



# FEDERAL REGISTER

---

Vol. 81

Thursday,

No. 18

January 28, 2016

Pages 4875–4944

OFFICE OF THE FEDERAL REGISTER



The **FEDERAL REGISTER** (ISSN 0097-6326) is published daily, Monday through Friday, except official holidays, by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). The Superintendent of Documents, U.S. Government Publishing Office, Washington, DC 20402 is the exclusive distributor of the official edition. Periodicals postage is paid at Washington, DC.

The **FEDERAL REGISTER** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders, Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress, and other Federal agency documents of public interest.

Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless the issuing agency requests earlier filing. For a list of documents currently on file for public inspection, see [www.ofr.gov](http://www.ofr.gov).

The seal of the National Archives and Records Administration authenticates the **Federal Register** as the official serial publication established under the Federal Register Act. Under 44 U.S.C. 1507, the contents of the **Federal Register** shall be judicially noticed.

The **Federal Register** is published in paper and on 24x microfiche. It is also available online at no charge at [www.fdsys.gov](http://www.fdsys.gov), a service of the U.S. Government Publishing Office.

The online edition of the **Federal Register** is issued under the authority of the Administrative Committee of the Federal Register as the official legal equivalent of the paper and microfiche editions (44 U.S.C. 4101 and 1 CFR 5.10). It is updated by 6:00 a.m. each day the **Federal Register** is published and includes both text and graphics from Volume 59, 1 (January 2, 1994) forward. For more information, contact the GPO Customer Contact Center, U.S. Government Publishing Office. Phone 202-512-1800 or 866-512-1800 (toll free). E-mail, [gpocusthelp.com](mailto:gpocusthelp.com).

The annual subscription price for the **Federal Register** paper edition is \$749 plus postage, or \$808, plus postage, for a combined **Federal Register**, **Federal Register** Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the **Federal Register** Index and LSA is \$165, plus postage. Six month subscriptions are available for one-half the annual rate. The prevailing postal rates will be applied to orders according to the delivery method requested. The price of a single copy of the daily **Federal Register**, including postage, is based on the number of pages: \$11 for an issue containing less than 200 pages; \$22 for an issue containing 200 to 400 pages; and \$33 for an issue containing more than 400 pages. Single issues of the microfiche edition may be purchased for \$3 per copy, including postage. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA, MasterCard, American Express, or Discover. Mail to: U.S. Government Publishing Office—New Orders, P.O. Box 979050, St. Louis, MO 63197-9000; or call toll free 1-866-512-1800, DC area 202-512-1800; or go to the U.S. Government Online Bookstore site, see [bookstore.gpo.gov](http://bookstore.gpo.gov).

There are no restrictions on the republication of material appearing in the **Federal Register**.

**How To Cite This Publication:** Use the volume number and the page number. Example: 81 FR 12345.

**Postmaster:** Send address changes to the Superintendent of Documents, Federal Register, U.S. Government Publishing Office, Washington, DC 20402, along with the entire mailing label from the last issue received.

## SUBSCRIPTIONS AND COPIES

### PUBLIC

#### Subscriptions:

Paper or fiche 202-512-1800  
Assistance with public subscriptions 202-512-1806

**General online information** 202-512-1530; 1-888-293-6498

#### Single copies/back copies:

Paper or fiche 202-512-1800  
Assistance with public single copies 1-866-512-1800  
(Toll-Free)

### FEDERAL AGENCIES

#### Subscriptions:

Assistance with Federal agency subscriptions:

Email [FRSubscriptions@nara.gov](mailto:FRSubscriptions@nara.gov)  
Phone 202-741-6000



# Contents

Federal Register

Vol. 81, No. 18

Thursday, January 28, 2016

## Agency for International Development

### NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals:  
Partner Information Form, 4907

## Centers for Disease Control and Prevention

### NOTICES

Statements of Organizations, Functions, and Delegations of Authority, 4912–4913

## Civil Rights Commission

### NOTICES

Meetings:

Indiana Advisory Committee, 4908–4909  
Wyoming Advisory Committee, 4907–4908

## Commerce Department

See National Oceanic and Atmospheric Administration

## Environmental Protection Agency

### RULES

Air Quality State Implementation Plans; Approvals and Promulgations:  
California; South Coast Air Quality Management District, 4889–4891  
Inver Hills, MN, 4884–4886  
Kentucky; Emissions Statements for the 2008 8-Hour Ozone NAAQS, 4896–4899  
Louisiana, 4891–4896  
Missouri; Americold Logistics, LLC 24-Hour Particulate Matter (PM<sub>10</sub>) National Ambient Air Quality Standard Consent Judgment, 4886–4889

### PROPOSED RULES

Air Quality State Implementation Plans; Approvals and Promulgations:  
Inver Hills, MN, 4905  
Missouri; Americold Logistics, LLC 24-Hour Particulate Matter (PM<sub>10</sub>) National Ambient Air Quality Standard Consent Judgment, 4905–4906

### NOTICES

Integrated Science Assessment for Oxides of Nitrogen—Health Criteria, 4910–4911  
National Coastal Condition Assessment 2010, 4910

## Federal Aviation Administration

### RULES

Airworthiness Directives:  
Airbus Airplanes, 4875–4881  
Amendment of Class D and Class E Airspace, Revocation of Class E Airspace:  
Chico, CA, 4883–4884  
Amendment of Class E Airspace:  
Boise, ID, 4881–4883

### PROPOSED RULES

Airworthiness Directives:  
Airbus Airplanes, 4901–4903  
Establishment of Class E Airspace:  
Shelton, WA, 4903–4905

## Food and Drug Administration

### NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals:  
Early Food Safety Evaluation of New Non-Pesticidal Proteins Produced by New Plant Varieties Intended for Food Use, 4914  
Prevention of Salmonella Enteritidis in Shell Eggs During Production; Recordkeeping and Registration Provisions, 4923–4926  
Product Jurisdiction—Assignment of Agency Component for Review of Premarket Applications, 4921–4923  
Recommended Recordkeeping for Exempt Infant Formula Production, 4917–4921  
Guidance:  
Bioequivalence Recommendations for Lamotrigine, 4916–4917  
Product-Specific Bioequivalence Recommendations, 4913–4914  
Meetings:  
Food and Drug Administration/Xavier Medical Device Conference, 4915

## Government Accountability Office

### NOTICES

Requests for Nominations:  
Medicare Payment Advisory Commission, 4911–4912

## Health and Human Services Department

See Centers for Disease Control and Prevention  
See Food and Drug Administration

## Housing and Urban Development Department

### NOTICES

Changes in Certain Multifamily Mortgage Insurance Premiums, 4926–4930

## Justice Department

### NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals:  
Collection of Laboratory Analysis Data on Drug Samples Tested by Non-Federal (State and Local Government) Crime Laboratories, 4930

## National Oceanic and Atmospheric Administration

### NOTICES

Meetings:  
Mid-Atlantic Fishery Management Council, 4909  
North Pacific Fishery Management Council, 4909–4910

## Personnel Management Office

### PROPOSED RULES

Noncompetitive Appointments of Certain Military Spouses, 4900

## Securities and Exchange Commission

### NOTICES

Meetings; Sunshine Act, 4942  
Self-Regulatory Organizations; Proposed Rule Changes:  
Financial Industry Regulatory Authority, Inc., 4931–4942

**Surface Transportation Board****NOTICES**

Lease Exemption Containing Interchange Commitment:  
RSL Railroad, LLC from Norfolk Southern Railway Co.,  
4942

**Transportation Department**

*See* Federal Aviation Administration

**Treasury Department****NOTICES**

Agency Information Collection Activities; Proposals,  
Submissions, and Approvals, 4942–4943

---

**Reader Aids**

Consult the Reader Aids section at the end of this issue for phone numbers, online resources, finding aids, and notice of recently enacted public laws.

To subscribe to the Federal Register Table of Contents LISTSERV electronic mailing list, go to <http://listserv.access.gpo.gov> and select Online mailing list archives, FEDREGTOC-L, Join or leave the list (or change settings); then follow the instructions.

---

**CFR PARTS AFFECTED IN THIS ISSUE**

---

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

**5 CFR****Proposed Rules:**

315 .....4900

**14 CFR**

39 (2 documents) ....4875, 4878

71 (2 documents) ....4881, 4883

**Proposed Rules:**

39 .....4901

71 .....4903

**40 CFR**

52 (5 documents) ...4884, 4886,  
4889, 4891, 4896

**Proposed Rules:**

52 (2 documents) .....4905

# Rules and Regulations

Federal Register

Vol. 81, No. 18

Thursday, January 28, 2016

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

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

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA-2015-0824; Directorate Identifier 2013-NM-191-AD; Amendment 39-18378; AD 2016-01-18]

RIN 2120-AA64

#### Airworthiness Directives; Airbus Airplanes

**AGENCY:** Federal Aviation Administration (FAA), Department of Transportation (DOT).

**ACTION:** Final rule.

**SUMMARY:** We are superseding Airworthiness Directive (AD) 98-20-27 for all Airbus Model A300 B4-600, B4-600R, and F4-600R series airplanes, and Model A300 C4-605R Variant F airplanes (collectively called Model A300-600 series airplanes). AD 98-20-27 required repetitive inspections to detect fatigue cracking of the wing top skin at the front spar joint; and a follow-on eddy current inspection and repair, if necessary. This new AD reduces the inspection compliance time and intervals, and expands the inspection area of the wing top skin at the front spar joint. This AD was prompted by reports of cracking of the wing top skin in an area not required for inspection by AD 98-20-27. We are issuing this AD to detect and correct fatigue cracking of the wing top skin at the front spar joint; such fatigue cracking could result in reduced structural integrity of the airplane.

**DATES:** This AD becomes effective March 3, 2016.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of March 3, 2016.

The Director of the Federal Register approved the incorporation by reference

of certain other publications listed in this AD as of October 29, 1998 (63 FR 50981, September 24, 1998).

**ADDRESSES:** You may examine the AD docket on the Internet at <http://www.regulations.gov/#!docketDetail;D=FAA-2015-0824>; or in person at the Docket Management Facility, U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE., Washington, DC.

For service information identified in this AD, contact Airbus SAS, Airworthiness Office—EAW, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email [account.airworth-eas@airbus.com](mailto:account.airworth-eas@airbus.com); Internet <http://www.airbus.com>. You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425-227-1221. It is also available on the Internet at <http://www.regulations.gov> by searching for and locating Docket No. FAA-2015-0824.

**FOR FURTHER INFORMATION CONTACT:** Dan Rodina, Aerospace Engineer, International Branch, ANM-116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057-3356; telephone 425-227-2125; fax 425-227-1149.

#### SUPPLEMENTARY INFORMATION:

##### Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 98-20-27, Amendment 39-10793 (63 FR 50981, September 24, 1998). AD 98-20-27 applied to all Airbus Model A300 B4-600, B4-600R, and F4-600R series airplanes, and Model A300 C4-605R Variant F airplanes (collectively called Model A300-600 series airplanes). The NPRM published in the **Federal Register** on April 14, 2015 (80 FR 19892). The NPRM was prompted by reports of cracking of the wing top skin in an area not required for inspection by AD 98-20-27. The NPRM proposed to continue to require repetitive inspections to detect fatigue cracking of the wing top skin at the front spar joint; and a follow-on eddy current inspection and repair, if necessary. The NPRM also

proposed to reduce the inspection compliance time and intervals, and expand the inspection area of the wing top skin at the front spar joint. We are issuing this AD to detect and correct fatigue cracking of the wing top skin at the front spar joint; such fatigue cracking could result in reduced structural integrity of the airplane.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA Airworthiness Directive 2013-0232R1, dated October 2, 2013 (referred to after this as the Mandatory Continuing Airworthiness Information, or “the MCAI”), to correct an unsafe condition.

The MCAI states:

During full-scale fatigue testing conducted in the early 1990’s, cracks were found on the top skin of the wing between Ribs 1 and 7, starting at the front spar fastener holes.

This condition, if not detected and corrected, could adversely affect the structural integrity of the wing.

Consequently, Airbus issued Service Bulletin (SB) A300-57-6045 and DGAC [Direction Générale de l’Aviation Civile] France issued AD 97-374-238 [[http://ad.easa.europa.eu/blob/19973740tb\\_superseded.pdf/AD\\_F-1997-374-238\\_2](http://ad.easa.europa.eu/blob/19973740tb_superseded.pdf/AD_F-1997-374-238_2)] for A300-600 aeroplanes and AD 1999-008-020 [[http://ad.easa.europa.eu/blob/19980080tb\\_superseded.pdf/AD\\_F-1999-008-020\\_2](http://ad.easa.europa.eu/blob/19980080tb_superseded.pdf/AD_F-1999-008-020_2)] for A300-600ST aeroplanes to require repetitive detailed inspections of the wing top skin and, in case of findings, an Eddy Current (EC) inspection, and, depending on the size of the cracks, repair.

After those [DGAC] ADs were issued, further cracks to the wing top skin were reported by operators, within an area not covered by the existing [DGAC] ADs. To address this potential unsafe condition, Airbus revised SB A300-57-6045 to extend the area to be inspected.

In addition, a fleet survey and updated Fatigue and Damage Tolerance analyses were performed in order to substantiate the second A300-600 Extended Service Goal (ESG2) exercise. The results of these analyses have determined that the inspection thresholds and intervals must be reduced to allow timely detection of these cracks and the accomplishment of applicable corrective action(s).

As the ESG2 exercise is only applicable to A300-600 aeroplanes, A300-600ST aeroplanes are now addressed through new Airbus SB A300-57-9026.

For the reasons described above, this [EASA] AD retains the requirements of DGAC France AD 97-374-238(B) [[http://ad.easa.europa.eu/blob/19973740tb\\_superseded.pdf/AD\\_F-1997-374-238\\_2](http://ad.easa.europa.eu/blob/19973740tb_superseded.pdf/AD_F-1997-374-238_2)] [which corresponds to FAA AD 98-

20–27, Amendment 39–10793 (63 FR 50981, September 24, 1998)] and [DGAC] AD 1999–008–020(B) [[http://ad.easa.europa.eu/blob/19980080tb\\_superseded.pdf/AD\\_F-1999-008-020\\_2](http://ad.easa.europa.eu/blob/19980080tb_superseded.pdf/AD_F-1999-008-020_2)], which are superseded, but requires those actions, for A300–600 aeroplanes only, within reduced thresholds and intervals.

\* \* \* \* \*

You may examine the MCAI in the AD docket on the Internet at <http://www.regulations.gov/#!documentDetail;D=FAA-2015-0824-0003>.

### Comments

We gave the public the opportunity to participate in developing this AD. The following presents the comments received on the NPRM (80 FR 19892, April 14, 2015) and the FAA's response to each comment.

#### Support for the NPRM (80 FR 19892, April 14, 2015)

United Parcel Service (UPS) stated that the proposed changes maintain the fleet airworthiness using the service experience and current certification maintenance programs for all airplanes in service.

#### Request To Extend the Repetitive Inspection Interval

UPS requested that we extend the interval for the repetitive inspections proposed in paragraph (j)(2) of the proposed AD (80 FR 19892, April 14, 2015). UPS stated that its Model A300 fleet and associated maintenance program is not certified to the ESG–2 limitations; therefore, the repetitive inspection interval should be based on the airplane certification design service goal (DSG). UPS explained that the repetitive interval extension request is due to the additional 12,000-flight-cycle service life to ensure any crack development is detected after an airplane operates beyond the 30,000-flight-cycle DSG. UPS stated that, with an extension of airplane operational life, more frequent inspections would be necessary for airplanes operating beyond the original DSG that are not necessary for an airplane operating to the airplane DSG values.

We disagree with UPS's request. UPS did not provide any data to substantiate that the changed compliance time for the repetitive inspection interval provides an equivalent level of safety. Under the provisions of paragraph (o)(1) of this AD, we will consider requests for approval of an alternative method of compliance (AMOC) if sufficient data are submitted to substantiate that a revised inspection interval would provide an equivalent level of safety.

We have not changed this AD in this regard.

#### Request To Include Corrective Actions for Repetitive Inspections

UPS requested that we correct the inadvertent omission of the corrective actions for the repetitive inspections in paragraph (j) of the proposed AD (80 FR 19892, April 14, 2015) by including a reference to paragraph (j) of the proposed AD in paragraphs (k)(1) and (k)(2) of the proposed AD, which specify the corrective actions.

We agree with UPS to correct the inadvertent omission. We have revised paragraphs (k)(1) and (k)(2) of this AD accordingly.

#### Conclusion

We reviewed the available data, including the comments received, and determined that air safety and the public interest require adopting this AD with the changes described previously and minor editorial changes. We have determined that these changes:

- Are consistent with the intent that was proposed in the NPRM (80 FR 19892, April 14, 2015) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (80 FR 19892, April 14, 2015).

We also determined that these changes will not increase the economic burden on any operator or increase the scope of this AD.

#### Related Service Information Under 1 CFR Part 51

Airbus has issued Service Bulletin A300–57–6045, Revision 10, dated November 13, 2013. The service information describes inspection procedures for fatigue cracking of the wing top skin at the front spar joint between ribs 1 and 7. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the ADDRESSES section.

#### Costs of Compliance

We estimate that this AD affects 130 airplanes of U.S. registry.

The actions that are required by AD 98–20–27, Amendment 39–10793 (63 FR 50981, September 24, 1998), and retained in this AD take about 2 work-hours per product, at an average labor rate of \$85 per work-hour. Based on these figures, the estimated cost of the actions that are required by AD 98–20–27 is \$170 per product.

We also estimate that it will take about 2 work-hours per product to

comply with the basic requirements of this AD. The average labor rate is \$85 per work-hour. Based on these figures, we estimate the cost of this AD on U.S. operators to be \$22,100, or \$170 per product.

We have received no definitive data that will enable us to provide cost estimates for the on-condition actions specified in this AD.

#### 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 AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

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

1. Is not a "significant regulatory action" under Executive Order 12866;
2. Is not a "significant rule" under 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.

#### Examining the AD Docket

You may examine the AD docket on the Internet at <http://www.regulations.gov/#!docketDetail;D=FAA-2015-0824>; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal

holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone 800-647-5527) is in the **ADDRESSES** section.

#### List of Subjects in 14 CFR Part 39

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

#### Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

### PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40113, 44701.

#### § 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 98-20-27, Amendment 39-10793 (63 FR 50981, September 24, 1998), and adding the following new AD:

**2016-01-18 Airbus:** Amendment 39-18378. Docket No. FAA-2015-0824; Directorate Identifier 2013-NM-191-AD.

#### (a) Effective Date

This AD becomes effective March 3, 2016.

#### (b) Affected ADs

This AD replaces AD 98-20-27, Amendment 39-10793 (63 FR 50981, September 24, 1998).

#### (c) Applicability

This AD applies to the Airbus airplanes, certificated in any category, identified in paragraphs (c)(1) through (c)(4) of this AD, all manufacturer serial numbers.

(1) Airbus Model A300 B4-601, B4-603, B4-620, and B4-622 airplanes.

(2) Airbus Model A300 B4-605R and B4-622R airplanes.

(3) Airbus Model A300 F4-605R and F4-622R airplanes.

(4) Airbus Model A300 C4-605R Variant F airplanes.

#### (d) Subject

Air Transport Association (ATA) of America Code 57, Wings.

#### (e) Reason

This AD was prompted by reports of cracking of wing top skin in an area not required for inspection by AD 98-20-27, Amendment 39-10793 (63 FR 50981, September 24, 1998). We are issuing this AD to detect and correct fatigue cracking of the wing top skin at the front spar joint; such fatigue cracking could result in reduced structural integrity of the airplane.

#### (f) Compliance

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

#### (g) Retained Repetitive Inspections, With Revised Service Information

This paragraph restates the requirements of paragraph (a) of AD 98-20-27, Amendment 39-10793 (63 FR 50981, September 24, 1998), with revised service information. Prior to the accumulation of 22,000 total flight cycles, or within 2,000 flight cycles after October 29, 1998 (the effective date of AD 98-20-27), whichever occurs later: Perform a detailed visual inspection to detect fatigue cracking of the wing top skin at the front spar joint, in accordance with Airbus Service Bulletin A300-57-6045, Revision 1, dated August 3, 1994, including Appendix 1, Revision 1, dated August 3, 1994; Airbus Service Bulletin A300-57-6045, Revision 02, dated April 21, 1998, including Appendix 1, Revision 02, dated April 21, 1998; or Airbus Service Bulletin A300-57-6045, Revision 10, dated November 13, 2013. Repeat the detailed visual inspection thereafter at intervals not to exceed 8,000 flight cycles.

#### (h) Retained Inspection and Repair, With Revised Service Information

This paragraph restates the requirements of paragraph (b) of AD 98-20-27, Amendment 39-10793 (63 FR 50981, September 24, 1998), with revised service information. If any cracking is suspected or detected during any inspection required by paragraph (g) of this AD: Prior to further flight, perform an eddy current inspection to confirm the findings of the visual inspection, in accordance with Airbus Service Bulletin A300-57-6045, Revision 1, dated August 3, 1994, including Appendix 1, Revision 1, dated August 3, 1994; Airbus Service Bulletin A300-57-6045, Revision 02, dated April 21, 1998, including Appendix 1, Revision 02, dated April 21, 1998; or Airbus Service Bulletin A300-57-6045, Revision 10, dated November 13, 2013. If any cracking is detected during any eddy current inspection, prior to further flight, repair using a method approved by the Manager, International Branch, ANM-116, FAA, Transport Airplane Directorate; or the Direction Générale de l'Aviation Civile (or its delegated agent).

#### (i) New Requirement of This AD: Initial Inspection

At the applicable time specified in paragraph (i)(1) or (i)(2) of this AD: Do a detailed inspection of the wing top skin between ribs 1 and 7 for cracking, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A300-57-6045, Revision 10, dated November 13, 2013. Accomplishment of the initial inspection required by this paragraph terminates the requirements of paragraph (g) of this AD.

(1) For Model A300 B4-601, B4-603, B4-620, and B4-622 airplanes; Model A300 B4-605R and B4-622R airplanes; and Model A300 C4-605R Variant F airplanes: At the later of the times specified in paragraphs (i)(1)(i) and (i)(1)(ii) of this AD.

(i) Before the accumulation of 17,100 total flight cycles or 38,400 total flight hours, whichever occurs first.

(ii) Within 1,000 flight cycles or 2,200 flight hours, whichever occurs first after the effective date of this AD.

(2) For Model A300 F4-605R and F4-622R airplanes: At the later of the times specified in paragraphs (i)(2)(i) and (i)(2)(ii) of this AD.

(i) Before the accumulation of 22,000 total flight cycles or 49,500 total flight hours, whichever occurs first.

(ii) Within 1,300 flight cycles or 2,800 flight hours, whichever occurs first after the effective date of this AD.

#### (j) New Requirement of This AD: Repetitive Inspections

Repeat the inspection required by paragraph (i) of this AD thereafter at the applicable time and intervals specified in paragraphs (j)(1) and (j)(2) of this AD.

(1) For Model A300 B4-601, B4-603, B4-620, and B4-622 airplanes; Model A300 B4-605R and B4-622R airplanes; and Model A300 C4-605R Variant F airplanes: Repeat the inspection at the applicable time specified in paragraph (j)(1)(i) or (j)(1)(ii) of this AD.

(i) For airplanes that have an average flight time (AFT) that is equal to or more than one and one-half hours: Repeat the inspection at intervals not to exceed 5,100 flight cycles or 11,000 flight hours, whichever occurs first.

(ii) For airplanes that have an AFT that is less than one and one-half hours: Repeat the inspection at intervals not to exceed 5,500 flight cycles or 8,300 flight hours, whichever occurs first.

(2) For Model A300 F4-605R and F4-622R airplanes: Repeat the inspection at the applicable time specified in paragraph (j)(2)(i) or (j)(2)(ii) of this AD.

(i) For airplanes that have an AFT that is equal to or more than one and one-half hours: Repeat the inspection at intervals not to exceed 6,500 flight cycles or 14,100 flight hours, whichever occurs first.

(ii) For airplanes that have an AFT that is less than one and one-half hours: Repeat the inspection at intervals not to exceed 7,000 flight cycles or 10,600 flight hours, whichever occurs first.

#### (k) New Requirement of This AD: Repair of Cracking

(1) If any crack in the top skin in the area forward of the front spar attachment is found during any inspection required by paragraph (i) or (j) of this AD: Before further flight, repair using a method approved by the Manager, International Branch, ANM-116, Transport Airplane Directorate, FAA; or the European Aviation Safety Agency (EASA); or Airbus's EASA Design Organization Approval (DOA).

(2) If any crack or sign of a crack is found in the top skin at or aft of the spar attachment during any inspection required by paragraph (i) or (j) of this AD: Before further flight, do an eddy current inspection of the cracks or of the signs of cracking to confirm the findings of the detailed inspection, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A300-57-6045, Revision 10, dated November 13,



2013. If there is any crack at or aft of the spar attachment, before further flight, repair using a method approved by the Manager, International Branch, ANM-116, Transport Airplane Directorate, FAA; EASA; or Airbus's EASA DOA.

#### (l) No Terminating Action

Accomplishment of any repair required by paragraph (k) this AD does not constitute terminating action for the repetitive inspections required by paragraph (j) of this AD.

#### (m) No Reporting Required

Although Airbus Service Bulletin A300-57-6045, Revision 10, dated November 13, 2013, specifies to submit certain information to the manufacturer, this AD does not include that requirement.

#### (n) Credit for Previous Actions

This paragraph provides credit for actions required by paragraphs (i), (j) and (k) of this AD, if those actions were performed before the effective date of this AD using the Airbus service bulletins specified in paragraphs (n)(1) through (n)(8) of this AD, which are not incorporated by reference in this AD.

(1) Airbus Service Bulletin A300-57-6045, dated March 18, 1993.

(2) Airbus Service Bulletin A300-57-6045, Revision 03, dated October 25, 1999.

(3) Airbus Service Bulletin A300-57-6045, Revision 04, dated January 13, 2002.

(4) Airbus Service Bulletin A300-57-6045, Revision 05, dated June 13, 2003.

(5) Airbus Service Bulletin A300-57-6045, Revision 06, dated January 13, 2005.

(6) Airbus Service Bulletin A300-57-6045, Revision 07, dated August 14, 2008.

(7) Airbus Service Bulletin A300-57-6045, Revision 08, dated June 6, 2011.

(8) Airbus Service Bulletin A300-57-6045, Revision 09, dated May 21, 2013.

#### (o) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs)*: The Manager, International Branch, ANM-116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Dan Rodina, Aerospace Engineer, International Branch, ANM-116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057-3356; telephone 425-227-2125; fax 425-227-1149. Information may be emailed to: 9-ANM-116-AMOC-REQUESTS@faa.gov.

(i) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

(ii) AMOCs approved previously for AD 98-20-27, Amendment 39-10793 (63 FR 50981, September 24, 1998), are approved as

AMOCs for the corresponding provisions of this AD.

(2) *Contacting the Manufacturer*: As of the effective date of this AD, for any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, International Branch, ANM-116, Transport Airplane Directorate, FAA; or EASA; or Airbus's EASA DOA. If approved by the DOA, the approval must include the DOA-authorized signature.

#### (p) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA Airworthiness Directive 2013-0232R1, dated October 2, 2013, for related information. This MCAI may be found in the AD docket on the Internet at <http://www.regulations.gov> by searching for and locating Docket No. FAA-2015-0824.

(2) Service information identified in this AD that is not incorporated by reference is available at the addresses specified in paragraphs (q)(5) and (q)(6) of this AD.

#### (q) Material Incorporated by Reference

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

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

(3) The following service information was approved for IBR on March 3, 2016.

(i) Airbus Service Bulletin A300-57-6045, Revision 10, dated November 13, 2013.

(ii) Reserved.

(4) The following service information was approved for IBR on October 29, 1998 (63 FR 50981, September 24, 1998).

(i) Airbus Service Bulletin A300-57-6045, Revision 1, dated August 3, 1994, including Appendix 1, Revision 1, dated August 3, 1994, which contains the following list of effective pages: Page numbers 1 through 10, Revision 1, dated August 3, 1994; Appendix 1, pages 1 and 2, Revision 1, dated August 3, 1994; and Appendix 1, pages 3 through 6, dated March 18, 1993.

(ii) Airbus Service Bulletin A300-57-6045, Revision 02, dated April 21, 1998, including Appendix 1, Revision 02, dated April 21, 1998.

(5) For service information identified in this AD, contact Airbus SAS, Airworthiness Office—EAW, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email [account.airworth-eas@airbus.com](mailto:account.airworth-eas@airbus.com); Internet <http://www.airbus.com>.

(6) You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425-227-1221.

(7) You may view this service information that is incorporated by reference 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/cfr/ibr-locations.html](http://www.archives.gov/federal-register/cfr/ibr-locations.html).

Issued in Renton, Washington, on January 6, 2016.

**Victor Wicklund,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 2016-00611 Filed 1-27-16; 8:45 am]

**BILLING CODE 4910-13-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA-2015-1427; Directorate Identifier 2013-NM-203-AD; Amendment 39-18380; AD 2016-02-01]

**RIN 2120-AA64**

#### Airworthiness Directives; Airbus Airplanes

**AGENCY:** Federal Aviation Administration (FAA), Department of Transportation (DOT).

**ACTION:** Final rule.

**SUMMARY:** We are superseding Airworthiness Directive (AD) 96-18-06 for certain Airbus Model A320-211 and -231 airplanes. AD 96-18-06 required visual inspections to detect cracks of the pressurized floor fittings at frame 36, and renewal of the zone protective finish or replacement of fittings with new fittings if necessary. Since we issued AD 96-18-06, an extended service goal analysis by the manufacturer revealed that the compliance times and repetitive inspection intervals should be reduced to meet the design service goal. This AD retains the requirements of AD 96-18-06, with reduced compliance times and repetitive inspection intervals. This AD also adds Model A320-212 airplanes to the applicability. We are issuing this AD to detect and correct fatigue cracking in the pressurized floor fittings at frame 36, which could result in failure of a floor fitting and subsequent depressurization of the fuselage.

**DATES:** This AD becomes effective March 3, 2016.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of March 3, 2016.

The Director of the Federal Register approved the incorporation by reference of a certain other publication listed in this AD as of October 10, 1996.

**ADDRESSES:** You may examine the AD docket on the Internet at <http://www.regulations.gov/> #!docketDetail;D=FAA-2015-1427; or in

person at the Docket Management Facility, U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE., Washington, DC.

For service information identified in this final rule, contact Airbus, Airworthiness Office—ELAS, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email [account.airworth-eas@airbus.com](mailto:account.airworth-eas@airbus.com); Internet <http://www.airbus.com>. You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425-227-1221. It is also available on the Internet at <http://www.regulations.gov> by searching for and locating Docket No. FAA-2015-1427.

**FOR FURTHER INFORMATION CONTACT:** Sanjay Ralhan, Aerospace Engineer, International Branch, ANM-116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057-3356; telephone 425-227-1405; fax 425-227-1149.

**SUPPLEMENTARY INFORMATION:**

**Discussion**

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 96-18-06, Amendment 39-9730 (61 FR 46703, September 5, 1996). AD 96-18-06 applied to certain Airbus Model A320-111, -211, and -231 series airplanes. The NPRM published in the **Federal Register** on June 5, 2015 (80 FR 32055) (“the NPRM”).

The European Aviation Safety Agency (EASA), which is the Technical Agency for the Member States of the European Union, has issued EASA Airworthiness Directive 2013-0226, dated September 23, 2013 (referred to after this as the Mandatory Continuing Airworthiness Information, or “the MCAI”), to correct an unsafe condition for Airbus Model A320-211, -212, and -231 airplanes. The MCAI states:

During center fuselage certification full scale fatigue test, damage was found on the pressurized floor fittings at Frame 36, below the lower surface panel.

This condition, if not detected and corrected, could affect the structural integrity of the aeroplane.

To prevent such damage, Airbus developed modification 21282, which was introduced in production from [manufacturer serial number] MSN 0105, to reinforce the pressurized floor fitting lower surface by changing material. For affected in-service aeroplanes, Airbus issued Service Bulletin

(SB) A320-57-1028, introducing repetitive inspections, and SB A320-57-1029, which provides modification instructions.

DGAC [Direction Générale de l'Aviation Civile] France issued [an] AD \* \* \* [for Model A320-111, -211, and -231 airplanes] to require these repetitive inspections and, depending on findings, corrective action(s), while the modification was specified in that AD as optional terminating action for these inspections.

Following new analysis in the frame of ESG (Extended Service Goal) exercise, the inspection thresholds and intervals have been revised to meet the original DSG (Design Service Goal).

For the reasons described above, this [EASA] AD retains the requirements of [a] DGAC France AD \* \* \*, which is superseded, but requires these actions within reduced compliance times. [This EASA AD also adds Model A320-212 airplanes to its applicability.]

You may examine the MCAI in the AD docket on the Internet at <http://www.regulations.gov/#/documentDetail;D=FAA-2015-1427-0002>.

**Comments**

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM or on the determination of the cost to the public.

**Conclusion**

We reviewed the available data and determined that air safety and the public interest require adopting this AD as proposed except for the change described previously and minor editorial changes. We have determined that these changes:

- Are consistent with the intent that was proposed in the NPRM for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM.

**Related Service Information Under 14 CFR Part 51**

Airbus has issued Service Bulletin A320-57-1028, Revision 1, dated April 19, 1996; and Revision 02, dated June 3, 2013. The service information describes procedures for an inspection to detect cracks of the pressurized floor fittings at frame 36, renewal of the zone protective finish, and replacement of fittings with new fittings.

Airbus has also issued Service Bulletin A320-57-1029, Revision 02, dated June 16, 1999. The service information describes procedures for modification of the pressurized floor fittings at frame 36.

This service information is reasonably available because the interested parties have access to it through their normal

course of business or by the means identified in the **ADDRESSES** section.

**Costs of Compliance**

We estimate that this AD affects 13 airplanes of U.S. registry.

The actions required by AD 96-18-06, Amendment 39-9730 (61 FR 46703, September 5, 1996), and retained in this AD take about 3 work-hours per product, at an average labor rate of \$85 per work-hour. Required parts cost about \$0 per product. Based on these figures, the estimated cost of the actions that are required by AD 96-18-06 is \$255 per product.

We also estimate that it will take about 11 work-hours per product to comply with the new basic requirements of this AD. The average labor rate is \$85 per work-hour. Required parts will cost about \$0 per product. Based on these figures, we estimate the cost of this AD on U.S. operators to be \$12,155, or \$935 per product.

We have received no definitive data that will enable us to provide cost estimates for the on-condition actions specified in this AD.

**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 AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

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

1. Is not a "significant regulatory action" under Executive Order 12866;
2. Is not a "significant rule" under 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.

#### Examining the AD Docket

You may examine the AD docket on the Internet at <http://www.regulations.gov/#!docketDetail;D=FAA-2015-1427>; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone 800-647-5527) is in the **ADDRESSES** section.

#### List of Subjects in 14 CFR Part 39

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

#### Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

### PART 39—AIRWORTHINESS DIRECTIVES

- 1. The authority citation for part 39 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40113, 44701.

#### § 39.13 [Amended]

- 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 96-18-06, Amendment 39-9730 (61 FR 46703, September 5, 1996), and adding the following new AD:

**2016-02-01 Airbus:** Amendment 39-18380. Docket No. FAA-2015-1427; Directorate Identifier 2013-NM-203-AD.

#### (a) Effective Date

This AD becomes effective March 3, 2016.

#### (b) Affected ADs

This AD replaces AD 96-18-06, Amendment 39-9730 (61 FR 46703, September 5, 1996).

#### (c) Applicability

This AD applies to Airbus Model A320-211, -212, and -231 airplanes, certificated in any category, manufacturer serial numbers 0002 through 0104 inclusive.

#### (d) Subject

Air Transport Association (ATA) of America Code 57, Wings.

#### (e) Reason

This AD was prompted by an extended service goal analysis by the manufacturer, which revealed that the compliance times and repetitive inspection intervals should be reduced to meet the design service goal. We are issuing this AD to detect and correct fatigue cracking in the pressurized floor fittings at frame 36, which could result in failure of a floor fitting and subsequent depressurization of the fuselage.

#### (f) Compliance

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

#### (g) Retained Inspection, With Revised Service Information

This paragraph restates the requirements of paragraph (a) of AD 96-18-06, Amendment 39-9730 (61 FR 46703, September 5, 1996), with revised service information for Airbus Model A320-211 and -231 airplanes. Prior to the accumulation of 16,000 total landings, or within 6 months after October 10, 1996 (the effective date of AD 96-18-06), whichever occurs later, perform a visual inspection to detect cracks of the 6 fittings of the pressurized floor at frame 36 under the lower surface panel, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320-57-1028, Revision 1, dated April 19, 1996; or Airbus Service Bulletin A320-57-1028, Revision 02, dated June 3, 2013. As of the effective date of this AD, use only Airbus Service Bulletin A320-57-1028, Revision 02, dated June 3, 2013, for accomplishing the actions required by this paragraph. Accomplishment of the initial inspection required by paragraph (i) of this AD terminates the actions required by this paragraph.

(1) If no cracking is found, prior to further flight, renew the zone protective finish, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320-57-1028, Revision 1, dated April 19, 1996; or Airbus Service Bulletin A320-57-1028, Revision 02, dated June 3, 2013. As of the effective date of this AD, use only Airbus Service Bulletin A320-57-1028, Revision 02, dated June 3, 2013, for accomplishing the actions required by this paragraph. Repeat the visual inspection thereafter at intervals not to exceed 12,000 landings.

(2) If only 1 of the 6 fittings is found to be cracked and that crack is less than or equal to 0.59 inch (15 mm) in length, prior to further flight, replace the cracked fitting with a new fitting, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320-57-1028, Revision 1, dated April 19, 1996; or Airbus Service Bulletin A320-57-1028, Revision 02, dated June 3, 2013. Thereafter, prior to the accumulation of 500 landings following accomplishment of this replacement, replace the remaining 5 fittings with new fittings, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320-57-1028, Revision 1, dated April 19, 1996; or

Airbus Service Bulletin A320-57-1028, Revision 02, dated June 3, 2013. As of the effective date of this AD, use only Airbus Service Bulletin A320-57-1028, Revision 02, dated June 3, 2013, for accomplishing the actions required by this paragraph.

(3) If only 1 of the 6 fittings is found to be cracked, and that crack is greater than 0.59 inch (15 mm) in length, prior to further flight, replace all six fittings with new fittings, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320-57-1028, Revision 1, dated April 19, 1996; or Airbus Service Bulletin A320-57-1028, Revision 02, dated June 3, 2013. As of the effective date of this AD, use only Airbus Service Bulletin A320-57-1028, Revision 02, dated June 3, 2013, for accomplishing the actions required by this paragraph.

(4) If 2 or more fittings are found to be cracked, prior to further flight, replace all 6 fittings with new fittings, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320-57-1028, Revision 1, dated April 19, 1996; or Airbus Service Bulletin A320-57-1028, Revision 02, dated June 3, 2013. As of the effective date of this AD, use only Airbus Service Bulletin A320-57-1028, Revision 02, dated June 3, 2013, for accomplishing the actions required by this paragraph.

#### (h) Retained Optional Terminating Action, With Revised Service Information

This paragraph restates the provisions of paragraph (b) of AD 96-18-06, Amendment 39-9730 (61 FR 46703, September 5, 1996), with revised service information for Airbus Model A320-211 and -231 airplanes. Replacement of all 6 fittings with new fittings, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320-57-1028, Revision 1, dated April 19, 1996; or Airbus Service Bulletin A320-57-1028, Revision 02, dated June 3, 2013; constitutes terminating action for the inspection requirements of paragraph (g) of this AD.

#### (i) New Inspection

(1) At the latest of the times in paragraph (i)(1)(i), (i)(1)(ii), or (i)(1)(iii) of this AD: Do a detailed inspection of the pressurized floor fittings at frame 36, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320-57-1028, Revision 02, dated June 3, 2013. Repeat the inspection thereafter, at intervals not to exceed 9,300 flight cycles or 18,600 flight hours, whichever occurs first. Accomplishment of the initial inspection required by this paragraph terminates the actions required by paragraph (g) of this AD.

(i) Prior to the accumulation of 20,900 total flight cycles or 41,800 total flight hours, whichever occurs first.

(ii) Prior to the accumulation of 9,300 flight cycles or 18,600 flight cycles since the most recent inspection required by paragraph (g) or (i) of this AD, whichever occurs first.

(iii) At the earlier of the times specified in paragraph (i)(1)(iii)(A) and (i)(1)(iii)(B) of this AD.

(A) Prior to the accumulation of 1,250 flight cycles or 2,500 flight hours after the effective date of this AD, whichever occurs first.

(B) Prior to the accumulation of 12,000 flight cycles since the most recent inspection required by paragraph (g) or (i) of this AD.

(2) If any crack is found during any inspection required by paragraph (i)(1) of this AD: Before further flight, repair using a method approved by the Manager, International Branch, ANM-116, Transport Airplane Directorate, FAA; or the European Aviation Safety Agency (EASA); or Airbus's EASA Design Organization Approval (DOA).

#### (j) New Optional Terminating Action

Modification (replacement of aluminum fittings with titanium fittings) of the pressurized floor fittings at frame 36, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320-57-1029, Revision 02, dated June 16, 1999, is terminating action for the repetitive inspections required by paragraphs (g) and (i) of this AD.

#### (k) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs)*: The Manager, International Branch, ANM-116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Sanjay Ralhan, Aerospace Engineer, International Branch, ANM-116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057-3356; telephone 425-227-1405; fax 425-227-1149. Information may be emailed to: 9-ANM-116-AMOC-REQUESTS@faa.gov.

(i) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

(ii) AMOCs approved previously for AD 96-18-06, Amendment 39-9730 (61 FR 46703, September 5, 1996), are approved as AMOCs for the corresponding provisions of this AD.

(2) *Contacting the Manufacturer*: As of the effective date of this AD, for any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, International Branch, ANM-116, Transport Airplane Directorate, FAA; or the EASA; or Airbus's EASA DOA. If approved by the DOA, the approval must include the DOA-authorized signature.

#### (l) Related Information

Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA Airworthiness Directive 2013-0226, dated September 23, 2013, for related information. This MCAI may be found in the AD docket on the Internet at <http://www.regulations.gov> by searching for and locating Docket No. FAA-2015-1427.

#### (m) Material Incorporated by Reference

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

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

(3) The following service information was approved for IBR on March 3, 2016.

(i) Airbus Service Bulletin A320-57-1028, Revision 02, dated June 3, 2013.

(ii) Airbus Service Bulletin A320-57-1029, Revision 02, dated June 16, 1999.

(4) The following service information was approved for IBR on October 10, 1996 (61 FR 46703, September 5, 1996).

(i) Airbus Service Bulletin A320-57-1028, Revision 1, dated April 19, 1996, which contains the following list of effective pages: Pages 1 through 3, Revision 1, dated April 19, 1996; Pages 4 through 15, dated August 12, 1991.

(ii) Reserved.

(5) For service information identified in this AD, contact Airbus, Airworthiness Office—EIAS, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email [account.airworth-eas@airbus.com](mailto:account.airworth-eas@airbus.com); Internet <http://www.airbus.com>.

(6) You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425-227-1221.

(7) You may view this service information that is incorporated by reference 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/cfr/ibr-locations.html>.

Issued in Renton, Washington, on January 9, 2016.

**Michael Kaszycki**,

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 2016-00949 Filed 1-27-16; 8:45 am]

**BILLING CODE 4910-13-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 71

**[Docket No. FAA-2015-3674; Airspace Docket No. 15-ANM-18]**

#### Amendment of Class E Airspace; Boise, ID

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This action modifies Class E surface area airspace designated as an extension to Class C airspace, and Class E airspace extending upward from 700

feet above the surface at Boise Air Terminal/Gowen Field Airport, formerly Boise Air Terminal (Gowen Field), Boise, ID. After reviewing the airspace, the FAA found standard instrument approach procedures are not fully contained in controlled airspace, thereby necessitating airspace redesign for the safety and management of Instrument Flight Rules (IFR) operations at the airport. This action also corrects the name of the airport to match the FAAs aeronautical database.

**DATES:** Effective 0901 UTC, March 31, 2016. The Director of the Federal Register approves this incorporation by reference action under Title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

**ADDRESSES:** FAA Order 7400.9Z, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at [http://www.faa.gov/air\\_traffic/publications/](http://www.faa.gov/air_traffic/publications/). For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 29591; telephone: 202-267-8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.9Z at NARA, call 202-741-6030, or go to [http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](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 CONTACT:** Steve Haga, Federal Aviation Administration, Operations Support Group, Western Service Center, 1601 Lind Avenue SW., Renton, WA 98057; telephone (425) 203-4563.

#### SUPPLEMENTARY INFORMATION:

##### Authority for This Rulemaking

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 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 amends controlled airspace at Boise Air Terminal/Gowen Field Airport, Boise, ID.

### History

On November 13, 2015, the FAA published in the **Federal Register** a notice of proposed rulemaking (NPRM) to modify Class E surface area airspace designated as an extension to the Class C airspace, and Class E airspace extending upward from 700 feet above the surface at Boise Air Terminal/Gowen Field Airport, Boise, ID, (80 FR 70176). Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Class E airspace designations are published in paragraph 6003 and 6005, respectively, of FAA Order 7400.9Z, dated August 6, 2015, and effective September 15, 2015, which is incorporated by reference in 14 CFR part 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

### Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order 7400.9Z, Airspace Designations and Reporting Points, dated August 6, 2015, and effective September 15, 2015. FAA Order 7400.9Z is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.9Z lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

### The Rule

This amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 modifies Class E airspace designated as an extension to Class C airspace, and Class E airspace extending upward from 700 feet above the surface at Boise Air Terminal/Gowen Field Airport, Boise, ID. Two segments are expanded from the 5-mile radius of the airport and extend to 12.8 miles southeast, and 11 miles northwest of the airport. Class E airspace extending upward from 700 feet above the surface at Boise Air Terminal/Gowen Field Airport is amended to accommodate standard instrument approach procedures for IFR operations at the airport. A review of the airspace found modification of the airspace necessary for the safety and management of standard instrument approach procedures for IFR operations at the airport. Also, the name of the airport is updated from Boise Air Terminal (Gowen Field), to Boise Air

Terminal/Gowen Field Airport, to coincide with the FAA's aeronautical database.

Class E airspace extending upward from 700 feet above the surface is modified to within an 8.6-mile radius north of Boise Air Terminal/Gowen Field Airport, extending to 11.4 miles to the south, 17 miles to the east and 30 miles to the west.

### Regulatory Notices and Analyses

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, is non-controversial and unlikely to result in adverse or negative comments. It, therefore: (1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that 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.

### Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1F, "Environmental Impacts: Policies and Procedures," paragraph 5–6.5a. 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.

### Lists 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(f), 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 7400.9Z, Airspace Designations and Reporting Points, dated August 6, 2015, and effective September 15, 2015, is amended as follows:

*Paragraph 6003 Class E Airspace Areas Designated as an Extension.*

\* \* \* \* \*

### ANM ID E3 Boise, ID [Modified]

Boise Air Terminal/Gowen Field Airport, ID (Lat. 43°33'52" N., long. 116°13'22" W.)

That airspace extending upward from the surface within 5 miles each side of the Boise Air Terminal/Gowen Field Airport 114° bearing extending from the 5-mile radius of the airport to 12.8 miles southeast of the airport; and within 5 miles each side of the Boise Air Terminal/Gowen Field Airport 295° bearing extending from the 5-mile radius of the airport to 11 miles northwest of the airport.

*Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.*

\* \* \* \* \*

### ANM ID E5 Boise, ID [Modified]

Boise Air Terminal/Gowen Field Airport, ID (Lat. 43°33'52" N., long. 116°13'22" W.)

That airspace extending upward from 700 feet above the surface bounded by a line beginning at lat. 43°44'51" N., long. 116°52'05" W.; to lat. 43°52'31" N., long. 116°38'57" W.; to lat. 43°51'24" N., long. 116°24'16" W.; to lat. 43°31'33" N., long. 115°50'14" W.; to lat. 43°19'45" N., long. 115°56'41" W.; to lat. 43°25'11" N., long. 116°32'39" W.; to lat. 43°35'39" N., long. 116°47'51" W., thence to the point of beginning. That airspace extending upward from 1,200 feet above the surface within the 30.5-mile radius of the airport beginning at the 122° bearing of the airport, thence via a line to the intersection of the 34.8-mile radius of the airport and the 224° bearing of the airport, thence clockwise along the 34.8-mile radius of the airport to that airspace 7 miles each side of the 269° bearing of the airport extending from the 34.8-mile radius to 49.6 miles west of the airport, and within 7 miles northeast and 9.6 miles southwest of the 295° bearing of the airport extending from the 34.8-mile radius to 65.3 miles northwest of the airport, to lat. 44°00'27" N., long. 117°10'58" W., thence along the 042° bearing to V–253, thence south along V–253, thence along the 30.5-mile radius of the airport to the point of beginning. That airspace southeast of the airport extending upward from 9,000 feet MSL bounded on the north by V–444, on the east by V–293, on the south by V–330 and on the southwest by V–4. That airspace northeast of the airport extending upward from 11,500 feet MSL, bounded on the northeast by V–293, on the south by V–444, on the southwest by the 30.5-mile radius of the airport and on the west by V–253.

Issued in Seattle, Washington, on January 15, 2016.

**Tracey Johnson,**

*Manager, Operations Support Group, Western Service Center.*

[FR Doc. 2016-01501 Filed 1-27-16; 8:45 am]

BILLING CODE 4910-13-P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 71

[Docket No. FAA-2015-3899; Airspace Docket No. 15-AWP-14]

#### Amendment of Class D and Class E Airspace, Revocation of Class E Airspace; Chico, CA

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This action modifies Class D airspace, Class E airspace extending upward from 700 feet above the surface, and removes Class E surface area airspace designated as an extension at Chico Municipal Airport, Chico, CA. The FAA found it necessary to amend the airspace area by increasing the Class E airspace extending upward from 700 feet above the surface for the safety and management of Instrument Flight Rules (IFR) operations for arriving and departing aircraft at the airport. The FAA found no standard instrument approach procedures requiring Class E surface area airspace designated as an extension to Class D airspace. This action changes from navigation aids to geographic coordinate references in the legal description and updates the geographic coordinates of Chico Municipal and Ranchoero Airports for the Class D and E airspace areas noted above.

**DATES:** Effective 0901 UTC, March 31, 2016. The Director of the Federal Register approves this incorporation by reference action under Title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

**ADDRESSES:** FAA Order 7400.9Z, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at [http://www.faa.gov/air\\_traffic/publications/](http://www.faa.gov/air_traffic/publications/). For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 29591; telephone: 202-267-8783. The Order is also available for inspection at the National Archives and Records

Administration (NARA). For information on the availability of FAA Order 7400.9Z at NARA, call 202-741-6030, or go to [http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](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 CONTACT:

Steve Haga, Federal Aviation Administration, Operations Support Group, Western Service Center, 1601 Lind Avenue SW., Renton, WA 98057; telephone (425) 203-4563.

#### SUPPLEMENTARY INFORMATION:

##### Authority for This Rulemaking

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 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 establishes controlled airspace at Chico, CA.

##### History

On November 13, 2015, the FAA published in the **Federal Register** a notice of proposed rulemaking (NPRM) to modify Class D airspace and Class E airspace extending upward from 700 feet above the surface, and remove Class E surface area airspace designated as an extension at Chico Municipal Airport, Chico, CA, (80 FR 70177). Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received. Subsequent to publication, the FAA found slight changes were necessary in the legal description of the Class E airspace extending upward from 700 feet above surface. These changes do not change the dimensions of the proposal.

Class D and Class E airspace designations are published in paragraph 5000, 6004, and 6005, respectively, of FAA Order 7400.9Z, dated August 6, 2015, and effective September 15, 2015, which is incorporated by reference in 14 CFR part 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

#### Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order 7400.9Z, Airspace Designations and Reporting Points, dated August 6, 2015, and effective September 15, 2015. FAA Order 7400.9Z is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.9Z lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

#### The Rule

This amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 modifies Class D airspace, Class E airspace extending upward from 700 feet above the surface, and removes Class E surface area airspace as an extension at Chico Municipal Airport, Chico, CA. Class E airspace extending upward from 700 feet above the surface is modified to within a 4.1-mile radius east of Chico Municipal, extending to 6 miles from the southeast to the north, excluding that airspace within 1 NM of Ranchoero Airport, CA. This action removes reference to navigation aids and uses instead, geographic coordinate references in the legal descriptions. The geographic coordinates of the Chico Municipal and Ranchoero Airports are amended for the Class D and E airspace areas to coincide with the FAA's aeronautical database.

#### Regulatory Notices and Analyses

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, is non-controversial and unlikely to result in adverse or negative comments. It, therefore: (1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that 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.

#### Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1F, "Environmental

Impacts: Policies and Procedures,” paragraph 5–6.5a. 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.

**Lists 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(f), 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 7400.9Z, Airspace Designations and Reporting Points, dated August 6, 2015, and effective September 15, 2015, is amended as follows:

*Paragraph 5000 Class D Airspace.*  
\* \* \* \* \*

**AWP CA D Chico, CA [Modified]**

Chico Municipal Airport, CA  
(Lat. 39°47’43” N., long. 121°51’30” W.)  
Ranchaero Airport, Chico, CA  
(Lat. 39°43’10” N., long. 121°52’14” W.)

That airspace extending upward from the surface to and including 2,700 feet MSL within a 4.1-mile radius of Chico Municipal Airport, excluding the portion within a 1-mile radius of Ranchaero Airport. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

*Paragraph 6004 Class E Airspace Areas Designated as an Extension to a Class D or Class E Surface Area.*  
\* \* \* \* \*

**AWP CA E4 Chico, CA [Removed]**

*Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.*  
\* \* \* \* \*

**AWP CA E5 Chico, CA [Modified]**

Chico Municipal Airport, CA  
(Lat. 39°47’43” N., long. 121°51’30” W.)  
Ranchaero Airport, Chico, CA  
(Lat. 39°43’10” N., long. 121°52’14” W.)

That airspace extending upward from 700 feet above the surface bounded by a line

beginning at lat. 39°43’57” N., long. 121°45’28” W., clockwise along the Chico Municipal Airport 6-mile radius to lat. 39°41’45” N., long. 121°50’42” W.; thence along the 174° bearing to lat. 39°43’38” N., long. 121°51’05” W., thence counter-clockwise along the Ranchaero Airport 1-mile radius to lat. 39°43’50” N., long. 121°53’12” W., thence along the 200° bearing to the Chico Municipal Airport 6-mile radius, thence clockwise to lat. 39°53’31” N., long. 121°53’31” W.; thence to lat. 39°51’48” N., long. 121°52’04” W., clockwise along the Chico Municipal Airport 4.1-mile radius to lat. 39°45’40” N., long. 121°46’54” W.; thence to the point of beginning.

Issued in Seattle, Washington, on January 15, 2016.

**Tracey Johnson,**  
*Manager, Operations Support Group, Western Service Center.*

[FR Doc. 2016–01502 Filed 1–27–16; 8:45 am]

**BILLING CODE 4910–13–P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**[EPA–R05–OAR–2015–0366; FRL–9941–53–Region 5]**

**Air Plan Approval; Minnesota; Inver Hills SO<sub>2</sub>**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving a revision to the Minnesota sulfur dioxide (SO<sub>2</sub>) State Implementation Plan (SIP) for Northern States Power Company’s Xcel Energy-Inver Hills Generating Plant (Inver Hills), located in Inver Grove Heights, Minnesota. The revision, submitted by the Minnesota Pollution Control Agency (MPCA) on May 1, 2015, incorporates a more stringent limit for the sulfur content of the fuel used at the facility, and modifies the fuel analysis requirements to meet the more stringent limit. These revisions will not result in an increase in SO<sub>2</sub> emissions at the facility.

**DATES:** This rule is effective on March 28, 2016, unless EPA receives adverse written comments by February 29, 2016. If EPA receives adverse comments, EPA will publish a timely withdrawal of the rule in the **Federal Register** and inform the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–R05–OAR–2015–0366 at <http://www.regulations.gov> or via email to [blakley.pamela@epa.gov](mailto:blakley.pamela@epa.gov). For comments

submitted at Regulations.gov, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the Web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

**FOR FURTHER INFORMATION CONTACT:** Charles Hatten, Environmental Engineer, Control Strategies Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6031, [hatten.charles@epa.gov](mailto:hatten.charles@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document whenever “we,” “us,” or “our” is used, we mean EPA. This supplementary information section is arranged as follows:

- I. What is the background for this action?
- II. What changes are being made to the SO<sub>2</sub> SIP for Inver Hills?
- III. What is EPA’s analysis of the state’s submission?
- IV. What action is EPA taking?
- V. Incorporation by Reference
- VI. Statutory and Executive Order Reviews

**I. What is the background for this action?**

The Inver Hills facility is a 440 Megawatt peak demand electrical generation plant. The plant has six generation units, turbines EU 001–EU 006, which can burn both natural gas and distillate fuel oil. In 1980, Inver Hills was identified by the state of Minnesota as a culpable source in the Pine Bend portion of the Minneapolis-St. Paul SO<sub>2</sub> nonattainment area in Dakota County. On July 28, 1992, MPCA issued an administrative order for Inver Hills to address the source’s contribution to the nonattainment

problem. The SIP revision containing the administrative order was approved by EPA on September 9, 1994 (59 FR 46553). The area was subsequently redesignated to attainment of the SO<sub>2</sub> National Ambient Air Quality Standards (NAAQS) on May 13, 1997 (62 FR 26230), and is now a maintenance area for SO<sub>2</sub>.

On June 8, 2004 (69 FR 31891), EPA approved a Minnesota SO<sub>2</sub> SIP revision, replacing the administrative order with Title I conditions for the Inver Hills facility. In addition, on December 5, 2007 (72 FR 68508), EPA approved a Minnesota SO<sub>2</sub> SIP revision, updating the Title I conditions for the Inver Hills facility.

## II. What changes are being made to the SO<sub>2</sub> SIP for Inver Hills?

On May 1, 2015, MPCA submitted a request to EPA to revise the Title I SIP conditions in the SO<sub>2</sub> SIP for the six electric generating turbines at the Inver Hills facility. The SIP revision reduces the allowable sulfur content limit for all fuels delivered to the facility from 0.48 percent by weight to 0.005 percent by weight. In addition, the SIP revision updates the requirements necessary to demonstrate compliance with this more stringent fuel limit.

The Inver Hills SIP revision contains two methods for determining compliance with the sulfur limit for fuel oil. Method A requires Inver Hills to sample the fuel upon delivery to demonstrate compliance with the new lower fuel sulfur limit of 0.005 percent by weight. Method B requires the fuel supplier to provide a guarantee that the fuel oil has a sulfur content below a specific limit. If the fuel oil supplier provides that guarantee, Inver Hills is not required to conduct any additional sampling or analysis of the fuel oil. Since no sampling is required, the SIP revision reduces the sulfur content limit under Method B from 0.10 percent by weight to 0.0015 percent by weight.

## III. What is EPA's analysis of the state's submission?

The SIP revision submitted by Minnesota imposes more stringent limits on the sulfur content of the fuel used at the Inver Hills facility. In addition, the provisions for demonstrating compliance have been revised to reflect the more stringent fuel limits. A modeling analysis was not conducted for the Inver Hills because the SIP revision imposes more stringent SO<sub>2</sub> emission limits at the facility, resulting in a decrease in SO<sub>2</sub> emissions. Because the revision strengthens the existing SO<sub>2</sub> SIP for Inver Hills, EPA deems the submittal approvable.

## IV. What action is EPA taking?

EPA is approving the request by Minnesota to revise the Title I SIP conditions in Minnesota's SO<sub>2</sub> SIP that apply to the Inver Hills facility. Specifically, EPA is approving into the SIP only those portions of Inver Hills' Title V permit, No. 03700015-004, cited as "Title I Condition: State Implementation Plan for SO<sub>2</sub>." These Title I SIP conditions replace the current SO<sub>2</sub> SIP for Inver Hills.

We are publishing this action without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comments. However, in the proposed rules section of this **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the state plan if relevant adverse written comments are filed. This rule will be effective March 28, 2016 without further notice unless we receive relevant adverse written comments by February 29, 2016. If we receive such comments, we will withdraw this action before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on the proposed action. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. If we do not receive any comments, this action will be effective March 28, 2016.

## V. Incorporation by Reference

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of the Minnesota regulations described in the amendments to 40 CFR part 52 set forth below. The EPA has made, and will continue to make, these documents generally available electronically through [www.regulations.gov](http://www.regulations.gov) and/or in hard copy at the appropriate EPA office (see the **ADDRESSES** section of this preamble for more information).

## VI. Statutory and Executive Order Reviews

Under the Clean Air Act (CAA), the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as

meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a



report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by March 28, 2016. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of

such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today’s **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements, Sulfur dioxide.

Dated: January 13, 2016.

**Susan Hedman,**  
Regional Administrator, Region 5.

40 CFR part 52 is amended as follows:

**PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

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

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

■ 2. In § 52.1220, the table in paragraph (d) is amended by revising the entry for “Xcel Energy-Inver Hills Generating Plant” to read as follows:

**§ 52.1220 Identification of plan.**

*	*	*	*	*
(d)	*	*	*	*

**EPA-APPROVED MINNESOTA SOURCE-SPECIFIC PERMITS**

Name of Source	Permit No.	State effective date	EPA Approval date	Comments
* Xcel Energy-Inver Hills Generating Plant.	* 03700015–004	* 07/16/14	* 01/28/16, [Insert <b>Federal Register</b> citation].	* Only conditions cited as “Title I condition: SIP for SO <sub>2</sub> NAAQS.”
*	*	*	*	*

\* \* \* \* \*  
[FR Doc. 2016–01577 Filed 1–27–16; 8:45 am]  
BILLING CODE 6560–50–P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[EPA–R07–OAR–2015–0644; FRL–9941–68–Region 7]

**Approval of Missouri’s Air Quality Implementation Plans; Americold Logistics, LLC 24-Hour Particulate Matter (PM<sub>10</sub>) National Ambient Air Quality Standard (NAAQS) Consent Judgment**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Direct final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is taking direct final action to approve a revision to the State Implementation Plan (SIP) submitted by the State of Missouri on June 2, 2014. This SIP revision incorporates a consent judgment to address violations of the 24-hour particulate matter (PM<sub>10</sub>) NAAQS near the Americold Logistics, LLC, Carthage Crushed Limestone (CCL)

facility near Carthage, Missouri. CCL is a limestone quarry operation. The consent judgment between the State of Missouri and CCL includes measures that will control PM<sub>10</sub> emissions from the facility. This approval will make the consent judgment Federally-enforceable.

**DATES:** This direct final rule will be effective March 28, 2016, without further notice, unless EPA receives adverse comment by February 29, 2016. If EPA receives adverse comment, we will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–R07–OAR–2015–0644, to [www.regulations.gov](http://www.regulations.gov). Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from [Regulations.gov](http://www.regulations.gov). EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is

considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

**FOR FURTHER INFORMATION CONTACT:** Heather Hamilton, Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219 at 913–551–7039 or by email at [hamilton.heather@epa.gov](mailto:hamilton.heather@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document “we,” “us,” or “our” refer to EPA. This section provides additional information by addressing the following:

- I. Background
- II. What is being addressed in this document?
- III. Have the requirements for approval of a SIP revision been met?
- IV. What action is EPA taking?
- V. Incorporation by Reference
- VI. Statutory and Executive Order Reviews

## I. Background

EPA's current health-based PM<sub>10</sub> NAAQS was set in 1987 at a level of 150 µg/m<sup>3</sup> measured over 24 hours. 40 CFR 50.6(a). An exceedance of the NAAQS is a daily (24-hour average) PM<sub>10</sub> concentration that is above the level of the standard. A violation of the NAAQS occurs when an exceedance occurs more than once per year on average over three years. 40 CFR part 50, appendix K.

Exceedances and violations of the PM<sub>10</sub> NAAQS at the Carthage monitor date back to 2001. In October 2003, the Missouri Department of Natural Resources (MDNR) Air Pollution Control Program and Americold Logistics, LLC, Carthage Crushed Limestone (CCL) entered into a settlement agreement that contained measures for reducing CCL's fugitive particulate matter emissions for exceedances of the PM<sub>10</sub> NAAQS. The measures put in place from the settlement agreement reduced the number of PM<sub>10</sub> exceedances at the Carthage monitor for several years.

There were no exceedances in 2009 and 2010; however, based on validated air quality data from 2011 to 2013, the Carthage monitor again experienced a number of exceedances as evidenced in the following table:

**CARTHAGE PM<sub>10</sub> AIR QUALITY SYSTEM DATA VALIDITY AND CERTIFICATION THROUGH JUNE 30, 2013**

Date	24-Hour PM <sub>10</sub> exceedance (µg/m <sup>3</sup> )
June 23, 2011 .....	174
September 9, 2011 .....	159
September 26, 2011 .....	258
November 30, 2011 .....	192
January 16, 2012 .....	222

After an internal analysis to identify potential sources of emissions for the exceedances, the MDNR Air Pollution Control Program contacted CCL regarding their operations at the facility. On June 8, 2012, CCL proposed additional control measures that were necessary due to malfunctioning equipment and processing issues at the facility.

## II. What is being addressed in this document?

EPA is taking direct final action to approve a revision to the SIP submitted by the State of Missouri on June 2, 2014. Missouri requested that EPA approve Americold Logistics, LLC, Carthage Crushed Limestone (CCL) consent judgment for inclusion into the Missouri SIP. The consent judgment between the

state of Missouri and CCL was entered on May 3, 2014, and effective May 13, 2014. The consent judgment requires CCL to apply specific measures and work practices to reduce PM<sub>10</sub> emissions generated at the facility. These measures and practices were required to be operational by March 31, 2014. CCL has implemented and made operational these measures in accordance with the consent judgment timelines.

As a result, CCL worked cooperatively with MDNR who developed an enforceable consent judgment for implementing controls to further reduce PM<sub>10</sub> emissions at the facility. CCL proactively put several controls in place during 2012 and 2013 prior to finalization of the consent judgment.

Control measures to reduce fugitive PM<sub>10</sub> emissions in the 2014 consent judgment include the following: (1) Installation of wet suppression for crushers; (2) eliminate screen and install a hopper to reduce free fall of rock; (3) install a CFM compressor for the baghouse controlling the Cedar Rapids dryer; (4) design and install a new drop point/transition to improve seal at conveyor transfer points; (5) install a new bin top in the west lime hopper; (6) fabricate a new transition on elevator head where it drops on to tail of the line to the conveyor belt, and install a new head house and boot that seals to the elevator; (7) rebuild a water truck to contain eight thousand gallons of water for haul roads; (8) enclose the bed of the haul truck that hauls waste fines to stock pile area; (9) develop an operation and maintenance plan for MDNR approval, and, (10) submit a full emissions inventory questionnaire for the calendar year 2012. The aforementioned control measures were completed according to schedule.

The consent judgment also includes contingency measures in the event of an exceedance of the PM<sub>10</sub> NAAQS. Contingency measures include investigating and addressing any exceedance to the extent possible in a timely manner including a detailed report to the MDNR Air Pollution Control Program within ten days. Additional contingency measures outlined in the consent judgment are to be reported no later than ninety days after the calendar quarter in which the monitoring data was measured.

In addition to the measures outlined in the consent judgment, CCL has voluntarily agreed to participate in a near-real-time PM<sub>10</sub> concentration alarm notification system for monitored hourly PM<sub>10</sub> levels that exceed the 150 µg/m<sup>3</sup>. This activity is strictly voluntary and the MDNR Air Pollution Control

Program is not submitting requirements for CCL to participate in the alarm notification for inclusion in this SIP action.

Since entering into the consent judgment with the MDNR, there was one exceedance of the PM<sub>10</sub> standard on December 8, 2014. There have been no other exceedances recorded since that date. CCL, in accordance with the consent judgment contingency measures, notified the MDNR Air Pollution Control Program about the exceedance. The MDNR Air Pollution Control Program continues to monitor air quality and to work with the facility as necessary to implement the contingency measures of the consent judgment through a corrective action plan that addresses the 2014 exceedance.

The control and contingency measures identified in the consent judgment, and included in MDNR's SIP revision request, is a significant strengthening of the current requirements applicable to this source to control fugitive PM emissions. EPA believes that these requirements will reduce or potentially eliminate future exceedances of the PM<sub>10</sub> NAAQS and lead to improvements in the air quality in the area surrounding CCL's facility. The work practice revisions and mechanical upgrades along with the contingency measures put into action by the consent judgment and this SIP revision provide for permanent modifications that deal with past and future exceedances in a manner that limits their potential and represent an effective short term and long term control strategy for fugitive emissions of coarse particulate matter.

## III. Have the requirements for approval of a SIP revision been met?

The June 2, 2014, submission has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submission also satisfied the completeness criteria of 40 CFR part 51, appendix V. In addition, the revision meets the substantive SIP requirements of the CAA, including section 110 and implementing regulations.

## IV. What action is EPA taking?

EPA is taking direct final action to approve this SIP revision. We are publishing this rule without a prior proposed rule because we view this as a noncontroversial action and anticipate no adverse comment. However, in the "Proposed Rules" section of this **Federal Register**, we are publishing a separate document that will serve as the proposed rule to approve this SIP revision, if adverse comments are

received on this direct final rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. For further information about commenting on this rule, see the **ADDRESSES** section of this document. If EPA receives adverse comment, we will publish a timely withdrawal in the **Federal Register** informing the public that this direct final rule will not take effect. We will address all public comments in any subsequent final rule based on the proposed rule.

#### V. Incorporation by Reference

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of the Missouri Source Specific Permits and Orders described in the direct final amendments to 40 CFR part 52 set forth below. EPA has made, and will continue to make, these documents generally available electronically through [www.regulations.gov](http://www.regulations.gov) and at the appropriate EPA office (see the **ADDRESSES** section of this preamble for more information).

#### VI. Statutory and Executive Order Reviews

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

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);

- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

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

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

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

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

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and

the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by March 28, 2016. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: January 11, 2016.

**Mark Hague,**

*Regional Administrator, Region 7.*

For the reasons stated in the preamble, EPA amends 40 CFR part 52 as set forth below:

#### PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

#### Subpart AA—Missouri

- 2. Section 52.1320(d) is amended by adding entry (30) at the end of the table to read as follows:

#### § 52.1320 Identification of plan.

\* \* \* \* \*

(d) \* \* \*

EPA-APPROVED MISSOURI SOURCE-SPECIFIC PERMITS AND ORDERS

Name of source	Order/Permit No.	State effective date	EPA Approval date	Explanation
(30) Americold Logistics, LLC 24-Hour Particulate Matter (PM <sub>10</sub> ) National Ambient Air Quality (NAAQS) Consent Judgment.	Consent Judgment 14AP-CC00036.	4/27/14	1/28/16, [insert <b>Federal Register</b> citation].	.....

[FR Doc. 2016-01660 Filed 1-27-16; 8:45 am]  
 BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[EPA-R09-OAR-2015-0545; FRL-9941-72-Region 9]

**Disapproval of California Air Plan Revisions, South Coast Air Quality Management District**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is finalizing disapproval of revisions to the South Coast Air Quality Management District (SCAQMD) portion of the California State Implementation Plan (SIP). This

action was proposed in the **Federal Register** on November 24, 2015 and concerns rules regulating Vehicle Scrapping, Employee Trip Reduction, and procedures for the hearing board concerning variances and subpoenas. The submitted SCAQMD rules are discretionary and this disapproval does not reveal a deficiency in the SIP. **DATES:** *Effective Date:* This rule is effective on February 29, 2016. **ADDRESSES:** The EPA has established docket number EPA-R09-OAR-2015-0545 for this action. Generally, documents in the docket for this action are available electronically at [www.regulations.gov](http://www.regulations.gov) or in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California 94015-3901. While all documents in the docket are listed at [www.regulations.gov](http://www.regulations.gov), some information may be publicly available only at the hard copy location (*e.g.*, copyrighted material, large maps), and

some may not be publicly available in either location (*e.g.*, CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section. **FOR FURTHER INFORMATION CONTACT:** Idalia Pérez, EPA Region IX, (415) 972-3248, [perez.idalia@epa.gov](mailto:perez.idalia@epa.gov). **SUPPLEMENTARY INFORMATION:** Throughout this document, “we,” “us” and “our” refer to the EPA.

**Table of Contents**

- I. Proposed Action
- II. Public Comments and EPA Responses
- III. EPA Action
- IV. Statutory and Executive Order Reviews

**I. Proposed Action**

On November 24, 2015 (80 FR 73156), the EPA proposed to disapprove the following rules that were submitted for incorporation into the California SIP.

Local agency	Rule #	Rule title	Adopted or amended	Submitted
SCAQMD .....	1610	Old-Vehicle Scrapping .....	05/09/97 ..	06/03/97
SCAQMD .....	2202	On-Road Motor Vehicle Mitigation Options .....	10/09/98 ..	06/03/99
SCAQMD .....	503.1	Ex Parte Petitions for Variances .....	02/05/88 ..	02/07/89
SCAQMD .....	504	Rules from which Variances Are Not Allowed .....	01/05/90 ..	05/13/91
SCAQMD .....	511.1	Subpoenas .....	02/05/88 ...	02/07/89

We proposed to disapprove these rules because some rule provisions do not satisfy the requirements of section 110 and part D of the Act.

We proposed to disapprove the SIP revision for Rule 1610 based at least in part on the following deficiencies:

1. The Section (e)(2) requirement that engines of scrapped vehicles be destroyed is insufficiently federally enforceable for various reasons.
2. The Section (f)(2)(A) requirement that the vehicle be registered for two years within SCAQMD is not fully enforceable by allowing the Executive Officer to approve different documentation.
3. The Section (g) requirement of a visual and functional inspection of the vehicle has no recordkeeping requirements.
4. There is no recordkeeping requirement to demonstrate compliance

with the Section (g)(1) requirement that vehicles be driven under their own power to the scrapping site.

5. There is no requirement to maintain records for the life of Mobile Source Emission Reduction Credits.
- We proposed to disapprove the SIP revision for Rule 2202 based at least in part on the following deficiencies:
1. Per Section (f)(1), the rule relies on Regulation XVI, which is not currently in the SIP.
  2. Per Section (f)(3), the rule relies on the Air Quality Investment Program (Rule 2501), which is not currently in the SIP.
  3. Per Section (f)(4), the rule relies on emission reduction strategies approved on a case-by-case basis by the Executive Officer.
  4. Per Section (g)(4), the rule relies on vehicle miles travelled reduction programs approved on a case-by-case basis by the Executive Officer.

We proposed to disapprove the SIP revision for Rules 503.1 and 504 because they conflict with CAA sections 110(a) and (i) and fail to address that a state- or district-issued variance has no effect on enforcing the underlying federal requirement unless the variance is submitted to and approved by EPA as a SIP revision.

We proposed to disapprove the SIP revision for Rule 511.1 to avoid potential conflict with EPA’s independent authorities provided in CAA section 113, section 114 and elsewhere.

Our proposed action contains more information on the basis for this rulemaking and on our evaluation of the submittal.

## II. Public Comments and EPA Responses

The EPA's proposed action provided a 30-day public comment period. During this period, we received no comments.

## III. EPA Action

No comments were submitted that change our assessment of the rules as described in our proposed action. Therefore, as authorized in section 110(k)(3) of the Act, the EPA is finalizing a full disapproval of the submitted rules. This final disapproval does not trigger sanctions or a requirement for the EPA to issue a federal implementation plan (FIP). Sanctions will not be imposed under CAA 179(b) because the submittal of Rules 1610, 2202, 503.1, 504 and 511.1 is discretionary (*i.e.*, these rules are not required to be included in the SIP), and the EPA will not promulgate a FIP in this instance under CAA 110(c)(1) because the disapproval does not reveal a deficiency in the SIP for the area that such a FIP must correct. Specifically: (1) Rule 1610 is voluntary and only serves to provide for an alternative method of compliance for stationary and other emission sources subject to other District regulations that allow the use of credits as a compliance option; and (2) Rule 2202 is not a required CAA submittal because the CAA gives state and local agencies discretion, but does not require, employers "to implement programs to reduce work-related vehicle trips and miles travelled by employees" (see CAA section 182(d)(1)(B)). Additionally, at this time, we have not credited emission reductions from Rules 1610 or 2202 in an approved SIP and we are not aware of a SCAQMD plan submitted to EPA that relies on emission reductions from these rules to fulfill a CAA requirement. Accordingly, the failure of the SCAQMD to adopt revisions to Rules 1610 and 2202 would not adversely affect the SIP's compliance with the CAA's requirements, such as the requirements for section 182 ozone RACT, reasonable further progress, and attainment demonstrations. Rules 503.1, 504 and 511.1 regulate hearing board procedures and do not control emission sources or otherwise generate emission reductions nor are they required elements of the SIP. Thus, EPA does not need to impose sanctions or promulgate a FIP upon their disapproval. Note that the submitted rules have been adopted by the SCAQMD, and a final disapproval by the EPA would not prevent the local agency from enforcing them or the revised versions of these rules

subsequently adopted by SCAQMD as a matter of State law.

## IV. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at <http://www2.epa.gov/laws-regulations/laws-and-executive-orders>.

### A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a significant regulatory action and was therefore not submitted to the Office of Management and Budget (OMB) for review.

### B. Paperwork Reduction Act (PRA)

This action does not impose an information collection burden under the PRA, because this SIP disapproval does not in-and-of itself create any new information collection burdens, but simply disapproves certain State requirements for inclusion in the SIP.

### C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. This action will not impose any requirements on small entities. This SIP disapproval does not in-and-of itself create any new requirements but simply disapproves certain State requirements for inclusion in the SIP.

### D. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. This action disapproves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

### E. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

### F. Executive Order 13175: Coordination With Indian Tribal Governments

This action does not have tribal implications, as specified in Executive Order 13175, because the SIP revision

that the EPA is disapproving would not apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction, and will not impose substantial direct costs on tribal governments or preempt tribal law. Thus, Executive Order 13175 does not apply to this action.

### G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of "covered regulatory action" in section 2–202 of the Executive Order. This action is not subject to Executive Order 13045 because this SIP disapproval does not in-and-of itself create any new regulations, but simply disapproves certain State requirements for inclusion in the SIP.

### H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211, because it is not a significant regulatory action under Executive Order 12866.

### I. National Technology Transfer and Advancement Act (NTTAA)

Section 12(d) of the NTTAA directs the EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. The EPA believes that this action is not subject to the requirements of section 12(d) of the NTTAA because application of those requirements would be inconsistent with the CAA.

### J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Population

The EPA lacks the discretionary authority to address environmental justice in this rulemaking.

## List of Subjects in 40 CFR Part 52

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

Dated: January 14, 2016.

**Jared Blumenfeld,**  
Regional Administrator, Region IX.

Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

**PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

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

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

**Subpart F—California**

■ 2. Section 52.242 is amended by adding paragraphs (a)(1)(iv), (v), (vi), (vii) and (viii) to read as follows:

**§ 52.242 Disapproved rules and regulations.**

- (a) \* \* \*
- (1) \* \* \*
- (iv) Rule 511.1, “Subpoenas,” submitted on February 7, 1989.
- (v) Rule 503.1, “Ex Parte Petitions for Variances,” submitted on February 7, 1989.
- (vi) Rule 504, “Rules from which Variances Are Not Allowed,” submitted on May 13, 1991.
- (vii) Rule 1610, “Old-Vehicle Scrapping,” submitted on June 3, 1997.
- (viii) Rule 2202, “On-Road Motor Vehicle Mitigation Options,” submitted on June 3, 1999.

\* \* \* \* \*

[FR Doc. 2016-01572 Filed 1-27-16; 8:45 am]  
BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[EPA-R06-OAR-2012-0434; FRL-9941-51-Region 6]

**Approval and Promulgation of Implementation Plans; Louisiana**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is finalizing its proposal to approve revisions to the State Implementation Plan (SIP) for Louisiana. These rule revisions are the 2007 General Revisions, and 2008–2010 Miscellaneous Rule Revisions to the SIP that were submitted by the State of Louisiana. The overall intended outcome is to make the approved Louisiana SIP consistent with current Federal and State requirements. This action is in accordance with the federal Clean Air Act (the Act).

**DATES:** This rule is effective on February 29, 2016.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA-R06-OAR-2012-0434. All documents in the docket are listed on the [www.regulations.gov](http://www.regulations.gov) Web site. Although listed in the index, some information is not publicly available, *e.g.*, Confidential Business Information or other information whose disclosure is restricted by statute. Certain other

material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through [www.regulations.gov](http://www.regulations.gov) or in hard copy at the Air Planning Section (6MM-AA), Environmental Protection Agency, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733. The file will be made available by appointment for public inspection in the Region 6 FOIA Review Room between the hours of 8:30 a.m. and 4:30 p.m. weekdays except for legal holidays.

**FOR FURTHER INFORMATION CONTACT:** Mr. Alan Shar (6MM-AA), telephone (214) 665–2164, email [shar.alan@epa.gov](mailto:shar.alan@epa.gov).

**SUPPLEMENTARY INFORMATION:**

Throughout this document “we,” “us,” and “our” refer to EPA.

**I. Background**

On November 5, 2015 (80 FR 68481) we proposed to approve revision to the Louisiana SIP that the Louisiana Department of Environmental Quality (LDEQ) submitted to EPA on August 14, 2009, and August 29, 2013.

The Louisiana rule revisions submittals, corresponding Chapters, and type of action that we proposed are in Table 1 below.

TABLE 1—SUBMITTALS, THEIR CORRESPONDING CHAPTERS, AND ACTION TYPE

Submittals	Calendar year	Revisions to LAC 33:III chapters being acted upon	Action
Miscellaneous rules .....	2008–2010	7, 13 .....	Proposed Approval.
General revisions .....	2007	1, 9, 11, 13, 14, 21, 22, 23, and 25 .....	Proposed Approval.

On October 2, 2015 LDEQ submitted a letter withdrawing its revisions to Louisiana Administrative Code (LAC) 33:III, Chapter 15.

The revisions to rules adopt the most recent Particulate Matter standards and make numerous other administrative and ministerial changes. As discussed in our proposal, there is no increase in the amount of emissions or number of sources affected as a result of these ministerial or administrative rules revisions; therefore, section 110(l) of the Act has been complied with. Details of these submittals, their evaluation, and individual chapter-specific conclusions were explained in our proposal, and its corresponding Technical Supporting Document.

Certain provisions of the Louisiana SIP (§§ 1107(A), 1507(A)(1), 1507(B)(1), 2153(B)(1)(i), 2201(C)(8), 2307(C)(1), and 2307(C)(2)) are affected by EPA’s June 12, 2015 National SIP Call (80 FR 33967). Approval of amendments to LAC 33:III, Chapters 11, 21, 22, and 23 here should not, in any way, be construed as explicitly or implicitly voiding or minimizing any concerns or inadequacies identified in EPA’s National SIP Call with respect to the above referenced provisions. We continue to expect that issues raised within the context of the EPA’s National SIP Call to be addressed in a timely fashion. See section 110(k)(5) of the Act.

**II. Public Comments**

The public comment period for the November 5, 2015 (80 FR 68481) proposal expired on December 7, 2015, and we did not receive any comments on the proposed actions during this period. Therefore, we are finalizing the November 5, 2015 (80 FR 68481) proposal without any changes into the Louisiana SIP.

**III. Final Actions**

We are approving rule revisions to LAC 33:III, Chapter 1, section 111; Chapter 7, sections 701, 703, and 711; Chapter 9, sections 918, and 919; Chapter 11, sections 1105, and 1107; Chapter 13, sections 1323, 1325, 1327,

1329, 1331, and 1333; Chapter 14, sections 1410, and 1434; Chapter 21, sections 2103, 2108, 2113, 2116, 2121, 2122, 2123, 2132, 2153, and 2159; Chapter 22, section 2201; Chapter 23, sections 2301, 2302, and 2307; and Chapter 25, sections 2511, 2521, and 2531. Our approval will incorporate these changes into the SIP for Louisiana.

#### IV. Incorporation by Reference

In this rule, we are finalizing regulatory text that includes incorporation by reference. In accordance with the requirements of 1 CFR 51.4, we are finalizing the incorporation by reference of the revisions to the Louisiana regulations as described in the Final Action section above. We have made, and will continue to make, these documents generally available electronically through [www.regulation.gov](http://www.regulation.gov), Docket ID. No. EPA-R06-OAR-2012-0434.

#### V. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. If a portion of the plan revision meets all the applicable requirements of this chapter and Federal regulations, the Administrator may approve the plan revision in part. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices that meet the criteria of the Act, and to disapprove state choices that do not meet the criteria of the Act. Accordingly, this final action approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this final action:

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

Order 13132 (64 FR 43255, August 10, 1999);

- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act;
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994); and
- Does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by March 28, 2016. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

#### List of Subjects in 40 CFR Part 52

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

Dated: January 13, 2016.

**Ron Curry,**

*Regional Administrator, Region 6.*

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

#### PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

#### Subpart T—Louisiana

- 2. The table in § 52.970(c) entitled "EPA Approved Louisiana Regulations in the Louisiana SIP" is amended as follows:
  - a. Under Chapter 1, General Provisions, by revising the entries for Section 111;
  - b. Under Chapter 7, Ambient Air Quality, by adding in numerical order an entry for Section 701 and by revising the entries for Sections 703 and 711;
  - c. Under Chapter 9, General Regulation on Control of Emissions and Emission Standards, by revising the entry for Section 918 and adding in numerical order an entry for Section 919;
  - d. Under Chapter 11, Control of Emissions of Smoke, by revising the entries for Sections 1105.A and 1107.A;
  - e. Under Chapter 13, Emission Standards for Particulate Matter, by adding in numerical order entries for Sections 1323, 1325, 1327, 1329, 1331, and 1333;
  - f. Under Chapter 14, Conformity, by revising the entries for Sections 1410.A.5.a.i and 1434.
  - g. Under Chapter 21, Control of Emissions of Organic Compounds, "Subchapter A—General" by revising the entries for Sections 2103.D.4.a, 2108.F.1, 2113.A.4, adding an entry for Section 2116, and revising entries for 2121.F, and 2122.G;
  - h. Under Chapter 21, Control of Emissions of Organic Compounds, "Subchapter B—Organic Solvents" by revising the entry for Section 2123.D.1;
  - i. Under Chapter 21, Control of Emissions of Organic Compounds, "Subchapter F—Gasoline Handling" by adding entries for Sections 2132.B.6, 2132.B.8, 2132.D.1, 2132.D.3;
  - j. Under Chapter 21, Control of Emissions of Organic Compounds, "Subchapter M—Limiting Volatile Organic Compound Emissions from Industrial Wastewater" by adding entries for Sections 2153.G.4.b–c, and 2153.G.5.a–c;
  - k. Under Chapter 21, Control of Emissions of Organic Compounds, "Subchapter N—Method 43 Capture Efficiency Test Procedures" by revising the entry for Section 2159;
  - l. Under Chapter 22, Control of Emissions of Nitrogen Oxides (NO<sub>x</sub>), by revising the entry for Section 2201.F.7.a;
  - m. Under Chapter 23, Control of Emissions from Specific Industries, "Subchapter A—Chemical Woodpulp Industry" by revising the entry for Section 2301.D.4.a and under "Subchapter B—Aluminum Plants by revising the entry for Section 2303.E;

■ n. Under Chapter 23, Control of Emissions from Specific Industries, “Subchapter D—Emission Standards for the Nitric Acid Industry” by revising the entry for Section 2307.C.1.a and 2307.C.2.a;  
 ■ o. Under Chapter 25, Miscellaneous Incinerator Rules, “Subchapter B—

Biomedical Waste Incinerators” by revising the entry for Section 2511;  
 ■ p. Under Chapter 25, Miscellaneous Incinerator Rules, “Subchapter C—Refuse Incinerators” by revising the entry for Section 2521;  
 ■ q. Under Chapter 25, Miscellaneous Incinerator Rules, “Subchapter D—

Crematories” by adding an entry for Section 2531.  
 The revisions and additions read as follows:

**§ 52.970 Identification of plan.**  
 \* \* \* \* \*  
 (c) \* \* \*

EPA APPROVED LOUISIANA REGULATIONS IN THE LOUISIANA SIP

State citation	Title/subject	State approval date	EPA Approval date	Comments
* * *	* * *	* * *	* * *	* * *
<b>LAC Title 33. Environmental Quality Part III. Air</b>				
<b>Chapter 1—General Provisions</b>				
* * *	* * *	* * *	* * *	* * *
Section 111 .....	Definitions .....	10/20/07	01/28/16 [Insert <b>Federal Register</b> citation].	SPOC
* * *	* * *	* * *	* * *	* * *
<b>Chapter 7—Ambient Air Quality</b>				
* * *	* * *	* * *	* * *	* * *
Section 701 .....	Purpose .....	03/20/08	01/28/16 [Insert <b>Federal Register</b> citation].	
* * *	* * *	* * *	* * *	* * *
Section 703 .....	Scope .....	03/20/08	01/28/16 [Insert <b>Federal Register</b> citation].	
* * *	* * *	* * *	* * *	* * *
Section 711 .....	Tables 1, 1a, and 2—Air Quality .....	03/20/08	01/28/16 [Insert <b>Federal Register</b> citation].	PM <sub>2.5</sub> and PM <sub>10</sub> standards.
* * *	* * *	* * *	* * *	* * *
<b>Chapter 9—General Regulations on Control of Emissions and Emission Standards</b>				
* * *	* * *	* * *	* * *	* * *
Section 918 .....	Recordkeeping and Annual Reporting .....	10/20/07	01/28/16 [Insert <b>Federal Register</b> citation].	
* * *	* * *	* * *	* * *	* * *
Section 919 .....	Emission Inventory .....	10/20/07	01/28/16 [Insert <b>Federal Register</b> citation].	
* * *	* * *	* * *	* * *	* * *
<b>Chapter 11—Control of Emissions From Smoke</b>				
* * *	* * *	* * *	* * *	* * *
Section 1105.A .....	Smoke from Flaring Shall Not Exceed 20 Percent Opacity.	10/20/07	01/28/16 [Insert <b>Federal Register</b> citation].	
Section 1107.A .....	Exemptions .....	10/20/07	01/28/16 [Insert <b>Federal Register</b> citation].	Administrative change here; 1107(A) is subject to SIP Call.
* * *	* * *	* * *	* * *	* * *
<b>Chapter 13—Emission Standards for Particulate Matter</b>				



EPA APPROVED LOUISIANA REGULATIONS IN THE LOUISIANA SIP—Continued

State citation	Title/subject	State approval date	EPA Approval date	Comments
*	*	*	*	*
<b>Subchapter F—Abrasive Blasting</b>				
Section 1323 .....	Emissions from Abrasive Blasting .....	01/17/12	01/28/16 [Insert <b>Federal Register</b> citation].	
Section 1325 .....	Definitions .....	05/20/07	01/28/16 [Insert <b>Federal Register</b> citation].	
Section 1327 .....	Blasting Operations .....	07/20/09	01/28/16 [Insert <b>Federal Register</b> citation].	
Section 1329 .....	Performance Standard .....	05/20/07	01/28/16 [Insert <b>Federal Register</b> citation].	
Section 1331 .....	Best management Practices (BMP) Plans .....	05/20/07	01/28/16 [Insert <b>Federal Register</b> citation].	
Section 1333 .....	Recordkeeping and Reporting .....	07/20/09	01/28/16 [Insert <b>Federal Register</b> citation].	
<b>Chapter 14—Conformity</b>				
<b>Subchapter A—Determining Conformity of General Federal Actions to State or Federal Implementations Plans</b>				
Section 1410.A.5.a.i .....	Criteria for Determining Conformity of General Federal Actions.	10/20/07	01/28/16 [Insert <b>Federal Register</b> citation].	
*	*	*	*	*
<b>Subchapter B—Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects Developed, Funded, or Approved Under Title 23 U.S.C. or the Federal Transit Act</b>				
Section 1434 .....	Consultation .....	10/20/07	01/28/16 [Insert <b>Federal Register</b> citation].	
*	*	*	*	*
<b>Chapter 21—Control of Emissions of Organic Compounds</b>				
<b>Subchapter A—General</b>				
Section 2103.D.4.a .....	Storage of Volatile Organic Compounds .....	10/20/07	01/28/16 [Insert <b>Federal Register</b> citation].	
Section 2108.F.1 .....	Marine Vapor Recovery .....	10/20/07	01/28/16 [Insert <b>Federal Register</b> citation].	
Section 2113.A.4 .....	Housekeeping .....	10/20/07	01/28/16 [Insert <b>Federal Register</b> citation].	
Section 2116 .....	Glycol Dehydrators .....	10/20/07	01/28/16 [Insert <b>Federal Register</b> citation].	
Section 2121.F .....	Fugitive Emission Control .....	10/20/07	01/28/16 [Insert <b>Federal Register</b> citation].	
Section 2122.G .....	Fugitive Emission Control for Ozone Nonattainment Areas and Specified Parishes.	10/20/07	01/28/16 [Insert <b>Federal Register</b> citation].	
*	*	*	*	*
<b>Subchapter B—Organic Solvents</b>				

## EPA APPROVED LOUISIANA REGULATIONS IN THE LOUISIANA SIP—Continued

State citation	Title/subject	State approval date	EPA Approval date	Comments
* Section 2123.D.1	* Organic Solvents	* 10/20/07	* 01/28/16	* [Insert <b>Federal Register</b> citation].
<b>Subchapter F—Gasoline Handling</b>				
* Section 2132.B.6	* Applicability	* 10/20/07	* 01/28/16	* [Insert <b>Federal Register</b> citation].
* Section 2132.B.8	* Applicability	* 10/20/07	* 01/28/16	* [Insert <b>Federal Register</b> citation].
* Section 2132.D.1	* Testing	* 10/20/07	* 01/28/16	* [Insert <b>Federal Register</b> citation].
* Section 2132.D.3	* Testing	* 10/20/07	* 01/28/16	* [Insert <b>Federal Register</b> citation].
<b>Subchapter M—Limiting Volatile Organic Compound Emissions From Industrial Wastewater</b>				
* Section 2153.G.4.b–c	* Limiting Volatile Organic Compound Emissions from Industrial Wastewater.	* 10/20/07	* 01/28/16	* [Insert <b>Federal Register</b> citation].
* Section 2153.G.5.a–c	* Limiting Volatile Organic Compound Emissions from Industrial Wastewater.	* 10/20/07	* 01/28/16	* [Insert <b>Federal Register</b> citation].
<b>Subchapter N—Method 43 Capture Efficiency Test Procedures</b>				
* Section 2159.A–C	* Recordkeeping and Reporting	* 10/20/07	* 01/28/16	* [Insert <b>Federal Register</b> citation].
<b>Chapter 22—Control of Emissions of Nitrogen Oxides (NO<sub>x</sub>)</b>				
* Section 2201.F.7.a	* Permits	* 10/20/07	* 01/28/16	* [Insert <b>Federal Register</b> citation].
<b>Chapter 23—Control of Emissions From Specific Industries</b>				
<b>Subchapter A—Chemical Woodpulp Industry</b>				
* Section 2301.D.4.a	* Control of Emissions From Chemical Woodpulp Industry. Compliance.	* 10/20/07	* 01/28/16	* [Insert <b>Federal Register</b> citation].

EPA APPROVED LOUISIANA REGULATIONS IN THE LOUISIANA SIP—Continued

State citation	Title/subject	State approval date	EPA Approval date	Comments
*	*	*	*	*
<b>Subchapter B—Aluminum Plants</b>				
Section 2303.E .....	Standards for Horizontal Stud Soderberg Primary Aluminum Plants and Prebake Primary Aluminum Plants. Monitoring.	10/20/07	01/28/16 [Insert <b>Federal Register</b> citation].	
*	*	*	*	*
<b>Subchapter D—Nitric Acid Industry</b>				
Section 2307.C.1.a .....	Start-Up Provisions .....	10/20/07	01/28/16 [Insert <b>Federal Register</b> citation].	Administrative change here; 2307(C)(1) is subject to SIP Call.
Section 2307.C.2.a .....	On-Line Operating Adjustments .....	10/20/07	01/28/16 [Insert <b>Federal Register</b> citation].	Administrative change here; 2307(C)(2) is subject to SIP Call.
<b>Chapter 25—Miscellaneous Incinerator Rules</b>				
*	*	*	*	*
<b>Subchapter B—Biomedical Waste Incinerators</b>				
Section 2511 .....	Standards of Performance for Biomedical Waste Incinerators. Registration.	10/20/07	01/28/16 [Insert <b>Federal Register</b> citation].	
*	*	*	*	*
<b>Subchapter C—Refuse Incinerators</b>				
Section 2521 .....	Refuse Incinerators .....	10/20/07	01/28/16 [Insert <b>Federal Register</b> citation].	
<b>Subchapter D—Crematories</b>				
Section 2531 .....	Standards of Performance for Crematories .....	10/20/07	01/28/16 [Insert <b>Federal Register</b> citation].	
*	*	*	*	*

\* \* \* \* \*  
 [FR Doc. 2016-01569 Filed 1-27-16; 8:45 am]  
 BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**  
**40 CFR Part 52**  
**[EPA-R04-OAR-2015-0444; FRL-9941-64-Region 4]**  
**Air Plan Approval; KY; Emissions Statements for the 2008 8-Hour Ozone NAAQS**  
**AGENCY:** Environmental Protection Agency.

**ACTION:** Final rule.  
**SUMMARY:** The Environmental Protection Agency (EPA) is taking final action to approve the state implementation plan (SIP) revision submitted by the Commonwealth of Kentucky, through the Kentucky Division of Air Quality (DAQ) on November 18, 2015, to address the emissions statements requirement for the Commonwealth's portion of the Cincinnati, Ohio-Kentucky-Indiana (Cincinnati, OH-KY-

IN) 2008 8-hour ozone national ambient air quality standards (NAAQS) nonattainment area (hereafter referred to as the “Cincinnati, OH-KY-IN Area” or “Area”). Annual emissions reporting (*i.e.*, emissions statements) is required for all ozone nonattainment areas. The Area is comprised of Butler, Clermont, Clinton, Hamilton and Warren Counties in Ohio; portions of Boone, Campbell, and Kenton Counties in Kentucky; and a portion of Dearborn County in Indiana. Any actions that EPA takes regarding the emissions statements requirements for the Ohio and Indiana portions of this Area will be addressed in separate rulemakings.

**DATES:** This rule is effective February 29, 2016.

**ADDRESSES:** EPA has established a docket for this action under Docket Identification No. EPA-R04-OAR-2015-0444. All documents in the docket are listed on the [www.regulations.gov](http://www.regulations.gov) Web site. Although listed in the index, some information may not be publicly available, *i.e.*, Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through [www.regulations.gov](http://www.regulations.gov) or in hard copy at the Air Regulatory Management Section (formerly Regulatory Development Section), Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303-8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office’s official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Tiereny Bell, Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303-8960. Ms. Bell can be reached at (404) 562-9088 and via electronic mail at [bell.tiereny@epa.gov](mailto:bell.tiereny@epa.gov).

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Background**

On April 15, 2015, the Commonwealth of Kentucky submitted a draft SIP revision to EPA for parallel

processing seeking to include the specific sections of 401 Kentucky Administrative Regulations (KAR) 52.020—*Title V permits*, 401 KAR 52.030—*Federally-enforceable permits for non-major sources*, 401 KAR 52.040—*State-Origin Permits*, and 401 KAR 52.070—*Registration of designated sources* identified on pages 8 and 9 of its April 15, 2015 submittal into the SIP to meet the emissions statements requirements of CAA section 182(a)(3)(B).<sup>1</sup> In a notice of proposed rulemaking (NPR) published on September 22, 2015, EPA preliminarily determined that the specific regulatory sections identified on pages 8 and 9 of the draft SIP submission, collectively, meet the emissions statements requirements of section 182(a)(3)(B) because they require sources that emit 25 tons per year or more of volatile organic compounds (VOCs) or nitrogen oxides (NO<sub>x</sub>) within the Kentucky portion of the Area to submit annual certified statements showing actual VOC and NO<sub>x</sub> emissions. The specific regulatory sections that EPA is approving into the SIP through today’s action are identified in Section II, below. Although the Commonwealth identified portions of 401 KAR 52.030 for inclusion in the SIP, EPA notes that the Agency approved those sections into Kentucky’s SIP on September 6, 2006. See 71 FR 52460.

The details of Kentucky’s submittal and the rationale for EPA’s actions are explained in the NPR. Comments on the proposed rulemaking were due on or before October 22, 2015. No comments were received. On November 18, 2015, Kentucky submitted a final SIP revision that did not contain any substantive changes regarding emissions statements from the draft version submitted on April 15, 2015. EPA is now taking final action to approve the November 18, 2015, SIP revision as meeting the requirements of section 182(a)(3)(B) of the Clean Air Act (CAA or Act).

##### **II. Incorporation by Reference**

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporate by reference of 401 KAR 52.020—*Title V permits*, Section 22 entitled “*Annual*

<sup>1</sup> Section 182(a)(3)(B) of the CAA requires each state with ozone nonattainment areas to submit a SIP revision requiring annual emissions statements to be submitted to the state by the owner or operator of each NO<sub>x</sub> or VOC stationary source located within a nonattainment area showing the actual emissions of NO<sub>x</sub> and VOC from that source. The first statement is due three years from the area’s nonattainment designation, and subsequent statements are due at least annually thereafter.

*Emissions Certification*”, first sentence only and Section 23 entitled “*Certification by Responsible Official*”, introductory paragraph text and subsection (4) only; 401 KAR 52.040—*State-Origin Permits*, Section 3 entitled “*General Provisions*”, subsection (2) introductory text, subsection (2)(c), and subsection (3) only; Section 20 entitled “*Annual Emissions Certification for Specified Sources*”, subsection (1) only; and Section 21 entitled “*Certification by Responsible Official*”, introductory text and subsection (4) only; and 401 KAR 52.070—*Registration of designated sources*, Section 3 entitled “*General Provisions*”, subsection (2) introductory text, subsection (2)(a)(1), and subsection (2)(a)(2) first sentence only. EPA has made, and will continue to make, these documents generally available electronically through [www.regulations.gov](http://www.regulations.gov) and/or in hard copy at the Region 4 EPA office (see the **ADDRESSES** section of this preamble for more information).

##### **III. Final Action**

EPA is approving the SIP revision submitted by Kentucky on November 18, 2015, as meeting the section 182(a)(3)(B) emissions statements requirement for the Kentucky portion of the Cincinnati, OH-KY-IN Area, and EPA is incorporating the regulatory text identified in Section II, above, into Kentucky’s SIP. EPA has concluded that the Commonwealth’s submission meets the requirements of the CAA.

##### **VI. Statutory and Executive Order Reviews**

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

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities

under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by

Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by March 28, 2016. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not

be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

**List of Subjects in 40 CFR Part 52**

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

Dated: January 12, 2016.

**Heather McTeer Toney**,  
Regional Administrator, Region 4.

40 CFR part 52 is amended as follows:

**PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

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

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

**Subpart (S)—Kentucky**

- 2. In § 52.920, table 1 in paragraph (c) is amended under Chapter 52 Permits, Registrations, and Prohibitory Rules, by adding in numerical order entries for “401 KAR 52:020,” “401 KAR 52:040,” and “401 KAR 52:070” to read as follows:

**§ 52.920 Identification of plan.**

\* \* \* \* \*  
(c) \* \* \*

TABLE 1—EPA APPROVED KENTUCKY REGULATIONS

State citation	Title/subject	State effective date	EPA Approval date	Explanation
<b>Chapter 52 Permits, Registrations, and Prohibitory Rules</b>				
401 KAR 52:020	Title V permits	1/15/01	1/28/16 [Insert citation of publication].	Only adding the first sentence of Section 22 entitled “Annual Emissions Certification”, and introductory paragraph text and subsection (4) of Section 23 entitled “Certification by Responsible Official”.
** 401 KAR 52:040	State-origin permits ..	1/15/01	1/28/16 [Insert citation of publication].	Only adding subsection (2) introductory text, subsection (2)(c), and subsection (3) of Section 3 entitled “General Provisions”; subsection (1) of Section 20 entitled “Annual Emissions Certification for Specified Sources”; and introductory text and subsection (4) of Section 21 entitled “Certification by Responsible Official”.
401 KAR 52:070	Registration of designated sources.	1/15/01	1/28/16 [Insert citation of publication].	Only adding subsection (2) introductory text, subsection (2)(a)(1), and first sentence of subsection (2)(a)(2) of Section 3 entitled “General Provisions”.

TABLE 1—EPA APPROVED KENTUCKY REGULATIONS—Continued

State citation	Title/subject	State effective date	EPA Approval date	Explanation
*	*	*	*	*

\* \* \* \* \*

[FR Doc. 2016-01567 Filed 1-27-16; 8:45 am]

**BILLING CODE 6560-50-P**

# Proposed Rules

Federal Register

Vol. 81, No. 18

Thursday, January 28, 2016

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## OFFICE OF PERSONNEL MANAGEMENT

### 5 CFR Part 315

RIN 3206-AM76

#### Noncompetitive Appointment of Certain Military Spouses

**AGENCY:** U.S. Office of Personnel Management.

**ACTION:** Proposed rule with request for comments.

**SUMMARY:** The U.S. Office of Personnel Management (OPM) is issuing a proposed regulation limiting to one the number of permanent appointments spouses of 100 percent disabled and spouses of deceased members of the Armed Forces may receive under these provisions. OPM is making this change based on a provision contained in the Fiscal Year (FY) 2013 National Defense Authorization Act (NDAA). The intended effect of this change is to conform our regulation with the statute. **DATES:** Comments must be received on or before March 28, 2016.

**ADDRESSES:** You may submit comments, which are identified by RIN 3206-AM76, by any of the following methods:

- *Email:* [employ@opm.gov](mailto:employ@opm.gov). Include "RIN 3206-AM76, Career and Career-Conditional Employment" in the subject line of the message.

- *Fax:* (202) 606-2329
- *Mail:* Kimberly A. Holden, Deputy Associate Director for Recruitment and Hiring, U.S. Office of Personnel Management, Room 6566, 1900 E Street NW., Washington, DC 20415-9700.

**FOR FURTHER INFORMATION CONTACT:** Michelle Glynn, 202-606-1571, Fax: 202-606-2329 by TDD: 202-418-3134, or email: [michelle.glynn@opm.gov](mailto:michelle.glynn@opm.gov)

#### SUPPLEMENTARY INFORMATION:

On September 25, 2008, the President issued Executive Order (E.O.) 13473 allowing agencies to make noncompetitive appointments of certain military spouses of members of the Armed Forces. OPM implemented this E.O. via final regulations which were

published in the **Federal Register** (FR) on August 12, 2009, at 74 FR 40471, and amended on August 31, 2011, at 76 FR 54071. OPM's implementing rules established a noncompetitive hiring authority for certain military spouses. Under this hiring authority, eligible spouses include, subject to other criteria specified in the final rule, the following categories of military spouses: Those who are relocating with their service member spouse as a result of permanent change of station (PCS) orders, spouses of service members who incurred a 100 percent disability because of the service member's active duty service, and the un-remarried widow or widower of a service member killed while on active duty. OPM's implementing rules did not restrict the number of permanent appointments the spouse of a disabled or deceased member of Armed Forces may receive under these provisions.

On January 2, 2013, the President signed the FY 13 NDAA. Section 566(a) of this Act codifies in statute, at 5 U.S.C. 3330d, the hiring authority previously created by E.O. 13743 and, in so doing, limits to one the number of permanent appointments the spouse of a disabled or deceased member of Armed Forces may receive under section 3330d. OPM is proposing to limit to one the number of permanent appointments an eligible spouse may receive under its regulatory provisions. We are making this change to conform our regulations to 5 U.S.C. 3330d(d)(2).

#### E.O. 12866 and E.O. 13563, Regulatory Review

This rule has been reviewed by the Office of Management and Budget in accordance with Executive Order 12866 and Executive Order 13563.

#### Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because it affects only Federal agencies and employees.

#### List of Subjects in 5 CFR Part 315

Government employees.  
U.S. Office of Personnel Management.  
**Beth F. Cobert,**  
*Acting Director.*

Accordingly, OPM is proposing to amend 5 CFR part 315 as follows:

## PART 315—CAREER AND CAREER- CONDITIONAL EMPLOYMENT

■ 1. The authority citation for part 315 is revised to read as follows:

**Authority:** 5 U.S.C. 1302, 3301, and 3302; E.O. 10577, 3 CFR, 1954-1958 Comp. p. 218, unless otherwise noted; and E.O. 13162. Secs. 315.601 and 315.609 also issued under 22 U.S.C. 3651 and 3652. Secs. 315.602 and 315.604 also issued under 5 U.S.C. 1104. Sec. 315.603 also issued under 5 U.S.C. 8151. Sec. 315.605 also issued under E.O. 12034, 3 CFR, 1978 Comp. p. 111. Sec. 315.606 also issued under E.O. 11219, 3 CFR, 1964-1965 Comp. p. 303. Sec. 315.607 also issued under 22 U.S.C. 2560. Sec. 315.608 also issued under E.O. 12721, 3 CFR, 1990 Comp. p. 293. Sec. 315.610 also issued under 5 U.S.C. 3304(c). Sec. 315.611 also issued under 5 U.S.C. 3304(f). Sec. 315.612 also issued under E.O. 13473 and Pub. L. 112-239, Sec. 566. Sec. 315.708 also issued under E.O. 13318, 3 CFR, 2004 Comp. p. 265. Sec. 315.710 also issued under E.O. 12596, 3 CFR, 1978 Comp. p. 264.

#### Subpart F—Career or Career Conditional Appointment Under Special Authorities

■ 2. In § 315.612, revise paragraph (d)(3) and add paragraph (d)(4) to read as follows:

#### § 315.612 Noncompetitive appointment of certain military spouses.

\* \* \* \* \*

(d) \* \* \*

(3) Spouses of 100 percent disabled or deceased members of the armed forces may receive only one noncompetitive appointment under this section to a permanent position.

(4) Any law, Executive order, or regulation that disqualifies an applicant for appointment also disqualifies a spouse for appointment under this section.

\* \* \* \* \*

[FR Doc. 2016-01476 Filed 1-27-16; 8:45 am]

BILLING CODE 6325-39-P

**DEPARTMENT OF TRANSPORTATION****Federal Aviation Administration****14 CFR Part 39**

[Docket No. FAA-2016-0461; Directorate Identifier 2014-NM-159-AD]

RIN 2120-AA64

**Airworthiness Directives; Airbus Airplanes****AGENCY:** Federal Aviation Administration (FAA), DOT.**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** We propose to adopt a new airworthiness directive (AD) for all Airbus Model A319, A320, and A321 series airplanes. This proposed AD was prompted by a report that a main landing gear (MLG) door could not be closed due to rupture of the actuator fitting. Later reports indicated that the forward monoblock fitting of the MLG door actuator (referred to as the nerve area) could be damaged after rupture of the actuator fitting. This proposed AD would require repetitive inspections of the MLG door actuator fitting and its components for cracking, and corrective actions if necessary. This proposed AD would also require eventual replacement of all affected MLG door actuator fittings with new monoblock fittings, which would terminate the repetitive inspections. We are proposing this AD to prevent rupture of the door actuator fittings, which could result in detachment of an MLG door and subsequent exterior damage and consequent reduced structural integrity of the airplane.

**DATES:** We must receive comments on this proposed AD by March 14, 2016.

**ADDRESSES:** You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *Fax:* 202-493-2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Airbus,

Airworthiness Office—EIAS, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email [account.airworth-eas@airbus.com](mailto:account.airworth-eas@airbus.com); Internet <http://www.airbus.com>. You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425-227-1221.

**Examining the AD Docket**

You may examine the AD docket on the Internet at <http://www.regulations.gov> by searching for and locating Docket No. FAA-2016-0461; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone 800-647-5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

**FOR FURTHER INFORMATION CONTACT:** Sanjay Ralhan, Aerospace Engineer, International Branch, ANM-116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057-3356; telephone 425-227-1405; fax 425-227-1149.

**SUPPLEMENTARY INFORMATION:****Comments Invited**

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include “Docket No. FAA-2016-0461; Directorate Identifier 2014-NM-159-AD” at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

We will post all comments we receive, without change, to <http://www.regulations.gov>, including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

**Discussion**

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA Airworthiness Directive 2014-0166, dated July 16, 2014 (referred to after this as the

Mandatory Continuing Airworthiness Information, or “the MCAI”), to correct an unsafe condition for all Airbus Model A319, A320, and A321 series airplanes. The MCAI states:

On one A320 aeroplane, it was reported that one of the main landing gear (MLG) doors could not be closed. Investigations revealed the rupture of the actuator fitting at the actuator attachment area on the door side. The MLG door is attached to the aeroplane by 2 hinge fittings.

This condition, if not corrected, could, under certain circumstances, lead to detachment of a MLG door from the aeroplane, possibly resulting in damage to the aeroplane, and/or injury to persons on the ground.

Prompted by these findings, [Direction Générale de l’Aviation Civile] France issued \* \* \* [an AD] \* \* \*, to require a MLG door actuator fitting inspection for cracks and to check the grain direction on a batch of aeroplanes.

Subsequently, DGAC France issued \* \* \* [an AD], retaining the requirements of DGAC France AD \* \* \*, which was superseded, to require an inspection of the lower part of the MLG door actuator fitting.

After that [DGAC] AD was issued, additional investigations revealed that damage could also appear on the nerve area [of the forward monoblock fitting], in the upper part of the MLG door actuator fitting in the area of the hinge.

Consequently, DGAC France issued F2003-434, dated December 10, 2003 [<http://ad.easa.europa.eu/ad/F-2003-454>] (EASA approval 2003-1436), retaining the requirements of [a] DGAC France AD \* \* \*, which was superseded, to require additional repetitive inspections. That [DGAC] AD also included an optional terminating action, by replacing the MLG door actuator fittings in accordance with the instructions of Airbus Service Bulletin (SB) A320-52-1073.

Since that [DGAC] AD was issued, in the framework of the extended service goal campaign, it has been decided to make replacement of the MLG door actuator fittings a required modification.

For the reasons described above, this AD retains the requirements of DGAC France AD F-2003-434, which is superseded, and requires replacement of the MLG door actuator fittings with new monoblock fittings, which constitutes terminating action for the repetitive inspections.

You may examine the MCAI in the AD docket on the Internet at <http://www.regulations.gov> by searching for and locating Docket No. FAA-2016-0461.

**Related Service Information Under 1 CFR Part 51**

Airbus has issued Service Bulletins A320-52-1073, Revision 05, dated September 28, 2006; A320-52A1086, Revision 01, dated September 10, 1999; and A320-52-1096, Revision 02, dated July 12, 2006. This service information describes procedures for inspections of



the MLG door actuator fitting and its components for cracking, and corrective actions if necessary. This service information also describes procedures for replacement of all affected MLG door actuator fittings with new monoblock fittings. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

#### **FAA's Determination and Requirements of This Proposed AD**

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of these same type designs.

#### **Difference Between Proposed AD and Service Information**

Unlike the procedures described in Airbus Service Bulletin A320-52-1096, Revision 02, dated July 12, 2006, this proposed AD would not permit further flight if cracks are detected in the MLG door actuator fittings. We have determined that, because of the safety implications and consequences associated with that cracking, any cracked MLG door actuator fittings must be repaired or modified before further flight. This difference has been coordinated with the EASA.

#### **Costs of Compliance**

We estimate that this proposed AD affects 71 airplanes of U.S. registry.

We also estimate that it would take about 38 work-hours per product to comply with the inspection requirements of this proposed AD. The average labor rate is \$85 per work-hour. Based on these figures, we estimate the cost for the inspection specified in this proposed AD on U.S. operators to be \$229,330, or \$3,230 per product.

We estimate that it would take about 98 work-hours per product to comply with the MLG actuator replacement requirements of this proposed AD. Required parts would cost about \$6,258 per product. The average labor rate is \$85 per work-hour. Based on these figures, we estimate the cost for the actuator replacement specified in this proposed AD on U.S. operators to be \$1,035,748, or \$14,588 per product.

#### **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. The FAA amends § 39.13 by adding the following new airworthiness directive (AD):

**Airbus:** Docket No. FAA-2016-0461; Directorate Identifier 2014-NM-159-AD.

#### **(a) Comments Due Date**

We must receive comments by March 14, 2016.

#### **(b) Affected ADs**

None.

#### **(c) Applicability**

This AD applies to the Airbus airplanes, certificated in any category, identified in paragraphs (c)(1), (c)(2), and (c)(3) of this AD, all manufacturer serial numbers.

(1) Model A319-111, -112, -113, -114, -115, -131, -132, and -133 airplanes.

(2) Model A320-211, -212, -214, -231, -232, and -233 airplanes.

(3) Model A321-111, -112, -131, -211, -212, -213, -231, and -232 airplanes.

#### **(d) Subject**

Air Transport Association (ATA) of America Code 52, Doors.

#### **(e) Reason**

This AD was prompted by a report that a main landing gear (MLG) door could not be closed due to rupture of the actuator fitting. Later reports indicated that the forward monoblock fitting of the MLG door actuator (referred to as the nerve area) could be damaged after rupture of the actuator fitting. We are issuing this AD to prevent rupture of the door actuator fittings, which could result in detachment of an MLG door and subsequent exterior damage and consequent reduced structural integrity of the airplane.

#### **(f) Compliance**

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

#### **(g) Repetitive Inspections of MLG Door Actuator Fittings**

For airplanes equipped with MLG door actuator fittings having part number (P/N) D52880224 000/001 that were installed before the first flight of the airplane on MLG doors identified in paragraphs (g)(1) and (g)(2) of this AD, as applicable: Within 500 flight hours since the most recent high frequency eddy current (HFEC) inspection done as specified in Airbus Service Bulletin A320-52A1086, Revision 01, dated September 10, 1999, or within 30 days after the effective date of this AD, whichever occurs later, perform an HFEC inspection for cracking of the MLG door fittings, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320-52A1086, Revision 01, dated September 10, 1999. Repeat the inspection thereafter at intervals not to exceed 500 flight hours, except as provided by paragraph (i)(1) of this AD.

(1) Left-hand MLG doors with S/Ns 1206 through 1237 inclusive, 1239 through 1247 inclusive, and 1249 through 1251 inclusive.

(2) Right-hand MLG doors with S/Ns 1208 through 1239 inclusive, 1241 through 1249 inclusive, and 1251.

**(h) Repetitive Inspections of MLG Hinge and Nerve Areas**

For airplanes equipped with MLG door actuator fittings having P/N D52880224 000/001 or D52880235 000/001: Within 400 flight cycles after the effective date of this AD, or before the accumulation of 9,000 total flight cycles since first flight of the airplane, whichever occurs later, perform an HFEC inspection of both hinge and nerve areas of the MLG doors for cracking, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320-52-1096, Revision 02, dated July 12, 2006. Repeat the inspection thereafter at intervals not to exceed 800 flight cycles.

**(i) Inspections/Corrective Actions**

(1) If any cracking is found during any inspection required by paragraph (g) or (h) of this AD: Before further flight, replace the affected MLG door actuator fittings with new monoblock fittings, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320-52-1073, Revision 05, dated September 28, 2006. Accomplishing this replacement terminates the repetitive inspections required by paragraphs (g) and (h) of this AD.

(2) If, during any HFEC inspection required by paragraph (g) of this AD, no cracking is found: At the time specified in paragraph (g) of this AD, perform a low frequency eddy current (LFEC) inspection to determine the grain direction of the raw material of each MLG actuator fitting, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320-52A1086, Revision 01, dated September 10, 1999.

(i) If the grain direction of the raw material is correct, the repetitive inspections required by paragraph (g) of this AD may be terminated.

(ii) If the grain direction of the raw material is incorrect, repeat the HFEC inspection required by paragraph (g) of this AD at the time specified in paragraph (g) of this AD. Replacement of the MLG door actuator fittings with new monoblock fittings as specified in paragraph (i)(1) of this AD, terminates the repetitive inspections required by paragraphs (g) and (i) of this AD.

**(j) MLG Door Actuator Fitting Replacement**

For airplanes equipped with any MLG door actuator fitting having P/N D52880102000 and P/N D52880102001, or P/N D52880220000 and P/N D52880220001, or P/N D52880224000 and P/N D52880224001, or P/N D52880235000 and P/N D52880235001: At the later of the times specified in paragraphs (j)(1) and (j)(2) of this AD, replace the MLG door actuator fittings with new monoblock fittings, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320-52-1073, Revision 05, dated September 28, 2006. Accomplishing this replacement terminates the repetitive inspections required by paragraphs (g) and (h) of this AD.

(1) Before the accumulation of 48,000 total flight cycles or 96,000 total flight hours,

whichever occurs later since the first flight of the airplane; or

(2) Within 30 days after the effective date of this AD.

**(k) Optional Terminating Action**

Replacement of the MLG door actuator fittings with new monoblock fittings, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320-52-1073, Revision 05, dated September 28, 2006, terminates the repetitive inspections required by paragraphs (g) and (h) of this AD.

**(l) Airplanes Excluded From AD Requirements**

For airplanes on which Airbus Modification 24903, 25372, or 36979 has been embodied in production, no action is required by this AD, provided that no MLG door actuator fitting having any part number identified in paragraph (j) of this AD has been reinstalled on the airplane since first flight.

**(m) Parts Installation Limitation**

As of the effective date of this AD, no person may install a MLG door actuator fitting having any part number identified in paragraph (j) of this AD on any airplane.

**(n) Other FAA AD Provisions**

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM-116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Sanjay Ralhan, Aerospace Engineer, International Branch, ANM-116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057-3356; telephone 425-227-1405; fax 425-227-1149. Information may be emailed to: [9-ANM-116-AMOC-REQUESTS@faa.gov](mailto:9-ANM-116-AMOC-REQUESTS@faa.gov). Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, International Branch, ANM-116, Transport Airplane Directorate, FAA; or the European Aviation Safety Agency (EASA); or Airbus's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

**(o) Related Information**

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) European Aviation Safety Agency Airworthiness Directive 2014-0166, dated July 16, 2014, for related information. This MCAI may be found in the AD docket on the Internet at

<http://www.regulations.gov> by searching for and locating Docket No. FAA-2016-0461.

(2) For service information identified in this AD, contact Airbus, Airworthiness Office—EIAS, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email [account.airworth-eas@airbus.com](mailto:account.airworth-eas@airbus.com); Internet <http://www.airbus.com>. You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425-227-1221.

Issued in Renton, Washington, on January 20, 2016.

**Michael Kaszycki,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 2016-01580 Filed 1-27-16; 8:45 am]

**BILLING CODE 4910-13-P**

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 71**

[Docket No. FAA-2015-3994; Airspace Docket No. 15-ANM-23]

**Proposed Establishment of Class E Airspace, Shelton, WA**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This action proposes to establish Class E airspace at Sanderson Field Airport, Shelton, WA, to accommodate new Standard Instrument Approach Procedures developed at the airport. Controlled airspace is necessary for the safety and management of Instrument Flight Rules (IFR) operations at the airport.

**DATES:** Comments must be received on or before March 14, 2016.

**ADDRESSES:** Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE., Washington, DC 20590; telephone (202) 366-9826. You must identify FAA Docket No. FAA-2015-3994; Airspace Docket No. 15-ANM-23, at the beginning of your comments. You may also submit comments through the Internet at <http://www.regulations.gov>. You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1-800-

647–5527), is on the ground floor of the building at the above address.

FAA Order 7400.9Z, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at [http://www.faa.gov/air\\_traffic/publications/](http://www.faa.gov/air_traffic/publications/). For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 29591; telephone: 202–267–8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.9Z at NARA, call 202–741–6030, or go to [http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](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 CONTACT:**

Steve Haga, Federal Aviation Administration, Operations Support Group, Western Service Center, 1601 Lind Avenue SW., Renton, WA 98057; telephone (425) 203–4563.

**SUPPLEMENTARY INFORMATION:**

**Authority for This Rulemaking**

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 airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would establish Class E airspace at Sanderson Field Airport, Shelton, WA.

**Comments Invited**

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both

docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. FAA–2015–3994; Airspace Docket No. 15–ANM–23." The postcard will be date/time stamped and returned to the commenter.

**Availability of NPRMs**

An electronic copy of this document may be downloaded through the Internet at <http://www.regulations.gov>. Recently published rulemaking documents can also be accessed through the FAA's Web page at [http://www.faa.gov/airports\\_airtraffic/air\\_traffic/publications/airspace\\_amendments/](http://www.faa.gov/airports_airtraffic/air_traffic/publications/airspace_amendments/).

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for the address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined during normal business hours at the Northwest Mountain Regional Office of the Federal Aviation Administration, Air Traffic Organization, Western Service Center, Operations Support Group, 1601 Lind Avenue SW., Renton, WA 98057.

Persons interested in being placed on a mailing list for future NPRMs should contact the FAA's Office of Rulemaking, (202) 267–9677, for a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

**Availability and Summary of Documents Proposed for Incorporation by Reference**

This document would amend FAA Order 7400.9Z, Airspace Designations and Reporting Points, dated August 6, 2015, and effective September 15, 2015. FAA Order 7400.9Z is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.9Z lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

**The Proposal**

The FAA is proposing an amendment to Title 14 Code of Federal Regulations (14 CFR) Part 71 by establishing Class E airspace extending upward from 700 feet above the surface at Sanderson Field Airport, Shelton, WA. Establishment of a GPS approach has made this action necessary for the safety

and management of IFR operations at the airport. The Class E airspace area would be modified to a 4-mile radius of the Ed Carlson Memorial-South Lewis County Airport, with segments extending from the 4-mile radius to 5 miles northeast of the airport, and 9.5 miles southwest of the airport.

Class E airspace designations are published in paragraph 6005 of FAA Order 7400.9Z, dated August 6, 2015, and effective September 15, 2015, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

**Regulatory Notices and Analyses**

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, is non-controversial and unlikely to result in adverse or negative comments. It, therefore: (1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, would not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

**Environmental Review**

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F, "Environmental Impacts: Policies and Procedures" prior to any FAA final regulatory action.

**List of Subjects in 14 CFR Part 71**

Airspace, Incorporation by reference, Navigation (air).

**The Proposed Amendment**

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

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

- 1. The authority citation for 14 CFR part 71 continues to read as follows:

**Authority:** 49 U.S.C. 106(f), 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 7400.9Z, Airspace Designations and Reporting Points, dated August 6, 2015, and effective September 15, 2015, is amended as follows:

*Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.*

\* \* \* \* \*

#### ANM WA E5 Shelton, WA [New]

Sanderson Field Airport, WA  
(Lat. 47°14'01" N., long. 124°08'51" W.)

That airspace extending upward from 700 feet above the surface within a 4-mile radius of the Sanderson Field Airport, and that airspace 1.5 miles either side of the 068° bearing from airport extending from the 4-mile radius to 5 miles northeast of the airport, and that airspace 2.3 miles either side of the 248° bearing from airport extending from the 4-mile radius to 9.5 miles southwest of the airport.

Issued in Seattle, Washington, on January 15, 2016.

**Tracey Johnson,**

*Manager, Operations Support Group, Western Service Center.*

[FR Doc. 2016–01503 Filed 1–27–16; 8:45 am]

**BILLING CODE 4910–13–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA–R05–OAR–2015–0366; FRL–9941–52–Region 5]

#### Air Plan Approval; Minnesota; Inver Hills SO<sub>2</sub>

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve a revision to the Minnesota sulfur dioxide (SO<sub>2</sub>) State Implementation Plan (SIP) for Northern States Power Company's Xcel Energy-Inver Hills Generating Plant, located in Inver Grove Heights, Minnesota. The revision, submitted by the Minnesota Pollution Control Agency on May 1, 2015, incorporates a more stringent limit for the sulfur content of the fuel used at the facility, and modifies the fuel analysis requirements to meet the more stringent limit. These revisions will not result in an increase in SO<sub>2</sub> emissions at the facility.

**DATES:** Comments must be received on or before February 29, 2016.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–R05–OAR–2015–0366 at <http://www.regulations.gov> or via email to [blakley.pamela@epa.gov](mailto:blakley.pamela@epa.gov). For comments submitted at [Regulations.gov](http://www.regulations.gov), follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from [Regulations.gov](http://www.regulations.gov). For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the Web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

**FOR FURTHER INFORMATION CONTACT:** Charles Hatten, Environmental Engineer, Control Strategies Section, Air Programs Branch (AR–18), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6031, [hatten.charles@epa.gov](mailto:hatten.charles@epa.gov).

**SUPPLEMENTARY INFORMATION:** In the Final Rules section of this **Federal Register**, EPA is approving Minnesota's SO<sub>2</sub> SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If EPA does not receive adverse comments in response to this rule, no further activity is contemplated. If EPA receives adverse comments, EPA will withdraw the direct final rule and will address all public comments received in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule, and if that provision can be severed from the remainder of the rule,

EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment. For additional information, see the direct final rule which is located in the Rules section of this **Federal Register**.

Dated: January 13, 2016.

**Susan Hedman,**

*Regional Administrator, Region 5.*

[FR Doc. 2016–01576 Filed 1–27–16; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA–R07–OAR–2015–0644; FRL–9941–66–Region 7]

#### Approval of Missouri's Air Quality Implementation Plans; Americold Logistics, LLC 24-Hour Particulate Matter (PM<sub>10</sub>) National Ambient Air Quality Standard (NAAQS) Consent Judgment

**AGENCY:** Environmental Protection Agency.

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve a revision to the State Implementation Plan (SIP) submitted by the State of Missouri on June 2, 2014. This proposed SIP revision will incorporate a consent judgment to address violations of the 24-hour particulate matter (PM<sub>10</sub>) NAAQS near the Americold Logistics, LLC, Carthage Crushed Limestone (CCL) facility near Carthage, Missouri. CCL is a limestone quarry operations. The consent judgment between the State of Missouri and CCL includes measures that will control PM<sub>10</sub> emissions from the facility. This proposed approval will make the consent judgment Federally-enforceable.

**DATES:** Comments on this proposed action must be received in writing by February 29, 2016.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–R07–OAR–2015–0644, to <http://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from [regulations.gov](http://www.regulations.gov). The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment.

The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the Web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

**FOR FURTHER INFORMATION CONTACT:** Heather Hamilton, Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219 at (913) 551-7039, or by email at [hamilton.heather@epa.gov](mailto:hamilton.heather@epa.gov).

**SUPPLEMENTARY INFORMATION:** In the final rules section of this **Federal Register**, EPA is approving the states SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no relevant adverse comments to this action. A detailed rationale for the approval is set forth in the direct final rule. If no relevant adverse comments are received in response to this action, no further activity is contemplated in relation to this action. If EPA receives relevant adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed action. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. Please note that if EPA

receives adverse comments on part of this rule and if that part can be severed from the remainder of the rule, EPA may adopt as a final those parts of the rule that are not the subject of an adverse comment. For additional information, see the direct final rule which is located in the rules section of this **Federal Register**.

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: January 11, 2016.

**Mark Hague,**

*Regional Administrator, Region 7.*

[FR Doc. 2016-01661 Filed 1-27-16; 8:45 am]

**BILLING CODE 6560-50-P**

# Notices

Federal Register

Vol. 81, No. 18

Thursday, January 28, 2016

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## AGENCY FOR INTERNATIONAL DEVELOPMENT

### Notice of Public Information Collection; Requirements Submitted to OMB for Review; Partner Information Form

**AGENCY:** U.S. Agency for International Development.

**ACTION:** 30-Day notice.

**SUMMARY:** Under the provisions of section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the U.S. Agency for International Development (USAID) has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below. This proposed information collection was previously published in the **Federal Register** on July 17, 2015, 80 FR 42467, and allowed 60-days for public comment. USAID's responses to comments received during the 60-day comment period can be found at: [www.usaid.gov/work-usaid/partner-vetting-system](http://www.usaid.gov/work-usaid/partner-vetting-system).

**DATES:** Comments Due Date: February 29, 2016.

**ADDRESSES:** Written comments should be identified as Paperwork Reduction Act Comments, OMB Control Number 0412-0577. These comments should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Desk Officer for USAID, by email at [OIRA\\_SUBMISSION@OMB.EOP.GOV](mailto:OIRA_SUBMISSION@OMB.EOP.GOV); by fax at (202) 395-6974; or by mail to Room 10235, 725 17th Street NW., Washington, DC 20503.

#### FOR FURTHER INFORMATION CONTACT:

Manuel A. Avendano, Management and Policy Analyst, USAID, RRB, 1300 Pennsylvania Avenue NW., Washington, DC 20523; (202) 7125-5785 or at [mavendano@usaid.gov](mailto:mavendano@usaid.gov). Copies of the revised Partner Information Form (PIF) may be obtained from Mr. Avendano.

#### SUPPLEMENTARY INFORMATION:

OMB Number: 200705-0412-003.

Form Number: 0412-0577.

#### Overview of This Information Collection

(1) Type of Information Collection: Reinstatement Collection.

(2) Title of the Form/Collection: Partner Information Form.

(3) Agency form number: AID500-13.

(4) Affected public who will be asked or required to respond, as well as a brief abstract: The U.S. Agency for International Development intends to continue collection of information from individuals and/or officers of for-profit and not-for-profit non-governmental organizations (NGOs) who apply for USAID contracts, grants, cooperative agreements, other funding from USAID, or who apply for registration with USAID as Private and Voluntary Organizations. The collection of this information will be used to conduct screening to help mitigate the risk that USAID funds or USAID-funded activities inadvertently provide support to entities or individuals associated with terrorism. Screening programs are being conducted in West Bank/Gaza, Afghanistan, and pilot countries under the Partner Vetting System Pilot Program (Guatemala, Kenya, Lebanon, Philippines, and Ukraine).

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond: USAID estimates that for pilot and non-pilot vetting programs, 3,800 PIFs will be completed in a calendar year and the additional requirements for partner vetting will add 1.25 hours (75 minutes) to an USAID acquisition or assistance award application.

(6) An estimate of the total public burden (in hours) associated with the collection: The total estimated annual hour burden associated with this collection is 4,750 hours (3,800 forms multiplied by 75 minutes per form, divided by 60 minutes).

(7) An estimate of the total public burden (in cost) associated with the collection: The estimated total annual cost burden associated with this collection of information is \$217,740 (3,800 forms multiplied by \$57.30 per submission cost)

Dated: January 14, 2016.

**Lynn P. Winston,**

Chief, Bureau for Management, Office of Management Services, Information and Records Division, U.S. Agency for International Development.

[FR Doc. 2016-01228 Filed 1-27-16; 8:45 am]

**BILLING CODE 6116-01-M**

## COMMISSION ON CIVIL RIGHTS

### Agenda and Notice of Planning Meeting of the Wyoming Advisory Committee

**AGENCY:** Commission on Civil Rights.

**ACTION:** Announcement of meeting.

**SUMMARY:** Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission), and the Federal Advisory Committee Act (FACA), that a meeting of the Wyoming Advisory Committee to the Commission will convene 10:00 a.m. (MST) on Friday, February 12, 2016, in the Cottonwood Room of the Wind River Hotel & Casino, 10269 State Highway 789, Riverton, WY 82501. The purpose of the meeting is to discuss civil rights issues affecting Native Americans in the state and other issues. The state advisory committee will review these issues in preparation to identify a topic for study.

The meeting is open to the public. In addition to in person attendance, this meeting is available to the public through the following toll-free call-in number: 1-888-572-7033, conference ID: 1243365. Any interested member of the public may call this number and listen to the meeting. An open comment period will be provided to allow members of the public to make a statement as time allows. The conference call operator will ask callers to identify themselves, the organization they are affiliated with (if any), and an email address prior to placing callers into the conference room. Callers can expect to incur charges for calls they initiate over wireless lines, and the Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number.

Persons with hearing impairments may also follow the discussion by first calling the Federal Relay Service (FRS)

at 1-800-977-8339 and provide the FRS operator with the Conference Call Toll-Free Number: 1-888-572-7033, Conference ID: 1243365.

Persons who plan to attend the meeting and require other accommodations, please contact Evelyn Bohor at [ebohor@usccr.gov](mailto:ebohor@usccr.gov) at the Rocky Mountain Regional Office at least ten (10) working days before the scheduled date of the meeting.

Members of the public are invited to submit written comments; the comments must be received in the regional office by Monday, March 14, 2016. Written comments may be mailed to the Rocky Mountain Regional Office, U.S. Commission on Civil Rights, 1961 Stout Street, Suite 13-201, Denver, CO 80294, faxed to (303) 866-1050, or emailed to Evelyn Bohor at [ebohor@usccr.gov](mailto:ebohor@usccr.gov). Persons who desire additional information may contact the Rocky Mountain Regional Office at (303) 866-1040.

Records and documents discussed during the meeting will be available for public viewing as they become available at <https://database.faca.gov/committee/meetings.aspx?cid=281> and clicking on the "Meeting Details" and "Documents" links. Records generated from this meeting may also be inspected and reproduced at the Eastern Regional Office, as they become available, both before and after the meeting. Persons interested in the work of this advisory committee are advised to go to the Commission's Web site, [www.usccr.gov](http://www.usccr.gov), or to contact the Rocky Mountain Regional Office at the above phone number, email or street address.

#### Agenda

- Welcome and Introductions  
Sleeter Dover, Chair, Wyoming Advisory Committee
- Malee V. Craft, Designated Federal Official
- Discussion of Civil Rights Issues
- Other Issues
- Adjourn

**DATES:** Friday, February 12, 2016 (MST).

**ADDRESSES:** Cottonwood Room of the Wind River Hotel & Casino, 10269 State Highway 789, Riverton, WY 82501.

#### Public Call Information

Dial: 1-888-572-7033  
Conference ID: 1243365

**FOR FURTHER INFORMATION CONTACT:**  
Malee V. Craft at [mcraft@usccr.gov](mailto:mcraft@usccr.gov), or 303-866-1040.

Dated: January 22, 2016.

**David Mussatt,**

*Chief, Regional Programs Unit.*

[FR Doc. 2016-01674 Filed 1-27-16; 8:45 am]

**BILLING CODE 6335-01-P**

## COMMISSION ON CIVIL RIGHTS

### Notice of Public Meeting of the Indiana Advisory Committee to hear Testimony Regarding Civil Rights and the School to Prison Pipeline in Indiana

**AGENCY:** U.S. Commission on Civil Rights.

**ACTION:** Announcement of meeting.

**SUMMARY:** Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act that the Indiana Advisory Committee (Committee) will hold a meeting on Wednesday, February 17, 2016, from 8:00 a.m.-5:00 p.m. EST. The Committee will hear testimony regarding school discipline policies and practices which may facilitate disparities in juvenile justice involvement and youth incarceration rates on the basis of race, color, disability, or sex, in what has become known as the "School to Prison Pipeline."

This meeting is open to the public, and will take place at Ivy Tech Community College Event Center, 2820 North Meridian Street in Indianapolis, IN, 46208. Members of the public are invited to make statements during the open comment period beginning at 4:15 p.m. In addition, members of the public may submit written comments; the comments must be received in the regional office within 30 days following the meeting. Written comments may be mailed to the Regional Programs Unit, U.S. Commission on Civil Rights, 55 W. Monroe St., Suite 410, Chicago, IL 60615. They may also be faxed to the Commission at (312) 353-8324, or emailed to Carolyn Allen at [callen@usccr.gov](mailto:callen@usccr.gov). Persons who desire additional information may contact the Regional Programs Unit at (312) 353-8311.

Records and documents discussed during the meeting will be available for public viewing prior to and following the meeting at <https://database.faca.gov/committee/meetings.aspx?cid=247> and following the links for "Meeting Details" and then "Documents." Records generated from this meeting may also be inspected and reproduced at the Regional Programs Unit, as they become available, both before and after the meeting. Persons interested in the work of this Committee are directed to the Commission's Web site, <http://www.usccr.gov>, or may contact the Regional Programs Unit at the above email or street address.

*Agenda (subject to change based on panelist confirmation and public participation needs)*

Opening Remarks and Introductions (8:00 a.m.-8:15 a.m.)

Panel 1: Academic (8:15 a.m.-9:30 a.m.)

- Russell Skiba, Ph.D. Professor in Counseling and Educational Psychology at Indiana University; Director of The Equity Project
- Laura McNeal, Ph.D. Assistant Professor of Law at The University of Louisville Brandeis School of Law
- Monica Solinas-Saunders, Ph.D. Assistant Professor of Criminal Justice, Indiana University Northwest
- Alex Lichtenstein, Ph.D., Assistant Professor of History, Indiana University
- Marvin Lynn, Ph.D., Professor and Dean of the School of Education at Indiana University South Bend

Panel 2: Community (9:45 a.m.-11:00 a.m.)

- Patricia Howey, Special Education Advocate
- Veronica Cortez, Staff Attorney, Mexican American Legal Defense and Educational Fund (MALDEF)
- Diana M. Daniels, Executive Director of The National Council on Educating Black Children in Indianapolis
- JauNae Hanger, President, Children's Policy and Law Initiative of Indiana
- Rev. Janette Wilson, Esq., National Director of RainbowPUSH Excel

Panel 3: Government (11:15 a.m.-12:30 p.m.)

- Julie Smart, Program Coordinator for School Social Work and McKinney-Vento Education Coordinator, Indiana Department of Education
- Susan Lockwood, Director of Juvenile Education, Indiana Department of Correction
- Kenneth Allen, Vice Chair, Indiana Commission on the Social Status of Black Males
- Melissa Keyes, Director of Legal & Advocacy Services, Indiana Protection & Advocacy Services (IPAS)

Break (12:30-1:30 p.m.)

Panel 4: School Personnel and Administrators (1:30 p.m.-2:45 p.m.)

- Carol Kilver, Assistant Superintendent for Secondary Instruction, Lafayette Community Schools
- Sheila Huff, Principal, Bosse High School in Evansville
- Cheryl Pruitt, Ph.D.,

Superintendent of the Gary Schools Corporation

- Carole Schmidt, Superintendent of South Bend Community School Corporation
- Cynthia Jackson, District Positive Discipline Coordinator, Indianapolis Public Schools

Panel 5: Educators (3:00 p.m.–4:15 p.m.)

- Indiana State Teachers Association Representative
- GlenEva Dunham, Gary Teachers Association President
- South Bend Schools teacher representative
- Indianapolis Public Schools teacher representative

Open Forum (4:15 p.m.–4:45 p.m.)

Closing Remarks (4:45 p.m.–5:00 p.m.)

**DATES:** The meeting will be held on Wednesday February 17, 2016, from 8:00 a.m.—5:00 p.m. EST.

**FOR FURTHER INFORMATION CONTACT:** Melissa Wojnarowski, DFO, at 312–353–8311 or [mwojnarowski@usccr.gov](mailto:mwojnarowski@usccr.gov).

Dated: January 22, 2016.

**David Mussatt,**

*Chief, Regional Programs Unit.*

[FR Doc. 2016–01673 Filed 1–27–16; 8:45 am]

**BILLING CODE 6335–01–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

RIN 0648–XE413

#### Mid-Atlantic Fishery Management Council (MAFMC); Public Meetings

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

**ACTION:** Notice of a public meeting.

**SUMMARY:** The Mid-Atlantic Fishery Management Council's (Council) Tilefish Advisory Panel will hold a public meeting.

**DATES:** The meeting will be held Tuesday, February 16, 2016, from 9 a.m. until noon.

**ADDRESSES:** The meeting will be held via webinar with a telephone-only connection option.

*Council address:* Mid-Atlantic Fishery Management Council, 800 N. State St., 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; telephone: (302) 526–5255. The Council's Web site, [www.mafmc.org](http://www.mafmc.org) also has details on the

proposed agenda, webinar listen-in access, and briefing materials.

**SUPPLEMENTARY INFORMATION:** The purpose of the meeting is to create a fishery performance report (FPR) by the Council's Golden Tilefish Advisory Panel (AP). The intent of this report is to facilitate a venue for structured input from the Advisory Panel members for the Golden Tilefish specifications process. The FPR will be used by the Council, its Scientific and Statistical Committee (SSC) and the Golden Tilefish Monitoring Committee (MC), when reviewing (at future meetings), and if necessary revising, the current measures designed to achieve the recommended Golden Tilefish catch and landings limits for 2017.

Although non-emergency issues not contained in this agenda may come before this group for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), those issues may not be the subject of formal action during this meeting. Actions will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

#### Special Accommodations

The meeting is physically 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: January 25, 2016.

**Tracey L. Thompson,**

*Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

[FR Doc. 2016–01680 Filed 1–27–16; 8:45 am]

**BILLING CODE 3510–22–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

RIN 0648–XE411

#### North Pacific Fishery Management Council; Public Meeting

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

**ACTION:** Notice of a public meeting.

**SUMMARY:** The Center of Independent Experts will meet February 16 through February 19, 2016, in Seattle, WA.

**DATES:** The meeting will be held on Tuesday, February 16, 2016 through Friday, February 19, 2016 from 9 a.m. to 5 p.m.

**ADDRESSES:** The meeting will be held at the Alaska Fisheries Science Center (AFSC), in building 4, Room 2039 (Wednesday afternoon in Room 2143), 7600 Sand Point Way NE., Seattle, WA 98115.

*Council address:* North Pacific Fishery Management Council, 605 W. 4th Ave., Suite 306, Anchorage, AK 99501–2252; telephone: (907) 271–2809.

**FOR FURTHER INFORMATION CONTACT:** Grant Thompson, AFSC staff; telephone: (541) 737–9318.

**SUPPLEMENTARY INFORMATION:**

#### Agenda

*Tuesday, February 16, 2016 Through Friday, February 19, 2016*

The CIE is to review the Eastern Bering Sea (EBS) and Aleutian Island (AI) Pacific Cod Stock Assessment Models.

#### Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Shannon Gleason at (907) 271–2809 at least 7 working days prior to the meeting date.

Dated: January 25, 2016.

**Tracey L. Thompson,**

*Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

[FR Doc. 2016–01678 Filed 1–27–16; 8:45 am]

**BILLING CODE 3510–22–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

RIN 0648–XE412

#### North Pacific Fishery Management Council; Public Meeting

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

**ACTION:** Notice of public meeting.

**SUMMARY:** The North Pacific Fishery Management Council's (Council) Scallop Plan Team will meet in Kodiak, AK.

**DATES:** The meeting will be held on Wednesday, February 17, 2016, from 9 a.m. to 5 p.m.

**ADDRESSES:** The meeting will be held at Fishermen's Hall, 403 Marine Way, Kodiak, AK 99615.



*Council address:* North Pacific Fishery Management Council, 605 W. 4th Ave., Suite 306, Anchorage, AK 99501-2252; telephone: (907) 271-2809.

**FOR FURTHER INFORMATION CONTACT:** Jim Armstrong, Council staff; telephone: (907) 271-2809.

**SUPPLEMENTARY INFORMATION:**

**Agenda**

*Wednesday, February 17, 2016*

The agenda includes updating the status of the Statewide Scallop Stocks and Stock Assessment and Fishery Evaluation (SAFE) report-catch specifications, update on Alaska Pacific University's Fisheries, Aquatic Science and Technology lab projects, update on new scallop assessment programs and a review of research priorities. The Agenda is subject to change, and the latest version will be posted at <http://www.npfmc.org/>.

**Special Accommodations**

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Shannon Gleason at (907) 271-2809 at least 7 working days prior to the meeting date.

Dated: January 25, 2016.

**Tracey L. Thompson,**

*Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

[FR Doc. 2016-01679 Filed 1-27-16; 8:45 am]

**BILLING CODE 3510-22-P**

**ENVIRONMENTAL PROTECTION AGENCY**

[FRL-9941-00-OW]

**National Coastal Condition Assessment 2010**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of availability.

**SUMMARY:** This notice announces the availability of the final National Coastal Condition Assessment (NCCA) 2010. The NCCA describes the results of a nationwide coastal probabilistic survey that was conducted in the summer of 2010 by the Environmental Protection Agency (EPA) and its state, tribal, and federal partners. Results include estimates of coastal area with good, fair, and poor biological quality, water quality, sediment quality, and ecological fish tissue quality. Results are presented nationally and regionally for the Northeast, Southeast, Gulf of Mexico, West, and Great Lakes coasts. The

NCCA 2010 also includes information on how the survey was implemented, and future actions and challenges.

**FOR FURTHER INFORMATION CONTACT:** Hugh Sullivan, Office of Wetlands, Oceans and Watersheds, Office of Water, Washington DC Phone: 202-564-1763; email: [sullivan.hugh@epa.gov](mailto:sullivan.hugh@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. General Information**

To better answer questions about the condition of waters across the country, EPA and its state and tribal partners have embarked on a series of surveys under the National Aquatic Resource Surveys (NARS) program. The NCCA 2010 is the most recent in this series of surveys. The key goals of the NCCA 2010 are to describe the ecological condition of the nation's coastal and Great Lakes nearshore waters, how those conditions are changing, and the key stressors affecting those waters. An important component of the NCCA is collaboration with state, tribal, and federal partners in developing new monitoring tools and analytical approaches and in advancing the science of coastal monitoring. The survey uses a statistical design to sample 1,104 randomly-selected sites that represent the condition of the larger population of coastal waters in the conterminous United States. This is the first time the nearshore waters of the Great Lakes have been included in a national statistically-based survey.

The report finds that more than half of the nation's coastal and Great Lakes nearshore waters are rated in good condition for biological and sediment quality, while about one third are rated in good condition for water quality and less than one percent are rated in good condition based on the potential harm that fish tissue contaminants pose to predator fish, birds, and wildlife. Excessive phosphorus is the greatest contributor to the poor water quality rating. Selenium is the greatest contributor to the poor rating for potential harm to predator fish, birds and wildlife from fish tissue contaminants. The draft report has undergone peer, state and EPA review.

**A. How can I get copies of the NCCA 2010 and other related information?**

You may access the NCCA 2010 from EPA's Web site at <http://www.epa.gov/national-aquatic-resource-surveys/ncca>.

Dated: January 13, 2016.

**Joel Beauvais,**

*Deputy Assistant Administrator, Office of Water.*

[FR Doc. 2016-01561 Filed 1-27-16; 8:45 am]

**BILLING CODE 6560-50-P**

**ENVIRONMENTAL PROTECTION AGENCY**

[Docket ID No. EPA-HQ-ORD-2013-0232; FRL-9941-74-ORD]

**Integrated Science Assessment for Oxides of Nitrogen—Health Criteria**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of availability.

**SUMMARY:** The Environmental Protection Agency (EPA) is announcing the availability of a final document titled, "Integrated Science Assessment for Oxides of Nitrogen—Health Criteria" (EPA/600/R-15/068). The document was prepared by the National Center for Environmental Assessment National Center for Environmental Assessment (NCEA) within the EPA's Office of Research and Development (ORD) as part of the review of the primary (health-based) National Ambient Air Quality Standards (NAAQS) for nitrogen dioxide (NO<sub>2</sub>). The Integrated Science Assessment (ISA), in conjunction with additional technical and policy assessments, provides the scientific basis for decisions by the EPA on the adequacy of the current NAAQS and the appropriateness of possible alternative standards. The EPA is developing a separate ISA and conducting a separate review for the secondary (welfare-based) NAAQS for NO<sub>2</sub>, in conjunction with a review of the secondary NAAQS for sulfur dioxide.

**DATES:** The document will be available on or around January 28, 2016.

**ADDRESSES:** The "Integrated Science Assessment for Oxides of Nitrogen—Health Criteria" will be available primarily via the Internet on the EPA's Integrated Science Assessment for Nitrogen Dioxide (Health Criteria) home page at <http://www.epa.gov/isa/integrated-science-assessment-isa-nitrogen-dioxide-health-criteria> or the public docket at <http://www.regulations.gov>, Docket ID: EPA-HQ-ORD-2013-0232. A limited number of CD-ROM copies will be available. Contact Ms. Marieka Boyd by phone: 919-541-0031; fax: 919-541-5078; or email: [boyd.marieka@epa.gov](mailto:boyd.marieka@epa.gov) to request a CD-ROM, and please provide your name, your mailing address, and the document title, "Integrated Science Assessment for Oxides of Nitrogen—Health Criteria" to facilitate processing of your request.

**FOR FURTHER INFORMATION CONTACT:** For technical information, contact Dr. Molini Patel, NCEA; telephone: 919-541-1492; fax: 919-541-1818; or email: [patel.molini@epa.gov](mailto:patel.molini@epa.gov).

**SUPPLEMENTARY INFORMATION:****Information About the Document**

Section 108(a) of the Clean Air Act directs the Administrator to identify certain pollutants that, among other things, “cause or contribute to air pollution which may reasonably be anticipated to endanger public health or welfare” and to issue air quality criteria for them. Further, section 108(a)(2) of the Act provides that these air quality criteria are to “accurately reflect the latest scientific knowledge useful in indicating the kind and extent of all identifiable effects on public health or welfare which may be expected from the presence of [the] pollutant in the ambient air . . . .” Under section 109 of the Act, the EPA is then to establish National Ambient Air Quality Standards (NAAQS) for each pollutant for which the EPA has issued criteria. Section 109(d) of the Act subsequently requires periodic review and, if appropriate, revision of existing air quality criteria to reflect advances in scientific knowledge on the effects of the pollutant on public health or welfare. The EPA is also required to review and, if appropriate, revise the NAAQS, based on the revised air quality criteria (for more information on the NAAQS review process, see <http://www.epa.gov/ttn/naaqs/review.html>).

Oxides of nitrogen are one of six criteria pollutants for which EPA has established NAAQS. Periodically, EPA reviews the scientific basis for these standards by preparing an ISA (formerly called an Air Quality Criteria Document). The ISA, in conjunction with additional technical and policy assessments, provides the scientific basis for decisions by EPA on the adequacy of the current NAAQS and the appropriateness of possible alternative standards. The Clean Air Scientific Advisory Committee (CASAC), an independent science advisory committee with review and advisory functions mandated by section 109(d)(2) of the Clean Air Act, is charged with, among other things, independent scientific review of the EPA’s air quality criteria.

On February 10, 2012 (77 FR 7149), EPA formally initiated its current review of the air quality criteria for the health effects of oxides of nitrogen and the primary (health-based) nitrogen dioxide (NO<sub>2</sub>) NAAQS, requesting the submission of recent scientific information on specified topics. EPA held a workshop on February 29 to March 1, 2012, to gather input from scientific experts, both internal and external to EPA, as well as from the public regarding key science and policy

issues that will frame the review of the health effects of the oxides of nitrogen and the primary NO<sub>2</sub> NAAQS (77 FR 7149).

The discussions at this workshop guided the development of the EPA’s “Draft Plan for Development of the Integrated Science Assessment for Nitrogen of Oxides—Health Criteria,” a draft “Integrated Review Plan for the Primary NAAQS for Nitrogen Dioxide” (EPA–452/R–14–003), and initial draft materials for the development of the ISA. The draft plan for the development of the ISA was made available for public comment on May 3, 2013 (78 FR 26026), and was discussed by the CASAC via a publicly accessible teleconference consultation on June 5, 2013 (78 FR 27234). On June 11, 2013, EPA held a workshop to discuss, with invited scientific experts, initial draft materials prepared for the development of the ISA (78 FR 27374). The draft Integrated Review Plan (IRP) was made available in February 2014 for comment by the public and review by the CASAC (79 FR 7184) and was reviewed by the CASAC at a public meeting on March 12, 2014 (79 FR 8701). The CASAC panel provided a consensus letter for their review of the draft IRP to the Administrator of the EPA on June 10, 2014 ([http://yosemite.epa.gov/sab/sabproduct.nsf/264cb1227d55e02c85257402007446a4/89989229944F36B085257CF300692E2A/\\$File/EPA-CASAC-14-001+unsigned.pdf](http://yosemite.epa.gov/sab/sabproduct.nsf/264cb1227d55e02c85257402007446a4/89989229944F36B085257CF300692E2A/$File/EPA-CASAC-14-001+unsigned.pdf)). The final IRP was released in June 2014 (79 FR 36801), and is available at: [http://www.epa.gov/ttn/naaqs/standards/nox/s\\_nox\\_2012\\_pd.html](http://www.epa.gov/ttn/naaqs/standards/nox/s_nox_2012_pd.html).

Comments on the draft plan for the ISA and discussion at the June 11, 2013, workshop guided development of the “First External Review Draft Integrated Science Assessment for Oxides of Nitrogen—Health Criteria,” which was released on November 22, 2013 (78 FR 70040), and is available at: <http://cfpub.epa.gov/ncea/isa/recordisplay.cfm?deid=259167>. The CASAC review panel for the oxides of nitrogen met at a public meeting on March 12–13, 2014, to review the draft ISA along with the draft IRP (79 FR 8701). Subsequently, on June 10, 2014, the CASAC panel provided a consensus letter for their review to the Administrator of the EPA ([http://yosemite.epa.gov/sab/sabproduct.nsf/264cb1227d55e02c85257402007446a4/15E4619D3CD3409A85257CF30069387D/\\$File/EPA-CASAC-14-002+unsigned.pdf](http://yosemite.epa.gov/sab/sabproduct.nsf/264cb1227d55e02c85257402007446a4/15E4619D3CD3409A85257CF30069387D/$File/EPA-CASAC-14-002+unsigned.pdf)). The second external review draft ISA was developed with consideration of comments received from the CASAC and the public on the first external review draft ISA and evaluated

scientific studies published through August 2014. The CASAC panel met at a public meeting on June 2–3, 2015, to review the second draft ISA (79 FR 22993). Subsequently, on September 9, 2015, the CASAC provided a consensus letter for their review to the Administrator of the EPA ([http://yosemite.epa.gov/sab/sabproduct.nsf/6612DAF24438687B85257EBB0070369C/\\$File/EPA-CASAC-15-001+unsigned.pdf](http://yosemite.epa.gov/sab/sabproduct.nsf/6612DAF24438687B85257EBB0070369C/$File/EPA-CASAC-15-001+unsigned.pdf)). The letters from the CASAC, as well as public comments received on the ISA drafts, can be found in Docket ID No. EPA–HQ–ORD–2013–0232.

EPA has considered comments by the CASAC panel and by the public in preparing this final ISA.

Dated: January 15, 2016.

**Vincent Cogliano,**

*Acting Deputy Director, National Center for Environmental Assessment.*

[FR Doc. 2016–01548 Filed 1–27–16; 8:45 am]

**BILLING CODE 6560–50–P**

## **GOVERNMENT ACCOUNTABILITY OFFICE**

### **Request for Medicare Payment Advisory Commission Nominations**

**AGENCY:** Government Accountability Office (GAO).

**ACTION:** Request for letters of nomination and resumes.

**SUMMARY:** The Balanced Budget Act of 1997 established the Medicare Payment Advisory Commission (MedPAC) and gave the Comptroller General responsibility for appointing its members. For appointments to MedPAC that will be effective May 1, 2016, I am announcing the following: Letters of nomination and resumes will be accepted through March 9, 2016 to ensure adequate opportunity for review and consideration of nominees prior to appointment of new members. Acknowledgement of submissions will be provided within a week of submission. Please contact Mary Giffin at (202) 512–3710 if you do not receive an acknowledgment.

**ADDRESSES:** *Email:* [MedPACappointments@qao.gov](mailto:MedPACappointments@qao.gov).

*Mail:* U.S. GAO, Attn: MedPAC Appointments, 441 G Street NW., Washington, DC 20548.

**FOR FURTHER INFORMATION CONTACT:** GAO: Office of Public Affairs, (202) 512–4800.

42 U.S.C. 1395b–6

**Gene L. Dodaro,**

*Comptroller General of the United States.*

[FR Doc. 2016–01264 Filed 1–27–16; 8:45 am]

**BILLING CODE 1610–02–M**

## **DEPARTMENT OF HEALTH AND HUMAN SERVICES**

### **Centers for Disease Control and Prevention**

#### **Statement of Organization, Functions, and Delegations of Authority**

Part C (Centers for Disease Control and Prevention) of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services (45 FR 67772–76, dated October 14, 1980, and corrected at 45 FR 69296, October 20, 1980, as amended most recently at 80 FR 76493–76499, dated December 9, 2015) is amended to reflect the reorganization of the Division of Communication Services, Office of the Associate Director for Communication, Centers for Disease Control and Prevention.

Section C–B, Organization and Functions, is hereby amended as follows:

Delete in its entirety the title and the mission and function statements for the *Division of Communication Services (CAUD)* and insert the following:

*Division of Communication Services (CAUD).* The Division of Communication Services (DCS) provides agency-wide CDC graphics, broadcast, photography, translation, interpretation, public information, and communication consultation/analysis leadership and support. To carry out its mission, the division performs the following functions: (1) Ensures broadcast functionality/broadcast engineering support including connectivity among physical assets such as the Global Communications Center, Emergency Operations Center, and continuity of operations for CDC; (2) develops and disseminates video and audio production; (3) manages CDC graphic design and production services including CDC branding and identity standards; (4) supports new broadcast communication mechanisms (e.g. HHS TV, CDC TV, radio/TV broadcast, podcast, webcast, and videos-on-demand) for CDC programs; (5) provides support for broadcast delivery press conferences and media interviews; (6) provides scientific and events photography; (7) provides multilingual translation and interpretation, and cross

cultural communication assistance to Centers, Institute and Offices (CIOs) across CDC; (8) provides consultation and analysis of consumer research data to CIOs used for developing and evaluating health communication and marketing to specific audiences; (9) manages day-to-day operations of meeting space within CDC's meeting center, the Global Communications Center; and (10) manages CDC–INFO (CDC's telephone, email, and publications fulfillment services center); (11) oversees the agency-wide print management program; (12) manages CDC-wide information services including electronic and postal distribution lists, and electronic announcements; and (13) provides writer-editor services on behalf of CDC Office of the Director.

*Office of the Director (CAUD1).* (1) Develops the strategic priorities and manages the program activities of the division; (2) provides leadership for ensuring all DCS products are of the highest quality; (3) helps CIOs use existing or develop new mechanisms for communicating with the public and CDC partners; (4) coordinates support for meetings held in the Global Communications Center with internal and external customers; (5) coordinates the use of the CDC exhibit for public health conferences; (6) manages overall IT-related functions for the division, including Create-IT (DCS' online internal tracking and triage system), Trados SDL (translation memory application), and CDC–INFO IT applications; (7) provides and manages multi-year, multi-vendor CDC-wide communication contracts mechanism for use by CIO clients; (8) updates and manages Create-IT system for tracking and triage of work requests including associated customer satisfaction and other performance metrics for internal and external (CIO) use; (9) oversees the agency-wide print management program; (10) manages CDC-wide information services including electronic distribution lists, and electronic announcements; (11) administers CDC wide multi-year, multi-vendor communication contracts mechanism; (12) advises on methods for gaining public input on health issues and priorities (e.g., advisory mechanisms, focus groups, polling, legislative, and media tracking); (13) manages contract resources and provides analysis relative to audience segmentation and behavior, and (14) provides agency-wide multi-lingual service (MLS) support to include direct Spanish language translation, facilitating and coordinating support for

other languages, and cross-cultural communication assistance as well as MLS leadership (e.g. implementation of agency Language Access Plan).

*Broadcast Services Branch (CAUDB).* (1) Develops and produces audio, video, and multi-media health information products; (2) provides CDC with global communication capacity for high-definition broadcast, webcast and emerging social and health media delivery channels; (3) supports the CDC Emergency Operations Center to provide response capacity and capability for emergency broadcasts; (4) develops and delivers health information broadcast programs in coordination with HHS for the public, including podcasts, CDC–TV and other channels; (5) creates and produces communication using new forms of social and electronic media; (6) collaborates with other areas of CDC to review and recommend potential audio and video technology; and (7) develops distance education, health communication, and training products to reach public health partners and professionals.

*Graphics Services Branch (CAUDC).* (1) Leads and coordinates CDC visual information activities; (2) develops and produces graphic illustrations, including scientific posters, infographics, desktop published documents, visual presentations, conference materials, brochures and fact sheets, newsletters, and exhibits; (3) manages scientific and event photography; (4) provides creative direction and brand management guidance for graphics products and sets guidelines and standards for quality and consistency across the agency; (5) manages tracking and triage function within Create-IT system for management of work requests; and (6) provides technical assistance on large or multidisciplinary projects to provide a consistent approach across communication products.

*CDC–INFO and Print Services Branch (CAUDD).* (1) Provides the public with accessible, accurate, and credible health information in English and Spanish, 24/7, to include phone, email and U.S. mail; (2) ensures the CDC–INFO call center standards are kept for quality assurance, customer satisfaction, performance, and health impact when dealing with the public; (3) provides surge (to include 24/7) support through the 1–800 call center for public health emergencies and establishes policies and procedures with the CDC Emergency Operations Center, Joint Information Center; (4) manages CDC's ordering and distribution facility for health publications; (5) liaisons with contract suppliers, the Government

Printing Office, HHS, and other agencies on matters pertaining to print and publication procurement; (6) analyzes and reports CDC-INFO data to inform communication planning and programs throughout the agency; and (7) provides writer-editor support for the Office of the Director.

**Sherri A. Berger,**

*Chief Operating Officer, Centers for Disease Control and Prevention.*

[FR Doc. 2016-01676 Filed 1-27-16; 8:45 am]

BILLING CODE 4160-18-P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

[Docket No. FDA-2007-D-0369]

#### Product-Specific Bioequivalence Recommendations; Draft and Revised Draft Guidances for Industry; Availability

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice of availability.

**SUMMARY:** The Food and Drug Administration (FDA or Agency) is announcing the availability of additional draft and revised draft product-specific bioequivalence (BE) recommendations. The recommendations provide product-specific guidance on the design of BE studies to support abbreviated new drug applications (ANDAs). In the **Federal Register** of June 11, 2010, FDA announced the availability of a guidance for industry entitled "Bioequivalence Recommendations for Specific Products" that explained the process that would be used to make product-specific BE recommendations available to the public on FDA's Web site. The BE recommendations identified in this notice were developed using the process described in that guidance.

**DATES:** Although you can comment on any guidance at any time (see 21 CFR 10.115(g)(5)), to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance, submit either electronic or written comments on the draft guidance by March 28, 2016.

**ADDRESSES:** You may submit comments as follows:

#### *Electronic Submissions*

Submit electronic comments in the following way:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the

instructions for submitting comments. Comments submitted electronically, including attachments, to <http://www.regulations.gov> will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on <http://www.regulations.gov>.

- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see "Written/Paper Submissions" and "Instructions").

#### *Written/Paper Submissions*

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Division of Dockets Management (HFA-305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

- For written/paper comments submitted to the Division of Dockets Management, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in "Instructions."

*Instructions:* All submissions received must include the Docket No. FDA-2007-D-0369 for "Product-Specific Bioequivalence Recommendations; Draft and Revised Draft Guidances for Industry." Received comments will be placed in the docket and, except for those submitted as "Confidential Submissions," publicly viewable at <http://www.regulations.gov> or at the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

- *Confidential Submissions:* To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states "THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION." The Agency will review this copy, including the claimed confidential information, in

its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on <http://www.regulations.gov>. Submit both copies to the Division of Dockets Management. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as "confidential." Any information marked as "confidential" will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: <http://www.fda.gov/regulatoryinformation/dockets/default.htm>.

*Docket:* For access to the docket to read background documents or the electronic and written/paper comments received, go to <http://www.regulations.gov> and insert the docket number, found in brackets in the heading of this document, into the "Search" box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

Submit written requests for single copies of the draft guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993-0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

#### **FOR FURTHER INFORMATION CONTACT:**

Xiaoqiu Tang, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 75, Rm. 4730, Silver Spring, MD 20993-0002, 301-796-5850.

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Background**

In the **Federal Register** of June 11, 2010 (75 FR 33311), FDA announced the availability of a guidance for industry entitled "Bioequivalence Recommendations for Specific Products" that explained the process that would be used to make product-specific BE recommendations available to the public on FDA's Web site at <http://www.fda.gov/Drugs/Guidance>

*ComplianceRegulatoryInformation/Guidances/default.htm.*

As described in that guidance, FDA adopted this process as a means to develop and disseminate product-specific BE recommendations and provide a meaningful opportunity for the public to consider and comment on those recommendations. Under that process, draft recommendations are posted on FDA's Web site and announced periodically in the **Federal Register**. The public is encouraged to submit comments on those recommendations within 60 days of their announcement in the **Federal Register**. FDA considers any comments received and either publishes final recommendations or publishes revised draft recommendations for comment. Recommendations were last announced in the **Federal Register** on September 21, 2015 (80 FR 57000). This notice announces draft product-specific recommendations, either new or revised, that are posted on FDA's Web site.

## II. Drug Products for Which New Draft Product-Specific BE Recommendations are Available

FDA is announcing the availability of new draft guidances for industry on product-specific BE recommendations for drug products containing the following active ingredients:

TABLE 1—NEW DRAFT PRODUCT-SPECIFIC BE RECOMMENDATIONS FOR DRUG PRODUCTS

Alprostadil.  
Atazanavir sulfate; cobicistat.  
Beclomethasone dipropionate.  
Betamethasone dipropionate.  
Betamethasone valerate.  
Betaxolol hydrochloride.  
Ciclesonide.  
Clobetasol propionate.  
Desonide (multiple reference listed drugs).  
Diflorasone diacetate (multiple reference listed drugs).  
Difluprednate emulsion.  
Elvitegravir.  
Erythromycin.  
Ethinyl estradiol; norethindrone acetate.  
Flurandrenolide.  
Formoterol fumarate; mometasone furoate.  
Ingenol mebutate (multiple strengths).  
Mercaptopurine.  
Methylphenidate hydrochloride.  
Metronidazole.  
Mometasone furoate.  
Naftifine hydrochloride (multiple reference listed drugs).  
Nicotine.  
Olanzapine pamoate.  
Omega-3-carboxylic acids.  
Prednisone.  
Ranitidine hydrochloride.  
Riociguat.

TABLE 1—NEW DRAFT PRODUCT-SPECIFIC BE RECOMMENDATIONS FOR DRUG PRODUCTS—Continued

Spinosad.  
Trametinib dimethyl sulfoxide.  
Vorapaxar sulfate.

## III. Drug Products for Which Revised Draft Product-Specific BE Recommendations are Available

FDA is announcing the availability of a revised draft guidance for industry on product-specific BE recommendations for drug products containing the following active ingredients:

TABLE 2—REVISED DRAFT PRODUCT-SPECIFIC BE RECOMMENDATIONS FOR DRUG PRODUCTS

Abiraterone acetate.  
Amphotericin B.  
Ciprofloxacin hydrochloride; hydrocortisone.  
Colesevelam hydrochloride.  
Drospirenone; estradiol.  
Guanfacine hydrochloride.  
Lidocaine.  
Lomitapide mesylate.  
Methylphenidate hydrochloride.  
Phytonadione.  
Rivastigmine tartrate.

For a complete history of previously published **Federal Register** notices related to product-specific BE recommendations, go to <http://www.regulations.gov> and enter Docket No. FDA-2007-D-0369.

These draft guidances are being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). These draft guidances, when finalized, will represent the current thinking of FDA on the product-specific design of BE studies to support ANDAs. They do not establish any rights for any person and are not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

## II. Electronic Access

Persons with access to the Internet may obtain the draft guidance at either <http://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm> or <http://www.regulations.gov>.

Dated: January 22, 2016.

**Leslie Kux,**

*Associate Commissioner for Policy.*

[FR Doc. 2016-01682 Filed 1-27-16; 8:45 am]

BILLING CODE 4164-01-P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

[Docket No. FDA-2012-N-0438]

### Agency Information Collection Activities; Announcement of Office of Management and Budget Approval; Early Food Safety Evaluation of New Non-Pesticidal Proteins Produced by New Plant Varieties Intended for Food Use

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing that a collection of information entitled "Early Food Safety Evaluation of New Non-Pesticidal Proteins Produced by New Plant Varieties Intended for Food Use" has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

**FOR FURTHER INFORMATION CONTACT:** FDA PRA Staff, Office of Operations, Food and Drug Administration, 8455 Colesville Rd., COLE-14526, Silver Spring, MD 20993-0002, [PRASStaff@fda.hhs.gov](mailto:PRASStaff@fda.hhs.gov).

**SUPPLEMENTARY INFORMATION:** On October 8, 2015, the Agency submitted a proposed collection of information entitled "Early Food Safety Evaluation of New Non-Pesticidal Proteins Produced by New Plant Varieties Intended for Food Use" to OMB for review and clearance under 44 U.S.C. 3507. 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 OMB control number. OMB has now approved the information collection and has assigned OMB control number 0910-0583. The approval expires on November 30, 2018. A copy of the supporting statement for this information collection is available on the Internet at <http://www.reginfo.gov/public/do/PRAMain>.

Dated: January 22, 2016.

**Leslie Kux,**

*Associate Commissioner for Policy.*

[FR Doc. 2016-01686 Filed 1-27-16; 8:45 am]

BILLING CODE 4164-01-P

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Food and Drug Administration**

[Docket No. FDA-2016-N-0001]

**Food and Drug Administration/Xavier Medical Device Conference**

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice of public conference.

**SUMMARY:** The Food and Drug Administration (FDA) Cincinnati District, in co-sponsorship with Xavier University, is announcing a public conference entitled “FDA/Xavier Medical Device Conference (MedCon).” This 3-day public conference includes presentations from key FDA officials and industry experts with small group break-out sessions. The conference is intended for companies of all sizes and employees at all levels.

**DATES:** The public conference will be held on May 4, 2016, from 8:30 a.m. to 5 p.m.; May 5, 2016, from 8:30 a.m. to 5 p.m.; and May 6, 2016, from 8:30 a.m. to 12:05 p.m.

**ADDRESSES:** The public conference will be held on the campus of Xavier University, 3800 Victory Pkwy., Cincinnati, OH 45207, 513-745-3016.

**FOR FURTHER INFORMATION CONTACT:** For information regarding this notice: Gina Brackett, Food and Drug Administration, 6751 Steger Dr., Cincinnati, OH 45237, 513-679-2700, FAX: 513-679-2771, email: [gina.brackett@fda.hhs.gov](mailto:gina.brackett@fda.hhs.gov). For

information regarding the conference and registration: Mason Rick, Program Manager, Xavier Health, Xavier University, 3800 Victory Pkwy., Cincinnati, OH 45207-5471, 513-745-3016, email: [rickm@xavier.edu](mailto:rickm@xavier.edu) or visit <http://www.XavierMedCon.com>.

**SUPPLEMENTARY INFORMATION:**

The public conference helps fulfill the Department of Health and Human Services’ and FDA’s important mission to protect the public health. The conference will provide those engaged in FDA-regulated medical devices (for humans) with information on the following topics:

- Update from FDA’s Office of Combination Products
- Center Director Corner: Strategic Priorities for 2016 and Beyond
- Office of Compliance Strategic Priorities
- Medical Device Innovation Consortium (MDIC)/Xavier University Medical Device Metrics Initiative
- Critical Thinking—Responding to FDA
- Working Through Challenges with Supplier Quality and Design—What to Do and When
- FDA Inspections and Insights
- Canada’s Changing Quality System Requirements
- European Medical Device Regulation Progress
- Update from the Office of Device Evaluation
- What to Expect with FDA’s Program Alignment
- When to File a 510(k) for Modifications to Your Cleared Device

- Storing Clinical Data in the Cloud
- Regulatory Strategy for Innovation
- Internet and Social Media Concerns—FDA and Federal Trade Commission (FTC) Perspectives
- Navigating Japan’s Regulatory Environment
- Action Plan Writing
- Lunch Networking by Topic

FDA has made education of the drug and device manufacturing community a high priority to help ensure the quality of FDA-regulated drugs and devices. The conference helps to achieve objectives set forth in section 406 of the Food and Drug Administration Modernization Act of 1997 (21 U.S.C. 393), which includes working closely with stakeholders and maximizing the availability and clarity of information to stakeholders and the public. The conference also is consistent with the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121) by providing outreach activities by Government Agencies to small businesses.

**Registration:** There is a registration fee. The conference registration fees cover the cost of the presentations, training materials, receptions, breakfasts, and lunches for the 3 days of the conference. Early registration rates end February 3, 2016. Advance registration rates end on March 3, 2016. Standard registration rates begin March 4, 2016. There will be onsite registration. The cost of registration is as follows:

TABLE 1—REGISTRATION FEES <sup>1</sup>

Attendee type	Early rate (through 2/3/16)	Advance rate (2/4/16-3/3/16)	Standard rate (after 3/3/16)
Industry .....	\$1,195	\$1,495	\$1,695
Small Business (<100 employees) .....	900	1,000	1,200
Start-up Manufacturer .....	200	250	300
Academic .....	200	250	300
FDA/Government Employee .....	Free	Free	Free

<sup>1</sup> The following forms of payment will be accepted: American Express, Visa, MasterCard, and company checks.

To register online for the public conference, please visit the “Registration” link on the conference Web site at <http://www.XavierMedCon.com>. FDA has verified the Web site address, but is not responsible for subsequent changes to the Web site after this document publishes in the **Federal Register**.

To register by mail, please send your name, title, firm name, address, telephone, email, and payment information for the fee to Xavier University, Attn: Mason Rick, 3800

Victory Pkwy., Cincinnati, OH 45207-5471. An email will be sent confirming your registration.

Attendees are responsible for their own accommodations. The conference headquarter hotel is the Downtown Cincinnati Hilton Netherlands Plaza, 35 W. 5th St., Cincinnati, OH 45202, 513-421-9100. Special conference block rates are available through April 11, 2016. To make reservations online, please visit the “Venue/Logistics” link at <http://www.XavierMedCon.com>.

If you need special accommodations due to a disability, please contact Mason Rick (see **FOR FURTHER INFORMATION CONTACT**) at least 7 days in advance of the conference.

Dated: January 22, 2016.

**Leslie Kux,**

*Associate Commissioner for Policy.*

[FR Doc. 2016-01681 Filed 1-27-16; 8:45 am]

**BILLING CODE 4164-01-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

[Docket No. FDA-2007-D-0369]

#### Bioequivalence Recommendations for Lamotrigine; Draft Guidance for Industry; Availability

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice of availability.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing the availability of a revised draft guidance for industry on lamotrigine extended-release tablets entitled "Draft Guidance on Lamotrigine." The recommendations provide specific guidance on the design of bioequivalence (BE) studies to support abbreviated new drug applications (ANDAs) for lamotrigine extended-release tablets.

**DATES:** Although you can comment on any guidance at any time (see 21 CFR 10.115(g)(5)), to ensure that the Agency considers your comments on this draft guidance before it begins work on the final version of the guidance, submit either electronic or written comments on the draft guidance by March 28, 2016.

**ADDRESSES:** You may submit comments as follows:

#### Electronic Submissions

Submit electronic submissions in the following way:

- **Federal eRulemaking Portal:** <http://www.regulations.gov>. Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to <http://www.regulations.gov> will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on <http://www.regulations.gov>.

- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see "Written/Paper Submissions" and "Instructions").

#### Written/Paper Submissions

Submit written/paper submissions as follows:

- **Mail/Hand delivery/Courier (for written/paper submissions):** Division of Dockets Management (HFA-305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

- For written/paper comments submitted to the Division of Dockets Management, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in "Instructions."

**Instructions:** All submissions received must include the Docket No. FDA-2007-D-0369 for "Draft Guidance on Lamotrigine." Received comments will be placed in the docket and, except for those submitted as "Confidential Submissions," will be publicly viewable at <http://www.regulations.gov> or at the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

- **Confidential Submissions—**To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states "THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION." The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on <http://www.regulations.gov>. Submit both copies to the Division of Dockets Management. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as "confidential." Any information marked as "confidential" will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: <http://www.fda.gov/regulatoryinformation/dockets/default.htm>.

**Docket:** For access to the docket to read background documents or the electronic and written/paper comments received, go to <http://www.regulations.gov> and insert the docket number, found in brackets in the heading of this document, into the "Search" box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

Submit written requests for single copies of the draft guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993-0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

**FOR FURTHER INFORMATION CONTACT:** Xiaohu Tang, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 75, Rm. 4730, Silver Spring, MD 20993-0002, 301-796-5850.

**SUPPLEMENTARY INFORMATION:**

#### I. Background

In the **Federal Register** of June 11, 2010 (75 FR 33311), FDA announced the availability of a guidance for industry entitled "Bioequivalence Recommendations for Specific Products," which explained the process that would be used to make product-specific BE recommendations available to the public on FDA's Web site at <http://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm>.

As described in that guidance, FDA adopted this process to develop and disseminate product-specific BE recommendations and to provide a meaningful opportunity for the public to consider and comment on those recommendations. This notice announces the availability of revised draft BE recommendations for lamotrigine extended-release tablets.

On May 29, 2009, FDA initially approved new drug application 022115 for LAMICTAL (lamotrigine) extended-release tablets. There are eight approved ANDAs for this product. In April 2010, we issued a draft guidance for industry on BE recommendations for lamotrigine extended-release tablets, which we subsequently revised in May 2010; July 2010; and August 2010. We are now issuing a further revised draft guidance for industry on BE recommendations for generic lamotrigine extended-release tablets ("Draft Guidance on Lamotrigine").

In October 2006, UCB, Inc., submitted a citizen petition requesting that FDA

take several actions with respect to anti-epileptic drugs (AEDs), including that FDA narrow the bioequivalence range for all such drugs (Docket No. FDA-2006-P-0461). FDA is reviewing the issues raised in the petition. Although lamotrigine is not the sole focus of the petition, lamotrigine is discussed and it is indicated for use as an AED; therefore, FDA will consider any comments on the draft guidance on lamotrigine in responding to the petition.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the Agency's current thinking on the design of BE studies to support ANDAs for lamotrigine extended-release tablets. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

## II. Electronic Access

Persons with access to the Internet may obtain the document at either <http://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm> or <http://www.regulations.gov>.

Dated: January 22, 2016.

**Leslie Kux,**

*Associate Commissioner for Policy.*

[FR Doc. 2016-01683 Filed 1-27-16; 8:45 am]

BILLING CODE 4164-01-P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

[Docket No. FDA-2014-D-0044]

#### Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Recommended Recordkeeping for Exempt Infant Formula Production

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

**DATES:** Fax written comments on the collection of information by February 29, 2016.

**ADDRESSES:** To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, FAX: 202-395-7285, or emailed to [oira\\_submission@omb.eop.gov](mailto:oira_submission@omb.eop.gov). All comments should be identified with the OMB control number 0910-NEW. Also include the FDA docket number found in brackets in the heading of this document.

**FOR FURTHER INFORMATION CONTACT:** FDA PRA Staff, Office of Operations, Food and Drug Administration, 8455 Colesville Rd., COLE-14526, Silver Spring, MD 20993-0002, [PRASStaff@fda.hhs.gov](mailto:PRASStaff@fda.hhs.gov).

**SUPPLEMENTARY INFORMATION:** In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

#### Recommended Recordkeeping for Exempt Infant Formula Production—OMB Control Number 0910-NEW

##### I. Background

Section 412(h)(1) (21 U.S.C. 350a(h)(1)) of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) exempts an infant formula which is represented and labeled for use by an infant with an inborn error of metabolism, low birth weight, or who otherwise has an unusual medical or dietary problem from the requirements of section 412(a), (b), and (c) of the FD&C Act (21 U.S.C. 350a(a), (b), and (c)). These formulas are customarily referred to as "exempt infant formulas." In the **Federal Register** of June 10, 2014 (79 FR 33057), we published a final rule that adopted, with some modifications, an interim final rule published on February 10, 2014 (79 FR 7934), that established requirements for quality factors for infant formulas and current good manufacturing practices (CGMPs), including quality control procedures, under section 412 of the FD&C Act. The final rule will help prevent the manufacture of adulterated infant formula, ensure the safety of infant formula, and ensure that the nutrients in infant formula are present in a form that is bioavailable.

In the **Federal Register** of February 10, 2014 (79 FR 7610), we published a notice of availability of the draft guidance document entitled, "Guidance for Industry: Exempt Infant Formula Production: Current Good Manufacturing Practices, Quality Control Procedures, Conduct of Audits, and Records and Reports" (the draft guidance). The draft guidance, when

finalized, will describe our current thinking on the manufacturing of exempt infant formula in relation to the requirements in part 106 (21 CFR part 106) for CGMPs, quality control procedures, conduct of audits, and records and reports that apply to nonexempt infant formulas. Persons with access to the Internet may obtain the draft guidance at <http://www.fda.gov/FoodGuidances>.

## II. Analysis of the Proposed Information Collection

The proposed information collection seeks OMB approval of the recordkeeping recommendations of the draft guidance. Our estimate of the burden of the recordkeeping recommendations includes the one-time burden of developing production and in-process control systems and the annual burdens of developing and maintaining production aggregate production and control records, records pertaining to the distribution of infant formula, and records pertaining to regularly scheduled audits. Included in the burden estimate is the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing each collection of information.

**Description of Respondents:** The respondent recordkeepers are manufacturers of exempt infant formula.

**Description:** The records recommended, to the extent practicable, in the draft guidance include records required by part 106, subparts A, B, C, D, and F for non-exempt infant formulas. Because the records and reporting requirements related to part 106 subparts E and G are not generally applicable to exempt infant formula manufacturers, FDA is not recommending in the draft guidance that exempt infant formula manufacturers follow these requirements. As such, the records and reporting requirements in part 106 subparts E and G are not part of this new information collection.

In the **Federal Register** of March 18, 2015 (80 FR 14134), FDA published a 60-day notice requesting public comment on the proposed collection of information. We received one letter responsive to the notice, which contained comments.

(Comment 1) One comment suggested that we clarify the action level for end-of-shelf-life verification testing and how this testing differs for exempt infant formulas as compared to non-exempt infant formulas.

(Response) We appreciate the concerns discussed in the comment.



The exempt infant formula guidance recommends that manufacturers of exempt infant formulas follow, to the extent practicable, subparts A, B, C, D, and F of 21 CFR part 106, as amended or established by the final rule published on June 10, 2014 (79 FR 33057), in the production of their formula products. We do not plan to establish an action level for end-of-shelf-life verification testing in the exempt infant formula guidance. Furthermore, our guidance documents do not establish legally enforceable requirements and therefore cannot include mandatory language such as “shall, must, required, or requirement,” unless specific regulatory or statutory requirements are cited.

To the extent that the comment requests us to engage in rulemaking, the comment is outside the scope of the comment request on the four collection of information topics as they relate to the provisions of the draft guidance document.

(Comment 2) One comment asserted that we may have underestimated the time it would take to test weekly for bacteriological contaminants, as reported in Table 1. The comment noted our estimate of 5 minutes per test, once a week, for each of three infant formula plants and added that including the performance of the test would significantly increase the time needed.

(Response) We appreciate the information provided in the comment. However, the comment did not provide us data or information to support a different estimate. In the absence of such data, we lack a basis on which to revise our estimates. In addition, we note that our estimate of 5 minutes per test, once a week, reflects the amount of time needed to fulfill the recordkeeping burdens associated with this requirement, not the time needed to conduct the testing that is subject to the recordkeeping requirement. In preparation for the next regular information collection request, we will consult with several establishments to obtain additional data on the recordkeeping burdens and reevaluate our estimates. We will then publish the revised estimates for comment and consider additional information submitted in response.

FDA estimates the burden of this collection of information as follows:

The total one-time estimated burden imposed by this collection of information is 19,320 hours. The total annual estimated burden imposed by this collection of information is 6,328.06 hours. There are no capital costs or operating and maintenance costs associated with this collection of

information. The estimated burden for the draft guidance is based on “Evaluation of Recordkeeping Costs for Food Manufacturers,” Eastern Research Group Task Order No. 5, Contract No. 223-01-2461. FDA estimates that firms will be able to fulfill recordkeeping requirements with existing record systems; that is, FDA estimates that it will not be necessary for infant formula firms to invest in new recordkeeping systems.

As of the beginning of 2015, five manufacturers produce exempt infant formulas that are marketed in the United States. Four out of these five infant formula manufacturers produce both exempt and non-exempt infant formulas, with both types of infant formula produced using the same production lines and equipment. Our experts believe that manufacturing practices are similar for both exempt and non-exempt infant formulas. Furthermore, given expert estimations of industry standard practices, it is estimated that the manufacturer that only produces exempt infant formula has practices comparable to those manufacturers producing both exempt and non-exempt infant formulas (Ref. 1). Together, these 5 manufacturers produce exempt infant formula at 12 plants.

The number of recordkeepers in column 3 of Table 1 is based on FDA’s expert estimation of the number of plants that may not already be adhering to the relevant recordkeeping provisions of the final rule. The Regulatory Impact Analysis for the final rule (79 FR 33057) estimated that 25 percent of all infant formula plants manufacturing non-exempt infant formula were not currently adhering to the recordkeeping provisions under § 106.100 (21 CFR 106.100). Although such recordkeeping requirements are now effective for manufacturers of non-exempt infant formulas, and manufacturers of exempt infant formulas may have implemented similar procedures for their exempt infant formulas, it is estimated conservatively that this same proportion (25 percent, or 3 out of 12 plants that manufacture exempt infant formula) are not currently adhering to the recordkeeping provisions, and unless otherwise specified, burdens are estimated based on these 3 plants. Furthermore, we estimate that plants will collect the same information across the various exempt infant formulas produced by each firm.

For records pertaining to production and in-process controls, FDA estimates that, at most, three plants do not currently develop production records as specified under §§ 106.6(c)(5) and

106.100(e)(1) and (3). A team of two senior validation engineers (or other similarly skilled employees) per plant (2 workers per plant × 3 plants = 6 workers) would each need to work 20 hours to provide sufficient initial baseline records and documentation to develop records pertaining to production and in-process controls, for an industry total of 120 hours (2 workers per plant × 3 plants × 20 hours per worker = 120 hours), as presented in line 1 of Table 1.

For the recordkeeping specified under § 106.35(c), in accordance with § 106.100(f)(5), FDA estimates that a team of 10 senior validation engineers (or other similarly skilled employees) per plant would need to work full time for the 16 weeks (16 weeks/person × 40 work hours/week = 640 work hours per person) to provide sufficient initial records and documentation pertaining to controls intended to prevent adulteration due to automatic equipment. The total burden for 10 senior validation engineers each working 640 hours is 6,400 per plant in the first year (10 senior validation engineers × 640 hours = 6,400). For three plants, the total one-time hourly burden is 3 plants × 6,400 hours per plant = 19,200 hours, as presented in line 2 of Table 1.

For the testing specified under § 106.20(f)(3), manufacturers of exempt infant formulas should conduct water testing with appropriate frequency to meet Environmental Protection Agency primary standards for drinking water (40 CFR parts 9, 141, and 142), but shall conduct these tests at least annually for chemical contaminants, every 4 years for radiological contaminants, and weekly for bacteriological contaminants. FDA estimates that it is part of normal business practice for exempt infant formula plants to test for chemical contaminants and keep records of those tests on a regular basis; therefore, this is a new collection of information that does not present a burden (Ref. 1).

It is estimated that the recommendation to manufacturers of exempt infant formulas to test at least every 4 years for radiological contaminants would represent a new burden for all 12 infant formula plants (Ref. 1). In addition, it is estimated that collecting water for this testing takes between 1 and 2 hours (Ref. 1). For the purposes of this analysis, it is conservatively estimated that water collection takes, on average, 1.5 hours and that water collection occurs separately for each type of testing. It is estimated that performing the test (collecting the information) will take 1.5 hours per test, every 4 years. Therefore,

1.5 hours per plant  $\times$  12 plants = 18 total hours, every 4 years, or 4.5 hours per year, as seen in line 3 of Table 1.

Furthermore, the draft guidance recommends that manufacturers of exempt infant formula make and retain records of the frequency and results of water testing as specified under §§ 106.20(f)(4) and 106.100(f)(1). For the 12 plants that are estimated not to currently test for radiological contaminants, this burden is estimated to be 5 minutes per record every 4 years. Therefore, 0.08 hour per record  $\times$  12 plants = 0.96 hour every 4 years for the maintenance of records of radiological testing, or 0.24 hours per year, as seen on line 4 of Table 1.

It is estimated that the recommendation to test weekly for bacteriological contaminants is a new burden for three infant formula plants. It is estimated that performing the test (collecting the information) will take 5 minutes per test once a week. Annually, this burden is 0.08 hour  $\times$  52 weeks = 4.16 hours per year per plant, and 4.16 hours per plant  $\times$  3 plants = 12.48 total annual hours, as seen on line 5 of Table 1. Furthermore, for the three plants that are estimated to not currently test weekly for bacteriological contaminants, this burden is estimated to be 5 minutes per record, every week. Therefore, 0.08 hour per record  $\times$  52 weeks = 4.16 hours per plant for the maintenance of records of bacteriological testing. Accordingly, 4.16 hours per plant  $\times$  3 plants = 12.48 annual hours, as seen on line 6 of Table 1.

The draft guidance recommends that manufacturers of exempt infant formulas calibrate certain instruments against a known reference standard and that records of these calibration activities be made and retained, as specified in §§ 106.30(d)(1) and 106.100(f)(2). FDA estimates that one senior validation engineer (or other similarly skilled employee) for each of the three (at most) plants would need to spend about 13 minutes per week to conduct the ongoing calibration recordkeeping. Therefore, 3 recordkeepers  $\times$  0.21 hours per week per recordkeeper = 0.63 hours per week; 0.63 hours per week  $\times$  52 weeks per year = 32.76 hours as the total industry annual burden, as presented in line 7 of Table 1.

The draft guidance recommends that manufacturers of exempt infant formula make and retain records of the temperatures of each cold storage compartment as specified in §§ 106.30(e)(3)(iii) and 106.100(f)(3). Based on expert opinion, FDA estimates that three (at most) plants are not currently conducting recordkeeping,

and that at each of these three plants, conducting this recordkeeping would take one senior validation engineer (or other similarly skilled employee) about 13 minutes per week. Therefore, 3 recordkeepers  $\times$  0.21 hours per week per recordkeeper = 0.63 hours per week; 0.63 hours per week  $\times$  52 weeks = 32.76 hours as the total industry annual burden, as presented in line 8 of Table 1.

The draft guidance recommends the making and retention of records of ongoing sanitation efforts as specified under §§ 106.30(f)(2) and 106.100(f)(4). Based on expert opinion, FDA estimates that three (at most) plants are not currently making and retaining these records, and that at each of these three plants, it would take one senior validation engineer (or other similarly skilled employee) 0.19 hours per week to make and retain these records. Therefore, 3 recordkeepers  $\times$  0.19 hours per week per recordkeeper = 0.57 hours per week; 0.57 hours per week  $\times$  52 weeks = 29.64 hours as the total industry annual burden, as presented in line 9 of Table 1.

There will be annual recordkeeping associated with recommendations for preventing adulteration from equipment, as specified under §§ 106.35(c) and 106.100(f)(5). It is estimated that one senior validation engineer (or other similarly skilled employee) per plant would need to work 10 hours per week (520 work hours per year) to meet the ongoing recordkeeping recommendation. For the estimated three (at most) plants not conducting this recordkeeping, the total annual burden is 520 hours per plant  $\times$  3 plants = 1,560 annual hours, as shown in line 10 of Table 1. In addition, this guidance recommends that an infant formula manufacturer revalidate its systems when it makes changes to automatic equipment. FDA estimates that such changes are likely to occur twice a year to any aspect of the plant's system, and that on each of the two occasions, a team of four senior validation engineers (or other similarly skilled employees) per plant would need to work full time for 4 weeks (4 weeks  $\times$  40 hours per week = 160 work hours per person) to provide revalidation of the plant's automated systems sufficient to adhere to this section. The total annual burden for four senior validation engineers each working 160 hours twice a year is 1,280 hours ((160 hours  $\times$  2 revalidations)  $\times$  4 engineers = 1,280 total work hours) per plant. Therefore, 1,280 hours per plant  $\times$  3 plants = 3,840 annual hours, as shown on line 11 of Table 1.

The draft guidance recommends written specifications for ingredients, containers, and closures, as specified under §§ 106.40(g) and 106.100(f)(6). FDA estimates that the exempt infant formula industry already establishes written specifications for these components. However, the guidance regarding controls to prevent adulteration caused by ingredients, containers, and closures may represent new recordkeeping for three (at most) plants (Ref. 1). It is not possible to predict how often a specification will not be met or how often documented reviews of reconditioned ingredients, closures, or containers will occur. FDA estimates that, on average, one senior validation engineer per plant would work about 10 minutes a week to complete this recordkeeping. Therefore, 3 recordkeepers  $\times$  0.17 hours per week per recordkeeper = 0.51 hours per week; 0.51 hours per week  $\times$  52 weeks = 26.52 total annual hours, as presented in line 12 of Table 1.

This draft guidance recommends manufacturers of exempt infant formula to make and maintain records of controls to prevent adulteration during manufacturing, as specified in §§ 106.50 and 106.100(e). It is not possible to predict how often changes to the master manufacturing order would be made or how often deviations from the master manufacturing order would occur. Based on expert opinion, FDA estimates that each year, three (at most) plants would change a master manufacturing order and that, on average, one senior validation engineer for each of the three (at most) plants would spend about 14 minutes per week on recordkeeping pertaining to the master manufacturing order. Thus, 3 recordkeepers  $\times$  0.23 hours per recordkeeper per week = 0.69 hours per week; 0.69 hours per week  $\times$  52 weeks = 35.88 hours as the total annual industry burden, as presented in line 13 of Table 1.

The draft guidance recommends manufacturers of exempt infant formula make and retain records of the testing of infant formula for microorganisms, as specified in §§ 106.55(d) and 106.100(e)(5)(ii) and (f)(7). We estimate that this recordkeeping represents a new collection of information for, at most, three plants (Ref. 1) and that one senior validation engineer per plant would spend 15 minutes per week on recordkeeping pertaining to microbiological testing. Thus, 3 recordkeepers  $\times$  0.25 hours per recordkeeper per week = 0.75 hours; 0.75 hours per week  $\times$  52 weeks = 39 hours as the total annual industry burden, as presented in line 14 of Table 1.

The draft guidance recommends that exempt infant formula manufacturers make and maintain records consistent with the requirements for the labeling of mixed-lot packages of infant formula that apply to non-exempt infant formula manufacturers, as specified under § 106.60(c). We estimate that the draft guidance will result in infant formula diverters labeling infant formula packaging (such as packing cases) to facilitate product tracing and to keep specific records of the distribution of these mixed lot cases. (A diverter is considered to be a business or individual that purchases food, including occasionally infant formula, in a geographic area where a special allowance or deal is being offered and then resells that food at a lower price to wholesale or retail grocery, drug and mass merchandise chains in an area where the deal is not being offered.) There will be some cost associated with this recordkeeping and labeling, but the Agency estimates that this burden would be minimal as it is estimated that less than 1 percent of infant formula is handled by diverters. For the purposes of this analysis, it is estimated that, for all plants combined, it may take one worker using manual methods 15 minutes, at most, to relabel one case of infant formula one time each month (0.25 hours per month × 12 months = 3 annual hours), as presented in line 15 of Table 1.

The draft guidance recommends nutrient testing for exempt infant formula manufacturers as specified in § 106.91(a)(1) through (4). It is estimated

that the systems and processes of 100 percent of the exempt formula industry test in accordance with these provisions. Therefore, nutrient testing does not represent a new recordkeeping burden as nutrient testing is estimated to be common business practice in the exempt infant formula industry. Thus, no burden is estimated for these recommendations (Ref. 1).

The draft guidance also recommends on-going stability testing as specified under § 106.91(b)(1) through (3). It is estimated that the systems and processes of the infant formula industry partially adhere to this guidance in that 80 percent of infant formula plants (about 10 of 12 plants) conduct stability testing as recommended (Ref. 1). For the 20 percent of plants (2 of 12 plants) that do not conduct stability testing, it is estimated that these plants do conduct initial stability testing, but may not do so at the intervals specified in this provision (Ref. 1). For the purposes of this analysis, it is estimated that the stability testing guidance represents a new information collection burden of 2 annual hours, per plant. Therefore, 2 hours per plant × 2 plants = 4 annual hours as shown in line 16 of Table 1.

The draft guidance recommends recordkeeping for test results as specified under §§ 106.91(d) and 106.100(e)(5)(i). This represents new information collections for the two plants that are estimated not to be conducting all of the stability testing specified in § 106.91(b) (Ref. 1). For the purposes of this analysis, FDA estimates that one senior validation engineer per

plant would spend about 9 minutes per week maintaining records related to testing. Thus, 2 recordkeepers × 0.15 hours per recordkeeper per week = 0.3 hours per week × 52 weeks = 15.6 hours as the annual total industry burden, as presented in lines 17, 18, and 19 of Table 1.

The draft guidance recommends the creation of audit plans and procedures, as specified under § 106.94. FDA estimates that all exempt infant formula manufacturers currently conduct audits, but that 25 percent of infant formula plants (3 of 12 plants) do not conduct audits that include all elements specified in § 106.94 (Ref. 1). It is estimated that the ongoing review and updating of audit plans would require a senior validation engineer 8 hours per year, per plant. Therefore, 8 hours per year per plant × 3 plants = 24 annual hours to regularly review and update audit plans as shown in line 20 of Table 1.

The infant formula final rule does not mandate a frequency of auditing, therefore, one is not recommended in the draft guidance. For the purposes of this analysis, FDA estimates that a manufacturer would choose to audit once per week. Each weekly audit is estimated to require a senior validation engineer 4 hours, or 52 weeks × 4 hours = 208 hours per plant per year. Therefore, the total annual burden for the estimated three plants not currently acting in accordance to this guidance to update audit plans is 208 hours × 3 plants = 624 hours, as shown in line 21 of Table 1.

TABLE 1—ESTIMATED HOURLY RECORDKEEPING BURDEN

21 CFR Section	Number of recordkeepers	First year frequency of recordkeeping	Total records	Hours per record	Total hours
<b>First Year Hourly Burden</b>					
1. Production and In-Process Control System 106.6(c)(5) and 106.100(e)(1) and (3) .....	6	1	3	40	120
2. Controls to Prevent Adulteration Due to Automatic (Mechanical or Electronic) Equipment 106.35(c) and 106.100(f)(5) .....	30	1	3	6,400	19,200
Total First Year Only Hourly Recordkeeping Burden ...	.....	.....	.....	.....	19,320
<b>Recurring Annual Hourly Burden</b>					
3. Controls to Prevent Adulteration Caused by Facilities—Testing for Radiological Contaminants <sup>1</sup> 106.20(f)(3) .....	12	1	12	1.5	4.5
4. Controls to Prevent Adulteration Caused by Facilities—Recordkeeping of Testing for Radiological Contaminants <sup>2</sup> 106.20(f)(4) and 106.100(f)(1) .....	12	1	12	0.08	0.24
5. Controls to Prevent Adulteration Caused by Facilities—Testing for Bacteriological Contaminants 106.20(f)(3) ....	3	52	156	0.08	12.48
6. Controls to Prevent Adulteration Caused by Facilities—Recordkeeping of Testing for Bacteriological Contaminants 106.20(f)(4) and 106.100(f)(1) .....	3	52	156	0.08	12.48

TABLE 1—ESTIMATED HOURLY RECORDKEEPING BURDEN—Continued

21 CFR Section	Number of recordkeepers	First year frequency of recordkeeping	Total records	Hours per record	Total hours
7. Controls to Prevent Adulteration by Equipment or Utensils 106.30(d)(1) and 106.100(f)(2) .....	3	52	156	0.21	32.76
8. Controls to Prevent Adulteration by Equipment or Utensils 106.30(e)(3)(iii) and 106.100(f)(3) .....	3	52	156	0.21	32.76
9. Controls to Prevent Adulteration by Equipment or Utensils 106.30(f)(2) and 106.100(f)(4) .....	3	52	156	0.19	29.64
10. Controls to Prevent Adulteration Due to Automatic (Mechanical or Electronic) Equipment 106.35(c) and 106.100(f)(5) .....	3	52	3	520	1,560
11. Controls to Prevent Adulteration Due to Automatic (Mechanical or Electronic) Equipment 106.35(c) and 106.100(f)(5) .....	12	2	6	640	3,840
12. Controls to Prevent Adulteration Caused by Ingredients, Containers, and Closures 106.40(g) and 106.100(f)(6) .....	3	52	156	0.17	26.52
13. Controls to Prevent Adulteration During Manufacturing 106.50 and 106.100(e) .....	3	52	156	0.23	35.88
14. Controls to Prevent Adulteration From Microorganisms 106.55(d), 106.100(e)(5)(ii), and 106.100(f)(7) .....	3	52	156	0.25	39
15. Controls to Prevent Adulteration During Packaging and Labeling of Infant Formula 106.60(c) .....	1	12	12	0.25	3
16. General Quality Control-Testing 106.91(b)(1) through (3) .....	2	1	2	2	4
17. General Quality Control 106.91(b)(1) and (d), and 106.100(e)(5)(i) .....	2	52	104	0.15	15.6
18. General Quality Control 106.91(b)(2) and (d), and 106.100(e)(5)(i) .....	2	52	104	0.15	15.6
19. General Quality Control 106.91(b)(3) and (d), and 106.100(e)(5)(i) .....	2	52	104	0.15	15.6
20. Audit Plans and Procedures 106.94—Ongoing Review and Updating of Audits .....	3	1	3	8	24
21. Audit Plans and Procedures 106.94—Regular Audits ..	3	52	156	4	624
Total Recurring Recordkeeping Burden .....					6,328.06
Total Recordkeeping Burden .....					25,648.06

<sup>1</sup> As noted previously, the burden for making and maintaining such records is expected to occur once every 4 years. The total hours column reflects the total number of hours averaged over the 4 year period.

<sup>2</sup> As noted previously, the burden for making and maintaining such records is expected to occur once every four years. The total hours column reflects the total number of hours averaged over the four-year period.

### III. Reference

The following reference has been placed on display in the Division of Dockets Management (HFA-305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. Zink, Don. Statement of Donald L. Zink: Infant Formula Manufacturing Practices, 2013.

Dated: January 22, 2016.

**Leslie Kux,**

*Associate Commissioner for Policy.*

[FR Doc. 2016-01690 Filed 1-27-16; 8:45 am]

**BILLING CODE 4164-01-P**

### DEPARTMENT OF HEALTH AND HUMAN SERVICES

#### Food and Drug Administration

[Docket No. FDA-2009-N-0380]

#### Agency Information Collection Activities; Proposed Collection; Comment Request; Product Jurisdiction: Assignment of Agency Component for Review of Premarket Applications

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of

information including each proposed extension of an existing collection of information and to allow 60 days for public comment in response to the notice. This notice solicits comments on the procedure by which an applicant may obtain an assignment or designation determination for combination products.

**DATES:** Submit either electronic or written comments on the collection of information by March 28, 2016.

**ADDRESSES:** You may submit comments as follows:

#### *Electronic Submissions*

Submit electronic comments in the following way:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to <http://www.regulations.gov> will be posted to the docket unchanged. Because your

comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on <http://www.regulations.gov>.

- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see "Written/Paper Submissions" and "Instructions").

#### Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Division of Dockets Management (HFA-305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

- For written/paper comments submitted to the Division of Dockets Management, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in "Instructions."

*Instructions:* All submissions received must include the Docket No. FDA-2009-N-0380 for "Product Jurisdiction: Assignment of Agency Component for Review of Premarket Applications." Received comments will be placed in the docket and, except for those submitted as "Confidential Submissions," publicly viewable at <http://www.regulations.gov> or at the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

- **Confidential Submissions**—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states "THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION." The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on

<http://www.regulations.gov>. Submit both copies to the Division of Dockets Management. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as "confidential." Any information marked as "confidential" will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: <http://www.fda.gov/regulatoryinformation/dockets/default.htm>.

*Docket:* For access to the docket to read background documents or the electronic and written/paper comments received, go to <http://www.regulations.gov> and insert the docket number, found in brackets in the heading of this document, into the "Search" box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

**FOR FURTHER INFORMATION CONTACT:** FDA PRA Staff, Office of Operations, Food and Drug Administration, 8455 Colesville Rd., COLE-14526, Silver Spring, MD 20993-0002, [PRASStaff@fda.hhs.gov](mailto:PRASStaff@fda.hhs.gov).

**SUPPLEMENTARY INFORMATION:** Under the PRA (44 U.S.C. 3501-3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. "Collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's

estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

**Product Jurisdiction: Assignment of Agency Component for Review of Premarket Applications 21 CFR Part 3 (OMB Control Number 0910-0523)—Extension**

This regulation relates to Agency management and organization and has two purposes. The first is to implement section 503(g) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 353(g)), as added by the Safe Medical Devices Act of 1990 (Pub. L. 101-629), and amended by the Medical Device User Fee and Modernization Act of 2002 (Pub. L. 107-250), by specifying how FDA will determine the organizational component within FDA assigned to have primary jurisdiction for the premarket review and regulation of products that are comprised of any combination of: (1) A drug and a device; (2) a device and a biological product; (3) a biological product and a drug; or (4) a drug, a device, and a biological product. The second purpose of this regulation is to enhance the efficiency of Agency management and operations by providing procedures for classifying and determining which Agency component is designated to have primary jurisdiction for any drug, device, or biological product where such jurisdiction is unclear or in dispute.

The regulation establishes a procedure by which an applicant may obtain an assignment or designation determination. The regulation requires that the request include the identity of the applicant, a comprehensive description of the product and its proposed use, and the applicant's recommendation as to which Agency component should have primary jurisdiction, with an accompanying statement of reasons. The information submitted would be used by FDA as the basis for making the assignment or designation decision. Most information required by the regulation is already required for premarket applications affecting drugs, devices, biological products, and combination products. The respondents will be businesses or other for-profit organizations.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN<sup>1</sup>

21 CFR Part	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
3	84	1	84	24	2,016

<sup>1</sup> There are no capital costs or operating and maintenance costs associated with this collection of information.

These burden estimates are based on the number of applications FDA received over the past fiscal year.

Dated: January 25, 2016.

**Leslie Kux,**

*Associate Commissioner for Policy.*

[FR Doc. 2016-01684 Filed 1-27-16; 8:45 am]

**BILLING CODE 4164-01-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

[Docket No. FDA-2013-N-0297]

#### Agency Information Collection Activities; Proposed Collection; Comment Request; Prevention of Salmonella Enteritidis in Shell Eggs During Production; Recordkeeping and Registration Provisions

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA or we) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the information collection provisions of FDA's recordkeeping and registration requirements for shell egg producers.

**DATES:** Submit either electronic or written comments on the collection of information by March 28, 2016.

**ADDRESSES:** You may submit comments as follows:

#### *Electronic Submissions*

Submit electronic comments in the following way:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to [http://](http://www.regulations.gov)

[www.regulations.gov](http://www.regulations.gov) will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on <http://www.regulations.gov>.

- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see "Written/Paper Submissions" and "Instructions").

#### *Written/Paper Submissions*

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Division of Dockets Management (HFA-305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

- For written/paper comments submitted to the Division of Dockets Management, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in "Instructions."

*Instructions:* All submissions received must include the Docket No. FDA-2013-N-0297 for Agency Information Collection Activities; Proposed Collection; Comment Request; Prevention of *Salmonella* Enteritidis in Shell Eggs During Production—Recordkeeping and Registration Provisions. Received comments will be placed in the docket and, except for those submitted as "Confidential Submissions," publicly viewable at <http://www.regulations.gov> or at the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

- *Confidential Submissions*—To submit a comment with confidential information that you do not wish to be

made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states "THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION". The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on <http://www.regulations.gov>. Submit both copies to the Division of Dockets Management. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as "confidential." Any information marked as "confidential" will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: <http://www.fda.gov/regulatoryinformation/dockets/default.htm>.

*Docket:* For access to the docket to read background documents or the electronic and written/paper comments received, go to <http://www.regulations.gov> and insert the docket number, found in brackets in the heading of this document, into the "Search" box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

**FOR FURTHER INFORMATION CONTACT:** FDA PRA Staff, Office of Operations, Food and Drug Administration, 8455 Colesville Rd., COLE-14526, Silver Spring, MD 20993-0002, [PRASaff@fda.hhs.gov](mailto:PRASaff@fda.hhs.gov).

**SUPPLEMENTARY INFORMATION:** Under the PRA (44 U.S.C. 3501-3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. "Collection of information" is defined

in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, we are publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, we invite comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA’s functions, including whether the information will have practical utility; (2) the accuracy of FDA’s estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

**Prevention of *Salmonella* Enteritidis in Shell Eggs During Production—Recordkeeping and Registration Provisions—21 CFR 118.10 and 118.11 (OMB Control Number 0910–0660)—Extension**

Shell eggs contaminated with *Salmonella* Enteritidis (SE) are responsible for more than 140,000 illnesses per year. The Public Health Service Act (PHS Act) authorizes the Secretary to make and enforce such regulations as “are necessary to prevent the introduction, transmission, or spread of communicable diseases from

foreign countries into the States \* \* \* or from one State \* \* \* into any other State” (section 361(a) of the PHS Act). This authority has been delegated to the Commissioner of Food and Drugs. Under section 402(a)(4) of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 342(a)(4)), a food is adulterated if it is prepared, packed, or held under insanitary conditions whereby it may have been contaminated with filth or rendered injurious to health. Under section 701(a) of the FD&C Act (21 U.S.C. 371(a)), FDA is authorized to issue regulations for the efficient enforcement of the FD&C Act.

Under part 118 (21 CFR part 118), shell egg producers are required to implement measures to prevent SE from contaminating eggs on the farm and from further growth during storage and transportation. Shell egg producers also are required to maintain records concerning their compliance with part 118 and to register with FDA. As described in more detail with regard to each information collection provision of part 118, each farm site with 3,000 or more egg laying hens that sells raw shell eggs to the table egg market, other than directly to the consumer, must refrigerate, register, and keep certain records. Farms that do not send all of their eggs to treatment are also required to have an SE prevention plan and to test for SE.

Section 118.10 of FDA’s regulations requires recordkeeping for all measures the farm takes to prevent SE in its flocks. Since many existing farms participate in voluntary egg quality assurance programs, those respondents may not have to collect any additional information. Records are maintained on file at each farm site and examined there periodically by FDA inspectors.

Section 118.10 also requires each farm site with 3,000 or more egg laying hens that sells raw shell eggs to the table egg market, other than directly to the consumer, and does not have all of the shell eggs treated, to design and implement an SE prevention plan.

Section 118.10 requires recordkeeping for each of the provisions included in the plan and for plan review and modifications if corrective actions are taken.

Finally, § 118.11 of FDA’s regulations requires that each farm covered by § 118.1(a) register with FDA using Form FDA 3733. The term “Form FDA 3733” refers to both the paper version of the form and the electronic system known as the Shell Egg Producer Registration Module, which is available at <http://www.access.fda.gov>. We strongly encourage electronic registration because it is faster and more convenient. The system can accept electronic registrations 24 hours a day, 7 days a week. A registering shell egg producer receives confirmation of electronic registration instantaneously once all the required fields on the registration screen are completed. However, paper registrations will also be accepted. Form FDA 3733 is available for download for registration by mail or CD-ROM.

Recordkeeping and registration are necessary for the success of the SE prevention measures. Written SE prevention plans and records of actions taken due to each provision are essential for farms to implement SE prevention plans effectively. Further, they are essential for us to be able to determine compliance. Information provided under these regulations helps us to notify quickly the facilities that might be affected by a deliberate or accidental contamination of the food supply. In addition, data collected through registration is used to support our enforcement activities.

*Description of Respondents:* Respondents to this information collection include farm sites with 3,000 or more egg laying hens that sell raw eggs to the table egg market, other than directly to the consumer.

We estimate the burden of this collection of information as follows:

*Recordkeeping Burden*

TABLE 1—ESTIMATED ANNUAL RECORDKEEPING BURDEN<sup>1</sup>

Description and 21 CFR section	Number of recordkeepers <sup>2</sup>	Number of records per recordkeeper	Total annual records	Average burden per recordkeeping	Total hours
Refrigeration Records, § 118.10(a)(3)(iv) .....	2,600	52	135,200	0.5	67,600
Testing, Diversion, and Treatment Records, § 118.10(a)(3)(v) through (viii) (positive) <sup>3</sup> .....	343	52	17,836	0.5	8,918
Egg Testing, § 118.10(a)(3)(vii) .....	331	7	2,317	8.3	19,231
Environmental Testing, § 118.10(a)(3)(v) <sup>3</sup> .....	6,308	23	145,084	0.25	36,271
Testing, Diversion, and Treatment Records, § 118.10(a)(3)(v) through (viii) (negative) <sup>3</sup> .....	5,965	1	5,965	0.5	2,983
Prevention Plan Review and Modifications, § 118.10(a)(4) ...	331	1	331	10	3,310
Chick and Pullet Procurement Records, § 118.10(a)(2) .....	4,731	1	4,731	0.5	2,366

TABLE 1—ESTIMATED ANNUAL RECORDKEEPING BURDEN <sup>1</sup>—Continued

Description and 21 CFR section	Number of recordkeepers <sup>2</sup>	Number of records per recordkeeper	Total annual records	Average burden per recordkeeping	Total hours
Rodent and Other Pest Control, § 118.10(a)(3)(ii), and Biosecurity Records, § 118.10(a)(3)(i) .....	9,462	52	492,024	0.5	246,012
Prevention Plan Design, § 118.10(a)(1) .....	300	1	300	20	6,000
Cleaning and Disinfection Records, § 118.10(a)(3)(iii) .....	331	1	331	0.5	166
Total hours .....					392,857

<sup>1</sup> There are no capital costs or operating and maintenance costs associated with this collection of information.

<sup>2</sup> Some records are kept on a by-farm basis and others are kept on a by-house basis.

<sup>3</sup> Calculations include requirements for pullet and layer houses.

We are basing our estimates for the recordkeeping burden and the reporting burden on our experience with similar recordkeeping activities and the number of registrations and cancellations received in the past 3 years.

The number of recordkeepers estimated in column 2 of table 1 is drawn from estimates of the total number of layer and pullet houses affected by part 118. We assume that those farms that are operating according to recognized industry or State quality assurance plans are already largely in compliance with the plan design and recordkeeping provisions discussed in this section, and therefore are not experiencing additional costs to comply with recordkeeping provisions. We found that 59 percent of farms with more than 50,000 layers are members of State or industry quality assurance plans. Fewer than 8 percent of farms with fewer than 50,000 layers are members of quality assurance plans. Thus, we estimate the number of layer farms incurring a new recordkeeping burden because of part 118 to be 2,600, and the number of houses affected to be 4,731.

Prevention plan design (§ 118.10(a)(1)) records are kept on a per farm basis, so we assume that new prevention plan design is only undertaken by new entrants to the industry. Refrigeration records (§ 118.10(a)(3)(iv)) are also kept on a per farm basis so the estimated number of recordkeepers for this provision is 2,600.

Records of chick and pullet procurement (§ 118.10(a)(2)), rodent and other pest control (§ 118.10(a)(3)(ii)), and biosecurity (§ 118.10(a)(3)(i)) are kept on a per house basis, so the estimated number of recordkeepers for these provisions is 4,731.

Records of cleaning and disinfection (§ 118.10(a)(3)(iii)) are also kept on a per house basis, but only need to be kept in the event that a layer house tests environmentally positive for SE. Prevention plan review and

modifications (§ 118.10(a)(4)) also need to be performed every time a house tests positive, which we estimate that 7.0 percent tests positive. Therefore, the number of recordkeepers for these provisions is calculated to be 331 (4,731 houses × 0.070) annually.

Records of testing, diversion, and treatment (§ 118.10(a)(3)(v) through (viii)) are kept on a per house basis and include records on flocks from pullet houses. We estimate that there are one-third as many pullet houses as there are layer houses. Therefore the total number of recordkeepers for these provisions is 6,308 (4,731 + (4,731/3)). The number of annual records kept depends on whether or not houses test positive for SE. Annually, 343 layer and pullet houses ((4,731 layer houses × 0.070) + (4,731/3 pullet houses) × 0.0075) are expected to test positive and 5,965 are expected to test negative ((4,731 layer houses × 0.930) + (4,731/3 pullet houses) × 0.9925)).

We assume that refrigeration records are kept on a weekly basis on a per farm basis under § 118.10(a)(3)(iv)). We estimate that 2,600 recordkeepers maintain 52 records each for a total of 135,200 records and that it takes approximately 0.5 hour per recordkeeping. Thus, the total annual burden for refrigeration records is calculated to be 67,600 hours (135,200 × 0.5 hour).

We assume that records of testing, diversion, and treatment under § 118.10(a)(3)(v) through (viii) are kept weekly in the event a layer house tests environmentally positive for SE. We estimate that 343 layer and pullet houses test positive and thus 343 recordkeepers maintain 52 records each for a total of 17,836 records and that it takes approximately 0.5 hour per recordkeeping. Thus, the total annual burden for testing, diversion, and treatment records in the event of a positive test result is calculated to be 8,918 hours (17,836 × 0.5 hour).

Given a positive environmental test for SE, we estimate the weighted

average number of egg tests per house under § 118.10(a)(3)(vii) to be 7. We estimate that 331 recordkeepers maintain 7 records each for a total of 2,317 records and that it takes approximately 8.3 hours per recordkeeping. Thus, the total annual burden for egg testing is calculated to be 19,231 hours (2,317 × 8.3 hours).

We estimate that all 1,577 pullet and 4,731 layer houses not currently testing (6,308 recordkeepers) incur the burden of a single environmental test annually under § 118.10(a)(3)(v)). The number of samples taken during the test depends on whether a farm employs the row based method (an average of 12 samples per house) or the random sampling method (32 samples per house). We estimate that roughly 50 percent of the houses affected employs a row based method and 50 percent employs a random sampling method, implying an average of 23 samples per house. Thus, we estimate that 6,308 recordkeepers take 23 samples each for a total of 145,084 samples. The time burden of sampling is estimated on a per swab sample basis. We estimate that it takes approximately 15 minutes to collect and pack each sample. Thus, the total annual burden for environmental testing is calculated to be 36,271 hours (145,084 × 0.25 hour).

We estimate that records of testing, diversion, and treatment under § 118.10(a)(3)(v) through (viii) are kept annually in the event a layer house tests environmentally negative for SE. We estimate that 5,965 layer and pullet houses test negative and thus 5,965 recordkeepers maintain one record of that testing that takes approximately 0.5 hour per record. Thus, the total annual burden for testing, diversion, and treatment records in the event of a negative test result is calculated to be 2,983 hours (5,965 × 0.5 hour).

Prevention plan review and modifications under § 118.10(a)(4)) need to be performed every time a house tests positive. We estimate that 331 layer houses test positive requiring plan



review and modifications and that it takes 10 hours to complete this work. Thus, the total annual burden for prevention plan review and modifications in the event of a positive test result is calculated to be 3,310 hours (331 × 10 hours).

We estimate that chick and pullet procurement records under § 118.10(a)(2) is kept roughly once annually per layer house basis. We estimate that 4,731 layer houses maintain 1 record each and that it takes approximately 0.5 hour per recordkeeping. Thus, the total annual burden for chick and pullet procurement recordkeeping is calculated to be 2,366 hours (4,731 × 0.5 hour).

We estimate that rodent and other pest control records under § 118.10(a)(3)(ii) and biosecurity records under § 118.10(a)(3)(i) are kept weekly on a per layer house basis. We assume that 4,731 layer houses maintain a weekly record under each provision. Thus, we estimate 9,462 recordkeepers maintain 52 records each for a total of 492,024 records. We estimate a recordkeeping burden of 0.5 hours per record for a total of 246,012 burden hours (492,024 × 0.5 hour).

New prevention plan design required by § 118.10(a)(1) is only undertaken by new farms and records are kept on a per farm basis. We estimate that there are 300 new farm registrations annually and we assume that this reflects 300 new farms requiring prevention plan design.

This is an increase from our previous estimate based on new registrations received. We estimate that it takes 20 hours to complete this work. Thus, the total annual burden for prevention plan design is calculated to be 6,000 hours (300 × 20 hours).

Cleaning and disinfection recordkeeping under § 118.10(a)(3)(iii) needs to be performed every time a house tests positive. We estimate that 331 layer houses test positive requiring 1 record each and that it takes approximately 0.5 hour per recordkeeping. Thus, the total annual burden for cleaning and disinfection recordkeeping in the event of a positive test result is calculated to be 166 hours (331 × 0.5 hour).

*Reporting Burden*

TABLE 2—ESTIMATED ANNUAL REPORTING BURDEN <sup>1</sup>

Description and 21 CFR section	FDA Form number	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Registrations or Updates, § 118.11 ...	Form FDA 3733 <sup>2</sup>	300	1	300	2.3	690
Cancellations, § 118.11 .....	Form FDA 3733 ...	30	1	30	1	30
Total .....	.....	.....	.....	.....	.....	720

<sup>1</sup> There are no capital costs or operating and maintenance costs associated with this collection of information.

<sup>2</sup> The term “Form FDA 3733” refers to both the paper version of the form and the electronic system known as the Shell Egg Producer Registration Module, which is available at <http://www.access.fda.gov> per § 118.11(b)(1).

This estimate is based on the average number of new shell egg producer registrations and cancellations received in the past 3 years under § 118.11. We estimate that we will receive an average of 300 registrations or updates per year over the next 3 years. Based on the number of cancellations previously received, we estimate that we will receive approximately 30 cancellations per year over the next 3 years.

We estimate that it takes the average farm 2.3 hours to register taking into account that some respondents completing the registration may not have readily available Internet access. Thus, the total annual burden for new shell egg producer registrations or updates is calculated to be 690 hours (300 × 2.3 hours).

We estimate cancelling a registration, on average, requires a burden of approximately 1 hour, taking into account that some respondents may not have readily available Internet access. Thus, the total annual burden for cancelling shell egg producer registrations is calculated to be 30 hours (30 cancellations × 1 hour).

Dated: January 25, 2016.

**Leslie Kux,**

*Associate Commissioner for Policy.*

[FR Doc. 2016–01685 Filed 1–27–16; 8:45 am]

**BILLING CODE 4164–01–P**

**DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

[Docket No. FR–5876–N–02]

**Changes in Certain Multifamily Mortgage Insurance Premiums**

**AGENCY:** Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

**ACTION:** Notice.

**SUMMARY:** On October 2, 2015, HUD published a notice in the **Federal Register** announcing the mortgage insurance premiums (MIPs) for Federal Housing Administration (FHA) Multifamily, Health Care Facilities, and Hospital mortgage insurance programs that have commitments to be issued or reissued in Fiscal Year (FY) 2016. In the October 2, 2015, notice, HUD stated that the FY 2016 MIPs would be the same as those published for FY 2015. Today’s notice announces proposed changes to the FY 2016 MIPs for certain FHA

Multifamily Housing Insurance programs for commitments issued or reissued beginning April 1, 2016. MIP rates for mortgage insurance programs under FHA’s Office of Healthcare Programs, including health care facilities and hospital insurance programs, will not change. These proposed MIP changes reflect the health of the FHA Multifamily portfolio, an effort to simplify the rate structure, and HUD’s commitment to promote its mission initiatives.

**DATES:** *Comment Due Date:* February 17, 2016.

**ADDRESSES:** Interested persons are invited to submit comments regarding this Notice to the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street SW., Room 10276, Washington, DC 20410–0500. Communications must refer to the above docket number and title and should contain the information specified in the “Request for Comments” section. There are two methods for submitting public comments.

1. Submission of Comments by Mail. Comments may be submitted by mail to the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451

7th Street SW., Room 10276, Washington, DC 20410-0500. Due to security measures at all federal agencies, however, submission of comments by mail often results in delayed delivery. To ensure timely receipt of comments, HUD recommends that comments submitted by mail be submitted at least two weeks in advance of the public comment deadline.

2. Electronic Submission of Comments. Interested persons may submit comments electronically through the Federal eRulemaking Portal at <http://www.regulations.gov>. HUD strongly encourages commenters to submit comments electronically. Electronic submission of comments allows the commenter maximum time to prepare and submit a comment, ensures timely receipt by HUD, and enables HUD to make them immediately available to the public. Comments submitted electronically through the <http://www.regulations.gov> Web site can be viewed by other commenters and interested members of the public. Commenters should follow instructions provided on that site to submit comments electronically.

**Note:** To receive consideration as public comments, comments must be submitted through one of the two methods specified above. Again, all submissions must refer to the docket number and title of the notice.

No Facsimile Comments. Facsimile (FAX) comments are not acceptable.

Public Inspection of Public Comments. All properly submitted comments and communications regarding this notice submitted to HUD will be available for public inspection and copying between 8 a.m. and 5 p.m. weekdays at the above address. Due to security measures at the HUD Headquarters building, an advance appointment to review the public comments must be scheduled by calling the Regulations Division at 202-708-3055 (this is not a toll-free number). Individuals with speech or hearing impairments may access this number through TTY by calling the Federal Relay Service at 800-877-8339. Copies of all comments submitted are available for inspection and downloading at <http://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** Theodore Toon, Director, Office of Multifamily Production, Office of Housing, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410-8000; telephone: 202-402-8386 (this is not a toll-free number). Hearing- or speech-impaired individuals may access these numbers through TTY by calling the Federal

Relay Service at 800-877-8339 (this is a toll-free number).

**SUPPLEMENTARY INFORMATION:**

**I. Background**

Section 203(c)(1) of the National Housing Act authorizes the Secretary to set the premium charge for insurance of mortgages under the various programs in Title II of the National Housing Act. The range within which the Secretary may set such charges must be between one-fourth of one percent per annum and one percent per annum of the amount of the principal obligation of the mortgage outstanding at any time. (See 12 U.S.C. 1709(c)(1)).

On October 2, 2015, HUD published a notice in the **Federal Register** (80 FR 59809) announcing the MIPs for FHA Multifamily, Health Care Facilities, and Hospital mortgage insurance programs that have commitments to be issued or reissued in FY 2016. Rate reductions are now proposed to promote two of HUD's mission priorities: Affordable housing, and energy efficiency. Multiple, recent studies, including the December, 2015, Harvard Joint Center for Housing Studies' "America's Rental Housing" report<sup>1</sup>, and the Center for American Progress report, "An Opportunity Agenda for Renters" from December, 2015<sup>2</sup>, illustrate the unprecedented rental affordability crisis facing the country. In response, the proposed MIP rates will promote the preservation and production of affordable housing. In response to the President's Climate Action Plan, the recent global agreement to combat climate change, and in line with the Department's and Administration's goals to reduce energy consumption and utility costs throughout the building sector, rate reductions are also proposed to promote energy efficient housing.

HUD's Multifamily Housing Mortgage Insurance regulation at 24 CFR 207.254 provides as follows:

Notice of future premium changes will be published in the **Federal Register**. The Department will propose MIP changes for multifamily mortgage insurance programs and provide a 30-day public comment period for the purpose of accepting comments on whether the proposed changes are appropriate.

Pursuant to this 30-day comment procedure, this Notice announces proposed changes for FY 2016 in the MIP for certain programs authorized

<sup>1</sup> The America's Rental Housing" report is available at: <http://www.jchs.harvard.edu/americas-rental-housing>.

<sup>2</sup> The An Opportunity Agenda for Renters report is available at <https://www.americanprogress.org/issues/poverty/report/2015/12/16/1269666/an-opportunity-agenda-for-renters/>.

under the National Housing Act (the Act) (12 U.S.C. 1709(c)(1)), and certain other multifamily programs. These changes would be effective on April 1, 2016.

**II. This Notice**

HUD is proposing to change MIPs for FHA-insured loans on properties under specific Multifamily Mortgage Insurance programs. In FY 2013, FHA increased MIPs to compensate for increased risk to the FHA fund after the housing market crisis. Over the last several years, HUD has implemented underwriting standards for FHA insured mortgage insurance applications in an effort to mitigate risk to the FHA portfolio, and undertaken organizational changes to facilitate risk-based underwriting and asset management.

These proposed MIP changes reflect the health of the FHA Multifamily portfolio, an effort to simplify the rate structure, and HUD's commitment to promote its mission initiatives. The proposed annual multifamily mortgage insurance rates will be structured as four categories, as follows, and as illustrated on the table below. This Notice proposes MIP reductions focused on strategic mission areas: Affordable housing, and green and energy efficient housing. Under this proposed rate structure, portfolio and actuarial analysis demonstrates that premium revenues will exceed losses for the foreseeable future.

**A. Market Rate Housing**

Upfront and annual MIP rates will remain unchanged for all FHA-insured multifamily loan types on market rate properties, except properties that meet the criteria for green and energy efficient housing, below.

**B. Broadly Affordable Housing**

Annual MIP will change from the current rates generally between 45 and 50 basis points,<sup>3</sup> to 25 basis points for all multifamily FHA-insured loan types that meet the criteria in this section.

All loans originated by Housing Finance Agencies under FHA's Section 542(c) Risk Share program, and by Qualified Participating Entities including Fannie Mae and Freddie Mac under FHA's Section 542(b) Risk Share program, will be eligible for this proposed 25 basis points rate, multiplied by the percentage risk assumed by FHA (see table below). For all others to qualify, the property must have Section 8 assistance or another

<sup>3</sup> Except in the case of a 207/223(f) refinance or purchase that has a current upfront capitalized MIP basis points of 100.

recorded affordability restriction, and/or Low Income Housing Tax Credits.

These projects must either:

- Have at least 90 percent of units covered by a Section 8 Project Based Rental Assistance (PBRA) contract or other federal rental assistance program contract serving very low income residents, with a remaining term of at least 15 years; or
- Have at least 90 percent of its units covered by an affordability use restriction under the Low Income Housing Tax Credit program or similar state or locally sponsored program, with achievable and underwritten tax credit rents at least 10 percent below comparable market rents, and with a recorded regulatory agreement in effect for at least 15 years after final endorsement and monitored by a public entity.

To ensure that the benefits of these MIP rates directly benefit the affordable housing properties and residents, lenders submitting applications for loans using this MIP rate are limited in the total loan fees they may charge on any loan greater than \$2 million, to no more than 5 percent of the insured loan amount. Loan fees include (a) origination and placement fees as permitted by the Multifamily Accelerated Processing (MAP) Guide<sup>4</sup>, plus (b) trade profit, trade premium or marketing gain earned on the sale of the Government National Mortgage Association (GNMA) security at a value above par, even if the security sale is delayed until after endorsement, minus (c) loan fees applied by the Mortgagee to its legal expenses incurred in connection with loan closing.

### C. Affordable Housing

Annual MIP will change from current rates generally between 45 and 70 basis points,<sup>5</sup> to 35 basis points for all multifamily FHA-insured loan types. To qualify, the property must provide a set-aside of affordable units as defined below, and agree to accept voucher holders:

- Inclusionary Zoning, Density Bonus Set-asides, and Other Local Affordability Restrictions: Property owners shall submit with the FHA mortgage insurance application evidence of a deed covenant or housing ordinance on “inclusionary zoning” at the subject property to evidence the requirement for affordable unit set-asides. A minimum of 10 percent of the

units must be affordable to, at most, a family at 80 percent AMI, with rents sized to be affordable at 30 percent of the income at that level. The affordability set-aside must be on site, in effect for at least 30 years after final endorsement of the FHA-insured mortgage, be monitored by public authority, and be recorded in a regulatory agreement; or

- Project has between 10 percent and 90 percent of units covered by a Section 8 PBRA contract or other state or federal rental assistance program contract serving very low income residents, with a remaining term of at least 15 years; or
- Project has between 10 percent and 90 percent of its units covered by an affordability use restriction under the Low Income Housing Tax Credit program or similar state or locally sponsored program, with rents sized at no greater than 30 percent of the income eligible for occupancy under the Low Income Housing Tax Credit program, with a recorded regulatory agreement in effect for at least 15 years after final endorsement and monitored by a public entity.

To qualify for this MIP rate:

- The project owner must also agree to accept voucher holders under the Section 8 Housing Choice Voucher program or other federal program voucher holders as residents for vacancies in units not covered by project based Section 8, and execute a Rider to the FHA regulatory agreement acceptable to HUD evidencing the owner's agreement to accept Section 8 vouchers for the life of the regulatory agreement.

### D. Green and Energy Efficient Housing

Annual MIP will change from current rates generally between 45 and 70 basis points,<sup>6</sup> to 25 basis points for all multifamily FHA-insured loan types. Projects will access this rate to encourage owners to adopt higher standards for construction, rehabilitation, repairs, maintenance, and property operations that are more energy efficient and sustainable than traditional approaches to such activities. The lower rate will incentivize owners to implement measures that result in projects with greater energy and water efficiency, reduced operating costs, improved indoor air quality and resident comfort, and reduced overall impact on the environment. It is anticipated that mortgage proceeds will be used to retrofit properties to meet the stringent efficiency standards required

to access this lower MIP premium. For properties that have already achieved a green building standard and that are refinancing with this lower MIP premium, proceeds may be used to complete further efficiency upgrades, and/or to retrofit to the next-level green certification standards. To qualify:

- Upon application for FHA mortgage insurance, the owner must evidence that the project has achieved, or the owner must certify that it will pursue, achieve and maintain, an industry-recognized standard for green building. Acceptable, independently verified standards include the Enterprise Green Communities Criteria, U.S. Green Building Council's LEED-H, LEED-H Midrise, LEED-NC, ENERGY STAR Certification, EarthCraft House, EarthCraft Multifamily, Earth Advantage New Homes, Greenpoint Rated New Home, Greenpoint Rated Existing Home (Whole House or Whole Building label), and the National Green Building Standard (NGBS), or other industry-recognized green building standards in HUD's sole discretion. Further, the owner must certify that it has achieved, or will pursue and achieve a score of 75 or better on the 1-100 ENERGY STAR score, using EPA's Portfolio Manager (the minimum score required to be recognized as ENERGY STAR). The reasonableness of achieving and maintaining the specified, independent green building standard, and the score of 75 or better in Portfolio Manager, must be verified by the independent conclusion of the qualified assessor preparing the physical condition assessment, and supported by the physical condition assessment report and recommendations, ASHRAE level II energy audit, and plans for new construction, or rehabilitation, repairs, and operations and maintenance. The physical condition assessment report submitted with the mortgage insurance application must include a certification from the architect, engineer, energy auditor, or CNA provider that the planned scope of work is reasonably sufficient to achieve and maintain the specified certification. Additionally, the owner must submit to HUD evidence that the specified, independent green building standard has been achieved, and provide a copy of the Portfolio Manager report showing building performance at or above 75, when those standards have been achieved, and no more than 12 months after completion of new construction, substantial rehabilitation or renovations. If not achieved, HUD may impose protocols to ensure the owner brings the property into compliance, similar to protocols

<sup>4</sup> [http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/administration/hudclips/guidebooks/hsg-GB4430](http://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/hudclips/guidebooks/hsg-GB4430).

<sup>5</sup> Except in the case of a 207/223(f) refinance or purchase that has a current upfront capitalized MIP basis points of 100.

<sup>6</sup> Except in the case of a 207/223(f) refinance or purchase that has a current upfront capitalized MIP basis points of 100.

used by REAC for unacceptable property standards.

To ensure that the benefits of these MIP rates directly benefit the affordable housing properties and residents, lenders submitting applications for loans using this MIP rate are limited in the total loan fees they may charge on any loan greater than \$2 million, to no more than 5 percent of the insured loan amount. Loan fees include (a) origination and placement fees as permitted by the MAP Guide, *plus* (b)

trade profit, trade premium or marketing gain earned on the sale of the GNMA security at a value above par, even if the security sale is delayed until after endorsement, *minus* (c) loan fees applied by the Mortgagee to its legal expenses incurred in connection with loan closing.

**IV. MIPs for FHA's Multifamily Mortgage Insurance Programs for April 1, 2016**

HUD is proposing to change MIPs for FHA-insured loans on properties under

specific Multifamily Mortgage Insurance programs. The chart below details the proposed MIP rates for each rate category, and each type of FHA multifamily mortgage insurance covered under this Notice. These programs are administered by FHA's Office of Multifamily Housing Programs. This Notice does not change MIP rates for programs under FHA's Office of Healthcare Programs, including health care facilities and the hospital insurance programs.

**FHA MULTIFAMILY MORTGAGE INSURANCE PREMIUMS BY RATE CATEGORY**

FHA Multifamily mortgage insurance program	Current upfront capitalized MIP* basis points	Proposed Apr 1, 2016 upfront capitalized MIP* basis points	Current annual MIP basis points	Proposed Apr 1, 2016 annual MIP basis points
<i>MARKET RATE HOUSING</i>		Unchanged		Unchanged
207 Multifamily New Constr/Sub Rehab w/o LIHTC	70	70	70	70
207 Manufactured Home Parks without LIHTC	70	70	70	70
221(d)(4) NC/SR without LIHTC	65	65	65	65
220 Urban Renewal Housing without LIHTC	70	70	70	70
213 Cooperative	70	70	70	70
207/223(f) Refinance or Purchase for Apts w/o LIHTC	100	100	60	60
223(a)(7) Refinance of Apartments without LIHTC	50	50	50	50
231 Elderly Housing without LIHTC	70	70	70	70
241(a) Supplemental Loans for Apts/coop w/o LIHTC	95	95	95	95
<i>BROADLY AFFORDABLE HOUSING</i>		25		25
207 New Constr/Sub Rehab w 90%+ LIHTC, or 90%+ Section 8	45	25	45	25
207 Manufactured Home Parks with 90%+ LIHTC, or 90%+ Section 8	45	25	45	25
221(d)(4) NC/SR with 90%+ LIHTC, or 90%+ Section 8	45	25	45	25
220 Urban Renewal Housing with 90%+ LIHTC, or 90%+ Section 8	45	25	45	25
207/223(f) Refi or Purchase with 90%+ LIHTC, or 90%+ Section 8	100	25	45	25
223(a)(7) Refi with 90%+ LIHTC, or 90%+ Section 8	50	25	45	25
231 Elderly Housing with 90%+ LIHTC, or 90%+ Section 8	45	25	45	25
241(a) for Apartments/coop with 90%+ LIHTC, or 90%+ Section 8	45	25	45	25
Section 542(b) Risk Share**	50	25	50	25
Section 542(c) Risk Share**	50	25	50	25
<i>AFFORDABLE: INCLUSIONARY/VOUCHERS</i>		35		35
207 New Constr/Sub Rehab with Inclusionary Zoning, or 10%–90% LIHTC, or 10%–90% Section 8	45–70	35	45–70	35
207 Manufactured Home Parks w Inclusionary Zoning, or 10%–90% LIHTC, or 10%–90% Section 8	45–70	35	45–70	35
221(d)(4) NC/SR with Inclusionary Zoning, or 10%–90% LIHTC, or 10%–90% Section 8	45–65	35	45–65	35
220 Urban Renewal Housing with Inclusionary Zoning, or 10%–90% LIHTC, or 10%–90% Section 8	45–70	35	45–70	35
207/223(f) Refinance or Purchase with Inclusionary Zoning, or 10%–90% LIHTC, or 10%–90% Section 8	100	35	45–60	35
223(a)(7) Refinance of Apts with Inclusionary Zoning, or 10%–90% LIHTC, or 10%–90% Section 8	50	35	45–50	35
231 Elderly Housing with Inclusionary Zoning, or 10%–90% LIHTC, or 10%–90% Section 8	45–70	35	45–70	35
241(a) Supplementals for Apts/coop with Inclusion Zoning, or 10%–90% LIHTC, or 10%–90% Section 8	45–95	35	45–95	35
<i>GREEN/ENERGY EFFICIENT HOUSING</i>		25		25
207 Multifamily New Construction/Sub Rehab with Green	45–70	25	45–70	25
207 Manufactured Home Parks with Green	45–70	25	45–70	25
221(d)(4) NC/SR with Green	45–65	25	45–65	25
220 Urban Renewal Housing with Green	45–70	25	45–70	25
207/223(f) Refinance or Purchase for Apts with Green	100	25	45–60	25
223(a)(7) Refinance of Apartments with Green	50	25	45–50	25
231 Elderly Housing with Green	45–70	25	45–70	25
241(a) Supplemental Loans for Apts/coop with Green	45–95	25	45–95	25

\*Proposed upfront premiums for Multifamily refinancing programs are capitalized and based on the first year's annual MIP. Upfront premiums for Multifamily new construction and substantial rehabilitation programs insuring advances are capitalized and based on the annual MIP for the entire construction period.

\*\* Under the Sections 542(b) and 542(c) Risk Share programs, the MIP collected by HUD is currently, and will continue to be under the proposed structure, proportionate to the percentage of risk assumed by FHA, as follows:

Program	FHA % of risk share	Proposed upfront capitalized MIP basis points	Proposed annual MIP basis points
542(b) .....	50	12.5 (25 bps × 50%) .....	12.5 (25 bps × 50%).
542(c) .....	50	12.5 (25 bps × 50%) .....	12.5 (25 bps × 50%).
	75	18.75 (25 bps × 75%) .....	18.75 (25 bps × 75%).
	90	22.5 (25 bps × 90%) .....	22.5 (25 bps × 90%).

The proposed MIP rates would become effective for FHA firm commitments issued or reissued on or after April 1, 2016. MIP rates will not be modified for any loans that close or reach initial endorsement prior to March 31, 2016.

Dated: January 8, 2016.  
**Edward L. Golding,**  
*Principal Deputy Assistant Secretary for Housing.*  
 [FR Doc. 2016-01511 Filed 1-27-16; 8:45 am]  
**BILLING CODE 4210-67-P**

**DEPARTMENT OF JUSTICE**

[OMB Number 1117-0034]

**Agency Information Collection Activities; Proposed eCollection, eComments Requested; Extension Without Change of a Previously Approved Collection; Collection of Laboratory Analysis Data on Drug Samples Tested by Non-Federal (State and Local Government) Crime Laboratories**

**AGENCY:** Drug Enforcement Administration, Department of Justice.  
**ACTION:** 30-Day notice.

**SUMMARY:** The Department of Justice (DOJ), Drug Enforcement Administration (DEA), will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. This proposed information collection was previously published in the **Federal Register** at 80 FR 73834, November 25, 2015, allowing for a 60-day comment period.

**DATES:** Comments are encouraged and will be accepted for an additional 30 days until February 29, 2016.

**FOR FURTHER INFORMATION CONTACT:** If you have comments on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Barbara J. Boockholdt, Office of

Diversion Control, Drug Enforcement Administration; Mailing Address: 8701 Morrisette Drive, Springfield, Virginia 22152; Telephone: (202) 598-6812.

Written comments and/or suggestions can also be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20530 or sent to *OIRA\_submissions@omb.eop.gov*.

**SUPPLEMENTARY INFORMATION:** Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency’s estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Evaluate whether and if so how the quality, utility, and clarity of the information proposed to be collected can be enhanced; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Overview of this information collection:

1. *Type of Information Collection:* Extension of a currently approved collection.
2. *Title of the Form/Collection:* Collection of Laboratory Analysis Data on Drug Samples Tested by Non-Federal (State and Local Government) Crime Laboratories.
3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* There are no applicable forms associated with this collection. The applicable component within the

Department of Justice is the Drug Enforcement Administration, Office of Diversion Control.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:*

Affected public (Primary): Business or other for-profit.

Affected public (Other): Not-for-profit institutions; Federal, State, local, and tribal governments.

**Abstract:** This collection provides the Drug Enforcement Administration (DEA) with a national database on analyzed drug evidence from non-federal laboratories. Information from this database is combined with the other existing databases to develop more accurate, up-to-date information on abused drugs. This database represents a voluntary, cooperative effort on the part of participating laboratories to provide a centralized source of analyzed drug data.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The DEA estimates that 140 persons respond annually for this collection at 1.6 hours per respondent, for an annual burden of 218 hours.

6. *An estimate of the total public burden (in hours) associated with the proposed collection:* The DEA estimates that this collection takes 218 annual burden hours.

If additional information is required please contact: Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., Suite 3E.405B, Washington, DC 20530.

Dated: January 25, 2016.  
**Jerri Murray,**  
*Department Clearance Officer for PRA, U.S. Department of Justice.*

[FR Doc. 2016-01677 Filed 1-27-16; 8:45 am]  
**BILLING CODE 4410-09-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-76970; File No. SR-FINRA-2015-040]

### Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Amendment No. 1 and Order Granting Accelerated Approval to a Proposed Rule Change, as Modified by Amendment No. 1, to Adopt the Funding Portal Rules and Related Forms and Rule 4518

January 22, 2016.

#### I. Introduction

On October 9, 2015, the Financial Industry Regulatory Authority, Inc. (“FINRA”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Exchange Act”) <sup>1</sup> and Rule 19b-4 thereunder, <sup>2</sup> a proposed rule change to adopt Funding Portal Rules 100, 110, 200, 300, 800, 900 and 1200 (collectively, the “Funding Portal Rules”) and related forms. In addition, as part of the proposed rule change, FINRA proposes to adopt new FINRA Rule 4518 (Notification to FINRA in Connection with the JOBS Act) in the FINRA rulebook. The proposed rule change was published for comment in the **Federal Register** on October 28, 2015. <sup>3</sup> The Commission received three comment letters on the proposed rule change. <sup>4</sup> On December 9, 2015, FINRA extended the time period for Commission action on this proposed rule change until January 26, 2016. On January 21, 2016, FINRA filed an amendment to the proposed rule change (“Amendment No. 1”). <sup>5</sup> FINRA

responded to the comment letters on January 21, 2016. <sup>6</sup> The Commission is publishing this Notice and Order to solicit comment on Amendment No. 1 and to approve the proposed rule change, as modified by

Amendment No. 1, on an accelerated basis.

#### II. Description of the Rule Change and Amendment No. 1 <sup>7</sup>

On October 30, 2015, the Commission adopted Regulation Crowdfunding, <sup>8</sup> which implements provisions of Title III of the JOBS Act, including those relating to registration and membership requirements of a new type of entity called a funding portal. <sup>9</sup> Pursuant to Section 3(h)(1)(B) of the Exchange Act and Regulation Crowdfunding, funding portals are required to become members of a national securities association registered under Section 15A of the Exchange Act in order to function as intermediaries in certain crowdfunding transactions. <sup>10</sup> In addition, Section 3(h)(2) of the Exchange Act requires that the national securities association only examine for and enforce against registered funding portals rules that the national securities association has written specifically for registered

1200(b)(4)(C). See Amendment No. 1 at 3-4. These changes are discussed in more detail below.

<sup>6</sup> See letter from Adam Arkel, Associate General Counsel, FINRA, dated January 21, 2016 (“FINRA Letter”).

<sup>7</sup> The Notice contains a more detailed discussion of the rules. In addition, the entire text of the rules, including the amendments, can be found in Exhibit 5 of Amendment No. 1.

<sup>8</sup> See Exchange Act Release No. 76324, 80 FR 71387 (Nov. 16, 2015).

<sup>9</sup> See Securities Act of 1933 (“Securities Act”) Section 4A(a)(1)-(2); Exchange Act Section 3(h)(1)(B). A funding portal is defined in Regulation Crowdfunding as “a broker acting as an intermediary in a transaction involving the offer or sale of securities in reliance on Section 4(a)(6) of the Securities Act (15 U.S.C. 77d(a)(6)), that does not: (i) Offer investment advice or recommendations; (ii) Solicit purchases, sales or offers to buy the securities displayed on its platform; (iii) Compensate employees, agents, or other persons for such solicitation or based on the sale of securities displayed or referenced on its platform; or (iv) Hold, manage, possess, or otherwise handle investor funds or securities.” Rule 300(c)(2) of the SEC’s Regulation Crowdfunding. See also Section 3(a)(80) of the Exchange Act.

<sup>10</sup> See Section 3(h)(1)(B) of the Exchange Act (requiring, as a condition of the exemption from broker registration, that a funding portal be a members of a national securities association that is registered with the Commission under Section 15A of the Exchange Act); Regulation Crowdfunding Rule 400 *et seq.* (containing the registration requirements for funding portals). See also Securities Act Section 4A(a)(2). FINRA is currently the only registered national securities association.

funding portals. <sup>11</sup> Accordingly, FINRA, a national securities association registered under Section 15A of the Exchange Act, proposed Funding Portal Rules 100 (General Standards), 110 (Funding Portal Application), 200 (Funding Portal Conduct), 300 (Funding Portal Compliance), 800 (Investigations and Sanctions), 900 (Code of Procedure) and 1200 (Arbitration and Mediation), as well as Form FP-NMA (for new membership applications), Form FP-CMA (for continuing membership applications), Funding Portal Rule 300(c) Form (for reporting disclosure events as required by Funding Portal Rule 300(c)) and Form FP—Statement of Revenue (for reporting gross revenue as required by Funding Portal Rule 300(e)). FINRA proposed to apply the Funding Portal Rules and related forms to SEC-registered funding portals that become FINRA members. <sup>12</sup> FINRA also proposed to adopt new FINRA Rule 4518 (Notification to FINRA in Connection with the JOBS Act) to implement notification requirements for FINRA broker-dealer members that engage in certain crowdfunding transactions or enter into control relationships with funding portals.

#### A. General Standards

Funding Portal Rule 100 sets forth basic standards and definitions for purposes of the Funding Portal Rules. The rule provides that all funding portal members and persons associated with funding portal members shall be subject to the FINRA By-Laws and FINRA Regulation By-Laws, unless the context requires otherwise, and the Funding Portal Rules. <sup>13</sup> The rule also provides that persons associated with a funding portal member shall have the same duties and obligations as a funding portal member under the Funding Portal Rules. The term “associated person of a funding portal member” or “person associated with a funding portal member” is defined in the rule as “any sole proprietor, partner, officer, director or manager of a funding portal, or other natural person occupying a similar status or performing similar functions, or any natural person directly or indirectly controlling or controlled by a

<sup>11</sup> 15 U.S.C. 78c(h)(2) (“[A] national securities association shall only examine for and enforce against a registered funding portal rules of such national securities association written specifically for registered funding portals.”).

<sup>12</sup> FINRA separately proposed Section 15 of Schedule A to the FINRA By-Laws governing the fees for funding portals that are FINRA members on October 9, 2015. The proposal became effective upon receipt of the filing by the Commission. See Exchange Act Release No. 76238, 80 FR 66341 (Oct. 28, 2015).

<sup>13</sup> See Funding Portal Rule 100(a).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> See Exchange Act Release No. 76239 (Oct. 28, 2015), 80 FR 66348 (“Notice”).

<sup>4</sup> See letters from Judith Shaw, President, North American Securities Administrators Association, Inc., dated November 19, 2015 (“NASAA Letter”); Hugh D. Berkson, President, Public Investors Arbitration Bar Association, dated November 18, 2015 (“PIABA Letter”); Chris Tyrrell, Chair, CrowdFund Intermediary Regulatory Advocates, dated November 18, 2015 (“CFIRA Letter”).

<sup>5</sup> See Partial Amendment No. 1, SR-FINRA-2015-040 (Jan. 21, 2016) (“Amendment No. 1”). Amendment No. 1 revised the proposal to include “for purposes of FINRA Rule 8210 any other person listed in Schedule A of Form Funding Portal of a member” to the definition of “associated person of a funding portal member” or “person associated with a funding portal member” in Funding Portal Rule 100(b)(1). See Amendment No. 1 at 3. Amendment No. 1 is available in the public comment file for SR-FINRA-2015-040 on the Commission’s Web site. Amendment No. 1 also revised the proposal to make certain technical changes to Funding Portal Rules 300(a)(1)(A), 900(a)(4)(C), 900(a)(4)(F), 1200(a)(3), 1200(a)(4) and

funding portal member, or any employee of a funding portal member.”<sup>14</sup>

### B. FINRA Membership

Funding Portal Rule 110(a) addresses the membership application process (“MAP”) for funding portal applicants (“FP Applicants”).<sup>15</sup>

#### 1. MAP for Initial Membership or Change in Ownership or Control

Funding Portal Rule 110(a)(3)(A) provides that an FP Applicant for FINRA membership must submit its application to FINRA’s Department of Member Regulation (“Department”) by filing a Form FP–NMA<sup>16</sup> in the manner prescribed by FINRA and an application fee. In addition, at the time an FP Applicant for FINRA membership submits its application, the FP Applicant must submit information, in a format to be prescribed by FINRA, indicating whether the FP Applicant or any associated person (as defined in Funding Portal Rule 100(b)(1)) of the FP Applicant is subject to an event described in Section 3(a)(39) of the Exchange Act.<sup>17</sup> The FP Applicant must keep this information current and must update such information promptly, but in any event not later than 10 days following any change in such information.

The rule requires a funding portal member to submit its application on Form FP–CMA<sup>18</sup> for prior approval of a change:

- In the equity ownership or partnership capital, LLC membership interest, or other ownership interest of the funding portal member that results

in one person or entity directly or indirectly owning or controlling 25 percent or more of the equity or partnership capital, LLC membership interest, or other ownership interest; or

- of control persons of the funding portal member, other than the appointment or election of a natural person as an officer or director of the funding portal member in the normal course of business, regardless of whether such change occurred as a result of a direct or indirect change in the equity ownership, partnership capital, LLC membership interest, or other ownership interest in the funding portal member.<sup>19</sup>

After receiving an application, the rules provide that FINRA may make requests for additional documents or information and will hold one or more membership interviews.<sup>20</sup> The Funding Portal Rules also provide processes for rejection by FINRA due to an incomplete application,<sup>21</sup> withdrawal of an initial or continued membership application by a FP Applicant,<sup>22</sup> and lapse of application due to certain types of inaction by the FP Applicant.<sup>23</sup>

#### 2. Granting or Denying the Application

Funding Portal Rule 110(a)(10) requires the Department to consider the application for initial membership or change of ownership or control, other information and documents provided by the FP Applicant during the application process, other information and documents obtained by the Department, and the public interest and the protection of investors. After considering this information, the Department is required to determine whether the FP Applicant meets each of the following five standards, as applicable:<sup>24</sup>

- The FP Applicant and its associated persons are capable of complying with applicable federal securities laws, the rules and regulations thereunder, and the Funding Portal Rules, including

observing high standards of commercial honor and just and equitable principles of trade. In determining whether this standard is met, the Department is required to take into consideration all information in its possession, including information regarding whether an FP Applicant or its associated persons:<sup>25</sup>

- is subject to an event described in Section 3(a)(39) of the Exchange Act; and

- is the subject of a pending, adjudicated, or settled regulatory action or investigation by the SEC, the Commodity Futures Trading Commission, a federal, state, or foreign regulatory agency, or a self-regulatory organization; an adjudicated or settled investment-related private civil action for damages or an injunction; or a criminal action (other than a minor traffic violation) that is pending, adjudicated, or that has resulted in a guilty or no contest plea of an FP Applicant or its associated persons.

- The FP Applicant has established all contractual or other arrangements and business relationships with banks, broker-dealers, clearing corporations, service bureaus, escrow agents, transfer agents, technology service providers, or others necessary to initiate the operations described in the FP Applicant’s Form FP–NMA.<sup>26</sup>

- The FP Applicant has a supervisory system that is reasonably designed to achieve compliance with applicable federal securities laws, the rules and regulations thereunder, and the Funding Portal Rules.<sup>27</sup>

- The FP Applicant has fully disclosed and established through documentation all direct and indirect sources of funding.<sup>28</sup>

- The FP Applicant has a recordkeeping system that enables the FP Applicant to comply with federal, state, and self-regulatory organization recordkeeping requirements.<sup>29</sup>

Under the rules, if the Department determines that the FP Applicant meets each of the applicable standards set forth above, it is required to grant an application for initial membership or change of ownership or control.<sup>30</sup> However, if the Department determines that the FP Applicant does not meet one or more of the applicable standards, the Department is required to deny the application.<sup>31</sup> The rules further provide that the FP Applicant’s approval for

<sup>14</sup> Funding Portal Rule 100(b)(1).

<sup>15</sup> “FP Applicant” is defined as “a person that applies for admission to FINRA as a funding portal member under paragraph (a)(3) of Funding Portal Rule 110 or a funding portal member that files an application for approval of a change in ownership or control under paragraph (a)(4) of the rule.” Funding Portal Rule 110(a)(1)(B).

<sup>16</sup> Form FP–NMA is set forth in Exhibit 3a.

<sup>17</sup> See Funding Portal Rule 110(a)(3)(B). See also 15 U.S.C. 78c(a)(39). Section 3(a)(39) of the Exchange Act sets forth the definition of “statutory disqualification.” Funding Portal Rule 110(a)(1)(A) includes a different definition of “associated person” solely for purposes of the MAP. Under Funding Portal Rule 110(a)(1)(A), “associated person” is defined as “any: (1) sole proprietor, partner, officer, director or manager of a funding portal, or other natural person occupying a similar status or performing similar functions; (2) natural person directly or indirectly controlling or controlled by such funding portal, or any employee of a funding portal, except that any person associated with a funding portal whose functions are solely clerical or ministerial shall not be included in the meaning of such term; or (3) partnership, corporation, association, or other legal entity controlled by or controlling the FP Applicant as defined in Funding Portal Rule 110(a)(1)(B).”

<sup>18</sup> Form FP–CMA is set forth in Exhibit 3b.

<sup>19</sup> See Funding Portal Rule 110(a)(4)(A)–(B).

<sup>20</sup> See Funding Portal Rule 110(a)(6), 110(a)(9). See also Notice, 80 FR at 66351. Under the rules, the membership interview(s) may be conducted by video conference or such other means as FINRA may specify.

<sup>21</sup> See Funding Portal Rule 110(a)(5). See also Notice, 80 FR at 66351.

<sup>22</sup> See Funding Portal Rule 110(a)(7). See also Notice, 80 FR at 66351.

<sup>23</sup> See Funding Portal Rule 110(a)(8). See also Notice, 80 FR at 66351.

<sup>24</sup> According to FINRA, the five standards are streamlined and consolidated in comparison to the 14 standards that apply to broker-dealer applications under NASD Rule 1014(a). FINRA believes that the streamlined, consolidated approach is appropriate to reflect the limited nature of funding portal business. See Notice, 80 FR at 66352, n. 22.

<sup>25</sup> See Funding Portal Rule 110(a)(10)(A).

<sup>26</sup> See Funding Portal Rule 110(a)(10)(B).

<sup>27</sup> See Funding Portal Rule 110(a)(10)(C).

<sup>28</sup> See Funding Portal Rule 110(a)(10)(D).

<sup>29</sup> See Funding Portal Rule 110(a)(10)(E).

<sup>30</sup> See Funding Portal Rule 110(a)(11)(A).

<sup>31</sup> See Funding Portal Rule 110(a)(11)(B).

membership shall be contingent upon the FP Applicant's filing of an executed written membership agreement.

Funding Portal Rule 110(a)(12) requires that the Department serve a written decision on the application for initial membership or change of ownership or control within 60 days after the filing of the application or such later date as the Department and the FP Applicant have agreed in writing. If the Department denies the application, it is required to explain in detail the reason for denial, referencing the applicable standard(s). A funding portal may appeal the Department's decision under the process set forth in Funding Portal Rule 110(a)(13), which is described in more detail in the Notice.<sup>32</sup>

### 3. Application to the SEC for Review

Funding Portal Rule 110(a)(14) provides that a person aggrieved by final action of FINRA under paragraph (a) of the rule may apply for review by the SEC pursuant to Section 19(d)(2) of the Exchange Act.<sup>33</sup> The filing of an application for review shall not stay the effectiveness of a decision constituting final action of FINRA, unless the SEC otherwise orders.

### 4. Filing of Misleading Information as to Membership or Registration

Funding Portal Rule 110(a)(15) provides that no funding portal member or person associated with a funding portal member shall file with FINRA information with respect to membership or registration that is incomplete or inaccurate so as to be misleading, or that could in any way tend to mislead, or shall fail to correct such filing after notice thereof.

### C. Funding Portal Conduct

Funding Portal Rule 200(a) is based in large part on FINRA Rule 2010 (Standards of Commercial Honor and Principles of Trade).<sup>34</sup> The rule provides that a funding portal member, in the conduct of its business, shall observe high standards of commercial honor and just and equitable principles of trade.

Funding Portal Rule 200(b) is based in large part on FINRA Rule 2020 (Use of Manipulative, Deceptive or Other Fraudulent Devices).<sup>35</sup> The rule provides that no funding portal member shall effect any transaction in, or induce the purchase or sale of, any security by means of, or by aiding or abetting, any

manipulative, deceptive or other fraudulent device or contrivance.

Funding Portal Rule 200(c) (Communications with the Public) is aimed at prohibiting false and misleading statements.<sup>36</sup> The rule defines the term "funding portal communication" to mean any electronic or other written communication that is distributed or made available by a funding portal member to one or more investors.<sup>37</sup> Paragraph 200(c)(2) of the rule addresses content standards.<sup>38</sup> Paragraph 200(c)(2)(A) of the rule provides that no funding portal communication may:

- Include any false, exaggerated, unwarranted, promissory or misleading statement or claim;
- Omit any material fact or qualification if the omission, in light of the context of the material presented, would cause the communication to be misleading; state or imply that FINRA, or any other corporate name or facility owned by FINRA, or any other regulatory organization endorses, indemnifies, or guarantees the funding portal member's business practices; or
- Predict or project performance, imply that past performance will recur or make any exaggerated or unwarranted claim, opinion or forecast. A hypothetical illustration of mathematical principles is permitted, provided that it does not predict or project the performance of an investment.

Further, paragraph (c)(2)(B) of the rule provides that all funding portal member communications must be based on principles of fair dealing and good faith and must be fair and balanced.<sup>39</sup> In addition, the rule provides that all funding portal member communications must prominently disclose the name of the funding portal member, or the name under which the funding portal member primarily conducts business as disclosed on the member's Form FP-NMA.<sup>40</sup> Finally, paragraph 200(c)(3) of the rule addresses issuer communications and provides that the content standards of the rule shall not apply to any communication on the funding portal member's Web site that is prepared solely by an issuer; provided, however, that no funding portal member may include on its Web site any issuer communication that the funding portal member knows or has reason to know contains any untrue

statement of a material fact or is otherwise false or misleading.<sup>41</sup>

### D. Funding Portal Compliance

#### 1. Supervisory System

Funding Rule 300(a) is a streamlined version of FINRA's supervision rules and is designed to permit funding portal members flexibility to tailor their supervisory systems to their business models.<sup>42</sup> The rule requires that each funding portal member establish and maintain a system to supervise the activities of each associated person of the funding portal member that is reasonably designed to achieve compliance with applicable securities laws and regulations, and with the Funding Portal Rules.<sup>43</sup> The rule provides that a funding portal member's supervisory system must provide, at a minimum, for:

- The establishment and maintenance of written procedures to supervise the activities of the funding portal and its associated persons;<sup>44</sup>
- the designation of a person with authority to carry out the supervisory responsibilities of the funding portal member; and
- reasonable efforts to determine that all supervisory personnel are qualified by virtue of experience or training to carry out their assigned responsibilities.

Funding Portal Rule 300(a)(2) provides that a funding portal member must permit the examination and inspection of all of its businesses and business operations that relate to its activities as a funding portal, such as its premises, systems, platforms and records, by representatives of FINRA and the Commission, and must cooperate with the examination, inspection or investigation of any persons directly or indirectly using its platform.

#### 2. Reporting Requirements

Funding Portal Rule 300(c), which is discussed in further detail in the Notice, requires funding portal members to report to FINRA (and sets forth the obligations of such members' associated persons to report to the member) regulatory proceedings, disciplinary and other events.<sup>45</sup> The rule requires that

<sup>41</sup> See Funding Portal Rule 200(c)(3).

<sup>42</sup> See Notice, 80 FR at 66354.

<sup>43</sup> See Funding Portal Rule 300(a)(1).

<sup>44</sup> In Amendment No. 1, FINRA is proposing to revise the language in this portion of Rule 300(a)(1) reading "funding portal and its associated persons" to "funding portal member and its associated persons." See Amendment No. 1 at 3-4.

<sup>45</sup> See Funding Portal Rule 300(c)(1)(A) (discussing the events requiring reporting). See also Notice, 80 FR at 66354-55. Each associated person

<sup>32</sup> See Notice, 80 FR at 66352-53.

<sup>33</sup> 15 U.S.C. 78s(d)(2).

<sup>34</sup> See Notice, 80 FR at 66353.

<sup>35</sup> See Notice, 80 FR at 66353.

<sup>36</sup> See Notice, 80 FR at 66353.

<sup>37</sup> See Funding Portal Rule 200(c)(1).

<sup>38</sup> See Funding Portal Rule 200(c)(2).

<sup>39</sup> See Funding Portal Rule 200(c)(2)(B).

<sup>40</sup> See Funding Portal Rule 200(c)(2)(C).



funding portals promptly report to FINRA, within 30 calendar days, through such means as FINRA may specify, after the member knows or should have known of the existence of the event.<sup>46</sup> The rule is largely based on current FINRA Rule 4530 (Reporting Requirements).<sup>47</sup> The rule indicates that nothing contained in the rule eliminates, reduces or otherwise abrogates the responsibilities of a funding portal member to promptly disclose required information on SEC Form Funding Portal as applicable, to make any other required filings or to respond to FINRA with respect to any investor complaint, examination or inquiry.<sup>48</sup> In addition, the rule provides that a funding portal member is not required to report an event otherwise required to be reported under paragraph (c)(1)(A) of the rule if the member discloses the event on SEC Form Funding Portal, consistent with the requirements of that form, or as required pursuant to Funding Portal Rule 800(b)(2), which is discussed in more detail below.<sup>49</sup>

#### 4. Statement of Gross Revenue

Funding Portal Rule 300(e) requires each funding portal member each year to report to FINRA, in the manner prescribed by FINRA, the member's gross revenue on Form FP-Statement of Revenue, no later than 60 calendar days following each calendar year-end.<sup>50</sup> The rule requires that the statement of gross revenue must be prepared in accordance with U.S. Generally Accepted Accounting Principles.

#### 6. Record of Associated Persons of the Funding Portal Member

Funding Portal Rule 300(f) requires each funding portal member to make

of a funding portal is also required to promptly report the existence of an event in Rule 300(c)(1)(A) to the funding portal. *See* Funding Portal Rule 300(c)(3). In addition to the events specified in Rule 300(c)(1)(A), each funding portal member is required to promptly report to FINRA, within 30 calendar days, through such means as FINRA may specify, after the funding portal member has concluded or reasonably should have concluded that an associated person of the funding portal member or the funding portal member itself has violated any securities-, commodities-, financial- or investment-related laws, rules, regulations or standards of conduct of any foreign or domestic regulatory body or self-regulatory organization. *See* Funding Portal Rule 300(c)(2). Funding portal members will use the Funding Portal Rule 300(c) Form for their reporting requirements pursuant to the rule. *See* Funding Portal Rule 300(c) Form.

<sup>46</sup> *See* Funding Portal Rule 300(c)(1).

<sup>47</sup> *See* Notice, 80 FR at 66354.

<sup>48</sup> *See* Funding Portal Rule 300(c)(4).

<sup>49</sup> *See id.*

<sup>50</sup> According to FINRA, the Statement of Gross Revenue will be used to determine a funding portal member's annual fees, which FINRA is establishing as part of a separate rulemaking. *See supra* note 12.

and keep current a record listing every associated person of the funding portal member that shows, for each such associated person, every office of the funding portal member where the associated person regularly conducts any business for the funding portal member, and any registration number, if any, to be prescribed by FINRA, and every identification number or code assigned to the associated person by the funding portal member.<sup>51</sup> The rule requires each funding portal member to preserve all records made pursuant to the rule for five years, the first two in an easily accessible place.

FINRA is also proposing in Amendment No. 1 to include for purposes of FINRA Rule 8210 any other person listed in Schedule A of Form Funding Portal of a member to the definition of associated person.<sup>52</sup> FINRA Rule 8210 authorizes it to require associated persons of broker-dealers to provide information and testimony, and to inspect and copy certain books and records, among other things. Adding this language will more closely align the rule to the definition of associated person that it applies to associated persons of broker-dealers. Therefore, FINRA will be able to obtain information and testimony from persons listed in Schedule A of a funding portal's Form Funding Portal in the same manner that it may from persons listed in Schedule A of a broker-dealer's Form BD.<sup>53</sup>

#### E. Investigations and Sanctions

##### 1. Application of the FINRA Rule 8000 Series (Investigations and Sanctions)

Funding Portal Rule 800(a) is designed to provide that funding portal members will be subject to specified FINRA rules governing investigations and sanctions.<sup>54</sup> Specifically, the rule provides that, except for FINRA Rules 8110 (Availability of Manual to Customers), 8211 (Automated Submission of Trading Data Requested by FINRA), 8213 (Automated Submission of Trading Data for Non-Exchange-Listed Securities Requested

<sup>51</sup> According to FINRA, the rule is based in large part on Exchange Act Rule 17a-3(a)(12)(ii) (17 CFR 240.17a-3(a)(12)(ii)), which requires broker-dealers to make and keep current a record listing every associated person of the broker-dealer. FINRA believes that requiring funding portals to keep such a record is prudent both for supervisory and regulatory oversight purposes. *See* Notice, 80 FR at 66356.

<sup>52</sup> *See supra* note 5.

<sup>53</sup> A funding portal is required to list its direct owners and executive officers on Schedule A of Form Funding Portal and, therefore, the amendment will allow FINRA to obtain information and testimony from these persons.

<sup>54</sup> *See* Notice, 80 FR at 66356.

by FINRA) and 8312 (FINRA BrokerCheck Disclosure),<sup>55</sup> all funding portal members shall be subject to the FINRA Rule 8000 Series, unless the context requires otherwise.<sup>56</sup>

##### 2. Public Disclosure of Information on Funding Portals

Funding Portal Rule 800(b) is a streamlined version of FINRA Rule 8312 (FINRA BrokerCheck Disclosure) and addresses specific information that FINRA is required to make available to the public.<sup>57</sup> The rule authorizes FINRA to provide access to the public, via an appropriate link on the FINRA Web site, to a funding portal member's current SEC Form Funding Portal, including amendments and registration withdrawal requests, as filed with the SEC pursuant to SEC Regulation Crowdfunding, in the form made publicly available by the SEC.<sup>58</sup> The rule provides that, with respect to a former funding portal member, FINRA may provide similar access to the public to the former funding portal member's most recent SEC Form Funding Portal, and any amendments and registration withdrawal requests, as filed with the SEC.

The rule also requires FINRA to make available to the public information filed by a funding portal member, in a format to be prescribed by FINRA, indicating whether the funding portal member or any associated person of the funding portal member is subject to an event described in Section 3(a)(39) of the Exchange Act.<sup>59</sup> The rule provides that the funding portal member must keep this information current and must update such information promptly, but in any event not later than 10 days following any change in such information.<sup>60</sup>

The rule also provides that, with respect to the information provided pursuant to paragraph (b)(2) of the rule, FINRA shall not make available information reported as a social security number, information that FINRA is otherwise prohibited from releasing under Federal law, or information that is provided solely for use by FINRA.<sup>61</sup> The rule provides that FINRA reserves the right to exclude, on a case-by-case

<sup>55</sup> With respect to FINRA Rule 8312, as discussed below, FINRA proposed Funding Portal Rule 800(b) as a streamlined version of the rule to apply to funding portal members. *See* Notice, 80 FR at 66356, n. 47.

<sup>56</sup> There are a few additional changes from the Rule 8000 series, which are discussed in the Notice. *See* Notice, 80 FR at 66356-66357.

<sup>57</sup> *See* Notice, 80 FR at 66357.

<sup>58</sup> *See* Funding Portal Rule 800(b)(1).

<sup>59</sup> *See* Funding Portal Rule 800(b)(2).

<sup>60</sup> *See* Funding Portal Rule 800(b)(2).

<sup>61</sup> *See* Funding Portal Rule 800(b)(3).

basis, information that contains confidential customer information, offensive or potentially defamatory language or information that raises significant identity theft, personal safety or privacy concerns that are not outweighed by investor protection concerns or information that was reported in error by a funding portal member.<sup>62</sup>

#### F. Code of Procedure

##### 1. Application of FINRA Rule 9000 Series (Code of Procedure)

Funding Portal Rule 900(a) is designed to provide that funding portal members will be subject to specified FINRA rules setting forth FINRA's Code of Procedure.<sup>63</sup> Specifically, except for the FINRA Rule 9520 Series, FINRA Rule 9557, and the FINRA Rule 9700 Series,<sup>64</sup> the rule provides that all funding portal members shall be subject to the FINRA Rule 9000 Series, unless the context requires otherwise. The rule provides that for purposes of FINRA Rule 9217, a funding portal member may be subject to a fine under FINRA Rule 9216(b) with respect to any of the following:<sup>65</sup>

- Failure to timely submit amendments to SEC Form Funding Portal;
- Funding Portal Rule 200(c) (Communications with the Public);
- Funding Portal Rule 300(a)—Failure to maintain adequate written supervisory procedures where the underlying conduct is subject to Rule 9217;<sup>66</sup>

<sup>62</sup> See Funding Portal Rule 800(b)(3).

<sup>63</sup> See Notice, 80 FR at 66357.

<sup>64</sup> The FINRA Rule 9520 Series addresses "eligibility proceedings" in the context of statutory qualifications which, as discussed further below, FINRA is proposing to address under Funding Portal Rule 900(b). FINRA Rule 9557 addresses service of notice to members that are experiencing financial or operational difficulties under net capital or similar financial responsibility requirements. Because funding portals would not be subject to such requirements, FINRA indicated that Rule 9557 would not be applicable. Similarly, FINRA indicated that it did not propose to apply the Rule 9700 Series to funding portals because the FINRA Rule 9700 Series addresses the automated quotation, execution or communication systems owned or operated by FINRA, which are outside the scope of funding portal business activity. See Notice, 80 FR at 66357.

<sup>65</sup> FINRA Rule 9216(b) sets forth procedures for disposition of specified rule violations designated as minor rule violations pursuant to a plan (referred to as an "MRVP") declared effective by the SEC in accordance with Exchange Act Section 19(d)(1) (15 U.S.C. 78s(d)(1)) and Rule 19d-1(c)(2) (17 CFR 240.19d-1(c)(2)) thereunder. FINRA Rule 9217 sets forth the rules that are eligible for such disposition. FINRA's MRVP allows FINRA to impose a fine of up to \$2,500 on any firm it regulates or person associated with a FINRA regulated firm for a minor violation of an eligible rule.

<sup>66</sup> In Amendment No. 1, FINRA proposes to change the "Failure" to "failure" and add "FINRA"

- Funding Portal Rule 300(c)—failure to timely file reports;
- failure to provide or update contact information as required by Funding Portal Rule 300(d);
- Rule 303(f) of SEC Regulation Crowdfunding—Confirmation of Transactions;<sup>67</sup> and
- Rule 404 of SEC Regulation Crowdfunding—failure to make and preserve records in conformance with all applicable laws, rules, regulations and statements of policy promulgated thereunder, and with the Funding Portal Rules.

The rule also provides that for purposes of FINRA Rule 9551(a),<sup>68</sup> FINRA staff may issue a written notice requiring a funding portal member to file communications with the FINRA Advertising Regulation Department at least ten days prior to use if FINRA staff determines that the member has departed from the standards of Funding Portal Rule 200(c).<sup>69</sup> In addition, the rule provides that for purposes of FINRA Rule 9551(d), the pre-use filing requirement referenced in a notice issued and served under FINRA Rule 9551 shall become effective 21 days after service of the notice, unless stayed by a request for a hearing pursuant to FINRA Rule 9559.<sup>70</sup> The rule further provides that for purposes of proceedings pursuant to FINRA Rule 9810(a),<sup>71</sup> proceedings may be initiated with respect to alleged violations of Section 10(b) of the Exchange Act (15 U.S.C. 78j(b)) and Exchange Act Rule 10b-5 (17 CFR 240.10b-5), Funding Portal Rule 200(a) (if the alleged violation is misuse of investor funds or assets, or based on violations of Section 17(a) of the Securities Act (15 U.S.C. 77q(a)) and Funding Portal Rule 200(b).<sup>72</sup>

##### 2. Eligibility Proceedings

Funding Portal Rule 900(b) is a streamlined version of the current FINRA Rule 9520 Series.<sup>73</sup> The rule sets forth procedures for a person to become or remain associated with a funding portal member, notwithstanding the

before "Rule 9217" in Funding Portal Rule 900(a)(4)(C). See Amendment No. 1 at 4.

<sup>67</sup> In Amendment No. 1, FINRA proposes to change "Confirmation of Transactions" to "confirmation of transactions" in Funding Portal Rule 900(a)(4)(F). See Amendment No. 1 at 4.

<sup>68</sup> FINRA Rule 9551 addresses expedited proceedings by FINRA for failure to comply with public communication standards.

<sup>69</sup> See Funding Portal Rule 900(a)(7).

<sup>70</sup> See Funding Portal Rule 900(a)(8).

<sup>71</sup> FINRA Rule 9810 addresses initiation of cease and desist proceedings by FINRA for specified violations.

<sup>72</sup> See Funding Portal Rule 900(a)(9).

<sup>73</sup> See Notice, 80 FR at 66358.

existence of a statutory disqualification as defined in Article III, Section 4 of the FINRA By-Laws and for a funding portal member or person associated with a funding portal member to obtain relief from the eligibility or qualification requirements of the FINRA By-Laws and Funding Portal Rules.

#### G. Arbitration and Mediation

Funding Portal Rule 1200(a) provides that funding portal members will be subject to the FINRA Rule 12000 Series (Code of Arbitration Procedure for Customer Disputes), FINRA Rule 13000 Series (Code of Arbitration Procedure for Industry Disputes) and FINRA Rule 14000 Series (Code of Mediation Procedure), unless the context requires otherwise.<sup>74</sup> The rule addresses predispute arbitration agreements for investor accounts.<sup>75</sup> The rule provides that any predispute arbitration clause must be highlighted and must be immediately preceded by the following language in outline form:

"This agreement contains a predispute arbitration clause. By signing an arbitration agreement the parties agree as follows:

(A) All parties to this agreement are giving up the right to sue each other in court, including the right to a trial by jury, except as provided by the rules of the arbitration forum in which a claim is filed.

(B) Arbitration awards are generally final and binding; a party's ability to have a court reverse or modify an arbitration award is very limited.

(C) The ability of the parties to obtain documents, witness statements and other discovery is generally more limited in arbitration than in court proceedings.

(D) The arbitrators do not have to explain the reason(s) for their award unless, in an eligible case, a joint request for an explained decision has been submitted by all parties to the panel at least 20 days prior to the first scheduled hearing date.

(E) The panel of arbitrators may include a minority of arbitrators who were or are affiliated with the securities industry.

(F) The rules of some arbitration forums may impose time limits for bringing a claim in arbitration. In some cases, a claim that is ineligible for arbitration may be brought in court.

(G) The rules of the arbitration forum in which the claim is filed, and any amendments thereto, shall be incorporated into this agreement."<sup>76</sup>

Paragraph (b)(2)(A) of the rule provides that, in any agreement

<sup>74</sup> In Amendment No. 1, FINRA is proposing to amend Funding Portal Rules 1200(a)(3) and 1200(a)(4) to add the word "Series" after FINRA Rule 1200. See Amendment No. 1 at 4.

<sup>75</sup> See Notice, 80 FR at 66362. According to FINRA, the rule is a streamlined version of current FINRA Rule 2268 (Requirements When Using Predispute Arbitration Agreements for Customer Agreements).

<sup>76</sup> See Funding Portal Rule 1200(b)(1).

containing a predispute arbitration agreement, there must be a highlighted statement immediately preceding any signature line or other place for indicating agreement that states that the agreement contains a predispute arbitration clause. The statement must also indicate at what page and paragraph the arbitration clause is located. Paragraph (b)(2)(B) provides that, within 30 days of signing, a copy of the agreement containing any such clause must be given to the investor and the funding portal member must retain proof of delivery or of the investor's acknowledgement of receipt.

Paragraph (b)(3)(A) of the rule provides that, within ten business days of receipt of the investor's request, a funding portal member must provide an investor with a copy of any predispute arbitration clause or investor agreement executed between the investor and the funding portal member. Paragraph (b)(3)(B) provides that, upon request by an investor, a funding portal member must provide the investor with the names of, and information on how to contact or obtain the rules of, all arbitration forums in which a claim may be filed under the agreement.

Paragraph (b)(4) of the rule provides that no predispute arbitration agreement shall include any condition that:

- Limits or contradicts the rules of any self-regulatory organization;
- limits the ability of a party to file any claim in arbitration;
- limits the ability of a party to file any claim in court permitted to be filed in court under the rules of the forums in which a claim may be filed under the agreement;<sup>77</sup>
- limits the ability of arbitrators to make any award.

Paragraph (b)(5) of the rule provides that, if an investor files a complaint in court against a funding portal member that contains claims that are subject to arbitration pursuant to a predispute arbitration agreement between the funding portal member and the investor, the funding portal member may seek to compel arbitration of the claims that are subject to arbitration. If the funding portal member seeks to compel arbitration of such claims, the funding portal member must agree to arbitrate all of the claims contained in the complaint if the investor so requests.

Paragraph (b)(6) of the rule provides that all agreements must include a statement that "No person shall bring a putative or certified class action to

arbitration, nor seek to enforce any predispute arbitration agreement against any person who has initiated in court a putative class action; or who is a member of a putative class who has not opted out of the class with respect to any claims encompassed by the putative class action until: (i) The class certification is denied; or (ii) the class is decertified; or (iii) the investor is excluded from the class by the court. Such forbearance to enforce an agreement to arbitrate shall not constitute a waiver of any rights under this agreement except to the extent stated herein."

#### *H. Notification to FINRA in Connection With the JOBS Act*

FINRA also proposed new FINRA Rule 4518. The rule, which would apply to registered broker members, provides that a FINRA member shall notify FINRA, in a manner prescribed by FINRA: Prior to engaging, for the first time, in a transaction involving the offer or sale of securities in reliance on Section 4(a)(6) of the Securities Act; or within 30 days of directly or indirectly controlling, or being controlled by or under common control with, a funding portal as defined pursuant to Rule 300(c)(2) of SEC Regulation Crowdfunding.

### **III. Summary of Comment Letters and FINRA's Response to Comments**

Commenters generally supported FINRA's proposal. As discussed below, some commenters recommended that the proposal be expanded and include additional requirements or explanations in certain aspects. One of these commenters, while not necessarily opposing the proposed rules, also suggested that the Commission reject, and require FINRA to resubmit, the rule proposal. One commenter, while appreciating FINRA's willingness to address potential issues through subsequent rulemakings, encouraged FINRA to address potential shortfalls now before any investors lose money.<sup>78</sup>

#### *A. Timing*

One commenter suggested that FINRA and the public should review and evaluate FINRA's proposed Funding Portal Rules, related forms and Rule 4518 (the broker-dealer crowdfunding notification requirement) in light of Regulation Crowdfunding.<sup>79</sup> The commenter further suggested that the Commission should reject FINRA's rule proposal at this time, require FINRA to resubmit its rules after it has conducted

a review and analysis of Regulation Crowdfunding and extend the comment period.<sup>80</sup> FINRA, however, notes that: (1) Its proposal has been informed by the Commission's rulemaking; <sup>81</sup> (2) its Funding Portal Rules have been in preparation for a considerable time; and (3) it has received public input.<sup>82</sup> According to FINRA, the proposal is intended to create the means for registered funding portals to become FINRA members and is consistent with the JOBS Act and Regulation Crowdfunding.<sup>83</sup> FINRA further notes that it is important that FINRA should be in a position to timely implement the Funding Portal Rules so that funding portals that plan to register with the SEC and seek FINRA membership may avail themselves of Regulation Crowdfunding as it becomes effective.<sup>84</sup> Finally, FINRA points out that it noted in the proposal that it will consider the merit of future rulemakings as regulators gain more experience with funding portals.<sup>85</sup>

#### *B. General Standards*

One commenter suggested omitting the language of "unless the context requires otherwise" in proposed Funding Portal Rule 100 regarding the application of FINRA By-Laws and FINRA Regulation By-Laws to funding portal members and their associated persons because the commenter believes it is unclear when the exception will apply.<sup>86</sup> In response, FINRA notes that it intends the phrase "unless the context requires otherwise" to provide clarity and ensure that funding portals will not be subject to terms under the FINRA By-Laws and FINRA Regulation By-Laws that could not relate to them by virtue of their distinct status and limited permissible business activities under the JOBS Act and Regulation Crowdfunding.<sup>87</sup> FINRA also notes that the phrase is used in other portions in the FINRA rulebook, such as FINRA

<sup>80</sup> *Id.* at 7.

<sup>81</sup> See FINRA Letter at 2 (citing Notice, 80 FR at 66349).

<sup>82</sup> See *id.* at 2. FINRA cites, for example, Regulatory Notice 12-34 (July 2012) (FINRA Requests Comment on Proposed Regulation of Crowdfunding Activities) and Regulatory Notice 13-34. FINRA also cites to the discussion in the Notice regarding Regulatory Notice 13-34 and the comments it received for the Regulatory Notice. See *id.* at 2, n. 9 (citing also to the Notice, 80 FR at 66367).

<sup>83</sup> See *id.* at 2.

<sup>84</sup> *Id.* at 3.

<sup>85</sup> See *id.* at 3. See also Notice, 80 FR at 66349 and 66369.

<sup>86</sup> See PIABA Letter at 2. The commenter also noted that similar limiting language referencing "context" is unclear in several other places in the rules, but did not identify any specific rules. See *id.*

<sup>87</sup> FINRA Letter at 3.

<sup>77</sup> In Amendment No. 1, FINRA is proposing to amend Funding Portal Rule 1200(b)(4)(C) to change "may be filed under the agreement;" to "may be filed under the agreement; or". See Amendment No. 1 at 4.

<sup>78</sup> See NASAA Letter at 2.

<sup>79</sup> See PIABA Letter at 2.

Rule 0160(b),<sup>88</sup> and that it is not aware of any ambiguity that has arisen from the use of the phrase.<sup>89</sup> Finally, FINRA indicates that it is open to further discussion of any specific interpretive issues.<sup>90</sup>

### C. Definition of Associated Person

As described above, Funding Portal Rule 110(a)(1)(A) includes a different definition of associated person solely for purposes of the MAP, which excludes persons whose functions are solely clerical or ministerial.<sup>91</sup> One commenter suggested the exception for such persons from the definition of “associated person” should be extended to the rest of the funding portal rules (*i.e.*, the definition in Funding Portal Rule 100(b)(1) under the General Standards).<sup>92</sup> The commenter noted that employees that are not listed as associated persons in the funding portal’s membership application will become associated persons once FINRA approves the funding portal for membership.<sup>93</sup>

In response, FINRA notes that the two different definitions of associated person in the rules are tailored to different purposes.<sup>94</sup> FINRA indicates that the language in Funding Portal Rule 110(a)(1)(A) excepting persons that have “solely clerical and ministerial” functions is based on longstanding usage under NASD Rule 1011(b), which sets forth the definition of “associated person” for purposes of membership proceedings for broker-dealers.<sup>95</sup> According to FINRA, the definition of “associated person” in Rule 110(a)(1)(A) will perform a similar function for funding portals applying for FINRA membership.<sup>96</sup> FINRA points out that it noted in the proposal that Funding Portal Rule 110(a) is intended to be based on the current broker-dealer membership rules, but FINRA simplified the MAP for funding portals to reflect the limited nature of their businesses.<sup>97</sup>

FINRA further notes that, in contrast, it intended the definition under Funding Portal Rule 100(b)(1) to be for general application to funding portal

members, in a similar manner to the definition of associated persons of broker-dealers under paragraph (rr) under Article I of the FINRA By-Laws.<sup>98</sup> According to FINRA, the purpose of the general definition of associated person in Funding Portal Rule 100(b)(1) is to ensure that all associated persons of the funding portal are subject to the regulatory framework.<sup>99</sup>

### D. Fidelity Bond

As discussed in the Notice, FINRA has determined not to propose at this time a fidelity bond requirement for funding portals.<sup>100</sup> One commenter conveyed its support for FINRA’s approach.<sup>101</sup> Two commenters, however, suggested including a fidelity bond requirement for funding portals.<sup>102</sup> One commenter stated its view that there is “minimal regulation of associated persons working for funding portals” and that a fidelity bond would protect funding portals against potential losses due to acts of the employees.<sup>103</sup> The commenter further stated its view that a streamlined fidelity bond requirement that accounts for a funding portal’s limited scope of activity is an economically feasible alternative given the risk that will otherwise exist for funding portals.<sup>104</sup> Another commenter suggested that, in light of a funding portal’s responsibilities and potential liability, it would be “prudent” for a funding portal to be required to have fidelity bond (or some other type) of insurance.<sup>105</sup>

In response, FINRA indicates that it is not proposing a fidelity bond at this time, stating that as discussed in the proposal, it believes that this approach is appropriate in the interest of reducing potential burdens on prospective funding portal members given the limited nature of funding portal business and given that regulatory experience with funding portals is

developing.<sup>106</sup> FINRA also notes that the Commission considered and determined not to adopt a fidelity bond requirement for funding portals when it adopted Regulation Crowdfunding.<sup>107</sup> FINRA indicates that it has determined to monitor the development of the funding portal business and determine whether future rulemaking regarding fidelity bonds or other financial responsibility requirements is merited.<sup>108</sup>

### E. Communications With the Public

FINRA indicates that it noted in the proposal that the proposed rule is a streamlined version of FINRA Rule 2210 (Communications with the Public) and is aimed at prohibiting false and misleading statements.<sup>109</sup> One commenter suggested that Funding Portal Rule 200 should include a requirement that funding portal member communications provide a sound basis for evaluating the facts in regard to any particular security or type of security, industry or service, which is language that FINRA had originally proposed in Regulatory Notice 13–34.<sup>110</sup> In response, FINRA notes that the rule reflects the limited scope of activity permitted to funding portals.<sup>111</sup> Although FINRA had originally included the language suggested by the commenter in Regulatory Notice 13–34, it indicates that, upon further consideration, it determined not to include such language in the proposal because it believes the language could potentially suggest the activity of offering investment advice or recommendations to investors, which is prohibited as a funding portal business activity.<sup>112</sup>

### F. Reporting Requirements

One commenter suggested that funding portals should be required to report misconduct in 10 days rather than 30 days as proposed under Funding Portal Rules 300(c)(1) and 300(c)(2).<sup>113</sup> The commenter also suggested that Funding Portal Rule 300(c)(1)(A)(ii) should be revised to align with FINRA Rule 4530(a)(1)(B), which requires that

<sup>98</sup> See FINRA Letter at 5.

<sup>99</sup> See *id.*

<sup>100</sup> See Notice, 80 FR 66348, 66349.

<sup>101</sup> See CFIRA Letter at 1. That commenter also indicated that the new member application for funding portals still includes a provision to attach the bond. However, the Form FP–NMA, as proposed by FINRA, does not include such a requirement. See Exhibit 3a of the proposal.

<sup>102</sup> See NASAA Letter at 5; PIABA Letter at 3.

<sup>103</sup> See NASAA Letter at 5. The commenter also noted that funding portals will not be members of the Securities Investor Protection Corporation (“SIPC”) and that their customers will not receive SIPC protection. See *id.*

<sup>104</sup> *Id.*

<sup>105</sup> See PIABA Letter at 3. In addition, the commenter suggested that funding portals should be required to clearly disclose to investors what the bond does and does not cover. *Id.* The commenter also suggested that the Commission should impose a fidelity bond requirement on funding portals and issuers. *Id.* at n. 5.

<sup>106</sup> See *id.* at 5–6 (citing Notice, 80 FR at 66349, 66367).

<sup>107</sup> See FINRA Letter at 6 (citing language in the Commission’s adopting release). See also Crowdfunding, Exchange Act Release No. 76324, 80 FR 71388, 71458 (Nov. 16, 2015).

<sup>108</sup> See FINRA Letter at 6; Notice, 80 FR at 66349, n. 14 and 66367, n. 86.

<sup>109</sup> See FINRA Letter at 6.

<sup>110</sup> See PIABA Letter at 4. See also Regulatory Notice 13–34 (Oct. 2013) (FINRA Requests Comment on Proposed Funding Portal Rules and Related Forms).

<sup>111</sup> See FINRA Letter at 6–7.

<sup>112</sup> See *id.* at 7.

<sup>113</sup> See PIABA Letter at 4.

<sup>88</sup> FINRA Rule 0160(b) sets forth definitions for the FINRA Rules.

<sup>89</sup> See FINRA Letter at 3–4.

<sup>90</sup> See *id.* at 4.

<sup>91</sup> See *supra* note 17.

<sup>92</sup> See CFIRA Letter at 2.

<sup>93</sup> See *id.*

<sup>94</sup> See FINRA Letter at 4.

<sup>95</sup> See *id.* at 4–5 (citing Securities Exchange Act Release No. 48969 (December 22, 2003), 68 FR 75681 (December 31, 2003) (Notice of Order Granting Approval of Proposed Rule Change; File No. SR–NASD–2003–007)).

<sup>96</sup> See FINRA Letter at 5.

<sup>97</sup> See *id.* See also Notice, 80 FR at 66350.

a broker-dealer member report to FINRA when it or one of its associated persons “is the subject of any written customer complaint involving allegations of theft or misappropriation of funds or securities or of forgery.”<sup>114</sup> Funding Portal Rule 300(c)(1)(A)(ii), as proposed, would require a funding portal to report when the funding portal member or an associated person of the funding portal member “is subject to any written complaint involving allegations of fraudulent conduct or misuse or misappropriation of funds or assets.”<sup>115</sup> The commenter further suggested that funding portals members, like broker-dealer members, should be required to (1) report quarterly statistical and summary information related to written customer complaints and (2) provide copies of source documents for the reportable information.<sup>116</sup>

In response, FINRA indicates that the 30 calendar day requirement, which is consistent with the corresponding requirement for broker-dealer members under FINRA Rule 4530, strikes the appropriate balance between prompt regulatory reporting for purpose of risk oversight and providing firms sufficient time to assess reportable events and submit complete and accurate reports.<sup>117</sup> FINRA also notes that funding portal’s permissible business activities are limited in scope relative to other FINRA members.<sup>118</sup> In addition, FINRA notes that funding portal members would have a shorter amount of time to report statutory disqualification events under Rules 110(a)(3)(B) and 800(b)(2) because of the significant regulatory implications of such events as compared to other reportable events.<sup>119</sup>

In response to the comment about the types of written complaints that should be reported, FINRA notes its belief that the rule is consistent with its goal of tailoring the rule language to the limited permissible activities in which funding portals may engage.<sup>120</sup> FINRA states that it does not believe it is necessary to single out theft and forgery for purposes of this particular provision, especially given that funding portals are prohibited in the first place from holding,

managing, possessing or otherwise handling investor funds or securities.<sup>121</sup> However, FINRA also noted its belief that the language of Funding Portal Rule 300(c)(1)(A)(ii) is sufficiently broad to encompass such fraudulent conduct, or misuse or misappropriation of funds or assets, as would be involved in an act of theft or forgery.<sup>122</sup> FINRA also indicates that the rule is broader than FINRA Rule 4530(a)(1)(B)—the rule specifies “any written complaint” rather than “any written customer complaint.”<sup>123</sup> In response to the commenter’s other suggestions regarding requirements for statistical and summary information, and the filing of copies of the specified documents, FINRA cites to the proposal where it noted its intent to minimize the initial potential costs and burdens to the development of the funding portal business.<sup>124</sup> FINRA, however, indicates that it may revisit this issue in a future rulemaking after regulators gain more experience in connection with funding portals.<sup>125</sup>

#### G. Disclosure

As discussed in more detail above, Funding Portal Rule 800(b)(1) will allow FINRA to provide the public with access to a funding portal member’s current SEC Form Funding Portal, including amendments and registration withdrawal requests via a link to the Commission’s Web site. One commenter expressed concern about the permissive nature of Funding Portal Rule 800(b)(1).<sup>126</sup> The commenter suggested that the proposed rules should require that FINRA provide investors with most (if not all) of the information required to be submitted to FINRA under Funding Portal Rule 300(c).<sup>127</sup> In response, FINRA notes that it intends to exercise its authority under Funding Portal Rule 800(b)(1), which it states is designed to provide FINRA sufficient flexibility as to carrying out the specified disclosures.<sup>128</sup> FINRA also notes that Funding Portal Rule 800(b)(2), which is discussed in more detail above, requires FINRA to make public information indicating whether the funding portal member or any associated person of the funding portal member is subject to an event described in Section 3(a)(39) of the Exchange Act (*i.e.*, a statutory disqualification event).<sup>129</sup>

#### H. Central Registration Depository (“CRD”)

One commenter suggested that funding portals should be required to use CRD to register and make ongoing disclosures.<sup>130</sup> The commenter stated its view that mandatory use of CRD by funding portals would create a central location for regulators to easily access information about the portals at a reasonable expense to the entities.<sup>131</sup> The commenter also expressed concern about whether information about funding portals and their associated persons would be made available to the public or other regulators.<sup>132</sup> Another commenter, however, supported the decision not to use CRD, stating its view that the system is excessively complex for the limited scope of activity of funding portals, and using alternative systems will likely lead to compliance cost savings for portals.<sup>133</sup>

In response, FINRA indicates that it is not at this time requiring funding portals to use CRD.<sup>134</sup> FINRA notes that the rules provide for the submission of certain information by funding portals in a manner and format prescribed by FINRA.<sup>135</sup> FINRA indicates that it is developing systems for the submission of such information and it believes the systems will be appropriate to the limited permissible activities of funding portals.<sup>136</sup>

#### I. Licensing and Examination

FINRA has not included any licensing or examination requirements in its Funding Portal Rules. One commenter expressed support for this approach, noting its belief that such an approach would result in cost savings for funding portals and would likely lead to greater flexibility and innovation in the roles and responsibilities of funding portal operators and employees.<sup>137</sup> Two commenters, however, suggested licensing requirements for associated persons of funding portals.<sup>138</sup> One of these commenters suggested licensing requirements for all associated persons of funding portals or, at a minimum, licensing requirements for any person

<sup>114</sup> See *id.* at 4–5. See also FINRA Rule 4530(a)(1)(B).

<sup>115</sup> See Funding Portal Rule 300(c)(1)(A)(ii).

<sup>116</sup> See PIABA Letter at 5. See also FINRA Rule 4530(d) and (f).

<sup>117</sup> See FINRA Letter at 7.

<sup>118</sup> See *id.* at 8.

<sup>119</sup> See *id.* Both rules, which are discussed above, require funding portals to update information about statutory disqualification events “promptly, but in any event not later than 10 days following any change in such information.” See Funding Portal Rules 110(a)(3)(B) and 800(b)(2).

<sup>120</sup> See FINRA Letter at 8.

<sup>121</sup> See *id.*

<sup>122</sup> See *id.*

<sup>123</sup> See *id.*

<sup>124</sup> See *id.* (citing the Notice, 80 FR at 66363).

<sup>125</sup> See *id.*

<sup>126</sup> See PIABA Letter at 6.

<sup>127</sup> See *id.*

<sup>128</sup> See FINRA Letter at 12.

<sup>129</sup> See *id.*

<sup>130</sup> See NASAA Letter at 2. Broker-dealers register using CRD.

<sup>131</sup> See *id.* at 2.

<sup>132</sup> See *id.* at 3.

<sup>133</sup> CFIRA Letter at 2.

<sup>134</sup> See FINRA Letter at 9.

<sup>135</sup> See *id.* For example, FINRA notes the requirements under Funding Portal Rules 110(a)(3)(A), 110(a)(4)(B) and 800(b), which are described in more detail above. See *id.* See also Notice, 80 FR at 66368.

<sup>136</sup> See FINRA Letter at 9.

<sup>137</sup> See CFIRA Letter at 2.

<sup>138</sup> See PIABA Letter at 3, n. 4; NASAA Letter at 3.

with specific responsibilities under the funding portal rules, such as supervisory or compliance personnel.<sup>139</sup> The other commenter suggested that compliance personnel should be required to pass a licensing test.<sup>140</sup>

In response, FINRA notes that it will consider whether additional rulemaking with respect to examination and licensing requirements is needed as it gains experience regulating funding portals.<sup>141</sup>

#### J. Suspicious Activity Reporting

Broker-dealers registered or required to be registered with the Commission are required to comply with anti-money laundering (“AML”) regulations promulgated by the Department of Treasury under the Bank Secrecy Act (“BSA”),<sup>142</sup> including a requirement to file suspicious activity reports with the Financial Crimes Enforcement Network (“FinCEN”).<sup>143</sup> FINRA requires its broker-dealer members to develop and implement AML programs reasonably designed to achieve and monitor their compliance with the requirements of the BSA and the Department of Treasury’s implementing regulations thereunder, including a requirement to file suspicious activity reports.<sup>144</sup> One commenter suggested that funding portals should also be subject to suspicious activity reporting requirements.<sup>145</sup> In response, FINRA indicates that it noted in its proposal that the BSA and its implementing regulations do not currently apply to funding portals.<sup>146</sup> FINRA, therefore, indicates that it is not imposing a requirement at this time for funding portals to develop and implement an AML program, pending further action by the primary regulators in this area.<sup>147</sup>

<sup>139</sup> See NASAA Letter at 3.

<sup>140</sup> See PIABA Letter at 3, n. 4.

<sup>141</sup> See FINRA Letter at 9. See also Notice, 80 FR at 66368.

<sup>142</sup> 31 CFR Chapter X. See also 31 CFR 1023.100 (“Broker-dealer means a person registered or required to be registered as a broker or dealer with the Commission under the Securities Exchange Act of 1934 (15 U.S.C. 77a *et seq.*), except persons who register pursuant to 15 U.S.C. 78o(b)(11).”).

<sup>143</sup> See 31 CFR 1023.320.

<sup>144</sup> See FINRA Rule 3310.

<sup>145</sup> See NASAA Letter at 5.

<sup>146</sup> See FINRA Letter at 11 (citing Notice, 80 FR at 66349).

<sup>147</sup> See *id.* at 12. See also Crowdfunding, Exchange Act Release No. 76324, 80 FR 71378, 71471, n. 1098 (Nov. 16, 2015) (“FinCEN within the Department of Treasury has primary regulatory responsibility for administering the BSA. We note that FinCEN has included in the Unified Agenda and Regulatory Plan an item that states: “FinCEN . . . is proposing amendments to the regulatory definitions of ‘broker or dealer in securities’ under the regulations implementing the Bank Secrecy Act. The proposed changes are intended to expand the current scope of the definitions to include funding

#### K. Arbitration and Mediation

Two commenters suggested that crowdfunding investors should be able to opt out of arbitration agreements and pursue their claims in court.<sup>148</sup> The commenters also expressed concern with investors having to bring claims in multiple forums against funding portals and issuers.<sup>149</sup> One commenter suggested that if investors are not provided the right to choose their forum, at a minimum, FINRA should bar arbitration agreements that would preclude an investor from joining a class action against a funding portal member.<sup>150</sup> Another commenter, however, generally supported proposed Rule 1200.<sup>151</sup>

In response, FINRA notes that the purpose of Funding Portal Rule 1200 is to ensure in part that funding portal members shall be subject to the existing rules in this area, unless the context requires otherwise.<sup>152</sup> FINRA also expresses its belief that the proffered changes to the arbitration rules raise issues for the securities industry in general that are beyond the scope of the proposal.<sup>153</sup> Finally, FINRA states that as to the current rules in this area, FINRA has previously noted that investors experience substantial savings in arbitration compared to litigation and that the benefits and cost savings of arbitration make filing an arbitration claim a less costly option for investors.<sup>154</sup>

#### L. Application of Additional Rules

One commenter suggested that the following conduct rules for FINRA’s

portals. In addition, these amendments would require funding portals to implement policies and procedures reasonably designed to achieve compliance with all of the Bank Secrecy Act requirements that are currently applicable to brokers or dealers in securities.”) (citing Office of Mgmt. & Budget, Exec. Office of the President, Office of Info. & Regulatory Affairs, Amendments of the Definition of Broker or Dealer in Securities, RIN 1506-AB29, available at <http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201504&RIN=1506-AB29>).

<sup>148</sup> See PIABA Letter at 6; NASAA Letter at 4.

<sup>149</sup> See PIABA Letter at 7 (suggesting that an investor should be permitted to include claims against funding portal members and issuers in the same FINRA arbitration); NASAA Letter at 4 (expressing concern that investors wishing to bring claims against a funding portal member and issuer will have to bring the related claims in separate forums if a funding portal uses a pre-dispute arbitration agreement).

<sup>150</sup> See PIABA Letter at 7.

<sup>151</sup> See CFIRA Letter at 2.

<sup>152</sup> See FINRA Letter at 13. See also Notice, 80 FR at 66369.

<sup>153</sup> See *id.*

<sup>154</sup> See *id.* (citing Exchange Act Release No. 73245 (September 29, 2014), 79 FR 59876 (October 3, 2014) (Order Approving Proposed Rule Change; File No. SR-FINRA-2014-026).

broker-dealer members should be applied to funding portal members: The prohibition against guarantees and sharing in accounts under FINRA Rule 2150 (Improper Use of Customers’ Securities or Funds; Prohibition Against Guarantees and Sharing in Accounts); Rule 2210 (Communications with the Public); Rule 3220 (Influencing or Rewarding Employees of Others); Rule 3240 (Borrowing From or Lending to Customers); Rule 5230 (Payments Involving Publications that Influence the Market Price of a Security); and Rule 5110 (Corporate Financing Rule—Underwriting Terms and Arrangements).<sup>155</sup> The commenter also acknowledged that FINRA may not want to duplicate the recordkeeping rule under Rule 404 of Regulation Crowdfunding, but suggested that FINRA should “reiterate the importance of sound recordkeeping practices” of funding portals.<sup>156</sup>

In response, FINRA notes that it sought to streamline the Funding Portal Rules to the extent possible to reflect the limited scope of permissible funding portal activities while also maintaining investor protection.<sup>157</sup> FINRA further notes that its Funding Portal Rules include rules to address fraud and standards of commercial honor and just and equitable principles of trade (Funding Portal Rules 200(a) and 200(b), which are explained in more detail above).<sup>158</sup> In addition, FINRA notes that

<sup>155</sup> See NASAA Letter at 4. The commenter also suggested that FINRA Rule 2210 (Communications with the Public) should be applied to funding portals. See *id.* As explained in further detail above, FINRA indicates that Funding Portal Rule 200 is a streamlined version of FINRA Rule 2210 that reflects the limited scope of activity permitted to funding portals.

<sup>156</sup> See NASAA Letter at 5.

<sup>157</sup> See FINRA Letter at 10. See also Notice, 80 FR at 66368. FINRA also indicates that it is not proposing to apply to funding portals, at this time, certain rules based on its belief that they do not appear to be tailored to the limited activities of such entities. As an example, FINRA cites FINRA Rule 4370, which contains business continuity plan (“BCP”) requirements for its broker-dealer members. According to FINRA, it is not requiring a funding portal to maintain a BCP, given that, among other things, a funding portal may not hold, manage possess or otherwise handle investor funds or securities. FINRA, however, stated that it recognizes that funding portals are Internet-based businesses and, as part of FINRA’s membership application process, [it] will request access to a funding portal’s platform; [FINRA] will also monitor, as part of FINRA’s examination and surveillance process, the development of funding portal business to identify emergency or business disruptions at funding portal members that affect the ability of the members to meet their existing obligations to investors and issuers or for investors to access their securities positions. These efforts will assist in assessing whether additional rulemaking in this area is required.

See *id.* FINRA Letter at 10, n. 34.

<sup>158</sup> See FINRA Letter at 10–11.

Regulation Crowdfunding contains rules to address investor protection.<sup>159</sup> FINRA believes that Regulation Crowdfunding and FINRA's Funding Portal Rules, in combination, are robust enough to address a wide range of potential concerns that may arise from conduct by funding portals.<sup>160</sup> As an example, FINRA indicates that, depending on the facts, it may apply Funding Portal Rule 200(a) in situations in which a funding portal charged a commission or fee that is clearly unreasonable under the circumstances.<sup>161</sup> FINRA further notes that it will enforce the rules for funding portals under Regulation Crowdfunding and that it does not intend for its rules to duplicate Regulation Crowdfunding.<sup>162</sup> FINRA also indicates that it may impose additional requirements on funding portals in the future should FINRA determine that such requirements are merited based on the development of funding portal business under applicable rules.<sup>163</sup>

#### M. FINRA Manual

One commenter suggested FINRA should require funding portals to make a current copy of the FINRA Manual available to customers for examination, which it requires of broker-dealers members.<sup>164</sup> In response, FINRA notes that it is seeking to streamline the requirements for funding portals and, therefore, not proposing to apply this requirement to such entities.<sup>165</sup> FINRA indicates, however, that any approved Funding Portal Rules will be fully available on the FINRA Web site for public access.<sup>166</sup>

#### N. Broker-Dealers: Rule 4518

One commenter requested additional guidance regarding Rule 4518, which as discussed in more detail above, requires broker-dealers members to provide a notification to FINRA prior to engaging in certain crowdfunding transactions or within 30 days of entering into certain control relationships with a funding portal.<sup>167</sup> In response, FINRA indicates that it will issue a Regulatory Notice providing further guidance in this area.<sup>168</sup>

#### O. Private Placements

One commenter requested guidance regarding whether offerings relying on the exemption under Section 4(a)(6) will be subject to the filing requirements of FINRA Rule 5123.<sup>169</sup> In response, FINRA states that it will not require that members selling securities in such offerings to submit filings pursuant to FINRA Rule 5123.<sup>170</sup>

#### IV. Discussion and Commission Findings

After careful review of the proposed rule change, the comment letters, and FINRA's response to the comments, the Commission finds that the proposal, as modified by Amendment No. 1, is consistent with the requirements of the Exchange Act and the rules and regulations thereunder that are applicable to a national securities association.<sup>171</sup> Specifically, the Commission finds that the rule change is consistent with Section 15A(b)(6) of the Exchange Act,<sup>172</sup> which requires, among other things, that FINRA rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest.

The Commission received three comment letters and FINRA's response to the comment letters. The Commission notes the commenters were generally supportive of the proposal but had suggestions regarding areas where certain aspects of the proposal could be expanded or further explained. The Commission has considered the commenters' suggestions and believes that FINRA has responded adequately to their concerns and that the rules are consistent with the Exchange Act.

As discussed above, some commenters expressed concern that FINRA has determined not to impose certain requirements that it imposes on its broker-dealer members to funding portal members.<sup>173</sup> Although one of

these commenters suggested additions to FINRA's funding portal rules, it also indicated that it generally supported the proposed rules because it "knows that investors need protection against unscrupulous brokers, issuers and intermediaries in the crowdfunding space."<sup>174</sup> In addition, FINRA indicated that the rules have been tailored to reflect the limited scope of permissible activities in which funding portals may engage, while also maintaining investor protection.<sup>175</sup>

Taking into consideration the comments and FINRA's response, we believe that the proposal is consistent with the Exchange Act. In particular, we believe that the Funding Portal Rules are appropriately designed to take into account the limited permissible activities of funding portals, while still maintaining investor protection. We believe that FINRA's response, as discussed in more detail above, appropriately addressed the reasons for not including certain requirements in the proposal. We note that FINRA, in its response, indicates that Rule 200(a), which requires funding portal members to observe high standards of commercial honor and just and equitable principles of trade in the conduct of their business, and Rule 200(b), which prohibits the use of manipulative, deceptive or other fraudulent devices, may be used to address misconduct by funding portals not specifically addressed in the rules. We also note that FINRA has represented that it will monitor how the funding portal business develops under the rules as well as other rules applicable to such entities, and assess whether changes to the rules are appropriate or necessary. Taken together, we believe that this approach is appropriate and designed to protect investors and the public interest, consistent with Section 15A(b)(6) of the Exchange Act.

The Commission also believes that FINRA's response, which is discussed in more detail above, appropriately addressed the commenter's concern regarding the timing of the proposal. In particular, FINRA notes that its rules have been in preparation for a considerable amount of time with public input, and the proposal is intended to provide the means for

streamlined version of its communications with the public requirements.

<sup>174</sup> See PIABA Letter at 2. See also CFIRA Letter at 1 (supporting certain changes that FINRA made from the Regulatory Notice as "reflect[ing] the reality that funding portals will have limited permissible activities, and these changes are in line with creating a cost-efficient marketplace for small securities offerings.").

<sup>175</sup> See FINRA Letter at 1 (citing Notice, 80 FR at 66349).

<sup>169</sup> See CFIRA Letter at 3.

<sup>170</sup> See FINRA Letter at 13. FINRA cites to its Private Placement Frequently Asked Questions (FAQ), available at <http://www.finra.org/industry/faq-private-placement-frequently-asked-questions-faq>. ("FINRA will not require member firms that participate in crowdfunding offerings (under the JOBS Act) to make a filing pursuant to Rule 5123.").

<sup>171</sup> In approving this rule change, the Commission has considered the rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>172</sup> 15 U.S.C. 78o-3(b)(6).

<sup>173</sup> For example, FINRA determined not to include a fidelity bond or any AML requirements for funding portal members in the proposal despite the fact that it had proposed such requirements in its initial Regulatory Notice to its members. FINRA also determined not to include licensing or examination requirements and to include a

<sup>159</sup> See *id.* at 11.

<sup>160</sup> See *id.*

<sup>161</sup> See *id.*

<sup>162</sup> See FINRA Letter at 10. See also Notice, 80 FR at 66368-66369.

<sup>163</sup> See FINRA Letter at 11.

<sup>164</sup> See PIABA Letter at 5-6.

<sup>165</sup> See FINRA Letter at 14.

<sup>166</sup> See *id.*

<sup>167</sup> See CFIRA Letter at 3.

<sup>168</sup> See FINRA Letter at 13.

funding portals to become FINRA members consistent with the JOBS Act and Regulation Crowdfunding.<sup>176</sup>

In addition, the Commission also believes that the proposal is designed to provide for an appropriate amount of information to be reported to FINRA. FINRA stated that its goal is to develop rules for funding portal members that are tailored to the limited permissible activities in which funding portals may engage, and to minimize the initial potential costs and burdens to the development of the funding portal business. The Commission believes that FINRA's reporting rules are tailored to funding portal activities. For example, FINRA's Funding Portal Rule 300(c) requires funding portal members to report regulatory proceedings, disciplinary and other events.<sup>177</sup> The rule also requires funding portal members to respond to FINRA with respect to any investor complaint, examination or inquiry,<sup>178</sup> and states that a funding portal's reporting obligations under SEC rules are not abrogated by the FINRA rules. In addition, the rule contains a 30 calendar day reporting requirement, which FINRA believes strikes the appropriate balance between prompt regulatory reporting for purpose of risk oversight and providing firms sufficient time to assess reportable events and submit complete and accurate reports. The Commission believes FINRA's reporting obligations for funding portal members are appropriate because a funding portal's permissible business activities are limited in scope.

Further, the Commission believes that the proposal is designed to provide for an appropriate level of public disclosure of information relating to funding portals. The Commission notes that FINRA indicates that it intends to exercise its authority under its rules and provide the public with access to a funding portal member's current SEC Form Funding Portal through a link to the Commission's Web site. Form Funding Portal, which is also publicly available through the Commission's EDGAR system, provides certain disclosure information about funding portals and their associated persons. In addition, FINRA stated its intention to make public information indicating whether the funding portal member or any associated person of the funding portal member is subject to a statutory disqualification event.

Accordingly, the Commission believes that the rule change is reasonably

designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest.<sup>179</sup>

For the reasons stated above, the Commission finds that the rule change, as modified by Amendment No. 1, is consistent with the Exchange Act and the rules and regulations thereunder.

#### V. Accelerated Approval of Proposal, as Modified by Amendment No. 1

The Commission finds good cause, pursuant to Section 19(b)(2) of the Exchange Act<sup>180</sup> for approving the proposal, as modified by Amendment No. 1, prior to the 30th day after publication of Amendment No. 1 in the **Federal Register**.

Amendment No. 1 revised the proposal to include "for purposes of FINRA Rule 8210 any other person listed in Schedule A of Form Funding Portal of a member" to the definition of "associated person of a funding portal member" or "person associated with a funding portal member" in Funding Portal Rule 100(b)(1). This change will help to ensure that FINRA is capable of using its Rule 8210 authority with regard to key persons controlling the funding portal. The Commission also believes the amendment is consistent with FINRA's obligation in Section 19(g) of the Exchange Act to effectively enforce its rules. The Commission also believes that Amendment No. 1's amended definition of associated person does not raise any novel regulatory issues because the change more closely aligns the definition with the definition of associated person applicable to FINRA's broker-dealer members.

Amendment No. 1 also revised the proposal to make technical changes to the language of Funding Portal Rules 300(a)(1)(A), 900(a)(4)(C), 900(a)(4)(F), 1200(a)(3), 1200(a)(4) and 1200(b)(4)(C). The Commission does not believe that these changes raise any novel regulatory issues, but rather are technical changes that do not change the substance of the rules.

Accordingly, the Commission finds that good cause exists to approve the proposal, as modified by Amendment No. 1, on an accelerated basis.

#### VI. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the rule change, as modified by Amendment No. 1, is

consistent with the Act. Comments may be submitted by any of the following methods:

#### Electronic Comments

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-FINRA-2015-040 on the subject line.

#### Paper Comments

- Send paper comments in triplicate to Robert W. Errett, Deputy Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-FINRA-2015-040. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the rule change that are filed with the Commission, and all written communications relating to the rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of FINRA. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-FINRA-2015-040, and should be submitted on or before February 18, 2016.

#### VII. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>181</sup> that the rule change (SR-FINRA-2015-040), as modified by Amendment No. 1, be, and hereby is, approved on an accelerated basis.

<sup>176</sup> See FINRA Letter at 2.

<sup>177</sup> See Funding Portal Rule 300(c).

<sup>178</sup> See Funding Portal Rule 300(c)(4).

<sup>179</sup> See 15 U.S.C. 78o-3(b)(6).

<sup>180</sup> See 15 U.S.C. 78s(b)(2).

<sup>181</sup> 15 U.S.C. 78s(b)(2).



For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>182</sup>

**Robert W. Errett,**  
*Deputy Secretary.*

[FR Doc. 2016-01672 Filed 1-27-16; 8:45 am]

**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

### Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94-409, that the Securities and Exchange Commission Equity Market Structure Advisory Committee will hold a public meeting on Tuesday, February 2, 2016, in the Multipurpose Room, LL-006 at the Commission's headquarters, 100 F Street NE., Washington, DC.

The meeting will begin at 9:30 a.m. (EST) and will be open to the public. Seating will be on a first-come, first-served basis. Doors will be open at 9 a.m. Visitors will be subject to security checks. The meeting will be webcast on the Commission's Web site at [www.sec.gov](http://www.sec.gov).

On January 13, 2016, the Commission published notice of the Committee meeting (Release No. 34-76883), indicating that the meeting is open to the public and inviting the public to submit written comments to the Committee. This Sunshine Act notice is being issued because a majority of the Commission may attend the meeting.

The agenda for the meeting will focus on the events of August 24, 2015 and certain issues affecting customers in the current equity market structure.

For further information, please contact the Office of the Secretary at (202) 551-5400.

Dated: January 26, 2016.

**Brent J. Fields,**  
*Secretary.*

[FR Doc. 2016-01707 Filed 1-26-16; 4:15 pm]

**BILLING CODE 8011-01-P**

## SURFACE TRANSPORTATION BOARD

[Docket No. FD 35990]

### RSL Railroad, LLC—Lease Exemption Containing Interchange Commitment—Norfolk Southern Railway Company

RSL Railroad, LLC (RSL), a Class III rail carrier, has filed a verified notice of exemption under 49 CFR 1150.41 to continue to lease and operate a rail line from Norfolk Southern Railway

Company (NSR), known as the South Massillon IT (the Line). The Line extends between RSL's existing connection with NSR at milepost MT 1.4, and the proposed future interchange with NSR at milepost MT 0.0, in Massillon, OH.<sup>1</sup>

RSL states that NSR and RSL have entered into an amendment to their prior lease agreement. RSL states that, at its request, the amendment modifies the lease rental provisions of the lease agreement to permit RSL to receive a lease credit against its fixed rental payment for each revenue carload it interchanges with NSR on the Line. RSL states that it requested the amendment to provide it the ability to earn a lower rental payment and to afford it the opportunity to invest in improvements on the Line to increase traffic levels.<sup>2</sup>

RSL has certified that its projected annual revenues as a result of the proposed transaction will not result in RSL becoming a Class II or Class I rail carrier. RSL has further certified that its projected annual rail freight revenues, including the line to be operated pursuant to this notice, would not exceed \$5 million.

The transaction may be consummated on or after February 11, 2016, the effective date of the exemption (30 days after the exemption was filed).

If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions for stay must be filed no later than February 4, 2016 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 35990, must be filed with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on Andy A. Ginella, 4096 Holiday St. NW., Canton, OH 44718.

According to RSL, this action is categorically excluded from environmental review under 49 CFR 1105.6(c).

Board decisions and notices are available on our Web site at [WWW.STB.DOT.GOV](http://WWW.STB.DOT.GOV).

Decided: January 22, 2016.

<sup>1</sup> RSL was previously granted authority to lease and operate the Line pursuant to a lease agreement with NSR. See *RSL R.R., LLC—Lease & Operation Exemption—Norfolk S. Ry.*, FD 35754 (STB served Aug. 23, 2013).

<sup>2</sup> RSL has filed the lease agreement under seal pursuant to 49 CFR 1150.43(h)(1)(ii).

By the Board, Rachel D. Campbell,  
Director, Office of Proceedings.

**Kenyatta Clay,**  
*Clearance Clerk.*

[FR Doc. 2016-01662 Filed 1-27-16; 8:45 am]

**BILLING CODE 4915-01-P**

## DEPARTMENT OF THE TREASURY

### Submission for OMB Review; Comment Request

January 25, 2016.

The Department of the Treasury will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, Public Law 104-13, on or after the date of publication of this notice.

**DATES:** Comments should be received on or before March 28, 2016 to be assured of consideration.

**ADDRESSES:** Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden, to (1) Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for Treasury, New Executive Office Building, Room 10235, Washington, DC 20503, or email at [OIRA\\_Submission@OMB.EOP.gov](mailto:OIRA_Submission@OMB.EOP.gov) and (2) Treasury PRA Clearance Officer, 1750 Pennsylvania Ave. NW., Suite 8117, Washington, DC 20220, or email at [PRA@treasury.gov](mailto:PRA@treasury.gov).

**FOR FURTHER INFORMATION CONTACT:** Copies of the submissions may be obtained by emailing [PRA@treasury.gov](mailto:PRA@treasury.gov), calling (202) 622-1295, or viewing the entire information collection request at [www.reginfo.gov](http://www.reginfo.gov).

### SUPPLEMENTARY INFORMATION:

#### Alcohol and Tobacco Tax and Trade Bureau (TTB)

*OMB Control Number:* 1513-0074.

*Type of Review:* Extension of a currently approved collection.

*Title:* Airlines Withdrawing Stock from Customs Custody (TTB REC 5620/2).

*Abstract:* Airlines may withdraw, without payment of tax, distilled spirits and wine from their stocks held in customs custody at airports for use as supplies on aircraft engaged in foreign flights. Accounting for withdrawals of such products is necessary to protect the revenue by detecting and preventing diversion of the products into the domestic market. The required record shows, among other things, the amount of spirits and wine withdrawn, flight identification, and Customs

certification. 27 CFR 28.280, 27 CFR 28.281.

*Affected Public:* Businesses or other for-profits.

*Estimated Average Annual Burden per Response:* 100 hours.

*Estimated Total Annual Burden Hours:* 2,500.

**Brenda Simms,**

*Treasury PRA Clearance Officer.*

[FR Doc. 2016-01687 Filed 1-27-16; 8:45 am]

**BILLING CODE 4810-31-P**

# Reader Aids

Federal Register

Vol. 81, No. 18

Thursday, January 28, 2016

## CUSTOMER SERVICE AND INFORMATION

### Federal Register/Code of Federal Regulations

General Information, indexes and other finding aids **202-741-6000**

**Laws** **741-6000**

### Presidential Documents

Executive orders and proclamations **741-6000**

**The United States Government Manual** **741-6000**

### Other Services

Electronic and on-line services (voice) **741-6020**

Privacy Act Compilation **741-6064**

Public Laws Update Service (numbers, dates, etc.) **741-6043**

## ELECTRONIC RESEARCH

### World Wide Web

Full text of the daily Federal Register, CFR and other publications is located at: [www.fdsys.gov](http://www.fdsys.gov).

Federal Register information and research tools, including Public Inspection List, indexes, and Code of Federal Regulations are located at: [www.ofr.gov](http://www.ofr.gov).

### E-mail

**FEDREGTOC-L** (Federal Register Table of Contents LISTSERV) is an open e-mail service that provides subscribers with a digital form of the Federal Register Table of Contents. The digital form of the Federal Register Table of Contents includes HTML and PDF links to the full text of each document.

To join or leave, go to <http://listserv.access.gpo.gov> and select *Online mailing list archives, FEDREGTOC-L, Join or leave the list (or change settings)*; then follow the instructions.

**PENS** (Public Law Electronic Notification Service) is an e-mail service that notifies subscribers of recently enacted laws.

To subscribe, go to <http://listserv.gsa.gov/archives/publaws-l.html> and select *Join or leave the list (or change settings)*; then follow the instructions.

**FEDREGTOC-L** and **PENS** are mailing lists only. We cannot respond to specific inquiries.

**Reference questions.** Send questions and comments about the Federal Register system to: [fedreg.info@nara.gov](mailto:fedreg.info@nara.gov)

The Federal Register staff cannot interpret specific documents or regulations.

**CFR Checklist.** Effective January 1, 2009, the CFR Checklist no longer appears in the Federal Register. This information can be found online at <http://bookstore.gpo.gov/>.

## FEDERAL REGISTER PAGES AND DATE, JANUARY

1-144.....	4	3699-3938.....	22
145-370.....	5	3939-4158.....	25
371-718.....	6	4159-4572.....	26
719-868.....	7	4573-4874.....	27
869-1114.....	8	4875-4944.....	28
1115-1290.....	11		
1291-1480.....	12		
1481-1850.....	13		
1851-2066.....	14		
2067-2724.....	15		
2725-2966.....	19		
2967-3288.....	20		
3289-3698.....	21		

## CFR PARTS AFFECTED DURING JANUARY

At the end of each month the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

<b>2 CFR</b>	319.....	3033
	331.....	2762
	Ch. IV-VIII.....	4213
	457.....	1337
	810.....	2774, 2775, 3341, 3342, 3343
	Ch. IX.....	4213
	996.....	2775
	Ch. X-XI.....	4213
	Ch. XIV-XVIII.....	4213
	Ch. XXV-XXXVI.....	4213
	Ch. XXXVIII.....	4213
	Ch. XLII.....	4213
<b>3 CFR</b>		
<b>Proclamations:</b>		
	9385.....	713
	9386.....	715
	9387.....	717
	9388.....	1851
	9389.....	3689
	9390.....	3691
<b>Executive Orders:</b>		
	13574 (Revoked by EO 13716).....	3693
	13590 (Revoked by EO 13716).....	3693
	13622 (Revoked by EO 13716).....	3693
	13645 (Revoked by EO 13716).....	3693
	13628 (Amended by EO 13716).....	3693
	13716.....	3693
<b>Administrative Orders:</b>		
<b>Memorandums:</b>		
	Memorandum of January 4, 2016.....	719
<b>Notices:</b>		
	Notice of January 20, 2016.....	3937
<b>5 CFR</b>		
<b>Proposed Rules:</b>		
	315.....	4900
	870.....	1336
<b>6 CFR</b>		
<b>Proposed Rules:</b>		
	5.....	3748
<b>7 CFR</b>		
	57.....	1481
	205.....	2067
	271.....	2725
	272.....	2725
	275.....	2725, 4159
	301.....	3701
	761.....	3289
	764.....	3289
	922.....	3293
	3570.....	1861
<b>Proposed Rules:</b>		
	Ch. I-II.....	4213
	271.....	398
	272.....	398
	273.....	398
	274.....	398
	278.....	398
	Ch. III.....	4213
	319.....	3033
	331.....	2762
	Ch. IV-VIII.....	4213
	457.....	1337
	810.....	2774, 2775, 3341, 3342, 3343
	Ch. IX.....	4213
	996.....	2775
	Ch. X-XI.....	4213
	Ch. XIV-XVIII.....	4213
	Ch. XXV-XXXVI.....	4213
	Ch. XXXVIII.....	4213
	Ch. XLII.....	4213
<b>8 CFR</b>		
	204.....	2068
	214.....	2068
	248.....	2068
	274a.....	2068
<b>9 CFR</b>		
	91.....	2967
<b>Proposed Rules:</b>		
	121.....	2762
	Ch. I-III.....	4213
<b>10 CFR</b>		
	72.....	371, 1116, 4574
	429.....	580, 1028, 2628, 4368, 4747
	430.....	580, 2320, 2328, 4368, 4574
	431.....	1028, 2420, 4747
<b>Proposed Rules:</b>		
	50.....	410
	72.....	412
	430.....	1688
	431.....	2111
<b>12 CFR</b>		
	790.....	4575
	1263.....	3246
<b>Proposed Rules:</b>		
	Ch. I.....	1923
	Ch. II.....	1923
	Ch. III.....	1923
<b>13 CFR</b>		
	121.....	4436, 4439
	143.....	1115
<b>Proposed Rules:</b>		
	120.....	2129
<b>14 CFR</b>		
	21.....	1482
	25.....	4577, 4579
	39...145, 147, 869, 1291, 1483, 1486, 1489, 1492, 1494, 1497, 1502, 1504, 1508, 1870, 1874, 3294, 3297, 3301, 3304, 3306, 3308, 3310, 3313, 3316, 3319,	

3320, 4163, 4165, 4167, 4169, 4172, 4875, 4878	404.....41	223.....3720	63a.....3004
45.....1482	<b>21 CFR</b>	<b>Proposed Rules:</b>	64.....3004
61.....1, 1292	1.....3714	13.....1592	65.....3004
71.....1511, 1877, 2084, 2986, 2987, 3323, 4881, 4883	117.....3714	261.....2788	65a.....3004
91.....721, 727	176.....5	<b>38 CFR</b>	66.....3004
97.....1511, 4174, 4175	507.....3716	3.....1512	67.....3004
121.....1	510.....3324	60.....4223	124.....3004
135.....1	516.....3324	<b>Proposed Rules:</b>	136.....3004
183.....1292	874.....3325	17.....196	403.....3004
1251.....3703	884.....354, 364, 378	<b>39 CFR</b>	412.....3727
<b>Proposed Rules:</b>	<b>Proposed Rules:</b>	3017.....869	417.....3004
25.....4596	101.....3751	<b>Proposed Rules:</b>	430.....3004
36.....1923	172.....42	551.....3762	433.....3004
39.....22, 24, 27, 28, 30, 32, 34, 38, 191, 1345, 1563, 1565, 1568, 1570, 1573, 1577, 1580, 1582, 1584, 1586, 1588, 2131, 2134, 2783, 2785, 3038, 3042, 3045, 3051, 3053, 3056, 3059, 3061, 3066, 3344, 3346, 3348, 3350, 4214, 4217, 4901	882.....3751	3000.....1931	434.....3004
71.....1590, 4220, 4903	<b>22 CFR</b>	3001.....1931	435.....3004
73.....3353	171.....2988	3008.....1931	436.....3004
91.....1923	<b>Proposed Rules:</b>	3020.....4606	438.....3004
382.....193	147.....44	<b>40 CFR</b>	440.....3004
<b>15 CFR</b>	<b>24 CFR</b>	52.....296, 1122, 1124, 1127, 1128, 1320, 1514, 1881, 1882, 1884, 1887, 1890, 2090, 2991, 2993, 3334, 3723, 4884, 4886, 4889, 4891, 4896	441.....3004
29.....3699	200.....1120	62.....380	445.....3004
746.....4580	280.....1120	70.....1890, 2090	446.....3004
902.....150, 1878	570.....1120	81.....1514, 2993	447.....3004
950.....1118	<b>Proposed Rules:</b>	141.....13	448.....3004
<b>Proposed Rules:</b>	Ch. IX.....881	174.....3001	449.....3004
922.....879	<b>26 CFR</b>	180.....1522, 1526, 1890, 3723	450.....3004
<b>16 CFR</b>	1.....2088	<b>Proposed Rules:</b>	451.....3004
1.....2742	<b>Proposed Rules:</b>	Ch. I.....1365	452.....3004
306.....2054	1.....194, 882, 1364, 1592, 3069, 4221, 4599, 4605	52.....1133, 1136, 1141, 1144, 1935, 2004, 2136, 2140, 2159, 3078, 4225, 4905	453.....3004
1109.....2	20.....1364	62.....414	454.....3004
1500.....2	25.....1364	63.....4239	455.....3004
<b>Proposed Rules:</b>	26.....1364	70.....2159	456.....3004
23.....1349	31.....1364	81.....1144	457.....3004
1231.....3354	301.....1364	98.....2536	458.....3004
<b>17 CFR</b>	<b>27 CFR</b>	122.....415	459.....3004
23.....636	9.....3327	130.....2791	460.....3004
140.....636	478.....1307	180.....2803	461.....3004
229.....2743	479.....2658	<b>41 CFR</b>	462.....3004
232.....3	<b>Proposed Rules:</b>	<b>Proposed Rules:</b>	463.....3004
239.....2743	9.....3356	300-3.....884	464.....3004
<b>Proposed Rules:</b>	<b>28 CFR</b>	301-11.....884	465.....3004
3.....1359	571.....1880	301-12.....884	466.....3004
240.....733, 3354, 4598	<b>29 CFR</b>	301-70.....884	467.....3004
249.....4598	4022.....2088	<b>42 CFR</b>	468.....3004
<b>18 CFR</b>	<b>Proposed Rules:</b>	34.....4191	469.....3004
40.....4177	38.....4436	38.....3004	470.....3004
381.....2748	<b>31 CFR</b>	50.....3004	471.....3004
<b>Proposed Rules:</b>	285.....1318	51.....3004	472.....3004
284.....3750	Ch. V.....3330	51a.....3004	473.....3004
<b>19 CFR</b>	515.....4583	51b.....3004	474.....3004
10.....2085	560.....3330	51c.....3004	475.....3004
12.....2086	<b>32 CFR</b>	51d.....3004	476.....3004
24.....2085	706.....8, 3718	52.....3004	477.....3004
162.....2085	<b>33 CFR</b>	52a.....3004	478.....3004
163.....2085	117.....10, 1121, 2089, 4191	52b.....3004	479.....3004
178.....2085	151.....173	52c.....3004	480.....3004
<b>20 CFR</b>	165.....11, 2749, 2989, 3333, 4586, 4588, 4590	52d.....3004	481.....3004
<b>Proposed Rules:</b>	<b>Proposed Rules:</b>	52e.....3004	482.....3004
30.....2787	100.....3362	55a.....3004	483.....3004
	110.....194	56.....3004	484.....3004
	165.....3069	57.....3004	485.....3004
	<b>36 CFR</b>	59.....3004	486.....3004
	Ch. II.....4213	59a.....3004	487.....3004
		62.....3004	488.....3004

<b>Proposed Rules:</b>	537.....1531	173.....3636	226.....4838
1.....1802	552.....1531, 3730, 4593	174.....3636	300.....1878, 2110
2.....1802	570.....1531	176.....3636	600.....1762
15.....1802	1022.....2760	177.....3636	622.....1762, 3031, 3731
20.....204	1052.....2760	178.....3636	635.....19
25.....1802	1852.....3339	180.....3636	648.....3339
30.....1802	<b>Proposed Rules:</b>	<b>Proposed Rules:</b>	660.....183
64.....3085	3.....3763	195.....885	665.....2761
69.....3086	4.....3763	350.....3562	679.....150, 184, 188, 4594
73.....2818	19.....3087	365.....3562	680.....1557, 4206
74.....2818	42.....3087	385.....3562	<b>Proposed Rules:</b>
101.....1802	52.....3087, 3763	386.....3562	17.....214, 435, 1000, 1368,
<b>48 CFR</b>	216.....1596	387.....3562	1597, 3373, 3767
Ch. IV.....4213	225.....1596	395.....3562	32.....886, 887
501.....1531	252.....1596	512.....47	36.....886, 887
504.....1531, 3730	<b>49 CFR</b>	<b>50 CFR</b>	223.....1376
509.....1531	107.....3636	16.....1534	224.....1376
519.....1531	171.....3636	17.....1322, 1900, 3866	648.....3768
522.....1531	172.....3636	223.....3023	660.....215, 2831
536.....1531, 4593			679.....897, 3374, 3775

---

---

**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 December 23, 2015

---

---

**Public Laws Electronic Notification Service (PENS)**

---

**PENS** is a free electronic mail notification service of newly

enacted public laws. To subscribe, go to <http://listserv.gsa.gov/archives/publaws-l.html>

**Note:** This service is strictly for E-mail notification of new laws. The text of laws is not available through this service. **PENS** cannot respond to specific inquiries sent to this address.