DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 300

[REG–108792–16]

RIN 1545–BN37

User Fees for Installment Agreements

AGENCY: Internal Revenue Service (IRS), Treasury.

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

SUMMARY: This document contains proposed amendments to the regulations that provide user fees for installment agreements. The proposed amendments affect taxpayers who wish to pay their liabilities through installment agreements. The proposed effective date for these proposed amendments to the regulations is January 1, 2017. This document also provides a notice of public hearing on these proposed amendments to the regulations.

DATES: Written or electronic comments must be received by October 6, 2016. Outlines of topics to be discussed at the public hearing scheduled for October 19, 2016, at 2:00 p.m. must be received by October 6, 2016.

ADDRESSES: Send submissions to: Internal Revenue Service, CC:PA:LPD:PR (REG–108792–16), Room 5203, Post Office Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to CC:PA:LPD:PR (REG–108792–16), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224 or sent electronically via the Federal eRulemaking Portal at *http://www.regulations.gov* (indicate IRS and REG–108792–16). The public hearing will be held in the Main IR Auditorium beginning at 2:00 p.m. in the Internal Revenue Service Building, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Concerning the proposed amendments to the regulations, M. Pilar Puerto at (202) 317–5437; concerning submissions of comments, the hearing, or to be placed on the building access list to attend the hearing, Regina Johnson, at (202) 317–6901; concerning cost methodology, Eva Williams, at (202) 803–9728 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed regulations that would amend §§ 300.1 and 300.2 of the User Fee Regulations (26 CFR part 300), which provide for a user fee applicable to installment agreements under section 6159 of the Internal Revenue Code (Code).

Section 6159 authorizes the IRS to enter into an agreement with any taxpayer for the payment of tax in installments to the extent the IRS determines that entering into the installment agreement will facilitate the full or partial collection of the tax. Section 301.6159–1(a). Installment agreements are voluntary, and taxpayers may request an installment agreement in person, by completing the appropriate forms and mailing them to the IRS, online, or over the telephone. Before entering into an installment agreement, the IRS may examine the taxpayer's financial position to determine whether such an agreement is appropriate. See Internal Revenue Manual (IRM) 5.14. If the IRS accepts the installment agreement, the IRS must process the payments made by the taxpayer and monitor the taxpayer's compliance with the terms of the agreement. The terms of an agreement generally require the taxpayer to pay the minimum monthly payment on time, file all required tax returns on time, and pay all taxes in-full and on time. See Form 433–D, Installment Agreement. In addition, section 6159(d) requires that the IRS review partial payment installment agreements at least once every two years.

Under § 300.1, the IRS currently charges three rates for installment agreements. The user fee, in general, is $120 for an installment agreement. The user fee is reduced to $52 for a direct debit installment agreement, which is an agreement whereby the taxpayer authorizes the IRS to request the monthly electronic transfer of funds from the taxpayer's bank account to the IRS. The user fee is $43 notwithstanding the method of payment if the taxpayer is a low-income taxpayer, as defined below.

Under § 300.2, the IRS currently charges $50 for restructuring or reinstating an installment agreement that is in default. An installment agreement is deemed to be in default when a taxpayer fails to meet any of the conditions of the installment agreement. See IRM 5.14. Currently, there is no exception to this fee for low-income taxpayers.

Explanation of Provisions

A. Overview

To bring user fee rates for installment agreements in line with the full cost to the IRS of providing these taxpayer specific services, the proposed regulations under §§ 300.1 and 300.2 would increase the user fee for the existing installment agreement types and introduce two new types of online installment agreements, each subject to a separate user fee. Five of these proposed user fee rates are based on the full cost of establishing and monitoring installment agreements. The sixth rate is for low-income taxpayers.

- Regular Installment Agreements—A taxpayer contacts the IRS in person, by phone, or by mail and sets up an agreement to make manual payments over a period of time either by mailing a check or electronically through the Electronic Federal Tax Payment System (EFTPS). The proposed fee for entering into a regular installment agreement is $225.
- Direct Debit Installment Agreements—A taxpayer contacts the IRS by phone or mail and sets up an agreement to make automatic payments over a period of time through a direct debit from a bank account. The proposed fee for entering into a direct debit installment agreement is $107.
- Online Payment Agreements—A taxpayer sets up an installment agreement through *http://www.irs.gov* and agrees to make manual payments over a period of time either by mailing a check or electronically through the EFTPS. The proposed fee for entering into an online payment agreement is $149.
- Direct Debit Online Payment Agreements—A taxpayer sets up an installment agreement through *http://www.irs.gov* and agrees to make automatic payments over a period of time through a direct debit from a bank account. The proposed fee for entering into a direct debit online payment agreement is $31.
- Restructured/Reinstated Installment Agreements—A taxpayer modifies a previously established installment agreement or reinstates an installment agreement on which the taxpayer has defaulted. The proposed fee for restructuring or reinstating an installment agreement is $89.
- Low-Income Rate—A rate that applies when a low-income taxpayer enters into any type of installment agreement, other than a direct debit online payment agreement, and when a low-income taxpayer restructures or reinstates any installment agreement. A low-income taxpayer is a taxpayer that

has income at or below 250 percent of the dollar criteria established by the poverty guidelines updated annually in the **Federal Register** by the U.S. Department of Health and Human Services. Section 300.1(b)(2). The proposed low-income rate is $43.

B. User Fee Authority

The Independent Offices Appropriations Act (IOAA) (31 U.S.C. 9701) authorizes each agency to promulgate regulations establishing the charge for services provided by the agency (user fees). The IOAA provides that these user fee regulations are subject to policies prescribed by the President and shall be as uniform as practicable. Those policies are currently set forth in the Office of Management and Budget (OMB) Circular A–25, 58 FR 38142 (July 15, 1993; OMB Circular).

The IOAA states that the services provided by an agency should be self-sustaining to the extent possible. 31 U.S.C. 9701(a). The OMB Circular states that agencies that provide services that confer special benefits on identifiable recipients beyond those accruing to the general public are to establish user fees that recover the full cost of providing those services. The OMB Circular requires that agencies identify all services that confer special benefits and determine whether user fees should be assessed for those services.

Agencies are to review user fees biennially and update them as necessary to reflect changes in the cost of providing the underlying services. During this biennial review, an agency must calculate the full cost of providing each service, taking into account all direct and indirect costs to any part of the U.S. government. The full cost of providing a service includes, but is not limited to, salaries, retirement benefits, rents, utilities, travel, and management costs, as well as an appropriate allocation of overhead and other support costs associated with providing the service.

An agency should set the user fee at an amount that recovers the full cost of providing the service unless the agency requests, and the OMB grants, an exception to the full cost requirement. The OMB may grant exceptions only where the cost of collecting the fees would represent an unduly large part of the fee for the activity or any other condition exists that, in the opinion of the agency head, justifies an exception. When the OMB grants an exception, the agency does not collect the full cost of providing the service and therefore must fund the remaining cost of providing the service from other available funding sources. By doing so, the agency subsidizes the cost of the service to the recipients of reduced-fee services even though the service confers a special benefit on those recipients who should otherwise be required to pay the full costs of receiving that benefit as provided for by the IOAA and the OMB Circular.

C. Installment Agreement User Fee

The installment agreement program confers a special benefit on identifiable recipients beyond those accruing to the general public. Specifically, a taxpayer that is granted an installment agreement is allowed to pay an outstanding tax obligation over time without being subjected to IRS levy related to these taxes during this term of repayment. See section 6331(k)(2) of the Code and § 301.6159–1(f). Section 6331(k)(2) generally prohibits the IRS from levying to collect taxes while a request to enter into an installment agreement is pending with the IRS, for 30 days after the rejection of a proposed installment agreement, and for 30 days immediately following the termination of an installment agreement. If, prior to the expiration of the 30-day period following the rejection or termination of an installment agreement, the taxpayer appeals the rejection or termination decision, no levy may be made while the rejection or termination is being considered by Appeals. Because of these special benefits the IOAA and the OMB Circular authorize the IRS to charge a user fee for an installment agreement that reflects the full cost of providing the service of the installment agreement program to the taxpayer.

The installment agreement user fees were last changed in 2014. As required by the IOAA and the OMB Circular, the IRS completed its 2015 biennial review of the installment agreement program and determined that the full cost of a regular installment agreement is $225, and the full cost of a direct debit installment agreement is $107. The IRS determined that the full cost of a regular online payment agreement is $149, and the full cost for a direct debit online payment agreement is $31. The IRS determined that the full cost of restructuring or reinstating an installment agreement is $89.

The proposed regulations adopt the full cost amounts as the new user fees for the various types of installment agreements. Historically, the IRS charged a user fee that recovered less than the full cost of an installment agreement to make the service more accessible to a broader range of taxpayers. However, in light of constraints on IRS resources for tax administration, the Treasury Department and the IRS have determined that it is necessary to recoup the full costs of the installment agreement program. The IRS will continue its practice of providing services subject to user fees at less than full cost where there is a compelling tax administration reason to do so. Therefore, these proposed regulations do not increase the reduced user fee for offers submitted by low-income taxpayers and introduce a reduced fee for requests by low-income taxpayers to restructure or reinstate defaulted installment agreements.

The proposed fees reflect the IRS's determination to continue to provide a wide variety of installment agreement options to taxpayers and, as required by the OMB Circular, to determine the full cost for each option. Since the enactment of the installment agreement program, the IRS has periodically developed new ways for taxpayers to enter into and pay for installment agreements, such as through online payment agreements and direct debit online payment agreements. These new installment agreement types have not had their own separate user fee, but instead have been included in the existing user fee structure. In recent years, taxpayers' use of the online installment agreement options have increased, justifying a separate fee structure for the online installment agreement options.

Consistent with introducing these new fees, the most recent full cost analysis of the installment agreement program has been refined to more precisely account for the costs associated with administering the various types of installment agreements available to taxpayers. Requesting installment agreements in person or over the phone and receiving payment through means other than direct debit is more costly for the IRS to administer, and the proposed user fees reflect these costs. Similarly, this recent analysis has resulted in the availability of reduced user fees to taxpayers for those options that cost less for the IRS to administer. By offering a range of installment agreement options at a range of fees, the IRS is assisting taxpayers in coming into compliance with their tax payment obligations, which benefits tax administration and provides an enhanced service to taxpayers.

D. Calculation of User Fees Generally

User fee calculations begin by first determining the full cost for the service. The IRS follows the guidance provided by the OMB Circular to compute the full cost of the service, which includes all indirect and direct costs to any part of the U.S. government including but not limited to direct and indirect personnel costs, physical overhead, rents, utilities, travel, and management costs. The IRS's cost methodology is described below.

Once the total amount of direct and indirect costs associated with a service is determined, the IRS follows the guidance in the OMB Circular to determine the costs associated with providing the service to each recipient, which represents the average per unit cost of that service. This average per unit cost is the amount of the user fee that will recover the full cost of the service.

The IRS follows generally accepted accounting principles (GAAP), as established by the Federal Accounting Standards Advisory Board (FASAB) in calculating the full cost of providing services. The FASAB Handbook of Accounting Standards and Other Pronouncements, as amended, which is available at *http://files.fasab.gov/pdffiles/2015_fasab_handbook.pdf*, includes the Statement of Federal Financial Accounting Standards No. 4: Managerial Cost Accounting Concepts and Standards for the Federal Government (SFFAS No.4). SFFAS No. 4 establishes internal costing standards under GAAP to accurately measure and manage the full cost of federal programs. The methodology described below is in accordance with SFFAS No. 4.

1. Cost Center Allocation

The IRS determines the cost of its services and the activities involved in producing them through a cost accounting system that tracks costs to organizational units. The lowest organizational unit in the IRS's cost accounting system is called a cost center. Cost centers are usually separate offices that are distinguished by subject-matter area of responsibility or geographic region. All costs of operating a cost center are recorded in the IRS's cost accounting system and allocated to that cost center. The costs allocated to a cost center are the direct costs for the cost center's activities as well as all indirect costs, including overhead, associated with that cost center. Each cost is recorded in only one cost center.

2. Determining the Per Unit Cost

To establish the per unit cost, the total cost of providing the service is divided by the volume of services provided. The volume of services provided includes both services for which a fee is charged as well as subsidized services. The subsidized services are those where OMB has approved an exception to the full cost requirement, for example, to charge a reduced fee to low-income taxpayers. The volume of subsidized services is included in the total volume of services provided to ensure that the IRS, and not those who are paying full cost, subsidizes the cost of the reduced-full cost services.

3. Cost Estimation of Direct Labor and Benefits

Not all cost centers are fully devoted to only one service for which the IRS charges a user fee. Some cost centers work on a number of different services. In these cases, the IRS estimates the cost incurred in those cost centers attributable to the service for which a user fee is being calculated by measuring the time required to accomplish activities related to the service, and estimating the average time required to accomplish these activities. The average time required to accomplish these activities is multiplied by the relevant organizational unit's average labor and benefits cost per unit of time to determine the labor and benefits cost incurred to provide the service. To determine the full cost, the IRS then adds an appropriate overhead charge as discussed below.

4. Calculating Overhead

Overhead is an indirect cost of operating an organization that cannot be immediately associated with an activity that the organization performs. Overhead includes costs of resources that are jointly or commonly consumed by one or more organizational unit's activities but are not specifically identifiable to a single activity.

These costs can include:

- General management and administrative services of sustaining and support organizations.
- Facilities management and ground maintenance services (security, rent, utilities, and building maintenance).
- Procurement and contracting services.
- Financial management and accounting services.
- Information technology services.
- Services to acquire and operate property, plants and equipment.
- Publication, reproduction, and graphics and video services.
- Research, analytical, and statistical services.
- Human resources/personnel services.
- Library and legal services.

To calculate the overhead allocable to a service, the IRS first calculates the Corporate Overhead rate and then multiplies the Corporate Overhead rate by the direct labor and benefits costs determined as discussed above. The IRS calculates the Corporate Overhead rate annually based on cost elements underlying the Statement of Net Cost included in the IRS Annual Financial Statements, which are audited by the Government Accountability Office. The Corporate Overhead rate is the ratio of the sum of the IRS's indirect labor and benefits costs from the supporting and sustaining organizational units—those that do not interact directly with taxpayers—and all non-labor costs to the IRS's labor and benefits costs of its organizational units that interact directly with taxpayers.

The Corporate Overhead rate of 65.85 percent for costs reviewed during FY 2015 was calculated based on FY 2014 costs as follows:

Indirect Labor and Benefits Costs	$1,693,339,843
Non-Labor Costs	+ $2,832,262,970
Total Indirect Costs	$4,525,602,813
Direct Labor and Benefits Costs	+ $6,872,934,473
Corporate Overhead Rate	*65.85%*

E. Calculation of Installment Agreement User Fee

The full cost analysis considers the common components of each of the five installment agreement types as well as each type's unique cost drivers. The costs for each type of installment agreement are broadly categorized into two groups: (1) Costs incurred by the IRS to establish the installment agreements and (2) costs incurred by the IRS to maintain and monitor the installment agreements.

The upfront costs for establishing installment agreements requested in person, in writing, or over the phone are significantly higher than those for online payment agreements. For that reason, the upfront costs for establishing installment agreements requested in person, in writing, or over the phone are determined separately and allocated only to installment agreements requested in person, in writing, or over the phone. In contrast, the only upfront costs to establish online payment agreements through *http://www.irs.gov* are the costs of the online payment agreement system such as annual maintenance and system enhancements, which are only allocated to online payment agreements.

After installment agreements are established, costs to maintain and monitor them, including routine notices to the taxpayers, vary significantly based on the type of installment agreement. Direct debit installment agreements and direct debit online payment agreements have lower maintenance and monitoring costs because they do not require as much support on an ongoing basis as installment agreements not paid via direct debit. Payments under direct debit installment agreements and direct debit online payment agreements are automatically debited from the taxpayer's bank account. Because payments for direct debit installment agreements and direct debit online payment agreements are automatically debited from taxpayers' accounts without requiring taxpayers to initiate each payment, the IRS does not send monthly payment notices and in general sends fewer notices related to these agreements compared to installment agreements not paid via direct debit. Correspondingly, direct debit installment agreements and direct debit online payment agreements require less IRS time responding to taxpayer inquiries resulting from these notices than do installment agreements not paid via direct debit.

1. Establishing Installment Agreements

The IRS allocates costs attributed to establishing installment agreements based on whether the installment agreement is a non-online installment agreement or an online payment agreement.

a. Non-Online Installment Agreements

For non-online installment agreements, the IRS identified the activities conducted across various organizations to establish agreements, obtained the time spent on the activities through various time tracking systems, obtained the labor and benefits rates for employees from the financial system for FY 2013 and 2014 who spent time establishing agreements, and averaged those costs to create an annualized average cost. The average labor and benefits costs to establish non-online installment agreements is $110,143,952, calculated as follows:

Collection Field Function	$53,268,552
Compliance Services Collection Operations	19,989,943
Automated Collection System	19,377,987
Customer Service Toll-Free	6,183,764
Appeals Staff Labor and Benefits	8,624,615
Field Assistance	1,894,976
Examination	804,115
Average Labor and Benefits Costs to Establish Non-Online Installment Agreements	110,143,952

Because the non-labor costs for notices and telecommunication, which includes the costs of paper, postage and phone service, related to installment agreements can be identified, the IRS considered them to be direct costs for the installment agreement program. Accordingly, the IRS modified the calculation of the Corporate Overhead rate to exclude these notices and telecommunication costs from the total indirect costs in the calculation of the Corporate Overhead rate used for purposes of allocating Corporate Overhead to the installment agreement program (adjusted Corporate Overhead). The adjusted Corporate Overhead rate used for the entire installment agreement program is 60.89 percent, calculated as follows:

Indirect Labor and Benefits Costs	$1,693,339,843
Non-Labor Costs	+ 2,832,262,970
Non-Labor Costs for Notices and Telecommunication	(211,959,052)
Adjusted Total Indirect Costs	4,313,643,761

Direct Labor and Benefits Costs	$6,872,934,473
Non-Labor Costs for Notices and Telecommunication	+ 211,959,052
Adjusted Direct Labor and Benefits Costs	7,084,893,526
Adjusted Total Indirect Costs	4,313,643,761
Adjusted Direct Labor and Benefits Costs	+ 7,084,893,526
Adjusted Corporate Overhead Rate	*60.89%*

The IRS applied the adjusted Corporate Overhead rate to the labor and benefits costs to calculate the total labor and benefits cost for establishing non-online installment agreements as follows:

Labor and Benefits Costs to Establish Non-Online Installment Agreements	$110,143,952
Adjusted Corporate Overhead Rate (60.89%)	67,066,653
Total Labor and Benefits and Adjusted Overhead Costs to Establish Non-Online Installment Agreements	177,210,605

There are also non-labor costs attributed to establishing non-online installment agreements. Because these costs are non-labor, the IRS does not allocate any overhead to determine the total costs. The total non-labor costs for establishing non-online installment agreements are $636,046, calculated as follows:

Telecommunications	$145,169
Automated Collection System	274,664
Customer Service Toll-Free	216,213
Total Non-Labor Costs to Establish Non-Online Installment Agreements	636,046

The total costs for establishing non-online installment agreements are $177,846,650, calculated as follows:

Total Labor and Benefits and Adjusted Overhead Costs to Establish Non-Online Installment Agreements	$177,210,605
Total Non-Labor Costs to Establish Non-Online Installment Agreements	636,046
Total Costs to Establish Non-Online Installment Agreements	177,846,650

To determine the unit cost to establish non-online installment agreements, the IRS divided the total cost by the average volume of non-online installment agreements. The IRS determined the volume of non-online installment agreements by averaging the volumes of new agreements entered into in FY 2013 and FY 2014. The unit cost was calculated as follows:

Total Costs to Establish Non-Online Installment Agreements	$177,846,650
Average Annual Volume	2,175,142
Unit Cost to Establish Non-Online Installment Agreements	$81.76

b. Online Installment Agreements

For online payment agreements, the only cost to establish those agreements is the cost for the online payment agreement system that allows taxpayers to set up the agreements. In FY 2014, the IRS performed a substantial enhancement to this system at a cost of $4,200,000. The IRS amortizes system enhancements over a six year period; therefore, for FY 2014 through FY 2020 the annual amortized system cost for online payment agreements is $700,000. In addition to the annual amortized cost, the IRS incurs $200,000 in annual system maintenance costs for this system. The total annual cost for the online payment agreement system is $900,000. The use of online payment agreements is trending upward and the IRS expects this upward trend to continue as more taxpayers utilize the IRS's online systems. To reflect the IRS's expectation of increased use of online systems, the IRS adjusted upward the average volume of online payment agreements received in FY 2013 and FY 2014 consistent with that expectation. The total cost to establish online payment agreements is $6, calculated as follows:

Amortized System Upgrade	$700,000
Annual System Maintenance Cost	$200,000
Average Yearly System Cost	$900,000
Average Annual Volume	150,000
Unit Cost to Establish Online Payment Agreement	$6

2. Maintaining and Monitoring Installment Agreements

The costs for maintaining and monitoring installment agreements consist of the costs of monitoring and telecommunications labor and benefits, an allocation of overhead to these labor costs, and notice and telecommunication non-labor costs.

The IRS identified the activities conducted across various business units to monitor installment agreements, obtained the time spent on the activities through various time tracking systems, obtained the labor and benefits rates for these personnel from the financial system for FY 2013 and 2014, and determined the average annual cost for monitoring installment agreements.

The IRS allocated the costs attributed to maintaining and monitoring installment agreements based on whether the agreement is a direct debit agreement (Direct Debit Installment Agreement or Direct Debit Online Payment Agreement), a non-direct debit agreement (Regular Agreement or Online Payment Agreement), or a Restructured/Reinstated Installment Agreement. The following sections describe the costs allocated to various types of installment agreements for maintaining and monitoring.

The IRS continuously monitors all installment agreements for accounts not meeting the terms of the agreement, for returned payments, and various other circumstances that result in a need to contact the taxpayer. When these circumstances arise, the IRS reviews the account and sends a notice to the taxpayer, as needed, to resolve the condition. The IRS maintains a system that measures the hours of correspondence labor by type of notice sent to taxpayers.

Generally, the IRS uses the costs for two years and averages those costs to determine the cost of an activity. However, for this component of cost, the IRS used existing data for the hours spent in FY 2014 on correspondence labor related to monitoring installment agreements and calculated total labor and benefits for those hours. The IRS does not believe including an additional year of data would result in a significant difference in the result. In the future, the IRS intends to use the average cost of two years to calculate this cost component. The total annual cost of correspondence for monitoring agreements labor and benefits is $5,807,847.

The IRS divided the total annual labor and benefits cost of correspondence for monitoring agreements by the total agreements in inventory at the end of FY 2014. The total inventory was 3,973,208, resulting in annual labor and benefits cost per agreement of $1.46. The IRS converted the annual cost of correspondence for monitoring agreements labor and benefits to a per-agreement cost by dividing the annual cost per installment agreement by 12 months to calculate the monthly cost per installment agreement. The IRS then multiplied the monthly cost per installment agreement by 40.31 months, the average term of installment agreements (in months), to calculate the unit cost over the life of the installment agreement.

Total Annual Cost of Correspondence for Monitoring Agreements Labor and Benefits	$5,807,847
Total Agreements in Inventory at End of FY 2014	3,973,208
Annual Labor and Benefits Cost per Agreement	$1.46
Monthly Cost Per Agreement (Annual Labor and Benefits Cost per Agreement divided by 12 months)	$0.12
Average Term of Installment Agreement (in months)	40.31
Unit Cost of Correspondence for Monitoring Agreements Labor and Benefits Over the Life of Installment Agreement	$4.91

There is not a significant difference in the cost of monitoring regular and direct debit installment agreements; therefore, each type of agreement is allocated the same ratio of monitoring costs. Restructured/reinstated installment agreements are not allocated any monitoring costs because monitoring costs for restructured/reinstated agreements are recovered in the original user fee. The unit cost of correspondence for monitoring agreements labor and benefits per installment agreement is shown below:

	Regular agreement	Direct debit installment agreement	Restructured/ reinstated installment agreement
Unit Cost of Correspondence for Monitoring Agreements Labor and Benefits Over the Life of Installment Agreement	$4.91	$4.91	$0

The IRS maintains a system that calculates the number of seconds spent on the phone by type of call. To determine the telecommunications labor and benefits costs to maintain and monitor installment agreements, IRS first analyzed the time spent on phone calls related to monitoring and maintaining installment agreements, rather than establishing one. The total seconds are converted into hours and hourly salary and benefits rates are applied.

The average labor and benefits costs for responding to installment agreement questions are $58,917,275 for FY 2013 and FY 2014. These costs are accumulated by type of installment agreement. To determine the annual unit cost per type of agreement, the IRS used the total volume of the corresponding installment agreements in inventory at the end of FY 2014 as the baseline for the number of installment agreements that generate telecommunications costs of responding to questions. The IRS divided the average labor and benefits costs separated by type of agreement by the total agreements in inventory at the end of FY 2014 for each type of agreement. The IRS converted the annual cost of correspondence for telecommunications labor and benefits to a per-agreement cost as follows:

	Non-direct debit installment agreement	Direct debit installment agreement	Restructured/ reinstated agreement
Average Telecommunications Labor and Benefits Costs	$55,872,940	$2,014,736	$1,029,598
Volume of Installment Agreements in Inventory at end of FY 2014 by Type	3,084,844	888,364	1,082,303
Annual Unit Cost Per Installment Agreement	$18.11	$2.27	$0.95
Monthly Cost Per Installment Agreement 4 (Annual Unit Cost Per Installment Agreement divided by 12 months)	$1.51	$0.19	$0.08
Average Term of Installment Agreement (in months)	40.31	40.31	40.31
Unit Cost for Telecommunications Labor and Benefits Over the Life of the Installment Agreement	$60.84	$7.62	$3.20

Next, the IRS determined the appropriate allocation of overhead for installment agreements. As noted above, the IRS adjusted the Corporate Overhead Rate for the installment agreement program down to 60.89 percent. The IRS applied this adjusted Corporate Overhead rate to the total labor and benefits costs for monitoring and telecommunications calculated above. The total labor unit cost including the adjusted Corporate Overhead allocated to each type installment agreement is as follows:

	Non-direct debit installment agreement	Direct debit installment agreement	Restructured/ reinstated installment agreement
Unit Cost of Correspondence for Monitoring Agreements Labor and Benefits Over the Life of Installment Agreement	$4.91	$4.91	$0
Unit Cost for Telecommunications Labor and Benefits Over the Life of the Installment Agreement	60.84	7.62	3.20
Subtotal	65.75	12.53	3.20
Adjusted Corporate Overhead (60.89%)	40.03	7.63	1.95
Maintain and Monitor Labor and Benefits Unit Cost	105.78	20.16	5.15

The final element of the cost analysis for maintaining and monitoring installment agreements is the cost of non-labor notice and telecommunications. The IRS maintains a system for tracking notices and telecommunication costs. Each type of notice has a known number of pages, postage, and telecommunication costs responding to taxpayer inquiries related to the notices. The average annual non-labor cost for all notices and telecommunication related to installment agreements is $36,219,659. The IRS divided the total average notice and telecommunication non-labor cost by the total volume of agreements in inventory at the end of FY 2014 to determine the annual notice and telecommunication non-labor cost per installment agreement. The IRS converted the annual cost of notice and telecommunications to a per-agreement cost as follows:

	Regular installment agreement	Direct debit installment agreement	Restructured/ reinstated agreement
Average Annual Non-Labor Cost of All Notices	$33,005,331	$1,190,147	$608,206
Average Annual Non-Labor Cost of Telecommunication	$1,342,810	$48,421	$24,745
Total Average Notice and Telecommunication Non-Labor Costs	$34,348,141	$1,238,568	$632,950
Total Volume of Agreements in Inventory at end of FY 2014	3,084,844	888,364	1,082,303
Annual Notice and Telecommunication Non-Labor Cost Per Installment Agreement	$11.13	$1.39	$0.58
Monthly Notice and Telecommunication Non-Labor Cost Per Installment Agreement (Annual Notice and Telecommunication Non-Labor Cost divided by 12 months)	$0.93	$0.12	$0.05
Average Term of Installment Agreement (in months)	40.31	40.31	40.31
Unit Cost for Notice and Telecommunication Non-Labor Over the Life of the Installment Agreement	$37.40	$4.68	$1.96

The unit costs for maintaining and monitoring an installment agreement based on the total cost of maintaining and monitoring all installment agreements are as follows:

	Non-direct debit installment agreement	Direct debit installment agreement	Restructured/ reinstated installment agreement
Maintain and Monitor Labor Unit Costs	$105.78	$20.16	$5.15

	Non-direct debit installment agreement	Direct debit installment agreement	Restructured/ reinstated installment agreement
Maintain and Monitor Non-Labor Unit Cost	37.40	4.68	1.96
Total Maintain and Monitor Unit Cost	143.18	24.84	7.11

3. Per Unit Full Cost of Each Type of Installment Agreement

The per unit full cost and rates per each type of installment agreement are as follows:

	Regular agreement	Direct debit installment agreement	Restructured/ reinstated installment agreement	Direct debit online payment agreements	Online payment agreements
Unit Cost to Establish	$81.76	$81.76	$81.76	$6.00	$6.00
Unit Cost to Maintain and Monitor	143.18	24.84	7.11	24.84	143.18
Per Unit Full Cost	224.94	106.60	88.87	30.84	149.18
Rate	225	107	89	31	149

4. Low Income Installment Agreement User Fee

The proposed regulations maintain the low-income taxpayer user fee of $43 for regular installment agreements and direct debit installment agreements and extend the low-income taxpayer user fee of $43 to restructured/reinstated installment agreements and online payment agreements. When the IRS first instituted the $43 user fee for low-income taxpayers, it determined that this amount would not unduly burden or disproportionately dissuade low-income taxpayers from seeking installment agreements. Historically, approximately one-third of all installment agreement requests have come from low-income taxpayers, a percentage that has remained relatively consistent since the introduction of the $43 low-income taxpayer rate. In light of this, the IRS has determined to maintain the existing $43 user fee for low-income taxpayers and to extend this reduced user fee to restructured/reinstated installment agreements and online payment agreements requested by low-income taxpayers. Because the full cost of direct debit online payment agreements of $31 is less than the low-income taxpayer user fee, all taxpayers will be charged the same $31 user fee for direct debit online payment agreements.

Special Analyses

Certain IRS regulations, including this one, are exempt from the requirements of Executive Order 12866, as supplemented and reaffirmed by Executive Order 13563. Therefore, a regulatory impact assessment is not required. It is hereby certified that these regulations will not have a significant economic impact on a substantial number of small entities. This certification is based on the information that follows. The economic impact of these regulations on any small entity would result from the entity being required to pay a fee prescribed by these regulations in order to obtain a particular service. The dollar amount of the fee is not, however, substantial enough to have a significant economic impact on any entity subject to the fee. Low-income taxpayers and taxpayers entering into direct debit online payment agreements will be charged a lower fee, which lessens the economic impact of these regulations. Accordingly, a regulatory flexibility analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Public Hearing

Before these proposed amendments to the regulations are adopted as final regulations, consideration will be given to any comments that are submitted timely to the IRS as prescribed in this preamble under the **ADDRESSES** heading. The Treasury Department and the IRS request comments on all aspects of the proposed regulations. All comments will be available at *www.regulations.gov* or upon request.

A public hearing has been scheduled for October 19, 2016, beginning at 2:00 p.m. in the Main IR Auditorium of the Internal Revenue Service Building, 1111 Constitution Avenue NW., Washington, DC 20224. Due to building security procedures, visitors must enter at the Constitution Avenue entrance. In addition, all visitors must present photo identification to enter the building. Because of access restrictions, visitors will not be admitted beyond the immediate entrance area more than 30 minutes before the hearing starts. For information about having your name placed on the building access list to attend the hearing, see the **FOR FURTHER INFORMATION CONTACT** section of this preamble.

The rules of 26 CFR 601.601(a)(3) apply to the hearing. Persons who wish to present oral comments at the hearing must submit written comments or electronic comments by October 6, 2016 and submit an outline of the topics to be discussed and the amount of time to be devoted to each topic (a signed original and 8 copies) by October 6, 2016. A period of 10 minutes will be allotted to each person for making comments. An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

Drafting Information

The principal author of these regulations is Maria Del Pilar Puerto of the Office of Associate Chief Counsel (Procedure and Administration). Other personnel from the Treasury Department and the IRS participated in their development.

List of Subjects in 26 CFR Part 300

Reporting and recordkeeping requirements, User fees.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 300 is proposed to be amended as follows:

PART 300—USER FEES

■ **Paragraph 1.** The authority citation for part 300 continues to read as follows:

Authority: 31 U.S.C. 9701.

■ **Par. 2.** In § 300.1, paragraphs (b) and (d) are revised to read as follows:

§ 300.1 Installment agreement fee.

* * * * *

(b) *Fee.* The fee for entering into an installment agreement before January 1, 2017, is $120. The fee for entering into an installment agreement on or after January 1, 2017, is $225. A reduced fee applies in the following situations:

(1) For installment agreements entered into before January 1, 2017, the fee is $52 when the taxpayer pays by way of a direct debit from the taxpayer's bank account. The fee is $107 when the taxpayer pays by way of a direct debit from the taxpayer's bank account for installment agreements entered into on or after January 1, 2017;

(2) For online payment agreements entered into before January 1, 2017, the fee is $120, except that the fee is $52 when the taxpayer pays by way of a direct debit from the taxpayer's bank account. The fee is $149 for entering into online payment agreements on or after January 1, 2017, except that the fee is $31 when the taxpayer pays by way of a direct debit from the taxpayer's bank account; and

(3) Notwithstanding the type of installment agreement and method of payment, the fee is $43 if the taxpayer is a low-income taxpayer, that is, an individual who falls at or below 250 percent of the dollar criteria established by the poverty guidelines updated annually in the **Federal Register** by the U.S. Department of Health and Human Services under authority of section 673(2) of the Omnibus Budget Reconciliation Act of 1981 (95 Stat. 357, 511), or such other measure that is adopted by the Secretary, except that the fee is $31 when the taxpayer pays by way of a direct debit from the taxpayer's bank account with respect to online payment agreements entered into on or after January 1, 2017;

* * * * *

(d) *Effective/applicability date.* This section is applicable beginning January 1, 2017.

■ **Par. 3.** In § 300.2, paragraphs (b) and (d) are revised to read as follows:

§ 300.2 Restructuring or reinstatement of installment agreement fee.

* * * * *

(b) *Fee.* The fee for restructuring or reinstating an installment agreement before January 1, 2017, is $50. The fee for restructuring or reinstating an installment agreement on or after January 1, 2017, is $89. If the taxpayer is a low-income taxpayer, that is, an individual who falls at or below 250 percent of the dollar criteria established by the poverty guidelines updated annually in the **Federal Register** by the U.S. Department of Health and Human Services under authority of section 673(2) of the Omnibus Budget Reconciliation Act of 1981 (95 Stat. 357, 511), or such other measure that is adopted by the Secretary, then the fee for restructuring or reinstating an installment agreement on or after January 1, 2017 is $43.

* * * * *

(d) *Effective/applicability date.* This section is applicable beginning January 1, 2017.

John Dalrymple,

Deputy Commissioner for Services and Enforcement.

[FR Doc. 2016–19836 Filed 8–19–16; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 7

[NPS–SER–CAHA–21373; PPSECAHAS0, PPMPSPD1Z.YM0000]

RIN 1024–AE33

Special Regulations; Areas of the National Park System, Cape Hatteras National Seashore—Off-Road Vehicle Management

AGENCY: National Park Service, Interior.

ACTION: Proposed rule.

SUMMARY: The National Park Service (NPS) proposes to amend its special regulation for off-road vehicle (ORV) use at Cape Hatteras National Seashore, North Carolina, to revise the times that certain beaches open to ORV use in the morning, extend the dates that certain seasonal ORV routes are open in the fall and spring, and modify the size and location of vehicle-free areas.

Consideration of changes to this special regulation was required by section 3057 of the National Defense Authorization Act for Fiscal Year 2015.

The NPS also proposes to amend this special regulation to allow the Cape Hatteras National Seashore to issue ORV permits that would be valid for different lengths of time than currently exist, and to replace an ORV route designation on Ocracoke Island with a park road to allow vehicle access and pedestrian use of a soundside area without the requirement for an ORV permit.

DATES: Comments must be received by October 21, 2016.

ADDRESSES: You may submit comments, identified by the Regulation Identifier Number (RIN) 1024–AE33, by any of the following methods:

- *Electronically:* Federal eRulemaking Portal*: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Hardcopy:* Mail or hand-deliver to: Superintendent, Cape Hatteras National Seashore, 1401 National Park Drive, Manteo, North Carolina 27954.

For additional information see Public Participation under **SUPPLEMENTARY INFORMATION** below.

FOR FURTHER INFORMATION CONTACT: Superintendent, Cape Hatteras National Seashore, 1401 National Park Drive, Manteo, North Carolina 27954. Phone 252–475–9032.

SUPPLEMENTARY INFORMATION:

Background

Description of Cape Hatteras National Seashore

Situated along the Outer Banks of North Carolina, Cape Hatteras National Seashore (Seashore or park) was authorized by Congress in 1937 and established in 1953 as the nation's first national seashore. Consisting of more than thirty thousand acres distributed along approximately 67 miles of shoreline, the Seashore is part of a dynamic barrier island system.

The Seashore contains important wildlife habitat created by dynamic environmental processes. Several species listed under the Endangered Species Act, including the piping plover, rufa subspecies of the red knot, and five species of sea turtles, are found within the park. The Seashore also serves as a popular recreation destination where users participate in a variety of activities.

Authority and Jurisdiction To Promulgate Regulations

In the NPS Organic Act (54 U.S.C. 100101), Congress granted the NPS broad authority to regulate the use of