementation.

FOR FURTHER INFORMATION CONTACT: Julie Halliday by phone at 202–366–0287 or by email at *julie.halliday@dot.gov.* Information about PHMSA may be found at *http://www.phmsa.dot.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Two recent pipeline failures occurred on hazardous liquid pipelines where the flow had been reversed. The Tesoro High Plains Pipeline rupture was discovered on September 29, 2013, after leaking an estimated 20,000 barrels of crude oil in a North Dakota field. The location of pressure and flow monitoring equipment had not been changed to account for the reversed flow. The Pegasus Pipeline failed on March 29, 2013, releasing about 5,000 barrels of crude oil into a neighborhood in Faulkner County, Arkansas. The pipeline flow had been reversed in 2006. Due to these recent accidents and other information PHMSA has become aware of as a result of the large number of recent or proposed flow reversals, product changes and conversion to service projects, PHMSA is alerting operators to the potential significant impact these changes may have on the integrity of a pipeline.

In response to shifts in the supply of and demand for various products transported by gas and hazardous liquid pipelines, operators may consider making operational changes to their pipelines including flow reversal, product change (e.g., crude oil to refined product) and/or conversion to service (e.g., convert from natural gas to crude oil) (49 CFR 192.14 and 195.5). Flow reversals, product changes and conversions to service may impact various aspects of a pipeline's operation, maintenance, monitoring, integrity management and emergency response. Pressure gradient, velocity, and the location, magnitude, and frequency of pressure surges and cycles may change. Operators may also consider increasing the throughput capacity of the pipeline. Increasing throughput may also impact the pressure profile and pressure transients. Product changes may warrant a material compatibility and corrosion susceptibility review. Leak detection and monitoring systems may be affected. Significant additions, removal or modifications of pump stations, compressor stations, tank farms and In-Line Inspection (ILI) launching/receiving facilities may be required. Appurtenances such as flow meters, strainers, liquid separators, corrosion control devices, leak detection devices, control valves and sectionalizing valves may need to be altered.

II. Advisory Bulletin (ADB–2014–04)

To: Owners and Operators of Onshore Oil Pipeline Systems.

Subject: Guidance for Pipeline Flow Reversals, Product Changes and Conversion to Service.

Advisory: This advisory bulletin describes specific notification requirements and general O&M and integrity management requirements as well as additional actions operators should consider taking before, during and after flow reversals, product changes, and conversion to service. PHMSA refers operators to detailed guidance published in the document, *Guidance to Operators Regarding Flow Reversals, Product Changes and Conversion to Service,* which provides operators with PHMSA's expectations with respect to complying with existing regulations and also contains recommendations that operators should consider prior to implementing these changes. The document addresses flow reversals, product changes and conversion to service individually. The document is located at: *http://phmsa.dot.gov/staticfiles/PHMSA/DownloadableFiles/Pipeline/Regulations/GORRPCCS.pdf.*

Notification Requirements & Consideration

Pipeline operators are required to notify PHMSA when the cost to make these changes exceeds $10 million per §§ 191.22(c) and 195.64(c). While not common, pre-existing special permits or state waivers may require the operator to contact PHMSA prior to significant operational changes such as flow reversal, product changes or conversion to service. Operators should contact PHMSA regarding changes to pipelines with a special permit irrespective of specific language requiring it.

Per § 192.909, operators of gas transmission pipelines must notify PHMSA if these changes will substantially affect their integrity management program, its implementation, or modify the schedule for carrying out the program elements. Under § 194.121, operators of onshore oil pipelines must submit a modified response plan within 30 days of making a change in operating conditions that substantially affects its implementation. Operators will need to reflect changes due to conversion to service and product changes on subsequent Annual Report (required by §§ 191.17 and 195.49) and National Pipeline Mapping System submissions (required by The Pipeline Safety Improvement Act of 2002). Interim NPMS submissions reflecting the changes are not required; operators should wait until their next scheduled NPMS submission. Operators are strongly encouraged to submit a comprehensive written plan to the appropriate PHMSA regional office prior to performing flow reversals, product changes and conversions to service.

O&M and Integrity Management Requirements and Considerations

Requirements to address O&M and integrity issues inherent with flow reversals, product changes and conversions to service are embedded in many parts of the code. While review of O&M and integrity management plan aspects are carried out during regular compliance and verification activities, these matters may be reviewed to the extent that the incremental increase in

risk as a result of these changes may be relevant. Operators should be prepared to demonstrate how they addressed impacts to O&M, emergency plans, control room management, operator qualification training, emergency responder training, public awareness, spill response, maps and records, and integrity management programs and plans for the affected pipeline facilities. Integrity management requires operators to proactively anticipate hazards, evaluate risks and identify preventative and mitigative actions to manage operational changes that have the potential to increase the risk of failure or the increase in potential consequences of a failure. Flow reversal, product change or conversion to service meet these criteria. Operators must document the reason for, and resulting changes to, their integrity management program prior to implementation. The safe operation of an existing pipeline for use under these proposed operating conditions is dependent on the integrity of the pipeline. Facilities built under older versions of the code may need additional assessment to determine whether they remain safe to operate under these changed conditions. The integrity assessments are done in accordance with the most recent version of the code.

Operators should review past integrity assessments, assessment tools and inspections. As a result of these changes, the location of certain threats may change. Previous assessments may not have evaluated the integrity of the pipeline at the location where the threat will be after these operational changes have been implemented. Reassessment may be in order. Operators should incorporate applicable findings from PHMSA's research and development program into their integrity management program. For low frequency electric resistance welded (LF–ERW) pipe, operators should review Project #390, *Comprehensive Study to Understand Longitudinal ERW Seam Failures.* These reports review findings from seam cracking issues from many failures such as: Pressure tests, predictive model accuracies for crack type and fracture mode, ILI and in-the-ditch evaluation tool findings. The reports are located on PHMSA's Web site *http://primis.phmsa.dot.gov/matrix/PrjHome.rdm?prj=390.*

Conversion to service allows previously used steel pipelines to qualify for use without meeting the design and construction requirements applicable to new pipelines, but the regulations require the pipeline be tested in accordance with 192 subpart J or 195 subpart E per §§ 192.14(a)(4) and 195.5(a)(4) respectively. This includes the requirement to perform a new pressure test. The procedure to carry out the pressure test must be included in the written procedure required in §§ 192.14(a) and 195.5(a). Operators should consider performing ILI and hydrostatic pressure with a spike test prior to implementing any of these changes especially if historical records have indications of previous in-service or hydrostatic pressure test failures, selective seam corrosion, stress corrosion cracking, other cracking threats or other systemic concerns. A spike test 30 minutes in duration at 100 percent to 110 percent specified minimum yield strength or between 1.39 to 1.5 times the maximum allowable operating pressure for gas and the maximum operating pressure for hazardous liquids is suggested as it is the best method for evaluating cracking threats at this time.

Integrity depends on accurate records to make suitable decisions. Operators should validate material and strength test records for all affected segments of pipe as reminded in an advisory bulletin (ADB 12–06) published on May 7, 2012; 77 FR 26822 titled: Pipeline Safety: Verification of Records. If the operator is missing records, they should create and implement a plan to obtain material documentation. If mechanical and/or chemical properties (mill test reports) are missing, the plan should require destructive tests to confirm material properties of pipeline. Certain high risk pipelines merit a greater level of due diligence. While a new hydrostatic pressure test with a spike test is an important part of confirming the integrity of a pipeline, it may not be advisable to perform flow reversals, product changes or conversion to service under the following conditions:

- Grandfathered pipelines that operate without a Part 192, Subpart J pressure test or where sufficient historical test or material strength records are not available.
- LF–ERW pipe, lap welded, unknown seam types and with seam factors less than 1.0 as defined in §§ 192.113 and 195.106.
- Pipelines that have had a history of failures and leaks most especially those due to stress corrosion cracking, internal/external corrosion, selective seam corrosion or manufacturing defects.
- Pipelines that operate above Part 192 design factors (above 72% SMYS).
- Product change from unrefined products to highly volatile liquids.

Sectionalizing valves and leak detection systems are important facility components to reduce the consequences of failure. The integrity assessment should also include a review of the adequacy of the number, location and time for closure of existing valves and its leak detection capability. Operators should enhance their communication with affected stakeholders concerning the changes with supplemental messages per API RP 1162 (incorporated by reference §§ 192.7 and 195.3). Public awareness communication should start in the projects planning stage, continue into the operations phase, provide project specific information and be responsive to the concerns of potentially affected persons. Operators should use the information in *Guidance to Operators Regarding Flow Reversals, Product Changes and Conversion to Service* and develop a comprehensive written plan when performing flow reversals, product changes and conversions to service. Operators are strongly encouraged to submit their plan to the appropriate PHMSA regional office.

Authority: 49 U.S.C. Chapter 601 and 49 CFR 1.53.

Issued in Washington, DC, on September 12, 2014.

Alan K. Mayberry,

Deputy Associate Administrator for Policy and Programs.

[FR Doc. 2014–22201 Filed 9–17–14; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA–2014–0124]

Pipeline Safety: Meeting of the Technical Pipeline Safety Standards Committee and the Technical Hazardous Liquid Pipeline Safety Standards Committee

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Notice of advisory committee meeting.

SUMMARY: This notice announces a public meeting of the Gas Pipeline Advisory Committee (GPAC), also known as the Technical Pipeline Safety Standards Committee, and the Liquid Pipeline Advisory Committee (LPAC), also known as the Technical Hazardous Liquid Pipeline Safety Standards Committee. The committees will meet in joint session to discuss a variety of topics to keep committee members up-to-date on DOT's pipeline safety program.

DATES: The committees will meet in joint sessions on Tuesday, October 21, 2014, from 1:00 p.m. to 5:00 p.m. and on Wednesday, October 22, 2014, from 9:00 a.m. to 5:00 p.m., E.S.T.

The meetings will not be web cast; however, presentations will be available on the meeting Web site and posted on the E-Gov Web site *http://www.regulations.gov* under docket number PHMSA–2014–0124 within 30 days following the meeting.

ADDRESSES: The meeting will take place at the Washington Marriott Georgetown, 1221 22nd Street NW., Washington, DC, 20037–1203. Phone 202–872–1500. Web site: *http://www.marriott.com/hotels/travel/waswe-washington-marriott-georgetown/.*

Please register for the meeting at the following PHMSA Web site: *https://primis.phmsa.dot.gov/meetings/MtgHome.mtg?mtg=100.* Any additional information, including the meeting agenda, will be posted on this page as well.

Comments on the meeting may be submitted to the docket in the following ways:

E-Gov Web site: http://www.regulations.gov. This site allows the public to enter comments on any **Federal Register** notice issued by any agency.

Fax: 1–202–493–2251.

Mail: Docket Management Facility; U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE., West Building, Room W12–140, Washington, DC 20590–001.

Hand Delivery: Room W12–140 on the ground level of the DOT West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9:00 a.m. and 5:00 p.m., Monday through Friday, except on Federal holidays.

Instructions: Identify the docket number PHMSA–2009–0203 at the beginning of your comments. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. You should know that anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). Therefore, you may want to review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000, (65 FR 19477) or view the Privacy Notice at *http://www.regulations.gov* before submitting any such comments.

Docket: For access to the docket or to read background documents or comments, go to *http://www.regulations.gov* at any time or to Room W12–140 on the ground level of the DOT West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays.

If you wish to receive confirmation of receipt of your written comments, please include a self-addressed, stamped postcard with the following statement: ''Comments on PHMSA–2009–0203.'' The Docket Clerk will date-stamp the postcard prior to returning it to you via the U.S. mail. Please note that due to delays in the delivery of U.S. mail to Federal offices in Washington, DC, we recommend that persons consider an alternative method (internet, fax, or professional delivery service) of submitting comments to the docket and ensuring their timely receipt at DOT.

Privacy Act Statement

Anyone may search the electronic form of comments received in response to any of our dockets by the name of the individual who submitted the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). DOT's complete Privacy Act Statement was published in the **Federal Register** on April 11, 2000 (65 FR 19477).

Information on Services for Individuals With Disabilities

For information on facilities or services for individuals with disabilities, or to seek special assistance at the meeting, please contact Cheryl Whetsel at 202–366–4431 by October 6, 2014.

FOR FURTHER INFORMATION CONTACT: For information about the meeting, contact Cheryl Whetsel by phone at 202–366–4431 or by email at *cheryl.whetsel@dot.gov.*

SUPPLEMENTARY INFORMATION:

I. Meeting Details

The committees will meet to discuss performance metrics for pipeline operations, safety management systems in other industries, and agency, state, and stakeholder priorities.

Members of the public may attend and make a statement during the advisory committee meeting. If you intend to make a statement, please notify PHMSA in advance by forwarding an email to *cheryl.whetsel@dot.gov* by October 6, 2014.

II. Committee Background

The GPAC and LPAC are statutorily mandated advisory committees that advise PHMSA on proposed safety standards, risk assessments and safety policies for natural gas pipelines and for hazardous liquid pipelines. Both committees were established under the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C. App. 1) and the pipeline safety law (49 U.S.C. Chap. 601). Each committee consists of 15 members—with membership evenly divided among the Federal and state government, the regulated industry and the public. The committees advise PHMSA on the technical feasibility, practicability and cost-effectiveness of each proposed pipeline safety standard.

Authority: 49 U.S.C. 60102, 60115; 60118.

Issued in Washington, DC, on September 12, 2014.

Alan K. Mayberry,

Deputy Associate Administrator for Policy and Programs.

[FR Doc. 2014–22202 Filed 9–17–14; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF THE TREASURY

Financial Crimes Enforcement Network

Agency Information Collection Activities; Comment Request; Renewal Without Change of Bank Secrecy Act Suspicious Activity and Currency Transaction Reporting Requirements

AGENCY: Financial Crimes Enforcement Network (''FinCEN''), U.S. Department of the Treasury.

ACTION: Notice and request for comments.

SUMMARY: FinCEN, a bureau of the U.S. Department of the Treasury (''Treasury''), invites all interested parties to comment on its proposed renewal without change of the Bank Secrecy Act (''BSA'') Suspicious Activity Reporting requirements for certain financial institutions, i.e., depository institutions, casinos and card clubs, and insurance companies. This notice also proposes to renew without change the Currency Transaction Reporting requirement for certain financial institutions, i.e., depository institutions, money services businesses, brokers or dealers in securities, mutual funds, futures commission merchants and introducing brokers in commodities, and casinos and card clubs. FinCEN intends to submit these requirements for approval by the Office of Management and Budget (''OMB'') of a three-year extension of Control Numbers 1506–0001, 1506–0004, 1506–0005, 1506–0006, and 1506–0029. This request for comments is made pursuant to the Paperwork Reduction Act

(''PRA'') of 1995, Public Law 104–13, 44 U.S.C. 3506(c)(2)(A).

DATES: Written comments should be received on or before November 17, 2014 to be assured of consideration.

ADDRESSES: Written comments should be submitted to: Policy Division, Financial Crimes Enforcement Network, U.S. Department of the Treasury, P.O. Box 39, Vienna, VA 22183. *Attention:* PRA Comments—BSA Suspicious Activity and Currency Transaction Reporting Requirements. Please cite specific OMB Control Number(s) listed above when commenting. Comments also may be submitted by electronic mail to the following Internet address: *regcomments@fincen.gov* with the caption in the body of the text, ''Attention: PRA Comments—BSA Suspicious Activity and Currency Transaction Reporting Requirements.'' Please cite specific OMB Control Number(s) listed above when commenting.

Instructions. It is preferable for comments to be submitted by electronic mail. Please submit comments by one method only. All submissions received must include the agency name and the specific OMB control number for this notice.

Inspection of comments. Comments may be inspected, between 10 a.m. and 4 p.m., in the FinCEN reading room in Vienna, VA. Persons wishing to inspect the comments submitted must request an appointment with the Disclosure Officer by telephoning (703) 905–5034 (not a toll free call).

FOR FURTHER INFORMATION CONTACT: The FinCEN Resource Center at 800–767–2825 or email *frc@fincen.gov.*

SUPPLEMENTARY INFORMATION: The BSA, Titles I and II of Public Law 91–508, as amended, codified at 12 U.S.C. 1829(b), 12 U.S.C. 1951–1959, and 31 U.S.C. 5311–5332, authorizes the Secretary of the Treasury, among other things, to require financial institutions to keep records and file reports that are determined to have a high degree of usefulness in criminal, tax and regulatory matters, or in the conduct of intelligence or counter-intelligence activities to protect against international terrorism, and to implement counter-money laundering programs and compliance procedures.[1] Regulations implementing Title II of the BSA appear at 31 CFR Chapter X. The authority of the Secretary of the Treasury to administer the BSA has been delegated to the Director of FinCEN. The information collected and retained under the regulation addressed in this notice assist Federal, state, and local law enforcement as well as regulatory authorities in the identification, investigation, and prosecution of money laundering and other matters. In accordance with the requirements of the PRA, 44 U.S.C. 3506(c)(2)(A), and its implementing regulations, the following information is presented concerning the recordkeeping requirements listed below.

1. Title: Suspicious Activity Report by Depository Institutions.

OMB Number: 1506–0001.

Abstract: In accordance with 31 CFR 1020.320, covered financial institutions are required to report suspicious activity and maintain the records for a period of five years. Covered financial institutions may satisfy these requirements by using their internal records management system.

Current Action: Renewal without change to the existing regulations.

Type of Review: Extension of currently approved reporting requirement.

Affected Public: Businesses or other for-profit institutions, and non-profit institutions.

Burden: The administrative burden of 1 hour is assigned to maintain the requirement in force. The burden for actual reporting is reflected in OMB Control number 1506–0065.

2. Title: Suspicious Activity Report by Casinos and Card Clubs.

OMB Number: 1506–0006.

Abstract: In accordance with 31 CFR 1021.320, covered financial institutions are required to report suspicious activity and maintain the records for a period of five years. Covered financial institutions may satisfy these requirements by using their internal records management system.

Current Action: Renewal without change to the existing regulations.

Type of Review: Extension of currently approved reporting requirement.

Affected Public: Businesses or other for-profit institutions, and non-profit institutions.

Burden: The administrative burden of 1 hour is assigned to maintain the requirement in force. The burden for actual reporting is reflected in OMB Control number 1506–0065.

3. Title: Suspicious Activity Report by Insurance Companies.

OMB Number: 1506–0029.

Abstract: In accordance with 31 CFR 1025.320, covered financial institutions are required to report suspicious activity and maintain the records for a period of five years. Covered financial institutions may satisfy these requirements by using their internal records management system.

Current Action: Renewal without change to the existing regulations.

Type of Review: Extension of currently approved reporting requirement.

Affected Public: Businesses or other for-profit institutions, and non-profit institutions.

Burden: The administrative burden of 1 hour is assigned to maintain the requirement in force. The burden for actual reporting is reflected in OMB Control number 1506–0065.

4. Title: Currency Transaction Reports.

OMB Number: 1506–0004.

Abstract: In accordance with 31 CFR 1010.310, 1020.310, 1022.310, 1023.310, 1024.310, 1026.310, covered financial institutions are required to report certain transactions in currency and maintain the records for a period of five years. Covered financial institutions may satisfy these requirements by using their internal records management system.

Current Action: Renewal without change to the existing regulations.

Type of Review: Extension of currently approved reporting requirement.

Affected Public: Businesses or other for-profit institutions, and non-profit institutions.

Burden: The administrative burden of 1 hour is assigned to maintain the requirement in force. The burden for actual reporting is reflected in OMB Control number 1506–0064.

5. Title: Currency Transaction Report by Casinos and Card Clubs.

OMB Number: 1506–0005.

Abstract: In accordance with 31 CFR 1021.310, covered financial institutions are required to report certain transactions in currency and maintain the records for a period of five years. Covered financial institutions may satisfy these requirements by using their internal records management system.

Current Action: Renewal without change to the existing regulations.

Type of Review: Extension of currently approved reporting requirement.

Affected Public: Businesses or other for-profit institutions, and non-profit institutions.

Burden: The administrative burden of 1 hour is assigned to maintain the requirement in force. The burden for actual reporting is reflected in OMB Control number 1506–0064.

[1] Language expanding the scope of the Bank Secrecy Act to intelligence or counter-intelligence activities to protect against international terrorism was added by Section 358 of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, Public Law 107–56.

The following paragraph applies to the reporting and recordkeeping requirements addressed in this notice. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Records required to be retained under the BSA must be retained for five years. Generally, information collected pursuant to the BSA is confidential, but may be shared as provided by law with regulatory and law enforcement authorities.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance and purchase of services to provide information.

Dated: September 11, 2014.

Jennifer Shasky Calvery,

Director, Financial Crimes Enforcement Network.

[FR Doc. 2014–22225 Filed 9–17–14; 8:45 am]

BILLING CODE 4810–02–P

DEPARTMENT OF VETERANS AFFAIRS

Annual Pay Ranges for Physicians and Dentists of the Veterans Health Administration

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: As required by the ''Department of Veterans Affairs Health Care Personnel Enhancement Act of 2004'' (Pub. L. 108–445, dated December 3, 2004) the Department of Veterans Affairs (VA) is hereby giving notice of annual pay ranges for Veterans Health Administration (VHA) physicians and dentists as prescribed by the Secretary for VA-wide applicability. These annual pay ranges are intended to enhance VA flexibility to recruit, develop, and retain the most highly qualified providers to serve our Nation's veterans and maintain a standard of excellence in the VA healthcare system.

DATES: *Effective Date:* The annual pay ranges listed in this notice are effective November 30, 2014.

FOR FURTHER INFORMATION CONTACT: Debra Doty, HR Specialist/Title 38 Program Manager, Compensation and Classification Service (055), Office of Human Resources Management, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (757) 728–3381. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Under 38 U.S.C. 7431(e)(1)(A), not less often than once every two years, the Secretary must prescribe for Department of Veterans Affairs (VA)-wide applicability the minimum and maximum amounts of annual pay that may be paid to VHA physicians and dentists. Further, 38 U.S.C. 7431(e)(1)(B) allows the Secretary to prescribe separate minimum and maximum amounts of pay for a specialty or assignment. In construction of the annual pay ranges, 38 U.S.C. 7431(c)(4)(A) requires the consultation of two or more national surveys of pay for physicians and dentists, as applicable, whether prepared by private, public, or quasi-public entities in order to make a general assessment of the range of pays payable to physicians and dentists. Lastly, 38 U.S.C. 7431(e)(1)(C) states amounts prescribed under paragraph 7431(e) shall be published in the **Federal Register**, and shall not take effect until at least 60 days after date of publication.

Background

The ''Department of Veterans Affairs Health Care Personnel Enhancement Act of 2004'' (Pub. L. 108–445) was signed by the President on December 3, 2004. The major provisions of the law established a new pay system for VA's Veterans Health Administration (VHA) physicians and dentists consisting of base pay, market pay, and performance pay. While the base pay component is set by statute, market pay is intended to reflect the recruitment and retention needs for the specialty or assignment of a particular physician or dentist at a facility. Further, performance pay is intended to recognize the achievement of specific goals and performance objectives prescribed annually. These three components create a system of pay that is driven by both market indicators and employee performance, while recognizing employee tenure in VA.

Discussion

VA identified and utilized salary survey data sources which most closely represent VA comparability in the areas of practice setting, employment environment, and hospital/health care system. The Association of American Medical Colleges (AAMC), Hospital and Healthcare Compensation Service (HHCS), Sullivan, Cotter, and Associates (S&C), Medical Group Management Association (MGMA), Physician Executive Management Center (PEMC), and the Survey of Dental Practice published by the American Dental Association (ADA) were collectively utilized as benchmarks from which to prescribe annual pay ranges for physicians and dentists across the scope of assignments/specialties within VA. While aggregating the data, a preponderance of weight was given to those surveys which most directly resembled the environment of VA.

In constructing annual pay ranges to accommodate the more than forty physician and dentist specialties that currently exist in the VA system, VA continued the practice of grouping specialties into consolidated pay ranges. This allows VA to use multiple sources that yield a high number of physician salary data which helps to minimize disparities and aberrations that may surface from data involving smaller numbers of physicians and dentists for comparison and from sample change from year to year. Thus, by aggregating multiple survey sources into like groupings, greater confidence exists that the average compensation reported is truly representative. In addition, aggregation of data provides for a large enough sample size and provides pay ranges with maximum flexibility for pay setting for the more than 25,000 VHA physicians and dentists.

In developing the annual pay ranges, a few distinctive principles were factored into the compensation analysis of the data. The first principle is to ensure that both the minimum and maximum salary is at a level that accommodates special employment situations, from fellowships and medical research career development awards to Nobel Laureates, high-cost areas, and internationally renowned clinicians. The second principle, to attempt to establish a rate range of +/− 25 percent of the mean, is imperative to provide ranges large enough to accommodate career progression, geographic differences, sub-specialization, and special factors. This principle is also the standard recommended by World@Work for professional compensation ranges.

All clinical specialties for VHA physicians and dentists were reviewed against relevant private sector data. The specialties are grouped into five clinical pay ranges that reflect comparable complexity in salary, recruitment, and retention considerations. Two additional pay ranges apply to VHA Chiefs of Staff and physicians and dentists in executive level administrative assignments at the facility, network, or headquarters level.

PAY TABLE 1—CLINICAL SPECIALTY

Tier level	Minimum	Maximum
TIER 1	$98,967	$215,000
TIER 2	110,000	230,000
TIER 3	120,000	255,000

PAY TABLE 1—COVERED CLINICAL SPECIALTIES

Allergy and Immunology.
Compensation and Pension.
Endocrinology.
Geriatrics.
Infectious Diseases.
Internal Medicine/Primary Care/Family Practice.
Neurology.
Preventive Medicine.
Rheumatology.
General Practice—Dentistry.
Endodontics.
Periodontics.
Prosthodontics.
All other specialties or assignments that do not require a specific specialty.

PAY TABLE 2—CLINICAL SPECIALTY

Tier level	Minimum	Maximum
TIER 1	$98,967	$240,000
TIER 2	115,000	250,000
TIER 3	130,000	260,000

PAY TABLE 2—COVERED CLINICAL SPECIALTIES

Critical Care.
Emergency Medicine.
Gynecology.
Hematology—Oncology.
Hospitalist.
Nephrology.
Pathology.
PM&R/SCI.
Psychiatry.
Pulmonary.

PAY TABLE 3—CLINICAL SPECIALTY

Tier level	Minimum	Maximum
TIER 1	$98,967	$300,000
TIER 2	120,000	310,000
TIER 3	135,000	320,000

PAY TABLE 3—COVERED CLINICAL SPECIALTIES

Cardiology (Non-invasive).
Dermatology.
Gastroenterology.
Nuclear Medicine.
Ophthalmology.
Oral Surgery.
Otolaryngology.

PAY TABLE 4—CLINICAL SPECIALTY

Tier level	Minimum	Maximum
TIER 1	$98,967	$325,000
TIER 2	125,000	340,000
TIER 3	140,000	355,000

PAY TABLE 4—COVERED CLINICAL SPECIALTIES

Anesthesiology.
Cardiology (Invasive/Non-Interventional).
General Surgery.
Plastic Surgery.
Radiology (Non-Invasive).
Urology.
Vascular Surgery.

PAY TABLE 5—CHIEF OF STAFF

Tier level	Minimum	Maximum
TIER 1	$150,000	$300,000
TIER 2	145,000	280,000
TIER 3	140,000	260,000

PAY TABLE 5—COVERED ASSIGNMENTS

VHA Chiefs of Staff.
Deputy Chiefs of Staff (Complexity Level 1a and 1b facilities only).

PAY TABLE 6—EXECUTIVE ASSIGNMENTS

Tier level	Minimum	Maximum
TIER 1	$145,000	$265,000
TIER 2	145,000	245,000
TIER 3	130,000	235,000

PAY TABLE 6—COVERED EXECUTIVE ASSIGNMENTS

Principal Deputy Under Secretary for Health, Deputy Under Secretary for Health, Chief Officer, Network Director, Medical Center Director, Network Chief Officer, Executive Director, Assistant Deputy Under Secretary for Health, VA Central Office Chief Consultant, National Director, National Program Manager, and other VA Central Office Physician/Dentist.

PAY TABLE 7—CLINICAL SPECIALTY

Tier level	Minimum	Maximum
TIER 1	$98,967	$375,000
TIER 2	140,000	385,000

PAY TABLE 7—COVERED CLINICAL SPECIALTIES

Cardio-Thoracic Surgery.
Interventional Cardiology.
Interventional Radiology.
Neurosurgery.
Orthopedic Surgery.

Signing Authority: The Secretary of Veterans Affairs approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Robert A. McDonald, Secretary, Department of Veterans Affairs, approved this document on September 3, 2014, for publication.

Dated: September 12, 2014.

William F. Russo,

Deputy Director, Office of Regulation Policy & Management, Office of the General Counsel, U.S. Department of Veterans Affairs.

[FR Doc. 2014–22187 Filed 9–17–14; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Genomic Medicine Program Advisory Committee; Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act, 5 U.S.C. App. 2 that the Genomic Medicine Program Advisory Committee will meet on October 10, 2014, at the U.S. Access Board at 1331 F Street NW., Suite 1000, Washington, DC. The meeting will convene at 9:00 a.m. and adjourn at 5:00 p.m. The meeting is open to the public. Anyone attending must show a valid photo ID to building security and be escorted to the meeting. Please allow 15 minutes before the meeting begins for this process.

The purpose of the Committee is to provide advice and make recommendations to the Secretary of Veterans Affairs on using genetic information to optimize medical care for Veterans and to enhance development of tests and treatments for diseases particularly relevant to Veterans.

The Committee will receive program updates and continue to provide insight into optimal ways for VA to incorporate genomic information into its health care program while applying appropriate ethical oversight and protecting the

privacy of Veterans. The meeting focus will be on developing the information technology and informatics infrastructure, quality control of genomic data, and data access and sharing policies. The Committee will also receive an update on the status of the ongoing Million Veteran Program and the Clinical Genomics Service. Public comments will be received at 3:30 p.m. and are limited to 5 minutes each. Individuals who speak are invited to submit a 1–2 page summary of their comments for inclusion in the official meeting record to Dr. Sumitra Muralidhar, Designated Federal Officer, 810 Vermont Avenue NW., Washington, DC 20420, or by email at *sumitra.muralidhar@va.gov.* Any member of the public seeking additional information should contact Dr. Muralidhar at (202) 443–5679.

Dated: September 15, 2014.

Jelessa Burney,

Federal Advisory Committee Management Officer.

[FR Doc. 2014–22247 Filed 9–17–14; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Privacy Act of 1974; Report of Matching Program

AGENCY: Department of Veterans Affairs.

ACTION: Notice of Computer Matching Program.

SUMMARY: The Department of Veterans Affairs (VA) provides notice that it intends to conduct a recurring computer-matching program matching Social Security Administration (SSA) Master Beneficiary Records (MBR) and the Master Files of Social Security Number (SSN) Holders and SSN Applications (Numident) with VA pension, compensation, and dependency and indemnity compensation records. The goal of this match is to identify beneficiaries who are receiving VA benefits and SSA benefits or earned income, and to reduce or terminate VA benefits, if appropriate. The match will include records of current VA beneficiaries.

DATES: The match will start no sooner than 30 days after publication of this notice in the **Federal Register** (FR), or 40 days after copies of this notice and the agreement of the parties is submitted to Congress and the Office of Management and Budget, whichever is later, and end not more than 18 months after the agreement is properly implemented by the parties. The involved agencies' Data Integrity Boards (DIB) may extend this match for 12 months provided the agencies certify to their DIBs, within 3 months of the ending date of the original match, that the matching program will be conducted without change and that the matching program has been conducted in compliance with the original matching program.

ADDRESSES: Written comments may be submitted through *www.Regulations.gov;* by mail or hand-delivery to the Director, Regulations Management (02REG), Department of Veterans Affairs, 810 Vermont Ave. NW., Room 1068, Washington, DC 20420; or by fax to (202) 273–9026. Copies of comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1063B, between the hours of 8:00 a.m. and 4:30 p.m. Monday through Friday (except holidays). Please call (202) 461–4902 for an appointment. In addition, during the comment period, comments may be viewed online through the Federal Docket Management System at *www.Regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Sakinah Richardson, Pension Analyst, Pension and Fiduciary Service (21P), Department of Veterans Affairs, 810 Vermont Ave. NW., Washington, DC 20420, (202) 632–8863.

SUPPLEMENTARY INFORMATION: VA will use this information to verify the income information submitted by beneficiaries in VA's needs-based benefit programs and adjust VA benefit payments as prescribed by law.

The legal authority to conduct this match is 38 U.S.C. 5106, which requires any Federal department or agency to provide VA such information as VA requests for the purposes of determining eligibility for benefits, or verifying other information with respect to payment of benefits.

The VA records involved in the match are in ''Compensation, Pension and Education and Rehabilitation Records—VA (58 VA 21/22/28),'' a system of records which was first published at 41 FR 9294 (March 3, 1976), amended and republished in its entirety at 77 FR 42593 (July 19, 2012). The routine use is number 39 regarding computer matches. The SSA records consist of information from the system of records identified as the SSA MBR, SSA/Office of Retirement and Survivors Insurance Systems, 60–0090, routine use number 23 and SSA Numident, SSA/Office of Earnings, Enumeration, and Administrative Systems, 60–0058, routine use number 14.

In accordance with the Privacy Act, 5 U.S.C. 552a(o)(2) and (r), copies Congress and to the Office of Management and Budget. This notice is provided in accordance with the provisions of Privacy Act of 1974 as amended by Public Law 100–503.

Signing Authority: The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Jose D. Riojas, Chief of Staff, Department of Veterans Affairs, approved this document on September 4, 2014, for publication.

Dated: September 11, 2014.

William F. Russo,

Deputy Director, Office of Regulation Policy & Management, Office of the General Counsel, U.S. Department of Veterans Affairs.

[FR Doc. 2014–22104 Filed 9–17–14; 8:45 am]

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Part II

Department of Labor

Occupational Safety and Health Administration

29 CFR Part 1904

Occupational Injury and Illness Recording and Reporting Requirements—NAICS Update and Reporting Revisions; Final Rule

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1904

[Docket No. OSHA–2010–0019]

RIN 1218–AC50

Occupational Injury and Illness Recording and Reporting Requirements—NAICS Update and Reporting Revisions

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Final rule.

SUMMARY: OSHA is issuing a final rule to update the appendix to its Injury and Illness Recording and Reporting regulation. The appendix contains a list of industries that are partially exempt from requirements to keep records of work-related injuries and illnesses due to relatively low occupational injury and illness rates. The updated appendix is based on more recent injury and illness data and lists industry groups classified by the North American Industry Classification System (NAICS). The current appendix lists industries classified by Standard Industrial Classification (SIC).

The final rule also revises the requirements for reporting work-related fatality, injury, and illness information to OSHA. The current regulation requires employers to report work-related fatalities and in-patient hospitalizations of three or more employees within eight hours of the event. The final rule retains the requirement for employers to report work-related fatalities to OSHA within eight hours of the event but amends the regulation to require employers to report all work-related in-patient hospitalizations, as well as amputations and losses of an eye, to OSHA within 24 hours of the event.

DATES: The final rule becomes effective January 1, 2015.

ADDRESSES: In accordance with 28 U.S.C. 2112(a)(2), OSHA designates Ann Rosenthal, Acting Associate Solicitor of Labor for Occupational Safety and Health, Office of the Solicitor, Room S–4004, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210, to receive petitions for review of the final rule.

FOR FURTHER INFORMATION CONTACT:

For press inquiries: Frank Meilinger, OSHA, Office of Communications, Room N–3647, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210; telephone (202)-693–1999; email: *meilinger.frank@dol.gov*

For general and technical information: Miriam Schoenbaum, OSHA, Office of Statistical Analysis, Room N–3507, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210; telephone (202) 693–1841; email: *schoenbaum.miriam@dol.gov*

SUPPLEMENTARY INFORMATION:

1. Background

A. Table of Contents

The following table of contents identifies the major sections of the preamble to the final rule revising OSHA's Occupational Injury and Illness Recording and Reporting Requirements regulation (NAICS update and reporting revisions):

B. References and Exhibits

In this preamble, OSHA references documents in Docket No. OSHA–2010–0019, the docket for this rulemaking. The docket is available at *http://www.regulations.gov,* the Federal eRulemaking Portal.

References to documents in this rulemaking docket are given as ''Ex.'' followed by the document number. The document number is the last sequence of numbers in the Document ID Number on *http://www.regulations.gov.* For example, Ex. 1, the proposed rule, is Document ID Number OSHA–2010–0019–0001.

The exhibits in the docket, including public comments, supporting materials, meeting transcripts, and other documents, are listed on *http://www.regulations.gov.* All exhibits are listed in the docket index on *http://www.regulations.gov.* However, some exhibits (e.g., copyrighted material) are not available to read or download from that Web page. All materials in the docket are available for inspection and copying at the OSHA Docket Office, Room N–2625, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210; telephone (202) 693–2350.

C. Introduction

OSHA's regulation at 29 CFR part 1904 requires employers with more than 10 employees in most industries to keep records of occupational injuries and illnesses at their establishments. Employers covered by these rules must record each recordable employee injury and illness on an OSHA Form 300, which is the ''Log of Work-Related Injuries and Illnesses'', or equivalent. Employers must also prepare a supplementary OSHA Form 301 ''Injury and Illness Incident Report'' or equivalent that provides additional details about each case recorded on the 300 Log. Finally, at the end of each year, employers are required to prepare a summary report of all injuries and illnesses on the OSHA Form 300A, which is the ''Summary of Work-Related Injuries and Illnesses'', and post the form in a visible location in the workplace.

OSHA's current regulation at Section 1904.2 partially exempts establishments in certain lower-hazard industry groups from the requirement for keeping injury and illness records. Lower-hazard industries are currently those industries that are classified within SIC major industry groups 52–89 and that have an average Lost Workday Injury and Illness (LWDII) rate at or below 75 percent of the three-year-average national LWDII rate for private industry.

The LWDII rate is an incidence rate that represents the number of non-fatal injuries and illnesses resulting in days away from work or job restriction per 100 full-time-equivalent employees per year. The LWDII data used to compile the current list of partially-exempt industry groups were taken from the Bureau of Labor Statistics (BLS) Survey of Occupational Injuries and Illnesses (SOII) for the years 1996, 1997, and

1998. Establishments in the industry groups listed in Appendix A to Subpart B do not need to keep OSHA injury and illness records unless they are asked to do so in writing by OSHA, BLS, or a state agency operating under the authority of OSHA or BLS.

This final rule replaces the list of partially-exempt industry groups in SIC 52–89, based on 1996–1998 injury/illness data, with a list of partially-exempt industry groups in NAICS 44–81, based on 2007–2009 injury/illness data. Because overall injury and illness rates have been declining, the threshold Days Away, Restriction, or Transfer (DART) rate for partial exemption is 1.5 (75% of the 2007–2009 average private industry DART rate of 2.0), down from the previous 2.325 (75% of the 1998 average private industry LWDII rate of 3.1).

Additionally, OSHA's current regulation at 29 CFR 1904.39(a) requires employers to report all work-related fatalities and all in-patient hospitalizations of three or more employees to OSHA within eight hours. This final rule leaves in place the current requirement that employers report all work-related fatalities to OSHA within eight hours. However, the final rule amends the current regulation by requiring employers to report all work-related in-patient hospitalizations that require care or treatment, all amputations, and all losses of an eye to OSHA within 24 hours.

All employers covered by the OSH Act, including employers who are partially exempt from maintaining injury and illness records, are required to comply with OSHA's reporting requirements at 29 CFR 1904.39.

This rulemaking has net annualized costs of $7.7 million, with total annualized new costs of $19.2 million to employers and total annualized cost savings of $11.5 million for employers who no longer have to meet certain recordkeeping requirements. The Agency believes that the rulemaking will improve access to information about workplace safety and health, with potential benefits that could include:

- Allowing OSHA to use its resources more effectively by enabling the Agency to identify the workplaces where workers are at greatest risk, in general and/or from specific hazards, and target its compliance assistance and enforcement efforts accordingly.
- Increasing the ability of employers, employees, and employee representatives to identify and abate hazards that pose serious risks to workers at their workplaces.

D. Regulatory History

OSHA's regulations on recording and reporting occupational injuries and illnesses (29 CFR part 1904) were first issued in 1971 (36 FR 12612, July 2, 1971). On December 28, 1982, OSHA amended these regulations to partially exempt establishments in certain lower-hazard industries from the requirement to record occupational injuries and illnesses (47 FR 57699). In 1994, the Agency issued a final rule revising the requirements for employers to report work-related fatalities and certain work-related hospitalizations to OSHA (59 FR 15594, April 1, 1994). On January 19, 2001, OSHA issued a final rule that comprehensively revised its Part 1904 recordkeeping regulations (66 FR 5915). As part of this revision, OSHA updated the list of industries eligible for partial exemption (Section 1904.2, 66 FR 5939–5945) and amended the requirements for reporting work-related fatalities and certain hospitalizations to OSHA (Section 1904.39, 66 FR 6062–6065).

In this rulemaking, OSHA issued the proposed rule on June 22, 2011 (75 FR 36414). No public hearings were held for this rulemaking. OSHA received 125 comments on the proposed rule. These comments are addressed below.

II. Legal Authority

Section 24 of the OSH Act requires the Secretary to ''develop and maintain an effective program of collection, compilation, and analysis of occupational safety and health statistics'' and ''compile accurate statistics on work injuries and illnesses which shall include all disabling, serious, or significant injuries and illnesses, whether or not involving loss of time from work, other than minor injuries requiring only first aid treatment and which do not involve medical treatment, loss of consciousness, restriction of work or motion, or transfer to another job'' (29 U.S.C. 673(a)). Section 24 also requires employers to ''file such reports [of work injuries and illnesses] with the Secretary'' as the Secretary may prescribe by regulation (29 U.S.C. 673(e)).

In addition, the Secretary's responsibilities under the OSH Act are defined largely by its enumerated purposes, which include ''[p]roviding appropriate reporting procedures that will help achieve the objectives of this Act and accurately describe the nature of the occupational safety and health problem'' (29 U.S.C. 651(b)(12)).

The OSH Act authorizes the Secretary to issue two types of occupational safety and health rules; standards and regulations. Standards, which are authorized by section 6 of the OSH Act, specify remedial measures to be taken to prevent and control employee exposure to identified occupational hazards; while regulations are the means to effectuate other statutory purposes, including the collection and dissemination of records of occupational injuries and illnesses. Courts of appeal have held that OSHA recordkeeping rules are regulations and not standards (Louisiana Chemical Ass'n v. Bingham, 657 F.2d 777, 782–785 (5th Cir. 1981); Workplace Health & Safety Council v. Reich, 56 F.3d 1465, 1467–1469 (D.C. Cir. 1995).

III. Section 1904.2—Partial Exemption for Certain Industries

A. Background

Although the OSH Act gives OSHA the authority to require all employers covered by the Act to keep records of employee injuries and illnesses, two classes of employers are partially exempted from the recordkeeping requirements in Part 1904. First, as provided in Section 1904.1, employers with 10 or fewer employees at all times during the previous calendar year are partially exempt from keeping OSHA injury and illness records. Second, as provided in Section 1904.2, establishments in certain lower-hazard industries are also partially exempt. Partially-exempt employers are not required to maintain OSHA injury and illness records unless required to do so by OSHA under Section 1904.41 (OSHA Data Initiative) or by BLS under Section 1904.42 (Annual Survey).

The partial exemption based on industry has been part of the OSHA recordkeeping regulation since 1982. OSHA established the 1982 list of partially-exempt industries by identifying major industry groups with relatively low rates of occupational injuries and illnesses in the divisions for retail trade; finance, insurance and real estate; and the service industries (SICs G, H, and I). Establishments were partially exempted from routinely keeping injury and illness records if the three-year-average lost workday case injury rate (LWCIR) for their major industry group was 75 percent or less of the overall three-year average LWCIR for private industry, using BLS data from 1978, 1979, and 1980. Major industry groups in the divisions for agriculture, forestry and fishing; mining; construction; manufacturing; transportation and utilities; and wholesale trade (SIC Divisions A–F) were not eligible for the industry partial exemption. Although the 1982 **Federal**

Register notice discussed the possibility of revising the list of partially-exempt industries, the list remained unchanged until 2001.

On January 19, 2001, OSHA published a final rule (66 FR 5916) that comprehensively revised the Part 1904 recordkeeping regulations. As part of this revision, OSHA updated the list of industries that are partially exempt from the recordkeeping requirements. The list in the current regulation at Appendix A to Subpart B is the list of industries established in the 2001 final rule.

The 2001 final rule revised the 1982 list by using a similar method for identifying eligible industries. As in 1982, only industries in the major divisions for retail trade; finance, insurance and real estate; and the service industries (SICs G, H, and I) were eligible for inclusion, and the injury/illness rate threshold was 75 percent or less of the three-year-average rate for private industry. However, the 2001 list differed from the 1982 list in two respects. First, OSHA used BLS injury/illness data from 1996, 1997, and 1998, rather than data from 1978, 1979, and 1980. As a result, the threshold injury/illness rate for industries eligible for partial exemption was 2.325 in the 2001 rule, compared to 3.0 in the 1982 rule. Second, the revised list showed industry groups (three-digit SIC), rather than major industry groups (two-digit SIC).

OSHA currently lists the partially-exempt industries as follows:

SIC code	Industry description
525	Hardware Stores.
542	Meat and Fish Markets.
544	Candy, Nut, and Confectionery Stores.
545	Dairy Products Stores.
546	Retail Bakeries.
549	Miscellaneous Food Stores.
551	New and Used Car Dealers.
552	Used Car Dealers.
554	Gasoline Service Stations.
557	Motorcycle Dealers.
56	Apparel and Accessory Stores.
573	Radio, Television, & Computer Stores.
58	Eating and Drinking Places.
591	Drug Stores and Proprietary Stores.
592	Liquor Stores.
594	Miscellaneous Shopping Goods Stores.
599	Retail Stores, Not Elsewhere Classified.
60	Depository Institutions (banks & savings institutions).
61	Nondepository Credit Institutions.
62	Security and Commodity Brokers.
63	Insurance Carriers.
64	Insurance Agents, Brokers & Services.
653	Real Estate Agents and Managers.
654	Title Abstract Offices.
67	Holding and Other Investment Offices.
722	Photographic Studios, Portrait.
723	Beauty Shops.
724	Barber Shops.
725	Shoe Repair and Shoeshine Parlors.
726	Funeral Service and Crematories.
729	Miscellaneous Personal Services.
731	Advertising Services.
732	Credit Reporting and Collection Services.
733	Mailing, Reproduction, & Stenographic Services.
737	Computer and Data Processing Services.
738	Miscellaneous Business Services.
764	Reupholstery and Furniture Repair.
78	Motion Picture.
791	Dance Studios, Schools, and Halls.
792	Producers, Orchestras, Entertainers.
793	Bowling Centers.
801	Offices & Clinics Of Medical Doctors.
802	Offices and Clinics Of Dentists.
803	Offices Of Osteopathic.
804	Offices Of Other Health Practitioners.
807	Medical and Dental Laboratories.
809	Health and Allied Services, Not Elsewhere Classified.
81	Legal Services.
82	Educational Services (schools, colleges, universities and libraries).
832	Individual and Family Services.
835	Child Day Care Services.
839	Social Services, Not Elsewhere Classified.
841	Museums and Art Galleries.
86	Membership Organizations.
87	Engineering, Accounting, Research, Management, and Related Services.
899	Services, not elsewhere classified.

The 2001 rulemaking also addressed the issue of converting from SIC to NAICS (66 FR 5916). Although the first version of NAICS was adopted in 1997, BLS had not yet converted to NAICS for the collection of occupational injury and illness data when the 2001 final rule was issued. OSHA therefore based the partially-exempt industry groups on the SIC system. However, in the preamble to the 2001 final rule, OSHA stated its intention to conduct a future rulemaking to update the industry classifications to NAICS when BLS had published the injury and illness data required for making appropriate industry-by-industry decisions (66 FR 5944).

Updating to NAICS also fulfills a commitment OSHA made to the Government Accountability Office (GAO). In October 2009, GAO published a report entitled ''Enhancing OSHA's Records Audit Process Could Improve the Accuracy of Worker Injury and Illness Data'' (GAO–10–10). GAO recommended that OSHA update the list of industries OSHA uses to select worksites for records audits. In its response to GAO, OSHA agreed to pursue rulemaking to update the industry coverage of the recordkeeping rule from SIC to NAICS. This allows the Agency to use current BLS data to redefine the coverage of the recordkeeping rule.

B. The Proposed Rule

OSHA proposed to update Appendix A to Subpart B in two ways. First, industries would be classified by NAICS instead of SIC. Second, the injury/illness threshold would be based on more recent BLS data (2007, 2008, and 2009).

As in the current regulation, the agriculture, forestry, fishing, and hunting; mining; construction; manufacturing; and wholesale trade sectors were ineligible for partial exemption in the proposed rule. The following sectors were eligible: Retail trade; transportation and warehousing; information; finance and insurance; real estate and rental and leasing; professional, scientific, and technical services; management of companies and enterprises; administrative and support and waste management and remediation services; educational services; health care and social assistance; arts, entertainment, and recreation; accommodation and food services; and other services (except public administration) (NAICS 44–81). With one exception, industry groups (classified by four-digit NAICS) in these sectors would have been partially exempt from the recordkeeping requirements in Part 1904 if their three-year-average DART rate were 75 percent or less of the overall three-year-average DART rate for private industry, using BLS data from 2007, 2008, and 2009. Since the three-year-average private-sector DART rate for 2007, 2008, and 2009 was 2.0, the threshold for partial exemption for eligible industry groups (classified by four-digit NAICS) would have been a DART rate of 1.5 or less (see 76 FR 3641).

The one exception in eligibility due to three-year-average DART rate would have been for establishments in Employment Services (NAICS 5613). This industry includes employment placement agencies, temporary help

services, and professional employer organizations. In the 2001 rulemaking, the corresponding industry group (Personnel Supply Services (SIC 736)) was ineligible for partial exemption based on its three-year-average DART rate (using data from 1996, 1997 and 1998). In the preamble to the proposed rule, OSHA explained that the Employment Services industry was below the 75 percent threshold, based on 2007, 2008, and 2009 data. However, OSHA nonetheless proposed non-exemption of this industry on grounds that, for many employees in this industry, their actual place of work may be in an establishment that is part of a different, possibly higher-hazard industry. Therefore, NAICS 5613 Employment Services was not included in proposed Appendix A to Subpart B.

In the preamble to the proposed rule, OSHA estimated that 199,000 establishments that had previously been partially exempt would have become non-exempt. These establishments employed 5.3 million employees and accounted for an estimated 173,000 injuries and illnesses per year. In addition, 119,000 establishments that were previously non-exempt would have become partially exempt. These establishments employed 4.0 million employees and accounted for an estimated 76,000 injuries and illnesses per year.

C. Comments on the Proposed Rule

In general, OSHA's decision to convert the listing of partially-exempt employers from SIC to NAICS drew widespread support from commenters on the proposed rule (Exs. 24, 52, 59, 69, 77, 78, 81, 85, 86, 90, 93, 99, 100, 112, 119, 120, 122, 124). OSHA received only one comment expressing concern about the conversion, and stating it would not be possible to compare data between the years covered by SIC and the years covered by NAICS (Ex. 29).

OSHA notes that continued use of the SIC system would make injury and illness data incomparable with other types of contemporary industry data, and would make the use of injury and illness information in coordination with other economic data extremely difficult. Further, OSHA agrees with commenters whose expectation is that switching to NAICS from the seldom-used SIC system will decrease uncertainty in classification, save time, reduce confusion and lower the opportunity for errors in reporting the industry to which an employer belongs (Ex. 24, 59, 85). Moreover, OSHA believes that the change to NAICS will improve the quality of injury and illness data because NAICS represents a more modern industry classification than the SIC system.

OSHA received multiple comments on whether Part 1904 should include a partial exemption for lower-hazard industries. On the side of support for including a partial exemption, the National Association of Home Builders (NAHB) commented that, during the course of multiple rulemakings, OSHA has consistently found that the partial exemption for low-hazard industries (as well as for employer size) is consistent with the OSH Act, OSHA recordkeeping requirements, and national injury and illness statistics (Ex. 113).

On the other hand, several comments generally opposed the partial exemption for lower-hazard industries and recommended that all industries should be subject to recordkeeping requirements (Exs. 69, 74, 77, 81, 85, 86, 112). The International Union, United Automobile, Aerospace and Agricultural Implement Workers of America (UAW) opposed the exemption of any industries from the Part 1904 requirement on the basis of comparatively low injury and illness rates. The UAW commented that ''*no industries whatsoever* should be exempt from any of the recordkeeping requirements in Part 1904,'' because ''[s]o-called 'lower-hazard' industries are not free from serious hazards that can kill or disable workers.'' As examples, the UAW cited four industries—gasoline stations (NAICS 4471) jewelry, luggage, and leather goods stores (NAICS 4483), investigation and security services (NAICS 5616), and drinking places (NAICS 7224)—that were on the partially-exempt list in the proposed rule but had fatality rates higher than the national average (Ex. 77).

In addition, Dow Chemical commented that ''this practice of partial exemption has questionable value, may be counterproductive or even unworkable, and should perhaps be discontinued.'' For the partial exemption for low-hazard industries, Dow Chemical stated that ''[a]n injury is an injury, regardless of the industry in which it occurs''; even establishments with comparatively low injury/illness rates can benefit from recordkeeping data to guide safety programs; ''[m]oving industries into and out of partially exempt status may be unworkable'' due to the need for expertise and procedures for correct recordkeeping; and OSHA recordkeeping data are ''a useful tool in efforts to reduce injuries'' (Ex. 64).

In the final rule, OSHA has maintained its longstanding practice of partially exempting certain lower-hazard industry groups from the recordkeeping requirements in Part 1904. This partial exemption allows OSHA to concentrate recordkeeping requirements in sectors and industry groups that will provide the most useful data. The partial exemption also reduces the paperwork burden for employers in establishments in lower-hazard industries.

OSHA acknowledges that the partial exemption by industry group inevitably means that some high-hazard establishments will be partially exempt from recordkeeping, while other, low-hazard establishments will be required to keep records. However, OSHA notes that the partial exemption only applies to industry groups whose injury/illness rates are 75 percent or less of the private-sector average, as well as only to industry groups in comparatively lower-hazard sectors (NAICS 52–88).

The approach taken in this final rule regarding partial exemption is consistent with OSHA's current regulation. Although employers in partially-exempt industry groups are not required to routinely keep injury and illness records, they must keep such records if requested to do so by BLS for the BLS Annual Survey of Occupational Injuries and Illnesses (Section 1904.42), or by OSHA for the OSHA Data Initiative (Section 1904.41). Finally, in accordance with Section 1904.39, all employers covered by the OSH Act, regardless of partial exemptions due to industry group or company size, must report all work-related fatalities, in-patient hospitalizations, amputations, and losses of an eye to OSHA.

The preamble to the proposed rule listed eight questions to the public about the partial-exemption part of this rulemaking. Each question is repeated below, followed by public comments and OSHA's response to the comments.

1. Exemption of Additional Industries From the Recordkeeping Requirements in Part 1904

In the preamble to the proposed rule, OSHA asked, ''Should any additional industries be exempt from any of the recordkeeping requirements in Part 1904?''

The American Road and Transportation Builders Association (ARTBA) commented that, as a result of the 75 percent threshold, there were previously partially-exempt industries, such as construction and planning design firms, that would now be ''penalized with new recordkeeping and reporting burdens'' despite declining injury and illness rates. ARTBA stated that these industries should remain exempt (Ex. 114).

OSHA disagrees with this comment for two reasons. First, eligibility should be based on a threshold for partial exemption using timely data. The list in the current regulation is based on data from 1996–1998. The list in the final rule is based on data from 2007–2009, which were the most recent data available at the time of the proposed rule. Second, while OSHA recognizes that injury and illness recordkeeping creates a paperwork burden for employers, OSHA believes that the benefits of keeping such records are substantial. Informed employers can use the injury and illness records to discover and prevent occupational hazards in their workplaces, thereby reducing the numbers of injuries and illnesses. Thus, the purpose of requiring previously partially-exempt industries to keep records is not to ''penalize'' these industries, but rather to ensure that OSHA's recordkeeping requirements apply to the industries where the requirements have the greatest potential benefit, according to objective standards and timely data.

2. Detail and Aggregation of NAICS Codes for Partial Exemptions

In the preamble to the proposed rule, OSHA asked, ''Should OSHA base partial exemptions on more detailed or more aggregated industry classifications, such as two-digit, three-digit, or six-digit NAICS codes?''

Many commenters supported the use of industry classification by four-digit NAICS code (Exs. 29, 62, 68, 69, 70, 74, 75, 81, 86, 112, 119). For example, Safety Compliance Services commented that four-digit NAICS codes represent ''the best compromise between data integrity and usefulness'' (Ex. 29). Mercer ORC HSE Networks commented that four-digit NAICS codes ''provide sufficient granularity'' (Ex. 68). The National Council for Occupational Safety and Health (NCOSH) commented that four-digit NAICS codes ''allow for more accurate assessment of the degree of hazards in a given industry sector than if broader categories were used'' (Ex. 75).

There were also commenters recommending the use of industry classifications by six-digit NAICS code (Exs. 24, 45, 52, 107). For example, Printing Industries of America commented that, because an industry ''has multiple segments and levels of operations . . . partial exemptions should be based on the more detailed industry classifications indicated by the six-digit NAICS codes'' (Ex. 45). The Kentucky Labor Cabinet's Department of Workplace Standards commented that six-digit NAICS codes would allow ''precise identification of the specific industries to be exempted'' (Ex. 52).

The final rule, like the proposed rule, bases partial exemption for industry on industry group (four-digit NAICS code). The Agency finds that classification at this level has three advantages over the industry level (five-digit or six-digit NAICS code), which is more detailed. First, occupational injury and illness data are available from BLS for most industry groups (four-digit NAICS), while there are many industries (five-digit or six-digit NAICS) for which BLS data are not available. Second, establishments are more likely to remain in the same industry group (four-digit NAICS) over time than in the same industry (six-digit NAICS), reducing the chance that an establishment will go back and forth between non-exempt and partially-exempt status. Third, because industry group (four-digit NAICS) is more general than industry (six-digit NAICS), employers are less likely to encounter confusion when trying to determine whether or not their establishments are partially exempt due to industry.

3. Industry Sectors Ineligible for Partial Exemption

In the preamble to the proposed rule, OSHA asked, ''Which industry sectors, if any, should be ineligible for partial exemption?''

For specific industry sectors that should be ineligible for partial exemption, the AFL–CIO, NCOSH, the UAW, the USW, and Worksafe supported the continued ineligibility of the agriculture, manufacturing, construction, utilities, and wholesale trade sectors (Exs. 69, 75, 77, 86, 112). The Association of Flight Attendants-CWA, AFL–CIO (AFA) commented that the transportation sector should not be eligible for partial exemption (Ex. 85).

In addition, for specific industry groups or industries, NCOSH recommended that the newspapers, periodical, book, and directory publishers industry group (NAICS 5111) should be ineligible for partial exemption because the newspaper publishing industry (NAICS 51111) had high fatality rates between 2003 and 2008 (Ex. 66). (The overall hours-based fatality rate for private industry, published by the Census of Fatal Occupational Injuries (CFOI) at BLS, ranged from 3.7 to 4.3 deaths per 100,000 full-time equivalent workers during 2006–2008; the rate for the newspaper publishing industry ranged from 5.1 to 10.0. CFOI did not publish a rate for this industry in 2009.)

UNITE HERE commented that contracted food services (NAICS 72231) and caterers (NAICS 72232) should be ineligible because ''injury and illness prevention and hazard reduction . . . requires regular maintenance of OSHA logs and OSHA log data by the employer'' (Ex. 70).

The UAW commented that gas stations (NAICS 4471), jewelry, luggage, and leather stores (NAICS 4483), investigation and security services (NAICS 5616), and drinking places (NAICS 7224) should be ineligible because of high fatality rates (Ex. 77). According to published data from 2009 from CFOI, the fatality rate for private industry was 3.7 deaths per 100,000 full-time equivalent workers, while the fatality rates for gas stations, investigation and security services, and drinking places were 8.3, 5.1, and 15.5, respectively. CFOI did not publish a fatality rate for jewelry, luggage, and leather stores.

The UFCW commented that clothing stores (NAICS 4481) should be ineligible because the BLS total case rate (TCR) in that industry group increased by 25 percent from 2008 to 2009 (Ex. 81). The TCRs were 2.9 and 3.2, respectively, for 2008 and 2009. The 2010 and 2011 TCRs were both 3.0.

The AFA commented that industries that include one or more occupational classifications at high risk for injuries or illnesses, such as flight attendants in nonscheduled air transportation (NAICS 4812), should be ineligible (Ex. 85).

Consistent with the proposed rule and OSHA's longstanding policy, the final rule designates certain industry sectors as ineligible for partial exemption. Since 1982, it has been OSHA policy not to partially exempt certain industry divisions generally considered to involve greater occupational hazards. In the final rule, as in the proposed rule, agriculture, forestry, fishing and hunting (NAICS 11); mining, quarrying, and oil and gas extraction (NAICS 12); utilities (NAICS 22); construction (NAICS 23); manufacturing (NAICS 31–33); and wholesale trade (NAICS 42) are ineligible for partial exemption.

In addition, in the final rule, as in the proposed rule, industry groups (by four-digit NAICS) in the transportation sector (NAICS 48) are eligible for partial exemption. This is a change from the current regulation, in which industry groups (by three-digit SIC) in the division that includes transportation (SIC E—Transportation, Communications, Electric, Gas, and Sanitary Services) were ineligible for partial exemption due to industry. The reason for this change is the different structure of NAICS versus the SIC system.

In the final rule, Appendix A lists six partially-exempt industry groups in the transportation sector: non-scheduled air transportation (NAICS 4812); pipeline transportation of crude oil (NAICS 4861); pipeline transportation of natural gas (NAICS 4862); other pipeline transportation (NAICS 4869); scenic and sightseeing transportation, other (NAICS 4879); and freight transportation arrangement (NAICS 4885).

According to 2010 County Business Patterns data from the U.S. Census, there were 208,474 establishments with 4,011,989 employees in the transportation and warehousing sector (NAICS 48–49). The six partially-exempt industry groups in the transportation sector accounted for 26,013 establishments (12%) and 299,165 employees (7%), with freight transportation arrangement (NAICS 4885) as the single biggest industry group. Thus, although the transportation sector (NAICS 48) is eligible for partial exemption under the final rule, most establishments and employees in the transportation and warehousing sector (NAICS 48–49) will not be partially exempt due to industry. In addition, in non-scheduled air transportation (NAICS 4812), 72 percent of establishments had 1–9 employees, suggesting that many employers in this industry group will be partially exempt anyway due to size, regardless of the transportation sector's eligibility for partial exemption.

Also under the final rule, as in the proposed rule, establishments in the employment services industry group (NAICS 5613) are ineligible for partial exemption due to industry. Under the current regulation, establishments in the corresponding SIC industry group (Personnel Supply Services (SIC 513)) were required to keep OSHA injury and illness records. OSHA has decided to continue this policy on grounds that, for many employees in this industry, their actual place of work may be in an establishment that is part of a different, possibly higher-hazard, industry. No comments were submitted to the docket on this issue.

There were also several comments on OSHA's current partial exemption in Section 1904.1 for employers with 10 or fewer employees. Unions (the AFL–CIO, the UAW, the USW, and Worksafe), a safety professional firm (Safety Compliance Services), and Dow Chemical Company all commented that employers should not be partially exempt on this basis (Exs. 29, 59, 64, 69, 86, 77, 112).

In particular, Dow Chemical commented that ''[t]he partial exemption is especially unlikely to work for small employers,'' who may wrongly conclude that they are completely exempt from all OSHA regulations, rather than partially exempt from OSHA recordkeeping regulations (Ex. 64).

The AFL–CIO commented that employees at small workplaces get injured/ill, as do employees in industries with comparatively low injury/illness rates (Ex. 69), and that the small-employer exclusion especially affects the high-risk construction industry, since 80% of construction employers are partially exempt due to small employment size (Ex. 59). According to the AFL–CIO, ''The purpose of recording [injuries and illnesses] is to permit workers and employers to gather worksite data that will enhance the identification and elimination of hazards that pose serious risks to workers. As a consequence, there is great value in requiring the recording of these incidents'' (Ex. 69).

The partial exemption for employers with 10 or fewer employees is beyond the scope of this rulemaking. However, OSHA continues to believe that its longstanding practice of partially exempting employers with 10 or fewer employees is appropriate because it minimizes the paperwork burden on small employers. This is consistent with the direction provided in Section 8(d) of the OSH Act to minimize the burden of information collection upon employers, ''especially those operating small businesses.''

4. Alternatives To Using an Average DART Rate of 75 Percent of the Most Recent Three-Year-Average National DART Rate

In the NPRM, OSHA asked, ''Instead of using an average DART rate of 75 percent of the most recent national DART rate, is there a better way to determine which industries should be included in Appendix A?''

Multiple commenters recommended using the total case rate (TCR) as well as the DART rate. The TCR includes all recordable cases, while the DART rate includes only cases that result in days away from work, restriction, or job transfer. Seth Turner proposed a partial exemption for industries with both a TCR and a DART rate at or below 85% of the most recent three-year national averages for private industry (Ex. 23). The UFCW proposed using the TCR and/or total number of cases (Ex. 81). The USW proposed using the TCR as well as the DART rate, because ''[a]ll injuries are important to note that a hazard is present'' (Ex. 86). Change to Win proposed using the TCR as well as the DART rate in order to ''reduce any unintended incentives to manipulate the treatment of workers after injuries (such as inappropriate assignment to the same tasks) in order to avoid the 'restricted activity' . . .'' (Ex. 90).

NIOSH commented that the severity of injuries and illnesses should also factor into the method for determining partial exemption. NIOSH stated that severity could be measured by using the number of injury/illness cases involving three or more days away from work, since ''three days . . . is the most common waiting period . . . necessary for injuries and illnesses to become sufficiently recognized and thus qualify injured workers to file claims which impose costs on private employers . . .'' In addition, NIOSH commented that ''OSHA might also consider which industries account for a disproportionate number of work loss days and not just work loss cases'' (Ex. 66).

The AFL–CIO commented that, according to 2009 BLS data, 18% of total cases of injuries and illnesses (594,000 cases) and 13% of DART cases (217,000 cases) occurred in industry groups that were partially exempt under the criteria in the proposed rule (Exs. 69, 74). According to the AFL–CIO, ''[a]s a consequence, the 75% DART rate threshold exempts far too many injuries and illnesses, as well as industries, from OSHA's recording requirements.'' The AFL–CIO proposed three alternatives:

1. Lowering the threshold to 50 percent, using both DART and total case data. This method would reduce the number of partially-exempt industries listed in the proposed rule by one-third, from 82 industries to 55.

2. raising the threshold to 85 percent of the overall average DART rate, and setting an upper limit for number of total cases at 10,000 or fewer. This method would reduce the number of partially-exempt industries listed in the proposed rule by 21 percent, from 82 industries to 65.

3. lowering the threshold to 50 percent, using both DART and total case data, plus setting a limit for number of total cases at 10,000 or fewer. This method would reduce the number of partially-exempt industries listed in the proposed rule by 37 percent, from 82 industries to 52.

The AFL–CIO recommended the third alternative.

The Small Business Administration's Office of Advocacy (SBA–OA) recommended raising the threshold from 75 percent to 80 percent, 85 percent, or 90 percent of the overall average DART rate, as well as making more industry sectors eligible for partial exemption, or increasing the number of

employees an employer could have and still be partially exempt under Section 1904.1. The SBA–OA noted that ''[s]mall business representatives have complained that industries that have had declining injury and illness rates over many years will essentially be penalized with new recordkeeping . . . burdens because their injury and illness rates have declined, but not as fast as other industries'' (Ex. 94).

OSHA disagrees with this recommendation for two reasons. First, although the Agency recognizes that injury and illness recordkeeping creates a paperwork burden for employers, the Agency does not agree that the requirement to keep records ''penalizes'' industries. Rather, OSHA agrees with the AFL–CIO's comment that ''[t]he purpose of recording [injuries and illnesses] is to permit workers and employers to gather worksite data that will enhance the identification and elimination of hazards that pose serious risks to workers'' (Ex. 69).

Second, the purpose of the industry partial exemption is to balance the benefits of injury and illness recordkeeping, on the one hand, and the paperwork burden associated with injury and illness recordkeeping, on the other. OSHA believes that the potential benefits of injury and illness recordkeeping for workplace safety and health are greater in industries that are comparatively more hazardous than in industries that are comparatively less hazardous. Although it is true that injury and illness rates have been declining since 1992, both overall and in most industry sectors and groups, the rates in some industries have declined faster than the rates in other industries. As a result, some industries that used to have lower rates, relative to other industries and rates overall, now have higher rates, relative to other industries and rates overall. This shifts the balance for these industries towards greater relative benefits from recordkeeping. Conversely, industries that used to have higher relative rates and now have lower relative rates now have relatively fewer benefits from recordkeeping than other industries. OSHA therefore believes that raising the threshold for partial exemption from 75% would not properly balance the benefits and burden of recordkeeping. With a higher threshold, a class of industries that would potentially benefit greatly from recordkeeping would remain partially exempt from recordkeeping—namely, industries whose efforts to lower injury and illness rates have been relatively less successful, compared to other industries where rates have declined more.

The National Federation of Independent Business (NFIB) made a comment similar to the SBA–OA's, noting that some industries had higher injury/illness rates when they qualified for partial exemption under the 2001 final rule than when they were proposed for non-exemption under this rulemaking. As a result, they proposed maintaining the partial exemption for any industry that was partially exempt in the 2001 rulemaking and had declining DART rates. Alternatively, they proposed raising the threshold higher than 75 percent, ''to a level that captures only the most dangerous industries'' (Ex. 117).

The ARTBA added to this point, commenting that, given the decline in overall injury and illness rates and the Administration's charge ''to federal agencies to reduce unneeded regulatory burden,'' the number of partially-exempt establishments should have been higher, rather than lower, under this rulemaking (Ex. 114).

Also noting the decline in overall injury and illness rates, the National Automobile Dealers Association (NADA) proposed that the threshold ''should be increased incrementally to compensate'' as ''the overall average DART rate for private employers continues to trend down.'' For example, raising the threshold to 80 percent would have put automobile dealers (NAICS 4411) on the list of partially-exempt industry groups. Alternatively, the Agency could raise the threshold to 100 percent, which would still result in a threshold DART rate lower than the rates in the 1982 and 2001 final rules. (Note that a 100 percent threshold, using the 2007–2009 BLS data in the final rule, would be 2.0 cases per 100 full-time workers. The 75 percent thresholds in the 2001 and 1981 rulemakings were 2.2 and 3.1, respectively.) The Agency could also ''backstop'' the increased threshold by removing the partial exemption for an industry group if an OSHA review of injury/illness data showed that the industry group's DART rate had increased over the most recent three years of data (Ex. 119).

Spurlock & Higgins and Safety Compliance Services proposed a survey of the hazards present in a particular industry, followed by ''a risk analysis process utilizing a risk matrix to score various NAICS codes on likelihood and severity of injury from the identified hazards'', with industries ''scoring below a pre-determined threshold . . . deemed partially exempt.'' This method would ''largely alleviate the need for periodic updates to the list of partially exempt industries because of fluctuations in injury statistics'' (Exs. 24, 29).

Finally, Mercer ORC HSE Networks commented that ''applying a three-year average and using the DART rate . . . make sense. Setting the cut off at or below 75 percent . . . and limiting eligibility to sectors that have historically experienced lower injury and illness rates also seem reasonable'' (Ex. 68).

Finding the appropriate balance between the need for injury and illness information, on the one hand, and the paperwork burden created by recording obligations, on the other, is central to this rulemaking. OSHA believes that the use of the same criteria over the past 30 years of coverage demonstrates that these criteria achieve the desired balance. Therefore, OSHA has decided to use the selection criteria in the proposed rule, which are consistent with the criteria used in the 2001 and 1982 rulemakings. In the final rule, with one exception, industry groups meeting the following two criteria are included in the list of partially-exempt industry groups in Appendix A: A sector classification of NAICS 44–81, and a DART rate of 75 percent or less of the overall three-year-average DART rate for private industry, using the most recent BLS data available at the time of the proposed rule (2007, 2008, and 2009). As noted earlier, the sole exception is for Employment Services (NAICS 5613), which is not partially exempt under the final rule. OSHA acknowledges that injuries and illnesses will also occur in industries that are partially exempt from recordkeeping. However, continuing OSHA's longstanding practice of using a threshold of 75 percent of the DART rate for private industry ensures that only industries with relatively low injury/illness rates will be partially exempt.

5. Using Numbers of Workers Injured or Made Ill in Each Industry in Addition to Industry Injury/Illness Rates

In the NPRM, OSHA asked, ''Should OSHA consider numbers of workers injured or made ill in each industry in addition to industry injury/illness rates in determining eligibility for partial exemption?''

NIOSH, the AFL–CIO, the UAW, the UFCW, and the USW answered yes to this question (Exs. 66, 69, 74, 77, 81, 86). NIOSH commented that ''[c]onsideration should be given to potential uses for site-specific targets (e.g., silicosis, other pneumoconiosis, dermatitis, cancers), as well as the potential use of these data by NIOSH . . . in sentinel case follow-up and evaluation'' (Ex. 66). The AFL–CIO commented that BLS data from 2009

show that 594,000 total cases (18% of total) and 217,000 DART cases (13% of total) occurred in industries proposed for partial exemption (Ex. 69). The UAW commented that ''OSHA should require recording by employers in all industries in which at least one worker has been injured or made ill'' (Ex. 77).

For the final rule, OSHA has decided to use the same selection criteria as in the proposed rule. These criteria are consistent with the criteria used in the 2001 and 1982 rulemakings. This decision balances the need for injury and illness data with the paperwork burden on the regulated community. OSHA believes the incidence rate is the appropriate criterion to use because it shows the relative level of injuries and illnesses among different industries. Incidence rates allow for comparisons of industries that are vastly different in size and demographic make-up. Relying on the numbers of injuries and illnesses would bias the decision towards including industries that are very large but at the time relatively safe. As discussed elsewhere, in the final rule, with one exception, industry groups meeting the following two criteria are included in the list of partially-exempt industry groups in Appendix A: A sector classification of NAICS 44–81, and a DART rate of 75 percent or less of the overall three-year-average DART rate for private industry, using the most recent BLS data available at the time of the proposed rule (2007, 2008, and 2009). The one exception is for employment services (NAICS 5613), which is not partially exempt.

6. Additional or Alternative Criteria for Determining Eligibility for Partial Exemption?

In the preamble to the proposed rule, OSHA asked, ''Are there any other data that should be applied as additional or alternative criteria for purposes of determining eligibility for partial exemption?''

Multiple commenters proposed additional criteria not addressed in previous questions. The Marshfield Clinic proposed that establishments with less than a specified number of employees be partially exempt regardless of NAICS (Ex. 15). The Building and Construction Trades Department of the AFL–CIO suggested that OSHA consider fatality rates; they commented that ''fatality rates provide useful and, for the construction industry, better criteria because of problems associated with the underreporting of non-fatal injuries'' (Ex. 59). (Note that the construction industry is not eligible for partial exemption.)

NIOSH suggested three additional data types. The first was work-related fatalities, because ''a sudden increase in the number of fatalities in a particular industry may suggest a growing problem that needs further investigation and/or potential failures in prevention.'' The second was current labor force estimates for the industry, because ''establishments within small industry subsectors have a very low probability of experiencing the necessary number of cases to satisfy BLS statistical reporting guidelines.'' The third was establishment size, which is ''an important factor in aspects of management, health and safety education, prevention, and workers' compensation services'' (Ex. 66). (Note that OSHA's regulation at Section 1904.39 requires all employers covered by the OSH Act, regardless of their partial-exemption status under Section 1904.2, to report all fatalities, in-patient hospitalizations, amputations, and losses of an eye to OSHA.)

In the final rule, OSHA has decided to use the selection criteria in the proposed rule, which are consistent with the criteria used in the 2001 and 1982 rulemakings. OSHA reviewed BLS fatality rate data from the Census of Fatal Occupational Injuries. The majority of industries with fatality rates greater than the private industry fatality rate are not exempted under the final rule. As discussed above, all work-related fatalities are required to be reported to OSHA, and these data are captured in the OSHA Information System (OIS). OSHA concludes that the use of fatality data as a criterion is not warranted because it identifies the same industries as the DART rate distribution and because the site-specific fatality data are captured through the fatality reporting requirements.

OSHA also concludes that labor force estimates are not a necessary criterion. BLS DART rate data were available for all industries because OSHA conducted the analysis at the 4-digit NAICS level.

As noted above, in the final rule, with one exception, industry groups meeting the following two criteria are included in the list of partially-exempt industry groups in Appendix A: A sector classification of NAICS 44–81, and a DART rate of 75 percent or less of the overall three-year-average DART rate for private industry, using the most recent BLS data available at the time of the proposed rule (2007, 2008, and 2009). The sole exception is for employment services (NAICS 5613), which is not partially exempt.

7. Regular Updates of the List of Lower-Hazard Exempted Industries

In the preamble to the proposed rule, OSHA asked, ''Should OSHA regularly update the list of lower-hazard exempted industries? If so, how frequently should the list be updated?''

Multiple commenters supported regular updates of the list of lower-hazard partially-exempt industries. Worksafe recommended that ''the Agency [be] required to review BLS injury rate data at least every two years, to re-determine exempt industries'' (Ex. 112). The Occupational Health Section of the American Public Health Association (APHA), the AFL–CIO, UNITE HERE, the TWU, the UAW, the UFCW, and the USW recommended updating the list every three years (Exs. 62, 69, 70, 74, 77, 81, 86). Mercer ORC HSE Networks commented that ''the list could be renewed every five years or so to maintain its relevance and insure a sense of fairness'' (Ex. 68). NADA commented that ''OSHA should initiate a review of the [list of partially-exempt industries] soon after the results of a new economic census become available'' (Ex. 119). NCOSH commented that OSHA should update the list ''regularly'' because ''[i]ndustry conditions and work environments change over time and it is important that this list reflect current conditions to the greatest extent possible'' (Ex. 75).

In contrast, the Dow Chemical Company commented that ''moving industries into and out of partially exempt status may be unworkable'', because ''considerable expertise is necessary in order to correctly make determinations under OSHA's recordkeeping regulations'', ''[d]etailed procedures must also be created, taught, and practiced . . .'', and ''[p]artially exempt industries must still be able to record injuries accurately if BLS or OSHA make a request'' (Ex. 64).

OSHA has decided not to provide for regular updates of the list of lower-hazard partially-exempt industries in the final rule. First, historically, the list of industries meeting the criteria for partial exemption has changed very little from year to year. Second, OSHA agrees with Dow Chemical Company (Ex. 64) that moving industries in and out of partially-exempt status would be confusing. An analysis of NAICS-based BLS injury and illness data shows that exemption status tends to remain relatively constant over time. The analysis grouped the eight years of annual data from 2003 to 2010 into six groups of three-year averages (2003–2005, 2004–2006, 2005–2007, 2006–2008, 2007–2009, 2008–2010). There

were 155 industry groups (classified by four-digit NAICS) in the analysis. For 135 of these groups (87%), the exemption status remained constant; partially-exempt industry groups remained partially exempt throughout the period, and non-exempt industry groups remained non-exempt. Of the remaining 20 industry groups, 10 (6%) changed status once, either from non-exempt to partially-exempt or from partially-exempt to non-exempt; seven (5%) changed status twice; and three (2%) changed status three times. Although this final rule does not include a regularly-scheduled update of the partial exemption list, the Agency is planning a retrospective review of OSHA's recordkeeping regulations. The Occupational Safety and Health Act itself requires the Secretary to ''develop and maintain an effective program of collection, compilation, and analysis of occupational safety and health statistics'' and specifies the underlying criteria for defining recordability. After the passage of the Act, OSHA issued Part 1904, Recording and Reporting Occupational Injuries and Illnesses. These regulations included provisions on the industry and size of establishments exempted from the recordkeeping requirements. Part 1904 was modified in 2001, following a national process in which a large group of stakeholder representatives and experts conducted a year-long dialogue on occupational injury and illness recordkeeping. Among the recommendations that came out of this dialogue that were incorporated into Part 1904 in the 2001 rulemaking were the elimination of the requirement to record injuries and illnesses that were viewed as irrelevant for evaluating the safety and health environment of the work-place, and the addition of criteria to capture newly recognized occupational safety and health conditions.

OSHA believes there is value in a new re-examination of the Agency's recordkeeping regulations. First, there is extensive evidence that many work-related injuries and illnesses are currently not being recorded on the Injury and Illness Logs maintained by employers. It has long been recognized that most work-related illnesses, particularly those chronic diseases which do not appear until years after first exposure, are not recorded on these logs. In recent years, academic researchers have performed numerous studies, comparing work-related injuries recorded on employer-maintained logs with work-related injuries identified through workers' compensation or hospital records. These studies have demonstrated that a sizable proportion of work-related injuries are not being recorded on employer-maintained logs. Further, changes in the structure of employment, exemplified by the increased presence of temporary and contractor workers in many establishments, raise important questions about the effectiveness of the current requirements and suggest that new approaches to injury tracking may be warranted. Finally, in recent years there has been little evaluation of the benefits and costs of the rule. With these issues in mind, OSHA plans to undertake a retrospective review of the effectiveness of the Agency's injury and illness recordkeeping regulations.

This retrospective study will be conducted in accordance with the Department of Labor's Plan for Retrospective Analysis of Existing Rules which complies with Executive Order (E.O.) 13563 ''Improving Regulation and Regulatory Review'' (76 FR 3821). E.O. 13563 requires agencies to develop and submit to the Office of Information and Regulatory Affairs a preliminary plan, consistent with law and its resources and regulatory priorities, under which the agency will periodically review its existing significant regulations to determine whether any such regulations should be modified, streamlined, expanded, or repealed so as to make the agency's regulatory program more effective or less burdensome in achieving the regulatory objectives. [76 FR 3822].

In addition to the retrospective review, OSHA will engage the public to assess the impact of the changes implemented under this rulemaking. The Agency will conduct a stakeholder meeting to discuss the burdens associated with the new coverage and reporting requirements and the utility and use of the new information collected. We anticipate conducting such a meeting after the new requirements have been in place for two years to allow for a sufficient impact to be considered.

8. Training, Education, and Compliance Assistance to Facilitate Compliance With the Recordkeeping Requirements

In the NPRM, OSHA asked, ''Are there any specific types of training, education, and compliance assistance OSHA could provide that would be particularly helpful in facilitating compliance with the recordkeeping requirements?''

The UAW commented that ''OSHA should do more training and dissemination of information about employee rights and employer obligations related to recordkeeping, especially for small employers and their employees'' (Ex. 77).

OSHA has recently put two tools on its public Web site to help employers comply with recordkeeping requirements: A 15-minute on-line tutorial (training module) on completing the recordkeeping forms, and an interactive e-tool (Recordkeeping Advisor) that uses employer responses to questions to help employers determine whether or not (and how) they need to record/report specific injuries and illnesses. Both are available on OSHA's recordkeeping Web page at *http://www.osha.gov/recordkeeping/index.html.* In addition, the recordkeeping forms booklet includes general instructions, instructions for each OSHA recordkeeping form, and contact information for recordkeeping assistance from Regional and State Plan offices.

Other Issues Raised by Comments

The National Association of Real Estate Investment Trusts (NAREIT) ''encourage[d] OSHA to recalculate its [Preliminary Economic Analysis (PEA)] of the proposed rule utilizing 2007 NAICS codes, rather than pre-2007 NAICS codes'' (Ex. 41).

The PEA in the NPRM was based on the 1997 Economic Census Bridge between SIC and NAICS tables (*http://www.census.gov/epcd/naics02/S87TON02.HTM*), 2006 data from County Business Patterns (CBP) on number of establishments (*http://www2.census.gov/econ/susb/data/2006/us_6digitnaics_2006.xls*), and 2006 data from BLS on numbers of injuries and illnesses.

Bridges between SIC and NAICS are available for 1987 SIC–1997 NAICS and 1987 SIC–2002 NAICS. No bridge is available for 1987 SIC–2007 NAICS, although a bridge is available for 2002 NAICS -2007 NAICS.

In the final rule, the Final Economic Analysis (FEA) is based on 2010 data from CBP and 2007–2009 data from BLS. 2010 CBP data were based on the 2007 NAICS. 2007 and 2008 BLS data were based on the 2002 NAICS; 2009 BLS data were based on the 2007 NAICS.

For industry sectors (two-digit NAICS) eligible for partial exemption under both the proposed rule and the final rule, the 2002 NAICS differs from the 2007 NAICS as follows (see *http://www.census.gov/eos/www/naics/faqs/faqs.html*):

Sector 51, Information—Major changes were made in the Information sector. Telecommunications Resellers and Cable and Other Program

Distribution were moved, Internet Service Providers and Web Search Portals industries were restructured, and a new six-digit industry was created in the Other Information Services subsector.

Sector 53, Real Estate and Rental and Leasing—2002 NAICS code 525390-Real Estate Investment Trusts (REIT), was deleted and portions of it were reclassified as follows: (1) Equity REITs is classified in the Real Estate subsector in NAICS Industry Group 5311- Lessors of Real Estate, under individual national industries based on the content of the portfolio of real estate operated by a particular REIT; and (2) Mortgage REITs is moved to NAICS 525990, Other Financial Vehicles.

Sector 54, Professional, Scientific, and Technical Services—Research and Development in Biotechnology was added as a 6-digit industry.

Sector 56, Administrative & Support and Waste Management & Remediation Services—Establishments that primarily provide executive search consulting services were moved to a new 6-digit industry, Executive Search Services.

OSHA finds that the differences between the 2002 NAICS and the 2007 NAICS are not significant to the rulemaking. This is further discussed in Section V Final Economic Analysis of this preamble.

OSHA also received comments about the estimates in the PEA for recordkeeping costs at establishments in industry groups that are partially exempt under the current regulation but will no longer be partially exempt under this final rule. The Dow Chemical Company commented that the PEA underestimates the cost of the proposed rule at these establishments for three reasons. First, ''decisions on recordability . . . may involve physicians, industrial hygienists, personnel in the supervisory chain of the injured individual, safety professionals, attorneys, and recordkeeping subject-matter experts, all of whom are salaried, degreed professionals at salaries considerably higher'' than the $56,000 annual salary for a human resources specialist that the PEA used to estimate costs. Second, the PEA does not include the cost of ''set[ting] up the procedures and systems that are utilized for implementation of [OSHA recordkeeping] regulations.'' Third, ''the process of developing a competent OSHA recordkeeper is far more time-intensive than'' the time for training and re-training estimated in the PEA (Ex. 64).

The SBA–OA commented that OSHA should ''consider whether its wage rate assumption is valid for many small businesses.'' The PEA uses the assumption that recordkeeping will be performed by a human resources specialist with a compensation cost of $40.04 per hour, but ''many small businesses do not employ such personnel and it is often the small business owner or other senior person who conducts these activities'' (Ex. 94).

NADA commented that the PEA ''significantly underestimates'' the cost to establishments in the automobile dealer industry group (NAICS 4411), which was partially exempt under the 2001 rulemaking but would not have been partially exempt under the proposed rule. (Note that the industry group will also not be partially exempt under the final rule.) According to NADA, each automobile dealer will ''hav[e] to train at least one person on Form 300 injury and illness recordkeeping/'' For training costs, NADA cites the $300 cost of the National Safety Council's one-day course on OSHA recordkeeping, in addition to ''travel, lost income, and other related expenses.'' There are also ongoing costs due to employee turnover and ''compliance responsibilities'', including ''monitoring for workplace related injuries and illnesses, and completing, certifying, and posting the log'' (Ex. 119).

OSHA's response to these comments is in Section V of this supplementary information.

Four commenters (the NAHB, the Associated General Contractors of America, the National Federation of Independent Business (NFIB), and the US Chamber of Commerce) stated that it would have been a good idea for OSHA to convene a Small Business Regulatory Enforcement Fairness Act (SBREFA) panel (Exs. 113, 115, 117, 120). The NFIB also commented that ''OSHA did not do enough outreach to the small-business community in developing this rule'' (Ex. 120).

OSHA did not convene a SBREFA panel because the Agency determined this rule will not have a significant economic impact on a substantial number of small entities. For a more thorough discussion of this issue, please refer to Section V of this supplementary information.

The NAHB commented that ''OSHA's proposal is not consistent with Executive Order 13563, 'Improving Regulation and Regulatory Review','' because ''[n]othing in OSHA's proposal indicates how the rule is intended to streamline regulatory requirements and reduced burdens on industry'' and because the Agency ''should consider the impacts of this proposal on small businesses and consider conducting additional outreach before moving forward'' (Ex. 113). The SBA–OA and the ARTBA made similar comments (Exs. 94, 114). OSHA's response to these comments is in Section V of this supplementary information.

Executive Order 13563 requires regulatory agencies to consider the effect of new regulations on economic growth, competitiveness, and job creation. OSHA notes that, as discussed below in Section V–E, Economic Impacts, the compliance costs for each affected firm are too small to have any significant economic impacts, including impacts on economic growth, competitiveness, and job creation. In addition, OSHA's use of a partial exemption from recordkeeping requirements for specified industries embodies the principle that asks agencies to identify and use the best and least burdensome tools for achieving regulatory ends. The exemption both reduces the impact of regulatory requirements on industry overall and minimizes paperwork burden for many small employers. Also, as noted above, switching from the outdated SIC system to NAICS will reduce uncertainty, confusion, and errors, as well as save time. Therefore, the Agency believes that the approach taken in this rulemaking to update the list of partially-exempt industries is consistent with, and promotes the primary objectives of, Executive Order 13563.

United Support and Memorial for Workplace Fatalities commented that ''employers should be required to include on their injury, illness and fatality incident and reports and logs, the BLS standard occupational classification code for the affected worker's job title'' (Ex. 93). This is beyond the scope of this rulemaking.

The US Chamber of Commerce commented that OSHA's use of BLS injury and illness data in the criteria for partial exemption for low-hazard industry groups ''is at odds with other OSHA efforts and comments that indicate a lack of faith in the credibility of this data since it is generated by employers self reporting'' (Ex. 120). OSHA's response is that, while academic researchers, OSHA, and BLS are studying the comprehensiveness and accuracy of BLS data, the BLS data are still the most comprehensive body of occupational injury and illness data available.

D. The Final Rule

The final rule is the same as the proposed rule. With one exception, industry groups (classified by four-digit NAICS) that meet the following two

criteria are partially exempt from the recordkeeping requirements in Part 1904:

1. Sector classification of NAICS 44–81.

2. a DART rate of 75 percent or less of the overall three-year-average DART rate for private industry, using BLS data from 2007, 2008, and 2009. The average national DART rate for private industry for 2007–2009 was 2.0. Thus, the threshold for partial exemption for eligible industry groups (classified by four-digit NAICS) was a DART rate of 1.5 or less.

Like the proposed rule, the one exception is for Employment Services (NAICS 5613), which is not partially exempt. The three-year-average DART rate for the Employment Services industry group, using BLS data from 2007, 2008, and 2009, was 1.1, which is below the 75 percent threshold of 1.5. However, this industry group is nonetheless ineligible for partial exemption on grounds that, for many employees in this industry, their actual place of work may be in an establishment that is in a different, non-partially-exempt industry group or sector, such as manufacturing. Therefore, NAICS 5613 Employment Services is not included in the final Appendix A to Subpart B. OSHA received no comments from the public about this exception.

In the issues section of the preamble to the proposed rule, OSHA asked the public to comment on the appropriateness of the proposed exemption procedure; whether alternative procedures for determining partial exemption should be used; and whether specific industries should be included or excluded from the list of partially-exempt industries. OSHA notes that the final rule, like the proposed rule, is based on the most recent BLS injury and illness data available at the time of the proposed rule (2007–2009). Because OSHA is using the same criteria and same injury/illness data to establish the list of partially-exempt industry groups, the industry groups in the proposed Appendix A to Subpart B and the final Appendix A to Subpart B are the same.

Under the final rule, employers are not required to keep OSHA injury and illness records for any establishment classified in an industry group listed in Appendix A to Subpart B, unless they are asked in writing to do so by OSHA, BLS, or a state agency operating under the authority of OSHA or BLS. All employers covered by the OSH Act, including employers who are partially exempt from recordkeeping based on size or industry classification, must report all work-related fatalities, in-patient hospitalizations, amputations, or losses of an eye to OSHA, as required by Section 1904.39.

For a more thorough discussion of the specific industry groups that are newly partially exempted or newly covered by the final rule, please refer to Section V of this supplementary information.

Because the final rule will require some establishments that had been partially exempt from OSHA recordkeeping requirements to now comply completely with these requirements, OSHA will offer compliance assistance, including outreach and training, to help these establishments keep complete and accurate records and comply with the recordkeeping regulation.

The partially-exempt industry groups are:

NAICS code	Industry
4412	Other Motor Vehicle Dealers.
4431	Electronics and Appliance Stores.
4461	Health and Personal Care Stores.
4471	Gasoline Stations.
4481	Clothing Stores.
4482	Shoe Stores.
4483	Jewelry, Luggage, and Leather Goods Stores.
4511	Sporting Goods, Hobby, and Musical Instrument Stores.
4512	Book, Periodical, and Music Stores.
4531	Florists.
4532	Office Supplies, Stationery, and Gift Stores.
4812	Nonscheduled Air Transportation.
4861	Pipeline Transportation of Crude Oil.
4862	Pipeline Transportation of Natural Gas.
4869	Other Pipeline Transportation.
4879	Scenic and Sightseeing Transportation, Other.
4885	Freight Transportation Arrangement.
5111	Newspaper, Periodical, Book, and Directory Publishers.
5112	Software Publishers.
5121	Motion Picture and Video Industries.
5122	Sound Recording Industries.
5151	Radio and Television Broadcasting.
5172	Wireless Telecommunications Carriers (except Satellite).
5173	Telecommunications Resellers.
5179	Other Telecommunications.
5181	Internet Service Providers and Web Search Portals.
5182	Data Processing, Hosting, and Related Services.
5191	Other Information Services.
5211	Monetary Authorities—Central Bank.
5221	Depository Credit Intermediation.
5222	Nondepository Credit Intermediation.
5223	Activities Related to Credit Intermediation.
5231	Securities and Commodity Contracts Intermediation and Brokerage.
5232	Securities and Commodity Exchanges.
5239	Other Financial Investment Activities.
5241	Insurance Carriers.
5242	Agencies, Brokerages, and Other Insurance Related Activities.
5251	Insurance and Employee Benefit Funds.
5259	Other Investment Pools and Funds.
5312	Offices of Real Estate Agents and Brokers.
5331	Lessors of Nonfinancial Intangible Assets (except Copyrighted Works).
5411	Legal Services.
5412	Accounting, Tax Preparation, Bookkeeping, and Payroll Services.
5413	Architectural, Engineering, and Related Services.
5414	Specialized Design Services.
5415	Computer Systems Design and Related Services.
5416	Management, Scientific, and Technical Consulting Services.
5417	Scientific Research and Development Services.
5418	Advertising and Related Services.
5511	Management of Companies and Enterprises.
5611	Office Administrative Services.
5614	Business Support Services.
5615	Travel Arrangement and Reservation Services.
5616	Investigation and Security Services.
6111	Elementary and Secondary Schools.
6112	Junior Colleges.
6113	Colleges, Universities, and Professional Schools.
6114	Business Schools and Computer and Management Training.
6115	Technical and Trade Schools.
6116	Other Schools and Instruction.
6117	Educational Support Services.
6211	Offices of Physicians.
6212	Offices of Dentists.
6213	Offices of Other Health Practitioners.
6214	Outpatient Care Centers.
6215	Medical and Diagnostic Laboratories.
6244	Child Day Care Services.
7114	Agents and Managers for Artists, Athletes, Entertainers, and Other Public Figures.
7115	Independent Artists, Writers, and Performers.
7213	Rooming and Boarding Houses.
7221	Full-Service Restaurants.
7222	Limited-Service Eating Places.
7224	Drinking Places (Alcoholic Beverages).
8112	Electronic and Precision Equipment Repair and Maintenance.

NAICS code	Industry
8114	Personal and Household Goods Repair and Maintenance.
8121	Personal Care Services.
8122	Death Care Services.
8131	Religious Organizations.
8132	Grantmaking and Giving Services.
8133	Social Advocacy Organizations.
8134	Civic and Social Organizations.
8139	Business, Professional, Labor, Political, and Similar Organizations.

IV. Section 1904.39 Reporting Requirements for Fatalities, In-Patient Hospitalizations, Amputations, and Losses of an Eye

A. Background

OSHA has required employers to report work-related fatalities and certain work-related hospitalizations since 1971, the year the OSH Act went into effect. The initial regulation in 29 CFR 1904.8 required employers to report, within 48 hours, an employment incident resulting in the fatality of one or more employees or the hospitalization of five or more employees. Employers were required to report by telephone or telegraph to the nearest OSHA Area Office.

In 1994, the Agency revised the regulation to require reporting, within eight hours, of any work-related fatality or hospitalization of three or more employees (59 FR 15594, April 1, 1994). OSHA explained in the preamble to the final rule that ''[r]educing the reporting period from 48 hours to 8 hours enables OSHA to inspect the site of the incident and interview personnel while their recollections are more immediate, fresh and untainted by other events, thus providing more timely and accurate information.'' In addition, OSHA stated that reducing the reporting time increased the chances that the site of the incident would remain undisturbed and also ''coincided with a 'standard work shift' for most employers.''

The 1994 rulemaking also addressed several other issues. First, OSHA explained that hospitalization meant in-patient admission and excluded admission solely for observation. Second, OSHA added regulatory language stating that if employers did not learn of a reportable incident when it occurred, they were required to report within eight hours of learning of the incident. Third, OSHA specified that employers were required to report any fatality or in-patient hospitalization of three or more people occurring within 30 days of the incident. Fourth, OSHA added the option of reporting via OSHA's centralized toll-free telephone number.

The requirements from the 1994 rulemaking have remained substantially unchanged and are currently codified at 29 CFR 1904.39.

B. The Proposed Rule

The proposed rule would have made two major changes to OSHA's reporting requirements. First, the proposed rule would have required employers to report the work-related in-patient hospitalization of one or more employees to OSHA. The current regulation requires reporting only if three or more employees are hospitalized. The reporting time would have been eight hours, the same as the current regulation. Second, the proposed rule would have required employers to report all work-related amputations to OSHA, within 24 hours. The current regulation does not specifically require the reporting of amputations.

For the reporting of in-patient hospitalizations of fewer than three employees, OSHA explained that ''[t]he hospitalization of a worker due to a work-related incident is a serious and significant event'' (76 FR 36419). The preamble to the proposed rule explained that, for OSHA recordkeeping purposes, in-patient hospitalization occurs when a person is ''formally admitted'' to a hospital or clinic for at least one overnight stay.

For the reporting of amputations, OSHA explained that ''[a]mputations include some of the most serious types of injuries and tend to result in a greater number of lost workdays than most other injuries . . . Furthermore, amputations differ from other types of serious injuries because they have long-term or permanent consequences'' (76 FR 36419). The proposed rule defined amputations in proposed Section 1904.39(b)(8) according to the definition in the 2007 release of the Occupational Injury and Illness Classification (OIICS) Manual of the Bureau of Labor Statistics (BLS). This definition of amputations excluded traumatic injuries without bone loss, as well as losses of an eye.

In the NPRM, OSHA explained that the changes in the proposed rule would have made OSHA's reporting requirements more similar to the requirements of other agencies, as well as to the requirements of some states that administer their own occupational safety and health programs.

C. Comments to the Proposed Rule

Many comments supported the reporting requirements included in OSHA's proposed rule. Letitia Davis, ScD, EdM, the Director of the Occupational Health Surveillance Program at the Massachusetts Department of Public Health, noted: ''Case reporting of health events is a well-established approach to public health surveillance and intervention. Serious occupational injuries are urgent sentinel health events indicating that prevention efforts have failed and that intervention to remediate hazards may be warranted'' (Ex. 84). However, OSHA also received multiple comments that the proposed rule would not prevent injuries and illnesses and is redundant, premature, and not supported by data.

The Steel Manufacturers Association commented that ''[d]ata in itself has never prevented any type of occurrence [of injuries]'' and that ''[t]he information required to be provided . . . while good at identifying basic information, does not collect any data that will serve in preventing future injuries or illnesses. The only possible preventative action that can be taken is for OSHA to conduct an inspection. The results are citations and press releases that provide little preventative effect beyond the employer involved'' (Ex. 36).

Mercer ORC HSE Networks commented that ''merely establishing [a 'comprehensive database' of information about the reportable events] may not be the best way, or even a very good way, to better determine how to better focus OSHA's resources on high-hazard workplaces. Put another way, it is not at all clear that employers experiencing the new case categories identified in the rulemaking . . . pose increased future risk to workers, or are any more likely than other employers to experience future serious cases. OSHA makes that implicit assumption without support. For example, a study conducted by Rand several years ago for the Duke Energy Foundation found that sites experiencing fatalities usually posed less risk to workers for future serious injury, not more'' (Ex. 68).

In response, OSHA notes that the OSHA recordkeeping regulation has included requirements for employers to report certain work-related events to OSHA since 1971. These requirements have always been an important part of the Agency's statutory mission to assure safe and healthful working conditions for working men and women. Timely reporting of work-related fatalities, as well as certain other serious work-related events, allows OSHA to assess whether an intervention is necessary and to target hazardous workplaces for inspection.

In addition, OSHA is able to use information gained from the investigations of work-related fatalities

and other serious work-related events to identify workplace hazards and prevent similar incidents, both at the inspected workplace and at other workplaces. This information also can also be used to support the issuance of new safety and health standards and regulations, as well as the revision of existing OSHA standards and regulations.

The Tree Care Industry Association commented, ''Why would OSHA not work with State Workers Compensation programs and/or the State Plan OSHA's that already collect hospitalization data before it imposes redundant reporting requirements on employers under federal OSHA jurisdiction?'' (Ex. 37).

In response, OSHA notes that one of the reasons for the reporting requirement in Section 1904.39 is to allow the Agency to conduct, if necessary, a prompt investigation of the incident leading to the serious occupational injury and illness event. OSHA also notes that six states with OSHA-approved State Plans currently require employers to report the in-patient hospitalization of fewer than three employees. As a result, OSHA concludes that the requirement to report in-patient hospitalizations of fewer than three employees would not be redundant even if OSHA had systematic access to hospitalization data from state workers' compensation programs.

Gruber Hurst Johansen Hail Shank commented, ''If amputations and most incidents that require hospitalization are already recordable, then why is there a compelling need for additional reporting? . . . OSHA is already informed about these instances through recordkeeping'' (Ex. 60). Similarly, the Joint Poultry Industry Safety and Health Council commented that ''[t]he DART rate, calculated from existing injury and illness data, already identifies those workplaces with frequent, severe injuries. We fail to see why this currently available data is not sufficient to meet the goal of identifying 'the most dangerous workplaces' and why OSHA needs this type of additional injury data'' (Ex. 61).

Likewise, Mercer ORC HSE Networks commented that ''[a]ll of the cases that would be reported under the new OSHA criteria should already be captured on the OSHA log. To target inspections, OSHA already collects summary data that includes these cases from a census of sites in portions of the private sector that the Agency feels tend to involve higher risk. BLS also captures the same information in more detailed form in a parallel . . . data collection effort. In addition to its annual survey that produces incidence rates and detailed case characteristics across industry, BLS also conducts a Census of Fatal Occupational Injuries (CFOI) that produces accurate counts and very detailed descriptive data on fatal work related injuries. So data on fatalities and amputations should clearly be accessible from existing data collections. Granted it might be harder to capture data on some in-patient hospitalizations. But some of that information could be obtained from existing OSHA supplementary records. Data that could not be extracted from existing OSHA records could be obtained by less burdensome means than proposed, such as conducting follow-back studies of a small sample of employers'' (Ex. 68).

In response, OSHA notes the distinction between the employer's obligation to record an injury or illness and the employer's obligation to report. Since OSHA's founding, the reporting requirement has been separate from the recording requirement. As a rule, OSHA obtains the detailed, case-specific information recorded by employers under Part 1904 only when OSHA conducts an on-site inspection. And OSHA inspects only a small percentage of all establishments subject to OSHA authority each year. For example, in 2010, OSHA and its state partners inspected approximately 1 percent of establishments subject to OSHA authority (approximately 98,000 inspections, out of 7.5 million total establishments).

On November 8, 2013, OSHA also published a notice of proposed rulemaking (NPRM) on Improve Tracking of Workplace Injuries and Illnesses, which would expand its collection of injury and illness data (FR 78 67254–67283). In that NPRM, OSHA proposed collecting case-specific information from approximately 38,000 establishments with 250 or more employees in industries subject to the recordkeeping requirements in Part 1904. Again, this is only a small percentage of all establishments subject to OSHA authority. OSHA notes the proposed rule on improving tracking of workplace injuries and illnesses would not add to or change any employer's obligation to complete and retain injury and illness records under OSHA's regulations for recording and reporting occupational injuries and illnesses. The proposed rule also would not add to or change the recording criteria or definitions for these records. The proposed rule would only modify employers' obligations to transmit information from these records to OSHA or OSHA's designee.

In addition, although all employers are subject to the requirement to report fatalities and specified non-fatal injury/illness events, many employers are partially exempt from the Part 1904 requirement to record injuries and illnesses. As a result, it is incorrect to assume that all amputations and most hospitalization incidents are captured in employer injury and illness records. As noted by the AFL–CIO, BLS data from 2009 show that 217,000 DART cases (13% of total) occurred in industries that would have been partially exempt from recordkeeping due to industry classification under the NAICS update part of this proposed rule (Ex. 69). Work-related amputations and hospitalizations suffered by employees of employers with ten or fewer employees are also not required to be recorded.

OSHA further notes that injury and illness summary information collected by OSHA for inspection targeting purposes through the OSHA Data Initiative (ODI) does not enable the Agency to identify specific hazards or problems at individual workplaces. Further, the ODI data are not timely because inspection targeting is based on injury/illness data from the previous year's ODI, which is collected from the prior year. As a result, OSHA's targeting is typically based on injury/illness data that are two or three years old. In addition, the group of 80,000 establishments in each year's ODI is not a statistically-representative sample, either of establishments eligible to be included in the ODI, or of establishments overall.

Finally, for data collected by BLS, OSHA notes that, while the BLS Survey of Occupational Injuries and Illnesses (SOII) provides information about industries with frequent, severe injuries and illnesses, it does not identify specific workplaces with frequent, severe injuries and illnesses. Industries with frequent, severe injuries and illnesses may include workplaces where injuries and illnesses are rare and minor, just as industries with rare, minor injuries and illnesses may include workplaces where injuries and illnesses are frequent and severe. In any event, the Confidential Information Protection and Statistical Efficiency Act of 2002 (Pub. L. 107–347, Dec. 17, 2002) (CIPSEA) prohibits BLS from releasing establishment-specific data to the general public or to OSHA. As a result, for employer-specific, workplace-specific information about fatalities, OSHA relies on its own information, obtained through the current Part 1904 requirement for employers to report fatalities to OSHA.

The American Chemistry Council commented that ''[s]everal ongoing

OSHA programs, such as the National Emphasis Program on Recordkeeping (NEP–R), target data reporting, including amputations . . . For example, NEP–R is relatively new (September 10) and was intended to address inaccuracies in recording of occupational illness and injury. The analysis of the results of this program would be useful in assessing whether continuation of NEP–R satisfies the intent of the [proposed rule]'' (Ex. 76). They added, ''OSHA currently has two programs, the National Emphasis Program on Amputations (NEP–A), and the Severe Violator Enforcement Program (SVEP), which specifically target amputations . . . The overall intent of both NEP–A and SVEP are identical to that of the [proposed rule]: 'to target scarce resources to the most dangerous workplaces and prevent future injuries at these workplaces' (76 FR 36419). Until a holistic evaluation of these existing amputation-focused programs is conducted, we recommend that OSHA exclude reporting of amputations [in the proposed rule] . . .''

In response, OSHA notes, as above, the distinction between recording and reporting; the recordkeeping NEP was about recording injuries and illnesses, while this final rule in Section 1904.39 is about reporting. OSHA also notes that there are multiple OSHA programs, including the amputations NEP and the SVEP, whose intent is to target scarce resources to the most dangerous workplaces and prevent future injuries at these workplaces. (Similarly, OSHA has multiple programs whose purpose is to assure safe and healthful working conditions for working men and women.) Neither the amputations NEP, nor the SVEP, provide the case reporting of sentinel occupational safety and health events that this final rule will provide. As a result, OSHA does not agree that the recordkeeping NEP, the amputations NEP, and/or the SVEP make this rulemaking premature.

Mercer ORC HSE Networks commented that ''[w]ith 40 years of rich agency 'fat-cat' investigation experience and data, it would have been reasonable to expect OSHA to have provided some (any) demonstration of how those investigations and the information gleaned from them have resulted in safer workplaces and how, with some specificity, the collection of the proposed substantially increased reports of incidents is expected to improve the agency's effectiveness. As the proposal stands, there is almost no evidence (or data) in the record to support OSHA's 'belief' that collecting this new information will make a positive difference in Agency efficiency or in serious injury reduction'' (Ex. 68).

The National Roofing Contractors Association commented that ''OSHA offers no evidence, data or research that shows a beneficial effect on workplace safety based on either the arbitrary timeframes it suggests or other timeframes it may have considered or analyzed'' (Ex. 118). They added, ''The history of reporting requirements . . . could be valuable for the agency to investigate further to determine the potential effectiveness of its proposed revisions. In 1971, employers were required to report, within 48 hours, any worker fatality or in-patient hospitalization of 5 or more workers. This reporting requirement was revised 23 years later in 1994 to require reporting, within 8 hours, of any workplace fatality or in-patient hospitalization of three or more workers . . . What methodologies and metrics were employed to assess the impact on worker safety of the regulatory requirements immediately after those two reporting revisions became effective? Analysis of prior history of similar action taken by the agency should provide a better answer as to how this action will enhance worker safety than the cryptic OSHA statement that benefits are not quantified but are 'significantly in excess of annual costs'.''

In response, OSHA notes that the Agency did not have metrics and methodologies when these regulations were implemented to allow OSHA to evaluate the effects of the revisions. It was therefore not possible within the timeframe of this rulemaking to provide an analysis singling out the effect of the 1971 reporting requirement and the 1994 rulemaking from among the enormous number of variables related to the decrease in number and rate of injuries, illnesses, and fatalities since OSHA's founding. Further, OSHA notes that case reporting of health events is a well-established approach to public health surveillance and intervention. Serious occupational injuries and illnesses are urgent sentinel health events indicating that prevention efforts have failed and that intervention to remediate hazards may be warranted. OSHA further discusses the benefits of the rule in the Final Economic Analysis in Section V of this supplementary information.

Specific Questions Asked in the Proposed Rule

The preamble to the proposed rule included eight questions relevant to the reporting part of this rulemaking. Each question is repeated below, followed by public comments and OSHA's response to the comments.

1. Types of Incidents and/or Injuries and Illnesses for Required Reporting

In the preamble to the proposed rule, OSHA asked, ''What types of incidents and/or injuries and illnesses should be reported to OSHA and why?''

Comments responding to this question primarily focused on three main topics:

1. The seriousness and significance of the in-patient hospitalization of a single worker.

2. The definition of in-patient hospitalization.

3. The potential complications resulting from a requirement to report the in-patient hospitalizations of fewer than three employees.

There were many comments about the seriousness and significance of the in-patient hospitalization of a single worker. Many commenters stated that it is not necessarily a serious or significant event (Exs. 19, 24, 26, 27, 29, 31, 35, 51, 55, 60, 72, 82, 94, 100, 102, 104, 110, 111, 114, 115, 125). Many other commenters stated that it is (Exs. 59, 62, 69, 74, 75, 77, 86, 93, 112).

Spurlock and Higgins commented that ''there are numerous circumstances surrounding a decision to hospitalize a single employee . . . that do not necessarily stem from an employer's failure to identify and/or control a particular hazard'' (Ex. 24). Safety Compliance Services commented that ''[w]hether a person is hospitalized is not related to whether there are hazards in the workplace or poor employer controls'' (Ex. 29). Similarly, the International Fragrance Association North America (IFRA–NA) commented that ''the decision to hospitalize a single employee can be influenced by factors that are not connected to work place hazards'' (Ex. 51). The Healthcare Distribution Management Association (HDMA) commented that ''[a] single [non-fatal] injury does not indicate a major workplace issue'' (Ex. 55). Gruber Hurst Johansen Hail Shank commented that ''the hospitalization of one employee may or may not be considered significant, depending on the circumstances'' (Ex. 60). Ameren commented that ''[single in-patient hospitalizations] do not always represent a serious injury or illness'' (Ex. 72). Stericycle commented that ''single hospitalizations may not be a good indicator of serious hazards in the workplace'' and that ''. . . many workplace hospitalizations occur due to non work-related events'' (Ex. 82). The Small Business Administration Office of Advocacy (SBA–OA) commented that ''. . . single employee hospitalizations

often do not signify an emergency situation . . .'' (Ex. 94). The Pacific Maritime Association commented that ''th[e] injury could be purely accidental'' or be an ''isolated [incident] that may have nothing to do with workplace safety . . .'' (Ex. 100). The Retail Industry Leaders Association (RILA) commented that in-patient hospitalizations ''potentially would include a wide variety of situations, ranging from minor incident to a significant workplace accident'' (Ex. 102); the Shipbuilders Council of America made a similar comment (Ex. 104). The National Utility Contractors Association (NUCA) commented that ''[e]mployees are commonly hospitalized for evaluation of injuries including chest pain or mild concussions which are often not serious'' (Ex. 110). The American Supply Association commented that ''[e]ach and every day, workers have mishaps such as joint dislocations or concussions which may result in a hospitalization, perhaps solely because of the injury or possibly secondary to underlying medical conditions. These injuries may not even be related to workplace conditions but rather to something as simple as a lapse in concentration'' (Ex. 111). The American Road and Transportation Builders Association (ARTBA) commented that ''a single injury or illness often does not indicate an unsafe workplace'' (Ex. 114); the Associated General Contractors of America (AGC) made a similar comment (Ex. 115).

Commenters arguing that the in-patient hospitalization of a single worker is a serious and significant event for occupational safety and health included the Department of Workplace Standards in the Kentucky Labor Cabinet (Kentucky), stating that ''Kentucky believes, for several reasons, the hospitalization of *any* employee or *any* number of employees due to a work-related injury or illness . . . are significant events that must be reported. Most importantly, reporting allows for prompt investigation, if needed, to ensure the prevention of additional injury or illness'' (Ex. 52). The AFL–CIO commented that ''the need to hospitalize a single worker after a workplace incident is a clear indication that it was a serious event'' (Ex. 59) and that ''[c]ollecting this information . . . will greatly assist OSHA in developing data and understanding about the causes of injuries and illnesses responsible for the incident, provide the agency with an opportunity to conduct an inspection if it chooses, and help in assessing the adequacy of the standards'' (Ex. 69). The Transport Workers Union (TWU) commented that ''work-related incidents resulting in in-patient hospitalizations . . . are extremely serious events resulting in significant burden, and often subsequent impairment, to employees who suffer them. Understanding the root causes and workplace factors which contributed to these events' occurrence is a prerequisite to eliminating hazards and preventing workers from encountering further illness and injury'' (Ex. 74). The National Council for Occupational Safety and Health (NCOSH) commented that ''[g]iven that even fairly serious work-related injuries may not result in a hospital admission, OSHA should be notified promptly of all incidents requiring the hospitalization of any worker'' (Ex. 75). The United Automobile, Aerospace, and Agricultural Implement Workers of America (UAW) commented that the requirement for reporting single in-patient hospitalizations ''is an improvement over the current requirement'' that will ''provid[e] a significant increase in vitally useful information available to OSHA'' (Ex. 77); the United Steelworkers (USW) made a similar comment (Ex. 86). Letitia Davis commented that ''[c]ase reporting of health events is a well-established approach to public health surveillance and intervention. Serious occupational injuries are urgent sentinel health events indicating that prevention efforts have failed and that intervention to remediate hazards may be warranted'' (Ex. 84). United Support and Memorial for Workplace Fatalities (USMWF) commented that ''OSHA needs to be informed about every work-related hospitalization to decide whether other workers are at-risk'' (Ex. 93).

OSHA agrees with the commenters who stated that the in-patient hospitalization of an employee after a work-related incident is a serious and significant event. The hospitalization indicates that serious hazards may exist in the workplace and that an intervention to abate these hazards and prevent further injury or illness may be warranted. OSHA will develop internal guidance for determining which incidents to inspect and which to handle using other interventions. Even when OSHA determines that an inspection is not warranted, OSHA will follow up with the employer about the hospitalization event. OSHA may follow up via email, phone, or fax, with regular reminders and deadlines.

In addition, employers' reports the event help OSHA gather information about serious workplaces injuries and illnesses to help focus agency resources and assess the adequacy of its safety and health standards. For example, the reports on amputations will provide the Agency with information it currently does not have to further focus the scope of its Amputation NEP and to evaluate any deficiencies of its machine guarding standards. As a result, like the proposed rule, Section 1904.39(a)(2) of the final rule requires employers to report the work-related in-patient hospitalization of one or more employees.

There were also many comments about the definition of an in-patient hospitalization. The preamble to the proposed rule explained that, for OSHA recordkeeping purposes, an in-patient hospitalization occurs when a person is ''formally admitted'' to a hospital or clinic for at least one overnight stay. Some commenters recommended excluding hospitalization for observation or diagnostic testing only from the reporting requirement for in-patient hospitalization (Ex. 15, 38). They also asked OSHA to clarify the meanings of ''formal admission'' and ''overnight stay'' (Ex. 17, 38, 51, 76, 79, 100, 103, 115, 120). In addition, some commenters recommended excluding scheduled hospitalization admissions for the treatment of chronic conditions (for a discussion of this issue, see Question 6).

In response to these comments, the final rule includes both a definition of in-patient hospitalization and a clarification about hospitalization for observation and diagnostic testing. OSHA will define in-patient hospitalization as a formal admission to the in-patient service of a hospital or clinic for care or treatment (see sections 1904.39(b)(9) and (b)(10) of the final rule).

There were also comments about the complications that might result from a requirement to report the in-patient hospitalizations of fewer than three employees. For example, the American Iron and Steel Institute commented that the ''requirement to make notification of an isolated case within 8 hours, particularly for these ambiguous cases, will be burdensome to both the employer and OSHA'' (Ex. 108); the International Association of Drilling Contractors (IADC) and Stericycle made similar comments (Exs. 39, 82). The HDMA commented that the ''vast majority of states do not have this type of requirement, and it would be a significant shift in policy for them to adopt it'' (Ex. 55). Verizon commented that the requirement will result in over-reporting of non-work-related hospital admissions by compliant employers, ''caus[ing] these employers to incur unnecessary costs and burdens

associated with over-reporting'' (Ex 78); similarly, Ingalls Shipbuilding warned of the risk that ''the data may disproportionately 'point the finger' toward major manufacturers who aggressively implement programs to control safety and health hazards while leading OSHA to bypass smaller entities who demonstrate 'plain indifference to employee safety and health' '' (Ex. 103). The Pacific Maritime Association commented that employers may not be able to acquire the necessary information in time: ''Has OSHA ever tried to contact a hospital to gather information on an employee? . . . The reply that we often receive is that we cannot provide you with any information due to privacy concerns. Despite being entitled to know if an employee has been 'admitted' to the hospital, this does not always occur'' (Ex. 100); Stericycle and the RILA made similar comments (Exs. 82, 102).

Other commenters, however, pointed out that requirements similar to the proposed rule already exist, without causing undue burdens or complications. The State of Kentucky commented that their ''regulation has served the employers and employees very effectively. The Kentucky OSH program believes its requirements support the prevention of additional injuries or illnesses, effectively direct OSH Program resources, and reduce the state's occupational injury and illness rates. Experience has established that Kentucky's requirements do not exert an increase in the burden of regulatory compliance'' (Ex. 52). The AFL–CIO commented that the ''existence of similar reporting requirements in state-administered occupational safety and health plans in Alaska, California and Washington demonstrates that the proposed change is feasible to comply with and to administer'' (Ex. 59). The UAW made a similar comment, adding that Oregon also requires reporting of hospitalizations of one or two employees, within 24 hours (Ex. 77). The Occupational Health Section of the American Public Health Association (APHA) commented that ''[i]n an era of electronic recordkeeping, which in the occupational health arena includes workers compensation reports to and from insurers as well as BLS/OSHA logs, it should be a minor cost to enable broad and prompt reporting across a range of industries'' (Ex. 62). Worksafe commented that their experience with reporting requirements in California, as well as ''that of other states with similar requirements (as well as those of other countries) is one indication of how feasible they are to implement'' (Ex. 112).

OSHA finds that many employers are already subject to the requirement to report in-patient hospitalizations of fewer than three employees. Alaska, California, Kentucky, Oregon, Utah, and Washington currently require reporting of single in-patient hospitalizations. According to 2009 data from County Business Patterns at the U.S. Census Bureau, these states accounted for over 1.3 million establishments (18 percent of the national total) and 19.4 million paid employees (17 percent of the national total). One of these states, Kentucky, specifically commented that ''[e]xperience has established that Kentucky's requirements do not exert an increase in the burden of regulatory compliance'' (Ex. 52).

OSHA therefore concludes that the requirement to report in-patient hospitalizations of fewer than three employees is feasible and practicable and will not impose an undue burden on employers.

In addition, as explained elsewhere in this document, this final rule at Section 1904.39(a)(2) requires employers to report all work-related in-patient hospitalizations to OSHA within 24 hours, rather than within 8 hours, as in the proposed rule. This change gives employers more time to determine whether the employee has been formally admitted for in-patient hospitalization and whether the hospitalization results from a work-related event.

This final rule requires employers to report to OSHA, within 24 hours, all work-related in-patient hospitalizations within 24 hours of the incident (§ 1904.39(a)(2) and (b)(6)).

2. Non-Hospitalization Injuries, Illnesses, or Conditions for Required Reporting

In the preamble to the proposed rule, OSHA asked: ''Are there any injuries, illnesses, or conditions that should be reported to OSHA and are not included among in-patient hospitalizations?''

The UAW commented that Legionnaires' disease and hypersensitivity pneumonia ''are potentially indicative of serious and correctible hazards in the workplace and should be reported to OSHA upon physician diagnosis regardless of whether or not they result in inpatient hospitalization'' (Ex. 77).

OSHA does not agree that the final rule should include a specific requirement for employers to report work-related cases of Legionnaires' disease and hypersensitivity pneumonitis. The work relationship of Legionnaires' is generally established by a cluster of cases. When clusters do occur, they are reported to state and local public health departments, which conduct investigations of the problem. Severe cases of work-related Legionnaires' disease would result in hospital admission and therefore would trigger the reporting requirement in Section 1904.39.

OSHA believes a specific diagnosis of hypersensitivity pneumonitis does not necessarily indicate work-relatedness or an emergency situation that requires immediate OSHA intervention. Clusters of this condition (captured on the OSHA Log) would indicate intervention is needed, but a single reported case would be considered a sentinel health event. Again, it should be noted that a severe work-related case would likely result in in-patient hospitalization and therefore would trigger the reporting requirement.

3. Non-Hospitalization Amputations for Required Reporting

In the preamble to the proposed rule, OSHA asked: ''Should amputations that do not result in in-patient hospitalizations be reported to OSHA?''

Some commenters stated that OSHA should not require employers to report amputations that do not involve in-patient hospitalization. The Printing Industries of America (PIA) commented that ''it is not known what sort of amputation could be experienced without an in-patient hospitalization. However, if such an amputation would occur and did not require an in-patient hospitalization it would be reasonable to assume that such an incident was not severe enough to require hospitalization and therefore should not be subject to a reporting requirement'' (Ex. 45). The IADC commented that ''this only adds burdensome reporting for the employer. It is confusing and will result in employers spending valuable early incident investigation time attempting to determine the reportability of an incident'' (Ex 39). The American Chemistry Council commented that ''OSHA could avoid ambiguity by eliminating independent reporting of amputations (i.e., separate from in-patient hospitalizations), as severe amputations would be captured in in-patient hospitalization statistics'' (Ex. 76). Ameren commented that ''[c]ases of amputation . . . that do not result in hospitalization of the employee would not likely warrant OSHA's examination'' (Ex 72). The National Petrochemical and Refiners Association (NPRA) commented that ''. . . reporting all work-related amputations is redundant if the requirement for reporting all hospitalizations is adopted.

It is not likely that an amputation would occur that would not result in a hospitalization and if it didn't, it would not be a serious enough injury to warrant a follow-up by OSHA'' (Ex. 80). The National Grain and Feed Association (NGFA) commented that '. . . minor incidents that do not require hospitalization—including loss of the fingertip to the bone—should not be [reportable]. However, we do agree that significant incidents such as loss of a limb, which would require hospitalization, should be reportable'' (Ex. 96). The RILA recommended requiring the reporting only of amputations ''necessitating in-patient hospital treatment'' and not of ''incidents in which the injury necessitates minor treatment in an emergency room or out-patient facility'' (Ex. 102).

Other commenters, however, supported the requirement to report all amputations, regardless of whether they resulted in in-patient hospitalizations. Most of these commenters provided data showing the prevalence and significance of amputations that did not involve in-patient hospitalization.

NIOSH commented that ''[o]f the 2.6 million [emergency department (ED)] visits for work-related injuries and illnesses in 2009 [in the NIOSH–NEISS-Work dataset], approximately 15,000 workers were diagnosed as having sustained an amputation (includes injuries with bone loss, possibly without bone loss, severe avulsions, and near amputations). Of these, 78% were treated and released while 22% were admitted to the hospital or transferred to another facility.'' NIOSH continued, ''. . . given that over ¾ of ED treated work-related injuries and illnesses were treated and released, collecting the less severe injuries that are simply treated and released may identify areas that need further investigation.'' NIOSH recommended that employers be required to report all amputations to OSHA (Ex. 66).

The UAW commented that ''[n]inety six percent of amputations involve a finger. These amputations may have a permanently disabling impact on their victims' lives, but may, in some cases be treated by outpatient surgery and not lead to inpatient hospitalization. They should nevertheless be reported to OSHA'' (Ex. 77). The United Food and Commercial Workers International Union (UFCW) made a similar comment (Ex. 81).

Finally, Letitia Davis cited data collected by the Massachusetts Department of Public Health (MDPH) showing that ''there were 696 work-related amputations treated in Massachusetts hospitals during 2007–2008, an average of 348 amputations per year. The majority of these cases were treated in the emergency department only (N = 501; 71%); a small number (N = 28; 4%) were first treated in emergency departments and hospitalized at a later date; 22% (N = 156) were first treated as inpatients. These findings suggest that restricting reporting to amputations treated only an inpatient basis would substantially reduce number of cases identified and miss important opportunities for intervention'' (Ex. 84).

OSHA finds that amputations are significant workplace injuries and that the data show that the majority of amputations do not involve in-patient hospitalizations. As a result, like the proposed rule, the final rule will require employers to report all amputations to OSHA, whether or not they involve in-patient hospitalization (see § 1904.39(a)(2)). (Note that, for amputations involving in-patient hospitalization, employers will only have to make a single report.)

4. Required Reporting of Amputations

In the preamble to the proposed rule, OSHA asked: ''Should OSHA require the reporting of all amputations?''

Commenters responding to this question primarily focused on two main topics:

1. The seriousness and significance of amputations.

2. The definition of amputations.

On the topic of the seriousness and significance of amputations, many commenters opposed the requirement in the proposed rule to report all amputations. Spurlock and Higgins commented that ''the mere occurrence of an amputation can often be attributed to numerous hazards for which OSHA has no standard, or there are few, practical hazard controls at an employer's disposal'' (Ex. 24); Safety Compliance Services made a similar comment (Ex. 29). The IADC commented that ''[r]eporting amputations, such as the tip of a finger, is overly burdensome and again offers little value in protecting workers from occupational hazards'' (Ex. 39). The PIA commented that ''in most cases, especially in the printing industry, singular cases [of amputations] are not associated with a significant event or a high gravity situation'' (Ex. 45). The American Society of Safety Engineers (ASSE) commented that ''[w]hile not underestimating the serious nature of any amputation, it must be noted that an amputation of a part of a finger may, in the reasonable person's mind, is not as serious or traumatic an event as the amputation of an arm, hand, leg or foot. Further, other injuries like multiple broken bones, crushed vertebra, head injuries can be more serious and life-altering than an amputation. From that viewpoint, singling out amputations makes little sense other than the perception that they are more easily recordable. However, even that is questioned by our members'' (Ex. 46); Newport News Shipbuilding made a similar comment (Ex. 125). The American Foundry Society commented that the reporting requirement should be limited to amputations involving at least one joint (Ex. 101). NUCA commented that ''[w]ith respect to all amputations as severe injuries, . . . amputations . . . do not amount to a fatality or catastrophic event'' (Ex. 110).

In addition, the American Chemistry Council commented that rulemaking on the reporting of amputations be postponed ''[u]ntil a holistic evaluation of [the National Emphasis Program (NEP) on amputations and the Severe Violator Enforcement Program (SVEP)] is conducted'' (Ex. 76). Similarly, the Associated General Contractors of America (AGC) commented that the reporting requirement for amputations is ''unnecessary'' because ''[o]ver the past five years since the effective date of the [amputations NEP] the agency has had an opportunity to collect the necessary data to enforce and evaluate the effectiveness of existing standards'' (Ex. 115).

However, many other commenters supported the requirement in the proposed rule to report all work-related amputations (Exs. 34, 112). The Phylmar Regulatory Roundtable (PRR) commented that ''an amputation as defined in the proposal [to include loss of bone] indicates a serious traumatic injury and is thus properly included under the reporting regulation'' (Ex. 38). NIOSH commented, ''Given the high probability that most amputations require some form of medical care through hospitals or emergency departments, OSHA should require the reporting of all amputation cases'' (Ex. 66). NCOSH commented that ''[a]mputations are serious injuries with permanent consequences; thus, it is important all of these cases be reported to OSHA'' (Ex. 75). The USW commented that ''[l]essons can be learned from this amputation while the events leading up to the incident are clear to the witnesses. Amputees don't just happen, there were unsafe condition(s), change in procedure, equipment or a number of other factors. This person's life is changed forever'' (Ex. 86).

The AFL–CIO referred to BLS data to support their statement that an ''amputation is a serious, severe, and significant event that can result in some permanent impairment.'' According to BLS data from 2009, the median number of days away from work (DAFW) for an amputation was 21 days, compared to a median of 8 days for all work-related injuries and illnesses. The AFL–CIO added that the number of amputations involving days away from work was 5,930, representing 0.6% of all DAFW injuries/illnesses. The AFL–CIO commented that the proportion of amputations among total injuries/illnesses is ''similar to, or less than, 0.6% reported for injuries involving [DAFW] (given that most amputations are likely to involve some number of [days away from work]'' and concluded that ''[t]hus, it's evident to us that, given the numbers of amputations that occur annually in the U.S., reporting all amputations to OSHA would pose nothing more than a minimal burden on employers'' (Ex. 69). In addition, the AFL–CIO stated that ''California and Kentucky already require the reporting of amputations as part of their state-administered plans, proving that such a requirement is feasible'' (Ex. 59); the UAW made a similar comment (Ex. 77).

Finally, Letitia Davis's comments also included data on amputations, specifically the results of the referral of work-related amputations to OSHA in Massachusetts (Ex. 84). ''In July 2010, the Massachusetts Public Health Department initiated a protocol referring work-related amputations with logically consistent body part codes to OSHA for follow-up. In 2010, 22 private employers were referred to one of three OSHA area offices. The 22 referrals resulted in 13 on-site inspections and additional phone/fax initiatives. Among the 13 inspections, OSHA had already been notified about two of the injuries (from city police or fire departments that responded to the site) and had already initiated inspections at the time of the referrals. Nine of the referrals leading to onsite inspections resulted in citations, indicating shortcomings or failures of occupational health and safety programming. These included citations related to lockout/tagout, lack of machine guarding, failure to conduct a hazard assessment and the general duty clause . . . Notably amputations were verified in nine of the 13 onsite investigations. Four were found to be other injuries. Even when amputations did not occur, OSHA found hazardous conditions that were associated with other serious injuries. These findings indicate that OSHA investigations prompted by case reports of amputations are productive, and well-targeted, leading to identification of serious workplace hazards and concrete steps to eliminate hazards that cause or contribute to injuries. They suggest that direct reporting of amputations to OSHA by employers would be an effective means of targeting limited enforcement resources to high priority problems.''

Although these results are limited to the experience of OSHA's area offices in Massachusetts, OSHA believes it is reasonable to expect comparable findings and results in its other area offices across the country. OSHA area offices operate using standardized procedures. Reviews of OSHA inspection data have shown that inspections conducted by area offices under national programs routinely have similar results across the country.

OSHA agrees with commenters who stated that amputations are serious events. OSHA refers to BLS data showing that in 2010, half of fingertip amputations involved 18 or more days away from work. OSHA finds that all amputations are severe and significant workplace injuries, including amputations of fingertips and fingers as well as amputations of large body parts, such as hands, arms, and feet, and that reports of amputations to OSHA can be an effective way of targeting workplace hazards. In addition, the requirement to report work-related amputations will help OSHA determine the causes of these injuries and develop enforcement strategies and guidance to help prevent them.

In addition, OSHA notes the existing California and Kentucky state requirements to report work-related amputations, which are similar to the requirements under this final rule, show that such requirements are feasible.

Finally, OSHA believes that comments such as those by Spurlock and Higgins (Ex. 24), saying that amputations can often be attributed to numerous hazards for which OSHA has no standard, or there are few, practical hazard controls at an employer's disposal, actually support OSHA's decision to require the reporting of work-related amputations. Section 5(a)(1) of the OSH Act requires employers to ''. . . furnish to each of his employees employment and a place of employment which are free from recognized hazards that are causing or are likely to cause death or serious physical harm to his employees.'' Section 5(a)(1) does not make exceptions for hazards for which OSHA has no standards or employers have few practical controls. In addition, reports of amputations will provide OSHA with data to identify hazards and support the development of further standards and practical controls. Thus, employer reports of amputations, and OSHA intervention in workplaces where amputations occurred, are both critical for complying with Section 5(a)(1) of the OSH Act and preventing further serious injury or death.

The final rule requires employers to report to OSHA, within 24 hours, all amputations that result from a work-related incident within 24 hours of the incident (see § 1904.39(a)(2) and (b)(6)).

On the topic of the definition of an amputation, there were comments on the definition in the proposed rule, as well as requests for clarification. The proposed rule defined amputations according to the 2007 release of the OIICS Manual published by BLS, as follows: ''An amputation is the traumatic loss of a limb or other external body part, including a fingertip. In order for an injury to be classified as an amputation, bone must be lost. Amputations include loss of a body part due to a traumatic incident, a gunshot wound, and medical amputations due to irreparable traumatic injuries. Amputations exclude traumatic injuries without bone loss and exclude enucleation (eye removal).''

Nonetheless, several commenters requested a definition of ''amputation'' (Ex. 14, 17, 60, 101, 108).

There were also comments about both the wording of the definition and the implementation of the definition. Colony Tire Corporation asked about reporting a finger that had been amputated, reattached, and then later removed (Ex. 35). Dow Chemical Company commented that ''[t]he proposed wording of Section 1904.39(b)(8) defines 'amputation' in a manner that is extremely unclear'' (Ex. 64). The American Chemistry Council recommended that OSHA use the definition of amputations in the 2010 release of the OIICS Manual ''and clarify whether avulsions are included, to avoid ambiguity'' (Ex. 76). IPC-Association Connecting Electronics Industries (IPC) ''encourage[d] OSHA to amend the Field Operations Manual (FOM) to include the definition'' in the proposed rule (Ex. 47), and Kentucky ''recommend[ed] and respectfully request[ed] that OSHA include a definition of amputation in 29 CFR 1904.46'', the definitions subpart of Part 1904 (Ex. 52).

Finally, there were comments about whether the definition of ''amputation'' should require bone loss. The American Trucking Associations (ATA) commented that ''the definition of an

'amputation' should require 'loss of bone' (Ex. 65); NPRA made a similar comment (Ex. 80). However, both David Bonauto M.D. M.P.H. (Ex. 56) and Letitia Davis Sc.D. Ed.M. (Ex. 84) provided data to support their comments that the definition of amputations should not require loss of bone because of the difficulties of identifying bone loss.

David Bonauto's data (Ex. 56) consisted of 3,000 claims with suspected amputation injuries in the Washington state fund workers compensation claims data for the period 2006–2008; medical record review validated 1,885 of these claims as amputations. Bonauto is the occupational medicine physician and interim research director with the Safety and Health Research Assessment Program in the Washington State Department of Labor and Industries. He commented that ''. . . about 90% had loss of the protruding body part from the injury. We could determine bone loss in nearly 3 of 4 cases; however, this could only be done retrospectively based on review of the medical records. Determination of the injury resulting in bone loss could not be done based on the initial report of injury. Most lower extremity amputations resulted from surgical treatment of the injury (e.g., surgical removal of a crushed foot) which often occurred after the initial injury event. More than two thirds of the injuries resulting in the loss of a protruding body part were not characterized as an 'amputation' on the initial report of accident by the health care provider. These cases were often characterized as contusions, lacerations, and fractures but ultimately resulted in the loss of a protruding body part . . . From these data, the proposed rule might benefit by defining amputations as 'any injury resulting in the temporary or permanent loss of a protruding body part'. Due to the poor initial documentation of the injury, a requirement for bone loss in reports will lead to significant underreporting.''

Similarly, Letitia Davis's comments were based on amputation data collected by the Massachusetts Department of Public Health, with 696 work-related amputations treated in Massachusetts hospitals in 2007–2008 (Ex. 84). She commented that ''[s]some amputations by definition include bone loss, e.g. amputation of finger, foot, hand, but if only the tip of a finger or toe is amputated, involvement of bone loss at time of injury is not necessarily apparent and involves determination by clinical review. Even upon clinical review, bone loss can be ambiguous. In our experience reviewing amputation cases reported by employers on OSHA logs and in workers' compensation claim reports for amputations, bone loss is most often not specified. Thus we advise against bone loss as a criterion for reporting or at least specifying that cases with uncertain bone loss should be reported.''

After careful consideration, OSHA finds that using the definition of amputation in the 2010 release (OIICS Version 2.0) of the BLS OIICS Manual will provide the greatest possible clarity and consistency. This change from the proposed rule responds to commenters who recommended that OSHA use the 2010 release of the OIICS manual, as well as to commenters who recommended that the definition not include bone loss. Thus, Section 1904.39(b)(11) of this final rule defines amputations as the traumatic loss of a limb or other external body part (see Section 1904.39(b)(11) of this final rule). According to this definition, an amputations include a part, such as a limb or appendage, that has been severed, cut off, amputated (either completely or partially); fingertip amputations with or without bone loss; medical amputations resulting from irreparable damage; and amputations of body parts that have since been reattached. Amputations do not include avulsions, enucleations, deglovings, scalpings, severed ears, or broken or chipped teeth.

5. Required Reporting of Enucleations

In the preamble to the proposed rule, OSHA asked: ''Should OSHA require the reporting of enucleations?''

Several commenters responded that OSHA should not specifically require the reporting of enucleations (i.e., losses of an eye). The PRR commented that an enucleation ''indicates a severe and traumatic injury has occurred to the employee'' but that ''[t]here is some question whether a severe injury leading to an enucleation would ever not fit under the definition of in-patient hospitalization . . . and thus it may be unnecessary to explicitly include this procedure'' (Ex. 38). The PIA commented that ''[PIA] does not feel that the reporting of enucleations would be appropriate . . . as the cause and circumstances surrounding these types of incidents are vast and may or may not be work related and in most cases within the printing industry would not be the result of a work related'' event (Ex. 45). Ameren commented that ''Cases of . . . enucleation that do not result in hospitalization of the employee would not likely warrant OSHA's examination'' (Ex. 72).

Other commenters responded that OSHA should specifically require the reporting of enucleations. NIOSH commented that ''[a]lthough enucleations of the eye are an infrequent occurrence, reporting would serve as a sentinel event for identifying workplaces at risk for other preventable injuries including intraocular foreign bodies, penetrating eye injuries, and other eye injuries where eye protective equipment may not be used'' (Ex. 66). The AFL–CIO commented that ''the loss of an eye is an extremely serious injury that can have significant impact on a worker and leave him or her with a substantial impairment . . .[T]o the extent that an enucleation event does not result in an in-patient hospitalization, we believe OSHA should require employers to report all work-related enucleations to ensure that every enucleation incident is captured'' (Ex. 69). The Building and Construction Trades Department (BTCD) of the AFL–CIO (Ex. 59), the UAW (Ex. 77), and the USW (Ex. 86) made similar comments, as did the TWU, which added that ''adding enucleations to the events requiring report would likely not result in greater burden to employers since one would anticipate most of these injuries to require, and be accounted for by requirements related to, in-patient hospitalizations'' (Ex. 74).

OSHA finds that the loss of an eye is a severe and significant injury and that a requirement to report such injuries, irrespective of in-patient hospitalization, can help identify workplaces where serious eye hazards are present. Based on comments submitted to the proposed rule, Section 1904.39(a)(2) of this rule includes a new requirement for employers to report, within 24 hours, all losses of an eye resulting from a work-related incident. Section 1904.39(b)(6) provides that this reporting requirement applies only when the loss of the eye occurs within 24 hours of the work-related incident.

6. Number of Work-Related Incidents Involving In-Patient Hospitalizations, Including More Than 30 Days Afterwards

In the preamble to the proposed rule, OSHA asked: ''Are there additional data or estimates available regarding the number of work-related incidents involving in-patient hospitalizations? Is there information available on how many work-related hospitalizations occur more than 30 days after the report of an injury or illness?''

Comments on this question addressed three main topics.

1. Work-related incidents involving in-patient hospitalization.

2. Hospitalizations occurring more than 30 days after the report of the injury/illness.

3. Amputations occurring more than 30 days after a work-related incident. The third issue arises from the requirement in Section 1904.39(b)(6) of the proposed rule for requiring employers to report amputations that occurred up to 30 days after the work-related incident.

On work-related incidents involving in-patient hospitalizations, commenters provided comments, as well as data and suggestions for data sources.

The U.S. Chamber of Commerce commented that even within a thirty-day limit, ''the employee may be hospitalized after he or she is no longer employed by the employer which would significantly complicate an employer's ability to know about the hospitalization'' (Ex. 120).

Stericycle commented that ''[r]ather than use data from OSHA logs or Workers Compensation data to estimate single hospitalization reports, OSHA should have collected data from emergency responders to determine how many emergency calls were to the workplace'' (Ex. 82).

NIOSH provided data on the patients with occupational injuries or illnesses who were seen in the ED (Ex. 66): ''The NIOSH NEISS-Work data provide national estimates of the number of patients treated in an ED and released, treated and transferred, treated and admitted, held for observation, and an estimate of patients that left without being seen or left against medical advice . . . For 2009, it is estimated that approximately 81,500 (3%) patients with occupational injuries or illnesses seen in the ED were either admitted or transferred and another 5,600 (0.2%) were held for observation. It is not known if those held for observation were admitted or released. These data do not include the length of time that passed between the injury or onset of illness and ED treatment.''

Letitia Davis provided data on work-related in-patient hospitalizations in Massachusetts in FY 2008 (Ex. 84): ''There were 3,448 work-related hospitalizations in Massachusetts during October 2007-September 2008. The largest number was for injuries and poisonings (N=1595; 46%) followed by musculoskeletal disorders (N=1184; 34%). Information about time between workplace incident and hospitalization was not available but information about admission type is informative. Notably, 59% of work-related hospitalizations were for emergent or urgent care; 1,337 (39%) were for elective procedures, most of which (N–935; 70%) were for musculoskeletal disorders.''

On work-related hospitalizations occurring more than 30 days after the report of an injury or illness, David Bonauto provided data on 9,262 claims to the Washington State Fund workers compensation program that resulted in in-patient hospitalization from 2006–2008 (Ex. 56). He commented, ''Of these hospitalizations, 36% occurred within one day following the occupational injury or illness event and nearly 50% occurred greater than 31 days following the occupational injury or illness. When differentiating the type of injury or illness using the primary ICD–9 code on the hospital bill, nearly 90% of all inpatient hospitalizations occurring within one day of the injury or illness event were billed with an injury or poisoning diagnosis as opposed to a disease diagnosis. Conversely, nearly 93% of all hospitalizations occurring 31 days after the injury or illness event had a disease diagnosis listed as the primary diagnosis on the bill.''

In addition, there were comments about the proposed requirement to report in-patient hospitalizations occurring within 30 days of the incident. The Marshfield Clinic commented that '[t]he proposed changes also give a 30 day period where hospitalization needs to be reported. Since some surgeries require inpatient hospitalization; this will require that surgeries be reported that . . . are not related to an acute work injury. It would not appear that OSHA is interested in getting notified of every employee that may be hospitalized due to a need for a routine surgery that may be related to a work injury'' (Ex. 15). The American Chemistry Council commented that the reporting requirement for in-patient hospitalization should ''exclude hospitalization for chronic cases (such as carpal tunnel)'' if ''OSHA's intent is to obtain information about acute injuries resulting from serious, incident-specific hazards''; in addition, the final rule ''should clarify how in-patient hospitalizations for treatment of acute injuries for which rehabilitation was unsuccessful (for example, a tendon injury in the hand or knee that ultimately requires surgery to repair, or back injuries that require later surgery) will be reported'' (Ex. 76). Stericycle commented that ''[the 30-day] timeframe may be too long as with strains and sprains, 2–4 weeks of physical therapy or other conservative treatment may be administered before an injured worker may determine surgery is the best option. Then if surgery and hospitalization occurs within the 30 days, the reporting requirement is triggered . . . After 30 days, OSHA's quick response may be too late and the employer may have already abated the hazard'' (Ex. 82).

On the other hand, the UAW commented that ''[s]everal states, including Alaska, Oregon, and Washington have established a 30 day reporting period'' (Ex. 77).

For the third issue, related to the requirement in the proposed rule for reporting amputations occurring up to 30 days after the work-related incident, the PIA commented that ''if amputations are to be included as a reporting requirement, a reasonable scope should only require reporting if the amputation occurs at the time of the incident or at most, at the initial diagnosis of the attending medical provider'' (Ex. 45).

Both David Bonauto (Ex. 56) and Letitia Davis (Ex. 84) provided data on this issue. David Bonauto provided data on 1,885 validated amputations among Washington State Fund workers compensation claims with medical record review in 2006–2008 (Ex. 56). He found that 89% of amputations occurred at the time of injury, while 11% of the amputations resulted from surgery after the injury (including on the same day). However, while 92% of the 1,796 amputations to upper extremities occurred at the time of injury, only 38% of the 91 amputations of lower extremities occurred at the time of injury. He commented that ''specific provisions requiring reporting of late amputations will more effectively capture lower extremity amputations.''

Letitia Davis provided data on work-related amputations treated in Massachusetts hospitals in 2007–2008 (Ex. 84). She commented that ''the great majority (92%) of work-related amputations involving hospital treatment were treated within one day of injury incident. Only 4.1% were treated more than 30 days after the injury incident. Again, OSHA might consider limiting reporting to amputations that occur within 24 hours of the precipitating incidents. These data suggest that in doing so, they would capture the great majority of the cases.''

OSHA finds that limiting the reporting requirement to the hospitalizations, amputations, and losses of an eye most likely to require urgent or emergent care best serves OSHA's purposes of surveillance and appropriate timely investigations of these events, while limiting the burden on employers. The final rule requires employers to report work-related in-patient hospitalizations, amputations, and losses of an eye only if the event occurs within twenty-four hours of the

work-related incident (see § 1904.39(b)(6)).

7. Non-Telephone Methods of Reporting (Email, Fax, or Web-Based System)

In the preamble to the proposed rule, OSHA asked: ''Should OSHA allow reports to be made by means other than a telephone, such as by email, fax, or a Web-based system?''

Many commenters supported additional options for reporting. For example, the Marshfield Clinic supported ''[a] system that allows computer notification (either email or on-line)'' (Ex. 15). Safety Compliance Services commented that ''OSHA should allow for computerized reporting of incidents. However this capability needs to be standardized so that systems can report the information directly without requiring additional work or effort on the part of those reporting'' (Ex. 29). Justin Barnes supported ''means such as email, fax, and a web-based system'' (Ex. 34). The PIA commented that ''OSHA should allow and make considerations of all means available with today's technology including telephone, text, email, fax, or through a web-based system'' (Ex. 45). The HDMA supported ''alternative methods of reporting, such email, fax or Internet'' (Ex. 55). Gruber Horst Johansen Hail Shank commented that ''it would be a great idea for OSHA to add the ability to report fatalities and applicable incidents through their Web site. Any system should include a verification and email confirmation of the report for employers to save and/or print out, so that they can demonstrate compliance. Development of smartphone apps by OSHA . . . would also assist employers to quickly report fatalities and applicable incidents'' (Ex. 60). The ATA commented that ''employers need flexibility in the method of reporting (i.e., phone calls, emails, faxes, and web based systems)'' (Ex. 65). NIOSH recommended that OSHA ''allow reports to be made by means other than telephone, such as by email, fax, or a web-based system'' (Ex. 66). Ameren commented that ''a web-based system would allow employers to report while at the same time give OSHA an opportunity to capture data for automatic analysis and trending'' (Ex. 72). The American Chemistry Council commented that ''a mobile application, web or email based reporting system would be appropriate, including the application of formal controls to prevent false reporting'' (Ex. 76). The UAW commented that ''OSHA should permit reporting by any communication method that exists now or may exist in the future, provided that the content of the report meets all existing OSHA requirements'' (Ex. 77). Verizon supported ''the addition of electronic means as an option for serious incident notification to OSHA, including email, facsimile and web-based reporting tools'' (Ex. 78). NPRA recommended ''electronic reporting in addition to phone, fax, and email'' (Ex. 80). Letitia Davis commented that ''OSHA should allow employers to report by means other than a telephone as long as confidentially of personal identifiable health information can be maintained, e.g. by confidential fax or secure electronic transmission'' (Ex. 84). The Pacific Maritime Association commented that ''[i]n addition to the 800 number, an email, Web site reporting tool or similar application would create a time stamped record that both the employer and OSHA could find of use'' (Ex. 100). The RILA suggested that ''employers should be allowed flexibility to report whether it is via phone, email or fax'' (Ex. 102). Ingalls Shipbuilding ''urge[d] OSHA to expand reporting options to permit electronic transmissions, including fax, email or a web-based system'' (Ex. 103); Newport News Shipbuilding made a similar comment (Ex. 125). The U.S. Chamber of Commerce commented that ''OSHA should allow for reporting via email, interactive Web site, texting and faxing to provide maximum flexibility for employers and give them a record they can use to demonstrate compliance'' (Ex. 120).

On the other hand, a few commenters opposed additional options for reporting. The AFL–CIO commented that ''the current requirement that permits reporting . . . only by reporting the incident via a telephone or in person should be retained in the final rule . . . We have concerns that passive approaches such as email, fax or a Web-based system, as opposed to an active oral reporting requirement, would not assure the agency that all of the required information is obtained from an employer and thus would result in incomplete reports'' (Ex. 69). The USW ''strongly urge[d] OSHA to maintain the requirement that a phone call is necessary to that the information is reported as soon as possible to OSHA'' (Ex. 86). USMWF commented that, for hospitalizations for acute, traumatic injuries and illnesses, ''notifications should be made by telephone to ensure that OSHA receives all the key pieces of information regarding the incident'' (Ex. 93).

OSHA agrees with the comments supporting additional options for reporting. However, OSHA also agrees with the comments on the importance of obtaining all of the required information from the employer. Therefore, Section 1904.39(a)(3) of this final rule provides flexibility by allowing employers to choose among three options for reporting a work-related fatality, in-patient hospitalization, amputation, or loss of an eye to OSHA.

First, as in the current regulation, an employer may report by telephone or in person to the OSHA Area Office that is nearest to the site of the incident.

Second, as in the current regulation, an employer may report by telephone to the OSHA toll-free central telephone number, 1–800–321–OSHA (1–800–321–6742).

Third, as a new option, an employer may report by electronic submission using a fatality/injury/illness reporting application that will be located on OSHA's public Web site at *www.osha.gov.* The reporting application will include mandatory fields for the required information. If the report does not include the required information in the mandatory fields, the reporting application will not accept the report. The mandatory fields, as specified in Section 1904.39(b)(2), are the establishment name; the location of the work-related incident; the time of the work-related incident; the type of reportable event (i.e., fatality, in-patient hospitalization, amputation, or loss of an eye); the number of injured employees; the names of the injured employees; the employer's contact person and his or her phone number; and a brief description of the work-related incident. The public will be given the opportunity to comment on this new electronic submission option through the Paperwork Reduction Act (PRA) approval process when OSHA applies to reauthorize the information collection.

Section 1904.39(b)(1) makes clear that if the Area Office is closed, the employer must report the work-related event by using either the OSHA toll-free central telephone number or the reporting application on OSHA's public Web site.

The final rule does not include options for reporting by email, fax, or text, because OSHA would not be able to ensure that employers who reported using these options provided all of the required information.

8. Time Periods for Required Reporting

In the NPRM, OSHA asked: ''Are the reporting times of eight hours for fatalities, eight hours for in-patient hospitalizations, and 24 hours for amputations generally appropriate time periods for requiring reporting? What advantages or disadvantages would be

associated with these or any alternative time periods?''

Comments primarily focused on four topics:

1. The circumstances under which OSHA would consider that the employer knew, or should have known, about the reportable event;

2. When the reporting clock would start—with the occurrence of the work-related incident, or with the occurrence of the reportable event;

3. The appropriate reporting time period for in-patient hospitalizations;

4. The appropriate reporting time period for other events employers would be required to report.

For the circumstances under which OSHA would consider that the employer knew, or should have known, about the reportable event, Section 1904.39(b)(7) of the proposed rule provided that if employers did not learn about a fatality, in-patient hospitalization, or amputation right away, they would have been required to report it within the specified time period after the fatality, in-patient hospitalization, or amputation was reported to ''[the employer] or to any of [the employer's] agent(s) or employee(s)''. Commenters on this topic had two concerns. First, that OSHA might require employers to report events they did not know about. Second, that OSHA might unfairly penalize employers for not reporting events they did not know about.

Related to an employer being required to report an event the employer did not know about, Morganite Industries commented that ''[i]t is not clear that an appropriate member of management would have the information, allowing the required reporting to OSHA, just because any individual employee has that information. For example, the injured employee himself might know that he has been hospitalized, but his knowing it does not mean that anyone with authority or ability to make the report has that information'' (Ex. 20). Ingalls Shipbuilding made a similar comment (Ex. 103), as did Dow Chemical (Ex. 64) and the Pacific Maritime Association (Ex. 100). Dow Chemical commented that ''the 'clock' [should] start only when the incident, *and* the fact the worker was hospitalized, have been communicated to the employee's supervisor or to other employees whose responsibilities and position qualify them to recognize the reporting requirement'' (Ex. 64). The Pacific Maritime Association commented in addition that ''[i]njuries should be reported to a direct supervisor or management. This is the only means in which an employer can be in knowledge of the injury'' (Ex. 100).

Related to an employer being penalized for not reporting an event the employer did not know about, the Joint Poultry Industry Safety and Health Council commented, ''While we recognize the 8 hour provision is from the time the incident is reported to the employer, its agents or employees, we believe the interpretation of what constitutes notice, particularly notice to ''*any of your agent(s) or employee(s)*'' will simply generate another cause of litigation if OSHA chooses to cite an employer for failing to meet the 8 hour time requirement'' (Ex. 61). The ATA commented that ''there is no provision for the Agency to NOT impute knowledge of an injury to an employer—i.e., ''should have been aware''—as in other OSHA rules. Companies may find themselves in a position of being expected to know about an employee's private medical information or a hospitalization outside of the purview of the employer'' (Ex. 65); Fed Ex made a similar comment (Ex. 67). The National Association of Manufacturers (NAM) commented, ''The employer may never know of the hospitalization until days or weeks later. Would the employer be in violation for not reporting this incident to OSHA when there was no knowledge of when the hospitalization took place? Additionally, a worker could be injured on a weekend or overnight shift and the employer is not notified of the worker's hospitalization until the next business day. Would that employer be in violation for not reporting the incident within eight hours?'' (Ex. 71). The Pacific Maritime Association (Ex. 100) and the Shipbuilders Council of America (Ex. 104) made similar comments. To address this concern, Verallia suggested that the rule be amended to require notification ''within [the specified time period] of the *employer becoming aware*'' of the reportable event (Ex. 91).

OSHA acknowledges commenters' concern about defining employer notification to include reporting to ''any of [the employer's] employee(s)''. Therefore, this rule removes this provision. Under Section 1904.39(b)(7) of the final rule, employers are required to report within the specified time period after the fatality, in-patient hospitalization, amputation, or loss of an eye is reported to the employer or to any of the employer's agent(s).

OSHA does not agree with the comments about employers being unfairly penalized for not reporting hospitalizations that they did not know about.

First, the current regulation, the proposed rule, and the final rule all have a specific provision for employers who do not know about an in-patient hospitalization or other reportable event. Under the current regulation, if an employer does not learn about a reportable incident right away, the employer must make the report within eight hours of the time the incident is reported to the employer (see Section 1904.39(b)(7)). Under the proposed rule, if the employer did not learn about a reportable incident right away, the employer would have to make the report within eight hours for a fatality or in-patient hospitalization, or twenty-four hours for an amputation, of the time the incident was reported to the employer (see proposed Section 1904.39(b)(7)).

Under the final rule, if the employer does not learn about a reportable event (fatality, in-patient hospitalization, amputation, or loss of an eye) right away, the employer must make the report within eight hours for a fatality, or twenty-four hours for an in-patient hospitalization, amputation, or loss of an eye, of the time the event is reported to the employer (see Section 1904.39(b)(7) of the final rule).

Second, as discussed above, employers at over 1.3 million establishments in six states are already subject to the requirement to report in-patient hospitalizations of fewer than three employees. If these employers were being penalized for not reporting events they did not know about, it seems likely that at least a few of them, or their industry organizations, would have submitted comments on this issue during this rulemaking. Instead, the only non-hypothetical comment received by OSHA on this issue came from one of these six states, which specifically commented that ''[e]xperience has established that Kentucky's requirements do not exert an increase in the burden of regulatory compliance'' (Ex. 52).

OSHA therefore concludes that the requirement in the final rule to report in-patient hospitalizations will not result in an unfair penalty for employers. Under the final rule, as in the current regulation, employers are only required to report work-related events that have been reported to them or their agent(s).

For the issue in the proposed rule of whether the reporting clock would start with the occurrence of the work-related incident or with the occurrence of the reportable event (fatality, in-patient hospitalization, or amputation), the PRR, the IADC, Gruber Hurst Johansen Hail Shank, NAM, and Verizon requested clarification (Exs. 38, 39, 60,

71, and 78). To address this issue, OSHA has revised the text in Section 1904.39(a)(1) and (a)(2) of the final rule to make clear that, consistent with OSHA's current reporting regulation in Section 1904.39, the reporting clock starts with the occurrence of the reportable event. Section 1904.39(b)(7) also provides instruction on when the reporting clock starts to run in situations where the employer or the employer's agent(s) does not learn about the reportable event (fatality, in-patient hospitalization, amputation, or loss of an eye) right away.

For example, if an employee suffers a work-related injury (the work-related incident) at 9:00 a.m., and dies from that injury at 10:00 a.m., and the employer or the employer's agent(s) learn of the fatality (the reportable event) at 10:00 a.m., then the employer would be required to report the fatality (the reportable event) to OSHA within eight hours of the fatality (the reportable event)—i.e., 6:00 p.m. Similarly, if an employee is fatally injured as the result of a work-related incident at 8:30 p.m. on Monday, but the employer or employer's agent(s) do not learn of the fatality (the reportable event) until 9:00 a.m. the next day (Tuesday), then the employer would be required to report the fatality (the reportable event) to OSHA within eight hours of learning of the fatality (the reportable event)—i.e., by 5:00 p.m. on Tuesday. Also, if an employee suffers a work-related injury (the work-related incident) at 11:00 a.m. on Thursday and is hospitalized as an in-patient, as a result of that injury, at 3:00 p.m., and the employer or the employer's agent(s) learn of the in-patient hospitalization for the injury at 3:00 p.m., then the employer would be required to report the in-patient hospitalization (the reportable event) within 24 hours of the in-patient hospitalization (the reportable event)—i.e., by 3:00 p.m. on Friday.

This would also be the case if the employer needs time to determine whether a specific incident is work-related. For example, if an incident leads to an employee's death at 9:00 a.m. on Monday, but the employer does not have enough information to make a work-relatedness determination until 11:00 a.m. on Monday, then the employer would be required to report the fatality (the reportable event) within 8 hours of learning that the fatality was due to a work-related incident—i.e., by 7:00 p.m. on Monday). The final rule states that if the employer does not learn right away that the reportable event (fatality, in-patient hospitalization, amputation, or loss of an eye) was the result of a work-related incident, then the employer must make the report to OSHA within the following time period after the employer or any of the employer's agent(s) learn that the reportable event was the result of a work-related incident: Eight (8) hours for a fatality, and twenty-four (24) hours for an in-patient hospitalization, an amputation, or a loss of an eye. (see Section 1904.39(b)(8))

For the issue of the appropriate reporting time period for in-patient hospitalizations, OSHA received many comments that the proposed eight-hour reporting period for in-patient hospitalizations was too short. The Marshfield Clinic commented that ''an employer is normally going to know immediately'' about a fatality and ''probably would also know'' about the hospitalization of three or more employees'', but that ''[t]his is not necessarily the case for the hospitalization of an individual employee'' (Ex. 15). IBM commented that ''[i]t would be difficult for us to be compliant with reporting any in-patient hospitalizations within eight hours, especially with the travelling employee, time zone issues, language barriers, communication issues'' (Ex. 22). Apogee Enterprises commented that eight hours may not be enough time for an employer to determine work-relatedness, that an employer may not find out about the hospitalization if the employee does not go to the hospital from work, and that the privacy of medical information ''can make it very difficult for the employer to find out the cause of a hospitalization, especially in the proposed timeframe'' (Ex. 40). The HDMA commented that ''. . . many circumstances will arise where . . . the full determination of the employee's condition has not been determined within eight hours because the employee was admitted to the hospital for a variety of reasons some of which may or may not be work-related'' (Ex. 55). Ameren commented that ''[t]he determination of work-relationship for a case involving a single hospitalization may not be immediately obvious and could take more than 8 hours to be resolved'' (Ex. 72). Verizon commented that ''[i]t is not practical to expect all employers to be able to notify OSHA within eight hours of an employee's admission into a hospital with a work-related condition'', especially for employers ''whose employees often work alone or with a co-worker at off-site locations and at hours other than normal business hours'' (Ex. 78). The Pacific Maritime Association commented that ''the employer may not have all of the necessary facts within eight hours . . . this is too tight a deadline and is a recipe for false or misleading information to OSHA'' (Ex. 100). The American Foundry Society commented that ''the proposed 8-hour time frame does not offer a realistic time frame,'' due to ''circumstances including patient privacy and communication delays between a patient and employer or medical provider and employer'' (Ex. 101). The American Supply Association commented that ''the shift to an 8-hour reporting requirement . . . may interfere with an employer who is also tending to the employee's injury during this time. The uncertainties placed on the employer, in particular, during a period when they are addressing employee safety is overly burdensome'' (Ex. 111); the Sheet Metal and Air Conditioning Contractors National Association (SMACNA) made a similar comment (Ex. 122). The ARTBA commented that ''eight hours is unrealistic as it may be difficult to quickly ascertain the root cause of the injury'' (Ex. 114).

OSHA also received comments proposing alternate time periods, including 24 hours, 48 hours, 72 hours, and five days. Morganite Industries commented that ''it is reasonable to expect that within 24 hours management will be made aware that an in-patient hospitalization has occurred. It is then reasonable to believe that reporting to OSHA is feasible within that same 24 hours'' (Ex. 20). Whirlpool Corporation, the IADC, the HDMA, the American Chemistry Council, Verizon, the Pennsylvania Independent Oil and Gas Association (PIOGA), RILA, and Ingalls Shipbuilding made similar comments (Exs. 31, 39, 55, 76, 78, 89, 102, and 103).

NPRA recommended ''that OSHA at a minimum increase the reporting time to 48 hours to allow the medical facility time to treat the injured, if necessary, determine the need for hospitalization and advise the employer'' (Ex. 80). Kentucky commented that ''[e]xperience has proven that the reporting of a hospitalization after eight (8) hours has passed . . . but before seventy-two (72) hours have elapsed, is not detrimental to ensuring that a prompt investigation is initiated, if needed, to ensure the prevention of additional injury or illness'' (Ex. 52). Fed Ex similarly supported a 72-hour time period, commenting that ''[s]eventy-two hours would give an employer adequate time to gather and verify the information necessary to make an accurate report to OSHA, and it is soon enough after an accident for OSHA to make a meaningful investigation'' (Ex. 67).

Dow Chemical recommended that ''*if* the Agency decides to require reporting of every hospitalization, the deadline for reporting should be (preferably) three business days, or (at the very tightest) the following business day after the employer learns *both* that there was a hospitalization, and that the injury was work-related'' (Ex. 64). The Duke University Health System recommended ''a reporting period of five days if OSHA is to achieve its goal of this regulation presenting only a 'relatively minor burden' for employers'' (Ex. 63).

On the other hand, USMWF commented that ''8 hours is far too long a time period. OSHA should change its regulation to require an employer to immediately notify federal or State OSHA of a fatality or serious incidents. The Mine Safety and Health Administration's (MSHA) regulations require employers to notify the agency of serious incidents within 15 minutes. OSHA should adopt equivalent requirements. We believe that California OSHA requires immediate reporting and Utah OSHA has a 1-hour reporting requirement'' (Ex. 93).

In addition, multiple commenters recommended requiring the same reporting time period of eight hours for non-fatal reportable events (in-patient hospitalizations, amputations, and losses of an eye) as for fatalities. The Building and Construction Trades Department of the AFL–CIO commented that ''[t]he move to a single reporting time frame would also benefit OSHA and employers. In the case of OSHA, the move to 8 hours for all serious incidents would provide the agency with more timely information on which to base decisions. For employers, the use of one reporting timeframe would simplify the reporting process'' (Ex. 59). The AFL–CIO, the TWU, the UAW, and the UFCW made similar comments (Exs. 69, 74, 77, and 81).

OSHA acknowledges the commenters' concern about the eight-hour reporting time for in-patient hospitalizations in the proposed rule. Accordingly, Section 1904.39(a)(2) of the final rule requires employers to report in-patient hospitalizations within 24 hours of learning of the in-patient hospitalization due to a work-related incident. Note that, as discussed below, this will simplify the reporting process by requiring a single reporting period (24 hours) for all of the non-fatal events that employers are required to report. Note also that, because the reporting time period for in-patient hospitalizations does not begin until the employee has been formally admitted to the in-patient service of a hospital or clinic for care or treatment (see § 1904.39(b)(8)), the reporting requirement will not interfere with the employer's efforts to provide the proper care for the employee whose eventual in-patient hospitalization the employer will be required to report.

For the appropriate reporting time periods for other events employers would be required to report, many of the same comments about reporting time periods for in-patient hospitalizations applied.

However, OSHA did receive some specific comments as well. For amputations, Dow Chemical commented that ''if notification for amputations is ultimately required, the deadline should be the end of the next business day after the injury is classified as an amputation, rather than within 24 hours. This would facilitate compliance, because there would be greater certainty that the expert personnel who understand the reporting requirement would be available. In addition, it would allow for an accurate determination that the injury is, in fact, an amputation'' (Ex. 64). The NPRA recommended a reporting time period of 48 hours (Ex. 80).

For amputations and losses of an eye, the USMWF commented that ''[t]he reporting should be made by the employer no later than 24 hours after the employer learns that the amputation or eye loss occurred'' (Ex. 93).

OSHA finds that a reporting time period of 24 hours for amputations and losses of an eye will simplify the reporting process by requiring a single reporting period (24 hours) for all of the non-fatal events that employers are required to report. Section 1904.39(a)(2)) of this rule requires employers to report amputations and losses of an eye to OSHA within 24 hours.

Other Issues Raised by Commenters

OSHA received multiple comments that the Agency does not have enough resources to be able to collect, track, and use the additional data from the new reporting requirements for in-patient hospitalizations of one or two employees, amputations, and losses of an eye. For example, Rexnord Industries commented that ''[t]here are concerns with the ongoing budget debates and whether or not OSHA will be able to give the appropriate attention that is needed to the new information to drive the needed results'' (Ex. 28). The Tree Care Industry Association commented that ''we do not understand how OSHA would handle the additional workload . . . How would OSHA handle the call volume when it increases from 4,600 to 210,000 calls per year?'' (Ex. 37). The National Safety Council commented that ''[s]ome members have also expressed concerns regarding OSHA staffing constraints and the ability of the agency to process and utilize the increased number of submissions to the agency . . .'' (Ex. 58). Gruber Hurst Johansen Hail Shank commented that ''[t]he proposed rule would require OSHA to spend 52,682.25 hours to simply receive and record the reports . . . This does not factor in the countless hours that would also be added by the increased amount of inspections OSHA would presumably initiate under the proposed rule'' (Ex. 60).

Mercer ORC HSE Networks commented that they have ''serious reservations about whether OSHA has the capacity or resources to evaluate and utilize the new collected data on an ongoing basis in a way that would significantly improve the targeting of its resources or, at the end of the day, would result in improved worker safety and health'' (Ex. 68). The American Chemistry Council commented that ''OSHA has not demonstrated . . . how the Administration will utilize these new data with its finite resources to target unsafe workplaces'' (Ex. 76). Verizon commented on its concern ''that the simple number of notifications will overwhelm OSHA's resources . . .'' (Ex. 78). The National Grain and Feed Association commented that ''this will not be a prudent use of OSHA's existing resources since it will add another time-consuming task to OSHA staff and prevent them from dealing with the Agency's three core functions that include: 1) programmed inspections; 2) investigation of fatalities; and 3) responding to employee complaints'' (Ex. 96); the Shipbuilders Council of America and the Corn Refiners Association made similar comments (Exs. 104, 109).

The NAHB commented that it ''does not seem feasible for OSHA staff to investigate each and every in-patient hospitalization given the Agency's limited resources'' (Ex. 113). The ARTBA commented that they ''question whether OSHA is prepared to receive the additional information stream that will be generated from the proposed changes'' (Ex. 114). The U.S. Chamber of Commerce commented that ''there is every reason to believe that the significantly increased level of reporting [the expansion of the hospitalization reporting requirement] will generate will overwhelm OSHA's limited resources . . .'' (Ex. 120).

OSHA agrees that it would overwhelm the resources of Federal OSHA and the State Plan programs if the Agency conducted an inspection of every workplace reporting a serious

occupational event under this rule. However, OSHA does not intend to do this. Rather, OSHA will conduct report-related inspections only at workplaces where reports indicate that an Agency inspection to remediate hazards may be warranted. OSHA will conduct other interventions at workplaces where reports indicate that an Agency inspection to remediate hazards is not warranted. In either case, the overall objective is for the reports to trigger activities that lead to hazard abatement. OSHA will develop internal guidance for determining whether to inspect or to conduct a different kind of intervention after receiving a report of an in-patient hospitalization of one or two workers, an amputation, or a loss of an eye. In either case, OSHA follow-up with the employer is essential. Follow-up may be done via email, phone, or fax, with regular reminders and deadlines. These interventions will require OSHA to reallocate some of its inspection resources. However, OSHA believes that ensuring the abatement of hazards that resulted in serious injury or illness justifies these changes.

This approach is similar to OSHA's current approach for investigating fatalities and hospitalizations of three or more employees, as well as OSHA's approach for targeting inspections to the highest-hazard workplaces. At present, OSHA does not inspect each workplace with a report, per Section 1904.39 of the current regulation, of a fatality or the hospitalization of three or more employees. Rather, OSHA uses the information in the initial report to decide whether or not the Agency should investigate the event. OSHA will continue to use this approach under this final rule.

Similarly, OSHA does not currently try to inspect all 7.5 million establishments in the country. Rather, OSHA has a priority system designed to allocate available OSHA inspection resources as effectively as possible to ensure that the maximum feasible protection is provided to working men and women. Case reports of sentinel safety and health events, such as fatalities and hospitalizations, support OSHA's application of this priority system and will continue to do so under this final rule.

Further, OSHA notes that six states, accounting for over 1.3 million establishments (18% of the national total) and 19.4 million paid employees (17% of the national total), already require employers to report in-patient hospitalizations of fewer than three employees, evidently without overwhelming the resources of their programs or compromising their abilities to conduct targeted inspections, respond to worker complaints, and investigate fatalities. Indeed, one of these states, Kentucky, specifically commented that ''[t]he Kentucky OSH program believes its requirements support the prevention of additional injuries or illnesses, effectively direct OSH program resources, and reduce the state's occupational injury and illness rates'' (Ex. 52). In addition, Kentucky also commented that ''[i]t is important to note that neither OSHA's present reporting requirements or proposed rule, nor Kentucky's state specific reporting requirements, compel OSHA or Kentucky to investigate every reported hospitalization or amputation . . . Not all hospitalizations or amputations reported to [Kentucky's] Division of Compliance are investigated'' (Ex. 52).

OSHA also received multiple comments about the Preliminary Economic Analysis (PEA).

The SBA–OA commented that OSHA should ''consider whether its wage rate assumption is valid for many small businesses.'' The PEA uses the assumption that reporting will be performed by a human resources specialist with a compensation cost of $40.04 per hour, but ''many small businesses do not employ such personnel and it is often the small business owner or other senior person who conducts these activities'' (Ex. 94).

The Pacific Maritime Association commented that ''private sector workers . . . already work 40-hour weeks . . . [Unless] OSHA intends on removing another set of duties imposed by regulations to free time and make it available to perform these new recordkeeping tasks[, w]hen imposing new regulations, OSHA should always estimate that the work performed will have to be completed at the overtime rate of pay (of time and a half)'' (Ex. 100).

OSHA's response to these comments is in Section V of this supplementary information.

OSHA received multiple comments about the PEA's estimate of the time required to report single in-patient hospitalizations and amputations. Dow Chemical Company commented that the 15 minutes ''may perhaps account for the time spent on the telephone, but it does not include all the people who need to participate in, or be notified of, the incident and the upcoming notification to OSHA'' (Ex. 64). The ATA commented that ''[t]he [time] multiplier should, according to our members, be 0.5 [hours] instead of 0.25, to accurately reflect current time spent on this task'' (Ex. 65); Fed Ex made a similar comment (Ex. 67). Mercer ORC HSE Networks commented that ''OSHA focuses strictly on the amount of time it takes an individual to 'pick up a phone' and make the report to OSHA. This is an unduly narrow view of the impact of the proposal on employers'' (Ex. 68). NUCA commented that ''OSHA has significantly underestimated the economic impact of obtaining injury information on a construction site which does not necessarily have an office. First, field personnel must stop what they are doing to collect information, which must then be transmitted to the company office where it must be reviewed and recorded. Along with the proposed additional requirements to report to OSHA, which could require hours of investigation to prepare for, the total time would easily exceed a mere 15 minutes'' (Ex. 110).

In addition, OSHA received several comments that the PEA's time assumption did not include the time required to adjust data systems to the new reporting requirements. For example, the American Trucking Association commented that ''[t]aking into consideration the sophisticated internal systems that larger motor carries may use to report inpatient hospitalization and amputations . . . ATA estimates—again, based on member experience—that an additional 150–175 hours may be required per employer, something that is not reflected in the Agency cost estimate'' (Ex. 65). Fed Ex made a similar comment (Ex. 67).

Finally, OSHA received several comments that the PEA's time assumption did not include employer responses to the inspections that might follow the reports. For example, the Tree Care Industry Association commented that ''OSHA claims that the additional data-gathering would be restricted to phone interviews, with a relatively minor additional reporting burden estimated to be an average of 15 minutes per reported incident. However, with the proposed rule in place there would be nothing to prevent the Agency from performing on-site investigations of reported accidents . . . Obviously to superimpose an OSHA on-site investigation on to the post-accident investigations that companies already perform as part of their safety procedure creates a significant additional burden for employers'' (Ex. 37); the Dow Chemical Company and Fed Ex made similar comments (Exs. 64, 67).

OSHA's responses to these comments are in Section V of this supplementary information.

The HDMA commented that OSHA should ''make allowance for outstanding

circumstances—for instance, the proposed rule does not provide any information on what allowances can be made for a disaster type of situation where other issues arise that need to be addressed that would impede the employer's ability to report to OSHA, due to natural disasters such as snow storms, hurricanes, tornadoes, flooding, etc. or manmade such as electrical failures, fires, etc. that the employer must immediately focus on the disaster and its implications for public safety reasons'' (Ex. 55).

The Agency notes that previous OSHA rulemakings on reporting of fatalities and in-patient hospitalizations have not explicitly made allowance for emergencies and disasters, but that OSHA has nonetheless taken such circumstances into account when they occurred. OSHA will continue to do so under the final rule.

The NAHB commented that ''OSHA's proposal is not consistent with Executive Order 13563, 'Improving Regulation and Regulatory Review,' '' because ''[n]othing in OSHA's proposal indicates how the rule is intended to streamline regulatory requirements and reduced burdens on industry'' and because the Agency ''should consider the impacts of this proposal on small businesses and consider conducting additional outreach before moving forward'' (Ex. 113). The SBA–OA (Ex. 94), RILA (Ex. 102), and the ARTBA (Ex. 114) made similar comments.

Executive Order 13563 requires regulatory agencies to consider the effect of new regulations on economic growth, competitiveness, and job creation. OSHA notes that, as discussed below in Section V–E, Economic Impacts, the compliance costs for each affected firm are too small to have any significant economic impacts, including impacts on economic growth, competitiveness, and job creation. Additionally, the final rule includes a new option for employers to report fatalities and other reportable events through OSHA's public Web site, which should make it easier for employers to fulfill their reporting obligations. Also, under the final rule, the time for reporting all non-fatality reportable events (i.e., in-patient hospitalizations, amputations, and losses of an eye) to OSHA is 24 hours. For in-patient hospitalizations, this is a change from the proposed rule, and it should reduce the reporting burden on small employers. Therefore, the Agency believes the reporting requirements in this rulemaking are consistent with Executive Order 13563.

Mercer ORC HSE Networks commented that they ''believe that [the proposed rule] is emblematic of a larger problem; that the national system for collecting and compiling data on occupational injuries and illnesses is really a hodge-podge of disparate data requirements developed by different Agencies to meet their own particular needs . . . Consequently . . . we have no real handle on the occurrence (or prevalence) of occupational illness in the United States, and many even question the accuracy of the data we use to track injuries and acute health conditions . . . The last study of the national injury and illness data system was conducted over two decades ago by the National Academy of Sciences. Although all of the findings were not implemented, the 1987 report, *Counting Injuries and Illnesses in the Workplace,* served as the basis for a major overhaul of the BLS safety and health statistical programs. Mercer ORC Networks believes that we are overdue for another systems-wide review . . . The initial cost for such a review might seem high given the current budget climate. However, we are convinced that the investment would be 'drop in the bucket' compared to the potential savings in program efficiencies and improvements in prevention effectiveness'' (Ex. 68).

OSHA agrees with Mercer ORC's assessment that improvement can and should be made to the current occupational injury and illness collecting and reporting system. OSHA believes this rulemaking addresses some of the system shortfalls by expanding the data that are collected (e.g., in-patient hospitalizations, amputations, and losses of an eye) and by readjusting the scope of the regulation to cover industries that will benefit from the availability and use of the injury and illness information captured on the recordkeeping forms. In addition to this rulemaking, the Agency has taken other steps to address system shortfalls including increased enforcement and outreach activities. BLS and NIOSH have also taken positive steps to identify and address gaps in collecting and reporting on occupational injury and illness data. Finally, as stated above, OSHA is planning a new re-examination of the Agency's recordkeeping regulations. Improvement of the system is an ongoing effort, and OSHA will consider Mercer ORC's recommendation.

D. The Final Rule

The final rule is similar to the proposed rule in requiring employers to report all work-related fatalities, in-patient hospitalizations, and amputations. However, there are also several differences from the proposed rule. The differences include the time periods for reporting the event, the time periods between the work-related incident and the reportable event, definitions, and reporting options. In addition, the final rule adds work-related losses of an eye to the list of events that employers are required to report to OSHA.

Under the final rule, employers must report the following events:

1. Each fatality resulting from a work-related incident, within 8 hours of the death. This requirement applies to all fatalities occurring within 30 days of a work-related incident. See § 1904.39(a)(1) and (b)(6). This is the same as the current regulation and the proposed rule.

2. Each in-patient hospitalization resulting from a work-related incident, within 24 hours of the hospitalization. This requirement applies to all in-patient hospitalizations occurring within 24 hours of a work-related incident. See § 1904.39(a)(2) and (b)(6). Under the proposed rule, employers would have been required to report all in-patient hospitalizations within 8 hours, for hospitalizations occurring within 30 days of a work-related incident. Under the current regulation, employers are required to report, within 8 hours, in-patient hospitalizations of three or more employees, for hospitalizations occurring within 30 days of a work-related incident.

3. Each amputation resulting from a work-related incident, within 24 hours of the amputation. This requirement applies to all amputations occurring within 24 hours of a work-related incident. See § 1904.39(a)(2) and (b)(6). Under the proposed rule, employers would have been required to report all amputations within 24 hours, for amputations occurring within 30 days of a work-related incident. Under the current regulation, employers are not required to report amputations.

4. Each loss of an eye resulting from a work-related incident, within 24 hours of the loss of an eye. This requirement applies to all losses of an eye occurring within 24 hours of a work-related incident. See § 1904.39(a)(2) and (b)(6). The proposed rule would not have required employers to report losses of an eye, and the current regulation also does not require them to do so.

Other major differences between the final rule and the proposed rule include the following:

1. In the final rule, the regulatory text provides an explicit definition of in-patient hospitalization (see § 1904.39(b)(9) and (b)(10)). In the proposed rule, the regulatory text did

not include a definition. The final rule defines in-patient hospitalization as a formal admission to the in-patient service of a hospital or clinic for care or treatment. Employers do not have to report in-patient hospitalizations that involve only observation and/or diagnostic testing.

2. In the final rule, the definition of amputations comes from the 2010 release (OIICS Version 2.0) of the BLS OIICS Manual (see § 1904.39(b)(11)). In the proposed rule, the definition of amputations came from the 2007 release of the BLS OIICS Manual. The final rule defines amputations as the traumatic loss of a limb or other external body part. Amputations include a part, such as a limb or appendage, that has been severed, cut off, amputated (either completely or partially); fingertip amputations with or without bone loss; medical amputations resulting from irreparable damage; amputations of body parts that have since been reattached. Amputations do not include avulsions, enucleations, deglovings, scalpings, severed ears, or broken or chipped teeth.

3. In the final rule, employers have three options for reporting the fatality, in-patient hospitalization, amputation, or loss of an eye (see § 1904.39(a)(3) and (b)(1)): (1) by telephone or in person to the OSHA Area Office that is nearest to the site of the incident; (2) by telephone to the OSHA toll-free central telephone number, 1–800–321–OSHA (1–800–321–6742); (3) by electronic submission using the fatality/injury/illness reporting application located on OSHA's public Web site at *www.osha.gov.* Under both the proposed rule and the current regulation, only the first two options were available. The electronic submission option is new for the final rule.

4. In the final rule, if employers do not learn about a reportable fatality, in-patient hospitalization, amputation, or loss of an eye when the event happens, they must report to OSHA within a specified time period after the event has been reported to the employer or to any of the employer's agent(s) (see § 1904.39(b)(7)). Under both the proposed rule and the current regulation, the specified time period began after a report to the employer or to any of the employer's agent(s) or employee(s).

Overall, the final rule will provide OSHA with more information about serious workplace injuries and illnesses. This information will allow OSHA to carry out timely investigations of these events as appropriate, leading to the mitigation of related hazards and the prevention of further events at the workplaces where the events occurred. This information will also help OSHA establish a comprehensive database that the Agency, researchers, and the public can use to identify hazards related to reportable events and to identify industries and processes where these hazards are prevalent. Finally, this information will be obtained cost-effectively, with a relatively minimal estimated average burden on employers of 30 minutes per reported incident.

In addition, the final rule will make OSHA's reporting requirements more similar to the requirements of other agencies. For example, the National Transportation Safety Board (NTSB) requires aircraft pilots or operators to report aviation accidents involving death, serious injury, or substantial damage to an aircraft, as well as non-accidents that affect or could affect the safety of operations. The Federal Railroad Administration (FRA) requires railroads to complete reports and records of accidents and incidents. These accidents and incidents include significant injuries to or significant illnesses of railroad employees diagnosed by a physician or other licensed health care professional. They also include collisions, derailments, fires, explosions, acts of God, or other events involving the operation of railroad on-track equipment and causing reportable damages greater than the reporting threshold for the year ($9,200 in 2010).

Finally, the changes will make OSHA's reporting requirements more similar to the current requirements in some states that administer their own occupational safety and health program, as follows:

- Alaska requires employers to report, within 8 hours, occupational accidents that result in the death or overnight hospitalization of one or more employees (AS 18.60.058). This requirement has been in effect since 1976.
- California requires employers to ''report immediately by telephone or telegraph to the nearest District Office of the Division of Occupational Safety and Health any serious injury or illness, or death, of an employee occurring in a place of employment or in connection with any employment.'' ''Immediately'' means ''as soon as practically possible but not longer than 8 hours after the employer knows or with diligent inquiry would have known of the death or serious injury or illness'' (Title 8, California Code of Regulations, Section 342(a)). ''Serious injury or illness'' means ''any injury or illness occurring in a place of employment or in connection with any employment which requires inpatient hospitalization for a period in excess of 24 hours for other than medical observation or in which an employee suffers a loss of any member of the body or suffers any serious degree of permanent disfigurement'' (Title 8, California Code of Regulations, Section 330(h)). This requirement has been in effect since 1979.
- Kentucky requires employers to report workplace fatalities, amputations, and hospitalizations. Employers must report fatalities and hospitalizations of three or more employees within 8 hours, and amputations and hospitalizations of one or two employees within 72 hours (803 KAR 2:180). This requirement has been in effect since 2006.
- Oregon requires employers to report work-related incidents that cause overnight hospitalizations, catastrophes, or fatalities, including heart attacks and motor vehicle accidents. Employers must report fatalities and catastrophes (three or more employees admitted to a hospital) within 8 hours of the incident, and overnight hospitalization of at least one employee for medical treatment within 24 hours of the incident (OAR–437–001–0700). The single-hospitalization requirement has been in effect since 1992.
- Utah requires employers to report, within 8 hours of occurrence, work-related fatalities, disabling, serious, or significant injuries, and occupational disease incidents (Utah Occupational Safety and Health Rule, R614–1–5.C). This requirement has been in effect since 2002.
- Washington requires employers to report, within 8 hours, the death, or probable death, of any employee, or the in-patient hospitalization of any employee (WAC 296–800–32005). This requirement has been in effect since 2009.

Note that, under the final rule, as under the proposed rule and the current regulation, employers are not required to report events resulting from motor vehicle accidents that occurred on a public street or highway, but not in a construction work zone (see Section 1904.39(b)(3)). Employers are required to report events resulting from motor vehicle accidents that occurred anywhere else, including in a construction work zone on a public street or highway, or on other roadways, or off-road.

A summary comparison of the proposed rule and the final rule is below:

	Proposed rule	Final rule
Fatalities	Employers required to report each fatality within 8 hours of the death, for all fatalities occurring within 30 days of the work-related incident.	Employers required to report each fatality within 8 hours of the death, for all fatalities occurring within 30 days of the incident.
Hospitalizations	Employers required to report each in-patient hospitalization within 8 hours of the hospitalization, for all hospitalizations occurring within 30 days of the work-related incident.	Employers required to report each in-patient hospitalization within 24 hours of the hospitalization, for all hospitalizations occurring within 24 hours of the work-related incident.
	No definition of in-patient hospitalization	In-patient hospitalization defined as a formal admission to the in-patient service of a hospital or clinic for care or treatment.
Amputations	Employers required to report each amputation within 24 hours of the amputation, for all amputations occurring within 30 days of the work-related incident.	Employers required to report each amputation within 24 hours of the amputation, for all amputations occurring within 24 hours of the work-related incident.
	Definition comes from BLS OIICS Manual 2007	Definition comes from BLS OIICS Manual 2010.
Losses of an eye	No requirement	Employers required to report each loss of an eye within 24 hours of the loss of an eye, for all losses of an eye occurring within 24 hours of the work-related incident.
Reporting options	Two options: by telephone or in person to OSHA Area Office; or by telephone to 1–800–321–OSHA.	Three options: by telephone or in person to OSHA Area Office; or by telephone to 1–800–321–OSHA; or by electronic submission on OSHA.gov.
Knowledge of event	Employer required to report if event (fatality, in-patient hospitalization, amputation) is reported to employer, employer's agent(s), or employee(s).	Employer required to report if event (fatality, in-patient hospitalization, amputation, loss of an eye) is reported to employer or employer's agent(s).

V. Final Economic Analysis and Regulatory Flexibility Analysis

A. Introduction

OMB has determined that this rule is a ''significant regulatory action'' within the context of Executive Order (E.O.) 12866. This rulemaking has net annualized costs of $9 million, with total annualized new costs of $20.6 million to employers, total annualized cost savings of $11.5 million for employers who no longer have to meet certain recordkeeping requirements, and average annualized costs of $82 per year for the most-affected firms (those newly required to keep records every year). Thus, this rulemaking imposes far less than $100 million in annual costs on the economy, and does not meet the other criteria specified for an unfunded mandate under the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 1532(a) or a ''major rule'' under the Congressional Review Act (5 U.S.C. 801 *et seq.*). Consequently, OMB has determined that this rule is not ''economically significant'' within the meaning of Section 3(f)(1) of E.O. 12866.

This Final Economic Analysis (FEA) addresses the costs, benefits, economic impacts, and feasibility of the final rule as required by the OSH Act as interpreted by the courts. This FEA is also designed to meet the principles of E.O. 12866 and E.O. 13563. The final rule would make two changes to the existing recording and reporting requirements in 29 CFR part 1904. It would change the industries that are partially exempted from keeping records of occupationally-related injuries and illnesses, and it would change the requirements for reporting certain work-related injury and illness events. The affected establishments are only partially exempt from keeping these records because, while they are exempt from routine OSHA injury and illness recordkeeping requirements, the Bureau of Labor Statistics (BLS) may require any establishment to respond to its Survey of Occupational Injuries and Illnesses (SOII), and OSHA may require any establishment to respond to its annual injury and illness survey. The costs to those firms required to respond to the SOII are covered in the BLS's information collection request for the survey; costs to other establishments that OSHA may require to respond to its annual injury and illness survey are subject to future OSHA information collection requests and their approval by the OMB's Office of Information and Regulatory Affairs (OIRA).

The existing OSHA regulation partially exempts all employers with 10 or fewer employees and all establishments in specific lower-hazard industry sectors from routinely keeping OSHA records. The existing industry partial exemptions were determined by identifying industries with relatively low lost workday injury/illness (LWDII) rates at the 3-digit Standard Industrial Classification (SIC) code level. This final rule would retain the partial exemption for employers with 10 or fewer employees. It also would update the list of partially-exempted industries to reflect more recent data on days away from work, job restriction, or job transfer (DART) rates and would convert the industry classifications to the North American Industry Classification System (NAICS). These changes would lead to new costs for employers who would be newly required to keep records, but there would also be cost savings for employers who would no longer be required to keep records.

The existing regulation requires employers to report all work-related fatalities and work-related incidents involving three or more hospitalizations to OSHA within eight hours. The final rule would require employers to report any work-related fatality to OSHA within 8 hours and any in-patient hospitalization, amputation, or loss of an eye occurring within 24 hours of a work-related incident to OSHA within 24 hours. The final rule would thus increase the number of events that employers must report to OSHA.

The remaining sections of this FEA are: (B) the Industrial Profile; (C) Costs of the Final Regulation; (D) Benefits; (E) Technological Feasibility; (F) Economic Feasibility and Impacts; (G) Regulatory Flexibility Certification; and (H) Appendix.

OSHA received a variety of comments in response to the Preliminary Economic Analysis (PEA). The Agency responds to these comments in detail in the relevant sections; this introduction summarizes the nature of the comments. The SBA Office of Advocacy recommended that OSHA carefully consider any small business comments it receives (Ex. 94). OSHA notes that it has carefully considered all comments. While many commenters expressed views on OSHA's approach to deciding what industries would be partially exempted, none objected to OSHA's methodology for estimating the number

of establishments, firms, employees, and injuries or illnesses that would be partially exempted. There were some comments that provide alternative approaches to estimating various elements of the number of in-patient hospitalizations, amputations, and losses of an eye. These are fully discussed in the industrial profile section.

OSHA received many comments on the Agency's estimated compliance costs. OSHA increased some cost estimates in response to these comments, and responds to these comments in the cost section. However, no commenters suggested that the change in reporting requirements would be economically infeasible. Although one commenter suggested that this rule would be ''much more than a minor burden to industry'' (Ex. 63), no one suggested that it would impose a significant economic impact on a substantial number of small entities. However, some commenters also said that OSHA would have found it useful to conduct a Small Business Advocacy Review Panel (Exs. 115, 120) pursuant to the Small Business Regulatory Enforcement Fairness Act (SBREFA) (5 U.S.C. 609). This issue is discussed further in Section V–F Regulatory Flexibility Certification.

One commenter, the National Association of Home Builders (Ex. 113), questioned whether OSHA was complying with E.O. 13563, which requires that regulatory agencies take into consideration the effect of new regulations on economic growth, competitiveness, and job creation. OSHA notes that, as discussed below in Section V–E, Economic Impacts, the compliance costs for each affected firm are too small to have any significant economic impacts, including impacts on economic growth, competitiveness, and job creation. The NAHB (Ex. 113) commented that ''OSHA's proposal is not consistent with Executive Order 13563, 'Improving Regulation and Regulatory Review' '', because ''[n]othing in OSHA's proposal indicates how the rule is intended to streamline regulatory requirements and reduced burdens on industry.'' E.O. 13563 does not require that all proposals indicate how the rule is intended to streamline regulatory requirements and reduce burdens on industry. This portion of the E.O. applies only to those proposals that result from analyses chosen for the purpose of retrospective review.

ARTBA argued that OSHA had failed to adequately consider small business burdens as required by E.O. 13563. This issue is further discussed in Section V–F, which discusses OSHA's analysis of small business burdens.

Some commenters questioned whether OSHA had adequately demonstrated the benefits of this regulation. OSHA provides additional discussion of the potential benefits of this rule in its revised benefits discussion.

There were no comments on the discussion of environmental impacts.

B. Industrial Profile

The purposes of this section are to provide information about the industries that would be affected by the recordkeeping provisions of the final rule, including the number of affected establishments and the structure of employment within these industries, as well as to provide estimates of the numbers of additional in-patient hospitalizations, amputations, and losses of an eye that will be reported annually under the reporting provisions of the final rule. Because current regulations already require the reporting of work-related fatalities, OSHA has not estimated the number of reportable fatalities for this FEA.

Partial Exemption

OSHA identified all of the affected establishments in industries that would be newly required to keep records and all of the affected establishments in industries that would be newly partially exempt from keeping records. This identification was complicated by the fact that the current regulation classifies employers by SIC codes, a classification system dating back to the 1930s that is no longer used in government statistics. There is not a simple one-to-one translation for industry classification codes between SIC and its replacement, NAICS. Some SIC industries were divided among several NAICS industries, while other SIC industries were combined to form a single NAICS industry. As a result, OSHA had to determine how employers previously classified by 1987 SIC code would now be classified using the 2007 NAICS codes.

OSHA's decision to convert the listing of partially-exempt employers from SIC codes to NAICS codes drew widespread support from participants in the rulemaking. Winslow Sargeant, Chief Council for the SBA Office of Advocacy, stated that he ''applauds OSHA's proposed transition from SIC to NAICS and believes this change will result in improved data for OSHA programs'' (Ex. 94). Mr. Sargeant's comments were representative of the overwhelmingly positive comments OSHA received concerning the transition from SIC to NAICS (Exs. 24, 52, 59, 69, 77, 78, 81, 85, 86, 90, 93, 99, 100, 112, 119, 120, 122, 124). Nonetheless, one commenter expressed concern that it would not be possible to compare data between the years covered by SIC and the years covered by NAICS (Ex. 29). However, data comparisons for industries are almost entirely based on SOII data, which are already collected on a NAICS basis. Whether OSHA uses SIC or NAICS codes to define exemptions will have no effect on industry time series data. OSHA's expectation is that switching to NAICS codes from the seldom-used SIC code system will decrease uncertainty in classification, save time, reduce confusion, and lower the opportunity for errors in reporting the industry an employer belongs to, a belief echoed by some commenters (Exs. 24, 59, 85). OSHA believes that the change to NAICS will improve the quality of data, since the NAICS represents a more modern system of industry classification.

In many cases, OSHA's process of converting classification systems meant that a single SIC code was divided into several NAICS codes, and conversely, a single NAICS code might contain establishments from multiple SIC codes. For maximum accuracy, this analysis was conducted at the six-digit NAICS level. The data resulting from this analysis are presented in the Appendix to this FEA.

Because there were no objections to the methodology used in the PEA for converting SIC codes to NAICS codes, OSHA has continued to use that same methodology. OSHA first examined the 1997 Economic Census: Bridge between SIC and NAICS Tables (Census Bureau, 1997). These tables show, for 1997, the percentages of the establishments in each SIC code that were transferred into each NAICS code. Next OSHA examined the 2002 Economic Census: Bridge between 2002 NAICS and 1997 NAICS Tables (Census Bureau 2002). The bridge tables likewise show, for 2002, the percentages of the establishments in 1997 NAICS codes that were transferred into 2002 NAICS codes. Affected establishments in a SIC code partially exempted under the existing rule but classified in a non-partially-exempted NAICS code under the final rule would be newly subject to the recordkeeping requirements. These establishments, not partially exempted under the final rule, would incur new recordkeeping costs.

After identifying by 6-digit NAICS code (2002) the portions of the industries that would be newly required to keep records, OSHA used 2006 data from the Census Bureau's Statistics of

U.S. Businesses (SUSB) to determine the corresponding numbers of establishments and employees (Census Bureau, 2008) in those NAICS industries. The SUSB provides not only the total number of establishments and employees in an industry, but also a breakdown of employees and establishments by the size of the firm that owns the establishment. For this FEA, OSHA is updating the PEA to incorporate the most recent 2010 SUSB data (Census Bureau, 2012). In the interest of using the best available data, OSHA uses the 2007 NAICS codes to be consistent with the Office of Management and Budget's (OMB) North American Industry Classification System—Revision for 2007 (OMB, 2006).

The National Association of Real Estate Investment Trusts (Ex. 41) recommended that OSHA update their analysis from the 2002 to the 2007 NAICS code system, which the Agency has done for this FEA. As a result of the 2007 NAICS revision, there has been a significant change to NAICS 525930, Real Estate Investment Trusts. The 2007 NAICS update split NAICS 525930 into five different industries: 531110, Lessors of Residential Buildings and Dwellings; 531120, Lessors of Nonresidential Buildings (except Miniwarehouses); 531130, Lessors of Miniwarehouses and Self-Storage Units; 531190, Lessors of Other Real Estate Property; and 525990, Other Financial Vehicles. In the 2001 OSHA rulemaking, Real Estate Investment Trusts were partially exempted from keeping records by virtue of being classified under SIC 67, Holding and Other Investment Offices. However, as indicated in Appendix A, the final rule does not partially exempt NAICS 5311 Lessors of Real Estate, and therefore NAICS industries 531110, 531120, 531130 and 531190 will be newly required to keep injury and illness records. NAICS 525990 Other Financial Vehicles continues to be partially exempt from recordkeeping requirements under the final rule.

The 2007 NAICS revision also reclassified a few industries. To assign these industries to the correct NAICS category, OSHA used the 2002 NAICS to 2007 NAICS Concordance (Census Bureau, 2007). NAICS 517211, Paging, and NAICS 517212, Cellular and Other Wireless Telecommunications—both of which were required to keep records under the 2001 rulemaking but were classified as newly partially exempt from keeping records under the proposed rule—were merged into NAICS 517210, Wireless telecommunications carriers (except satellite), and will continue to be newly partially exempt from keeping records under the final rule. NAICS 518112, Web Search Portals, has become NAICS 519130, Internet Publishing and Broadcasting and Web Search Portals. NAICS 518112 was required to keep records under the 2001 rulemaking, was newly partially exempt from keeping records under the proposed rule, and (as NAICS 519130) will continue to be newly partially exempt from keeping records under the final rule.

Satellite telecommunications was classified as NAICS 517310 in the 2002 NAICS but was classified as NAICS 517911 in the 2007 NAICS. Other Telecommunications was classified as NAICS 517910 in the 2002 NAICS but as NAICS 517919 in the 2007 NAICS. NAICS 517310 and NAICS 517910 were both required to keep records under the 2001 rulemaking; were newly partially exempt from keeping records in the proposed rule, and will continue to be newly partially exempt from keeping records in the final rule.

SUSB data report establishments by employment size classification, with one class being all employers with 10 to 19 employees. However, the current regulation, proposed rule, and final rules cover employers with 11 or more employees. To deduct employers with exactly 10 employees, OSHA estimated that such employers represent one tenth of all employers with 10 to 19 employees. This approach probably overestimates the number of covered firms because there are more firms in the lower end of a given size category.

OSHA then estimated the number of newly-affected establishments and employees in each industry by multiplying the total number of establishments and employees in the industry by the percentage of affected establishments that were identified using the SIC—NAICS bridge tables described above. Then, the Agency calculated the number of newly-recordable injuries and illnesses for 2010 by dividing the total number of injuries and illness reported per industry by the Bureau of Labor Statistics (BLS, 2011a) by total employment in the industry, and multiplying the resulting rate by the number of affected employees in the industry. OSHA used BLS data at the most detailed NAICS level for which data were available—at the six-digit NAICS level where those data were available and the lowest level data available otherwise.

Table V–1 presents data for the industries with establishments that would be newly required to keep records. The table shows the four-digit NAICS code, industry name, the number of affected establishments, the number of affected employees, and an estimate of the number of recordable injuries and illnesses, based on historical data, for newly-affected employers. Table V–1 shows that OSHA estimates that the final rule will require 220,000 establishments, employing 5.5 million employees and having 153,000 injuries and illnesses per year, that were previously partially exempted from recordkeeping requirements to now keep records.

V-1: Industries That Include Establishments that Would Be Newly Required to Keep Records					
NAICS CODE	**Title of NAICS Code**	**Affected Employment**	**Affected Establishments**	**Affected Firms**	**Estimated Injuries and Illnesses**
3118	Bakeries and tortilla manufacturing	38,085	1,786	1,627	499
4411	Automobile dealers	968,624	20,417	16,234	34,602
4413	Automotive parts, accessories, and tire stores	4,984	428	64	157
4441	Building material and supplies dealers	101,704	7,832	3,370	4,568
4452	Specialty food stores	74,224	6,341	2,770	2,386
4453	Beer, wine, and liquor stores	68,837	6,311	2,772	4,072
4539	Other miscellaneous store retailers	146,772	11,052	3,533	4,999
4543	Direct selling establishments	1,461	73	42	26
5311	Lessors of real estate	314,661	29,846	8,545	10,377
5313	Activities related to real estate	479,729	24,668	9,967	11,560
5322	Consumer goods rental	78,311	9,130	579	2,440
5324	Commercial and industrial machinery and equipment rental and leasing	11,948	791	244	211
5419	Other professional, scientific, and technical services	226,964	10,493	3,130	7,476
5612	Facilities support services	229,546	4,351	909	3,859
5617	Services to buildings and dwellings	909	41	32	35
5619	Other support services	221,084	5,612	3,658	2,696
6219	Other ambulatory health care services	123,128	2,785	968	3,633
6241	Individual and family services	1,248,462	33,314	17,895	30,806
6242	Community food and housing, and emergency and other relief services	154,660	7,994	4,714	2,528
7111	Performing arts companies	101,300	1,793	1,673	3,536
7113	Promoters of performing arts, sports, and similar events	112,719	1,379	1,076	1,241
7121	Museums, historical sites, and similar institutions	76,660	1,661	1,415	2,314
7139	Other amusement and recreation industries	68,225	2,592	1,972	748
7223	Special food services	599,466	28,104	3,880	17,515
8129	Other personal services	27,651	1,056	801	439
	Total:	5,480,115	219,848	91,870	152,721
	Sources: OSHA, Office of Regulatory Analysis using Census Bureau and Bureau of Labor Statistics data:				
1	SOURCE: 2011 Census Bureau: http://www2.census.gov/econ/susb/data/2010/us_6digitnaics_2010.xls				
2	SOURCE: 2011 Bureau of Labor Statistics, U.S. Department of Labor, Survey of Occupational Injuries and Illnesses, in cooperation with participating State agencies. . http://www.bls.gov/iif/oshwc/osh/os/ostb2427.pdf				

Having used the bridge tables and other data sources described above to identify the segment of the NAICS industries that would be newly required to keep records, OSHA used a similar methodology to determine the number of affected employees and recordable injuries and illnesses for establishments that would no longer be required to regularly keep records. Table V–2 shows, for each affected industry that would no longer be required to keep records, the four-digit NAICS code, industry name, number of affected establishments, number of affected employees, and estimated number of injuries and illnesses that would no longer be recorded. OSHA estimates that as a result of the revision to the list of partially-exempt industries, 160,000 establishments, with 4.1 million employees and an estimated 56,000 injuries and illnesses per year, would no longer need to keep records routinely.

Based on the ICR estimates (OSHA, 2011), OSHA currently requires 1,563,000 establishments to record injuries and illnesses. This total represents approximately 54 percent of all establishments with more than ten employees and 22 percent of all establishments. The change from SIC to NAICS would increase the number of establishments required to record injuries and illnesses to 1,592,000, a four percent increase in the number of establishments recording, and an increase from 54 to 56 percent of all establishments with more than 10 employees.

V-2: Industries That Include Establishments that Would Be Newly Partially Exempt From Keeping Records					
NAICS CODE	NAICS Industry Description	Affected Employment	Affected Establishments	Affected Firms	Estimated Injuries and Illnesses
4412	Other Motor Vehicle Dealers	86,845	4,749	3,346	2,915
4431	Electronics and Appliance Stores	61,119	4,107	1,375	917
4461	Health and Personal Care Stores	16,226	1,725	456	191
4471	Gasoline Stations	534,740	51,637	10,805	12,216
4511	Sporting Goods, Hobby, and Musical Instrument Stores	1,008	51	13	14
4532	Office Supplies, Stationery, and Gift Stores	81,238	4,189	612	2,072
4812	Nonscheduled Air Transportation	28,914	698	533	872
4861	Pipeline Transportation of Crude Oil	7,747	407	41	199
4862	Pipeline Transportation of Natural Gas	29,497	1,835	71	696
4869	Other Pipeline Transportation	9,689	823	47	208
4879	Scenic and Sightseeing Transportation, Other	1,760	54	45	50
4885	Freight Transportation Arrangement	183,189	9,050	3,085	2,864
5111	Newspaper, Periodical, Book, and Directory Publishers	504,159	9,856	4,147	7,329
5122	Sound Recording Industries	14,891	458	210	191
5151	Radio and Television Broadcasting	211,333	6,590	1,864	4,059
5172	Wireless Telecommunications Carriers (except Satellite)	251,048	10,192	304	1,291
5179	Other Telecommunications	43,657	1,268	860	1,613
5191	Other Information Services	90,605	1,840	897	235
5221	Depository Credit Intermediation	61,486	4,242	318	450
5239	Other Financial Investment Activities	12,005	139	79	30
5241	Insurance Carriers	6,664	138	39	51
5259	Other Investment Pools and Funds	9,465	39	27	141
5413	Architectural, Engineering, and Related Services	17,073	785	621	140
5416	Management, Scientific, and Technical Consulting Services	41,411	1,270	426	228
5418	Advertising and Related Services	55,145	1,252	670	563
5511	Management of Companies and Enterprises	1,005,423	15,679	7,671	8,766
5614	Business Support Services	164,877	2,750	1,973	1,214
5615	Travel Arrangement and Reservation Services	148,136	6,438	1,677	1,193
5616	Investigation and Security Services	5,397	357	290	99
6116	Other Schools and Instruction	53,575	2,528	2,167	266
7213	Rooming and Boarding Houses	6,107	366	249	55
8112	Electronic and Precision Equipment Repair and Maintenance	60,860	2,186	1,106	1,802
8114	Personal and Household Goods Repair and Maintenance	25,832	1,442	776	515
8122	Death Care Services	23,768	1,854	564	355
8134	Civic and Social Organizations	87,795	3,544	2,630	702
8139	Business, Professional, Labor, Political, and Similar Organizations	129,924	5,101	4,252	1,039
	Totals:	**4,072,606**	**159,638**	**54,245**	**55,539**
	Sources: OSHA, Office of Regulatory Analysis using Census Bureau and Bureau of Labor Statistics data:				
1	SOURCE: 2011 Census Bureau: http://www2.census.gov/econ/susb/data/2010/us_6digitnaics_2010.xls				
2	SOURCE: 2011 Bureau of Labor Statistics, U.S. Department of Labor, Survey of Occupational Injuries and Illnesses, in cooperation with participating State agencies. . http://www.bls.gov/iif/oshwc/osh/os/ostb2427.pdf				

Reporting of Fatalities, In-Patient Hospitalizations, Amputations, and Losses of an Eye

The final rule would require that employers report all work-related fatalities, in-patient hospitalizations, amputations, and losses of an eye to OSHA. This requirement would affect all industries, all employers, and all 7.5 million establishments subject to OSHA authority. Because OSHA already requires the reporting of work-related fatalities, this economic analysis focuses on the new requirement for reporting all work-related in-patient hospitalizations, all amputations, and all losses of an eye. The current regulation requires the reporting of work-related hospitalizations of three or more workers. The number of such multiple hospitalizations represents a trivial portion of all work-related in-patient hospitalizations. For example, in Fiscal Year 2010, there were a total of 14 such reports to OSHA (OSHA, 2010). OSHA therefore estimated the total number of work-related in-patient hospitalizations without deducting the very small number of multiple hospitalizations that are already reported.

In the PEA, OSHA noted that it is difficult to estimate the number of in-patient hospitalizations that would need to be reported under the final rule. One commenter asked that OSHA collect information from emergency responders (Ex. 87). OSHA recognizes the value of emergency responder data, but such data do not normally provide the distinctions OSHA needs to determine if the injury or illness is work-related and if the case meets OSHA's definition of an in-patient hospitalization.

In the PEA, OSHA examined a number of existing estimates and approaches to making such estimates. First, OSHA noted that NIOSH estimated that in 2004, a total of 68,000 work-related emergency department (ED) visits resulted in hospitalization (CDC, 2007). In its comments on the PEA, NIOSH estimates that for 2009, approximately 81,500 patients admitted to emergency rooms with occupational injuries or illnesses were either admitted or transferred to hospitals and another 5,600 patients were held for observation (Ex. 66). This estimate (81,500) may be a high estimate of the number of hospitalizations that will be required to be reported under this rule, as it may include patients admitted only for diagnostic testing or observation, or admitted more than 24 hours after the work-related incident. On the other hand, the estimate may be too low because not all hospital admissions occur through emergency rooms.

In the PEA, OSHA noted that Dembe et al. (Dembe, et al., 2003) estimate that, based on 1997–1999 data from the Nationwide Inpatient Sample (NIS), there were 210,000 in-patient hospital admissions per year (or 630,000 over the three-year period) paid for by Workers' Compensation insurance. OSHA also noted that studies in Massachusetts (1996–2001) and Louisiana (1998–2007) came up with figures ranging from 150,000 to 275,000 workers'-compensation-related hospitalizations per year when state-level data were extrapolated to the nation as a whole. In the PEA, OSHA relied on an estimate of 210,000 hospitalizations but noted this might be an overestimate, as it included elective hospitalizations not covered by the proposed rule.

Statistics compiled by BLS indicate that 20.1 million occupational injuries and illnesses were reported in 1997–1999 in the United States (BLS, 2012). Dembe et al. recognize that there are significant differences in data collection methodologies between the NIS and BLS, and possible under-reporting or misclassification of occupational injuries and illnesses in those databases (Murphy, et al., 1996; Leigh, et al., 2000). The available statistics nevertheless allow for Dembe et al. to infer that about 3 percent of workplace injuries and illnesses result in the hospitalization of the affected worker. In the PEA, OSHA failed to note that Dembe et al. also estimate that 46.8 percent of all workers' compensation hospital admissions are classified as ''elective''; therefore the remaining 53.2 percent of all workers compensation hospital admissions would then be classified as ''non-elective''. Since the OSHA reporting requirement would only apply to ''non-elective'' admissions, OSHA estimated for the proposed rule that there would have been 107,000 [1] hospitalizations in 2001 based on Dembe and BLS data.

One commenter thought that the hospitalizations estimate derived by Dembe et al. was too low (Ex. 82). OSHA, recognizing the differences between the NIS and BLS, determined that a range of inpatient hospitalizations for non-elective procedures could be derived. Using the NIS estimate of 210,000 in-patient hospital admissions and Dembe et al.'s estimate of the percentage of non-elective workers' compensation-related hospitalizations, OSHA now estimates that there were 112,000 non-elective hospitalizations [2] for 2001. If OSHA instead applies Dembe et al.'s estimate of the percentage of workplace injuries and illnesses that result in hospitalization—3 percent—and the estimate of ''non-elective'' procedures—53.2 percent—to the 4.1 million injuries and illnesses reported by the BLS for 2009, OSHA estimates that there were roughly 66,000 [3] inpatient hospitalizations for non-elective procedures, a value that may lie near the low end of the true range.

Using Massachusetts data for FY 2008, Letitia Davis from the Massachusetts Department of Public Health commented that 39 percent of hospitalizations were for elective procedures (Ex. 84). Davis also notes that Massachusetts studied inpatient hospitalizations during 1996–2000 and, using payments by workers' compensation as an indicator of work-relatedness, identified an annual average of 4,091 work-related inpatient hospitalizations (Ex. 84). Using employment data to extrapolate the 4,091 hospitalizations in Massachusetts to the entire United States, OSHA calculates that 157,843 [4] work-related hospitalizations would occur annually nationwide. Narrowing the total to non-elective hospitalizations using Davis's alternative methodology and her estimate of the percentage of hospitalizations in Massachusetts that are non-elective (61 percent), OSHA calculates that 96,000 non-elective work-related hospitalizations occur nationwide.

In summary, a variety of methodologies were examined to estimate the number of non-elective hospitalization paid for by workers' compensation. The resulting estimates range from 66,000 (extrapolation of Dembe to 2009) to 96,000 (extrapolation from Massachusetts data) to 112,000 (Dembe estimate for 2001) non-elective, occupationally-related hospitalizations annually.

It is also possible to make an estimate of the number of single in-patient hospitalizations reported in states that currently require reporting of single in-

[1] 20.1M BLS Injuries and Illnesses between 1997–1999/3 years = 6.7M.

6.7M Injuries and Illnesses × 3% of workplace injuries and illnesses resulting in hospitalization = 0.2M.

0.2M Hospitalizations × 53.2% non-elective hospitalizations = 107,000.

[2] Dembe's estimated hospitalizations: 210,000 x 53.2% non-elective hospitalizations = 112,000.

[3] 4.1M BLS Injuries and Illnesses for 2009 × 3% of workplace injuries and illnesses resulting in hospitalization = 123,000.

123,000 Hospitalizations × 53.2% non-elective hospitalizations = 65,436.

[4] MA Employment = 2.97M; U.S. Employment = 114.51M; MA Hospitalizations = 4,091.

Ratio MA Employment to U.S. Employment = 2.97M/114.51M = 2.59%.

Inflator MA to U.S. = 1/2.59% = 38.58.

U.S. Hospitalizations extrapolated from MA Hospitalizations = 4,901 × 38.58 = 157,843.

patient hospitalizations. There are six states [5] that currently require employers to report occupationally-related single-patient hospitalizations. Employers in these states report a hospitalization to the relevant State Plan Area Office, which then completes an OSHA Form 36 based on that information. OSHA's Office of Statistical Analysis reports that during 2002–2010, a total of 38,000 such forms were completed, for an average of 4,200 forms completed annually. Assuming a consistent rate of occupationally-related single-patient hospitalizations across all fifty states, the number of forms submitted by these six states can be extrapolated to all fifty states in the U.S. This yields an estimate of 25,000 [6] annual, reportable, single-patient hospitalizations. OSHA believes that this low estimate, as compared to those developed above, may be the result of failure by employers to report hospitalizations that should have been reported. The result may be a realistic estimate of how many hospitalizations will actually be reported to OSHA, but the Agency prefers to use, for costing and economic feasibility purposes, an estimate based on what the regulation would require if employers fully complied, such as the estimates above based on non-elective hospitalizations paid for by workers' compensation.

Under the final rule, employers would not have to report hospitalizations that occur more than 24 hours after the work-related incident. Therefore, scheduled or planned hospitalizations would not normally be reportable. As discussed above, Davis (Ex. 84) estimates that 39 percent of all hospitalizations are for elective procedures, while Dembe et al. estimate that 46.8 percent of all hospitalizations are for elective procedures. Whereas Davis is only examining Massachusetts data, Dembe et al. are comparing data across 24 states. OSHA believes that Dembe's sample of 24 states is likely to be more representative of the U.S. than Davis's sample and has therefore elected to use Dembe et al.'s estimate of 46.8 percent to derive the number of work-related hospitalizations that are either scheduled or elective. OSHA has opted to use the upper end of the range of estimated work-related hospitalizations as its estimate of overall reported hospitalizations, with the result that, based on Dembe's estimate of the number of non-elective hospitalization paid for by workers' compensation in 2001, an estimated 112,000 hospitalizations per year will be reported to the Agency as a result of this final rule.

According to BLS, in 2009, there were 5,930 amputations that involved days away from work (BLS, 2010). In its preliminary estimates, OSHA assumed that all amputation and losses of an eye would result in hospitalization. The more serious amputation cases will clearly require in-patient hospitalization. Likewise, the loss of an eye usually results in a hospitalization. OSHA estimated this in the proposal, and there were no objections. OSHA continues to estimate that the loss of an eye normally involves a hospitalization. OSHA notes (but, for the basis of the analysis, does not rely on) Moshfeghi's support of this in his 2000 article: *A Review of Enucleation* (Moshfeghi, et al., 2000). However, in a comment on the proposed rule, Letitia Davis reported that, for FY 2008 in Massachusetts, only 22 percent of all amputations resulted in in-patient hospitalizations and that 4 percent of all amputations resulted in hospitalization more than 24 hours after the injury (Ex. 84). Based on Davis's results for Massachusetts, OSHA has adjusted its preliminary nationwide estimate of in-patient hospitalizations and amputations.

Amputations that result in in-patient hospitalizations (22 percent of all amputations) have been accounted for in the estimate of 112,000 total in-patient hospitalizations above, and therefore affected employers will not incur an additional reporting burden for amputations resulting in in-patient hospitalizations as a result of the requirement to report amputations. Amputations that occur more than 24 hours after the work-related incident that leads to the amputation (4 percent) will not be reportable under the final rule because they occur outside of the required time for amputations to be reported; therefore affected employers will not incur an additional reporting burden. The remaining 4,389 amputations (74 percent of 5,930 BLS-reported amputations) will require additional reporting to OSHA. For this FEA, OSHA has conservatively rounded up this figure to 5,000 amputations and has included that estimate in the total number of events that will need to be reported annually.

To summarize, OSHA estimates that a total of 112,000 single in-patient hospitalizations (including 1,300 amputations that require hospitalization, as well as all losses of an eye) and 5,000 amputations not involving hospitalization will need to be reported to OSHA annually as a result of this final rule. OSHA suspects that the resulting total of 117,000 in-patient hospitalizations and amputations is an overestimate of the actual number of events that would require reporting under the final rule. OSHA could find no evidence to indicate how many occupational injuries result in the loss of an eye in a year and received no comments from stakeholders providing estimates of the number of occupationally-related enucleation. Because the loss of an eye is likely to require hospitalization, the estimated 117,000 single in-patient hospitalizations and amputations should account for cases of losses of an eye. OSHA is confident that an estimate of 117,000 reports accounts for all reportable single in-patient hospitalizations, eye losses, and amputations.

C. Costs of the Final Regulation

Overview

This section presents OSHA's estimate of the costs and cost savings of the final rule. The time requirements for the activities associated with the final rule have been developed through previous rulemakings and information collection requests that have been subject to extensive notice and comment. For the purpose of analyzing the costs of the proposed rule, OSHA relied primarily on past estimates of the time needed to complete recordkeeping activities; these past estimates of unit time requirements have already been subject to multiple opportunities for public comment, as they have been used in ICRs multiple times. OSHA is continuing to rely primarily on these estimates where they seem appropriate in light of the record. Past ICRs provide estimates of the costs of all aspects of recordkeeping for new firms, and these estimates were adopted in the preliminary analysis. Past ICRs also provided estimates of the costs of reporting fatalities. For its preliminary analysis, OSHA assumed that the costs of reporting hospitalizations and amputations would have the same time requirements as fatalities. (The specific past estimates on which OSHA relied are cited for each time estimate.)

During the comment period of the proposed rule, OSHA received three general comments on the overall costs. One commenter, Marshfield Clinic, argued that being on the list of

[5] Alaska, California, Kentucky, Oregon, Utah and Washington all require the reporting of single-patient hospitalizations.

[6] 6 State Employment = 19,381,966. 50 State Employment = 114,509,626.

Ratio 6 State Employment to total U.S. Employment = 16.93%.

6 State inflator to 50 states = 1/16.93% = 5.91.

Average 6 State hospitalizations from 2002–2010 = 4,222.

Average 6 State hospitalizations extrapolated to U.S. = 4,222 × 5.91 = 24,946.

industries partially exempt from keeping records wasn't a time savings for establishments that have been selected by the Bureau of Labor Statistics (BLS) to keep records for the BLS Survey of Occupational Injuries and Illnesses (SOII) (Ex. 15). Marshfield Clinic asked that OSHA develop a trigger mechanism for determining the ideal number of employers responsible for keeping the records, regardless of their NAICS classification. The concept of an ideal number of employers responsible for maintaining the OSHA injury and illness records would only be valid if OSHA were compiling injury and illness data for statistical purposes and were striving for a representative sample. However, OSHA's data collection efforts serve a different purpose, and therefore developing an ideal number of responsible employers is not in keeping with OSHA's data collection purposes. OSHA asks for injury and illness records to help OSHA, employees, and employers determine an employer's past experience with worker health and safety. BLS selects different businesses to keep records for the SOII each year, so that, for example, reporting this year doesn't require an employer to report in future years. BLS incurs the paperwork burden for their survey requirements. OSHA is aware that some businesses will not realize a full cost savings during the years when they are required to keep records for BLS or other federal agencies. OSHA recognizes that (1) there will be some cost savings in years when they report to BLS, because of differences in the specific reporting requirements (such as the need to certify OSHA but not BLS records), and (2) there will be a cost savings in the years when they are not required to keep records. For this FEA, OSHA has not assessed employer burden for BLS or any other type of recordkeeping, nor does OSHA believe that such an assessment is necessary in order to demonstrate the feasibility of the final rule. Because OSHA and BLS do not account for any overlap in their requirements, the combined estimated burdens of the two agencies for recording injuries and illnesses almost certainly exceed the actual burdens.

Some commenters (Exs. 64, 65, 67) suggested specific kinds of costs that might have been overlooked in OSHA's preliminary cost estimates. The Dow Chemical Company (Dow) was concerned that ''one legal opinion as to whether an injury is recordable could cost far more than [what OSHA has estimated].'' (Ex. 64). OSHA's experience is that borderline cases that require a legal opinion on recordability are extremely rare. In the overwhelming majority of recordkeeping cases, the recordability is clear-cut. For those cases where it is not, the already necessary determination of whether the case is compensable under workers' compensation may help to resolve the issue. For the remaining cases, most employers will find it less expensive to record an uncertain case than to seek a legal opinion. Also, as stated elsewhere in this document, OSHA has several resources available free of charge on its Web site that can help employers determine recordability.

Another rulemaking participant, FedEx Corporation (FedEx), commented that complying with the 8-hour reporting requirement for in-patient hospitalizations would require new protocols and procedures that would necessitate 150–175 hours annually (Ex. 67). The American Trucking Association made a very similar comment (Ex. 65). OSHA believes that extending the reporting deadline from 8 hours to 24 hours, and making clear that this deadline is from the time the employer first learns of the reportable event (in-patient hospitalization, amputation, loss of an eye) resulting from a work-related incident, will relieve the need for the elaborate system for tracking potential hospitalizations that these commenters envisioned. The following subsection presents OSHA's estimate of the time requirements and other unit values associated with the compliance activities expected by OSHA following the effective date of the final rule.

Unit Costs

Initial training of recordkeepers is expected to require one hour per establishment and will apply only to current partially-exempt establishments that would be newly required to keep records (OSHA, 2001). A commenter (Ex. 17) noted that this requirement would signify the need for retraining of both human resource and safety professionals. OSHA, based on its experience inspecting establishments and discussing recordkeeping with stakeholders, believes that the average establishment that employs 25 workers will only assign the task of understanding of the details of recordkeeping to one employee per establishment. This analytical assumption is consistent with OSHA's Supporting Statement to the Information Collection Request (ICR) transmitted to OMB in 2011 (OSHA, 2011). Some commenters argued that much more extensive training would be needed. For example, Holman Automotive Group (Ex. 124) and the National Association of Automobile Dealers argued that training might involve a one-day course at a cost of $300, plus the cost of employee time, travel expenses, etc. OSHA believes this is an overestimate of potential training costs, as the Agency's own Web site provides training on recordkeeping that can easily be completed in less than one hour. It should be noted that there is a trade-off between time spent on training and time spent on individual records. A recordkeeper at a very large establishment with many injuries and illnesses in the course of a year may find it more efficient to have more extensive initial training in order to spend less time on each individual record. On the other hand, a recordkeeper who records only two or three injuries/illnesses a year will be better off learning about the complexities of the system only if such complexities ever actually arise in their establishment, resulting in lower initial training costs but more time spent recording each case. OSHA's estimates are designed to represent an average across large and small firms and establishments, taking into account both situations where more extensive initial training is provided as well as situations where little or no initial training is done. OSHA also notes that injury and illness recordkeeping development and training can account for much more than just keeping records of injuries and illnesses under 29 CFR part 1904; in other words, these types of administrative functions address not just other OSHA requirements but also requirements for other agencies, such as BLS and workers' compensation insurers. The one hour estimate presented in this FEA accounts for only the incremental addition of training needed for OSHA-required recording of injuries and illnesses.

Training of recordkeepers to account for turnover was estimated to take one hour per establishment, and a turnover rate of 20 percent per year was applied in the cost algorithm, resulting in an average of 0.2 hours per establishment per year to train newly-hired recordkeepers. This estimate applies to costs for current partially-exempt establishments that would be newly required to keep records and will contribute to cost savings for establishments that would no longer be required to keep records (OSHA, 2001). As discussed below, in the PEA, OSHA estimated that this task would be performed by a Human Resource Specialist, but for this FEA, OSHA has decided that it would be more accurate to use the higher salary of an

Occupational Health and Safety Specialist (OHSS). A person with these higher qualifications will typically be better able than a human resources specialist to carry out the required duties in the estimated times.

The final rule will require the completing, posting, and certifying of the OSHA Form 300A annually. OSHA estimates that 0.47 hours per establishment, as calculated in the ICR, will be needed to complete and post the form, and 0.5 hours will be needed to certify the log entries, for a total of 0.97 hours per establishment. This estimate applies on a per-establishment basis to costs for current partially-exempt establishments that would be newly required to keep records and to cost savings for establishments that would no longer be required to keep records (OSHA, 2011).

In addition to the per-establishment costs incurred to complete, post, and certify the OSHA Form 300A annually, there are also costs for each injury and illness recorded. These costs include the costs for completing the OSHA Form 301, entering each injury and illness on to the OSHA Form 300, and responding to requests for copies of the OSHA Form 301. OSHA estimated in the ICR that 0.38 hours per recordable injury or illness will be expended to comply with these requirements (OSHA, 2011). This estimate applies to costs for current partially-exempt establishments that would be newly required to keep records and to cost savings for establishments that would no longer be required to keep records (OSHA, 2011).

OSHA received several comments on its time estimate of 15 minutes for reporting in-patient hospitalizations and amputations to OSHA. OSHA estimated that reporting in-patient hospitalizations or amputations is an activity that is expected to require the same time as OSHA estimates for reporting fatalities and multiple hospitalizations: 0.25 hours (15 minutes) of OHSS labor per fatality or hospitalization (OSHA, 2011). Several commenters suggested that reporting to OSHA would take more than 15 minutes (Exs. 46, 64. 65, 67, 68, 83, 110). These commenters provided several different reasons for believing that more than fifteen minutes would be required. Some commenters were concerned that the call itself would require more than 15 minutes. The American Society of Safety Engineers and others claimed that the telephone call to report to OSHA is too complex to complete in 15 minutes. Mercer ORC HSE Networks stated that it could take longer than 15 minutes to make a connection over the telephone with OSHA, and that such a connection is especially difficult outside of OSHA's normal operating hours (Ex. 68).

Other commenters were concerned with the possibility that the required information would be difficult to obtain within the required time frame. Some commenters (see Exs. 65 and 67) asserted that elaborate procedures would need to be in place to assure that all hospitalizations were reported within eight hours of admission. OSHA has altered the final rule to require reporting within 24 hours of the hospitalization, and to clarify that the 24 hours starts when the employer learns of the reportable event resulting from a work-related incident.

Other commenters were concerned that pre-call activities had not been included in the time estimate. The Dow Chemical Company stated that the telephone call to report the event would require the attention of several different salaried professionals (Ex. 64). FedEx said that the allotted time should also include the time required to enter the information into their system and to allow for subsequent review by management, and recommended that OSHA use 30 minutes as the estimate for the reporting time (Ex. 67). The American Trucking Association stated the view that 15 minutes is a ''gross underestimation'' of the time required to report to OSHA and that, in their experience, reporting takes, on average, 30 minutes (Ex. 65). NUCA, a trade association representing utility construction and excavation contractors, expressed a concern that OSHA's PEA ''significantly underestimated the economic impact of obtaining injury information on a construction site which does not necessarily have an office.'' In NUCA's estimation, the entire process of collecting, transmitting, and recording the information would far exceed 15 minutes (Ex. 110). NUCA was also concerned that field operations without offices would have trouble complying with the rule (Ex 110).

In response, OSHA notes that employers are already required to gather all of the information required for reporting the hospitalization in order to record the injury or illness within seven days of the occurrence of the injury or illness. The question is therefore whether the need to report within 24 hours of finding out about the hospitalization or the need to report directly to OSHA, increases the time necessary to obtain the required information. OSHA also notes that employers are routinely in touch with hospitals for work-related incident in order to communicate necessary information related to Workers' Compensation. (The HIPAA Privacy Rule has an exemption for employers involved in the workers' compensation system: *http://www.hhs.gov/ocr/privacy/hipaa/understanding/coveredentities/workerscomp.html*)

OSHA believes that 15 minutes is a reasonable approximation of the time required for the telephone call alone. In response to the comment from Mercer ORC HSE Networks (Ex. 68) about the difficulty of reaching OSHA within 15 minutes, the Agency notes that OSHA has a toll-free number for employers to call that is staffed 24 hours per day to allow immediate reporting at any hour of the day. This final rule also enables 24-hour electronic reporting using a web form that OSHA will develop in conjunction with issuance of the final rule. OSHA acknowledges that there might be times when an employer will have to wait on hold to speak to an OSHA representative, but on the average, even allowing for such delays, the phone call should not exceed 15 minutes.

Many, if not most, employers will need no additional time beyond the time for the telephone call for the task of reporting a fatality, hospitalization, amputation, or loss of an eye, given they are both already required to obtain the information, and will frequently have the necessary information as a result of communications related to Workers' Compensation. However, OSHA recognizes that some firms, particularly larger firms, may require additional review of reports that are sent directly to OSHA and that may well trigger OSHA enforcement activities. In addition, some firms may need to undertake additional information-gathering efforts, such as calls to hospitals or interviews with other employees, that would not have been necessary in the current seven-day timeframe for recording cases. As a result of these considerations, OSHA has adopted the suggestion of some commenters (Exs. 65 and 67) to expand the total estimate of time required to report a hospitalization from 15 minutes to 30 minutes.

Dow argued that OSHA should also take into consideration the time spent following up with OSHA inspectors (Ex. 64). Other commenters made similar points and were also concerned about the time spent with follow-up inspections (Exs. 37, 67). In general, the requirements in this final rule will not result in additional OSHA enforcement activities. Instead, the provisions of the final rule should only result in more letters from OSHA to employers. OSHA inspections may increase at some facilities that report hospitalization, but may decrease at other facilities. OSHA

does not have the data to determine which industries will be more or less affected, but believes that this will be a shift in the cost of being inspected, as opposed to an increase in net costs. To the extent that inspections targeted on reports of an in-patient hospitalization result in more citations than other inspections, such inspections may result in greater costs than other inspections. However, OSHA lacks the data to make an estimate of such costs at this time. This topic is discussed in more detail in the benefits section.

For the PEA, OSHA estimated that recordkeeping tasks would most likely be performed by a Human Resource, Training, and Labor Relations Specialist, not elsewhere classified (Human Resource Specialist),[7] a labor category defined by BLS's Occupational Employment Statistics (OES) program. Some commenters noted that the people keeping records would be likely to earn more than $28.00 per hour, or approximately $56,000 per year, and that the required recordkeeping tasks would more accurately be performed by an individual whose qualifications were similar to those of an Industrial Hygienist (Exs. 64, 117). OSHA agrees with that recommendation and, for this FEA, has assigned the recordkeeping tasks to an Occupational Health and Safety Specialist[8] (OHSS) earning $31.54 per hour on average, or approximately $66,000 per year (BLS, 2011b). OSHA is aware that relatively few employers affected by this rule actually employ an OHSS, but feels that the additional cost per hour more accurately reflects the costs for recordkeepers. The labor hours assigned in OSHA's updated Recordkeeping ICR (OSHA, 2011) reflect this OES occupation category, and OSHA has applied the OHSS wage in this FEA.

In December 2011, BLS reported that employer costs for employee benefits (other than wage and salary) were 30.1 percent of total compensation for management, professional, and related occupations (BLS, 2011c). OSHA calculates a mean fringe benefit factor of 1.43 for management, professional, and related occupations.[9] Multiplying the base wage of $31.54 by the fringe benefit factor of 1.43 yields a total cost to employers for employee compensation of $45.12 in hourly wages for an OHSS.

OSHA has also determined that, while an OHSS or equivalent employee will perform the recordkeeping duties, there is likely to be a more senior employee responsible for certifying the OSHA Form 300A (Annual Summary). In the recordkeeping ICR (OSHA, 2011), OSHA estimated that the person responsible for certifying the log will typically have a wage equivalent to an Industrial Production Manager. OSHA has adopted that estimate for this analysis. An Industrial Production Manager[10] (or IPM, a labor category defined by OES), or equivalent employee, is expected to earn an average of $45.99 per hour (BLS, 2011b). Applying the fringe benefit factor of 1.43 to this salary, total hourly compensation is calculated to be $65.79 for an IPM.

The Small Business Administration (SBA) Office of Advocacy urged OSHA to consider ''whether its wage rate assumption is valid for many small businesses'' (Ex. 94). OSHA agrees that recordkeeping will more likely be performed by an OHSS or equivalent employee, and the Agency's 2011 ICR for Recordkeeping reflects this cost assumption (OSHA, 2011). As noted above, for this FEA, OSHA has applied a higher wage than the wage applied in the PEA. OSHA recognizes that there is significant diversity among firms with respect to the personnel charged with OSHA recordkeeping responsibilities. Smaller firms may have a bookkeeper perform this function, while larger firms will likely use an occupational health and safety specialist. However, OSHA believes that the hourly cost of $45.12, the total compensation of an OHSS, is a reasonable estimate of the costs for the typical recordkeeper, regardless of actual occupation.

Another commenter asked that OSHA always use an overtime wage (Ex. 100). In fact, OSHA's estimate of loaded wages (wages that include compensated benefits) includes an overtime and premium component within the compensated benefits. Therefore, OSHA believes that its estimate of loaded wages captures overtime compensation. OSHA does not believe that the overtime rate would be an appropriate measure for the base rate in all circumstances, because OSHA does not anticipate that all labor resulting from the regulation will occur during overtime.

Total Costs

Combining the unit time requirements, hourly wages, numbers of establishments, and injury and illness totals presented in Table V–1, Table V–3 shows OSHA's estimate of the cost of the final rule for the current partially-exempt employers who would need to keep records as a result of the final rule. The expected annualized cost of the rule to those employers is $17.9 million per year, with the most expensive element being the completion, certification, and posting of the OSHA Form 300A ($11.9 million per year). The 4-digit industry projected to bear the highest cost ($2.9 million) is NAICS 6241, Individual and Family Services.

Combining the unit time requirements, hourly wages, number of establishments, and injury and illness totals presented in Table V–2, Table V–4 shows OSHA's annualized estimate of the cost savings of the final rule for employers who would no longer need to routinely keep records as a result of the final rule. OSHA estimates that the total cost savings for these employers would be $11.5 million per year.

Combining estimated costs and estimated savings, the net cost of the changes in the partial exemption part of the final rule is $6.4 million per year.

[7] BLS Occupational Employment Statistics (OES) code 13–1078.

[8] BLS Occupational Employment Statistics (OES) code 29–9011.

[9] The percentage of total wages attributed to employee benefits (0.301) divided by the percent of total wages attributed to base wages (0.699) = the fringe benefit factor (1.43).

[10] BLS Occupational Employment Statistics (OES) code 11–3051.

V-3: Annualized Costs to Industries That Include Establishments that Would Be Newly Required to Keep Records						
NAICS Code	NAICS Industry Description	Learning New Record Keeping System	Relearning Recordkeeping System Due to Turnover	Complete, Certify and Post OSHA Form 300A	Complete Log Entries, Mark Privacy Issues and Provide Employees Access	Total Costs to Industries Newly Required to Keep Records
3118	Bakeries and tortilla manufacturing	$11,471	$16,113	$96,603	$8,558	$132,745
4411	Automobile dealers	$131,160	$184,242	$1,104,583	$593,270	$2,013,254
4413	Automotive parts, accessories, and tire stores	$2,750	$3,863	$23,160	$2,684	$32,457
4441	Building material and supplies dealers	$50,315	$70,678	$423,733	$78,322	$623,048
4452	Specialty food stores	$40,737	$57,224	$343,077	$40,905	$481,943
4453	Beer, wine, and liquor stores	$40,539	$56,946	$341,407	$69,817	$508,709
4539	Other miscellaneous store retailers	$70,997	$99,731	$597,912	$85,713	$854,353
4543	Direct selling establishments	$467	$656	$3,934	$560	$5,617
5311	Lessors of real estate	$191,733	$269,330	$1,614,710	$122,787	$2,198,561
5313	Activities related to real estate	$158,466	$222,600	$1,334,546	$231,835	$1,947,447
5322	Consumer goods rental	$58,651	$82,388	$493,941	$6,334	$641,315
5324	Commercial and industrial machinery and equipment rental and leasing	$5,082	$7,139	$42,802	$6,368	$61,392
5419	Other professional, scientific, and technical services	$67,409	$94,691	$567,699	$113,405	$843,204
5612	Facilities support services	$27,953	$39,266	$235,411	$24,717	$327,348
5617	Services to buildings and dwellings	$261	$367	$2,199	$652	$3,479
5619	Other support services	$36,051	$50,642	$303,612	$125,451	$515,756
6219	Other ambulatory health care services	$17,894	$25,135	$150,694	$25,742	$219,466
6241	Individual and family services	$214,014	$300,629	$1,802,356	$588,047	$2,905,046
6242	Community food and housing, and emergency and other relief services	$51,351	$72,133	$432,460	$64,627	$620,571
7111	Performing arts companies	$11,520	$16,182	$97,015	$29,175	$153,891
7113	Promoters of performing arts, sports, and similar events	$8,860	$12,445	$74,614	$67,460	$163,380
7121	Museums, historical sites, and similar institutions	$10,668	$14,985	$89,841	$42,947	$158,441
7139	Other amusement and recreation industries	$16,648	$23,386	$140,206	$13,303	$193,544
7223	Special food services	$180,542	$253,610	$1,520,460	$274,560	$2,229,172
8129	Other personal services	$6,784	$9,530	$57,135	$13,301	$86,751
	Totals:	$1,412,323	$1,983,913	$11,894,111	$2,630,542	$17,920,888
	Sources: OSHA, Office of Regulatory Analysis.					

V-4: Annualized Cost Savings to Industries Newly Partially Exempt from Recordkeeping Requirements					
NAICS Code	NAICS Industry Description	Relearning Recordkeeping System Due to Turnover	Complete, Certify and Post OSHA Form 300A	Complete Log Entries, Mark Privacy Issues and Provide Employees Access	Costs Savings to Industries Newly Exempted from Keeping Records
4412	Other Motor Vehicle Dealers	$42,852	$253,967	$49,988	$346,807
4431	Electronics and Appliance Stores	$37,061	$219,644	$15,717	$272,422
4461	Health and Personal Care Stores	$15,571	$92,282	$3,280	$111,132
4471	Gasoline Stations	$465,970	$2,761,603	$209,447	$3,437,021
4511	Sporting Goods, Hobby, and Musical Instrument Stores	$463	$2,743	$234	$3,440
4532	Office Supplies, Stationery, and Gift Stores	$37,802	$224,036	$35,519	$297,357
4812	Nonscheduled Air Transportation	$6,302	$37,351	$14,953	$58,606
4861	Pipeline Transportation of Crude Oil	$3,671	$21,756	$3,408	$28,835
4862	Pipeline Transportation of Natural Gas	$16,559	$98,138	$11,930	$126,627
4869	Other Pipeline Transportation	$7,424	$43,999	$3,572	$54,995
4879	Scenic and Sightseeing Transportation, Other	$484	$2,867	$854	$4,204
4885	Freight Transportation Arrangement	$81,664	$483,984	$49,102	$614,750
5111	Newspaper, Periodical, Book, and Directory Publishers	$88,942	$527,121	$125,668	$741,731
5122	Sound Recording Industries	$4,132	$24,489	$3,271	$31,892
5151	Radio and Television Broadcasting	$59,472	$352,463	$69,595	$481,530
5172	Wireless Telecommunications Carriers (except Satellite)	$91,974	$545,092	$22,134	$659,200
5179	Other Telecommunications	$11,442	$67,809	$27,649	$106,900
5191	Other Information Services	$16,603	$98,400	$4,036	$119,039
5221	Depository Credit Intermediation	$38,275	$226,842	$7,714	$272,831
5239	Other Financial Investment Activities	$1,258	$7,455	$521	$9,235
5241	Insurance Carriers	$1,247	$7,392	$870	$9,510
5259	Other Investment Pools and Funds	$352	$2,086	$3,207	$5,645
5413	Architectural, Engineering, and Related Services	$7,083	$41,977	$6,154	$55,214
5416	Management, Scientific, and Technical Consulting Services	$11,459	$67,912	$5,405	$84,775
5418	Advertising and Related Services	$11,296	$66,945	$175,862	$254,103
5511	Management of Companies and Enterprises	$141,485	$838,520	$4,675	$984,680
5614	Business Support Services	$24,819	$147,090	$30,354	$202,263
5615	Travel Arrangement and Reservation Services	$58,097	$344,318	$9,534	$411,949
5616	Investigation and Security Services	$3,217	$19,066	$16,873	$39,156
6116	Other Schools and Instruction	$22,811	$135,190	$520	$158,521
7213	Rooming and Boarding Houses	$3,304	$19,580	$1,583	$24,466
8112	Electronic and Precision Equipment Repair and Maintenance	$19,728	$116,919	$26,224	$162,870
8114	Personal and Household Goods Repair and Maintenance	$13,017	$77,146	$16,557	$106,720
8122	Death Care Services	$16,728	$99,141	$22,456	$138,326
8134	Civic and Social Organizations	$31,978	$189,519	$16,784	$238,281
8139	Business, Professional, Labor, Political, and Similar Organizations	$46,030	$272,797	$558,406	$877,233
	Totals:	$1,440,572	$8,537,639	$1,554,055	$11,532,266
	Sources: OSHA, Office of Regulatory Analysis.				

To estimate the costs of reporting in-patient hospitalizations, amputations, and losses of an eye, OSHA multiplied the estimated number of such events per year (112,000 in-patient hospitalizations plus 5,000 amputations not leading to in-patient hospitalizations), the estimated time per report (0. 5 hours), and the hourly compensation costs of a recordkeeper ($45.12). The resulting estimate of the annual cost of this provision is $2.6 million per year.

Table V–5 shows the total net costs of the final rule considering all three elements: costs incurred by current partially-exempt employers who would be newly required to keep records, cost savings to employers who would no longer be required to routinely keep records, and costs associated with the reporting of all in-patient hospitalizations, amputations, and losses of an eye. OSHA estimates that the total net costs of this final rule would be $9 million per year.

TABLE V–5—ANNUALIZED COSTS AND COST SAVINGS FOR THE MAJOR ELEMENTS OF THE RULE

Cost or cost savings element	Value
Costs to Employers Newly Required to Keep Records	$17,920,888
Cost Savings to Employers Newly Exempt from Keeping Records	(11,532,266)
Costs of Additional Reporting of Hospitalizations, Amputations and Losses of an Eye	2,639,520
Net Costs	9,028,142

D. Benefits

OSHA believes that the conversion from SIC to NAICS and the revised reporting requirements have substantially different goals and thus different potential benefits. OSHA expects the conversion from SIC to NAICS to result in more useful injury and illness data. The SIC system currently used by OSHA is obsolete and has not been used by many other data collection entities for years. Converting to NAICS will enable both affected employers and OSHA to achieve consistency and comparability with other data collection efforts conducted by both public and private entities. OSHA found little controversy concerning the concept of converting from SIC to NAICS. However, there is no way to convert from SIC to NAICS without changing in some way the number of establishments required to routinely record injuries and illnesses. This result is inevitable because there is no one-for-one mapping from SIC to NAICS for many industries. Some SIC industries were split into several NAICS industries that include other SIC industries, while some NAICS industries represent consolidations of several SIC industries. OSHA decided that the best way to conduct the conversion was to update the included industries using BLS data on DART rates by NAICS code, and apply the rule used in two previous OSHA rulemakings—that establishments in industries with DART rates of 75 percent or more of the mean overall DART rate should record injuries and illnesses. Based on analysis of the record and data from the Census Bureau provided in the industrial profile section of this analysis, OSHA estimates that 160,000 establishments will now be partially exempt from keeping records. According to 2010 data from BLS, these establishments have an average injury and illness rate of 1.4 cases per 100 full-time workers. On the other hand, the revision to the regulation applies injury and illness recordkeeping requirements to an additional 220,000 establishments that have an average injury and illness rate of 2.8 cases per 100 full-time workers. Though on average, establishments newly required to record have higher injury and illness rates than those newly partially exempted, there will certainly be individual portions of industries that are newly required to record even though their injury and illness rates are quite low, as well as portions of industries that are newly exempt even though their injury and illness rates are quite high. This is the inevitable result of categorizing industries based on similarity of business products or services rather than similarity of risk of occupational injury and illness. However, as the average injury and illness rates for the industries newly required to record and newly partially-exempt from recording show, on the whole the changes that result from the transition from SIC to NAICS will require higher-risk establishments to record while partially-exempting lower-risk establishments.

Some commenters, such as the SBA Office of Advocacy, were concerned that ''industries with declining injury and illness rates would now be required to maintain OSHA Logs even though their workplaces have become safer.'' SBA went on to call the basic criteria OSHA used ''arbitrary.'' There was also an implicit concern that although industries had lower injury and illness rates in the aggregate, more industries would be required to routinely record. On the other hand, some commenters argued that OSHA should require all establishments to routinely record work-related injuries and illnesses.

OSHA's original justification in 1982 for providing a partial exemption to industries with injury and illness rates below 75 percent of the national average injury and illness rate was primarily based on two reasons, (1) that records would be available in establishments more likely to be inspected by OSHA; and (2) that the number of establishments required to keep records that would record no injuries or illnesses would be limited (47 FR 57699–701). At that time, OSHA viewed the primary purpose of injury and illness rate records as something to be made available during an OSHA inspection. Since OSHA continues to do inspections, the decline in injury and illness rates is not relevant to the first reason. As for the second reason, the size of the establishment is at least as relevant as the injury and illness rate. A larger establishment with a lower injury and illness rate may be more likely to have a recordable injury or illness than a smaller establishment with a higher injury and illness rate,

The changes to the partial exemption in this final rule have several benefits, two of which were explicitly recognized in the original 1982 rulemaking. First, because on average, the update in the data used to calculate the average DART rate partially exempts establishments with a lower average DART rate from the recording requirements, and adds establishments with a higher average DART rate to the recording requirements, there will be fewer facilities that will have to keep records even though they will never record an injury or illness. Second, the establishments that OSHA is most likely to inspect, those with 10 or more employees in higher-hazard industries, will have a record of injuries and illnesses available at the time of the inspection. OSHA is relatively unlikely to inspect partially-exempted industries unless there is a fatality, catastrophe, or complaint, and thus there is less need for a record of injuries and illnesses to help guide the inspection.

In addition, OSHA emphasizes today that recordkeeping is not simply a requirement useful in the event of an OSHA inspection, but that recordkeeping also permits workers and employers to gather worksite data that enhance the identification and elimination of hazards that pose serious risks to workers. This function seems useful whenever and wherever there are preventable injuries and illnesses and is not limited by the level of hazard found. There are several reasons to believe that a requirement to keep records can be a first step toward lowering injury and illness rates. Simply the process of keeping and certifying accurate records will make employers more aware of their safety and health problems and provide them with a basis for benchmarking themselves against others in their industry. Recordkeeping data should also allow them to take steps to prevent injuries and illnesses from occurring in the same manner. Having records available also enables OSHA compliance officers to focus their inspection activities in areas with high numbers of injuries and illnesses. As a result of keeping records, the average employer in an industry with relatively high injury and illness rates, their employees, and OSHA will have a better understanding of the nature of the serious injuries and illnesses occurring in establishments. On the other hand, some employers with relatively low injury and illness rates will now be partially exempt from keeping records and providing them to their employees or OSHA.

The employers newly required to keep records have an average costs of $117 per injury or illness recorded (based on dividing the total cost of recording in Table V–3 by the total number of injuries in Table V–1.) On the other hand, newly partially-exempted establishments had average costs of $208 per injury and illness recorded (based on dividing the total cost of recording in Table V–4 by the total number of injuries in Table V–2.) This revision is more cost-effective than the original rule in the sense that the revision adds employers with a lower average cost of recording injuries and

illnesses and removes employers with a higher average cost, and this serves to lower the average cost of recording injuries and illnesses for the rule as a whole.

Although OSHA lacks the information to determine the exact value of keeping OSHA injury and illness records, it is possible to look at scenarios that justify OSHA's assertion that there is some value to recording injuries and illnesses when the cost of recording is under $200 per case. A meta-analysis of willingness-to-pay estimates (Viscusi, et al., 2003) values a prevented injury at $62,000. Using the cost of a record as $117 per case, there would be recordkeeping costs of $23,400 for two hundred cases. If keeping injury and illness records results in eliminating one injury in two hundred, then there would be benefits for these two hundred injuries and illnesses of $62,000. Compared to costs of $23,400, this results in a net benefit of $38,600 for these two hundred cases. However, some account must be taken of the costs of correcting these hazards. If the costs of eliminating the hazard that lead to the injury or illness are $38,600, then the benefit and costs would be equal ($62,000 in benefit equals $23,400 in recording costs plus $38,600 in control costs.) To the extent that the ratio of illnesses and injuries prevented to illnesses and injuries reported is greater than 1 in 200, or if the control costs necessary to prevent the injury or illness were lower, the benefits of keeping the record would exceed the costs. OSHA believes that there are many such situations. For example, many injuries could be prevented by assuring that already-provided PPE is consistently used—a relatively inexpensive kind of fix. Further, there may be situations in recording injuries and illnesses that may be worthwhile even when the cost of recording exceeds an average of $200 per case. In any event, investments in preventing injuries and illnesses as a result of recordkeeping are entirely voluntary, and employers are likely to undertake only those investments for which the employer believes the benefits will exceed the costs. If the employer does not find that the benefits will exceed the costs, there may be instances where the rule's reporting requirements will not lead to health and safety benefits.

As noted above, OSHA's criteria for the partial exemption were intended neither to expand nor to contract the number of establishments required to keep records. They were instead intended to minimize the number of establishments required to keep records that have nothing to record, while assuring that the establishments OSHA would be most likely to visit would keep records. Given this approach, there is no reason why the number of establishments covered by the recordkeeping regulation should not rise as aggregate industry rates go down, especially when rates in some of the industries with the highest rates have gone down the fastest. Further, OSHA inspections suggest, and safety and health professionals agree, that injury and illness records can have value to employers and employees even when OSHA does not visit, provided that reasonable numbers of preventable injuries and illnesses remain in the industries required to keep records.

The requirement to report all work-related fatalities, in-patient hospitalizations, amputations, and losses of an eye assures that OSHA will be able to better use inspection and enforcement resources by targeting those resources to establishments with the most serious hazards. OSHA currently requires the reporting only of fatalities and incidents resulting in three or more hospitalizations. In-patient hospitalizations, amputations, and losses of an eye due to work-related incidents are serious and significant events. Requiring the reporting of each of these events will ensure that OSHA is informed of approximately 30 times as many serious events. There are some incidents leading to hospitalizations that, by their very nature, virtually guarantee that an OSHA standard was violated. OSHA does not intend to conduct an inspection for every reported hospitalization. Instead, the Agency will treat each hospitalization on a case-by-case basis, and depending on the circumstances, determine whether it is necessary to inspect, respond by phone and fax, or provide compliance assistance materials. Greater awareness regarding the extent and nature of such cases helps OSHA develop and prioritize various OSHA enforcement programs and initiatives. It also serves the public interest by enabling OSHA to more effectively and efficiently target occupational safety and health hazards.

There will also be potential benefits as a result of better inspection targeting, to the extent that OSHA's resources are able to lead to the abatement of a greater number of hazards, and these abatements have benefits that exceed the costs. The abatement of additional hazards will also result in additional costs to industry to abate these hazards. OSHA conducts its enforcement and consultation programs based on the belief that, in the aggregate, abatement of more occupational hazards is a reasonable goal for the Agency. This belief is supported by the fact that, in the aggregate, OSHA's estimates of the benefits and costs of regulations since 1980 show that the benefits exceed the costs.

Six commenters (Exs. 68, 102, 108, 111, 113, 118) either argued that the proposed requirement to report hospitalizations and amputations had no benefits or urged OSHA to present a fuller analysis of benefits. The National Association of Home Builders (NAHB) stated that ''the burden has no corresponding benefit'' (Ex. 113). The American Supply Association commented, ''There is no evidence that reporting isolated hospitalizations to OSHA would meaningfully improve safety within the workplace'' (Ex. 111). OSHA acknowledges that the PEA did not include a quantified benefits analysis, but argues that the costs of the regulation are such that the regulation need only have a minute effect in reducing injuries and illnesses for the benefits to exceed the costs. In this final preamble, OSHA has attempted to more carefully indicate why it believes there may be potential benefits associated with such reporting. To assist in this explanation, OSHA has introduced some new studies to the docket, which will be cited where relevant. However, OSHA is not depending on this new information.

Having data on establishments that experience significant events and have higher injury and illness rates will improve inspection targeting. Studies have shown that OSHA inspections can lead to a reduction in the rate of injuries and illnesses, and that the effect is greater where injury and illness rates are higher and where the inspection finds violations that result in a citation. Most studies reviewed showed reductions in injuries and illnesses at a given facility only when the inspection uncovered safety and health violations that resulted in citations. In a working paper funded by the RAND Corporation, Haviland (Haviland, et al., 2008) estimated that firms with between 20 and 250 employees experience a 19 to 24 percent reduction in injury rates per year for two years following an inspection that results in a citation. Haviland went on to review similar prior studies, noting that ''Gray and Mendeloff (2005) concluded that the impacts of OSHA penalty inspections [measured as a decline in injuries in the years following an inspection that found penalties] on lost workday manufacturing injuries had declined steadily over three periods—from an average of about 20 percent [decline in injuries in the years following an

inspections where violations were found and penalties were levied] in 1979–1985 to about 12 percent in 1987–1991 and to only (a non-significant) 1 percent in 1992–1998.'' These various studies thus provide a range of a 1 to 24 percent decline in injuries in the years following an inspection that found health and safety violations that resulted in citations. The studies varied as to the size and industry of establishments studied, and varied in examining effects from 2 to 4 years after the inspection, but show strong evidence that there is some positive effect for worker health and safety in the years following an inspection where citations are issued.

These studies show that inspections targeted to establishments with higher injury and illness rates have a greater potential for reducing injuries and illnesses. The revisions that OSHA is making to these provisions in Part 1904 will increase the amount of injury and illness data recorded on employer records and available for review and collection by OSHA. With this improved availability of data, OSHA will be able to better target facilities that are more likely to have violations that result in citations, which will, in turn, have some positive effect on the rates of injuries and illnesses at those facilities. The benefit of such improved targeting will only exceed the cost of improved targeting where the benefits of prevented injuries and illnesses exceed the costs of correcting of the hazards found via the improved targeting. However, OSHA's contribution to the Department of Labor's Strategic Plan is based on the belief that improved targeting that results in reduced injuries and illnesses is a desirable goal. Benefits in improved inspection targeting are the primary source of potential benefits for the requirement to report all in-patient hospitalizations. Data from the states that currently require reporting of single work-related in-patient hospitalizations show that inspections resulting from those hospitalizations result in citations 66.5 percent of the time, while all other inspections result in citations 51.8 percent of time (OSHA 2012 *Integrated Management Information System,* Data Query). Given the finding that citations resulting from inspections help to reduce the rates of workplace injuries and illnesses in the years following the inspections, requiring reporting of single work-related in-patient hospitalizations at an estimated cost of under $23 per report is highly likely to have a positive effect on worker safety and health.

E. Technological Feasibility

Partial Exemption

There are a large number of establishments already recording injuries and illnesses in compliance with the existing Part 1904 regulation. Further, every year, some firms that were partially exempt from routinely keeping records under the existing regulation have had to report injury and illness data to BLS, which demonstrates that such firms are capable of keeping the required records. OSHA does not see any reason why employers in industries no longer partially exempt from recording requirements would experience any feasibility difficulties in complying with this final rule, and no industry that is newly required to keep records has recordkeeping issues that would cause it to be significantly different from industries that are already required to maintain the records.

Reporting of Fatalities, In-Patient Hospitalizations, Amputations, and Losses of an Eye

In six states, an estimated 1.3 million establishments under OSHA jurisdiction are currently required to report single in-patient hospitalizations. There are approximately 7.4 million establishments currently under OSHA's nationwide jurisdiction (Census Bureau, 2009). Nearly 18 percent of all establishments in the U.S. are already required to report single in-patient hospitalizations and are successfully doing so. Therefore, OSHA has no reason to believe that employers newly required to report single in-patient hospitalizations would have difficulty complying with this final rule.

F. Economic Feasibility and Impacts

In this section, OSHA first considers the economic impact on firms newly required to keep records under this final rule, and then turns to the economic impact of requirements to report in-patient hospitalizations, amputations, and losses of an eye. The economic impact for firms that are no longer required to routinely keep records is a net reduction in costs and is thus obviously economically feasible.

Partial Exemption

OSHA's primary estimate of economic impacts for this analysis is total annualized cost of compliance per establishment, calculated by dividing the total annualized incremental costs of compliance for each industry by the number of affected establishments in each industry. Table V–6 shows the costs per establishment for four-digit NAICS industries, and Table V–6A, in the appendix, shows the costs per establishment for six-digit NAICS industries. Costs per establishment average $82 per year and range from a minimum of $71 per year per establishment to a maximum of just under $150 per year per establishment across six-digit NAICS industries. OSHA believes that costs of this magnitude could not possibly affect the viability of a firm and are thus economically feasible. This finding of economic feasibility would still be valid even if the costs of this provision were considerably greater than OSHA's estimates. After all, employers have had to meet these recordkeeping requirements in many industries for years with no reported impact on the economic viability of those industries.

V-6: Economic Impacts for Establishments Newly Required to Keep Records under the Final OSHA Standard (by NAICS code)			
NAICS Code	NAICS Industry Description	Affected Establishments	Cost per Affected Establishment
3118	Bakeries and tortilla manufacturing	1,786	$74.34
4411	Automobile dealers	20,417	$98.61
4413	Automotive parts, accessories, and tire stores	428	$75.82
4441	Building material and supplies dealers	7,832	$79.55
4452	Specialty food stores	6,341	$76.00
4453	Beer, wine, and liquor stores	6,311	$80.61
4539	Other miscellaneous store retailers	11,052	$77.31
4543	Direct selling establishments	73	$77.25
5311	Lessors of real estate	29,846	$73.66
5313	Activities related to real estate	24,668	$78.95
5322	Consumer goods rental	9,130	$70.24
5324	Commercial and industrial machinery and equipment rental and leasing	791	$77.60
5419	Other professional, scientific, and technical services	10,493	$80.36
5612	Facilities support services	4,351	$75.23
5617	Services to buildings and dwellings	41	$85.60
5619	Other support services	5,612	$91.90
6219	Other ambulatory health care services	2,785	$78.79
6241	Individual and family services	33,314	$87.20
6242	Community food and housing, and emergency and other relief services	7,994	$77.63
7111	Performing arts companies	1,793	$85.82
7113	Promoters of performing arts, sports, and similar events	1,379	$118.46
7121	Museums, historical sites, and similar institutions	1,661	$95.41
7139	Other amusement and recreation industries	2,592	$74.68
7223	Special food services	28,104	$79.32
8129	Other personal services	1,056	$82.14
		Total:	**Average:**
		219,848	$81.51
	Sources: OSHA, Office of Regulatory Analysis.		

Reporting of Fatalities, In-Patient Hospitalizations, Amputations, and Losses of an Eye

OSHA received many comments claiming that the provision requiring employers to report fatalities, hospitalizations, and amputations within a specified time period would be overly burdensome to employers and would cost more than OSHA estimated (Exs. 27, 39, 53, 63, 89, 97, 98, 104, 105, 108, 111, 113, 119). However, OSHA received no comments that such costs would be economically infeasible. OSHA notes the estimate of total costs of approximately $2.6 million per year across all 7.4 million business establishments in OSHA's jurisdiction; the average cost per establishment of this provision is $0.32 per establishment per year. In a typical year, most establishments will not report a single work-related in-patient hospitalization, amputation, or loss of an eye. For those establishments that do report such incidents, the costs will be approximately $23 per reported incident. Costs of this magnitude—which represent the costs of 30 minutes of employer time—will not affect the viability of any firm. Even if these costs were significantly higher, they would not affect the viability of any firm and thus could not affect the economic feasibility of this part of the regulation.

G. Regulatory Flexibility Certification

After the final rule becomes effective, OSHA will continue to partially exempt employers with fewer than 11 employees from routinely recording work-related injuries and illnesses. Such very small firms are affected by the revisions to this rule only insofar as they may have to report a fatality, in-patient hospitalization, amputation, or loss of an eye. Such an event will be extremely rare for most small firms, and even when they occur, OSHA has estimated the costs as approximately $23 per report, a sum that will not represent a significant economic impact for even the smallest firms.

Most of the employers affected by the change in the partial exemption to the recordkeeping regulation are small firms. Even when considering the mix of small and large firms covered by this final rule, the average cost per establishment is well under $100 per year per establishment. OSHA believes that average costs of less than $100 per establishment do not represent a significant economic impact on small firms with 11 employees or more. The cost will be lowest for very small firms that do not have any injuries and illnesses to record. However, because the fixed costs of setting up a recordkeeping system are high relative to the marginal costs per injury or illness recorded, the smallest firms with few injuries and illnesses to record will still have the highest costs as percentage of revenues.

The Associated General Contractors of America stated that they believe that a Small Business Regulatory Enforcement Fairness Act (SBREFA) panel would enable the Agency to better assess the

impacts of this final rule on small businesses (Ex. 115). The U.S. Chamber of Commerce also commented that OSHA would benefit from a SBREFA panel because of the large number of small businesses that will now have to keep records (Ex. 120). The SBA Office of Advocacy asked OSHA to consider conducting additional public outreach (Ex. 94). In response to these comments, OSHA notes that there are already a substantial number of small businesses currently required to keep records under the previous regulation, and that no evidence was presented in the record to show that small businesses are experiencing significant economic impacts as a result of complying with provisions identical to those required by this final rule. OSHA reiterates that with compliance costs of approximately $23 per report for reporting an incident, and average annual costs of less than $100 for recording injuries and illnesses, these costs do not represent an economic impact on small firms of the magnitude that the Agency believes would compel the need for a SBREFA panel. OSHA has engaged stakeholders throughout the rulemaking process and received many comments from small businesses that the Agency incorporated into this final rule and FEA. As a result, OSHA considers it unlikely that a SBREFA panel would provide any new information that would alter the estimates of costs or the alternatives considered as a part of this rulemaking.

The Associated General Contractors of America stated that the proposed rule on the MSD column showed that OSHA underestimates small business impact (Ex. 115). OSHA has not made any determination, either affirmative or negative, on the assertion that OSHA underestimated the small business impacts of the MSD column proposed rule.

As a result of these considerations, and in accordance with the Regulatory Flexibility Act, OSHA certifies that the final rule will not have a significant economic impact on a substantial number of small entities.

H. Appendix: FEA Data at the Six-Digit NAICS Level

This appendix provides supporting material developed in support of this rule at the six-digit NAICS level.

Table V–1A presents data on industries with establishments that would be newly required to keep records. The table shows the six-digit NAICS code, industry name, number of affected employees, and estimate of the number of recordable injuries and illnesses, based on historical data, for newly affected employers.

Table V–2A presents data on industries with establishments that would be newly partially exempt from recordkeeping. The table shows the six-digit NAICS code, industry name, number of affected establishments per industry, number of employees, and estimated number of injuries and illnesses that would no longer be recorded in each affected industry.

Table V–3A shows OSHA's estimates of the costs of the final rule, at the six-digit NAICS level, for current partially-exempt employers who would need to keep records as a result of the final rule.

Table V–4A shows OSHA's estimates of the cost savings of the final rule, at the six-digit NAICS level, for employers who would no longer need to keep records as a result of the proposed rule.

Table V–6A shows the costs per establishment at the six-digit NAICS level.

V-1A: Industries That Include Establishments that Would Be Newly Required to Keep Records					
NAICS CODE	**Title of NAICS Code**	**Affected Employment**	**Affected Establishments**	**Affected Firms**	**Estimated Injuries and Illnesses**
311811	Retail bakeries	38,085	1,786	1,627	499
441110	New car dealers	908,714	17,210	13,882	32,571
441120	Used car dealers	59,910	3,207	2,351	2,031
441310	Automotive parts and accessories stores	4,984	428	64	157
444130	Hardware stores	101,704	7,832	3,370	4,568
445210	Meat markets	21,037	1,311	921	412
445220	Fish and seafood markets	828	44	39	31
445291	Baked goods stores	14,896	1,456	585	553
445292	Confectionery and nut stores	13,007	1,485	342	483
445299	All other specialty food stores	24,456	2,046	884	908
445310	Beer, wine, and liquor stores	68,837	6,311	2,772	4,072
453910	Pet and pet supplies stores	82,851	4,132	962	3,570
453920	Art dealers	6,467	440	282	145
453991	Tobacco stores	14,295	1,906	571	320
453998	All other miscellaneous store retailers (except tobacco stores)	43,159	4,573	1,718	965
454390	Other direct selling establishments	1,461	73	42	26
531110	Lessors of residential buildings and dwellings	179,917	16,715	4,617	6,499
531120	Lessors of nonresidential buildings (except miniwarehouses)	102,410	6,158	3,001	2,913
531130	Lessors of miniwarehouses and self-storage units	17,551	5,431	429	496
531190	Lessors of other real estate property	14,784	1,542	499	469
531311	Residential property managers	318,788	15,782	5,588	7,943
531312	Nonresidential property managers	109,461	6,454	2,796	2,727
531320	Offices of real estate appraisers	11,480	735	507	33
531390	Other activities related to real estate	39,999	1,697	1,076	856
532220	Formal wear and costume rental	6,256	880	127	194
532230	Video tape and disc rental	71,742	8,229	445	2,230
532299	All other consumer goods rental	313	21	8	16
532420	Office machinery and equipment rental and leasing	4,102	306	107	75
532490	Other commercial and industrial machinery and equipment rental and leasing	7,846	486	137	136
541910	Marketing research and public opinion polling	90,679	2,077	1,097	3,794
541921	Photography studios, portrait	53,158	5,623	499	334
541922	Commercial photography	3,666	204	163	23
541930	Translation and interpretation services	15,211	301	223	636
541990	All other professional, scientific, and technical services	64,251	2,288	1,148	2,688
561210	Facilities support services	229,546	4,351	909	3,859
561790	Other services to buildings and dwellings	909	41	32	35
561910	Packaging and labeling services	35,116	783	598	428
561920	Convention and trade show organizers	60,998	1,018	738	744
561990	All other support services	124,970	3,811	2,322	1,524
621991	Blood and organ banks	73,594	1,272	215	2,171
621999	All other miscellaneous ambulatory health care services	49,533	1,513	753	1,461

V-1A: Industries That Include Establishments that Would Be Newly Required to Keep Records					
NAICS CODE	Title of NAICS Code	Affected Employment	Affected Establishments	Affected Firms	Estimated Injuries and Illnesses
624110	Child and youth services	146,481	5,433	2,882	4,788
624120	Services for the elderly and persons with disabilities	714,622	13,760	8,530	17,246
624190	Other individual and family services	387,360	14,121	6,483	8,771
624210	Community food services	29,204	2,266	939	488
624221	Temporary shelters	64,246	2,803	1,968	1,142
624229	Other community housing services	40,648	2,201	1,383	722
624230	Emergency and other relief services	20,563	724	423	176
711110	Theater companies and dinner theaters	56,222	1,016	920	1,962
711120	Dance companies	7,578	154	148	265
711130	Musical groups and artists	28,114	552	544	981
711190	Other performing arts companies	9,386	70	61	328
711310	Promoters of performing arts, sports, and similar events with facilities	97,944	997	736	1,079
711320	Promoters of performing arts, sports, and similar events without facilities	14,775	382	341	163
712110	Museums	69,503	1,339	1,204	2,098
712120	Historical sites	7,158	322	211	216
713950	Bowling centers	66,941	2,534	1,922	715
713990	All other amusement and recreation industries	1,284	58	49	33
722310	Food service contractors	492,636	24,699	829	14,394
722320	Caterers	106,830	3,405	3,051	3,121
812921	Photofinishing laboratories (except one-hour)	9,139	195	172	292
812922	One-hour photofinishing	465	56	30	15
812990	All other personal services	18,047	805	600	132
	Total:	5,480,115	219,848	91,870	152,721
	Sources: OSHA, Office of Regulatory Analysis using Census Bureau and Bureau of Labor Statistics data:				
1	SOURCE: 2011 Census Bureau: http://www2.census.gov/econ/susb/data/2010/us_6digitnaics_2010.xls				
2	SOURCE: 2011 Bureau of Labor Statistics, U.S. Department of Labor, Survey of Occupational Injuries and Illnesses, in cooperation with participating State agencies. . http://www.bls.gov/iif/oshwc/osh/os/ostb2427.pdf				

V-2A: Industries That Include Establishments that Would Be Newly Partially Exempt From Keeping Records					
NAICS CODE	NAICS Industry Description	Affected Employment	Affected Establishments	Affected Firms	Estimated Injuries and Illnesses
441210	Recreational vehicle dealers	22,568	1,029	737	779
441221	Motorcycle, ATV, and personal watercraft dealers	39,958	1,957	1,611	1,328
441222	Boat dealers	17,553	1,357	704	584
441229	All other motor vehicle dealers	6,766	406	295	225
443111	Household appliance stores	43,780	2,733	1,238	816
443120	Computer and software stores	17,339	1,374	137	101
446120	Cosmetics, beauty supplies, and perfume stores	3,100	326	19	23
446199	All other health and personal care stores	13,125	1,399	438	168
447110	Gasoline stations with convenience stores	534,740	51,637	10,805	12,216
451130	Sewing, needlework, and piece goods stores	1,008	51	13	14
453210	Office supplies and stationery stores	81,238	4,189	612	2,072
481211	Nonscheduled chartered passenger air transportation	22,806	491	411	688
481212	Nonscheduled chartered freight air transportation	2,330	54	33	70
481219	Other nonscheduled air transportation	3,778	154	90	114
486110	Pipeline transportation of crude oil	7,747	407	41	199
486210	Pipeline transportation of natural gas	29,497	1,835	71	696
486910	Pipeline transportation of refined petroleum products	8,647	795	38	186
486990	All other pipeline transportation	1,042	28	9	22
487990	Scenic and sightseeing transportation, other	1,760	54	45	50
488510	Freight transportation arrangement	183,189	9,050	3,085	2,864
511110	Newspaper publishers	252,665	4,614	1,699	5,343
511120	Periodical publishers	122,009	3,178	1,402	726
511130	Book publishers	76,420	977	649	656
511140	Directory and mailing list publishers	34,682	872	241	334
511191	Greeting card publishers	10,094	38	23	148
511199	All other publishers	8,289	178	134	122
512210	Record production	575	23	17	7
512220	Integrated record production/distribution	7,687	162	53	98
512230	Music publishers	4,488	123	82	57
512290	Other sound recording industries	2,141	150	58	27
515111	Radio networks	11,653	632	170	89
515112	Radio stations	84,507	4,301	1,273	642
515120	Television broadcasting	115,173	1,658	421	3,328
517210	Wireless telecommunications carriers (except satellite)	251,048	10,192	304	1,291
517911	Telecommunications resellers	18,878	667	401	697
517919	All other telecommunications	24,779	601	460	915
519130	Internet publishing and broadcasting and web search portals	82,415	1,662	812	181
519190	All other information services	8,190	178	86	54
522120	Savings institutions	61,486	4,242	318	450
523999	Miscellaneous financial investment activities	12,005	139	79	30
524130	Reinsurance carriers	6,664	138	39	51
525910	Open-end investment funds	9,465	39	27	141
541320	Landscape architectural services	12,561	699	563	103
541360	Geophysical surveying and mapping services	4,512	86	58	37
541612	Human resources consulting services	39,259	1,207	381	216
541614	Process, physical distribution, and logistics consulting services	1,280	30	15	7

V-2A: Industries That Include Establishments that Would Be Newly Partially Exempt From Keeping Records					
NAICS CODE	NAICS Industry Description	Affected Employment	Affected Establishments	Affected Firms	Estimated Injuries and Illnesses
541618	Other management consulting services	872	33	30	5
541890	Insurance and Employee Benefit Funds	55,145	1,252	670	563
551114	Pension Funds	1,005,423	15,679	7,671	8,766
561421	Health and Welfare Funds	31,274	577	437	277
561440	Collection agencies	133,603	2,174	1,536	937
561510	Travel agencies	83,619	5,076	1,024	477
561520	Tour operators	18,246	607	454	152
561599	All other travel arrangement and reservation services	46,271	755	199	563
561622	Locksmiths	5,397	357	290	99
611620	Sports and recreation instruction	53,575	2,528	2,167	266
721310	Rooming and boarding houses	6,107	366	249	55
811211	Consumer electronics repair and maintenance	10,329	295	219	306
811212	Computer and office machine repair and maintenance	3,339	104	57	99
811213	Communication equipment repair and maintenance	13,970	423	290	414
811219	Other electronic and precision equipment repair and maintenance	33,222	1,364	540	983
811411	Home and garden equipment repair and maintenance	1,139	88	58	23
811412	Appliance repair and maintenance	12,648	628	251	252
811430	Footwear and leather goods repair	35	4	2	1
811490	Other personal and household goods repair and maintenance	12,009	722	465	239
812220	Cemeteries and crematories	23,768	1,854	564	355
813410	Civic and social organizations	87,795	3,544	2,630	702
813930	Labor unions and similar labor organizations	122,412	4,883	4,037	979
813940	Political organizations	7,511	217	215	60
	Totals:	**4,072,606**	**159,638**	**54,245**	**55,539**
	Sources: OSHA, Office of Regulatory Analysis using Census Bureau and Bureau of Labor Statistics data:				
1	SOURCE: 2011 Census Bureau: http://www2.census.gov/econ/susb/data/2010/us_6digitnaics_2010.xls				
2	SOURCE: 2011 Bureau of Labor Statistics, U.S. Department of Labor, Survey of Occupational Injuries and Illnesses, in cooperation with participating State agencies. . http://www.bls.gov/iif/oshwc/osh/os/ostb2427.pdf				

V-3A: Annualized Costs to Industries That Include Establishments that Would Be Newly Required to Keep Records						
NAICS Code	NAICS Industry Description	Learning New Record Keeping System	Relearning Recordkeeping System Due to Turnover	Complete, Certify and Post OSHA Form 300A	Complete Log Entries, Mark Privacy Issues and Provide Employees Access	Total Costs to Industries Newly Required to Keep Records
311811	Retail bakeries	$11,471	$16,113	$96,603	$8,558	$132,745
441110	New car dealers	$110,559	$155,304	$931,091	$558,453	$1,755,406
441120	Used car dealers	$20,601	$28,938	$173,492	$34,817	$257,848
441310	Automotive parts and accessories stores	$2,750	$3,863	$23,160	$2,684	$32,457
444130	Hardware stores	$50,315	$70,678	$423,733	$78,322	$623,048
445210	Meat markets	$8,420	$11,828	$70,914	$7,064	$98,227
445220	Fish and seafood markets	$280	$393	$2,357	$527	$3,557
445291	Baked goods stores	$9,352	$13,136	$78,755	$9,478	$110,721
445292	Confectionery and nut stores	$9,542	$13,404	$80,358	$8,276	$111,580
445299	All other specialty food stores	$13,144	$18,463	$110,691	$15,560	$157,858
445310	Beer, wine, and liquor stores	$40,539	$56,946	$341,407	$69,817	$508,709
453910	Pet and pet supplies stores	$26,547	$37,291	$223,569	$61,215	$348,621
453920	Art dealers	$2,826	$3,970	$23,799	$2,479	$33,073
453991	Tobacco stores	$12,247	$17,203	$103,139	$5,479	$138,068
453998	All other miscellaneous store retailers (except tobacco stores)	$29,377	$41,267	$247,406	$16,541	$334,590
454390	Other direct selling establishments	$467	$656	$3,934	$560	$5,617
531110	Lessors of residential buildings and dwellings	$107,379	$150,837	$904,310	$68,953	$1,231,480
531120	Lessors of nonresidential buildings (except miniwarehouses)	$39,558	$55,568	$333,146	$39,249	$467,520
531130	Lessors of miniwarehouses and self-storage units	$34,890	$49,011	$293,836	$5,429	$383,167
531190	Lessors of other real estate property	$9,905	$13,914	$83,419	$9,156	$116,394
531311	Residential property managers	$101,382	$142,412	$853,801	$155,470	$1,253,065
531312	Nonresidential property managers	$41,460	$58,240	$349,165	$53,035	$501,901
531320	Offices of real estate appraisers	$4,722	$6,633	$39,765	$6,242	$57,361
531390	Other activities related to real estate	$10,902	$15,315	$91,815	$17,088	$135,120
532220	Formal wear and costume rental	$5,650	$7,937	$47,582	$2,672	$63,841
532230	Video tape and disc rental	$52,864	$74,258	$445,200	$3,547	$575,870
532299	All other consumer goods rental	$138	$193	$1,158	$115	$1,604
532420	Office machinery and equipment rental and leasing	$1,963	$2,758	$16,533	$2,186	$23,440
532490	Other commercial and industrial machinery and equipment rental and leasing	$3,119	$4,382	$26,269	$4,182	$37,951
541910	Marketing research and public opinion polling	$13,344	$18,745	$112,379	$77,791	$222,259
541921	Photography studios, portrait	$36,123	$50,743	$304,218	$16,696	$407,779
541922	Commercial photography	$1,310	$1,840	$11,033	$1,087	$15,271
541930	Translation and interpretation services	$1,931	$2,713	$16,263	$10,912	$31,819
541990	All other professional, scientific, and technical services	$14,701	$20,651	$123,806	$6,918	$166,075
561210	Facilities support services	$27,953	$39,266	$235,411	$24,717	$327,348
561790	Other services to buildings and dwellings	$261	$367	$2,199	$652	$3,479
561910	Packaging and labeling services	$5,031	$7,067	$42,367	$25,193	$79,657
561920	Convention and trade show organizers	$6,536	$9,182	$55,048	$17,580	$88,347
561990	All other support services	$24,484	$34,393	$206,197	$82,677	$347,751
621991	Blood and organ banks	$8,172	$11,479	$68,822	$15,386	$103,860
621999	All other miscellaneous ambulatory health care services	$9,722	$13,656	$81,872	$10,356	$115,605
624110	Child and youth services	$34,903	$49,028	$293,938	$30,625	$408,494

V-4A: Annualized Cost Savings to Industries Newly Partially Exempt from Recordkeeping Requirements					
NAICS Code	NAICS Industry Description	Relearning Recordkeeping System Due to Turnover	Complete, Certify and Post OSHA Form 300A	Complete Log Entries, Mark Privacy Issues and Provide Employees Access	Costs Savings to Industries Newly Exempted from Keeping Records
441210	Recreational vehicle dealers	$9,283	$55,016	$13,349	$77,648
441221	Motorcycle, ATV, and personal watercraft dealers	$17,664	$104,684	$22,776	$145,124
441222	Boat dealers	$12,243	$72,558	$10,005	$94,806
441229	All other motor vehicle dealers	$3,663	$21,708	$3,857	$29,228
443111	Household appliance stores	$24,663	$146,170	$13,985	$184,818
443120	Computer and software stores	$12,397	$73,474	$1,732	$87,603
446120	Cosmetics, beauty supplies, and perfume stores	$2,942	$17,436	$394	$20,772
446199	All other health and personal care stores	$12,629	$74,845	$2,886	$90,360
447110	Gasoline stations with convenience stores	$465,970	$2,761,603	$209,447	$3,437,021
451130	Sewing, needlework, and piece goods stores	$463	$2,743	$234	$3,440
453210	Office supplies and stationery stores	$37,802	$224,036	$35,519	$297,357
481211	Nonscheduled chartered passenger air transportation	$4,431	$26,259	$11,794	$42,484
481212	Nonscheduled chartered freight air transportation	$485	$2,877	$1,205	$4,568
481219	Other nonscheduled air transportation	$1,386	$8,215	$1,954	$11,555
486110	Pipeline transportation of crude oil	$3,671	$21,756	$3,408	$28,835
486210	Pipeline transportation of natural gas	$16,559	$98,138	$11,930	$126,627
486910	Pipeline transportation of refined petroleum products	$7,172	$42,507	$3,188	$52,867
486990	All other pipeline transportation	$252	$1,492	$384	$2,128
487990	Scenic and sightseeing transportation, other	$484	$2,867	$854	$4,204
488510	Freight transportation arrangement	$81,664	$483,984	$49,102	$614,750
511110	Newspaper publishers	$41,634	$246,747	$91,604	$379,985
511120	Periodical publishers	$28,676	$169,953	$12,449	$211,078
511130	Book publishers	$8,814	$52,235	$11,252	$72,301
511140	Directory and mailing list publishers	$7,870	$46,640	$5,733	$60,243
511191	Greeting card publishers	$339	$2,011	$2,542	$4,892
511199	All other publishers	$1,609	$9,536	$2,087	$13,232
512210	Record production	$206	$1,219	$126	$1,551
512220	Integrated record production/distribution	$1,458	$8,643	$1,688	$11,789
512230	Music publishers	$1,114	$6,600	$986	$8,699
512290	Other sound recording industries	$1,355	$8,028	$470	$9,852
515111	Radio networks	$5,700	$33,779	$1,519	$40,997
515112	Radio stations	$38,811	$230,018	$11,014	$279,843
515120	Television broadcasting	$14,961	$88,667	$57,062	$160,690
517210	Wireless telecommunications carriers (except satellite)	$91,974	$545,092	$22,134	$659,200
517911	Telecommunications resellers	$6,015	$35,651	$11,956	$53,622
517919	All other telecommunications	$5,426	$32,158	$15,693	$53,278
519130	Internet publishing and broadcasting and web search portals	$14,997	$88,881	$3,109	$106,987
519190	All other information services	$1,606	$9,520	$926	$12,052
522120	Savings institutions	$38,275	$226,842	$7,714	$272,831

V-4A: Annualized Cost Savings to Industries Newly Partially Exempt from Recordkeeping Requirements					
NAICS Code	NAICS Industry Description	Relearning Recordkeeping System Due to Turnover	Complete, Certify and Post OSHA Form 300A	Complete Log Entries, Mark Privacy Issues and Provide Employees Access	Costs Savings to Industries Newly Exempted from Keeping Records
523999	Miscellaneous financial investment activities	$1,258	$7,455	$521	$9,235
524130	Reinsurance carriers	$1,247	$7,392	$870	$9,510
525910	Open-end investment funds	$352	$2,086	$3,207	$5,645
541320	Landscape architectural services	$6,307	$37,378	$634	$44,319
541360	Geophysical surveying and mapping services	$776	$4,599	$5,520	$10,895
541612	Human resources consulting services	$10,890	$64,540	$121	$75,550
541614	Process, physical distribution, and logistics consulting services	$271	$1,608	$82	$1,962
541618	Other management consulting services	$298	$1,764	$5,202	$7,263
541890	Other services related to advertising	$11,296	$66,945	$175,862	$254,103
551114	Corporate, subsidiary, and regional managing offices	$141,485	$838,520	$4,675	$984,680
561421	Telephone answering services	$5,203	$30,837	$20,299	$56,340
561440	Collection agencies	$19,615	$116,252	$10,055	$145,923
561510	Travel agencies	$45,809	$271,492	$1,786	$319,088
561520	Tour operators	$5,478	$32,468	$6,621	$44,568
561599	All other travel arrangement and reservation services	$6,809	$40,357	$1,126	$48,293
561622	Locksmiths	$3,217	$19,066	$16,873	$39,156
611620	Sports and recreation instruction	$22,811	$135,190	$520	$158,521
721310	Rooming and boarding houses	$3,304	$19,580	$1,583	$24,466
811211	Consumer electronics repair and maintenance	$2,660	$15,766	$1,695	$20,121
811212	Computer and office machine repair and maintenance	$940	$5,571	$7,090	$13,600
811213	Communication equipment repair and maintenance	$3,821	$22,644	$16,861	$43,326
811219	Other electronic and precision equipment repair and maintenance	$12,307	$72,938	$578	$85,823
811411	Home and garden equipment repair and maintenance	$797	$4,722	$4,321	$9,840
811412	Appliance repair and maintenance	$5,663	$33,560	$12	$39,234
811430	Footwear and leather goods repair	$41	$240	$4,103	$4,384
811490	Other personal and household goods repair and maintenance	$6,517	$38,624	$8,120	$53,262
812220	Cemeteries and crematories	$16,728	$99,141	$22,456	$138,326
813410	Civic and social organizations	$31,978	$189,519	$16,784	$238,281
813930	Labor unions and similar labor organizations	$44,068	$261,171	$0	$305,238
813940	Political organizations	$1,962	$11,627	$558,406	$571,995
	Totals:	$1,440,572	$8,537,639	$1,554,055	$11,532,266
	Sources: OSHA, Office of Regulatory Analysis.				

V-6A: Economic Impacts for Establishments Newly Required to Keep Records under the Final OSHA Standard (by NAICS code)			
NAICS Code	NAICS Industry Description	Affected Establishments	Cost per Affected Establishment
311811	Retail bakeries	1,786	$74.34
441110	New car dealers	17,210	$102.00
441120	Used car dealers	3,207	$80.41
441310	Automotive parts and accessories stores	428	$75.82
444130	Hardware stores	7,832	$79.55
445210	Meat markets	1,311	$74.94
445220	Fish and seafood markets	44	$81.65
445291	Baked goods stores	1,456	$76.06
445292	Confectionery and nut stores	1,485	$75.12
445299	All other specialty food stores	2,046	$77.15
445310	Beer, wine, and liquor stores	6,311	$80.61
453910	Pet and pet supplies stores	4,132	$84.36
453920	Art dealers	440	$75.18
453991	Tobacco stores	1,906	$72.42
453998	All other miscellaneous store retailers (except tobacco stores)	4,573	$73.17
454390	Other direct selling establishments	73	$77.25
531110	Lessors of residential buildings and dwellings	16,715	$73.67
531120	Lessors of nonresidential buildings (except miniwarehouses)	6,158	$75.92
531130	Lessors of miniwarehouses and self-storage units	5,431	$70.55
531190	Lessors of other real estate property	1,542	$75.49
531311	Residential property managers	15,782	$79.40
531312	Nonresidential property managers	6,454	$77.77
531320	Offices of real estate appraisers	735	$78.04
531390	Other activities related to real estate	1,697	$79.62
532220	Formal wear and costume rental	880	$72.59
532230	Video tape and disc rental	8,229	$69.98
532299	All other consumer goods rental	21	$74.91
532420	Office machinery and equipment rental and leasing	306	$76.70
532490	Other commercial and industrial machinery and equipment rental and leasing	486	$78.16
541910	Marketing research and public opinion polling	2,077	$107.00
541921	Photography studios, portrait	5,623	$72.52
541922	Commercial photography	204	$74.88
541930	Translation and interpretation services	301	$105.85
541990	All other professional, scientific, and technical services	2,288	$72.57
561210	Facilities support services	4,351	$75.23
561790	Other services to buildings and dwellings	41	$85.60
561910	Packaging and labeling services	783	$101.72
561920	Convention and trade show organizers	1,018	$86.83
561990	All other support services	3,811	$91.24
621991	Blood and organ banks	1,272	$81.64
621999	All other miscellaneous ambulatory health care services	1,513	$76.39
624110	Child and youth services	5,433	$75.19
624120	Services for the elderly and persons with disabilities	13,760	$95.82

V-6A: Economic Impacts for Establishments Newly Required to Keep Records under the Final OSHA Standard (by NAICS code)			
NAICS Code	**NAICS Industry Description**	**Affected Establishments**	**Cost per Affected Establishment**
624190	Other individual and family services	14,121	$83.42
624210	Community food services	2,266	$76.77
624221	Temporary shelters	2,803	$79.03
624229	Other community housing services	2,201	$76.72
624230	Emergency and other relief services	724	$77.69
711110	Theater companies and dinner theaters	1,016	$86.40
711120	Dance companies	154	$84.51
711130	Musical groups and artists	552	$77.01
711190	Other performing arts companies	70	$149.57
711310	Promoters of performing arts, sports, and similar events with facilities	997	$128.32
711320	Promoters of performing arts, sports, and similar events without facilities	382	$92.71
712110	Museums	1,339	$100.61
712120	Historical sites	322	$73.75
713950	Bowling centers	2,534	$74.54
713990	All other amusement and recreation industries	58	$81.04
722310	Food service contractors	24,699	$79.87
722320	Caterers	3,405	$75.29
812921	Photofinishing laboratories (except one-hour)	195	$90.24
812922	One-hour photofinishing	56	$73.71
812990	All other personal services	805	$80.77
		Total:	**Average:**
		219,848	$81.51
	Sources: OSHA, Office of Regulatory Analysis.		

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VI. Environmental Impact Assessment

OSHA has reviewed the provisions of this final rule in accordance with the requirements of the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 *et seq.*), the Council on Environmental Quality (CEQ) NEPA regulations (40 CFR parts 1500–1508), and the Department of Labor's NEPA Procedures (29 CFR part 11). As a result of this review, OSHA has determined that the final rule will have no significant adverse effect on air, water, or soil quality, plant or animal life, use of land, or other aspects of the environment.

VII. Federalism

The final rule has been reviewed in accordance with Executive Order 13132 regarding Federalism (52 FR 41685). The final rule is a ''regulation'' issued under Sections 8 and 24 of the OSH Act (29 U.S.C. 657, 673) and not an ''occupational safety and health standard'' issued under Section 6 of the OSH Act (29 U.S.C. 655). Therefore, pursuant to section 667(a) of the OSH Act, the final rule does not preempt State law (29 U.S.C. 667(a)). The effect of the final rule on OSHA-approved State Plan States is discussed in section X.

VIII. Unfunded Mandates

Section 3 of the Occupational Safety and Health Act makes clear that OSHA cannot enforce compliance with its regulations or standards on the U.S. government ''or any State or political subdivision of a State.'' Under voluntary agreement with OSHA, some States enforce compliance with their State standards on public sector entities, and these agreements specify that these State standards must be equivalent to OSHA standards. Thus, although OSHA may include compliance costs for affected public sector entities in its analysis of the expected impacts associated with the final rule, the rule does not involve any unfunded mandates being imposed on any State or local government entity.

Based on the evidence presented in this economic analysis, OSHA concludes that the final rule would not impose a Federal mandate on the private sector in excess of $100 million in expenditures in any one year. Accordingly, OSHA is not required to issue a written statement containing a qualitative and quantitative assessment of the anticipated costs and benefits of the Federal mandate, as required under Section 202(a) of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1532(a)).

IX. Office of Management and Budget Review Under the Paperwork Reduction Act of 1995

The final rule contains collection of information (paperwork) requirements that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (PRA)(44 U.S.C. 3501 *et seq.*) and OMB regulations (5 CFR part 1320). The PRA requires that agencies obtain approval from OMB before conducting any collection of information (44 U.S.C. 3507). The PRA defines a ''collection of information'' as ''the obtaining, causing to be obtained, soliciting, or requiring the disclosure to third parties or the public of facts or opinions by or for an agency regardless of form or format'' (44 U.S.C. 3502(3)(A)).

OSHA's existing recordkeeping forms consist of the OSHA 300 Log, the 300A Summary, and the 301 Report. These forms are contained in the Information Collection Request (ICR) (paperwork package) titled 29 CFR part 1904 Recordkeeping and Reporting Occupational Injuries and Illnesses, which OMB approved under OMB Control Number 1218–0176 (expiration date 07/31/2017).

The final rule affects the ICR estimates in four ways: 1) The number of establishments covered by the recordkeeping regulation increases by 60,210 establishments; 2) the number of injuries and illnesses recorded by covered establishments increases by 97,182 cases; 3) the number of reportable events (fatalities, in-patient hospitalizations, amputations, and losses of an eye) reported by employers increases by 117,000 reports, and 4) the time required to report a fatality or catastrophe to OSHA is increased from 15 minutes per report to 30 minutes per report. In the initial year, the burden hours for the final rule are estimated to be 392,676, and in subsequent years, the total burden hours are estimated to be 172,828. As a result of these changes, the total burden for the Recordkeeping rule as a whole will rise from 2,967,236 per year to 3,359,913 in the first year and to 3,140,065 in subsequent years. There are no capital costs for this collection of information.

The tables below present the various components of the rule that comprise the ICR estimates. Table IX–1 presents the estimated burden of the entire rule for the initial year. Table IX–2 presents the estimated burden for the entire rule in subsequent years. The estimated initial-year burden is greater because all newly-covered establishments must learn the basics of the recordkeeping system upon implementation of the final rule. In subsequent years, only establishments with turnover in the recordkeeper position will incur this burden.

TABLE IX–1—ESTIMATED BURDEN HOURS—INITIAL YEAR

[Estimated burden hours]

	Current OMB approval			Implementation of the final rule		
Actions entailing paperwork burden	Number of cases	Unit hours per case	Total burden hours	Number of cases	Unit hours per case	Total burden hours
1904.4—Complete OSHA 301 (Includes research of instructions and case details to complete the form)	1,180,529	0.367	433,254	1,219,385	0.367	447,514
1904.4—Line entry on OSHA Form 300 other than needlesticks (Includes research of instructions and case details to complete the form)	2,613,635	0.233	608,977	2,710,817	0.233	631,620

TABLE IX–1—ESTIMATED BURDEN HOURS—INITIAL YEAR—Continued

[Estimated burden hours]

Current OMB approval				Implementation of the final rule		
Actions entailing paperwork burden	Number of cases	Unit hours per case	Total burden hours	Number of cases	Unit hours per case	Total burden hours
1904.8—Line entry on OSHA Form 300 for needlesticks (Includes research of instructions and case details to complete the form)	337,645	0.083	28,025	337,645	0.083	28,025
1904.29(b)(6)—Entry on privacy concern case confidential list	350,800	0.05	17,540	364,753	0.05	18,238
1904.32—Complete, certify and post OSHA Form 300A (Includes research of instructions)	1,585,374	0.967	1,533,057	1,645,494	0.967	1,591,193
1904.35—Employee Access to the OSHA Form 300	111,540	0.083	9,258	115,185	0.083	9,560
1904.35—Employee Access to the OSHA Form 301	287,980	0.083	23,902	304,846	0.083	25,302
1904.39—Report fatalities/catastrophes	2,028	0.25	507	119,028	0. 5	59,514
Learning Basics of the Recordkeeping System—newly covered and turnover of personnel	312,717	1	312,717	548,947	1	548,947
1904.38—Request for variance	0	0	0	0	0	0
Total Burden Hours			2,967,236			3,359,913

TABLE IX–2—ESTIMATED BURDEN HOURS—SUBSEQUENT YEARS

[Estimated burden hours]

Current OMB approval				Implementation of the final rule		
Actions entailing paperwork burden	Number of cases	Unit hours per case	Total burden hours	Number of cases	Unit hours per case	Total burden hours
1904.4—Complete OSHA 301 (Includes research of instructions and case details to complete the form)	1,180,529	0.367	433,254	1,219,385	0.367	447,514
1904.4—Line entry on OSHA Form 300 other than needlesticks (Includes research of instructions and case details to complete the form)	2,613,635	0.233	608,977	2,710,817	0.233	631,620
1904.8—Line entry on OSHA Form 300 for needlesticks (Includes research of instructions and case details to complete the form)	337,645	0.083	28,025	337,645	0.083	28,025
1904.29(b)(6)—Entry on privacy concern case confidential list	350,800	0.05	17,540	364,753	0.05	18,238
1904.32—Complete, certify and post OSHA Form 300A (Includes research of instructions)	1,585,374	0.967	1,533,057	1,645,494	0.967	1,591,193
1904.35—Employee Access to the OSHA Form 300	111,540	0.083	9,258	115,185	0.083	9,560
1904.35—Employee Access to the OSHA Form 301	287,980	0.083	23,902	304,846	0.083	25,302
1904.39—Report fatalities/catastrophes	2,028	0.25	507	119,028	0. 5	59,514
Learning Basics of the Recordkeeping System—turnover of personnel	312,717	1	312,717	329,099	1	329,099
1904.38—Request for variance	0	0	0	0	0	0
Total Burden Hours			2,967,236			3,140,065

As a new option, an employer may report to OSHA work-related fatalities, amputations, in-patient hospitalizations, or the loss of an eye by electronic submission using a fatality/injury/illness reporting application that will be located on OSHA's public Web site at *www.osha.gov.* The public will be given the opportunity to comment on this new collection option through the Paperwork Reduction Act (PRA) approval process when OSHA applies to reauthorize the information collection.

OSHA received a number of comments pertaining to the estimated time necessary to meet the proposed paperwork requirements.

Initial training of recordkeepers is expected to require one hour per establishment and will apply to current partially-exempt establishments that would be newly required to keep records. A commenter (Ex. 17) noted

that this requirement would signify the need for retraining of both human resource and safety professionals. OSHA assumes that the average establishment that employs 25 workers will only assign recordkeeping duties to one employee per establishment.

Dow, the National Automobile Dealers Association (NADA), and a few other commenters argued that it would take longer than an hour to train a competent recordkeeper (Exs. 64, 100, 106, 119, 124). NADA stated specifically that the training would entail a one-day course at the cost of $300. OSHA agrees that some establishments with large employee populations that experience large numbers of injuries and illnesses would benefit from an intensive training program. It should be noted that there is a trade-off between time spent on training and time spent on individual records. A recordkeeper at a large establishment with many injuries and illnesses may find it more efficient to have more extensive initial training in order to spend less time on each individual record. A recordkeeper who records only two or three injuries a year will be better off learning about the complexities of the system only if such complexities ever actually arise in their establishment, resulting in lower initial training costs but more time spent recording each incident. OSHA's estimates are designed to represent an average across large and small firms and establishments, taking into account both situations where more extensive initial training is provided as well as situations where less extensive initial training is sufficient.

The vast majority of establishments in these low-rate industries do not experience large numbers of injuries and illnesses. OSHA believes these establishments will require training on only the fundamentals of the recordkeeping requirements. For establishments that experience few injuries and illnesses, OSHA believes these employers will use a more efficient method of researching the recordability of unique injuries and illnesses on a case by case basis. The associated paperwork burden for these situations is included in the time estimate for recording each individual case. On its public Web site, OSHA provides a brief tutorial on completing the recordkeeping forms. This tutorial provides employers with a fundamental knowledge of the recordkeeping requirements. The tutorial takes approximately 15 minutes to view. OSHA believes that an estimate of one hour of training is a reasonable middle ground between establishments that require an intensive training and those that only require a fundamental knowledge of the system to meet their recordkeeping obligations.

Dow commented that deciding whether the injury or illness is recordable takes more time and more people than OSHA had estimated (Ex. 64). Dow also commented that reporting events would require the attention of several different people. However, OSHA believes that after initial familiarization with the recordkeeping requirements, the vast majority of companies will assign responsibilities to an experienced professional who they feel is competent to make decisions on the recordability of an incident, and who will be in close communication with the management team. OSHA also has tools, such as its Recordkeeping Advisor, available on the Agency's recordkeeping homepage, which will make it easier to determine whether an incident is recordable.

OSHA received several comments on its time estimate of 15 minutes for reporting in-patient hospitalizations and amputations to OSHA. OSHA estimated that reporting in-patient hospitalizations, amputations, or losses of an eye is an activity that is expected to require the same time as OSHA estimates for reporting fatalities and multiple hospitalizations: 0.25 hours of OHSS labor per fatality or hospitalization (OSHA, 2011). Several commenters suggested that reporting to OSHA would take more than 15 minutes (Exs. 46, 65, 67, 68, 83, 110). The American Society of Safety Engineers and others claimed that the phone call to report to OSHA is too complex to complete in 15 minutes, but provide no reason as to why the call is too complex to complete in that time, given the information that must be provided during such a phone call is quite simple (Exs. 46, 83, 110). The Dow Chemical Company stated that this phone call would require the attention of several different salaried professionals (Ex. 64). FedEx said that the allotted time should also include the time required to enter the information into their system and to allow for subsequent review by management, and recommends that OSHA calculate 30 minutes for the reporting time (Ex. 67). The American Trucking Association voiced the view that 15 minutes is a ''gross underestimation'' of the time required to report to OSHA and that in their experience reporting takes, on average, 30 minutes (Ex. 65).

In response, OSHA has revised its estimate of time required to complete a hospitalization report to include activities prior the call to OSHA such as information gathering and review and now estimates that the this requirement will require 30 minutes in total.

Mercer ORC HSE Networks stated that it could take longer than 15 minutes to make a connection over the phone with OSHA, and that such a connection is especially difficult outside of OSHA's normal operating hours (Ex. 68). In response to this comment, the Agency notes that OSHA has a toll-free number for employers to call that is staffed 24 hours per day, to allow immediate reporting at any hour of the day. This final rule also enables 24-hour reporting over a web form that OSHA will create in conjunction with issuance of the final rule. OSHA acknowledges that there might be times when an employer will have to wait on hold to speak to an OSHA representative, but OSHA believes that on the average, even allowing for such delays, the report will not exceed 30 minutes.

NUCA, a trade association representing utility construction and excavation contractors, expressed a concern that OSHA's PEA ''significantly underestimated the economic impact of obtaining injury information on a construction site which does not necessarily have an office''. In NUCA's estimation, the entire process of collecting, transmitting, and recording the information would far exceed 15 minutes (Ex. 110). In response, at this time, there are a wide variety of mechanisms that virtually all managers will have, such as cell phones, that can be used to report to OSHA or a corporate central office.

The PRA specifies that Federal agencies cannot conduct or sponsor a collection of information unless it is approved by OMB and displays a currently valid OMB (44 U.S.C. 3507). Also, notwithstanding any other provision of law, respondents are not required to respond to the information collection requirements until they have been approved and a currently valid control number is displayed. OSHA will publish a subsequent **Federal Register** document when OMB takes further action on the information collection requirements in the Recordkeeping and Recording Occupational Injuries and Illnesses rule.

X. State Plan Requirements

Notice of intent and adoption required. The States with OSHA-approved State Plans are required to adopt a rule identical to or at least as effective as this final Recordkeeping regulation. State Plans are required to notify OSHA within 60 days whether they intend to adopt the recordkeeping regulation.

States with OSHA-approved State Plans are ordinarily provided six months to adopt a regulation or standard that is either identical to or at least as effective as a new Federal regulation or standard. For certain injury and illness recording provisions, the State Plans' recordkeeping regulations must be identical to the Federal regulations (29 CFR 1904.4 through 1904.11). OSHA regulations (29 CFR 1904.37(b)(1) and 1952.4(a)) explain that States with approved State Plans must have recording and reporting regulations that impose identical requirements for determining which injuries and illnesses are recordable and how they are entered. As noted in the preamble to the 2001 Recordkeeping regulation, these requirements must be the same for employers in all the States, whether under Federal or State Plan jurisdiction, and for state and local government employers covered only through State Plans, to ensure that the occupational injury and illness data for the entire nation are uniform and consistent, so that statistics that allow comparisons between the States and between employers located in different States are created (66 FR 6060–6061).

Per 29 CFR 1953.4(b), if a State Plan adopts or maintains recordkeeping requirements that differ from federal requirements, the State must identify the differences and may either post its policy on its Web site and provide the link to OSHA or submit an electronic copy to OSHA with information on how the public may obtain a copy. If a State Plan adopts requirements that are identical to federal requirements, the State Plan must provide the date of adoption to OSHA. State Plan adoption must be accomplished within six months, with posting or submission of documentation within 60 days of adoption. The effective date for changes to 29 CFR 1904.2 must be either January 1, 2015 (encouraged) or January 1, 2016 (required). OSHA will provide summary information on the State Plan response to this instruction on its Web site at *www.osha.gov/dcsp/osp/index.html.*

XI. Consultation and Coordination With Indian Tribal Governments

OSHA reviewed this final rule in accordance with Executive Order 13175 (65 FR 67249 (Nov. 9, 2000)) and determined that it does not have ''tribal implications'' as defined in that order. This final rule does not have substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.

List of Subjects in 29 CFR Part 1904

Health statistics, Occupational safety and health, Reporting and recordkeeping requirements.

Authority and Signature

This document was prepared under the direction of David Michaels, Ph.D., MPH, Assistant Secretary of Labor for Occupational Safety and Health. It is issued under Sections 8 and 24 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 657, 673), 5 U.S.C. 553, and Secretary of Labor's Order No. 4–2010 (75 FR 55355 (9/10/2010)).

Signed at Washington, DC on September 5, 2014.

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

Final Rule

Part 1904 of Title 29 of the Code of Federal Regulations is hereby amended as follows:

PART 1904—[AMENDED]

■ 1. The authority citation for part 1904 continues to read as follows:

Authority: 29 U.S.C. 657, 658, 660, 666, 669, 673, Secretary of Labor's Order No. 3–2000 (65 FR 50017), and 5 U.S.C. 533.

■ 2. Amend § 1904.2 by revising paragraphs (a)(1) and (b) to read as follows:

§ 1904.2 Partial exemption for establishments in certain industries.

(a) *Basic requirement.* (1) If your business establishment is classified in a specific industry group listed in appendix A to this subpart, you do not need to keep OSHA injury and illness records unless the government asks you to keep the records under §§ 1904.41 or 1904.42. However, all employers must report to OSHA any workplace incident that results in an employee's fatality, in-patient hospitalization, amputation, or loss of an eye (see § 1904.39).

* * * * *

(b) *Implementation*—(1) *Is the partial industry classification exemption based on the industry classification of my entire company or on the classification of individual business establishments operated by my company?* The partial industry classification exemption applies to individual business establishments. If a company has several business establishments engaged in different classes of business activities, some of the company's establishments may be required to keep records, while others may be partially exempt.

(2) *How do I determine the correct NAICS code for my company or for individual establishments?* You can determine your NAICS code by using one of three methods, or you may contact your nearest OSHA office or State agency for help in determining your NAICS code:

(i) You can use the search feature at the U.S. Census Bureau NAICS main Web page: *http://www.census.gov/eos/www/naics/.* In the search box for the most recent NAICS, enter a keyword that describes your kind of business. A list of primary business activities containing that keyword and the corresponding NAICS codes will appear. Choose the one that most closely corresponds to your primary business activity, or refine your search to obtain other choices.

(ii) Rather than searching through a list of primary business activities, you may also view the most recent complete NAICS structure with codes and titles by clicking on the link for the most recent NAICS on the U.S. Census Bureau NAICS main Web page: *http://www.census.gov/eos/www/naics/.* Then click on the two-digit Sector code to see all the NAICS codes under that Sector. Then choose the six-digit code of your interest to see the corresponding definition, as well as cross-references and index items, when available.

(iii) If you know your old SIC code, you can also find the appropriate 2002 NAICS code by using the detailed conversion (concordance) between the 1987 SIC and 2002 NAICS available in Excel format for download at the ''Concordances'' link at the U.S. Census Bureau NAICS main Web page: *http://www.census.gov/eos/www/naics/.*

■ 3. Revise Non-Mandatory Appendix A to Subpart B of Part 1904 to read as follows:

Non-Mandatory Appendix A to Subpart B of Part 1904—Partially Exempt Industries

Employers are not required to keep OSHA injury and illness records for any establishment classified in the following North American Industry Classification System (NAICS) codes, unless they are asked in writing to do so by OSHA, the Bureau of Labor Statistics (BLS), or a state agency operating under the authority of OSHA or the BLS. All employers, including those partially exempted by reason of company size or industry classification, must report to OSHA any employee's fatality, in-patient hospitalization, amputation, or loss of an eye (see § 1904.39).

NAICS Code	Industry
4412	Other Motor Vehicle Dealers.
4431	Electronics and Appliance Stores.
4461	Health and Personal Care Stores.
4471	Gasoline Stations.

NAICS Code	Industry
4481	Clothing Stores.
4482	Shoe Stores.
4483	Jewelry, Luggage, and Leather Goods Stores.
4511	Sporting Goods, Hobby, and Musical Instrument Stores.
4512	Book, Periodical, and Music Stores.
4531	Florists.
4532	Office Supplies, Stationery, and Gift Stores.
4812	Nonscheduled Air Transportation.
4861	Pipeline Transportation of Crude Oil.
4862	Pipeline Transportation of Natural Gas.
4869	Other Pipeline Transportation.
4879	Scenic and Sightseeing Transportation, Other.
4885	Freight Transportation Arrangement.
5111	Newspaper, Periodical, Book, and Directory Publishers.
5112	Software Publishers.
5121	Motion Picture and Video Industries.
5122	Sound Recording Industries.
5151	Radio and Television Broadcasting.
5172	Wireless Telecommunications Carriers (except Satellite).
5173	Telecommunications Resellers.
5179	Other Telecommunications.
5181	Internet Service Providers and Web Search Portals.
5182	Data Processing, Hosting, and Related Services.
5191	Other Information Services.
5211	Monetary Authorities—Central Bank.
5221	Depository Credit Intermediation.
5222	Nondepository Credit Intermediation.
5223	Activities Related to Credit Intermediation.
5231	Securities and Commodity Contracts Intermediation and Brokerage.
5232	Securities and Commodity Exchanges.
5239	Other Financial Investment Activities.
5241	Insurance Carriers.
5242	Agencies, Brokerages, and Other Insurance Related Activities.
5251	Insurance and Employee Benefit Funds.
5259	Other Investment Pools and Funds.
5312	Offices of Real Estate Agents and Brokers.
5331	Lessors of Nonfinancial Intangible Assets (except Copyrighted Works).
5411	Legal Services.
5412	Accounting, Tax Preparation, Bookkeeping, and Payroll Services.
5413	Architectural, Engineering, and Related Services.
5414	Specialized Design Services.
5415	Computer Systems Design and Related Services.
5416	Management, Scientific, and Technical Consulting Services.
5417	Scientific Research and Development Services.
5418	Advertising and Related Services.
5511	Management of Companies and Enterprises.
5611	Office Administrative Services.
5614	Business Support Services.
5615	Travel Arrangement and Reservation Services.
5616	Investigation and Security Services.
6111	Elementary and Secondary Schools.
6112	Junior Colleges.
6113	Colleges, Universities, and Professional Schools.
6114	Business Schools and Computer and Management Training.
6115	Technical and Trade Schools.
6116	Other Schools and Instruction.
6117	Educational Support Services.
6211	Offices of Physicians.
6212	Offices of Dentists.
6213	Offices of Other Health Practitioners.
6214	Outpatient Care Centers.
6215	Medical and Diagnostic Laboratories.
6244	Child Day Care Services.
7114	Agents and Managers for Artists, Athletes, Entertainers, and Other Public Figures.
7115	Independent Artists, Writers, and Performers.
7213	Rooming and Boarding Houses.
7221	Full-Service Restaurants.
7222	Limited-Service Eating Places.
7224	Drinking Places (Alcoholic Beverages).
8112	Electronic and Precision Equipment Repair and Maintenance.
8114	Personal and Household Goods Repair and Maintenance.
8121	Personal Care Services.
8122	Death Care Services.
8131	Religious Organizations.
8132	Grantmaking and Giving Services.
8133	Social Advocacy Organizations.
8134	Civic and Social Organizations.
8139	Business, Professional, Labor, Political, and Similar Organizations.

■ 4. Revise § 1904.39 to read as follows:

§ 1904.39 Reporting fatalities, hospitalizations, amputations, and losses of an eye as a result of work-related incidents to OSHA.

(a) *Basic requirement.* (1) Within eight (8) hours after the death of any employee as a result of a work-related incident, you must report the fatality to the Occupational Safety and Health Administration (OSHA), U.S. Department of Labor.

(2) Within twenty-four (24) hours after the in-patient hospitalization of one or more employees or an employee's amputation or an employee's loss of an eye, as a result of a work-related incident, you must report the in-patient hospitalization, amputation, or loss of an eye to OSHA.

(3) You must report the fatality, in-patient hospitalization, amputation, or loss of an eye using one of the following methods:

(i) By telephone or in person to the OSHA Area Office that is nearest to the site of the incident.

(ii) By telephone to the OSHA toll-free central telephone number, 1–800–321–OSHA (1–800–321–6742).

(iii) By electronic submission using the reporting application located on OSHA's public Web site at *www.osha.gov.*

(b) *Implementation*—(1) *If the Area Office is closed, may I report the fatality, in-patient hospitalization, amputation, or loss of an eye by leaving a message on OSHA's answering machine, faxing the Area Office, or sending an email?* No, if the Area Office is closed, you must report the fatality, in-patient hospitalization, amputation, or loss of an eye using either the 800 number or the reporting application located on OSHA's public Web site at *www.osha.gov.*

(2) *What information do I need to give to OSHA about the in-patient hospitalization, amputation, or loss of an eye?* You must give OSHA the following information for each fatality, in-patient hospitalization, amputation, or loss of an eye:

(i) The establishment name;

(ii) The location of the work-related incident;

(iii) The time of the work-related incident;

(iv) The type of reportable event (i.e., fatality, in-patient hospitalization, amputation, or loss of an eye);

(v) The number of employees who suffered a fatality, in-patient hospitalization, amputation, or loss of an eye;

(vi) The names of the employees who suffered a fatality, in-patient hospitalization, amputation, or loss of an eye;

(vii) Your contact person and his or her phone number; and

(viii) A brief description of the work-related incident.

(3) *Do I have to report the fatality, in-patient hospitalization, amputation, or loss of an eye if it resulted from a motor vehicle accident on a public street or highway?* If the motor vehicle accident occurred in a construction work zone, you must report the fatality, in-patient hospitalization, amputation, or loss of an eye. If the motor vehicle accident occurred on a public street or highway,

but not in a construction work zone, you do not have to report the fatality, in-patient hospitalization, amputation, or loss of an eye to OSHA. However, the fatality, in-patient hospitalization, amputation, or loss of an eye must be recorded on your OSHA injury and illness records, if you are required to keep such records.

(4) *Do I have to report the fatality, in-patient hospitalization, amputation, or loss of an eye if it occurred on a commercial or public transportation system?* No, you do not have to report the fatality, in-patient hospitalization, amputation, or loss of an eye to OSHA if it occurred on a commercial or public transportation system (e.g., airplane, train, subway, or bus). However, the fatality, in-patient hospitalization, amputation, or loss of an eye must be recorded on your OSHA injury and illness records, if you are required to keep such records.

(5) *Do I have to report a work-related fatality or in-patient hospitalization caused by a heart attack?* Yes, your local OSHA Area Office director will decide whether to investigate the event, depending on the circumstances of the heart attack.

(6) *What if the fatality, in-patient hospitalization, amputation, or loss of an eye does not occur during or right after the work-related incident?* You must only report a fatality to OSHA if the fatality occurs within thirty (30) days of the work-related incident. For an in-patient hospitalization, amputation, or loss of an eye, you must only report the event to OSHA if it occurs within twenty-four (24) hours of the work-related incident. However, the fatality, in-patient hospitalization, amputation, or loss of an eye must be recorded on your OSHA injury and illness records, if you are required to keep such records.

(7) *What if I don't learn about a reportable fatality, in-patient hospitalization, amputation, or loss of an eye right away?* If you do not learn about a reportable fatality, in-patient hospitalization, amputation, or loss of an eye at the time it takes place, you must make the report to OSHA within the following time period after the fatality, in-patient hospitalization, amputation, or loss of an eye is reported to you or to any of your agent(s): Eight (8) hours for a fatality, and twenty-four (24) hours for an in-patient hospitalization, an amputation, or a loss of an eye.

(8) *What if I don't learn right away that the reportable fatality, in-patient hospitalization, amputation, or loss of an eye was the result of a work-related incident?* If you do not learn right away that the reportable fatality, in-patient hospitalization, amputation, or loss of an eye was the result of a work-related incident, you must make the report to OSHA within the following time period after you or any of your agent(s) learn that the reportable fatality, in-patient hospitalization, amputation, or loss of an eye was the result of a work-related incident: Eight (8) hours for a fatality, and twenty-four (24) hours for an in-patient hospitalization, an amputation, or a loss of an eye.

(9) *How does OSHA define ''in-patient hospitalization''?* OSHA defines in-patient hospitalization as a formal admission to the in-patient service of a hospital or clinic for care or treatment.

(10) *Do I have to report an in-patient hospitalization that involves only observation or diagnostic testing?* No, you do not have to report an in-patient hospitalization that involves only observation or diagnostic testing. You must only report to OSHA each in-patient hospitalization that involves care or treatment.

(11) *How does OSHA define ''amputation''?* An amputation is the traumatic loss of a limb or other external body part. Amputations include a part, such as a limb or appendage, that has been severed, cut off, amputated (either completely or partially); fingertip amputations with or without bone loss; medical amputations resulting from irreparable damage; amputations of body parts that have since been reattached. Amputations do not include avulsions, enucleations, deglovings, scalpings, severed ears, or broken or chipped teeth.

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Part III

Library of Congress

U.S. Copyright Office

37 CFR Parts 201 and 210

Mechanical and Digital Phonorecord Delivery Compulsory License; Final Rule

LIBRARY OF CONGRESS

U.S. Copyright Office

37 CFR Parts 201 and 210

[Docket No. 2012–7]

Mechanical and Digital Phonorecord Delivery Compulsory License

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

ACTION: Final rule.

SUMMARY: The United States Copyright Office is issuing a final rule to implement section 115 of the Copyright Act of 1976. Section 115 establishes a compulsory license for the making and distribution of phonorecords of nondramatic musical works. Section 115, in turn, requires the Register of Copyrights to prescribe by regulation the procedures for the monthly payment of royalties and preparation and service of monthly and annual statements of account by licensees. This final rule updates the existing payment and statement-of-account regulations in response to legal and marketplace developments, including the Copyright Royalty Board's adoption of newer percentage-of-revenue royalty rate structures for certain digital music services, and changes in accounting and industry practice in the years since the rules were last substantially amended.

DATES: *Effective Date:* November 17, 2014.

FOR FURTHER INFORMATION CONTACT: Sarang V. Damle, Special Advisor to the General Counsel, Stephen Ruwe, Attorney-Advisor, Office of the General Counsel, or Rick Marshall, Attorney-Advisor, Office of the General Counsel, at the U.S. Copyright Office, P.O. Box 70400, Washington, DC 20024. Telephone: (202) 707–8350.

SUPPLEMENTARY INFORMATION:

I. Background

The Copyright Act gives owners of musical works the exclusive right to make and distribute phonorecords of those works (*i.e.,* copies in which the work is embodied, such as CDs or digital files). 17 U.S.C. 106(1), (3). This right (often referred to as the ''mechanical'' right) is subject to a compulsory license under Section 115 of the Act. 17 U.S.C. 115. Under that provision—instituted by Congress over a century ago with the passage of the 1909 Copyright Act—once a phonorecord of a musical work has been distributed to the public in the United States under the authority of the copyright owner, any person can obtain a license to make and distribute phonorecords of that work. *Id.* In 1995, Congress confirmed that a copyright owner's exclusive right to reproduce and distribute phonorecords of a musical work, and the Section 115 license, extend to the making of ''digital phonorecord deliveries'' (''DPDs''). *See* Digital Performance Right in Sound Recordings Act of 1995 (''DPRSRA''), Public Law 104–39, sec. 4, 109 Stat. 336, 344–48 (1995) (codified at 17 U.S.C. 115(c)(3)(A)).

A person wishing to use the compulsory license must comply with several requirements imposed by statute and regulation. For instance, licensees must first file a notice of intention to use the compulsory license. *See* 17 U.S.C. 115(b); 37 CFR 201.18. The statute also requires payment of royalties and compliance with terms established by the Copyright Royalty Board (''CRB'') in periodic ratemaking proceedings. *See* 17 U.S.C. 115(c)(3)(C)–(D). And, as most relevant here, the statute requires licensees to make monthly royalty payments, and provide monthly and annual statements of account, in compliance with regulations issued by the Register of Copyrights. 17 U.S.C. 115(c)(5).[1]

The Copyright Office first promulgated regulations prescribing the procedures for the payment of royalties and the preparation and service of monthly and annual statements of account in 1980; those regulations were codified in section 201.19 of title 37 of the Code of Federal Regulations. *See* 45 FR 79038 (Nov. 28, 1980). In that rulemaking, the Office identified a ''guiding principle'' that is equally applicable today: That the regulations should preserve the compulsory license as ''a workable tool,'' while at the same time ''assuring that copyright owners will receive 'full and prompt payment for all phonorecords made and distributed.' '' *Id.* at 79039 (quoting H.R. Rep. No. 94–1476, at 110 (1976)). The Office accordingly evaluated proposed regulatory features using ''three fundamental criteria.'' *Id.* First, the Office stressed that ''[t]he accounting procedures must not be so complicated as to make use of the compulsory license impractical.'' *Id.* Second, ''[t]he accounting system must insure full payment, but not overpayment.'' *Id.* at 79310. Third, and finally, ''[t]he accounting system must insure prompt payment.'' *Id.*

Although the Office has amended aspects of its payment and statement-of-account regulations from time to time, the regulations have always assumed that the compulsory mechanical license will carry a flat royalty rate per phonorecord made and distributed. That assumption is no longer true. In recent years, the CRB has adopted a ''percentage-of-revenue'' model for calculating royalties for newer digital products like interactive streaming and limited downloads. *See, e.g.,* 78 FR 67938 (Nov. 13, 2013). Under that model, royalty calculations work essentially as follows, with some details omitted. First, an ''all-in royalty'' is defined to be a specified percentage of the service's revenues. Second, royalties that are separately paid to performing rights organizations for the public performance of musical works are subtracted from the all-in royalty. 37 CFR 385.12(b)(1)–(2), 385.22(b)(1)–(2). The resulting figure represents the total royalties that the service must pay to all copyright owners under Section 115, although there are ''floors'' to ensure services make at least a minimum royalty payment. The total payable royalty pool must be further allocated to individual musical works. To do so, the pool is divided by the total number of ''plays'' (*i.e.,* the total number of times the service played any phonorecord of any musical work during the relevant accounting period), and the resulting ''per-play'' royalty rate is multiplied by the number of plays of each individual musical work to obtain a ''per-work'' royalty allocation. 37 CFR 385.12(b)(3), 385.22(b)(3).

After a number of stakeholders expressed concern that the Office's statement-of-account regulations do not account for these newer royalty structures, the Office proposed amendments to those regulations and requested public comment in a notice of proposed rulemaking (''NPRM''). *See* 77 FR 44179 (July 27, 2012). The Office received five initial comments, and eighteen reply comments. In December 2013, the Copyright Office requested additional comments concerning the proposed amendments. 78 FR 78309 (Dec. 26, 2013). The Office received one initial comment, and three reply comments.[2]

[1] Although, the Copyright Royalty Board (''CRB'') has general authority to establish royalty rates and terms for the Section 115 license, *see* 17 U.S.C. 115(c)(3)(C) & (D), the Act also separately gives the Register of Copyrights responsibility for issuing regulations relating to specific aspects of that license, *see id.* 115(b)(1) & (c)(4)–(5). *See generally* 73 FR 48396 (Aug. 19, 2008) (addressing division of authority between the Copyright Royalty Judges and the Register of Copyrights under the Section 115 license).

[2] All comments received in relation to this rulemaking are available on the Copyright Office Web site at *http://www.copyright.gov/docs/docket2012-7/*.

The Office received a particularly significant set of comments from a group representing both copyright owners and compulsory licensees. That group, referred to herein as the ''Joint Commenters,'' consisted of the Digital Media Association (''DiMA''), the National Music Publishers' Association, Inc. (''NMPA''), the Recording Industry Association of America, Inc. (''RIAA''), the Harry Fox Agency, Inc. (''HFA''), and Music Reports, Inc. (''Music Reports''). The Joint Commenters reached agreement on a broad range of modifications to the proposed rule, which were reflected in a set of proposed regulations they submitted along with their initial set of comments. *See* Joint Commenters, Initial Comments Submitted in Response to U.S. Copyright Office's July 27, 2012 Notice of Proposed Rulemaking at 2–3, exh. A (Oct. 25, 2012) (''Joint Commenters Initial Comments''). After carefully evaluating the Joint Commenters' proposal against the goals outlined above, the Office has adopted many elements of that proposal as part of the final rule. At the same time, our evaluation and consideration of the comments has led us to conclude that some aspects of the Joint Commenters' proposal would be contrary to the goal of providing a workable means of licensing mechanical rights for musical works.

II. Discussion

Section 115(c)(5) of the Copyright Act directs the Register of Copyrights to issue regulations governing monthly payments and monthly and annual statements of account for the compulsory mechanical license for nondramatic musical works. Specifically, that provision states: ''Royalty payments shall be made on or before the twentieth day of each month and shall include all royalties for the month next preceding. Each monthly payment shall be made under oath and shall comply with requirements that the Register of Copyrights shall prescribe by regulation. The Register shall also prescribe regulations under which detailed cumulative annual statements of account, certified by a certified public accountant, shall be filed for every compulsory license under this section. The regulations covering both the monthly and the annual statements of account shall prescribe the form, content, and manner of certification with respect to the number of records made and the number of records distributed.'' 17 U.S.C. 115(c)(5). As the legislative history makes clear, the goal of this provision is to ensure ''that copyright owners . . . receive full and prompt payment for all phonorecords made and distributed'' and to ''increase the protection of copyright proprietors against economic harm from companies which might refuse or fail to pay their just obligations.'' H.R. Rep. No. 94–1476, at 110–11.

The final rule fulfills these directives by providing new payment and statement-of-account regulations for services subject to a percentage-of-revenue royalty rate, referred to here as ''percentage-rate usages.'' *See* 37 CFR part 385, subparts B & C. For such usages, the revised regulations largely incorporate by reference the rate calculation methodology established by the CRB. In addition, the final rule adopts regulations for services subject to cents-per-phonorecord rates (*i.e.,* physical phonorecord deliveries, permanent downloads, and ringtones, *see* 37 CFR part 385, subpart A, referred to here as ''cents-rate usages'') that closely mirror existing requirements, which were designed with cents-rate usages in mind. The final rule also makes other technical and organizational changes, some of which reflect developments in accounting and industry practice in the years since the rules were last substantially amended. Overall, the final rule is designed to be flexible, so that as the CRB makes future amendments to the rates and terms under Section 115, there will be limited need to amend these regulations.

The following sections highlight the major features of the final rule, including areas that garnered public comment or where the final rule substantially departed from the proposed rule.

A. Organizational and Technical Changes

1. Overall Structure of the Rule

The proposed rule contained two separate subparts within part 210 in title 37 of the Code of Federal Regulations. Proposed subpart B incorporated the existing regulations in section 201.19 with only minor amendments, and was designed to apply to cents-rate usages, while proposed subpart C was mostly new, and was designed to apply to percentage-rate usages. The Joint Commenters disagreed with this approach, and proposed merging subparts B and C of the proposed rule. They explained that the proposed rule was unnecessarily repetitive, and that its structure suggested that licensees operating services with different rate structures (*e.g.,* a licensee that offers a download service and an interactive streaming service) would have to provide separate statements of account for each kind of service. *See* Joint Commenters Initial Comments at 3–5. No other commenter opposed the Joint Commenters' proposal.

The Office agrees with the Joint Commenters' approach. Accordingly, the final rule adds only a single subpart—subpart B. Within that subpart, the provisions governing monthly and annual statements of account (sections 210.16 and 210.17, respectively) each have separate paragraphs governing cents-rate and percentage-rate usages.

2. GAAP Accounting Rules

Several provisions of the rule require the application of Generally Accepted Accounting Principles (''GAAP''). In the NPRM, the Office questioned whether GAAP supplied the appropriate accounting methodology. 77 FR at 44181. In the time since the Office issued the NPRM, the CRB has affirmed the temporary reliance on GAAP in the rate-calculation context and included language in its rules that contemplates the United States' eventual migration from GAAP standards to International Financial Reporting Standards (''IFRS''). *See* 37 CFR 385.11.[3] To maintain consistency between the terms adopted by the CRB and these regulations, the final rule includes a treatment of the term GAAP that parallels that in the CRB rules.

3. Defining When Phonorecords Are ''Distributed''

The final rule makes a purely organizational change that consolidates the provisions describing when phonorecords are considered ''distributed'' within the meaning of Section 115. Section 115 provides that royalties are payable ''for every phonorecord made and distributed.'' 17 U.S.C. 115(c)(2). It also provides that ''a phonorecord is considered 'distributed' if the person exercising the compulsory license has voluntarily and permanently parted with its possession.'' *Id.* The exiting statement-of-account regulations implemented these statutory provisions in two different places. First, the regulatory definition of the term ''voluntarily distributed'' generally addressed the circumstances in which *physical* phonorecords would be deemed ''distributed.'' *See* 37 CFR

[3] The Joint Commenters note that the Securities Exchange Commission (''SEC'') has long been exploring a move towards incorporating IFRS into the United States' financial reporting system. Joint Commenters Initial Comments at 9 (citing *SEC, Work Plan for the Consideration of Incorporating International Financial Reporting Standards into the Financial Reporting System for U.S. Issuers* (2012), *available at http://www.sec.gov/spotlight/globalaccountingstandards/ifrs-work-plan-final-report.pdf*).

201.19(a)(8). Second, the regulatory definition of the term ''digital phonorecord deliveries'' described the circumstances in which DPDs would be considered distributed. *See* 37 CFR 201.19(a)(7).

The final rule consolidates the provisions describing when physical and digital phonorecords are to be considered distributed under the rule's definition of the term ''distributed'' in the new section 210.12(g). No substantive effect is intended by this change. In addition, to better reflect the language used in the statute, the term ''distributed'' replaces the term ''voluntarily distributed'' throughout the final rule. *See* 17 U.S.C. 115(c)(2). Again, no substantive effect is intended, including with respect to the provisions governing involuntary relinquishment.

4. Tax Withholding

Though not addressed in the NPRM, the Joint Commenters raised an issue relating to tax withholding that may be required under federal tax law. They explain that, in certain circumstances, ''a payor may be required to take backup withholding from payments for remittance to the IRS.'' Joint Commenters Initial Comments at 28. They note, however, that the existing regulations do not address how such withholdings are to be reported in the statements of account. *Id.* Accordingly, they have proposed including a rule that requires a licensee to report such withholdings either on the monthly statement or on or with the payment itself. *Id.* No other commenter opposed that proposal.

After examining the issue, the Office agrees that, in the interests of ensuring transparency in the accounting process, statements of account should make clear when money is withheld from royalty payments to copyright owners for remittance to the IRS. The Office has therefore adopted the Joint Commenters' proposal in section 210.16(f)(7) of the final rule.

5. Provisions Relating to Incomplete Transmissions and Retransmissions

The existing rule contains several provisions regarding incomplete transmissions and retransmissions of DPDs. For instance, the rule requires the reporting of DPDs that were ''never delivered due to a failed transmission,'' or were ''digitally retransmitted in order to complete a digital phonorecord delivery.'' 37 CFR 201.19(e)(3)(i)(B). The rule also incorporates incomplete transmissions and retransmissions of DPDs into the calculations of royalty rates. 37 CFR 201.19(e)(4)(ii). The proposed rule carried forward these provisions without alteration.

The Joint Commenters proposed doing away with these provisions. Instead, they recommended that the Office add a new sentence to the definition of ''digital phonorecord delivery'' specifying that a DPD ''does not include a transmission that, as reasonably determined by the distributor, did not result in a specifically identifiable reproduction of the entire product being transmitted, and for which the distributor did not charge, or fully refunded, any monies that would otherwise be due for the relevant transmission.'' Joint Commenters Initial Comments at 29–30.

According to the Joint Commenters, the existing provisions relating to incomplete transmissions and retransmissions are problematic in several respects. For example, they noted that the existing rule defines an ''incomplete transmission'' as one in which the entire sound recording is not transmitted, and maintained that, taken literally, this definition would appear to encompass ringtones. *Id.* at 29. They also asserted that it is technically impossible to individually track all incomplete transmissions and retransmissions, and that even if such information could be comprehensively tracked, the rule would ''require delivery of what would seem to be massive amounts of useless information.'' *Id.* at 30. As a result, according to the Joint Commenters, industry practice has developed such that there is no reporting of incomplete transmissions or retransmissions. *Id.* No other commenter disputed the Joint Commenters' claims or opposed their proposal.

The Office concludes that removing the provisions requiring reporting of incomplete transmissions and retransmissions would further the goal of ensuring that these regulations are not ''so complicated as to make use of the compulsory license impracticable.'' 45 FR at 79039. In particular, given that the Joint Commenters are not aware of any reporting of incomplete transmissions and retransmissions, and given their joint agreement that such reporting is unnecessary, it would seem prudent to ensure that the regulations comport with industry practice. The final rule thus adopts the Joint Commenters' approach of excluding incomplete transmissions from the rule's definition of ''digital phonorecord deliveries.''

6. Reconciling Overpayments in the Annual Statement

The proposed rule, like the existing rule, provided that where an annual statement of account shows an underpayment by the statutory licensee, the licensee must deliver the amount of the underpayment together with the annual statement of account. *See* 77 FR at 44192; 37 CFR 201.19(f)(7)(ii). The existing rule, however, did not include any provision addressing how *overpayments* by the statutory licensee are to be handled. To address this shortcoming, the Joint Commenters proposed that the final rule specify that, where an overpayment exists, such amount ''shall be available to the compulsory licensee as a credit.'' *See* Joint Commenters Initial Comments, exh. A, at A–21. No other commenter objected to that proposal.

The Office has adopted the Joint Commenters' proposal in the final rule. The Office stresses, however, that the manner in which any such credit is taken must be consistent with GAAP.

B. Issues Presented Involving Calculations of Royalties

1. Royalty Calculation Issues in General

The existing statement-of-account regulations set forth in detail the process for calculating royalty payments each month. *See* 37 CFR 201.19(e)(4). The proposed rule carried forward these provisions for cents-rate usages. *See* 77 FR at 44188. For percentage-rate usages, the proposed rule aimed to comprehensively mirror the rate calculation methodology promulgated by the CRB. *See* 77 FR at 44194.

The proposed rule's approach to calculation of royalties for cents-rate usages was uncontroversial, and the final rule adopts the proposed rule with only minor modifications (including removal of provisions for incomplete transmissions and retransmissions of DPDs, an issue which is addressed above). For percentage-rate usages, however, the Joint Commenters highlighted several instances where the proposed rule was inconsistent with the rates adopted by the CRB, including that the rule appeared to contemplate payment for every phonorecord distributed and a separate calculation of a per-phonorecord payment by offering. Joint Commenters Initial Comments at 5–6. The Joint Commenters explained that ''[u]nder Part 385 Subparts B and C, the number of phonorecords made and distributed is not generally determinative of the rate calculation, and phonorecords of multiple configurations are generally treated together as part of a single rate

calculation.'' *Id.* at 5. The Joint Commenters instead proposed that the statements of account regulations ''take a minimalist approach to incorporating into the accounting regulations details imported from Part 385.'' *Id.* at 6. In particular, they recommended that for percentage-rate royalties the rule simply provide that the amount of the royalty payment shall be calculated as provided in the relevant portions of part 385. *Id.* at B–13 to B–14. No other commenter opposed this proposal.

The Office agrees with the Joint Commenters' critique of the proposed rule, and adopts their proposed solution. Taking a minimalist approach has a distinct advantage: It is likely that the CRB will alter the current rates in future rate periods, and incorporating the rates by reference avoids the need to revisit these rules after every such change. The Office stresses, however, that the final rule requires the licensee to include a detailed and step-by-step accounting of the calculation of royalties, to allow the copyright owner to verify the accuracy of the royalty payment.

2. Accounting for Deduction of Public Performance Royalties

As noted above, the percentage-of-revenue royalty rates established by the CRB allow licensees to deduct royalties due for the public performance of musical works from the amounts owned under the Section 115 license. *See* 37 CFR 385.12(b)(2), 385.22(b)(2). In the NPRM, the Office recognized that the nature of the music licensing marketplace is such that the value of applicable performance royalty rates may be unknown or established on an interim basis at the time statements of account and corresponding royalty payments become due. 77 FR at 44181. To address this scenario, the Office proposed that licensees would be permitted to account for unknown performance royalties by using an established interim royalty rate or, if no interim rate is established, a ''reasonable estimation'' of the expected final rate.[4] In either case, the proposed rule required licensees to file amended annual statements of account and reconcile the actual amounts of royalties owed to copyright owners under the Section 115 license within six months of the establishment of a final performance royalty rate. 77 FR at 44194.

The Joint Commenters agreed that new accounting regulations should permit licensees to calculate unknown performance royalties based on interim or estimated performance rates, with a ''true-up'' occurring once the final rates for a given period have been determined. Joint Commenters Initial Comments at 6. However, they offered two refinements to the Office's proposed approach. First, they suggested that the Office only require licensees to report any amendments based on the final establishment of performance rates on the next regular annual statement of account. *Id.* at 9.[5] The Joint Commenters maintained that the cost of preparing and certifying both an annual statement and an amended annual statement for each copyright owner would be burdensome. *Id.* In addition, they noted that ''where ownership of a work may have changed over the relevant period, the only practicable approach is to make the adjustment between the licensee and the current copyright owner'' in the next regular annual statement of account. *Id.*[6] Second, Joint Commenters suggested that the rules specify that amended statements of account should only be required when performance royalties have been established for ''all works used by the service in an accounting period.'' *Id.* at 7–8. As justification for that refinement, the Joint Commenters noted that the performance royalty deduction under part 385 currently is made at the level of a service offering, not a particular work. *Id.* at 7–8.

After considering the comments, the Office maintains the basic approach set forth in the proposed rule, while making clear that amended annual statements of account will be necessary only when the final performance rates are known for all works used by the service. The Office declines to adopt the Joint Commenters' proposal to permit licensees whose prior annual statements (and corresponding payments) have been rendered inaccurate by a final performance royalty determination to rectify the inaccuracies via the ''single, regular statement of account for the year in which the final [public performance] royalty expense for the offering is paid.'' Joint Commenters Initial Comments at 9. In keeping with our statutory obligation to ensure the filing of detailed, cumulative, certified annual statements of account for each fiscal year, the Office finds it necessary to require licensees to file amended statements for each year in which a licensee's aggregate final public performance royalties were incorrectly reflected in its previously filed annual statements. *See generally* 17 U.S.C. 115(c)(5).

The appropriateness of this result is underscored, not undermined, by the Joint Commenters' observation that there may be changes in musical work ownership after initial annual statements are issued and before the final performance royalties are determined. In particular, the Office questions the assertion that where there has been such a change in ownership, any reconciliation must be made with the *current* copyright owner, rather than the owner of the copyright at the time the original annual statement was issued. The transactions transferring copyright ownership may provide for a different result as a matter of private contract, but absent such an arrangement, any underpayment or overpayment stemming from the reconciliation of final performance royalty payments may properly be attributable to the copyright owner at the time of the relevant use of the statutory license.

Nonetheless, to mitigate the cost of preparing the amended statement of account, the final rule clarifies that, in certifying such an amended statement, the Certified Public Accountant (''CPA'') may limit its examination to the licensee's recalculation of royalties. The accountant need not recertify matters that were already examined and certified in the original annual statement of account.

[4] The proposed rule called for the ''reasonable estimation'' to be made ''in accordance with Generally Accepted Accounting Principles.'' 77 FR at 44194.

[5] The Joint Commenters also recommended that the Office declare it reasonable to ''use the aggregate amount of public performance royalties then sought from the licensee by performing rights licensors'' as a basis for computing the interim or estimated public performance royalty component. Joint Commenters Initial Comments at 7. The Office declines to do so. The Office believes that GAAP will provide adequate standards for the determination of the estimate, and that the use of GAAP should mitigate the concern that licensees will adopt inappropriate estimates.

[6] Gear Publishing Company (''Gear'' or ''Gear Publishing''), the only other party to comment on this issue, suggested that, in the absence of an interim royalty rate, public performance royalty rates should be ''no less than one hundred and thirty five percent (135%) of the previously set rates.'' Gear Publ'g, Initial Comments Submitted in Response to U.S. Copyright Office's July 27, 2012 Notice of Proposed Rulemaking at 3 (Oct. 15, 2012) (''Gear Publ'g Initial Comments''). The Office notes that Gear appears to misapprehend the function of the estimated royalty rates in this context. That estimate would not, as Gear appears to believe, actually *set* the interim royalty rates for public performances of the musical works; those rates are determined under the terms of the consent decrees that govern two performing rights organizations, ASCAP and BMI. *See United States* v. *ASCAP,* 2001–2 Trade Cas. (CCH) ¶ 73,474, 2001 WL 1589999 (S.D.N.Y. June 11, 2001); *United States* v. *Broadcast Music, Inc.,* 1966 Trade Cas. (CCH) ¶ 71,941 (S.D.N.Y. Dec. 29, 1966), *amended by* 1996–1 Trade Cas. (CCH) ¶ 71,378, 1994 WL 901652 (S.D.N.Y. Nov. 18, 1994). Instead, under the current CRB rates, the estimated royalty rate is an accounting method used to offset payments under the Section 115 license until an interim or final performance royalty rate is established.

3. Negative Reserve Balances and DPDs

The accounting requirements in the proposed rule were generally uncontroversial. One area of controversy, however, related to the rule's handling of ''negative reserve balances'' for DPDs. Understanding the concept of a ''negative reserve balance'' requires a brief discussion of the concept of a ''phonorecord reserve.'' Section 115 provides that royalties are payable ''for every phonorecord made and distributed,'' and that ''a phonorecord is considered 'distributed' if the person exercising the compulsory license has voluntarily and *permanently* parted with its possession.'' 17 U.S.C. 115(c)(2) (emphasis added). In enacting that provision, Congress recognized that ''phonorecords are distributed to wholesalers and retailers with the privilege of returning unsold copies for credit or exchange.'' H.R. Rep. No. 94–1476, at 110. Thus, ''the number of recordings that have been 'permanently' distributed will not usually be known until some time—six or seven months on the average—after the initial distribution.'' *Id.* Congress observed that ''it ha[d] become a well-established industry practice, under negotiated licenses, for record companies to maintain reasonable reserves of the mechanical royalties due the copyright owners, against which royalties on the returns can offset.'' *Id.* Congress accordingly instructed the Register of Copyrights to promulgate rules governing the maintenance of such reserves. *Id.; see also* 45 FR at 79038.

Thus, the existing rule allows licensees, when making initial distributions of phonorecords, to withhold mechanical royalties based on the licensee's estimate of the number of phonorecords that will be returned by creating a ''phonorecord reserve.'' 37 CFR 201.19(a)(10). As phonorecords are returned, the phonorecord reserve is reduced, reflecting the fact that the returned phonorecords were not ''permanently distributed.'' *Id.* 201.19(c)(1). A ''negative reserve balance'' occurs when phonorecords have been returned to the licensee in an amount that exceeds the established phonorecord reserves (which can occur when more phonorecords than were expected are returned). *Id.* 201.19(a)(11). When such a negative reserve balance exists, it represents an overpayment from the licensee to the copyright owner. *See* 45 FR at 79043. Thus, a compulsory licensee can claim a credit against that balance for future physical phonorecord distributions, with the negative reserve balance reduced accordingly. 37 CFR 201.19(c)(4).

When the Office issued interim payment and accounting rules for DPDs in 1999, it concluded that there was ''no basis for adopting the concept of 'reserves' to DPDs,'' principally because such DPDs are not typically accompanied by a right of return. *See* 64 FR 41286, 41287 (Jul. 30, 1999). Thus, the existing rule makes clear that record companies cannot establish phonorecord reserves for DPDs. *See* 37 CFR 201.19(a)(9).

Since then, a further dispute has developed: if a record company has a negative reserve balance stemming from returns of physical phonorecords, should it be able to claim a credit against that balance for future DPDs? Or should the licensee be limited to only using future physical phonorecord distributions to offset that negative reserve balance? The NPRM sought comment on that issue. *See* 77 FR at 44181–82. Favoring the ability to claim a credit for DPDs were the RIAA and the American Association of Independent Music (''A2IM''). *See* RIAA, Initial Comments Submitted in Response to U.S. Copyright Office's July 27, 2012 Notice of Proposed Rulemaking 3–11 (Oct. 25, 2012) (''RIAA Initial Comments''); A2IM, Reply Comments Submitted in Response to U.S. Copyright Office's July 27, 2012 Notice of Proposed Rulemaking 2–3 (Dec. 3, 2012) (''A2IM Reply Comments''). Opposing that position were a group comprising the NMPA, HFA, the Songwriters Guild of America (''SGA''), and the Nashville Songwriters Association International (''NSAI'') (hereafter referred to collectively as the ''Joint Publishers and Songwriters'') and Gear Publishing. *See* Joint Publishers and Songwriters, Initial Comments Submitted in Response to U.S. Copyright Office's July 27, 2012 Notice of Proposed Rulemaking 5–7 (Oct. 25, 2012) (''Joint Publishers and Songwriters Initial Comments''); Gear Publ'g Initial Comments at 3.

In considering this issue, the Office is guided by the goals of the accounting regulations, particularly the requirements that ''[t]he accounting system must insure full payment, but not overpayment,'' and that ''[t]he accounting procedures must not be so complicated as to make use of the compulsory license impractical.'' 45 FR at 79039. For the reasons discussed in detail below, the Office concludes that licensees may claim a credit against negative reserve balances for future DPD distributions, but only where the DPDs have the same royalty rate as physical phonorecords (*i.e.,* under the current rates, permanent physical downloads).

a. Whether Negative Reserve Balances Can Be Applied to DPD Distributions

The Joint Publishers and Songwriters suggested that the Office had already addressed this issue in the regulatory amendments adopted in 1999, and determined that negative reserve balances could not be applied to future DPD deliveries. *See* Joint Publishers and Songwriters, Reply Comments Submitted in Response to U.S. Copyright Office's July 27, 2012 Notice of Proposed Rulemaking 10 (Dec. 10, 2012) (''Joint Publishers and Songwriters Reply Comments'') (referencing 64 FR at 41287–89). But, as the RIAA correctly observed, the 1999 interim rulemaking addressed only whether licensees could be permitted to *maintain* phonorecord reserves for DPD distributions. *See* RIAA Initial Comments at 7–8. The Office did not opine on the separate issue of whether negative reserve balances developed as a result of returns of physical product could be applied to future DPD distributions.

The NPRM here raised two questions relevant to that previously unaddressed issue. First, the NPRM asked ''whether there is statutory authority for allowing the application of a credit for negative reserve balances to digital phonorecord deliveries.'' 77 FR at 44182. The Office concludes that there is such authority. The statute broadly delegates to the Register the authority to prescribe regulations for monthly royalty payments and monthly and annual statements of account. *See* 17 U.S.C. 115(c)(2). The commenters have pointed to nothing to suggest Congress wished to constrain that authority with respect to DPDs when enacting the DPRSRA.

Second, the NPRM asked whether ''there are reasons to limit the application of credits for negative reserve balances to physical phonorecords.'' After considering the comments, the Office agrees with the RIAA that there is no sound basis for such a limitation. As the Office has previously explained, a negative reserve balance represents an overpayment from the licensee to the copyright owner. 45 FR at 79043. Thus, permitting licensees to use DPDs to offset negative reserve balances would help satisfy one of Congress's goals in enacting section 115(c)(5): That ''[t]he accounting system . . . insure full payment, but not overpayment.'' 45 FR at 79039.

For their part, the Joint Publishers and Songwriters urged that because ''digital phonorecord deliveries cannot be returned, it would be incongruous to apply the negative reserve balance accounting to DPDs.'' Joint Publishers

and Songwriters Reply Comments at 9. But that observation conflates two separate issues. The fact that DPDs cannot be returned is the reason licensees are not permitted to *develop* reserves for DPDs. *See* 64 FR at 41287. That fact has no bearing on whether a licensee can claim a credit against an existing negative reserve balance for future DPDs.

To be sure, as the Joint Publishers and Songwriters noted, Congress was concerned about ''the possibility that, without proper safeguards, the maintenance of . . . reserves could be manipulated to avoid making payments of the full amounts owing to copyright owners.'' *See* Joint Publishers and Songwriters Reply Comments at 12 (quoting H.R. Rep. No. 45–1476, at 110). But, as the Office explained in its 1980 rulemaking, that concern is principally addressed via ''the statutory requirement for an annual CPA audit, coupled with our regulatory requirements including the application of 'generally accepted accounting principles.' '' 45 FR at 79040.[7]

b. Limitations on Licensees' Ability To Apply Negative Reserve Balances to DPDs

While the Office concludes that licensees may offset negative reserve balances using future DPDs, that conclusion raises a few further questions. First is whether a negative reserve balance must be applied to future DPD distributions of the same musical work, or whether it can be applied at the statement level to other works owned by the same person. *See* 77 FR at 44182. The Office agrees with the Joint Publishers and Songwriters that the negative reserve balance should be applied at the work level, not the statement level.

As the RIAA noted, the language of the existing rule as codified in the Code of Federal Regulations is somewhat ambiguous on the issue. RIAA Initial Comments at 11–12. But when the Office first promulgating that rule in 1980, it unequivocally explained in the rule's preamble that the negative reserve balance is ''to be reduced by applying it against shipments *of the same recording under the same compulsory license.''* 45 FR at 79043 (emphasis added).

The Office sees no basis for reconsidering that determination. The Joint Publishers and Songwriters and Gear Publishing convincingly described the practical difficulties that would result from the application of negative reserve balances at the statement level. *See* Joint Publishers and Songwriters Reply Comments at 14–15; Gear Publ'g Initial Comments at 5–6. Among other things, ''[c]ompulsory accountings are generally not made and delivered to the author, but rather to a publisher or administrator.'' Gear Publ'g Initial Comments at 6. Thus, ''[i]f a compulsory licensee was permitted to cross negative royalty balances between two or more songs then the writer of one work might be unfairly punished by the application of a negative reserve balance against another author's work.'' *Id.* Indeed, the RIAA acknowledged this problem, and proposed a solution that would create obvious administrative difficulties.[8] Accordingly, to confirm that a negative reserve balance may only be applied at the work level, the Office has amended the regulations to specifically note that phonorecord reserves and negative reserve balances may only be comprised of the number of phonorecords ''made under a particular compulsory license.''

The second question is how the negative reserve balance, which is expressed in units of physical phonorecords, should be applied to DPD distributions, which are not necessarily tracked on the same basis. Balancing the competing principles discussed above, the Office concludes that the negative reserve balance should be applied to those DPDs that have the same statutory royalty *structure* and same statutory royalty *rate* as the physical product—*i.e.,* under current rates, permanent digital downloads. *See* 37 CFR 385.3 (establishing identical structure and rate for physical phonorecord deliveries and permanent digital downloads). As the RIAA noted, ''applying negative reserve balances to standalone sales of permanent digital downloads is trivial, because the statutory royalty rate is the same for downloads as for physical products.'' RIAA Initial Comments at 9. Moreover, the RIAA acknowledged that limiting the application of negative reserve balances to permanent digital downloads ''takes care of the vast majority of relevant commerce, because the overwhelming proportion of DPDs accounted for by the record companies that potentially have negative reserve balances are permanent digital downloads.'' *Id.*

The RIAA nevertheless asked us to go further, and allow record companies to apply negative reserve balances to DPDs that have a different cents rate, like ringtones, (*see* 37 CFR 385.3(b) (setting rate at 24 cents per ringtone delivery)), and DPDs that have rates that are calculated on a percentage-of-revenue basis, like interactive streams (*see* 37 CFR 385.12, 385.22). The Office declines to do so because that would run afoul of the principle that ''[t]he accounting procedures must not be so complicated as to make use of the compulsory license impractical.'' 45 FR at 79039. The complication arises because phonorecord reserves (and thus, negative reserve balances) ''have historically been measured in product units'' of physical product, not in dollars and cents. RIAA Initial Comments at 9.[9] The RIAA's solution for ringtones would be to divide the 24-cent ringtone rate by the base 9.1 cent physical phonorecord delivery rate to achieve a conversion factor, so that a delivery of a ringtone would be ''worth'' approximately 2.6374 physical phonorecord deliveries. *Id.* at 10. But that would result in reserves being expressed as fractions of physical units, which could cause problems when attempting to apply reserves to future physical phonorecord shipments. Moreover, that solution would work only for royalties that are expressed in cents terms; the RIAA offers little guidance on the manner in which credit could be claimed against negative reserves for digital distributions that carry a percentage-of-revenue royalty rate. *Id.* at 11. This would also make the accounting more difficult to understand and less transparent.

The Office notes that this problem might be dealt with more comprehensively by expressing phonorecord reserves in terms of dollars and cents rather than in terms of physical units. But that would require a significant reworking of the existing regulations, including the manner in which royalties are calculated and accounted for. *See generally* 37 CFR 201.19(d)(4)(ii). Notably, no commenter has suggested the Office make such drastic modifications to the rules. Moreover, the benefits of such modifications are uncertain, given the RIAA's acknowledgment that applying the negative reserve balances to permanent digital downloads ''takes

[7] The Joint Publishers and Songwriters claim that allowing licensees to offset the negative reserve balance using DPDs would encourage ''overshipping'' of physical product. Joint Publishers and Songwriters Initial Comments at 6. The Office does not, however, understand how that concern would justify a music publisher's retention of a royalty overpayment.

[8] RIAA Initial Comments at 12–13 (''If the record company applied a negative reserve balance to works by a writer other than the one who received the overpayment, the music publisher would need to debit the account of the writer who received the overpayment and credit the account of the writer whose work had the negative reserve balance applied to it.'').

[9] *See also* 37 CFR 201.19(a)(10) (defining ''phonorecord reserve'' in terms of ''the number of phonorecords''); *see also id.* 201.19(a)(11) (defining ''negative reserve balance'' in terms of ''the aggregate number of phonorecords'').

care of the vast majority of relevant commerce.'' RIAA Initial Comments at 9. Thus, for all of the above reasons, the Office declines to allow licensees to apply their negative reserve balances to DPDs that carry a different royalty structure or rate than the physical product.

Finally, the Joint Publishers and Songwriters noted that, in practice, the rates for permanent digital downloads and physical products may not be the same because of the prevalence of controlled-composition rates for physical distribution, and the limitation on such rates in the DPRSRA. *See* Joint Publishers and Songwriters Initial Comments at 12–14; *see also* 17 U.S.C. 115(c)(3)(E). Accordingly, they are concerned that allowing licensees to offset a negative reserve balance expressed in terms of physical units carrying a lower royalty under such private agreements using digital distributions that may have a higher royalty under the statutory license would give the record companies a windfall. *See* Joint Publishers and Songwriter Initial Comments at 13–14.

That concern, however, is purely the result of terms of private licenses—specifically, the fact that such licenses apparently ''incorporate the regulations attendant to Section 115, including the reserve accounting rules.'' *Id.* at 13. Such private agreements could avoid the problem by instead adopting different reserve accounting rules. To the extent there may be an underpayment of royalties as a result of the terms of private agreements, ''resolution of [that] issue in particular cases is best left to application of general legal principles in the appropriate forum.'' 45 FR at 79041.

4. Degree of Rounding for Decimal Points

In drafting the proposed rule, the Office recognized the need for new regulations that determine the appropriate degree of rounding (in terms of the number of decimal places, based upon a fraction of a dollar rate) when licensees compute percentage-rate royalties associated with limited downloads, interactive streams, and incidental DPDs. 77 FR at 44182. The NPRM solicited comments on the extent to which licensees are to calculate per work royalty allocations. It also requested that commenters address whether a variance can be allowed in the degree of rounding based on the technical capabilities of various accounting systems, or whether reporting to a certain decimal place should be completely uniform. *Id.*

In addressing these issues, the Joint Commenters maintained that rounding does not inherently favor one party over another. Joint Commenters Initial Comments at 10. They suggested that the new regulations require payors to calculate ''actual or constructive per-play allocations (the number that is then multiplied by the number of plays to determine the per-work royalty allocation)'' to at least six decimal places, provided their systems are technologically able to do so. *Id.* They further suggested that the new regulations require payors that are not technically equipped to make a six-decimal place calculation round to four decimal places. *Id.* The Joint Commenters did not view the benefits of the additional precision (rounding to six places as opposed to four) as sufficient to require reengineering of already existing accounting systems. However, they did note that where payors are capable of making a calculation beyond four decimal places, the added precision is desirable.[10] The only additional commenter on this issue, Gear Publishing, asserted that rounding should be limited to three decimal places and that ''rates should never be less than 1/10th of a penny.'' Gear Publ'g Initial Comments at 6–7.

The Office agrees with the general proposition that the benefits and detriments of calculating actual or constructive per-work royalty allocations to six digits rather than four are essentially random, will generally be very small, and do not inherently favor the payee or the payor. As such, the Office has implemented language in the final rule that requires all compulsory licensees to make royalty calculations to at least four decimal places.

Regarding the Joint Commenters' request that the new regulations mandate additional precision based on technical accounting capabilities, the Office declines to include language in the final rule that would create a regulatory distinction between compulsory licensees with accounting systems designed to make royalty calculations to four decimal places and compulsory licensees whose systems are capable of making royalty calculations beyond four decimal places. The Office finds that the degree of reporting from licensee to licensee need not be completely uniform, provided all licensees make royalty calculations to at least four decimal places. Licensees may utilize additional precision beyond four decimal places where desirable, but the final rule does not require that they do so.

C. Issues Presented Involving Method of Payment and Delivery of Royalties

1. Electronic Payment

The existing regulations provide that monthly statements of account shall be ''served on the copyright owner or the agent with authority to receive Monthly Statements of Account on behalf of the copyright owner to whom or which it is directed, together with the total royalty for the month covered by the Monthly Statement, by mail or by reputable courier service. . . .'' 37 CFR 201.19(e)(7)(i).

In the NPRM, the Office proposed maintaining the current default requirement that payment be sent by mail or courier service. 77 FR at 44182. The Office also proposed amending the existing regulations to allow copyright owners and licensees to independently agree to alternative payment methods, including electronic payment. *Id.* Finally, the Office proposed adopting a regulation that echoed the existing requirement that ''when both the Monthly Statement of Account and payment are sent by mail or courier service, they should be sent together,'' but permitted licensees participating in independent agreements that authorize the sending of statements and payment by means other than mail or courier service to send them contemporaneously. *Id.*

The final rule reflects the commenters' general agreement with the Office's proposal to retain service by mail or courier service as the default requirement. Likewise, it reflects the commenters' general support of a rule that provides for independently agreed upon alternative payment methods.

Regarding the timing of service requirements, the final rule deviates from the Office's proposal that when a licensee serves statements and payment via mail or courier service, they must be sent together. The Joint Commenters' explanation of the often-times separate processes for generating paper checks and paper royalty statements has persuaded the Office that it is sometimes impractical for licensees to send statements and payments simultaneously.[11] Thus, the Office has

[10] The Joint Commenters explained: ''[t]he issue is that older royalty accounting systems originally designed primarily for physical configurations may not have been designed to perform royalty calculations to more than four decimal places, while newer systems generally would. As a result, the Joint Commenters understand that many, but not all, payors have the capability to make this calculation to at least six decimal places, and view that degree of precision as desirable where available.'' Joint Commenters Initial Comments at 10.

[11] *See* Joint Commenters Initial Comments at 12 (explaining that ''[p]aper checks sometimes

included language in the final rule that reflects the Joint Commenters' suggestion that payments may be sent together or separately, but if sent separately, the payments must include information reasonably sufficient to allow the payee to match them with corresponding statements. The final rule remains consistent with the existing requirement that both monthly statements of account and payment shall be served on or before the 20th day of the immediately succeeding month.

2. Electronic Statements of Account

The existing regulations require compulsory licensees to serve statements of account via mail or reputable courier service. 37 CFR 201.19(e)(7), (f)(7). At the urging of stakeholders, the NPRM contemplated adopting a rule that would alter the existing regulations by compelling licensees to serve, and copyright owners to accept, statements of account via electronic transmissions. 77 FR at 44182–83. Although the proposed rule did not go so far as to fully require stakeholders to serve and accept electronic statements of account, it did include provisions whereby a copyright owner could notify a licensee of its willingness to accept statements by means of electronic transmission and require licensees whose statements covered more than 50 works to serve them electronically. The proposed rule also included a provision that would permit stakeholders to agree upon a procedure for verification of authority, other than a handwritten signature, when statements of account are served electronically.

a. Electronic Statements in General

Most commenters agreed in principle with the proposed rule's attempt to reconcile the various stakeholder preferences concerning the format and method of delivery for statements of account. In this vein, the Joint Commenters proposed that the Office adopt regulations whereby ''[e]ach payor could in the first instance choose its preferred mode of delivery, but if a payee requests the other approach, that request would be honored within a reasonable grace period.'' Joint Commenters Initial Comments at 13. They further proposed that, to ''minimize disruption,'' the new regulations should only permit a payor to change its elected preference once annually. *Id.* In support of their proposal, the Joint Commenters explained: ''What has happened in practice is that services and agents making large scale use of the compulsory license have defaulted to electronic delivery, but when some payees have requested paper statements, they have provided them. Conversely, record companies have defaulted to paper statements, and still use them for many payees, but deliver statements electronically when requested.'' *Id.* at 12–13.

The final rule takes into account the general agreement among commenters that the new regulations should authorize electronic service of statements of account by adopting provisions that permit copyright owners to elect the format (paper or electronic) in which they receive statements. However, contrary to the Joint Commenters' proposal, the Office declines to authorize licensees to unilaterally elect to serve statements of account electronically. Instead, consistent with Gear Publishing's proposal, the final rule retains its requirement that licensees submit statements of account by mail or reputable courier by default, and provides copyright owners with the option to demand electronic statements. *See* Gear Publ'g Initial Comments at 8–9. The final rule does not restrict the copyright owners' ability to amend their elected service preference. However, licensees will not be required to make such changes effective until the first accounting period ending at least 30 days after the receipt of a copyright owner's election.

b. Mode of Electronic Delivery

The proposed rule included language that suggested various acceptable means of formatting and delivering electronic statements of account. The Joint Commenters disagreed with this approach, suggesting that the Office should avoid specifics and instead address mode of electronic delivery with ''only a general statement concerning format and security.'' Joint Commenters Initial Comments at 13. Specifically, they stated: ''In practice, electronic statements are generally sent by email, made available for download from a portal, or uploaded to an FTP site. Since electronic delivery is accomplished in many ways, and future technological changes could bring further changes in the way statements are delivered, the Joint Commenters believe that regulations should not address this subject in detail.'' *Id.*

The Office agrees with the Joint Commenters and has adopted language in the final rule that requires licensees to submit statements of account in ''a readily accessible electronic format consistent with prevailing industry practices applicable to comparable electronic delivery of comparable financial information.'' *Id.,* exh. A, A–14. The Office declines, however, to adopt the Joint Commenters' further proposal that the rule specify that ''[r]easonable measures, consistent with prevailing industry practices applicable to comparable electronic delivery of comparable financial information, shall be taken to limit access to the Annual Statement of Account to the copyright owner or agent to whom or which it is directed.'' *Id.* The Joint Commenters nowhere explain the rationale for this provision's inclusion in their proposal, and thus the Office has no basis in the record for adopting it. Moreover, for reasons explained *infra,* the Office declines to include language in the regulations that may be construed as permitting ''confidentiality'' provisions intended to limit access to the statements of account to the copyright owner or agent to whom the statement is directed.

c. Verification of Authority

The NPRM proposed an exception to the requirement for a handwritten signature when service is made electronically. 77 FR 44183. Specifically, the proposed rule specified that if a statement is served electronically, the licensee and copyright owner are to agree upon a procedure for verification of authority.

The Joint Commenters have pointed out that this aspect of the proposed regulations is ''impracticable for large-scale uses of the compulsory license'' and creates the risk of unnecessary strain on the licensing system. Joint Commenters Initial Comments at 13. Specifically, they state: ''Federal law supports the use of electronic signatures, *see* 15 U.S.C. § 7004(b); sending of unauthorized mechanical accounting statements has not been a problem; and there is no reason to believe that unauthorized mechanical accounting statements are more likely to be a problem with electronic transmission than paper-based transmission.'' *Id.*

The Office agrees that the proposed approach has the potential to create an unnecessary administrative burden, and that electronic signatures are an acceptable means for verifying electronic records. *See* 15 U.S.C. 7006(4)–(5). Accordingly, the final rule allows for the use of electronic

originate from a payor department other than the department that generates royalty statements, and the printing and mailing of checks is sometimes outsourced to a third party,'' and that ''some payees of mechanical royalties prefer to have their payments sent to their lockbox service, while receiving their statements themselves'').

signatures on electronic statements of account.

3. Minimum Amount for Payment

The NPRM recognized that, under the current rates for the making and distribution of physical and digital phonorecords, there is potential for the transactional costs associated with making a particular monthly royalty payment to a given copyright owner to outstrip the actual value of the payment (for both copyright owners and compulsory licensees). 77 FR at 44183. To address such a scenario, the NPRM queried whether it would be permissible under the statute for the Office to implement a rule that requires royalty payments to meet a minimum threshold before they become due. *Id.* The Office also sought comment on what would constitute an acceptable minimum threshold. *Id.*

The Joint Commenters urged that it was within the Office's authority to adopt a minimum payment threshold, and proposed that the Office implement regulations that give licensees discretion to set a minimum payment threshold of up to $50, with payment of any royalty accrual that remains less than that amount to be deferred until either the time of the annual statement or whenever the royalty accrual exceeds $50, whichever comes first. Joint Commenters Initial Comments at 15. Gear Publishing agrees in principle with the Joint Commenters' approach, but proposes that the Office adopt a default threshold of one cent and place the burden of obtaining the optional $50 minimum on the licensee. Gear Publ'g, Add'l Reply Comments Submitted in Response to U.S. Copyright Office's Dec. 26, 2013 Request for Add'l Comments at 1–3 (Feb. 14, 2014) (''Gear Publ'g Add'l Reply Comments'').

After carefully considering the issue, the Office concludes that it has only very limited authority to establish a minimum payment threshold. Although, as the Joint Commenters note, the statute gives the Office discretion in setting forth the scope and form of any monthly payments made under the statute, the statute also cabins the Office's ability to alter the basic schedule of royalty payments.[12] In particular, the statute states that ''the royalty under a compulsory license shall be payable for every phonorecord made and distributed in accordance with this license,'' and that a phonorecord is ''distributed'' when the licensee ''has voluntarily and permanently parted with its possession.'' 17 U.S.C. 115(c)(2). In addition, the statute specifies that ''[r]oyalty payments shall be made on or before the twentieth day of every month and shall include all royalties for the month next preceding.'' *Id.* 115(c)(5). Thus, when read as a whole, the statute provides that royalties are payable when the phonorecords have been made and distributed by the licensee, and that all royalties payable for the prior month must be made by the twentieth of every month.[13]

But while the statute on its face appears to leave the Office little discretion to alter the basic rules regarding when royalties must be paid, the Office does have the inherent authority to allow the withholding of amounts it determines are *de minimis.* As the DC Circuit has explained, ''inherent in most statutory schemes'' is the power for administrative agencies to ''overlook circumstances that in context may fairly be considered *de minimis.'' Ala. Power Co. v. Costle,* 636 F.2d 323, 360 (DC Cir. 1979). The court explained that ''[t]he 'de minimis' doctrine that was developed to prevent trivial items from draining the time of the courts has room for sound application to administration by the Government of its regulatory programs.'' *Id.* (internal quotation marks and citation omitted). The court stressed that ''[t]he ability . . . to exempt de minimis situations from a statutory command is not an ability to depart from the statute, but rather a tool to be used in implementing the legislative design.'' *Id.* Thus, there is ''likely a basis for an implication of *de minimis* authority to provide exemption when the burdens of regulation yield a gain of trivial or no value.'' *Id.* at 360–61.

Accordingly, the Office concludes that a regulation permitting licensees to defer royalty payments that do not meet a *de minimis* payment threshold would be consistent with the Office's regulatory authority, but that the Office lacks authority to establish a higher threshold.

In determining the appropriate *de minimis* payment threshold, the Office notes as an initial matter that the calculation mechanisms in the rates established by the CRB are such that payments to some copyright owners may amount to only fractions of a cent. Given the impossibility of paying a fraction of a cent via commonly used banking systems, it is obvious that our authority to declare certain otherwise payable royalties as *de minimis* would allow setting a minimum payment threshold of one cent. *See* Joint Commenters Initial Comments at 14 (''Because the banking system cannot process payments for less than a cent, a minimum royalty threshold of a cent is simply necessary''). Accordingly, the final rule provides for a mandatory minimum payment threshold of one cent and permits a compulsory licensee to defer delivery of monthly statements of account and any associated royalty payments until the cumulative unpaid royalties that it owes a copyright owner equal at least one cent.

The Office further concludes, however, that its authority to declare certain payments as being *de minimis* extends beyond that bare minimum threshold. There appears to be some understanding among the parties that, in the specific circumstances associated with the Section 115 license, the transaction costs involved with making a royalty payment could possibly justify a threshold of up to $50. *See generally* Joint Commenters Initial Comments at 14–15. In particular, the licensee must incur cost to generate and deliver the monthly statement and payment, and the copyright owner must incur cost in processing those statements and payments in their financial and royalty systems. *Id.* at 14. Thus, as the Joint Commenters explain, ''[t]he effort and expense required on each side can dwarf the payments sometimes generated from use of less popular songs.'' *Id.* at 14. The Office does not believe, however, that the record in this rulemaking can support the finding that all payments of under $50 are *de minimis.* The Office instead finds, based on our understanding of the transaction costs involved, and limited to the specific circumstances associated with the Section 115 license, that royalty payments of under $5 can fairly be described as *de minimis. See Ala.*

[12] 17 U.S.C. 115(c)(5) (''Each monthly payment shall be made under oath and shall comply with requirements that the Register of Copyrights shall prescribe by regulation'').

[13] The Joint Commenters focused on the language of paragraph (c)(5), arguing that ''determining precisely what are the 'royalties for the month next proceeding' is a topic for the accounting regulations.'' Joint Commenters Initial Comments at 14–15. But that view fails to account for the language of paragraph (c)(2), which appears to provide that royalties are ''payable'' when phonorecords are made and distributed. The Joint Commenters' reliance on the provisions for reserve accounting is similarly misplaced. *See* Joint Commenters Initial Comments at 14–15. The reserve accounting rules specify that, in certain cases, a licensee need not make a royalty payment when a record is sold with a return privilege. *See* 37 CFR 201.19(c). But those rules are based on the logic that phonorecords that have been sold with a return privilege have not been ''distributed'' within the meaning of the statute, and thus royalties are not yet ''payable.'' *See* 17 U.S.C. 115(c)(2) (providing that a phonorecord is considered ''distributed'' when the licensee ''has voluntarily and permanently parted with its possession''); *see also* H.R. Rep. No. 94–1476, at 110–11. In contrast, a DPD is distributed on the date that it is digitally transmitted.

Power, 636 F.2d at 360–61 (holding that there is ''likely a basis for an implication of *de minimis* authority to provide exemption when the burdens of regulation yield a gain of trivial or no value''); *cf.* 37 CFR 201.11(i)(3) (establishing a five-dollar threshold for payment of interest charges for any royalty underpayment or late payment).

To be sure, the Office recognizes that this assessment of the transaction costs is inexact, and that certain copyright owners may wish to receive statements of account and payments where the royalties owed are less than five dollars in a given month.[14] The Joint Commenters' proposal, however, addresses these concerns by allowing a copyright owner to opt-out of the minimum threshold. *See* Joint Commenters Initial Comments at 15 (''[T]he Joint Commenters' proposed regulations provide a mechanism for a copyright owner to obtain a monthly payment anytime it has at least a cent in royalty accruals.''). In addition, the Joint Commenters' proposal requires payment of *any* cumulative unpaid royalties, even if they are below the threshold amount, at the time of delivery of the annual statement of account. *Id.*

Accordingly, in addition to setting the mandatory minimum threshold of one cent described above, the final rule gives licensees the discretion to set a default minimum payment threshold of up to $5 for payments to any copyright owner. (The Office stresses that this is a *per-copyright-owner* threshold, and not a *per-work* threshold). It allows the licensee to defer production of statements of account and payment of any royalty accrual that remains less than that amount until the earlier of the time for rendering the annual statement of account, the time for rendering the monthly statement of account for the month in which the compulsory licensee's cumulative unpaid royalties meet or exceed the minimum threshold, or the time for rendering the monthly statement of account that is due no sooner than 30 days after the copyright owner provides written notice of its desire to receive payments that are less than the minimum threshold established by the licensee.

While the Office contemplated adopting Gear Publishing's proposed approach, it finds it too onerous a burden to force licensees to proactively negotiate minimum payment thresholds with all copyright owners. Further, it would defeat the purpose of permitting a minimum threshold—which is to implement a default means of preventing situations where the transactional costs associated with a given royalty payment outweigh the actual value of the payment (for both copyright owners and compulsory licensees).

D. Issues Presented Involving Reporting on Statements of Account

1. Statement of Account Issues in General

The existing rule set forth detailed requirements for the content of monthly and annual statements, including information about the licensee and the licensee's use of the compulsory license. *See* 37 CFR 201.19(e)(2) and (3); 201.19(f)(3) and (4). The proposed rule carried forward these basic requirements both for cents-rate and percentage-rate usages, with only minor alterations to account for the newer royalty rate structures. *See* 77 FR at 44188–89, 44194.

The Joint Commenters recommended a number of technical changes to the reporting information. *See generally* Joint Commenters Initial Comments, exh. C. For instance, the Joint Commenters recommended the Office require the reporting of International Standard Recording Codes (''ISRC''), an international standard code for uniquely identifying sound recordings, where that code is known. According to the Joint Commenters, this will further the ability to automatically match large statements to repertoire databases. For the same reason, the Joint Commenters also recommended that the Office require the reporting of the writers of the musical work, when that information is known.

The Office has largely accepted these technical suggestions, which garnered no opposition from other commenters.[15] The final rule, however, includes a few minor changes to the amendments proposed by the Joint Commenters. The Joint Commenters proposed that the ISRC not be reported for cents-rate usages and for multi-recording products in a music bundle. The Office concludes that these carve-outs would add needless complication to the rule. Instead, the Office has adopted a broad rule requiring the reporting of ISRCs when that information is known. The Office has also added to the writer name requirement to permit the reporting of other unique identifiers, such as the International Standard Name Identifier (''ISNI'') of the writer, or the International Standard Musical Work Code (''ISWC'') for the musical work. In addition, the Joint Commenters' proposal would have not required the reporting of writer name information for statements with fewer than 50 lines. Again, if that information is known, the Office sees no reason to exclude it from the statements of account.

More substantively, the Joint Commenters criticized the proposed rule's requirement that, for all percentage-rate usages, the statements of account must report information such as the number of phonorecords involved broken down by configuration. The Joint Commenters explained that ''[u]nder Part 385 Subparts B and C, the number of phonorecords made and distributed is not generally determinative of the rate calculation, and phonorecords of multiple configurations are generally treated together as part of a single rate calculation.'' *Id.* at 5. Thus, as with the royalty calculation provisions addressed above, the Joint Commenters recommended a minimalist approach, requiring simply a ''separate listing of the information required'' to calculate the rates under part 385. Joint Commenters Initial Comments, exh. A, at A–9. No other commenter opposed that proposal.

The Office agrees with the Joint Commenters' critique of the proposed rule and largely adopts its recommendation to incorporate by reference the requirements of the rates in part 385. The final rule makes clear, however, that licensees are obligated to provide a detailed and step-by-step calculation of royalties under that part.[16]

[14] For instance, David Lowery, the lone objecting commenter addressing this issue, urged that licensees should ''pay [copyright owners] what they owe when they owe it like everyone else.'' David C. Lowery, Comments Submitted in Response to U.S. Copyright Office's July 27, 2012 Notice of Proposed Rulemaking at 2 (Dec. 10, 2012).

[15] The Office has not adopted the Joint Commenters' proposal to specify that the ''copyright owner and the compulsory licensee or authorized agent may agree upon alternative methods of accounting and payment'' and that statements of account or payments ''provided in accordance with such an agreement shall not be rendered invalid for failing to comply with the specific requirements of'' the regulations. Joint Commenters Initial Comments, exh. A, at A–15, A–22. Inclusion of these provisions is unnecessary. The statute itself provides that ''[l]icense agreements voluntarily negotiated at any time . . . shall be given effect in lieu of'' the rates and terms established by the CRB. 17 U.S.C. 115(c)(3)(E)(i). It necessarily follows that such agreements can also diverge from the Register's payment and statement-of-account regulations, because those regulations are so closely intertwined with the rates and terms adopted by the CRB.

[16] In so providing, the rule incorporates the essential features of the detail requirements that the Copyright Royalty Judges had adopted in the latest Section 115 rate proceeding, but that the Register determined would impermissibly encroach on the Register's authority to establish requirements for monthly and annual statements of account. *See* 78 FR 28770 (May 16, 2013); s*ee also* Joint

Continued

2. Reporting of Promotional Digital Phonorecord Deliveries

As the NPRM explained, ''[p]romotional Digital Phonorecord Deliveries are often an important tool for record labels and services to attract new listeners, create awareness about a particular artist, and increase plays.'' 77 FR at 44183. In light of these considerations, the CRB established a royalty rate of zero for certain promotional interactive streams and limited downloads and for free trial periods for mixed service bundles, paid locker services, and limited offerings. *See* 37 CFR 385.14; 385.24. (There is no promotional rate for cents-rate usages.) The CRB imposed detailed limitations on the use of the promotional rates, including recordkeeping requirements. *See* 37 CFR 385.14(a)(2),(3); 385.24(a)(4)(i), (b)–(c).

This raised the question of whether and how promotional DPDs should be accounted for in the statements of account. The proposed rule noted that ''[e]ven though no royalty is owed in these circumstances, it is unclear whether licensees should give a full accounting of all the phonorecords made under the license in the Statement of Account.'' 77 FR at 44183. The NPRM thus asked ''whether the statute requires that Statements of Account contain play information on promotional digital phonorecord deliveries.'' *Id.* It further asked ''[i]f the conclusion is that there is no statutory requirement, . . . whether digital phonorecords offered at a promotional rate or for a free trial period should be reported and with what frequency, *e.g.,* monthly or annually.'' *Id.* The proposed rule required detailed accounting of promotional DPDs, on the theory that such a requirement ''would not seem to be a hardship on the licensees,'' because the CRB's recordkeeping rules ''require[] retention of complete and accurate records of the relevant authorization, identification of each sound recording of a musical work made available through the free trial period, the activity involved, and the number of plays and downloads for each recording.'' *Id.*

The Joint Commenters opposed any requirement to report promotional uses as part of statements of account, on the ground that any such requirement would be administratively burdensome. *See* Joint Comments at 15–19. Gear Publishing supported the imposition of such a reporting requirement, citing the utility of such information for copyright owners. Gear Add'l Reply Comments at 4.

After careful consideration, the Office has decided not to require detailed reporting of promotional uses. Instead, the final rule only requires the licensee to affirmatively provide the copyright owner with detailed instructions on how to obtain the records of any promotional uses that are required to be maintained under the CRB's existing rules.

First, the Office concludes that the statute does not unambiguously require statements of account to include detailed information (like play counts) about licensees' use of DPDs for promotional purposes. The statute generally grants the Register broad discretion to adopt regulations governing monthly and annual statements of account. It states that ''[e]ach monthly payment . . . shall comply with requirements that the Register of Copyrights shall prescribe by regulation,'' and requires the Register to ''prescribe regulations under which detailed cumulative annual statements of account . . . shall be filed[.]'' 17 U.S.C. 115(c)(5). The only arguable limitation on that generally broad delegation of rulemaking authority comes in the last sentence of section 115(c)(5): ''The regulations covering both the monthly and annual statements of account shall prescribe the form, content, and manner of certification with respect to the number of records made and the number of records distributed.'' *Id.*

Properly understood, this sentence instructs the Register to prescribe (1) the ''form'' of the statements, (2) the ''content'' of the statements, and (3) the ''manner of certification'' of the statements ''with respect to the number of records made and the number of records distributed.'' *Id.* The last clause requires only that the ''manner'' of certification relate in some way to the number of records made and distributed by the licensee. *Cf. Landmark Legal Found.* v. *IRS,* 267 F.3d 1132, 1136 (D.C. Cir. 2001) (noting ''the extremely general character of the connecting phrase—'with respect to' ''). The clause does not, however, require statements of account themselves to reflect the exact number of records made and distributed in all circumstances.[17]

Second, given that the statute does not clearly require statements of account to track distributions of promotional DPDs, the Office must instead consider whether such a requirement would nevertheless be appropriate in light of the overall purposes of the statute, including the goals of preventing ''economic harm from companies which might refuse or fail to pay their just obligations'' and of ensuring the administrability of the statutory license. H.R. Rep. No. 94–1476, at 111.

Several competing considerations are relevant to that analysis. On the one hand, as Gear Publishing notes, information regarding promotional uses may have value for copyright owners, and could help ensure that licensees are complying with the conditions imposed by the CRB for use of the promotional rate. Gear Publ'g Add'l Reply Comments at 4. On the other hand, promotional uses carry a zero rate, and such uses thus have little direct financial impact on the copyright owners. Moreover, the Joint Commenters—representing both copyright owners and compulsory licensees—have described in detail the administrative burden associated with reporting promotional uses in the statements of account. Joint Commenters Initial Comments at 15–19. According to the Joint Commenters, many promotional uses are conducted by third-party licensees, as with the ''streaming of preview clips from download stores,'' but detailed information regarding play counts and the like are typically not reported into the royalty accounting systems of compulsory licensees. *Id.* at 16. Thus, ''[i]mposing a new reporting requirement would necessitate creating new reporting processes.'' *Id.* In addition, as noted, the CRB already requires licensees to keep records of promotional uses and make them available to copyright owners on request, and thus the proposed rule was largely duplicative of provisions already in effect. *Id.* at 18.

Balancing these considerations, the Office has decided not to require detailed reporting of promotional uses in the monthly and annual statement of account. In particular, we believe that the needs of copyright owners are largely satisfied by the recordkeeping terms the CRB has adopted for

Commenters, Add'l Comments Submitted in Response to U.S. Copyright Office's July 27, 2012 Notice of Proposed Rulemaking (Jan. 30, 2013) at 2–3 (urging the adoption of these ''detail requirements'').

[17] *See also Village of Barrington, Ill.* v. *Surface Transp. Bd.,* 636 F.3d 650, 661 (D.C. Cir. 2011) (explaining that a statute must ''unambiguously'' foreclose the exercise of agency discretion). The Office acknowledges that it has, on an earlier occasion, suggested that the statute mandates that statements of account contain an individual accounting of promotional DPDs. *See* 74 FR 4537, 4543 (Jan. 26, 2009) (''There is no statutory authority for an exception to this requirement for certain types of ''phonorecords' or for the participants to alter this provision by agreement.' ''). That sentence, however, was not directly relevant to the issue that was being addressed on that earlier occasion, which was related to the relevant division of authority between the CRB and the Register with respect to statements of account. *Id.*

promotional uses, which give copyright owners the right to obtain records of promotional uses on request. *See* 37 CFR 385.14(a)(2), (3); 385.24(a)(4)(i), (b)–(c). At the same time, the Office is concerned that some copyright owners may not know how to invoke that right. Accordingly, the final rule provides that statements of account must include detailed instructions on how a copyright owner may obtain the records of promotional uses that are required to be maintained or provided under section 385.14 and section 385.24, or any other similar regulation the CRB may promulgate in the future, including records that are required to be maintained or provided by third-party services that are authorized by the licensee to engage in promotional uses.[18] Where licensees are themselves engaged in promotional uses of the copyrighted works (*e.g.,* a record label Web site that streams free previews), providing this basic information should be a trivial burden. Where a licensee has authorized a third-party service to engage in promotional uses, the annual statement should disclose sufficient information to allow the copyright owner to request the material that the service is required to maintain under the terms adopted by the CRB. This modest requirement will ensure that copyright owners are regularly informed of their right to request records of promotional uses.

3. Reporting the Identification of Third-Party Licensees

The NPRM highlighted the ongoing disagreement between copyright owners and compulsory licensees regarding the identification of authorized third-party distributors of DPDs and ringtones in statements of account.[19] FR at 44183–84.19. The Office accordingly solicited comments on whether new regulations should require licensees to issue statements that include both the identities of the third-party services they authorize to distribute DPDs and ringtones and the number of DPDs and ringtones each such service distributes. *Id.*

The responses received were consistent with the summary of the disagreement laid out in the NPRM. 77 FR 44183–84. Commenting copyright owners—represented by the Joint Publishers and Songwriters group, and Gear Publishing—favored amending the existing regulations to require compulsory licensees to identify each third-party service that distributes a DPD or ringtone in connection with the compulsory license as well as the total number of DPDs and ringtones that specific service distributed. *See* Joint Publishers and Songwriters Initial Comments at 3; *see also* Gear Publ'g Initial Comments at 14–15. The copyright owners claimed that, without such information, publishers and songwriters have no way of determining what third-party services are authorized to distribute DPDs and ringtones. *Id.* They further asserted that, given the rise in the number of third parties providing digital distribution services, permitting original licensees to ''cloak'' the identities of sublicensees deprives them of valuable information and limits their ability to participate in the expanding digital marketplace. Joint Publishers and Songwriters Initial Comments at 4–5. Regarding the ease with which licensees could implement such regulations, the copyright owners claimed that third-party services already track and report DPD and ringtone distributions to compulsory licensees, making the licensees' identification of third-party services in their statements of accounts ''not only reasonable, but also necessary to ensure transparency in the digital environment.'' Joint Publishers and Songwriters Initial Comments at 3–4.

Commenting compulsory licensees—represented by RIAA and A2IM—took the opposing view. RIAA Reply Comments at 11–17; A2IM Reply Comments at 3–4. They disagreed with the copyright owners' assertion that this aspect of the Section 115 license requires additional transparency and maintained that ''[t]he mere fact that some publishers are curious to have this information is not a sufficient reason to require record companies to reengineer their royalty reporting systems to provide it.'' RIAA Reply Comments at 15; *see also* RIAA Initial Comments at 13–14. In this regard, the RIAA claimed that separately calculating and reporting usage figures for each third-party distributor would lead to a multiplication in the volume of data processed by record companies, would cause an increase in the size of the statements delivered to copyright owners, and would require record companies with ''legacy royalty accounting systems'' to make ''significant changes to business processes and systems, at a substantial cost.'' RIAA Initial Comments at 14. Likewise, A2IM claimed that small- and medium-sized record companies often do not have access to this information (where digital distribution is handled through an aggregator) and that, even if they could obtain this information, a requirement to report it in the manner the commenting copyright owners suggested would ''dramatically increase'' their administrative burden. A2IM Reply Comments at 3.

After careful consideration of the comments, the Office has decided to amend the regulations to require licensees to issue statements of account that identify authorized third-party distributors, and list the number of DPDs and ringtones each such party distributes. The Office is of the opinion that transparency is critical where copyright owners are compelled by law to license their works. As the Joint Publishers and Songwriters pointed out, information regarding the breadth of the distribution of their works has the potential to influence their future business decisions and impact the scope of their involvement in the digital music industry. Joint Publishers and Songwriters Initial Comments at 5. In addition, increasing transparency of the uses of music is likely to enhance the copyright owners' faith in the accuracy of the accounting statements. The Office fails to see the advantages in permitting licensees to withhold such basic information as: What services are exploiting their works, who is authorizing the services to exploit their works, and the frequency with which the works are being exploited. To the contrary, the music industry stands to profit from increased transparency among copyright owners and the licensees who exploit protected works pursuant to the compulsory license.

The Office is cognizant that compulsory licensees will have to bear some administrative burden in implementing this amendment. As the RIAA correctly noted, the Office has previously cautioned against the implementation of regulations that would ''substantially multiply necessary paperwork'' and ''put compulsory licensing beyond the means of many record companies.'' 45 FR at 79039. Nevertheless, the Office is not persuaded by the licensees' argument that the burden in this instance would

[18] The Office notes that the CRB regulations do not appear to require services to maintain per-play counts of promotional uses of interactive streaming of clips. *See* 37 CFR 385.14(a)(1)(iii)(A), (d). At this time, the Office is not requiring the collection of that information in its statement-of-account regulations, on the ground that the parties in the proceedings before the CRB believed that such detailed recordkeeping was not necessary for those specific uses.

[19] For percentage-rate usages, information about third-party distributors is provided to copyright owners as a matter of course. As the RIAA notes, ''[t]he percentage rate calculation is specific to a particular service offering, so it is only natural that the offering would be identified in applicable statements. Moreover, this usage is typically accounted for by the services [who pay a percentage rate] themselves, making identification of the distributor trivial.'' RIAA Initial Comments at 14. The final rule codifies the practice of identifying the distributor or third-party distributor for percentage-rate usages.

be unreasonable. Based on the information the Office received over the course of numerous rounds of stakeholder comments, it is not convinced that tracking and reporting works across multiple distributors is cost- or resource-prohibitive. As discussed, the new regulations will only require a change in reporting practices with respect to DPDs and ringtones distributed by third-party licensees. Our understanding is that most third-party licensees already collect and report relevant usage information to compulsory licensees for payment purposes. *See* Joint Publisher and Songwriter Reply Comments at 5 & nn.2–3. The licensee's only burden, then, is to report the information that they already receive to copyright owners. Thus, balancing all the factors, the Office believes the added transparency will benefit rather than harm the compulsory licensing marketplace.

4. CPA Certification of Annual Statements of Account

The statute requires the Register to ''prescribe regulations under which detailed cumulative annual statements of account, certified by a certified public accountant, shall be filed for every compulsory license.'' 17 U.S.C. 115(c)(5). The statute also instructs the Register to issue regulations that ''prescribe the form, content, and manner of certification with respect to the number of records made and the number of records distributed.'' *Id.* As the Office explained in the NPRM, the certification requirement ''should assure that copyright owners receive the royalties to which they are entitled, but . . . should not burden the licensee to the point that it would prevent the compulsory license from being a practical option for record companies or services.'' 77 FR at 44184.[20] For purposes of the proposed rule, the Office retained the existing regulations for CPA certification of annual statements of account, which had been in place since 1980. 77 FR at 44191, 44196. The NPRM nevertheless asked whether there were ''alternative certification methods that . . . should be considered by the Office.'' *Id.* at 44184.

Commenters broadly agreed that the existing certification regulations should be revised, and agreed in general terms about the basic structure and many of the specific elements of the revised certification provisions. After considering fully the comments received, the Office has adopted the structure and uncontroversial elements of the Joint Commenters' proposal regarding certification of the annual statements of account in the new section 210.17(f), with conforming revisions to the certification requirements for the monthly statements of account in the new section 210.16(f). At bottom, the Office has designed the CPA certification rule to provide copyright owners with firm assurance that the annual statement accurately reflects, in all material respects, the compulsory licensee's usage of musical works, the statutory royalties applicable thereto, and any other data that is necessary for the proper calculation of the statutory royalties in accordance with the statute and applicable regulations. *See* H.R. Rep. No. 94–1476, at 111 (explaining that the annual statement requirement should ''increase the protection of copyright proprietors against economic harm from companies which might refuse or fail to pay their just obligations'').

One of the key features of this new rule is the accommodation for alternative methods of certification for small-scale users and large-scale users. According to the commenters, the existing regulations appeared to assume individual review and certification of all statements of account, a step that is impracticable for large-scale use of the compulsory license.[21] The Office agrees. The revised rule thus provides that, where the accountant determines in its professional judgment that the volume of data involved would render individual review and certification of annual statements of account impracticable, an accountant certifying the annual statement of account may instead examine the internal processes and controls of the licensee to determine whether they were suitably designed and operated effectively to accurately calculate royalties and generate compliant statements of account. A similar provision applies to monthly account statements.[22]

Another notable revision is the removal of the requirement that the CPA use specific certification language. Instead, consistent with the commenters' proposals, the final rule now specifies the scope of the examination and the general substance of the opinion the CPA must render after that examination. Although this departs from our conclusion in 1978,[23] the Office believes it is appropriate to do so in light of the following factors: First, the commenters in this proceeding, who have dealt with the certification language under the existing rule for many years, all agreed that the Office should not specify the certification language. Second, as the Joint Commenters pointed out, ''[i]f the required substance of the certification is anchored in appropriate professional standards, it is not necessary to provide exact certification language to have a rigorous certification process.'' Joint Commenters Reply Comments at 6. Finally, our understanding is that the language used in opinions rendered by CPAs is largely dictated by the American Institute of Certified Public Accountants' (''AICPA'') standards.[24] The Office is wary of requiring the use of specific certification language that could interfere with those standards.

Beyond these uncontroversial changes, there were three areas of disagreement between Music Reports and the Joint Publishers and Songwriters about the particulars of the manner of certification, particularly as they related to large-scale uses of the compulsory license. As explained below, the Office largely agreed with the Joint Publishers and Songwriters on each of these points, and the final rule reflects their proposal.

[20] The Office recognizes that some commenters requested the establishment of a right to audit the records kept by users of the compulsory license as part of these statement-of-account regulations. The Office declines to adopt such audit provisions because it is not apparent that the statute authorizes the Register to do so. However, the Office reiterates its conclusion that the CRB does have the authority to issue requirements regarding audit of records that are required to be kept as part of the terms of the compulsory license. *See* 73 FR at 48398.

[21] *See* Joint Commenters Reply Comments at 5–6; Music Reports, Reply Comments Submitted in Response to U.S. Copyright Office's July 27, 2012 Notice of Proposed Rulemaking at 9 (Dec. 10, 2012) (''Music Reports Reply Comments''); *see also* RIAA Reply Comments at 2, 18 (urging the Office to adopt a certification option for small-scale use of the compulsory license).

[22] Although no commenter has disputed our statutory authority to adopt this amendment, the Office has independently concluded that this bifurcated certification procedure is consistent with the statutory instruction to ''prescribe the form, content, and manner of certification with respect to the number of records made and the number of records distributed.'' 17 U.S.C. 115(c)(5). As indicated above, the statutory language gives the Register broad discretion with regard to certification of the processes used to track usage of the license *Cf. Landmark Legal Found.* v. *IRS,* 267 F.3d 1132, 1136 (DC Cir. 2001) (noting ''the extremely general character of the connecting phrase—'with respect to'''). The statute does not mandate an individual count of records in all cases.

[23] 43 FR at 4515–16.

[24] *See* AICPA, *Statements on Standards for Attestation Engagements* at 101.114, *http://www.aicpa.org/Research/Standards/AuditAttest/DownloadableDocuments/AT-00101.pdf* (examples of examination reports) (last updated June 1, 2013).

a. Requirement for a Single Certification

Many compulsory licensees outsource royalty accounting services to a third-party service provider like Music Reports, which raises the question of how the CPA certification should operate in those circumstances. Music Reports proposed that two separate CPAs would issue two separate and essentially unrelated certifications—the CPA for the licensee would certify the statement to the extent it contains usage and other data used to calculate royalties, and the CPA for the service provider would certify the process used to generate the statement. Music Reports, Add'l Reply Comments Submitted in Response to U.S. Copyright Office's Dec. 26, 2012 Notice of Proposed Rulemaking at 8–9 (Feb. 14, 2014). By contrast, the Joint Publishers and Songwriters proposed requiring a single certification from a CPA engaged by the compulsory licensee. *See* Joint Publishers and Songwriters Reply Comments at 15–16. Under that proposal, to the extent the licensee relies on a third-party service provider for royalty accounting services, the licensee's CPA would be able to rely on a report and opinion generated by the service provider's CPA certifying the process used to generate the annual statement. *Id.* Gear Publishing proposed that, where the licensee's CPA relies on a report of the CPA of the third-party service provider, the licensee's CPA should be required to disclose that they have relied on such a report. Gear Publ'g Initial Comments at 16.

After careful consideration of the comments, the Office adopts in general Gear Publishing and the Joint Publishers and Songwriters' proposals. Allowing different CPAs to certify different portions of annual statements would substantially detract from the chief goals of the CPA certification requirement—assuring transparency and certainty of royalty payments. Permitting piecemeal certifications creates a risk that no person bears responsibility for examining the process as a whole to ensure that it is suitably designed to generate compliant annual statements. Under the statute, a compulsory licensee bears full responsibility to produce accurate and complete annual account statements, and should ultimately be responsible for shortcomings in those statements no matter their source. *See* 17 U.S.C. 115(c)(5). The CPA engaged by the compulsory licensee should similarly bear responsibility to provide a certification as to all aspects of the statement.

The final rule thus provides that the licensee's CPA must certify the statement as a whole, even where a third party provides services related to the annual statement. The Office appreciates Music Reports' concern that requiring the licensee's CPA to base its certification on a report received from a third-party service provider's CPA could introduce complexity into the certification process. *See* Music Reports Reply Comments at 8. In response to that concern, the final rule makes clear that the licensee's CPA may rely on the report produced by the service provider's CPA, if that fact is disclosed in the certification. Whether in a particular case the licensee's CPA might be required to assess the bases for the third-party report is a matter that the Office entrusts to the judgment of the licensee's CPA under the pertinent professional standards. The Office notes, however, that nothing in the rule prevents the *same* CPA from examining and rendering an opinion with respect to both the licensee and the third-party service provider.

b. Requirement To Examine the Process by Which Usage Data Is Generated

The second area of dispute relates to the examination of large-scale licensees who use third-party services (like Music Reports) to generate annual statements of account. Typically, such licensees supply usage and other data relevant to the royalty calculation (*e.g.,* revenues, performance rights payments, play counts, and subscriber counts) to the third-party service, which in turn is responsible for actually generating the statements of account based on that data. Music Reports argues that, for such licensees, the CPA examination should exclude the processes used by the licensee to track usage and other royalty data supplied to the third-party service. Instead, Music Reports appears to take the view that the accuracy of that data should be taken at face value. Music Reports Add'l Reply Comments at 6–7. In particular, Music Reports suggests that this data is already ''highly scrutinized'' by ''the CFO of the licensee, by the sound recording owners and performance rights organizations, [and] by the licensee's potential investors.'' *Id.* at 8. The Joint Publishers and Songwriters take the opposite view, urging that an examination of the processes used to generate the usage and other data is necessary to ensure that the annual statements are accurate. *See* Joint Publishers and Songwriters Reply Comments at 3–5.

The Office agrees with the Joint Publishers and Songwriters. As explained, the purpose of the CPA certification requirement is to give the copyright owner firm assurance that it is receiving all the royalties to which it is entitled. Given that goal, Music Reports nowhere explains how an acceptable CPA examination can realistically take place for large-scale licensees without examining the reliability of the processes used to track the data used in royalty calculation. *See generally* Music Reports Reply Comments at 8. Music Reports' assertion that licensees ''have had no reason under current law and regulation'' to think that these processes would be subject to examination (Music Reports Add'l Reply Comments at 7), is difficult to fathom. It should have been obvious to any licensee that a fair assessment of the accuracy of royalty payments necessarily requires an examination of the accuracy of the data used for the royalty calculations and, if necessary, of the processes used to track that data.[25]

c. Underlying Auditing Standard

The third and final area of disagreement relates to the professional standards that the CPA must employ when examining annual statements. Under the current rule, the CPA must certify that they have examined the annual statement in accordance with ''generally accepted auditing standards,'' or GAAS. 37 CFR 201.19(f)(6)(ii)(A). The Joint Commenters explained, however, that GAAS is not the most directly applicable standard under modern accounting practice. According to them, GAAS provides specific standards for the audits of corporate financial statements rather than the activities contemplated by Section 115. *See* Joint Commenters Reply Comments at 3–4. Instead, ''[t]he certification required by the current regulations is more akin to the certification that applicable professional standards contemplate when a CPA completes an examination under the AICPA Attestation Standards,'' a different set of professional standards for CPAs. *Id.* at 4.[26] Christian Castle reinforced this

[25] For that reason, Music Reports also missed the mark when it asserted that the Joint Publishers and Songwriters' proposal would ''require a process audit of the Usage and Royalty data in high-volume contexts, but not require a process audit in low-volume contexts,'' and that the proposal thus ''creates a double standard which discriminates against DSPs vis a vis [sic] record companies.'' Music Reports Add'l Reply Comments at 7. A low-volume context would presumably be one in which it is unnecessary to examine the processes used to generate annual statements because it is relatively easy to examine the annual statements and the underlying data directly.

[26] *See also* AICPA, *Clarified Statements on Auditing Standards* AU–C § 200.01, *http://*

Continued

point, proposing that the Office ''specify . . . that the certified public accountant certifying Annual Statements of Account must perform their certification review in accordance with the attestation standards designated by the Copyright Office.'' Christian L. Castle, Initial Comments Submitted in Response to U.S. Copyright Office's July 27, 2012 Notice of Proposed Rulemaking at 11 (Oct. 25, 2012) (''Castle Initial Comments'').

Thus, there appears to be general agreement that the AICPA's ''attestation standards'' are appropriate in at least some circumstances. Music Reports, however, proposed that our regulation specify the use of these attestation standards *only* for high-volume uses of the compulsory license, and even then only for the CPA's examination of the processes used to generate the annual statements (either by the licensee or a third party) and not for the examination of the usage and other data used in the royalty calculation. Music Reports Reply Comments, exh. A, at A–2 to A–3. For those other situations, Music Reports proposed leaving the particular standard open-ended, by providing that the examination must take place ''in accordance with the professional standards of the American Institute of Certified Public Accountants.'' *Id.,* exh. A, at A–2. The Joint Publishers and Songwriters, in contrast, urged the specification of attestation standards in all circumstances. Joint Publishers and Songwriters Reply Comments at 15–18. And notably, the RIAA, whose members are typically small-scale users of compulsory licenses, disagreed with Music Reports, and proposed the use of the attestation standard for CPA examination of annual statements generated by such users. RIAA Reply Comments at 18.

After full consideration of the comments on this issue, the Office agrees in general with the Joint Publishers and Songwriters' proposal, and rejects Music Reports' competing proposal. Most problematically, the reference to ''professional standards'' in Music Reports' proposal is non-specific, and could encompass examinations that are not especially demanding.[27] Moreover, as the Joint Publishers and Songwriters convincingly explain, requiring CPAs to employ the attestation standards, and by further specifying that the attest engagement must include an ''examination'' of the annual statements followed by an ''opinion'' that those statements accurately reflect the relevant information, ''provide[s] a high level of assurance that compulsory licensees were complying [with] Section 115 and the attendant regulations.'' Joint Publishers and Songwriters Reply at 17.[28] The Office believes that adopting those standards is thus likely to fulfill Congress's overarching goal in enacting the certification requirement, *i.e.,* ''to increase the protection of copyright proprietors against economic harm from companies which might refuse or fail to pay their just obligations.'' H.R. Rep. No. 94–1476, at 111.[29] Accordingly, the final rule requires the use of the AICPA's ''attestation standards'' in all circumstances, and further specifies that the CPA must conduct an ''examination'' and render an ''opinion'' regarding the annual statements under those standards.

Certain commenters asked us to go even further and provide more detail regarding the precise manner of examination. For instance, the Joint Publishers and Songwriters proposed that the rule provide detailed guidance regarding the CPA's examination. *See* Joint Publishers and Songwriters Reply Comments at 23. Similarly, the Joint Publishers and Songwriters and Music Reports together urged that the Office specify that the CPA examination of third-party service providers take place under the AICPA's Statement on Standards for Attestation Engagements No. 16 (SOC), Type II. Songwriters Reply Comments at 18. Similarly, Christian Castle proposed that the Office adopt ''specific attestation standards.'' *See* Castle Initial Comments at 10.

The Office declines to provide more detail governing the conduct of the CPA's examination. Among the concerns the Office has is that the AICPA amends or recodifies its standards with some regularity.[30] It would thus be inappropriate to embed specific standards into the rule. Accordingly, the final rule simply provides the examination of third-party providers should simply take place under the AICPA's attestation standards generally. The Office believes details of how a CPA will conduct its examination in accordance with the standards set forth in the regulations are best left to the CPA's professional judgment, and trusts that CPAs will choose the specific standards and procedures that are most appropriate for each examination.

5. Adjustment of Timetables for Reporting

The NPRM proposed extending the deadline for filing annual statements of account from three months after the close of the licensee's fiscal year to six months after the close of the licensee's fiscal year. 77 FR at 44184. The Joint Commenters agreed that the increased complexity of compiling annual statements of account that include percentage-of-revenue based royalty allocations warrants a deadline extension.[31]

Gear Publishing, however, opposed an extension, claiming ''[t]he digital age is supposed to make things faster not slower'' and ''[a] summary of streams related to any musical work should be available at any time.'' Gear Publ'g Initial Comments at 17. They countered the proposed extension with a request that the time to produce an annual statement be reduced from three months to forty-five days. *Id.* A number of independent commenters also opposed the extension, claiming extending the deadline creates a ''new safe harbor'' which provides licensees with additional time to meet obligations they could have easily fulfilled under the existing regulations. *See, e.g.,* Castle Initial Comments at 9–10.

www.aicpa.org/Research/Standards/AuditAttest/DownloadableDocuments/AU-C-00200.pdf (last updated June 1, 2013); AICPA, *Statements on Standards for Attestation Engagements* AT § 101.01, *http://www.aicpa.org/Research/Standards/AuditAttest/DownloadableDocuments/AT-00101.pdf* (last updated June 1, 2013).

[27] For example, CPAs can be engaged to conduct ''compilations'' or ''reviews,'' which provide comparatively lower levels of service. *See* AICPA, *What is the Difference Between a Compilation, a Review, and an Audit?, http://www.aicpa.org/InterestAreas/PrivateCompaniesPracticeSection/QualityServicesDelivery/KeepingUp/DownloadableDocuments/Brochure%20Customizable-%20Difference%20between%20Comp%20Review Audit.pdf* (last visited July 31, 2014).

[28] *See* AICPA, *Statements on Standards for Attestation Engagements, supra* note 21, § 101.54, (noting that ''an attest engagement designed to provide a high level of assurance'' is ''referred to as an *examination*''); *id.* § 101.69 (''In an engagement to achieve a high level of assurance (an examination), the practitioner's conclusion should be expressed in the form of an opinion.'').

[29] Music Reports also asks us to provide a view of whether the AICPA's attestation standards require use of an ''independent'' auditor. *See* Music Reports Reply Comments at 8. The Office is not in a position to provide such a view.

[30] Indeed, it appears that the AICPA is currently engaged in an effort to clarify and recodify several of its professional standards, including the attestation standards. *See* AICPA, *Proposed Statement on Standards for Attestation Engagements* (July 24, 2013), *http://www.aicpa.org/Research/ExposureDrafts/AccountingandAuditing/DownloadableDocuments/20130724a_ED_Attestation_Standards_1to4.pdf.*

[31] In their initial comments, the Joint Commenters explain, ''Large-scale use of the compulsory license, particularly for percentage-rate usages, has made preparation and auditing of annual statements a complex process. In addition, it is important to remember that the first month of the annual statement period is necessarily devoted to completing the monthly accounting for the last month of the year, since the monthly statements can't be tallied until the last one is done. Two months after preparation of the last monthly statement is completed is not long to complete the whole annual statement process.'' Joint Commenters Initial Comments at 20.

The Office concludes that the accounting requirements are sufficiently complex to justify extending the period for statutory licensees to file their annual statements from three to six months. The Office also believes this extended deadline will generally benefit copyright owners by allowing sufficient time for the robust CPA examination and certification contemplated by the regulations.

6. Reporting for Periods Prior to Enactment of New Regulations

As noted, one key purpose of this rulemaking is to amend the existing statement-of-account regulations to reflect the CRB's establishment of new rate structures for DPD configurations not previously subject to the Section 115 license. *See* 37 CFR part 385. One question the NPRM addressed was whether statements of account that complied with these new accounting rules would have to be filed for reporting periods occurring after those rates took effect on March 1, 2009. 77 FR at 44184. The proposed rule required the delivery of statements of account for any prior accounting period within 180 days after the new statement-of-account regulations took effect. *Id.*

The Joint Commenters objected to providing statements of account for past reporting periods, on the ground that it would be a needless administrative burden. Joint Commenters Initial Comments at 21–23. They observed that monthly statements of account produced by the digital music services already take into consideration percentage-rate usages. *Id.* At the same time, they noted that with respect to annual statements ''certain licensees making large-scale use of the compulsory license for percentage rate configurations have not been providing annual statements,'' because it was ''difficult or impracticable to do so'' in the absence of regulatory guidance. *Id.* at 23. In recognition of that fact, the Joint Commenters proposed a rule providing that ''when an annual statement for a fiscal year after March 1, 2009 was not provided because it was impracticable for the licensee to provide it'' the copyright owner may demand a statement that confirms with the new statement-of-account regulations. *Id.* Notably, no other commenter opposed the Joint Commenters' proposal.[32]

After carefully weighing the issue, the Office adopts the Joint Commenters' approach. Based on the representation that ''[r]estating several years of monthly statements that have passed without objection would be a massing undertaking serving no useful purpose,'' the final rule does not require the preparation and service of compliant monthly statements of account for periods prior to the effective date of these rules. Joint Commenters Initial Comments at 23. But as suggested by the Joint Commenters, the final rule will allow copyright owners to request annual statements of account for fiscal years ending after March 1, 2009 and before the effective date of this rule, where the copyright owner did not receive any annual statement of account for any reason.[33]

7. Record Retention (AKA Documentation)

In the NPRM, the Office proposed extending the existing regulations that require licensees to retain all records and documents necessary to support information set forth in annual statements of account and monthly statements of account from three years from the date of service to five years from the date of service. 77 FR at 44184–85. The commenters agreed in principle that it would be appropriate to extend the general record retention requirement, though some proposed the Office adopt an even longer mandatory retention period. *See* Joint Commenters Initial Comments at 24; *see also* Gear Publ'g Initial Comments at 18. The final rule adopts the Office's original proposal to extend the retention period from three to five years from the date of service.

The final rule also includes language that requires licensees to retain all records and documents necessary to support information set forth in amended annual statements of account for five years from the date of service of the amended statements. This additional regulation is intended to alleviate the Office's concern, as expressed in the NPRM, regarding the timing of record retention in situations where a licensee files an annual statement of account prior to public performance rates having been set for the time period covered therein. 77 FR at 44185.

8. Harmless Error Provision

The NPRM noted that ''[b]ecause of the detailed requirements in the regulations, licensees' accounting statements may contain inadvertent errors.'' 77 FR at 44185. The Office accordingly sought comment on ''the Office's authority to include a harmless error provisions and whether such a provision in the Statement of Account regulations would be useful as a way to protect licensees from inadvertent errors that do not materially affect the adequacy of the information provided on the Statement of Account.'' *Id.*

The Joint Commenters favored the inclusion of such a provision, essentially for the reasons identified in the NPRM. Joint Commenters Initial Comments at 24–25. Gear Publishing, on the other hand, disagrees with the inclusion of a harmless error provision. They claim that an inquiry into whether an error was harmless ''has the potential to become the focus of many copyright infringement claim.'' *See* Gear Publ'g Initial Comments at 18–19. There was no dispute that the Office possessed the authority to adopt a harmless error rule.

After carefully weighing the comments, the final rule provides that errors in statements of account that do not materially prejudice the rights of a copyright owner shall be deemed harmless and shall not render the account statement invalid or provide a basis for the exercise of remedies under 17 U.S.C. 115(c)(6). As the Office noted, the accounting regulations here require licensees to provide a detailed accounting of their use of the statutory license. Requiring licensees to provide this information serves Congress's goal of protecting copyright owners from ''economic harm from companies which might refuse or fail to pay their just obligations.'' H.R. Rep. No. 94–1476, at 111. But that requirement carries with it the risk that account statements will occasionally contain insubstantial deviations from the strictures of these regulations. It would be unduly severe to treat such inconsequential mistakes as equal to errors that result in material prejudice to the copyright owner.

Indeed, as the NPRM noted, similar considerations led the Register to adopt a harmless error provision as part of the rules governing notices of intention. *See* 37 CFR 201.18(f); 66 FR 45241, 45243 (Aug. 28, 2001). To Gear Publishing's point that adoption of such a rule would be difficult to apply in the context of infringement litigation, our experience with section 201.18(f) belies that concern: The Office is not aware of any difficulties with applying the harmless

[32] In the only other comments the Office received on this aspect of the proposed rule, Gear Publishing urged that the rule had been confusingly drafted. Gear Publ'g Initial Comments at 17. Since the Office is departing substantially from the proposed rule, that comment is moot.

[33] The Joint Commenters' proposal would have required licensees to provide compliant statements for past reporting periods only where ''it was impracticable for the licensee to provide'' the statement earlier. See Joint Commenters Initial Comments, exh. A, at A–22. The final rule does not contain this limitation; if the annual statement was not provided, the reason for that failure is irrelevant.

error rule in the notice of intention context.

9. Confidentiality

In the NPRM, the Office noted that the rates the CRB had originally proposed included provisions that would have restricted a copyright owner's ability to disclose the contents of statements of account received pursuant to Section 115. See 77 FR 29259, 29262, 29267–68 (May 17, 2012) (proposed sections 385.12(f) and 385.22(e)). Specifically, the provisions stated that a ''licensee's statements of account, including any and all information provided by a licensee with respect to the computation of a subminimum, shall be maintained in confidence by any copyright owner, authorized representative or agent that receives it.'' *Id.* at 29262. Accordingly, under the CRB proposal, copyright owners and their authorized representatives or agents could use the statements of account only ''for purposes of reviewing the amounts paid by the licensee and verifying the accuracy of any such payments,'' and for no other purpose. *Id.*

The Office observed in the NPRM that these proposed requirements illustrated a ''general desire among licensees and licensors for maintaining confidentiality of information contained in statements of account,'' but questioned the validity of such a ''broadly framed'' provision. 77 FR at 44185. Accordingly, the Office solicited comments regarding the Office's authority to adopt regulations that would require copyright owners to keep information contained in statements of account confidential, as well as the appropriate limits of any such regulations. *Id.* The Office did not include a confidentiality requirement as part of the proposed rule.

In response to the NPRM, the Joint Commenters urged the Office to either allow the CRB to adopt the confidentiality provision proposed as part of the rates and terms for the statutory license, or to itself adopt an identical provision in the Office's statement-of-account regulations. Joint Commenters Initial Comments at 25–28. Specifically, the Joint Commenters noted that, in the case of percentage-rate usages, the statements of account would reflect ''competitively sensitive'' information like the licensee's overall revenues, royalty payments to record companies and performance rights organizations, and overall usage. *Id.* at 27. Gear Publishing, by contrast, did not believe that a confidentiality provision for a statutorily obtained license should be permitted. It stated: ''There should be no restriction on what a copyright owner does with their own royalty information under a compulsory license. Once again, if a music user wishes to secure confidentiality provisions then they are free to negotiate directly with the copyright owner to achieve such an arrangement.'' Gear Publ'g Initial Comments at 19.

Since the NPRM issued and these comments were received, the Office has further analyzed the confidentiality issue in proceedings outside of, but related to, this rulemaking. On June 25, 2013, the CRB referred a novel material question of substantive law to the Register, inquiring whether the CRB is authorized to adopt regulations imposing a duty of confidentiality upon copyright owners where, like the proposed requirement, the duty is ''included in a voluntarily negotiated license agreement between copyright owners and licensees in a proceeding under section 115 of the Act.'' 78 FR 47421 (Aug. 5, 2013). The Register answered the CRB's question in the negative, finding the CRB lacked the authority under 17 U.S.C. 115(c)(3)(C) to restrict what a copyright owner may do with information in a statement of account after that statement has been prepared and served in accordance with the Office's regulations. *Id.* at 47423. As particularly relevant to this rulemaking, the Register noted that, as a matter of policy, ''government actors should err on the side of transparency'' where transparency ''serves to provide maximum confidence in the law for all who rely upon it, including those who require access to the details of license records.'' *Id.* at 47423. In addition, the Register noted the general legal principle ''that statutory licenses must 'be construed narrowly' '' as applied ''against the rights of copyright owners.'' *Id.* at 47424 (quoting *Fame Publ'g Co.* v. *Ala. Custom Tape, Inc.,* 507 F.2d 667, 670 (5th Cir. 1975)).

These previously announced policy decisions dictate the outcome here. The competitive concerns raised by the Joint Commenters are insufficient to overcome the strong policy that ''in the context of statutory licenses, government actors should err on the side of transparency.'' 78 FR at 47423. Thus, the Office concludes that once the statements of account have been delivered to the copyright owners, there should be no restrictions on the copyright owners' ability to use the statements or disclose their contents.

Indeed, an examination of the Joint Commenters' sweeping confidentiality proposal only buttresses that conclusion. The proposal would have restricted not only the *disclosure* of the statements of account, but also the permissible *uses* of those statements. 77 FR at 29262 (providing that the statements can only be used ''for purposes of reviewing the amounts paid by the licensee and verifying the accuracy of any such payments''). As written, the proposal would also have barred copyright owners from disclosing the contents of the statements of account to other parties who were downstream beneficiaries of the statutory royalties (such as songwriters entitled to receive a share of the royalties as part of their publishing contracts). And, most troublingly, the Joint Commenters' proposal would have burdened copyright owners' ability to disclose to the public the royalties they received under the statutory license. The Office is particularly reluctant to so drastically restrict copyright owners' ability to freely discuss the effects of government policy.

List of Subjects

37 CFR Part 201

Copyright.

37 CFR Part 210

Copyright, Phonorecords, Recordings.

Final Regulations

For the reasons set forth in the preamble, the U.S. Copyright Office amends 37 CFR part 201 and adds part 210 as follows:

PART 201—GENERAL PROVISIONS

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

Authority: 17 U.S.C. 702.

■ 2. Revise paragraph (b) of § 201.18, to read as follows:

§ 201.18 Notice of intention to obtain a compulsory license for making and distributing phonorecords of nondramatic musical works.

* * * * *

(b) *Agent.* An agent who has been authorized to accept Notices of Intention in accordance with paragraph (a)(4) of this section and who has received a Notice of Intention on behalf of a copyright owner shall provide within two weeks of the receipt of that Notice of Intention the name and address of the copyright owner or its agent upon whom the person or entity intending to obtain the compulsory license shall serve Statements of Account and the monthly royalty in accordance with § 210.11(e) of this chapter.

* * * * *

§ 201.19 [Removed and reserved]

■ 3. Remove and reserve § 201.19.

■ 4. Add part 210 to read as follows:

PART 210—COMPULSORY LICENSE FOR MAKING AND DISTRIBUTING PHYSICAL AND DIGITAL PHONORECORDS OF NONDRAMATIC MUSICAL WORKS

Subpart A—[Reserved]

Subpart B—Royalties and Statements of Account Under Compulsory License

Authority: 17 U.S.C. 115, 702.

Subpart A—[Reserved]

§§ 210.1–210.10 [Reserved]

Subpart B—Royalties and Statements of Account Under Compulsory License

§ 210.11 General.

This subpart prescribes rules for the payment of royalties and the preparation and service of statements of account under the compulsory license for the making and distribution of phonorecords of nondramatic musical works, including by means of a digital phonorecord delivery, pursuant to 17 U.S.C. 115 and the rates and terms in part 385 of this title.

§ 210.12 Definitions.

As used in this subpart:

(a) A *Monthly Statement of Account* or *Monthly Statement* is a statement accompanying monthly royalty payments identified in 17 U.S.C. 115(c)(5), and required by that section to be filed under the compulsory license to make and distribute phonorecords of nondramatic musical works, including by means of a digital phonorecord delivery.

(b) An *Annual Statement of Account* or *Annual Statement* is a statement identified in 17 U.S.C 115(c)(5), and required by that section to be filed under the compulsory license to make and distribute phonorecords of nondramatic musical works, including by means of a digital phonorecord delivery. Such term, when used in this rule, includes an Amended Annual Statement of Account filed pursuant to § 210.17(d)(2)(iii).

(c) A *digital phonorecord delivery* is each individual delivery of a phonorecord by digital transmission of a sound recording which results in a specifically identifiable reproduction by or for any transmission recipient of a phonorecord of that sound recording, regardless of whether the digital transmission is also a public performance of the sound recording or any nondramatic musical work embodied therein. The reproduction of the phonorecord must be sufficiently permanent or stable to permit it to be perceived, reproduced, or otherwise communicated for a period of more than transitory duration. Such a phonorecord may be permanent or it may be made available to the transmission recipient for a limited period of time or for a specified number of performances. A digital phonorecord delivery includes all phonorecords that are made for the purpose of making the digital phonorecord delivery. A digital phonorecord delivery does not include any transmission that did not result in a specifically identifiable reproduction of the entire product being transmitted, and for which the distributor did not charge, or fully refunded, any monies that would otherwise be due for the relevant transmission.

(d) *Ringtone* shall have the meaning given in § 385.2 of this title.

(e) The term *copyright owner,* in the case of any work having more than one copyright owner, means any one of the co-owners.

(f) A *compulsory licensee* is a person or entity exercising the compulsory license to make and distribute phonorecords of nondramatic musical works as provided under 17 U.S.C. 115, including by means of a digital phonorecord delivery.

(g) A phonorecord is considered *distributed* if the compulsory licensee has voluntarily and permanently parted with possession of the phonorecord, which shall occur as follows:

(1) In the case of physical phonorecords relinquished from possession for purposes other than sale, at the time at which the compulsory licensee actually first parts with possession;

(2) In the case of physical phonorecords relinquished from possession for purposes of sale without a privilege of returning unsold phonorecords for credit or exchange, at the time at which the compulsory licensee actually first parts with possession;

(3) In the case of physical phonorecords relinquished from possession for purposes of sale accompanied by a privilege of returning unsold phonorecords for credit or exchange:

(i) At the time when revenue from a sale of the phonorecord is ''recognized'' by the compulsory licensee; or

(ii) Nine months from the month in which the compulsory licensee actually first parted with possession, whichever occurs first. For these purposes, a compulsory licensee shall be considered to ''recognize'' revenue from the sale of a phonorecord when sales revenue would be recognized in accordance with GAAP.

(4) In the case of a digital phonorecord delivery, on the date that the phonorecord is digitally transmitted.

(h) A *phonorecord reserve* comprises the number of phonorecords made under a particular compulsory license, if any, that have been relinquished from possession for purposes of sale in a given month accompanied by a privilege of return, as described in paragraph (g)(3) of this section, and that have not been considered distributed during the month in which the compulsory licensee actually first parted with their possession. The initial number of phonorecords comprising a phonorecord reserve shall be determined in accordance with GAAP.

(i) A *negative reserve balance* comprises the aggregate number of phonorecords made under a particular compulsory license, if any, that have been relinquished from possession for purposes of sale accompanied by a privilege of return, as described in paragraph (g)(3) of this section, and that have been returned to the compulsory licensee, but because all available phonorecord reserves have been eliminated, have not been used to reduce a phonorecord reserve.

(j) *GAAP* means U.S. Generally Accepted Accounting Principles, except that if the U.S. Securities and Exchange Commission permits or requires entities with securities that are publicly traded in the U.S. to employ International Financial Reporting Standards, as issued by the International Accounting Standards Board, or as accepted by the Securities and Exchange Commission if different from that issued by the International Accounting Standards Board, in lieu of Generally Accepted Accounting Principles, then an entity may employ International Financial Reporting Standards as ''GAAP'' for purposes of this subpart.

§ 210.13 Accounting requirements where sales revenue is ''recognized.''

Where under § 210.12(g)(3)(i), revenue from the sale of phonorecords is ''recognized'' during any month after the month in which the compulsory

licensee actually first parted with their possession, said compulsory licensee shall reduce particular phonorecord reserves by the number of phonorecords for which revenue is being ''recognized,'' as follows:

(a) If the number of phonorecords for which revenue is being ''recognized'' is smaller than the number of phonorecords comprising the earliest eligible phonorecord reserve, this phonorecord reserve shall be reduced by the number of phonorecords for which revenue is being ''recognized.'' Subject to the time limitations of § 210.12(g)(3)(ii), the number of phonorecords remaining in this reserve shall be available for use in subsequent months.

(b) If the number of phonorecords for which revenue is being ''recognized'' is greater than the number of phonorecords comprising the earliest eligible phonorecord reserve but less than the total number of phonorecords comprising all eligible phonorecord reserves, the compulsory licensee shall first eliminate those phonorecord reserves, beginning with the earliest eligible phonorecord reserve and continuing to the next succeeding phonorecord reserves, that are completely offset by phonorecords for which revenue is being ''recognized.'' Said compulsory licensee shall then reduce the next succeeding phonorecord reserve by the number of phonorecords for which revenue is being ''recognized'' that have not been used to eliminate a phonorecord reserve. Subject to the time limitations of § 210.12(g)(3)(ii), the number of phonorecords remaining in this reserve shall be available for use in subsequent months.

(c) If the number of phonorecords for which revenue is being ''recognized'' equals the number of phonorecords comprising all eligible phonorecord reserves, the person or entity exercising the compulsory license shall eliminate all of the phonorecord reserves.

(d) Digital phonorecord deliveries shall not be considered as accompanied by a privilege of return as described in § 210.12(g)(3), and the compulsory licensee shall not take digital phonorecord deliveries into account in establishing phonorecord reserves.

§ 210.14 Accounting requirements for offsetting phonorecord reserves with returned phonorecords.

(a) In the case of a phonorecord that has been relinquished from possession for purposes of sale accompanied by a privilege of return, as described in § 210.12(g)(3), where the phonorecord is returned to the compulsory licensee for credit or exchange before said compulsory licensee is considered to have ''voluntarily and permanently parted with possession'' of the phonorecord as described in § 210.12(g), the compulsory licensee may use such phonorecord to reduce a ''phonorecord reserve,'' as defined in § 210.12(h).

(b) In such cases, the compulsory licensee shall reduce particular phonorecord reserves by the number of phonorecords that are returned during the month covered by the Monthly Statement of Account in the following manner:

(1) If the number of phonorecords that are returned during the month covered by the Monthly Statement is smaller than the number comprising the earliest eligible phonorecord reserve, the compulsory licensee shall reduce this phonorecord reserve by the total number of returned phonorecords. Subject to the time limitations in § 210.12(g)(3)(ii), the number of phonorecords remaining in this reserve shall be available for use in subsequent months.

(2) If the number of phonorecords that are returned during the month covered by the Monthly Statement is greater than the number of phonorecords comprising the earliest eligible phonorecord reserve but less than the total number of phonorecords comprising all eligible phonorecord reserves, the compulsory licensee shall first eliminate those phonorecord reserves, beginning with the earliest eligible phonorecord reserve, and continuing to the next succeeding phonorecord reserves, that are completely offset by returned phonorecords. Said compulsory licensee shall then reduce the next succeeding phonorecord reserve by the number of returned phonorecords that have not been used to eliminate a phonorecord reserve. Subject to the time limitations in § 210.12(g)(3)(ii), the number of phonorecords remaining in this reserve shall be available for use in subsequent months.

(3) If the number of phonorecords that are returned during the month covered by the Monthly Statement is equal to or is greater than the total number of phonorecords comprising all eligible phonorecord reserves, the compulsory licensee shall eliminate all eligible phonorecord reserves. Where said number is greater than the total number of phonorecords comprising all eligible phonorecord reserves, said compulsory licensee shall establish a ''negative reserve balance,'' as defined in § 210.12(i).

(c) Except where a negative reserve balance exists, a separate and distinct phonorecord reserve shall be established for each month during which the compulsory licensee relinquishes phonorecords from possession for purposes of sale accompanied by a privilege of return, as described in § 210.12(g)(3). In accordance with § 210.12(g)(3)(ii), any phonorecord remaining in a particular phonorecord reserve nine months from the month in which the particular reserve was established shall be considered ''distributed''; at that point, the particular monthly phonorecord reserve shall lapse and royalties for the phonorecords remaining in it shall be paid as provided in § 210.16(d)(2).

(d) Where a negative reserve balance exists, the aggregate total of phonorecords comprising it shall be accumulated into a single balance rather than being separated into distinct monthly balances. Following the establishment of a negative reserve balance, any phonorecords relinquished from possession by the compulsory licensee for purposes of sale or otherwise, shall be credited against such negative balance, and the negative reserve balance shall be reduced accordingly. Digital phonorecord deliveries may be credited against such negative reserve balance, but only if such digital phonorecord deliveries have the same royalty rate as physical phonorecords under part 385 of this title. The nine-month limit provided in § 210.12(g)(3)(ii) shall have no effect upon a negative reserve balance; where a negative reserve balance exists, relinquishment from possession of a phonorecord by the compulsory licensee at any time shall be used to reduce such balance, and such phonorecord shall not be considered ''distributed'' within the meaning of § 210.12(g).

(e) In no case shall a phonorecord reserve be established while a negative reserve balance is in existence; conversely, in no case shall a negative reserve balance be established before all available phonorecord reserves have been eliminated.

§ 210.15 Situations in which a compulsory licensee is barred from maintaining reserves.

Notwithstanding any other provisions of this section, in any case where, within three years before the phonorecord was relinquished from possession, the compulsory licensee has had final judgment entered against it for failure to pay royalties for the reproduction of copyrighted music on phonorecords, or within such period has been definitively found in any proceeding involving bankruptcy, insolvency, receivership, assignment for

the benefit of creditors, or similar action, to have failed to pay such royalties, that compulsory licensee shall be considered to have ''Permanently parted with possession'' of a phonorecord made under the license at the time at which that compulsory licensee actually first parts with possession. For these purposes the compulsory licensee shall include:

(a) In the case of any corporation, the corporation or any director, officer, or beneficial owner of twenty-five percent (25%) or more of the outstanding securities of the corporation;

(b) In all other cases, any entity or individual owning a beneficial interest of twenty-five percent (25%) or more in the entity exercising the compulsory license.

§ 210.16 Monthly statements of account.

(a) *Forms.* The Copyright Office does not provide printed forms for the use of persons serving Monthly Statements of Account.

(b) *General content.* A Monthly Statement of Account shall be clearly and prominently identified as a ''Monthly Statement of Account Under Compulsory License for Making and Distributing Phonorecords,'' and shall include a clear statement of the following information:

(1) The period (month and year) covered by the Monthly Statement.

(2) The full legal name of the compulsory licensee, together with all fictitious or assumed names used by such person or entity for the purpose of conducting the business of making and distributing phonorecords.

(3) The full address, including a specific number and street name or rural route, of the place of business of the compulsory licensee. A post office box or similar designation will not be sufficient for this purpose, except where it is the only address that can be used in that geographic location.

(4) For each nondramatic musical work that is owned by the same copyright owner being served with the Monthly Statement and that is embodied in phonorecords covered by the compulsory license, a detailed statement of all of the information called for in paragraph (c) of this section.

(5) The total royalty payable to the relevant copyright owner for the month covered by the Monthly Statement, computed in accordance with the requirements of this section and the formula specified in paragraph (d) of this section, including detailed information regarding how the royalty was computed.

(6) The amount of late fees, if applicable, included in the payment associated with the Monthly Statement.

(7) In any case where the compulsory licensee falls within the provisions of § 210.15, a clear description of the action or proceeding involved, including the date of the final judgment or definitive finding described in that section.

(8) Detailed instructions on how to request records of any promotional uses of the copyright owner's works that are required to be maintained or provided under § 385.14 or § 385.24 of this title, or other applicable provision, including, where applicable, records required to be maintained or provided by any third parties that were authorized by the compulsory licensee to engage in promotional uses during any part of the month. If this information is provided, Monthly Statements need not reflect phonorecords subject to the promotional royalty rate provided in § 385.14 or § 385.24 of this title, or any similar promotional royalty rate of zero that may be provided in part 385 of this title.

(c) *Specific content of monthly statements*—(1) *Accounting of phonorecords subject to a cents rate royalty structure.* The information called for by paragraph (b)(4) of this section shall, with respect to each nondramatic musical work as to which the compulsory licensee has made and distributed phonorecords subject to part 385, subpart A of this title or any other provisions requiring computation of applicable royalties on a cents-per-unit basis, include a separate listing of each of the following items of information:

(i) The number of phonorecords made during the month covered by the Monthly Statement.

(ii) The number of phonorecords that, during the month covered by the Monthly Statement and regardless of when made, were either:

(A) Relinquished from possession for purposes other than sale;

(B) Relinquished from possession for purposes of sale without any privilege of returning unsold phonorecords for credit or exchange;

(C) Relinquished from possession for purposes of sale accompanied by a privilege of returning unsold phonorecords for credit or exchange;

(D) Returned to the compulsory licensee for credit or exchange; or

(E) Placed in a phonorecord reserve (except that if a negative reserve balance exists give either the number of phonorecords added to the negative reserve balance, or the number of phonorecords relinquished from possession that have been used to reduce the negative reserve balance).

(iii) The number of phonorecords, regardless of when made, that were relinquished from possession during a month earlier than the month covered by the Monthly Statement but that, during the month covered by the Monthly Statement either have had revenue from their sale ''recognized'' under § 210.12(g)(3)(i), or were comprised in a phonorecord reserve that lapsed after nine months under § 210.12(g)(3)(ii).

(iv) The per unit statutory royalty rate applicable to the relevant configuration; and

(v) The total royalty payable for the month covered by the Monthly Statement (*i.e.,* the result in paragraph (d)(2)(v) of this section) for the item described by the set of information called for, and broken down as required, by paragraph (c)(1) of this section.

(vi) The phonorecord identification information required by paragraph (a)(3) of this section.

(2) *Accounting of phonorecords subject to a percentage rate royalty structure.* The information called for by paragraph (b)(4) of this section shall, with respect to each nondramatic musical work as to which the compulsory licensee has made and distributed phonorecords subject to part 385, subparts B or C of this title, or any other provisions requiring computation of applicable royalties on a percentage-rate basis, include a detailed and step-by-step accounting of the calculation of royalties under § 385.12, § 385.22, or other provisions of part 385 of this title as applicable, sufficient to allow the copyright owner to assess the manner in which the licensee determined the royalty owed and the accuracy of the royalty calculations, including but not limited to the following information:

(i) The number of plays, constructive plays, or other payable units, of the relevant sound recording for the month covered by the Monthly Statement for the relevant offering.

(ii) The total royalty payable for the month for the item described by the set of information called for, and broken down as required, by paragraph (c)(3) of this section (*i.e.,* the per-work royalty allocation for the relevant sound recording and offering).

(iii) The phonorecord identification information required by paragraph (c)(3) of this section.

(3) *Identification of phonorecords in monthly statements.* The information required by this paragraph shall include, and if necessary shall be broken down to identify separately, the following:

(i) The title of the nondramatic musical work subject to compulsory license.

(ii) A reference number or code identifying the relevant Notice of Intention, if the compulsory licensee chose to include such a number or code on its relevant Notice of Intention for the compulsory license.

(iii) The International Standard Recording Code (ISRC) associated with the relevant sound recording, if known, and at least one of the following, as applicable and available for tracking sales and/or usage:

(A) The catalog number or numbers and label name or names, associated with the phonorecords;

(B) The Universal Product Code (UPC) or similar code used on or associated with the phonorecords; or

(C) The sound recording identification number assigned by the compulsory licensee or a third-party distributor to the relevant sound recording.

(iv) The names of the principal recording artist or group engaged in rendering the performances fixed on the phonorecords.

(v) The playing time of the relevant sound recording, except that playing time is not required in the case of ringtones or licensed activity to which no overtime adjustment is applicable.

(vi) If the compulsory licensee chooses to allocate its payment between co-owners of the copyright in the nondramatic musical work, as described in paragraph (g)(1) of this section, and thus pays the copyright owner (or agent) receiving the statement less than one hundred percent of the applicable royalty, the percentage share paid.

(vii) The names of the writer or writers of the nondramatic musical work, or the International Standard Name Identifiers (ISNIs) or other unique identifier of the writer or writers, if known.

(viii) The International Standard Musical Work Code (ISWC) or other unique identifier for the nondramatic musical work, if known.

(ix) Identification of the relevant phonorecord configuration (for example: compact disc, permanent digital download, ringtone) or offering (for example: limited download, music bundle) for which the royalty was calculated, including, if applicable and except for physical phonorecords, the name of the third-party distributor of the configuration or offering.

(d) *Royalty payment and accounting*—(1) *In general.* The total royalty called for by paragraph (b)(5) of this section shall be computed so as to include every phonorecord ''distributed'' during the month covered by the Monthly Statement.

(2) *Phonorecords subject to a cents rate royalty structure.* For phonorecords subject to part 385, subpart A of this title, or any other applicable royalties computed on a cents-per-unit basis, the amount of the royalty payment shall be calculated as follows:

(i) *Step 1: Compute the number of phonorecords shipped for sale with a privilege of return.* This is the total of phonorecords that, during the month covered by the Monthly Statement, were relinquished from possession by the compulsory licensee, accompanied by the privilege of returning unsold phonorecords to the compulsory licensee for credit or exchange. This total does not include:

(A) Any phonorecords relinquished from possession by the compulsory licensee for purposes of sale without the privilege of return; and

(B) Any phonorecords relinquished from possession for purposes other than sale.

(ii) *Step 2: Subtract the number of phonorecords reserved.* This involves deducting, from the subtotal arrived at in Step 1, the number of phonorecords that have been placed in the phonorecord reserve for the month covered by the Monthly Statement. The number of phonorecords reserved is determined by multiplying the subtotal from Step 1 by the percentage reserve level established under GAAP. This step should be skipped by a compulsory licensee barred from maintaining reserves under § 210.15.

(iii) *Step 3: Add the total of all phonorecords that were shipped during the month and were not counted in Step 1.* This total is the sum of two figures:

(A) The number of phonorecords that, during the month covered by the Monthly Statement, were relinquished from possession by the compulsory licensee for purposes of sale, without the privilege of returning unsold phonorecords to the compulsory licensee for credit or exchange; and

(B) The number of phonorecords relinquished from possession by the compulsory licensee, during the month covered by the Monthly Statement, for purposes other than sale.

(iv) *Step 4: Make any necessary adjustments for sales revenue ''recognized,'' lapsed reserves, or reduction of negative reserve balance during the month.* If necessary, this step involves adding to or subtracting from the subtotal arrived at in Step 3 on the basis of three possible types of adjustments:

(A) *Sales revenue ''recognized.''* If, in the month covered by the Monthly Statement, the compulsory licensee ''recognized'' revenue from the sale of phonorecords that had been relinquished from possession in an earlier month, the number of such phonorecords is *added* to the Step 3 subtotal.

(B) *Lapsed reserves.* If, in the month covered by the Monthly Statement, there are any phonorecords remaining in the phonorecord reserve for the ninth previous month (that is, any phonorecord reserves from the ninth previous month that have not been offset under FOFI, the first-out-first-in accounting convention, by actual returns during the intervening months), the reserve lapses and the number of phonorecords in it is added to the Step 3 subtotal.

(C) *Reduction of negative reserve balance.* If, in the month covered by the Monthly Statement, the aggregate reserve balance for all previous months is a negative amount, the number of phonorecords relinquished from possession by the compulsory licensee during that month and used to reduce the negative reserve balance is subtracted from the Step 3 subtotal.

(v) *Step 5: Multiply by the statutory royalty rate.* The total monthly royalty payment is obtained by multiplying the subtotal from Step 3, as adjusted if necessary by Step 4, by the statutory royalty rate set forth in § 385.3 or other provisions of part 385 of this title as applicable.

(3) *Phonorecords subject to a percentage rate royalty structure.* For phonorecords subject to part 385, subparts B or C of this title, or any other applicable royalties computed on a percentage-rate basis, the amount of the royalty payment shall be calculated as provided in § 385.12, § 385.22, or other provisions of part 385 of this title as applicable. The calculations shall be made in good faith and on the basis of the best knowledge, information, and belief of the licensee at the time payment is due, and subject to the additional accounting and certification requirements of 17 U.S.C. 115(c)(5) and this section. The following additional provisions shall also apply:

(i) A licensee may, in cases where the final public performance royalty has not yet been determined, compute the public performance royalty component based on the interim public performance royalty rate, if established; or alternatively, on a reasonable estimation of the expected royalties to be paid in accordance with GAAP. Royalty payments based on anticipated payments or interim public performance royalty rates must be reconciled on the Annual Statement of Account, or by

complying with § 210.17(d)(2)(iii) governing Amended Annual Statements of Account.

(ii) When calculating the per-work royalty allocation for each work, as described in § 385.12(b)(4), § 385.22(b)(3), or any similar provisions of part 385 of this title as applicable, an actual or constructive per-play allocation is to be calculated to at least the hundredth of a cent (*i.e.,* to at least four decimal places).

(e) *Clear statements.* The information required by paragraphs (b) and (c) of this section requires intelligible, legible, and unambiguous statements in the Monthly Statements of Account without incorporation of facts or information contained in other documents or records.

(f) *Certification.* (1) Each Monthly Statement of Account shall be accompanied by:

(i) The printed or typewritten name of the person who is signing and certifying the Monthly Statement of Account.

(ii) A signature, which in the case of a compulsory licensee that is a corporation or partnership, shall be the signature of a duly authorized officer of the corporation or of a partner.

(iii) The date of signature and certification.

(iv) If the compulsory licensee is a corporation or partnership, the title or official position held in the partnership or corporation by the person who is signing and certifying the Monthly Statement of Account.

(v) One of the following statements:

(A) I certify that (1) I am duly authorized to sign this Monthly Statement of Account on behalf of the compulsory licensee; (2) I have examined this Monthly Statement of Account; and (3) all statements of fact contained herein are true, complete, and correct to the best of my knowledge, information, and belief, and are made in good faith; or

(B) I certify that (1) I am duly authorized to sign this Monthly Statement of Account on behalf of the compulsory licensee, (2) I have prepared or supervised the preparation of the data used by the compulsory licensee and/or its agent to generate this Monthly Statement of Account, (3) such data is true, complete, and correct to the best of my knowledge, information, and belief, and was prepared in good faith, and (4) this Monthly Statement of Account was prepared by the compulsory licensee and/or its agent using processes and internal controls that were subject to an examination, during the past year, by a licensed Certified Public Accountant in accordance with the attestation standards established by the American Institute of Certified Public Accountants, the opinion of whom was that the processes and internal controls were suitably designed to generate monthly statements that accurately reflect, in all material respects, the compulsory licensee's usage of musical works, the statutory royalties applicable thereto, and any other data that is necessary for the proper calculation of the statutory royalties in accordance with 17 U.S.C. 115 and applicable regulations.

(2) If the Monthly Statement of Account is served by mail or by reputable courier service, certification of the Monthly Statement of Account by the compulsory licensee shall be made by handwritten signature. If the Monthly Statement of Account is served electronically, certification of the Monthly Statement of Account by the compulsory licensee shall be made by electronic signature as defined in section 7006(5) of title 15 of the United States Code.

(g) *Service.* (1) The service of a Monthly Statement of Account on a copyright owner under this subpart may be accomplished by means of service on either the copyright owner or an agent of the copyright owner with authority to receive Statements of Account on behalf of the copyright owner. In the case where the work has more than one copyright owner, the service of a Statement of Account on at least one co-owner or upon an agent of at least one of the co-owners shall be sufficient with respect to all co-owners. The compulsory licensee may choose to allocate its payment between co-owners. In such a case the compulsory licensee shall provide each co-owner (or its agent) a Monthly Statement reflecting the percentage share paid to that co-owner. Each Monthly Statement of Account shall be served on the copyright owner or the agent to whom or which it is directed by mail, by reputable courier service, or by electronic delivery as set forth in paragraph (g)(2) of this section on or before the 20th day of the immediately succeeding month. The royalty payment for a month also shall be served on or before the 20th day of the immediately succeeding month. The Monthly Statement and payment may be sent together or separately, but if sent separately, the payment must include information reasonably sufficient to allow the payee to match the Monthly Statement to the payment. However, in the case where the compulsory licensee has served its Notice of Intention upon an agent of the copyright owner pursuant to § 201.18 of this chapter, the compulsory licensee is not required to serve Monthly Statements of Account or make any royalty payments until the compulsory licensee receives from the agent with authority to receive the Notice of Intention notice of the name and address of the copyright owner or its agent upon whom the compulsory licensee shall serve Monthly Statements of Account and the monthly royalty fees. Upon receipt of this information, the compulsory licensee shall serve Monthly Statements of Account and all royalty fees covering the intervening period upon the person or entity identified by the agent with authority to receive the Notice of Intention by or before the 20th day of the month following receipt of the notification. It shall not be necessary to file a copy of the Monthly Statement in the Copyright Office.

(2) A copyright owner or authorized agent may send a licensee a demand that Monthly Statements of Account be submitted in a readily accessible electronic format consistent with prevailing industry practices applicable to comparable electronic delivery of comparable financial information.

(3) When a compulsory licensee receives a request to deliver or make available Monthly Statements of Account in electronic form, or a request to revert back to service by mail or reputable courier service, the compulsory licensee shall make such a change effective with the first accounting period ending at least 30 days after the compulsory licensee's receipt of the request and any information (such as a postal or email address, as the case may be) that is necessary for the compulsory licensee to make the change.

(4)(i) In any case where a Monthly Statement of Account is sent by mail or reputable courier service and the Monthly Statement of Account is returned to the sender because the copyright owner or agent is no longer located at that address or has refused to accept delivery, or the Monthly Statement of Account is sent by electronic mail and is undeliverable, or in any case where an address for the copyright owner is not known, the Monthly Statement of Account, together with any evidence of mailing or attempted delivery by courier service or electronic mail, may be filed in the Licensing Division of the Copyright Office. Any Monthly Statement of Account submitted for filing in the Copyright Office shall be accompanied by a brief statement of the reason why it was not served on the copyright owner. A written acknowledgment of receipt and filing will be provided to the sender.

(ii) The Copyright Office will not accept any royalty fees submitted with Monthly Statements of Account under this section.

(iii) Neither the filing of a Monthly Statement of Account in the Copyright Office, nor the failure to file such Monthly Statement, shall have effect other than that which may be attributed to it by a court of competent jurisdiction.

(iv) No filing fee will be required in the case of Monthly Statements of Account submitted to the Copyright Office under this section. Upon request and payment of the fee specified in § 201.3(e) of this chapter, a Certificate of Filing will be provided to the sender.

(5) Subject to paragraph (g)(6) of this section, a separate Monthly Statement of Account shall be served for each month during which there is any activity relevant to the payment of royalties under 17 U.S.C. 115. The Annual Statement of Account described in § 210.17 of this subpart does not replace any Monthly Statement of Account.

(6) Royalties under 17 U.S.C. 115 shall not be considered payable, and no Monthly Statement of Account shall be required, until the compulsory licensee's cumulative unpaid royalties for the copyright owner equal at least one cent. Moreover, in any case in which the cumulative unpaid royalties under 17 U.S.C. 115 that would otherwise be payable by the compulsory licensee to the copyright owner are less than $5, and the copyright owner has not notified the compulsory licensee in writing that it wishes to receive Monthly Statements of Account reflecting payments of less than $5, the compulsory licensee may choose to defer the payment date for such royalties and provide no Monthly Statements of Account until the earlier of the time for rendering the Monthly Statement of Account for the month in which the compulsory licensee's cumulative unpaid royalties under section 17 U.S.C. 115 for the copyright owner exceed $5 or the time for rendering the Annual Statement of Account, at which time the compulsory licensee may provide one statement and payment covering the entire period for which royalty payments were deferred.

(7) If the compulsory licensee is required, under applicable tax law and regulations, to make backup withholding from its payments required hereunder, the compulsory licensee shall indicate the amount of such withholding on the Monthly Statement or on or with the payment.

(8) If a Monthly Statement of Account is sent by certified mail or registered mail, a mailing receipt shall be sufficient to prove that service was timely. If a Monthly Statement of Account is sent by a reputable courier, documentation from the courier showing the first date of attempted delivery shall be sufficient to prove that service was timely. If a Monthly Statement of Account or a link thereto is sent by electronic mail, a return receipt shall be sufficient to prove that service was timely. In the absence of the foregoing, the compulsory licensee shall bear the burden of proving that the Monthly Statement of Account was served in a timely manner.

§ 210.17 Annual statements of account.

(a) *Forms.* The Copyright Office does not provide printed forms for the use of persons serving Annual Statements of Account.

(b) *Annual period.* Any Annual Statement of Account shall cover the full fiscal year of the compulsory licensee.

(c) *General content.* An Annual Statement of Account shall be clearly and prominently identified as an ''Annual Statement of Account Under Compulsory License for Making and Distributing Phonorecords,'' and shall include a clear statement of the following information:

(1) The fiscal year covered by the Annual Statement of Account.

(2) The full legal name of the compulsory licensee, together with all fictitious or assumed names used by such person or entity for the purpose of conducting the business of making and distributing phonorecords.

(3) If the compulsory licensee is a business organization, the name and title of the chief executive officer, managing partner, sole proprietor or other person similarly responsible for the management of such entity.

(4) The full address, including a specific number and street name or rural route, or the place of business of the compulsory licensee (a post office box or similar designation will not be sufficient for this purpose except where it is the only address that can be used in that geographic location).

(5) For each nondramatic musical work that is owned by the same copyright owner being served with the Annual Statement and that is embodied in phonorecords covered by the compulsory license, a detailed statement of all of the information called for in paragraph (d) of this section.

(6) The total royalty payable for the fiscal year covered by the Annual Statement computed in accordance with the requirements of § 210.16, and, in the case of offerings for which royalties are calculated pursuant to part 385, subparts B or C of this title, or any other provision requiring computation of applicable royalties on a percentage-rate basis, calculations showing in detail how the royalty was computed (for these purposes, the applicable royalty as specified in part 385, subpart A of this title shall be payable for every phonorecord ''distributed'' during the fiscal year covered by the Annual Statement).

(7) The total sum paid under Monthly Statements of Account by the compulsory licensee to the copyright owner being served with the Annual Statement during the fiscal year covered by the Annual Statement.

(8) In any case where the compulsory license falls within the provisions of § 210.15, a clear description of the action or proceeding involved, including the date of the final judgment or definitive finding described in that section.

(9) Any late fees, if applicable, included in any payment associated with the Annual Statement.

(d) *Specific content of annual statements*—(1) *Accounting of phonorecords subject to a cents rate royalty structure.* The information called for by paragraph (c)(5) of this section shall, with respect to each nondramatic musical work as to which the compulsory licensee has made and distributed phonorecords subject to part 385, subpart A of this title, or any other provision requiring computation of applicable royalties on a cents-per-unit basis, include a separate listing of each of the following items of information:

(i) The number of phonorecords made through the end of the fiscal year covered by the Annual Statement, including any made during earlier years.

(ii) The number of phonorecords which have never been relinquished from possession of the compulsory licensee through the end of the fiscal year covered by the Annual Statement.

(iii) The number of phonorecords involuntarily relinquished from possession (as through fire or theft) of the compulsory licensee during the fiscal year covered by the Annual Statement and any earlier years, together with a description of the facts of such involuntary relinquishment.

(iv) The number of phonorecords ''distributed'' by the compulsory licensee during all years before the fiscal year covered by the Annual Statement.

(v) The number of phonorecords relinquished from possession of the compulsory licensee for purposes of sale during the fiscal year covered by the Annual Statement accompanied by a

privilege of returning unsold records for credit or exchange, but not ''distributed'' by the end of that year.

(vi) The number of phonorecords ''distributed'' by the compulsory licensee during the fiscal year covered by the Annual Statement.

(vii) The per unit statutory royalty rate applicable to the relevant configuration.

(viii) The total royalty payable for the fiscal year covered by the Annual Statement for the item described by the set of information called for, and broken down as required, by this paragraph (d)(1).

(ix) The phonorecord identification information required by paragraph (d)(3) of this section.

(2) *Accounting of phonorecords subject to a percentage rate royalty structure.* (i) The information called for by paragraph (c)(5) of this section shall identify each offering for which royalties are to be calculated separately and, with respect to each nondramatic musical work as to which the compulsory licensee has made and distributed phonorecords subject to part 385, subparts B or C of this title, or any other provision requiring computation of applicable royalties on a percentage-rate basis, include the number of plays, constructive plays, or other payable units during the fiscal year covered by the Annual Statement, together with, and which if necessary shall be broken down to identify separately, the following:

(A) The total royalty payable for the fiscal year for the item described by the set of information called for, and broken down as required, by paragraph (d)(3) of this section (*i.e.,* the per-work royalty allocation for the relevant sound recording and offering).

(B) The phonorecord identification information required by paragraph (d)(3) of this section.

(ii) If the information given under paragraph (d)(2)(i) of this section does not reconcile, the Annual Statement shall also include a clear and detailed explanation of the difference.

(iii) In any case where a licensee serves an Annual Statement of Account based on anticipated payments or interim public performance royalty rates prior to the final determination of final public performance royalties for all musical works used by the service in the relevant fiscal year, the licensee shall serve an Amended Annual Statement of Account within six months from the date such public performance royalties have been established. The Amended Annual Statement of Account shall recalculate the royalty fees reported on the relevant Annual Statement of Account to adjust for any change to the public performance rate used to calculate the royalties reported. Service shall be made in accordance with paragraph (g) of this section. Certification of the Amended Annual Statement shall be made in accordance with paragraph (f) of this section, except that the CPA examination under paragraph (f)(2) of this section may be limited to the licensee's recalculation of royalty fees in accordance with this paragraph.

(3) *Identification of phonorecords in annual statements.* The information required by this paragraph shall include, and if necessary shall be broken down to identify separately, the following:

(i) The title of the nondramatic musical work subject to compulsory license.

(ii) A reference number or code identifying the relevant Notice of Intention, if the compulsory licensee chose to include such a number or code on its relevant Notice of Intention for the compulsory license.

(iii) The International Standard Recording Code (ISRC) associated with the relevant sound recording, if known; and at least one of the following, as applicable and available for tracking sales and/or usage:

(A) The catalog number or numbers and label name or names, used on or associated with the phonorecords;

(B) The Universal Product Code (UPC) or similar code used on or associated with the phonorecords; or

(C) The sound recording identification number assigned by the compulsory licensee or a third-party distributor to the relevant sound recording;

(iv) The names of the principal recording artist or group engaged in rendering the performances fixed on the phonorecords.

(v) The playing time of the relevant sound recording, except that playing time is not required in the case of ringtones or licensed activity to which no overtime adjustment is applicable.

(vi) If the compulsory licensee chooses to allocate its payments between co-owners of the copyright in the nondramatic musical work as described in paragraph (g)(1) of § 210.16, and thus pays the copyright owner (or agent) receiving the statement less than one hundred percent of the applicable royalty, the percentage share paid.

(vii) The names for the writer or writers of the nondramatic musical work, or the International Standard Name Identifiers (ISNIs) or other unique identifier of the writer or writers, if known.

(viii) The International Standard Work Code (ISWC) or other unique identifier for the nondramatic musical work, if known.

(ix) Identification of the relevant phonorecord configuration (for example: Compact disc, permanent digital download, ringtone) or offering (for example: Limited download, music bundle) for which the royalty was calculated, including, if applicable and except for physical phonorecords, the name of the third-party distributor of the configuration or offering.

(e) *Clear statement.* The information required by paragraph (c) of this section requires intelligible, legible, and unambiguous statements in the Annual Statement of Account without incorporation by reference of facts or information contained in other documents or records.

(f) *Certification.* (1) Each Annual Statement of Account shall be accompanied by:

(i) The printed or typewritten name of the person who is signing the Annual Statement of Account on behalf of the compulsory licensee.

(ii) A signature, which in the case of a compulsory licensee that is a corporation or partnership, shall be the signature of a duly authorized officer of the corporation or of a partner.

(iii) The date of signature.

(iv) If the compulsory licensee is a corporation or partnership, the title or official position held in the partnership or corporation by the person signing the Annual Statement of Account.

(v) The following statement: I am duly authorized to sign this Annual Statement of Account on behalf of the compulsory licensee.

(2) Each Annual Statement of Account shall also be certified by a licensed Certified Public Accountant. Such certification shall comply with the following requirements:

(i) Except as provided in paragraph (f)(2)(ii) of this section, the accountant shall certify that it has conducted an examination of the Annual Statement of Account prepared by the compulsory licensee in accordance with the attestation standards established by the American Institute of Certified Public Accountants, and has rendered an opinion based on such examination that the Annual Statement conforms with the standards in paragraph (f)(2)(iv) of this section.

(ii) If such accountant determines in its professional judgment that the volume of data attributable to a particular compulsory licensee renders it impracticable to certify the Annual Statement of Account as required by paragraph (f)(2)(i) of this section, the

accountant may instead certify the following:

(A) That the accountant has conducted an examination in accordance with the attestation standards established by the American Institute of Certified Public Accountants of the following assertions by the compulsory licensee's management:

(*1*) That the processes used by or on behalf of the compulsory licensee, including calculation of statutory royalties, generated Annual Statements that conform with the standards in paragraph (f)(2)(iv) of this section; and

(*2*) That the internal controls relevant to the processes used by or on behalf of the compulsory licensee to generate Annual Statements were suitably designed and operated effectively during the period covered by the Annual Statements.

(B) That such examination included examining, either on a test basis or otherwise as the accountant considered necessary under the circumstances and in its professional judgment, evidence supporting the management assertions in paragraph (f)(2)(ii)(A) of this section, including data relevant to the calculation of statutory royalties, and performing such other procedures as the accountant considered necessary in the circumstances.

(C) That the accountant has rendered an opinion based on such examination that the processes used to generate the Annual Statement were designed and operated effectively to generate Annual Statements that conform with the standards in paragraph (f)(2)(iv) of this section, and that the internal controls relevant to the processes used to generate Annual Statements were suitably designed and operated effectively during the period covered by the Annual Statements.

(iii) In the event a third party or third parties acting on behalf of the compulsory licensee provided services related to the Annual Statement, the accountant making a certification under either paragraph (f)(2)(i) or paragraph (f)(2)(ii) of this section may, as the accountant considers necessary under the circumstances and in its professional judgment, rely on a report and opinion rendered by a licensed Certified Public Accountant in accordance with the attestation standards established by the American Institute of Certified Public Accountants that the processes and/or internal controls of the third party or third parties relevant to the generation of the compulsory licensee's Annual Statements were suitably designed and operated effectively during the period covered by the Annual Statements, if such reliance is disclosed in the certification.

(iv) An Annual Statement of Account conforms with the standards of this paragraph if it presents fairly, in all material respects, the compulsory licensee's usage of the copyright owner's musical works under compulsory license during the period covered by the Annual Statement, the statutory royalties applicable thereto, and such other data as are relevant to the calculation of statutory royalties in accordance with 17 U.S.C. 115 and applicable regulations.

(v) Each certificate shall be signed by an individual, or in the name of a partnership or a professional corporation with two or more shareholders. The certificate number and jurisdiction are not required if the certificate is signed in the name of a partnership or a professional corporation with two or more shareholders.

(3) If the Annual Statement of Account is served by mail or by reputable courier service, the Annual Statement of Account shall be signed by handwritten signature. If the Annual Statement of Account is served electronically, the Annual Statement of Account shall be signed by electronic signature as defined in section 7006(5) of title 15 of the United States Code.

(4) If the Annual Statement of Account is served electronically, the compulsory licensee may serve an electronic facsimile of the original certification of the Annual Statement of Account signed by the licensed Certified Public Accountant. The compulsory licensee shall retain the original certification of the Annual Statement of Account signed by the licensed Certified Public Accountant for the period identified in § 210.18, which shall be made available to the copyright owner upon demand.

(g) *Service.* (1) The service of an Annual Statement of Account on a copyright owner under this subpart may be accomplished by means of service on either the copyright owner or an agent of the copyright owner with authority to receive Statements of Account on behalf of the copyright owner. In the case where the work has more than one copyright owner, the service of the Statement of Account on one co-owner or upon an agent of one of the co-owners shall be sufficient with respect to all co-owners. Each Annual Statement of Account shall be served on the copyright owner or the agent to whom or which it is directed by mail, by reputable courier service, or by electronic delivery as set forth in paragraph (g)(2) of this section on or before the 20th day of the sixth month following the end of the fiscal year covered by the Annual Statement. It shall not be necessary to file a copy of the Annual Statement in the Copyright Office. An Annual Statement of Account shall be served for each fiscal year during which at least one Monthly Statement of Account was required to have been served under § 210.16(g).

(2) If an Annual Statement of Account is being sent electronically, it may be sent or made available to a copyright owner or its agent in a readily accessible electronic format consistent with prevailing industry practices applicable to comparable electronic delivery of comparable financial information.

(3) If the copyright owner or agent has made a request pursuant to § 210.16(g)(3) to receive statements in electronic or paper form, such request shall also apply to Annual Statements to be rendered on or after the date that the request is effective with respect to Monthly Statements.

(4) In any case where the amount required to be stated in the Annual Statement of Account under paragraph (c)(6) of this section (*i.e.,* the total royalty payable) is greater than the amount stated in that Annual Statement under paragraph (c)(7) of this section (*i.e.,* the total sum paid), the difference between such amounts shall also be served on or before the 20th day of the sixth month following the end of the fiscal year covered by the Annual Statement. The Annual Statement and payment may be sent together or separately, but if sent separately, the payment must include information reasonably sufficient to allow the payee to match the Annual Statement and the payment. The delivery of such sum does not require the copyright owner to accept such sum, or to forego any right, relief, or remedy which may be available under law. In any case where the amount required to be stated in the Annual Statement of Account under paragraph (c)(6) of this section is less than the amount stated in that Annual Statement under paragraph (c)(7) of this section, the difference between such amounts shall be available to the compulsory licensee as a credit.

(5)(i) In any case where an Annual Statement of Account is sent by mail or by reputable courier service and is returned to the sender because the copyright owner or agent is no longer located at that address or has refused to accept delivery, or the Annual Statement of Account is sent by electronic mail and is undeliverable, or in any case where an address for the copyright owner is not known, the Annual Statement of Account, together

with any evidence of mailing or attempted delivery by courier service or electronic mail, may be filed in the Licensing Division of the Copyright Office. Any Annual Statement of Account submitted for filing shall be accompanied by a brief statement of the reason why it was not served on the copyright owner. A written acknowledgment of receipt and filing will be provided to the sender.

(ii) The Copyright Office will not accept any royalty fees submitted with Annual Statements of Account under paragraph (g)(5)(i) of this section.

(iii) Neither the filing of an Annual Statement of Account in the Copyright Office, nor the failure to file such Annual Statement, shall have any effect other than that which may be attributed to it by a court of competent jurisdiction.

(iv) No filing fee will be required in the case of Annual Statements of Account submitted to the Copyright Office under paragraph (g)(5)(i) of this section. Upon request and payment of the fee specified in § 201.3(e) of this chapter, a Certificate of Filing will be provided to the sender.

(6) If an Annual Statement of Account is sent by certified mail or registered mail, a mailing receipt shall be sufficient to prove that service was timely. If an Annual Statement of Account is sent by a reputable courier, documentation from the courier showing the first date of attempted delivery shall be sufficient to prove that service was timely. If an Annual Statement of Account or a link thereto is sent by electronic mail, a return receipt shall be sufficient to prove that service was timely. In the absence of the foregoing, the compulsory licensee shall bear the burden of proving that the Annual Statement of Account was served in a timely manner.

(h) *Annual Statements for periods before* November 17, 2014. If a copyright owner did not receive an Annual Statement of Account from a compulsory licensee for any fiscal year ending after March 1, 2009 and before November 17, 2014, the copyright owner may, at any time before November 17, 2014, make a request in writing to that compulsory licensee requesting an Annual Statement of Account for the relevant fiscal year conforming to the requirements of this section. If such a request is made, the compulsory licensee shall provide the Annual Statement of Account within 6 months after receiving the request. If such a circumstance and request applies to more than one of the compulsory licensee's fiscal years, such years may be combined on a single statement.

§ 210.18 Documentation.

All compulsory licensees shall, for a period of at least five years from the date of service of an Annual Statement of Account or Amended Annual Statement of Account, keep and retain in their possession all records and documents necessary and appropriate to support fully the information set forth in such Annual Statement or Amended Annual Statement and in Monthly Statements served during the fiscal year covered by such Annual Statement or Amended Annual Statement.

§ 210.19 Harmless errors.

Errors in a Monthly or Annual Statement of Account that do not materially prejudice the rights of the copyright owner shall be deemed harmless, and shall not render that statement of account invalid or provide a basis for the exercise of the remedies set forth in 17 U.S.C. 115(c)(6).

Dated: August 8, 2014,

Maria A. Pallante,

Register of Copyrights.

James H. Billington,

Librarian of Congress.

[FR Doc. 2014–22235 Filed 9–17–14; 8:45 am]

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FEDERAL REGISTER PAGES AND DATE, SEPTEMBER

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LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws**.

Last List August 13, 2014

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