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Reader Aids
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Rules and Regulations

Federal Register
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DEPARTMENT OF HOMELAND SECURITY

8 CFR Parts 212, 214, 215, and 273

[USCBP–2016–0046; CBP Dec. No. 16–17]

RIN 1651–AB08

Establishment of the Electronic Visa Update System (EVUS)

AGENCY: U.S. Customs and Border Protection, U.S. Department of Homeland Security.

ACTION: Final rule.

SUMMARY: This rule amends the Department of Homeland Security's regulations to establish the Electronic Visa Update System (''EVUS''). This system will allow for the collection of biographic and other information from nonimmigrant aliens who hold a passport issued by an identified country containing a U.S. nonimmigrant visa of a designated category. Nonimmigrant aliens subject to these regulations must periodically enroll in EVUS and obtain a notification of compliance with EVUS prior to travel to the United States. Individuals subject to the EVUS regulations must comply with EVUS in order to maintain the validity of their visas falling within a designated category. The Department of State is publishing a parallel rule to amend its visa regulations to reflect the new EVUS requirements.

DATES: *Effective Date:* This final rule is effective on October 20, 2016.

Compliance Dates: The compliance date is November 29, 2016 or as set forth in § 215.24(c).

Comments: Comments must be received on or before January 18, 2017.

ADDRESSES: You may submit comments, identified by docket number, by one of the following methods:

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments via docket number USCBP–2016–0046.

• *Mail:* Border Security Regulations Branch, Office of International Trade, Customs and Border Protection, Regulations and Rulings, Attention: Border Security Regulations Branch, 90 K Street NE., 10th Floor, Washington, DC 20229.

Instructions: All submissions received must include the agency name and docket number for this rulemaking. All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments and additional information the rulemaking process, see the ''Public Participation'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: For access to the docket to read background documents, go to *http://www.regulations.gov.* Submitted comments may also be inspected during regular business days between the hours of 9 a.m. and 4:30 p.m. at the Border Security Regulations Branch, Office of International Trade, U.S. Customs and Border Protection, 90 K Street NE., 10th Floor, Washington, DC. Arrangements to inspect submitted comments should be made in advance by calling Mr. Joseph Clark at (202) 325–0118.

FOR FURTHER INFORMATION CONTACT: Suzanne Shepherd, Office of Field Operations, *Suzanne.M.Shepherd@cbp.dhs.gov* or (202) 344–2073.

SUPPLEMENTARY INFORMATION:

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I. Public Participation

Interested persons may submit comments on this rulemaking by submitting written data, views, or arguments on all aspects of this final rule. Based on the comments received, DHS may revise this rule in the future.

II. Background

A. Purpose

Congress has conferred upon the Secretary of Homeland Security the authority to establish reasonable conditions on the entry of nonimmigrant aliens into the United States. The Department of Homeland Security (''DHS''), for example, may, by regulation, set conditions for an alien's admission as a nonimmigrant, *see* Immigration and Nationality Act (''INA'') 214(a)(1), 8 U.S.C. 1184(a)(1), and, more generally, establish reasonable regulations governing aliens' entry or admission into and departure from the United States, *see* INA 215(a)(1), 8 U.S.C. 1185(a)(1).[1] *See also* INA 103(a)(1), (a)(3), 8 U.S.C. 1103(a)(1), (a)(3); 6 U.S.C. 202(4).

Every alien applying for admission to the United States as a nonimmigrant must establish that he or she is admissible to the United States. *See* INA

[1] The President assigned to the Secretary of Homeland Security (acting with the concurrence of the Secretary of State) the functions under INA 215(a) with respect to noncitizens. E.O. 13323, 69 FR 241 (Dec. 30, 2003).

235(b)(2)(A), 291, 8 U.S.C. 1225(b)(2)(A), 1361; 8 CFR 214.1(a)(3), 235.1(f), 235.3. Upon application for admission, the alien must present a valid passport and valid visa unless either or both document requirements have been waived. *See* INA 212(a)(7)(B), 8 U.S.C. 1182(a)(7)(B); 8 CFR 212.1; *see also* INA 217, 8 U.S.C. 1187; 8 CFR 217. Nonimmigrant aliens who need a visa to travel to and apply for admission to the United States may be eligible for one of 20 primary nonimmigrant classifications, depending on their specific purposes and qualifications. *See* INA 101(a)(15), 8 U.S.C. 1101(a)(15) (defining nonimmigrant classifications); *see also* U.S. Department of State, Bureau of Consular Affairs, ''Directory of Visa Categories'' (listing visa categories).[2] The burden of establishing admissibility and other eligibility to enter the United States lies with the applicant for admission. *See, e.g.,* INA 291, 8 U.S.C. 1361; 8 CFR 235.1(f).

The nonimmigrant visa application process generally requires the alien to fill out an application, pay a visa application fee, and appear for an interview before a consular officer at a U.S. embassy or consulate. Every visa applicant undergoes extensive security checks before a visa is issued. At the U.S. embassy or consulate, officials review the alien's application, collect the applicant's fingerprints, and check the applicant's name against the Department of State's (''DOS'') Consular Lookout and Support System (CLASS) as well as various other government watchlists. A consular officer reviews the name check results and determines whether additional security checks are required. The consular officer then generally interviews the visa applicant and reviews his or her application and supporting documents.

When all required processing is completed, and if the alien is found eligible, the consular officer issues a nonimmigrant visa to the alien. The validity period of a nonimmigrant visa varies by category and the country that issues the nonimmigrant alien's passport.[3] When an alien's visa validity period expires, the alien will need to renew his or her visa in order to travel to the United States. The process is generally the same whether a person is applying for a visa for the first time or renewing an expired visa. This means that to renew a visa the alien must submit a new application, which requires updated information, pay the visa application fee, and undergo another interview by consular officials, unless the interview is waived.[4] The information updates provided through the visa re-application process include basic biographical and eligibility elements that can change over time (*e.g.,* address, name, employment, criminal history).

Visa validity periods can vary considerably, and some visas are valid for extended periods of up to ten years, and often for multiple entries. Frequent travelers to the United States who hold visas with short validity periods have to reapply more frequently than those who hold visas with longer validity periods. While visas with a longer validity period provide an opportunity for individuals to travel to the United States with greater ease, they do not enable the U.S. Government to receive regularly updated biographic and other information from repeat visitors who travel to the United States multiple times over the span of the visa. As such, aliens traveling on these visas with longer validity periods are screened using traveler information that is not as recent as for aliens who must obtain visas more frequently.

Because changes to biographical and eligibility elements could impact whether an individual may be admissible to the United States, it would be beneficial to have a mechanism for obtaining this updated information in advance of the individual's travel to the United States when the Secretary, in consultation with the Secretary of State, determines that it is warranted with respect to a given country and nonimmigrant visa category. Having a means for regularly collecting updated information, before the alien embarks on travel to the United States and without requiring aliens to apply for a visa on a more frequent basis, would be valuable in contributing to a robust traveler screening and verification process and would cut down on the number of visa holders who are found inadmissible at ports of entry.[5]

Given these concerns and considerations, DHS has developed the Electronic Visa Update System (''EVUS''), which provides a mechanism through which information updates can be obtained from nonimmigrant aliens who hold a passport issued by an identified country containing a U.S. nonimmigrant visa of a designated category. EVUS will provide for greater efficiencies in the screening of international travelers by allowing DHS to identify subjects of potential interest before they depart for the United States, thereby increasing security and reducing traveler delays upon arrival at U.S. ports of entry. EVUS will aid DHS in facilitating legitimate travel while also ensuring public safety and national security.

In this final rule, DHS is amending its regulations to establish EVUS. In a parallel rule, ''Visa Information Update Requirements under the Electronic Visa Update System (EVUS)'' (RIN 1400–AD93) (hereinafter ''DOS's EVUS Rule''), also published in this **Federal Register**, DOS is amending its regulations to provide for the automatic provisional revocation of visas held by nonimmigrant aliens subject to the EVUS requirements for failure to comply with those requirements.

DHS and DOS anticipate that EVUS may eventually be expanded to include a number of countries and visa categories. However, as announced in a separate notice being published in this issue of the **Federal Register**, the program will initially be limited to nonimmigrant aliens who hold unrestricted, maximum validity B–1 (business visitor), B–2 (visitor for pleasure), or combination B–1/B–2 visas, which are generally valid for 10 years,[6] contained in a passport issued by the People's Republic of China (''PRC'').[7]

B. Legal Authority

DHS and DOS are establishing EVUS primarily under the authorities granted in INA sections 103 (8 U.S.C. 1103), 214 (8 U.S.C. 1184), 215 (8 U.S.C. 1185), and 221 (8 U.S.C. 1201); and sections 402(4)

[2] This directory is available at *http://travel.state.gov/content/visas/en/general/all-visa-categories.html.*

[3] To determine the validity period of a specific visa category for a given country, a nonimmigrant alien will need to consult the reciprocity schedule for the country that issued his or her passport at *www.travel.state.gov/content/visas/en/fees/reciprocity-by-country.html.*

[4] The visa interview can be waived in certain circumstances, including for renewals that meet specific requirements. *See* INA 222(h)(1)(B), 8 U.S.C. 1202(h)(1)(B); 9 FAM 403.5–4(A), *available at https://fam.state.gov/FAM/09FAM/09FAM040305.html.*

[5] Consistent with other DHS regulations, the term ''port of entry'' includes preclearance or immigration preinspection, which are CBP facilities in a foreign location where immigration preinspection, among other things, occurs prior to travel to the United States. *See* INA 235A, 8 U.S.C. 1225a; 8 CFR 235.5.

[6] This includes visas issued for more than nine years and all replacement visas issued to correct errors in the original instance.

[7] B category visas are considered ''visitor visas.'' Visitor visas are nonimmigrant visas for individuals seeking admission to the United States temporarily for business (visa category B–1), tourism or pleasure, (visa category B–2), or a combination of both purposes (visa category B–1/B–2). Maximum validity for B category visas contained in a passport issued by the People's Republic of China, is generally ten years, but includes visas issued for more than nine years and all replacement visas issued to correct errors in the original visa.

and 428(b) of the Homeland Security Act (''HSA''), 6 U.S.C. 202(4), 236(b). Section 221(a)(1)(B) of the INA authorizes DOS to issue nonimmigrant visas to foreign nationals. Section 221(c) provides that ''[a] nonimmigrant visa shall be valid for such periods as shall be by regulations prescribed,'' and section 221(i) authorizes the Secretary of State to revoke visas at any time in his or her discretion. *See also* 22 CFR 41.122. Section 214(a)(1) of the INA authorizes DHS to establish by regulation conditions for a nonimmigrant alien's admission to the United States, 8 U.S.C. 1184(a)(1); and section 215(a)(1) provides DHS with authority to set reasonable rules restricting aliens' entry into and departure from the United States.[8] 8 U.S.C. 1185(a)(1). Section 103(a) of the INA authorizes the Secretary of Homeland Security to administer and enforce the INA and other laws relating to the immigration and naturalization of aliens, and to establish such regulations as he deems necessary for carrying out his authority. 8 U.S.C. 1103(a). Sections 402(4) and 428(b) of the HSA generally confers upon the Secretary the authority to establish and administer rules governing the granting of visas. 6 U.S.C. 202(4), 236(b).

These broad authorities allow DHS to set conditions for admission or entry into the United States and DOS to revoke visas subject to the fulfillment of these conditions. Together, these authorities allow DHS to establish an electronic visa information update system to collect periodic biographic and other updates and for DOS to provisionally revoke a nonimmigrant alien's visa for failure to meet DHS's conditions for admission or entry as outlined in the EVUS regulations set forth in this final rule and the companion DOS rulemaking.

Through the issuance of these regulations outlined below, DHS is conditioning the admission or entry of nonimmigrant aliens who hold a passport issued by an identified country containing a U.S. nonimmigrant visa of a designated category on compliance with EVUS. Through the issuance of DOS's rule on EVUS, as specified in 22 CFR 41.122(b)(3), failure to comply with this condition triggers the automatic provisional revocation of the regulated individual's visa, which will prevent travel to the United States on that visa. Once the visa holder successfully enrolls in EVUS, the provisional revocation will be automatically reversed and the visa will be valid for travel to the United States. *See* DOS's EVUS Rule.

C. Amendments to the DHS Regulations To Establish the Electronic Visa Update System

This rule amends 8 CFR by renaming part 215 ''Controls of Aliens Departing from the United States; Electronic Visa Update System,'' placing the existing §§ 215.1 through 215.9 into a subpart A entitled ''Controls of Aliens Departing from the United States'' and adding new sections in a subpart B, entitled ''Electronic Visa Update System.'' New subpart B describes the purpose of EVUS, who it applies to, and its requirements. It also contains definitions that apply throughout that subpart.

As provided in part 215, subpart B, EVUS is an online information update system that requires nonimmigrant aliens who hold a passport issued by an identified country containing a U.S. nonimmigrant visa of a designated category to provide information updates through periodic EVUS enrollment. The Secretary will identify countries (''EVUS countries'') whose passport holders will be subject to the EVUS regulations and designate applicable visa categories. This regulation would potentially apply to both single and multiple use visas. Notice of identified countries and designated visa categories will be published in the **Federal Register**. A nonimmigrant alien who holds a passport issued by an EVUS country containing a U.S. nonimmigrant visa of a designated category is referred to in part 215, subpart B, as a ''covered alien.'' Each covered alien must comply with EVUS in order to ensure the continued validity of his or her visa. A covered alien will not be allowed to board an air or sea carrier destined for the United States unless he or she complies with EVUS. Failure to enroll in EVUS according to the regulations will result in the automatic provisional revocation of the individual's visa pursuant to DOS's regulations in 22 CFR 41.122(b)(3). *See* DOS's EVUS Rule.

1. Enrollment in EVUS

To enroll in EVUS, the covered alien must go online to *www.EVUS.gov* and provide truthful, accurate, and complete responses to all of the required questions. At this time, the EVUS enrollment may be completed by the covered alien or by a third party, such as a friend, relative, or travel industry professional, at the direction of the covered alien. The third party may submit the required information on the alien's behalf, although the alien is responsible for the truthfulness and accuracy of all information submitted.

After the enrollment information is submitted, the submitter will receive an electronic status message on the EVUS enrollment Web site stating ''enrolled,'' ''pending,'' ''unsuccessful,'' or ''The State Department has revoked your visa.'' The U.S. Customs and Border Protection (''CBP'') anticipates that each EVUS enrollment attempt will be adjudicated within 72 hours of submission, although most results will be received shortly after submission. An ''enrolled'' message indicates that the submission was successful and that the covered alien has a valid notification of compliance. For more details, see the section below, ''Notification of Compliance.'' If a ''pending'' message is received, the alien will need to return to the Web site at a later time to verify successful enrollment.

In some circumstances, the submitter may receive an ''unsuccessful'' message. This may occur for reasons including, but not limited to, the alien's failure to provide adequate responses to the EVUS questions, the alien's attempt to use an invalid passport or visa, such as an expired document or one reported lost or stolen, or irreconcilable errors discovered relating to the information the alien provided as part of an attempted EVUS enrollment. An unsuccessful EVUS enrollment after November 29, 2016 means that the covered alien's visa will be automatically provisionally revoked. An unsuccessful enrollment does not cause the underlying visa to be permanently revoked. A covered alien may reattempt enrollment any number of times, subsequent to receiving an ''unsuccessful'' message.

If the submitter receives a message stating that ''The State Department has revoked your visa,'' the submitter will not be permitted to travel to the United States on that visa until a new visa application has been submitted to DOS, a new visa has been issued, and the submitter has successfully enrolled in EVUS based on his or her new visa.

2. Notification of Compliance

Upon successful enrollment in EVUS, CBP will issue a notification of compliance to the covered alien. In most cases, this notification of compliance will be issued immediately, appearing on the next page of the EVUS Web site after submission of the EVUS enrollment information. CBP will not send an email or letter to the alien notifying them of their enrollment status. It is the alien's responsibility to verify whether he or she has a valid notification of compliance. The alien

[8] *See supra* note 1.

can do this by returning to the EVUS Web site and following the instructions provided there.

The notification of compliance is a positive determination that the individual's visa is not automatically provisionally revoked and is considered valid for travel to the United States as of the time of the notification. *See* DOS's EVUS Rule; *see also* 22 CFR 41.122(b)(3).

As explained in the section below, ''Duration of Notification of Compliance,'' as a general rule, a notification of compliance is valid for a period of two years. For immigration purposes, a covered alien may travel to the United States repeatedly using the same notification of compliance, as long as the notification of compliance and the underlying visa remain valid.

3. EVUS in the Context of Travel to the United States

When a covered alien seeks to board a commercial aircraft or vessel carrier for travel to a U.S. air or sea port of entry, the carrier will verify that the traveler has a valid notification of compliance before allowing the alien to board. When a covered alien arrives at a U.S. land port of entry, the CBP officer at the port of entry will verify that the traveler has a valid notification of compliance before conducting further assessment on the admissibility of the traveler.

A notification of compliance only allows a covered alien to board a conveyance for travel to a U.S. air or sea port of entry, or to apply for admission at a land port of entry. It does not restrict, limit, or otherwise affect the authority of CBP officers to determine an alien's admissibility to the United States during inspection at a port of entry or the respective authorities of DHS and DOS to refuse or revoke a nonimmigrant visa.

4. Validity Period of Notification of Compliance

As a general rule, a notification of compliance will be valid for a period of two years. If a covered alien's passport or visa will expire in less than two years from the date the notification of compliance is issued, the notification will be valid only until the date of expiration of the passport or visa, whichever is sooner. Individuals who have successfully enrolled in EVUS may return to the EVUS Web site at any time to verify their EVUS status and notification of compliance expiration date.

The Secretary, in consultation with the Secretary of State, may increase or decrease the notification of compliance validity period for any EVUS country. Any changes to the validity period will be done through rulemaking. The EVUS Web site will also be updated to reflect the specific duration of notification of compliance validity periods for each EVUS country.

If a covered alien does not re-enroll in EVUS before his or her notification of compliance expires, his or her visa will be automatically provisionally revoked and the alien may not travel to the United States on that visa unless or until the alien re-enrolls in EVUS and obtains a new notification of compliance. Furthermore, a notification of compliance is not valid unless the alien's passport and designated visa are also valid.

5. Schedule for EVUS Enrollment and Re-Enrollment

As explained below in more detail, EVUS requires each covered alien to initially enroll after receiving his or her designated visa and to re-enroll in the context of travel if the initial or an earlier notification of compliance is no longer valid.

a. Initial Enrollment

Following are the requirements for initial enrollment in EVUS. As explained below, as of November 29, 2016, no covered alien will be permitted to travel to the United States on a visa subject to EVUS, without a valid notification of compliance. Any covered alien who received his or her visa of a designated category prior to November 29, 2016, must initially enroll in EVUS by December 14, 2016, unless the alien intends to travel to the United States before that date. In such case, a covered alien intending to arrive at an air or sea port of entry must have a notification of compliance that is valid prior to boarding a carrier destined for travel to the United States, and an alien intending to arrive at a land port of entry must have a notification of compliance that is valid prior to application for admission.

In contrast, any covered alien who receives his or her visa of a designated category on or after November 29, 2016 must initially enroll in EVUS upon receipt of his or her visa. Enrollment upon receipt of the visa is necessary because, based on CBP's data on crossing history and visa issuance, most visitors to the United States travel within six months of visa issuance. To alleviate the reporting burden, EVUS will pre-populate the data elements that are duplicated on the visa application for recent visa issuances

Failure to initially enroll in EVUS as described above will result in the automatic provisional revocation of the covered alien's visa. The alien will not be authorized to travel to the United States on that visa unless or until the alien enrolls in EVUS and obtains a notification of compliance.

b. EVUS Re-Enrollment Prior to Travel to the United States

A covered alien must have a valid notification of compliance in order to travel to the United States on his or her visa of a designated category. To comply with this requirement, the individual must re-enroll in EVUS if his or her initial or most recent notification of compliance has expired, or will expire, prior to the following timeframes. A covered alien intending to arrive at an air or sea port of entry must have a notification of compliance that is valid prior to boarding a carrier destined for travel to the United States and that will remain valid through the date when the alien will arrive at the port of entry. A covered alien intending to arrive at a land port of entry must have a notification of compliance that is valid through the date of the alien's application for admission into the United States.

A covered alien may travel to the United States repeatedly using the same notification of compliance, as long as it remains valid through the timeframe described above and the underlying visa remains valid. If a covered alien needs a new notification of compliance in order to meet the relevant timeframe, DHS recommends that he or she re-enroll in EVUS at least 72 hours in advance of his or her intended departure to the United States.

6. Required EVUS Data Elements

The information required for EVUS enrollment is information that DHS, after consultation with DOS, has deemed necessary to evaluate whether a covered alien's travel to the United States poses a law enforcement or security risk. It includes biographical data such as name, birth date, and passport information, as well as travel information such as travel details and the alien's contact information in the United States. Covered aliens must also answer eligibility questions regarding, for example: Infection with communicable diseases of public health significance, existence of arrests or convictions for certain crimes, and past history of visa or admission denial.

The EVUS enrollment questions will be available in multiple languages, including English and the official language(s) of the covered alien's EVUS country. Although the covered alien must provide responses to most of the

data elements in English, some of the information, such as the alien's name and address, can or must also be provided in the official language(s) of the alien's EVUS country.

The information submitted by the alien will be checked by DHS against all appropriate databases, including, but not limited to, lost and stolen passport databases and appropriate watchlists.

7. Events Requiring EVUS Re-Enrollment

Covered aliens must re-enroll in EVUS and obtain a new notification of compliance if any of the following occur:

(a) The alien is issued a new passport or new nonimmigrant visa of a designated category;

(b) The alien changes his or her name;

(c) The alien changes his or her gender;

(d) There is any change to the alien's country of citizenship or nationality, including becoming a dual national; or

(e) The circumstances underlying the alien's previous responses to any of the EVUS enrollment questions requiring a ''yes'' or ''no'' response (eligibility questions) have changed.

8. Noncompliance, Expiration of Notification of Compliance, and Change in EVUS Status Resulting in Rescission of Notification of Compliance

An individual subject to the EVUS requirements must take affirmative actions to ensure and maintain the validity of his or her visa, pursuant to 22 CFR 41.122(b)(3). Failure to initially enroll in EVUS as described above will result in the automatic provisional revocation of the covered alien's visa. Furthermore, once a covered alien's notification of compliance has expired, his or her visa will be automatically provisionally revoked. In order to prevent the automatic provisional revocation of his or her visa, or to re-instate the validity of the visa after it has been provisionally revoked in these circumstances, the alien must successfully enroll or re-enroll in EVUS and obtain a valid notification of compliance.

In the event that a covered alien's EVUS enrollment is unsuccessful, his or her visa will also be automatically provisionally revoked. Under these circumstances, the alien may re-attempt enrollment or contact CBP for further guidance. Additionally, in the event that irreconcilable errors are discovered after the issuance of a notification of compliance, or other circumstances occur, such as a change in the validity period of the notification of compliance, CBP may rescind the notification of compliance.[9] If a covered alien's notification of compliance is rescinded, his or her visa will be automatically provisionally revoked. In this circumstance, the alien may re-attempt enrollment or contact CBP for further guidance.

For more information on the automatic provisional revocation of visas in the context of EVUS, please see DOS's EVUS rule.

D. Other Amendments to the DHS Regulations To Reference EVUS

In establishing EVUS, several other sections of the DHS regulations must be amended to reference the new part 215, subpart B, of title 8 of the Code of Federal Regulations (''CFR''). Section 212.1 (''Documentary Requirements for Nonimmigrants'') is being revised to specify that when presenting documents for admission, the nonimmigrant alien's visa must meet the requirements of part 215, subpart B, if applicable. Section 212.1 is also being revised to remove the phrase ''valid for the period set forth in section 212(a)(26) of this Act'' as a descriptor of the passport an alien must present upon application for admission. That section of the INA no longer exists, making the reference obsolete. Section 214.1(a)(3) (''Requirements for Admission, Extension, and Maintenance of Status'') is being revised to note that an alien's admission to the United States as a nonimmigrant is now conditioned on compliance with part 215, subpart B, if applicable.

Lastly, § 273.3, regarding screening procedures, is also being revised to reflect EVUS requirements. Section 273.3 lists the screening procedures that owners, operators, or agents of carriers which transport passengers to the United States must follow to be eligible to apply for a reduction, refund, or waiver of fines imposed under section 273 of the INA, 8 U.S.C. 1323, for bringing aliens to the United States without the required travel documents. Section 273.3(b)(1) is being revised to add a new paragraph that specifies that carrier personnel, when screening passengers prior to boarding, should ensure that covered aliens have complied with EVUS as appropriate. Additionally, a new § 273.3(b)(4) is being added to address the procedures that carriers should follow to ensure that a covered alien has a valid notification of compliance before allowing him or her to board. This provision specifies that carriers should transmit the visa number of any passenger who requires a visa. The carrier should transmit this information using the Advance Passenger Information System (''APIS'').[10] CBP will then use the visa number to ascertain whether the alien requires a notification of compliance with EVUS and if so, whether the alien has a valid notification of compliance. CBP will relay this information back to the carrier, and the carrier should use this information in determining whether to board the passenger.

E. Compliance Dates and Early Enrollment Period for EVUS

As provided in § 215.24(c), covered aliens must initially enroll in EVUS as early as November 29, 2016, depending on the date on which the alien received his or her visa of a designated category and on his or her specific plans to travel to the United States. As of November 29, 2016, no covered alien will be authorized to travel to the United States on his or her visa of a designated category unless or until the alien enrolls in EVUS and obtains a notification of compliance.

As of the effective date of this rule, CBP will allow covered aliens to voluntarily enroll in EVUS prior to the mandatory compliance dates. This will allow covered aliens to familiarize themselves with the online tool and to meet the update requirements associated with EVUS well in advance of the mandatory compliance dates. A notification of compliance received during the early enrollment period will generally be valid for two years from the date of issuance, subject to the same limitations as notifications of compliance received after the mandatory compliance dates as provided in § 215.24(b).

The compliance date for the new requirements set forth in § 273.3, regarding carriers' screening procedures, is November 29, 2016.

III. Statutory and Regulatory Requirements

A. Administrative Procedure Act

This final rule is excluded from the rulemaking provisions of 5 U.S.C. 553 as a foreign affairs function of the United States because it advances the President's foreign policy goals regarding the issuance of visas, involves a diplomatic arrangement with another country regarding reciprocal changes to temporary visitor for business and pleasure, student, and exchange visitor

[9] CBP will send an email to the address provided during enrollment to attempt to notify the covered alien about the rescission of his or her notification of compliance.

[10] This provision does not create a new APIS requirement, it only provides that carriers use the APIS system to transmit the visa information.

visas, and directly involves relationships between the United States and its alien visitors. *See* 5 U.S.C. 553(a)(1). This determination was reached after consultation with DOS, which is also asserting the foreign affairs function exception in their parallel rule. Accordingly, DHS is not required to provide public notice and an opportunity to comment before implementing the requirements under this final rule.

B. Congressional Review Act

Under the Congressional Review Act, a rule that is likely to result in an annual effect on the U.S. economy of $100,000,000 or more is considered a major rule. *See* 5 U.S.C. 804. Generally, the effective date of a major rule must be the later of these two dates: 60 days after publication in the **Federal Register**, or 60 days after delivery of the report to Congress. *See* 5 U.S.C. 801(a)(3). DHS has concluded in section III.E that this rule is likely to result in an annual effect on the U.S. economy of $100,000,000 or more. Therefore, it meets the criteria for a major rule. However, as provided in 5 U.S.C. 808, notwithstanding section 801, any rule which an agency for good cause finds (and incorporates the finding and a brief statement or reasons therefor) that notice and public procedure thereon are impractical, unnecessary, or contrary to the public interest, shall take effect at such time as the agency promulgating the rule determines. As discussed below, DHS finds for good cause that notice and public procedure thereon are impractical and contrary to the public interest.

This rule improves the security of issuing certain visas with longer validity periods to nonimmigrant aliens who hold a passport issued by an identified country. By requiring covered aliens to provide regular updated biographic and other information, DHS is better positioned to obtain updated information from these individuals and to screen them before they embark on travel to the United States. Implementation of this rule as soon as possible is necessary to protect the national security of the United States and to prevent potential wrongdoers from exploiting visas with longer validity periods when they are issued to nonimmigrant aliens who hold a passport issued by a country identified by the Secretary. Therefore, DHS finds for good cause that notice and public comment are impractical and contrary to the public interest. Accordingly, the effective date pursuant to 5 U.S.C. 808 may be the date the agency determines and DHS has determined that the rule will take effect immediately upon publication, but the compliance date is November 29, 2016, or as set forth in section 215.24(c).

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), as amended by the Small Business Regulatory Enforcement and Fairness Act of 1996, requires an agency to prepare and make available to the public a regulatory flexibility analysis that describes the effect of a proposed rule on small entities (*i.e.,* small businesses, small organizations, and small governmental jurisdictions) when the agency is required to publish a general notice of proposed rulemaking for a rule. Since a general notice of proposed rulemaking is not necessary for this rule, CBP is not required to prepare a regulatory flexibility analysis for this rule.

D. Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), enacted as Public Law 104–4 on March 22, 1995, requires each Federal agency, to the extent permitted by law, to prepare a written assessment of the effects of any Federal mandate in a proposed or final agency rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more (adjusted annually for inflation) in any one year. Section 204(a) of the UMRA, 2 U.S.C. 1534(a), requires the Federal agency to develop an effective process to permit timely input by elected officers (or their designees) of State, local, and tribal governments on a proposed ''significant intergovernmental mandate.'' A ''significant intergovernmental mandate'' under the UMRA is any provision in a Federal agency regulation that will impose an enforceable duty upon State, local, and tribal governments, in the aggregate, of $100,000,000 (adjusted annually for inflation) in any one year. Section 203 of the UMRA, 2 U.S.C. 1533, which supplements section 204(a), provides that, before establishing any regulatory requirements that might significantly or uniquely affect small governments, the agency shall have developed a plan that, among other things, provides for notice to potentially affected small governments, if any, and for a meaningful and timely opportunity to provide input in the development of regulatory proposals. This rule would not impose a significant cost or uniquely affect small governments. The rule does have an effect on the private sector of $100,000,000 or more. This impact is discussed in section III.E. entitled ''Executive Order 13563 and Executive Order 12866.''

E. Executive Order 13563 (Improving Regulation and Regulatory Review) and Executive Order 12866 (Regulatory Planning and Review)

Executive Orders 13563 and 12866 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. Rules involving the foreign affairs function of the United States are exempt from the requirements of Executive Order 12866. As discussed above, EVUS advances the President's foreign policy goals regarding the issuance of visas and directly involves relationships between the United States and its alien visitors, and as such, DHS is of the opinion that this rule is exempt from the requirements of Executive Orders 13563 and 12866. However, DHS has nevertheless reviewed this rule to ensure its consistency with the regulatory philosophy and principles set forth in Executive Orders 13563 and 12866. DHS has prepared an economic analysis of the potential impacts of this final rule for public awareness. A summary of the analysis is presented below. The complete analysis can be found in the public docket for this rulemaking at *www.regulations.gov.*

1. Purpose of Rule

Visa validity periods can vary considerably, and some visas are valid for extended periods of up to ten years, and often for multiple entries. Although these longer-term visas allow individuals to travel repeatedly to the United States with greater ease and at lower cost, they do not enable the U.S. Government to receive regular information about the travelers that could impact whether they are admissible to the United States over the entire span of the visa. Because changes to biographical and eligibility elements could impact whether an individual may be admissible to the United States, it would be beneficial to have a mechanism for obtaining this updated information in advance of the individual's travel to the United States when the Secretary, in consultation with the Secretary of State, determines

that it is warranted with respect to a given country and nonimmigrant visa category. To maintain the needed levels of security when granting longer-term visas, this rule and a corresponding DOS rule will establish EVUS, an electronic mechanism for collecting biographical and other information from nonimmigrant aliens who hold a passport issued by an identified country containing a U.S. nonimmigrant visa of a designated category. Nonimmigrant aliens subject to these regulations (''covered aliens'') must periodically submit up-to-date biographical and other information through an EVUS enrollment request and receive an electronic notification of compliance indicating successful enrollment in advance of travel or admission to the United States. Failure to comply with EVUS will result in the automatic provisional revocation of the covered alien's visa, rendering the covered alien inadmissible to the United States on that visa and barring travel (by air and sea) on that visa until certain requirements are met. Air and sea carriers that offer travel to the United States will be responsible for verifying the EVUS compliance statuses of covered aliens, a condition of visa validity and admissibility, prior to boarding. CBP will continually screen covered aliens with EVUS notifications of compliance, thus providing more frequent enhanced traveler screening than short-term visas provide. This continual screening will ensure that aliens continue to meet U.S. security and admission requirements throughout the validity period of their EVUS notification of compliance and visa.

CBP and DOS anticipate that EVUS may eventually be expanded to include a number of countries and nonimmigrant visa categories. However, as announced in the notice being published in this issue of the **Federal Register**, the program will initially be limited to nonimmigrant aliens holding unrestricted, maximum validity B–1 (business visitor), B–2 (visitor for pleasure), or combination B–1/B–2 visas contained in a passport issued by the People's Republic of China. The following regulatory impact analysis summary and its corresponding full analysis present the costs and benefits of EVUS in two ways: (1) On a per-alien and per-carrier basis and (2) on an aggregate basis for the population of covered aliens initially required to enroll in EVUS—nonimmigrant aliens holding unrestricted, maximum validity B–1, B–2, or B–1/B–2 nonimmigrant visas contained in a passport issued by the PRC and who seek travel to the United States. When analyzing these impacts of the rule, CBP does so against a baseline in which DOS issues one-year B–1, B–2, and B–1/B–2 visas. CBP analyzes the impact of EVUS on a one-year basis because the United States and the PRC agreed to longer-length visa issuances on the condition of EVUS's forthcoming implementation. To the extent that DHS/CBP and DOS expand EVUS to other countries and visa categories, the impacts of EVUS outlined in this analysis would be higher. CBP also anticipates that currently proposed U.S. legislation establishing an $8.00 EVUS fee will pass in FY 2017.[11] [12] Such fee legislation would require covered aliens to pay an $8.00 EVUS fee per enrollment request, while allowing CBP to cover its costs of providing and administering EVUS. CBP includes the EVUS fee revenue in this analysis as a proxy for CBP's expected costs of setting up and administering EVUS.

2. Population Affected by Rule

This EVUS rule will impact covered aliens, air and sea carriers, CBP, and the public.[13] Due to a myriad of factors that affect travel, CBP used three different projection methods to estimate the population of covered aliens initially affected by this rule—PRC B–1, B–2, and B–1/B–2 visa holders—over a 10-year period of analysis spanning from fiscal years (FYs) 2017 to 2026. Under CBP's primary estimation method, EVUS enrollment requests will measure 56.9 million during the period of analysis, with 56.9 million successful enrollments and about 2,100 unsuccessful enrollments (see Table 1).

TABLE 1—PROJECTED NUMBERS OF EVUS ENROLLMENT REQUESTS

[In millions]

	Fiscal Year										Total
	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	
Method 1 (Primary Estimate)—With Rule											
Total EVUS Requests	3.6	3.4	3.8	4.2	4.7	5.2	5.7	6.4	9.6	10.5	56.9
Successful	3.6	3.4	3.8	4.2	4.7	5.2	5.7	6.4	9.6	10.5	56.9
Unsuccessful	0.0003	0.0001	0.0001	0.0001	0.0002	0.0002	0.0002	0.0002	0.0003	0.0003	0.0021
Method 2—With Rule											
Total EVUS Requests	3.5	3.3	3.6	3.9	4.3	4.7	5.1	5.5	8.5	9.2	51.6
Successful	3.5	3.3	3.6	3.9	4.3	4.7	5.1	5.5	8.5	9.2	51.6
Unsuccessful	0.0003	0.0001	0.0001	0.0001	0.0001	0.0002	0.0002	0.0002	0.0003	0.0003	0.0019
Method 3—With Rule											
Total EVUS Requests	3.7	3.5	4.0	4.5	5.1	5.8	6.5	7.4	10.8	12.0	63.4
Successful	3.7	3.5	4.0	4.5	5.1	5.8	6.5	7.4	10.8	12.0	63.3
Unsuccessful	0.0003	0.0001	0.0001	0.0002	0.0002	0.0002	0.0002	0.0002	0.0004	0.0004	0.0023

Notes: The estimates in this table are contingent upon CBP's expectations of the population of covered aliens initially affected by this rule. Estimates may not sum to total due to rounding.

[11] *See* Office of Management and Budget. *Budget of the United States Government, Fiscal Year 2017.* Available at *https://www.whitehouse.gov/sites/default/files/omb/budget/fy2017/assets/budget.pdf.* Accessed October 3, 2016.

[12] A detailed study on the EVUS fee calculation, which serves as the basis of the fee proposed in legislation, is available in the public docket for the EVUS rulemaking at *www.regulations.gov.*

[13] For the purposes of this analysis, the public includes U.S. residents and visitors.

On account of this rule's longer-term visas, PRC B–1, B–2, and B–1/B–2 visa holders will be able to renew their visas on a less frequent basis. In fact, based on coordination with DOS, CBP estimates that DOS will issue 8.5 million fewer B–1, B–2, and B–1/B–2 visas to nonimmigrant aliens holding passports issued by the PRC over the period of analysis with EVUS's implementation according to CBP's primary estimation method (see Table 2).

TABLE 2—PROJECTED NUMBERS OF PRC B–1, B–2, AND B–1/B–2 VISAS ISSUANCES WITH AND WITHOUT RULE

[In millions]

	Fiscal Year										Total
	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	
Method 1 (Primary Estimate)											
Without Rule—Total PRC B–1, B–2, and B–1/B–2 Visa Issuances	2.4	2.8	3.4	4.0	4.7	5.6	6.7	8.0	9.5	11.3	58.5
With Rule—Total PRC B–1, B–2, and B–1/B–2 Visa Issuances	2.6	3.0	3.4	3.7	4.1	4.6	5.1	5.7	8.5	9.3	50.0
Difference	−0.2	−0.2	0.0	0.3	0.6	1.1	1.6	2.3	1.0	2.0	8.5
Method 2											
Without Rule—Total PRC B–1, B–2, and B–1/B–2 Visa Issuances	2.2	2.6	3.1	3.6	4.2	4.9	5.8	6.8	7.9	9.2	50.4
With Rule—Total PRC B–1, B–2, and B–1/B–2 Visa Issuances	2.6	2.9	3.2	3.5	3.8	4.1	4.5	4.9	7.6	8.2	45.3
Difference	−0.3	−0.3	−0.1	0.1	0.4	0.8	1.3	1.8	0.3	1.1	5.1
Method 3											
Without Rule—Total PRC B–1, B–2, and B–1/B–2 Visa Issuances	2.5	3.0	3.6	4.4	5.3	6.5	7.8	9.4	11.4	13.8	67.9
With Rule—Total PRC B–1, B–2, and B–1/B–2 Visa Issuances	2.6	3.1	3.6	4.0	4.5	5.1	5.8	6.6	9.6	10.7	55.7
Difference	−0.2	−0.1	0.1	0.4	0.8	1.3	2.0	2.9	1.8	3.1	12.2

Note: Estimates may not sum to total due to rounding.

Because this rule presents a new traveler eligibility check for U.S. travel, carriers that offer travel to the United States will need to modify their APIS systems to allow for EVUS compliance verifications. Based on its similar carrier requirements to the ESTA Air and Sea Final Rule, CBP believes that this rule will initially require 80 carriers to modify their APIS systems to confirm their passengers' compliance with EVUS.[14] In addition to covered aliens and carriers, this rule will affect CBP and the public. EVUS's continual traveler screening and advance inadmissibility determinations will strengthen national security and facilitate legitimate travel, providing important benefits to CBP and the public.

3. Costs of Rule

Covered aliens, CBP, and air and sea carriers will bear all the direct costs of this rule. As stated earlier, this EVUS rule will require covered aliens to periodically submit up-to-date biographical and other information through an EVUS enrollment request and receive a notification of compliance indicating successful enrollment in advance of travel or admission to the United States. Each EVUS enrollment request will take a covered alien an estimated 25 minutes to complete, at an opportunity cost of $19.21 per request.[15] CBP expects to sustain costs from providing and administering EVUS approximately equal to the $8.00 EVUS fee that CBP anticipates covered aliens will pay beginning in FY 2017. CBP also anticipates that each covered alien will incur a foreign transaction fee of $0.02 per enrollment request.[16] Together, CBP and covered aliens will incur undiscounted opportunity costs and fee or government administration costs totaling $27.23 per EVUS enrollment request, which will translate to an overall undiscounted cost to the population of covered aliens initially affected by this rule of $1.6 billion between FY 2017 and FY 2026 under CBP's primary estimation method.

CBP estimates that air and sea carriers will each spend an average of $1.35 million during this rule's first year of implementation to test and modify their APIS systems to allow for EVUS compliance checks, and $150,000 in

[14] *See* 80 FR 32267 (June 8, 2015). This rule will apply to any carrier transporting PRC passport holders, which is likely to be the same as the carriers that transport VWP travelers. To the extent that the number of carriers affected by this rule is an overestimate, the costs of this rule would be lower.

[15] CBP bases this calculation on the U.S. Department of Transportation's (''DOT'') hourly time value of $46.10 for all-purpose, intercity air travelers. CBP believes that this DOT wage rate provides the best available time value for covered aliens initially affected by this rule and those affected if EVUS requirements are expanded to include a number of countries and visa categories. CBP posits that those traveling to the United States for temporary leisure or business purposes likely have higher time values and disposable income closer to the DOT rate than reflected by the average wage rate of individuals in their country. CBP acknowledges that this rate may not be entirely representative of the initial population affected by this rule. To the extent that the DOT rate is an overestimate, the costs and benefits of this rule would be lower. CBP adjusted the DOT estimate reported in 2013 U.S. dollars to 2017 U.S. dollars by applying a 1.0 percent annual growth rate to the estimate, as recommended by DOT's value of travel time guidance. Source: U.S. Department of Transportation, Office of Transportation Policy. *The Value of Travel Time Savings: Departmental Guidance for Conducting Economic Evaluations Revision 2 (2015 Update).* ''Table 4 (Revision 2—corrected): Recommended Hourly Values of Travel Time Savings for All-Purpose, Intercity Air and High-Speed Rail Travel'' (Apr. 29, 2015), *available at http://www.transportation.gov/sites/dot.gov/files/docs/Revised%20Departmental%20Guidance%20on%20Valuation%20of%20Travel%20Time%20in%20Economic%20Analysis.pdf.*

[16] This $0.02 foreign transaction fee is based on the fee charged by Unionpay, China's largest bank card provider.

subsequent years on system operation and maintenance related to EVUS verifications. During the 10-year period of analysis, these costs will total $2.7 million (undiscounted). Using the number of carriers initially affected by this rule and their estimated EVUS-related costs, the overall undiscounted cost of this rule to carriers will measure $216.0 million over the entire period of analysis. To the extent that carriers use their existing systems for EVUS compliance verifications, the cost of this rule to carriers will be lower.

Collectively, the undiscounted costs of this rule will total $1.8 billion under CBP's primary estimation method. In present value terms, the overall cost will equal $1.3 billion to $1.5 billion, while its annualized cost will measure $168.9 million to $173.1 million (using 7 and 3 percent discount rates, respectively; see Table 3). These costs vary according to the projection method and discount rate applied.

TABLE 3—TOTAL MONETIZED PRESENT VALUE AND ANNUALIZED COSTS OF RULE, FY 2017–FY 2026

[In millions; 2017 U.S. dollars]

	3% Discount rate		7% Discount rate	
	Present value cost	Annualized cost	Present value cost	Annualized cost
Method 1 (Primary Estimate)—With Rule	$1,520.9	$173.1	$1,269.7	$168.9
Method 2—With Rule	1,401.7	159.5	1,176.1	156.5
Method 3—With Rule	1,665.0	189.5	1,383.0	184.0

Note: The estimates in this table are contingent upon CBP's expectations of the population of covered aliens initially affected by this rule and the discount rates applied.

4. Benefits of Rule

This rule will offer benefits to covered aliens, the public, air and sea carriers, and CBP, with covered aliens enjoying the most monetized benefits from this rule. The lengthened visa validity periods negotiated based on implementation of this rule will allow PRC B–1, B–2, and B–1/B–2 visa holders to renew their visas on a less frequent basis in the future, saving covered aliens $430.50 per visa renewal foregone and a total of $3.6 billion (undiscounted) over the period of analysis according to this rule's decrease in visa issuances under CBP's primary estimation method (see Table 2).

Through its continual traveler screening and advance inadmissibility determinations, this rule will strengthen national security and facilitate legitimate travel, thereby providing important benefits to the public. Air and sea carriers and CBP will also enjoy benefits from EVUS's advance review of passengers to help avoid problems at ports of entry that could impose burdens on carriers. Each carrier will save an estimated $1,500 in avoided return trip costs per unsuccessful EVUS enrollment.[17] Such savings will total $3.1 million (undiscounted) over the entire period of analysis based on the number of unsuccessful EVUS enrollments under CBP's primary estimation method (see Table 1). With an estimated 80 carriers initially affected by this rule, these benefits will average nearly $39,000 per carrier. For each inadmissible covered alien arrival avoided, CBP will save $170.94 in avoided processing and inspection time costs. Based on these processing and inspection time cost savings and the total number of potentially inadmissible covered alien arrivals avoided through the EVUS enrollment process, under CBP's primary estimation method (see Table 1—Unsuccessful EVUS Requests), CBP will save between $325,000 and $392,000 (undiscounted) with this rule from FY 2017 to FY 2026. Note that these are not budgetary savings, they are savings that CBP will dedicate to other agency mission areas, such as improving security and expediting the processing of other travelers.

Altogether, the undiscounted monetized benefit of this rule will total $3.7 billion under CBP's primary estimation method. As Table 4 shows, the total benefit of this rule under this method will measure $2.3 billion to $3.0 billion in present value terms over the period of analysis and between $299.6 million and $336.3 million when annualized (using 7 and 3 percent discount rates, respectively). EVUS will also strengthen national security and facilitate legitimate travel. These benefits vary according to the projection method and discount rate applied.

TABLE 4—TOTAL MONETIZED PRESENT VALUE AND ANNUALIZED BENEFITS OF RULE, FY 2017–FY 2026

[In millions; 2017 U.S. dollars]

	3% Discount rate		7% Discount rate	
	Present value benefit	Annualized benefit	Present value benefit	Annualized benefit
Method 1 (Primary Estimate)—With Rule	$2,955.1	$336.3	$2,251.5	$299.6
Method 2—With Rule	1,749.3	199.1	1,305.8	173.8
Method 3—With Rule	4,254.3	484.2	3,260.4	433.8

Note: The estimates in this table are contingent upon CBP's expectations of the population of covered aliens initially affected by this rule and the discount rates applied.

[17] This cost includes the airfare and any lodging and meal expenses incurred while the alien awaits transportation out of the United States. *See* 80 FR 32267 (June 8, 2015).

5. Net Impact of Rule

Table 5 summarizes the monetized and non-monetized costs and benefits of the EVUS rule, covered aliens, the public, air and sea carriers, and CBP. As shown, the total monetized present value net benefit of this rule over ten years is $981.8 million to $1.4 billion, while its annualized net benefit totals $130.6 million to $163.2 million according to CBP's primary estimation method (using 7 and 3 percent discount rates, respectively). In addition to these benefits, the rule will strengthen national security and facilitate legitimate travel through continual traveler screening and advance inadmissibility determinations. These impacts vary according to the projection method and discount rate applied.

TABLE 5—NET BENEFIT OF RULE, FY 2017–FY 2026

[Monetized values in millions; 2017 U.S. dollars]

	3% Discount rate		7% Discount rate	
	Present value	Annualized	Present value	Annualized
Method 1 (Primary Estimate)—With Rule:				
Total Cost:				
Monetized	$1,520.9	$173.1	$1,269.7	$168.9.
Non-Monetized, but Quantified.				
Non-Monetized and Non-Quantified.				
Total Benefit:				
Monetized	$2,955.1	$336.3	$2,251.5	$299.6.
Non-Monetized, but Quantified.				
Non-Monetized and Non-Quantified	Strengthened national security and legitimate travel facilitation		Strengthened national security and legitimate travel facilitation.	
Total Net Benefit:				
Monetized	$1,434.2	$163.2	$981.8	$130.6.
Non-Monetized, but Quantified.				
Non-Monetized and Non-Quantified	Strengthened national security and legitimate travel facilitation		Strengthened national security and legitimate travel facilitation.	
Method 2—With Rule:				
Total Cost:				
Monetized	$1,401.7	$159.5	$1,176.1	$156.5.
Non-Monetized, but Quantified.				
Non-Monetized and Non-Quantified.				
Total Benefit:				
Monetized	$1,749.3	$199.1	$1,305.8	$173.8.
Non-Monetized, but Quantified.				
Non-Monetized and Non-Quantified	Strengthened national security and legitimate travel facilitation		Strengthened national security and legitimate travel facilitation.	
Total Net Benefit:				
Monetized	$347.6	$39.6	$129.7	$17.3.
Non-Monetized, but Quantified.				
Non-Monetized and Non-Quantified	Strengthened national security and legitimate travel facilitation		Strengthened national security and legitimate travel facilitation.	
Method 3—With Rule:				
Total Cost:				
Monetized	$1,665.0	$189.5	$1,383.0	$184.0.
Non-Monetized, but Quantified.				
Non-Monetized and Non-Quantified.				
Total Benefit:				
Monetized	$4,254.3	$484.2	$3,260.4	$433.8.
Non-Monetized, but Quantified.				
Non-Monetized and Non-Quantified	Strengthened national security and legitimate travel facilitation		Strengthened national security and legitimate travel facilitation.	
Total Net Benefit:				
Monetized	$2,589.3	$294.7	$1,877.4	$249.8.
Non-Monetized, but Quantified.				
Non-Monetized and Non-Quantified	Strengthened national security and legitimate travel facilitation		Strengthened national security and legitimate travel facilitation.	

Notes: The estimates in this table are contingent upon CBP's expectations of the population of covered aliens initially affected by this rule and the discount rates applied. Estimates may not sum to total due to rounding.

F. Executive Order 13132

This rule 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. Therefore, in accordance with section 6 of Executive Order 13132, DHS has determined that this final rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

G. Executive Order 12988 Civil Justice Reform

This rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988. Executive Order 12988 requires agencies to conduct reviews on civil justice and litigation impact issues before proposing legislation or issuing proposed regulations. The order requires agencies to exert reasonable efforts to ensure that the regulation identifies clearly preemptive effects, effects on existing federal laws or regulations, identifies any retroactive effects of the regulation, and other matters. DHS has determined that this regulation meets the requirements of Executive Order 12988 because it does not involve retroactive effects, preemptive effects, or the other matters addressed in the Executive Order.

H. Paperwork Reduction Act

The collection of information in this document was submitted to OMB for review in accordance with the requirements of the Paperwork Reduction Act (44 U.S.C. 3507). Approval and assigned OMB control number are pending. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB. These regulations provide for a new collection of information for biographic and other information from nonimmigrant aliens who hold a passport issued by an identified country containing a U.S. nonimmigrant visa of a designated category. Nonimmigrant aliens subject to this regulation will be required to periodically enroll in EVUS and obtain a valid notification of compliance prior to travel to the United States. DHS will use the information collected through EVUS to identify subjects of potential interest before they depart for the United States, thereby increasing security and reducing traveler delays upon arrival at U.S. ports of entry. EVUS will aid DHS in facilitating legitimate travel while also ensuring national security.

The proposed information collection requirements will result in the following estimated burden hours:

Estimated Number of Annual Respondents: 3,595,904.

Estimated Number of Annual Responses per Respondent: 1.

Estimated Total Annual Responses: 3,595,904.

Estimated Time per Response: 25 minutes (0.417 hours).

Estimated Total Annual Burden Hours: 1,499,492.

I. Privacy

DHS will ensure that all Privacy Act requirements and policies are adhered to in the implementation of this rule and has issued a Privacy Impact Assessment that fully outlines processes that will ensure compliance with Privacy Act protections. This Privacy Impact Assessment is posted on the DHS Web site at *https://www.dhs.gov/publication/dhscbppia-033-electronic-visa-update-system-evus*. DHS has also prepared a System of Records Notice (SORN) which was published in the **Federal Register** on September 1, 2016 (81 FR 60371).

List of Subjects

8 CFR Part 212

Administrative practice and procedure, Aliens, Immigration, Passports and visas, Reporting and recordkeeping requirements.

8 CFR Part 214

Administrative practice and procedure, Aliens, Cultural exchange programs, Employment, Foreign officials, Health professions, Reporting and recordkeeping requirements, Students.

8 CFR part 215

Administrative practice and procedure, Aliens, Travel restrictions.

8 CFR Part 273

Administrative practice and procedure, Air carriers, Aliens, Maritime carriers, Penalties.

Amendments to the Regulations

For the reasons stated in the preamble, we are amending 8 CFR parts 212, 214, 215, and 273 as set forth below.

PART 212—DOCUMENTARY REQUIREMENTS: NONIMMIGRANTS; WAIVERS; ADMISSION OF CERTAIN INADMISSIBLE ALIENS; PAROLE

■ 1. The general authority citation for part 212 is revised to read as follows:

Authority: 6 U.S.C. 202, 236; 8 U.S.C. 1101 and note, 1102, 1103, 1182 and note, 1184, 1187, 1223, 1225, 1226, 1227, 1255, 1359; 8 U.S.C. 1185 note (section 7209 of Pub. L. 108–458); 8 CFR part 2.

* * * * *

§ 212.1 [Amended]

■ 2. In § 212.1, in the introductory text, after the word ''visa'' add the words ''that meets the requirements of part 215, subpart B, of this chapter, if applicable,'' and remove the words '', valid for the period set forth in section 212(a)(26) of the Act,'' after the word ''passport''.

PART 214—NONIMMIGRANT CLASSES

■ 3. The authority citation for part 214 is revised to read as follows:

Authority: 6 U.S.C. 202, 236; 8 U.S.C. 1101, 1102, 1103, 1182, 1184, 1186a, 1187, 1221, 1281, 1282, 1301–1305 and 1372; sec. 643, Pub. L. 104–208, 110 Stat. 3009–708; Public Law 106–386, 114 Stat. 1477–1480; section 141 of the Compacts of Free Association with the Federated States of Micronesia and the Republic of the Marshall Islands, and with the Government of Palau, 48 U.S.C. 1901 note, and 1931 note, respectively; 48 U.S.C. 1806; 8 CFR part 2.

§ 214.1 [Amended]

■ 4. In § 214.1, paragraph (a)(3)(i), third sentence, after the words ''or of this chapter'' add the words '', as well as compliance with part 215, subpart B, of this chapter, if applicable''.

PART 215—CONTROLS OF ALIENS DEPARTING FROM THE UNITED STATES; ELECTRONIC VISA UPDATE SYSTEM

■ 5. The authority citation for part 215 is revised to read as follows:

Authority: 6 U.S.C. 202(4), 236; 8 U.S.C. 1101, 1103, 1104, 1184, 1185 (pursuant to Executive Order 13323 (Dec. 30, 2003)), 1365a note, 1379, 1731–32; and 8 CFR part 2.

■ 6. Revise the heading for part 215 to read as set forth above.

§§ 215.1 through 215.9 [Designated as Subpart A]

■ 7. Designate §§ 215.1 through 215.9 as subpart A and add a heading for subpart A to read as follows:

Subpart A—Controls of Aliens Departing from the United States

§ 215.1 [Amended]

■ 8. In § 215.1, amend the introductory text by removing the word ''part'' and adding in its place the word ''subpart''.

■ 9. Add subpart B to read as follows:

Subpart B—Electronic Visa Update System

Sec.
215.21 Purpose.
215.22 Applicability.
215.23 Definitions.
215.24 Electronic Visa Update System (EVUS) requirements.

§ 215.21 Purpose.

The purpose of this subpart is to establish an electronic visa update system for nonimmigrant aliens who hold a passport issued by an identified country containing a U.S. nonimmigrant visa of a designated category.

§ 215.22 Applicability.

This subpart is applicable to nonimmigrant aliens who hold a passport issued by an identified country containing a U.S. nonimmigrant visa of a designated category. The Secretary, in the Secretary's discretion and in consultation with the Secretary of State, may identify countries and designate nonimmigrant visa categories for purposes of this subpart. Notice of the identified countries and designated nonimmigrant visa categories will be published in the **Federal Register**.

§ 215.23 Definitions.

The following definitions apply for purposes of this subpart.

(a) *Covered alien.* A covered alien is a nonimmigrant alien who holds a passport issued by an EVUS country (as defined in paragraph (c) of this section) containing a U.S. nonimmigrant visa of a designated category.

(b) *Electronic Visa Update System (EVUS).* The Electronic Visa Update System (EVUS) is the electronic system used by a covered alien to provide required information to DHS after the receipt of his or her visa of a designated category.

(c) *EVUS country.* An EVUS country is a country that has been identified for inclusion in EVUS, through publication of a notice in the **Federal Register**, by the Secretary after consultation with the Secretary of State.

(d) *Notification of compliance.* A notification of compliance is a verification from CBP that a covered alien has successfully enrolled in EVUS. A notification of compliance is a positive determination that an alien's visa is:

(1) Not automatically provisionally revoked pursuant to 22 CFR 41.122(b)(3); and

(2) Is considered valid for travel to the United States as of the time of notification.

§ 215.24 Electronic Visa Update System (EVUS) requirements.

(a) *Enrollment required.* Each covered alien must initially enroll in EVUS, in accordance with paragraph (c)(1) of this section, by providing the information set forth in paragraph (d) of this section electronically through EVUS. Each covered alien who intends to travel to the United States must have a valid notification of compliance as set forth in paragraph (c)(2) of this section. Upon each successful enrollment or re-enrollment, CBP will issue a notification of compliance.

(b) *Validity period of notification of compliance*—(1) *General validity period.* A notification of compliance will generally be valid for a period of two years from the date the notification of compliance is issued, except as provided in paragraph (b)(2) or (3) of this section.

(2) *Exception.* If the nonimmigrant alien's passport or nonimmigrant visa will expire in less than two years from the date the notification of compliance is issued, the notification will be valid until the date of expiration of the passport or nonimmigrant visa, whichever is sooner.

(3) *Change in validity period of notification of compliance.* The Secretary, in consultation with the Secretary of State, may increase or decrease the notification of compliance validity period otherwise authorized by paragraph (b)(1) of this section for an EVUS country. Any such increase or decrease would apply to subsequently issued notifications of compliance. Any changes to the validity period will be done through rulemaking. The EVUS Web site will be updated to reflect the specific duration of notification of compliance validity periods for each EVUS country.

(4) *Relation to nonimmigrant visa validity.* A notification of compliance is not valid unless the alien's nonimmigrant visa also is valid.

(c) *Schedule for EVUS enrollment*—(1) *Initial EVUS enrollment*—(i) *Visas received prior to November 29, 2016.* Each covered alien who received his or her nonimmigrant visa of a designated category prior to November 29, 2016 must initially enroll in EVUS by December 14, 2016, unless the covered alien intends to travel to the United States before that date, in which case the requirements for EVUS enrollment outlined in paragraph (c)(2) of this section apply.

(ii) *Visas received on or after November 29, 2016.* Each covered alien who received his or her nonimmigrant visa of a designated category on or after November 29, 2016 must initially enroll in EVUS upon receipt of such visa.

(2) *EVUS re-enrollment requirements prior to travel to the United States*—(i) *Individuals arriving at air or sea ports of entry.* Each covered alien who intends to travel by air or sea to the United States on a nonimmigrant visa of a designated category must have a notification of compliance that is valid, as described in paragraph (b) of this section, prior to boarding a carrier destined for travel to the United States through the date when the covered alien will arrive at a U.S. port of entry.

(ii) *Individuals arriving at land ports of entry.* Each covered alien who intends to travel by land to the United States on a nonimmigrant visa of a designated category must have a notification of compliance that is valid, as described in paragraph (b) of this section, through the date of application for admission to the United States.

(d) *Required EVUS enrollment elements.* DHS will collect such information from covered aliens as DHS deems necessary in its discretion, after consultation with the Department of State. The required information will be reflected in the EVUS enrollment questions.

(e) *EVUS re-enrollment required.* Each covered alien must re-enroll in EVUS and obtain a new notification of compliance from CBP if any of the following occurs:

(1) The alien is issued a new passport or new nonimmigrant visa of a designated category;

(2) The alien changes his or her name;

(3) The alien changes his or her gender;

(4) There is any change to the alien's country of citizenship or nationality, including becoming a dual national; or

(5) The circumstances underlying the alien's previous responses to any of the EVUS enrollment questions requiring a ''yes'' or ''no'' response (eligibility questions) have changed.

(f) *Limitation.* A notification of compliance is not a determination that the covered alien is admissible to the United States. A determination of admissibility is made after an applicant for admission is inspected by a CBP officer at a U.S. port of entry.

(g) *Noncompliance, expiration of notification of compliance, and change in EVUS status resulting in rescission of notification of compliance*—(1) *Initial EVUS enrollment.* Failure to initially enroll in EVUS in accordance with paragraph (c)(1) of this section will result in the automatic provisional revocation of the covered alien's nonimmigrant visa pursuant to 22 CFR 41.122(b)(3), pending enrollment.

(2) *Expiration of notification of compliance.* Upon expiration of a notification of compliance, as described in paragraph (b) of this section, the covered alien's nonimmigrant visa will be automatically provisionally revoked pursuant to 22 CFR 41.122(b)(3), pending re-enrollment. To prevent the automatic provisional revocation of his or her nonimmigrant visa due to the expiration of the notification of compliance, each covered alien must re-enroll in EVUS prior to such expiration.

(3) *Unsuccessful EVUS enrollment.* If a covered alien's EVUS enrollment or re-enrollment is unsuccessful, his or her nonimmigrant visa will be automatically provisionally revoked pursuant to 22 CFR 41.122(b)(3), pending successful enrollment or re-enrollment.

(4) *Change in EVUS status after receipt of a notification of compliance.* In the event that irreconcilable errors are discovered after the issuance of a notification of compliance, or other circumstances occur including but not limited to a change in the validity period of the notification of compliance as provided in paragraph (b) of this section, CBP may rescind the notification of compliance. If a covered alien's notification of compliance is rescinded, his or her nonimmigrant visa will be automatically provisionally revoked pursuant to 22 CFR 41.122(b)(3), pending successful enrollment. CBP will attempt to provide notification of a change in EVUS status to the covered alien through the provided email address.

(h) *Reversal of an automatically provisionally revoked visa and steps to address an unsuccessful EVUS enrollment or rescission of a notification of compliance*—(1) *Reversal of an automatically provisionally revoked visa.* If a covered alien's nonimmigrant visa has been automatically provisionally revoked as described in paragraph (g)(1) or (2) of this section, the revocation of the alien's visa will be automatically reversed, following compliance with EVUS, if the visa remains valid and was not also revoked on other grounds. After a reversal of the revocation the visa will immediately resume the validity provided for on its face, pursuant to 22 CFR 41.122(b)(3), after the alien enrolls in EVUS and receives a notification of compliance.

(2) *Unsuccessful EVUS enrollment.* If a covered alien's EVUS enrollment is unsuccessful per paragraph (g)(3) of this section, the covered alien may re-attempt enrollment or contact CBP.

(3) *Rescission of notification of compliance.* If a covered alien's nonimmigrant visa has been automatically provisionally revoked as described in paragraph (g)(4) of this section, the covered alien may re-attempt enrollment or contact CBP.

PART 273—CARRIER RESPONSIBILITIES AT FOREIGN PORTS OF EMBARKATION; REDUCING, REFUNDING, OR WAIVING FINES UNDER SECTION 273 OF THE ACT

■ 10. The authority citation for part 273 continues to read as follows:

Authority: 8 U.S.C. 1103, 1323; 8 CFR part 2.

§ 273.3 [Amended]

■ 11. Amend § 273.3 as follows:
■ a. In paragraph (b)(1)(ii), remove the word ''and'';
■ b. In paragraph (b)(1)(iii), remove the period at the end of the paragraph and add in its place ''; and''; and
■ c. Add paragraphs (b)(1)(iv) and (b)(4).

The additions read as follows:

§ 273.3 Screening procedures.

* * * * *

(b) * * *

(1) * * *

(iv) Passengers described in part 215, subpart B, of this chapter have complied with EVUS requirements as appropriate.

* * * * *

(4) *Transmitting visa numbers.* Carriers must transmit to U.S. Customs and Border Protection the visa number for any passenger who requires a visa. The visa number must be transmitted using the Advance Passenger Information System, consistent with the procedural requirements for transmission of electronic passenger manifests in 19 CFR parts 4 (vessel) and 122 (aircraft).

Jeh Charles Johnson,

Secretary.

[FR Doc. 2016–25321 Filed 10–19–16; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF ENERGY

10 CFR Parts 429 and 430

[Docket No. EERE–2016–BT–TP–0005]

RIN 1904–AD64

Energy Conservation Program: Test Procedures for Certain Categories of General Service Lamps

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Final rule.

SUMMARY: This final rule adopts test procedures for certain categories of general service lamps (GSLs). Specifically, this rulemaking adopts new test procedures for determining the initial lumen output, input power, lamp efficacy, power factor, and standby mode power of GSLs that are not integrated light-emitting diode (LED) lamps, compact fluorescent lamps (CFLs), or general service incandescent lamps (GSILs). DOE also adopts clarifying references to the existing lamp test procedures and sampling plans for determining the represented values of integrated LED lamps, general service fluorescent lamps, GSILs, and incandescent reflector lamps.

DATES: The effective date of this rule is November 21, 2016. The final rule changes will be mandatory for product testing starting April 19, 2017. The incorporation by reference of certain publications listed in this rule was approved by the Director of the Federal Register on November 21, 2016.

ADDRESSES: The docket, which includes **Federal Register** notices, public meeting attendee lists and transcripts, comments, and other supporting documents/materials, is available for review at *www.regulations.gov.* All documents in the docket are listed in the *www.regulations.gov* index. However, some documents listed in the index, such as those containing information that is exempt from public disclosure, may not be publicly available.

A link to the docket Web page can be found at *https://www.regulations.gov/docket?D=EERE-2016-BT-TP-0005.* The docket Web page will contain simple instructions on how to access all documents, including public comments, in the docket.

For further information on how to review the docket, contact the Appliance and Equipment Standards staff at (202) 586–6636 or *Appliance_Standards_Public_Meetings@ee.doe.gov.*

FOR FURTHER INFORMATION CONTACT:

Ms. Lucy deButts, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Office, EE–2J, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 287–1604. Email: *GSL@ee.doe.gov.*

Ms. Celia Sher, U.S. Department of Energy, Office of the General Counsel, GC–33, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 287–6122. Email: *Celia.Sher@hq.doe.gov.*

SUPPLEMENTARY INFORMATION: This final rule incorporates by reference into 10 CFR part 430 specific sections of the following industry standards:

(1) Illuminating Engineering Society of North America, (IES) LM–9–09 (''IES LM–9–09–DD''), IES Approved Method for the Electrical and Photometric Measurement of Fluorescent Lamps.

(2) IES LM–20–13, IES Approved Method of Photometry of Reflector Type Lamps.

(3) IES LM–45–15, IES Approved Method for the Electrical and Photometric Measurement of General Service Incandescent Filament Lamps.

(4) IES LM–79–08 (''IES LM–79–08–DD''), IES Approved Method for the Electrical and Photometric Measurement of Solid-State Lighting Products.

Copies of IES LM–9–09–DD, IES LM–20–13, IES LM–45–15, and IES LM–79–08–DD can be obtained from Illuminating Engineering Society of North America, 120 Wall Street, Floor 17, New York, NY 10005–4001, or by going to *www.ies.org/store.*

(5) International Electrotechnical Commission, IEC 62301 (''IEC 62301–DD''), Household electrical appliances—Measurement of standby power (Edition 2.0, 2011–01).

A copy of IEC 62301 may be obtained from the American National Standards Institute, 25 W. 43rd Street, 4th Floor, New York, NY 10036, (212) 642–4900, or go to *http://webstore.ansi.org.*

For a further discussion of these standards, see section IV.M.

Table of Contents

I. Authority and Background

Title III of the Energy Policy and Conservation Act of 1975 (42 U.S.C. 6291, *et seq.;* ''EPCA'' or, ''the Act'') [1] sets forth a variety of provisions designed to improve energy efficiency. Part B of title III, which for editorial reasons was redesignated as Part A upon incorporation into the U.S. Code (42 U.S.C. 6291–6309, as codified), establishes the ''Energy Conservation Program for Consumer Products Other Than Automobiles.'' This program includes general service lamps, the subject of this final rule.

Under EPCA, the energy conservation program consists essentially of four parts: (1) Testing, (2) labeling, (3) Federal energy conservation standards, and (4) certification and enforcement procedures. The testing requirements consist of test procedures that manufacturers of covered products must use as the basis for (1) certifying to DOE that their products comply with the applicable energy conservation standards adopted under EPCA (42 U.S.C. 6295(s)) and (2) making representations about the energy use or efficiency of those products (42 U.S.C. 6293(c)). Similarly, DOE must use these test procedures to determine whether the products comply with any relevant standards promulgated under EPCA. (42 U.S.C. 6295(s))

DOE issued a notice of proposed rulemaking (NOPR) on March 17, 2016, proposing energy conservation standards for general service lamps (GSLs). 81 FR 14528 (March 2016 GSL ECS NOPR). In support of the standards rulemaking, DOE has undertaken several rulemakings to amend existing test procedures and to adopt new test procedures for lamps that are GSLs. On July 1, 2016, DOE published a final rule adopting test procedures for integrated lighting-emitting diode (LED) lamps. 81 FR 43404 (July 2016 LED TP final rule). On August 29, 2016, DOE published a final rule amending test procedures for medium base compact fluorescent lamps (MBCFLs) and adopting test procedures for new metrics for all compact fluorescent lamps (CFLs) including hybrid CFLs and CFLs with bases other than medium screw base. 81 FR 59386 (August 2016 CFL TP final rule).

The March 2016 GSL TP NOPR, which is the basis for this final rule, proposed test procedures for certain categories of GSLs not currently covered under these existing test procedures. 81 FR 14632 (March 17, 2016). DOE published a supplemental notice of proposed rulemaking (SNOPR) on July 20, 2016, that revised the March 2016 GSL TP NOPR proposal by referencing Illuminating Engineering Society (IES) LM–79–08 for the testing of non-integrated LED lamps. 81 FR 47071 (July 2016 GSL TP SNOPR). This final rule adopts test procedures for certain categories of GSLs not currently covered under existing test procedures. Manufacturers of the lamps subject to this final rule will be required to use these test procedures to assess performance relative to any potential energy conservation standards the lamps must comply with in the future and for any representations of energy efficiency.

Under 42 U.S.C. 6293(b), EPCA sets forth the criteria and procedures DOE must follow when prescribing or amending test procedures for covered products. EPCA provides, in relevant part, that any test procedures prescribed or amended under this section shall be reasonably designed to produce test results which measure energy efficiency, energy use or estimated annual operating cost of a covered product during a representative average use cycle or period of use and shall not be unduly burdensome to conduct. (42 U.S.C. 6293(b)(3)) Pursuant to this authority, DOE adopts test procedures in this final rule for certain categories of GSLs in support of the GSL standards rulemaking.

Finally, EPCA directs DOE to amend its test procedures for all covered products to integrate measures of standby mode and off mode energy consumption, if technically feasible. (42 U.S.C. 6295(gg)(2)(A)) Standby mode and off mode energy must be incorporated into the overall energy efficiency, energy consumption, or other energy descriptor for each covered product unless the current test procedures already account for and incorporate standby and off mode energy consumption or such integration is technically infeasible. If an integrated test procedure is technically infeasible, DOE must prescribe a separate standby mode and off mode energy use test procedure for the covered product. *Id.* Any such amendment must consider the most current versions of the International Electrotechnical Commission (IEC) Standard 62301 and IEC Standard 62087, as applicable. DOE has determined that GSLs can operate in standby mode but not in off mode. Consistent with EPCA's requirement, DOE addresses measurement of standby mode power in appendix DD to subpart B of 10 CFR part 430, as detailed in section III.C of this final rule.

[1] All references to EPCA refer to the statute as amended through the Energy Efficiency Improvement Act of 2015, Public Law 114–11 (April 30, 2015).

II. Synopsis of the Final Rule

In this final rule, DOE adopts test procedures for determining initial lumen output, input power, lamp efficacy, power factor, and standby mode power for certain categories of GSLs for which DOE does not have an existing regulatory test procedure. DOE also notes that, beginning 180 days after the publication of this final rule, representations of energy use or energy efficiency must be based on testing in accordance with the test procedure adopted in this rulemaking.

III. Discussion

A. Scope of Applicability

GSL is defined by EPCA to include general service incandescent lamps (GSILs), CFLs, general service LED or organic light-emitting diode (OLED) lamps, and any other lamp that DOE determines is used to satisfy lighting applications traditionally served by GSILs. (42 U.S.C. 6291(30)(BB)) In the March 2016 GSL ECS NOPR, DOE proposed to implement the statutory definition of GSL and to include in the definition any lamp that has an ANSI [2] base, operates at any voltage, has an initial lumen output of 310 lumens or greater (or 232 lumens or greater for modified spectrum GSILs), is not a light fixture, is not an LED downlight retrofit kit, and is used in general lighting applications. 81 FR 14541. In the March 2016 GSL TP NOPR, DOE proposed test procedures for certain categories of general service lamps that do not have existing DOE regulatory procedures and clarified references to the existing DOE regulatory procedures for integrated LED lamps, CFLs, and GSILs. 81 FR 14632 (March 17, 2016) As there were no new comments received on the July 2016 GSL TP SNOPR regarding the scope of applicability of this rulemaking, this final rule adopts test procedures for GSLs that are not GSILs, CFLs, or integrated LED lamps.

B. Adopted Method for Determining Initial Lumen Output, Input Power, Lamp Efficacy, and Power Factor

As described in section III.A, both the statutory definition and proposed regulatory definition of GSL cover many types of lamps using a variety of lighting technologies. For several of the included lamp types, energy conservation standards and test procedures already exist. GSILs are required to comply with the energy conservation standards in 10 CFR 430.32(x), and test procedures for these lamps are specified in appendix R to subpart B of 10 CFR part 430. In a separate test procedure rulemaking, DOE recently amended the test procedures for MBCFLs and established new test procedures for all other CFLs. 81 FR 59386. The updated and new test procedures appear at appendix W to subpart B of 10 CFR part 430. In addition, DOE recently adopted test procedures for integrated LED lamps. 81 FR 43404. The test procedures for integrated LED lamps are located in appendix BB to subpart B of 10 CFR part 430.

DOE proposed in the March 2016 GSL TP NOPR that, if DOE test procedures already exist or were proposed in an ongoing rulemaking (such as for GSILs, CFLs, and integrated LED lamps), DOE would reference those specific provisions in the GSL test procedures. For all other GSLs, DOE proposed new test procedures, intending to reference the most recently published versions of relevant industry standards. 81 FR 14633–14634. DOE proposed modifications to the test procedures for non-integrated LED lamps in the July 2016 GSL TP SNOPR. 81 FR 47074–47075. The following discussion summarizes those changes and comments received on the modifications to the proposed test procedures for non-integrated LED lamps.

In the March 2016 GSL TP NOPR, DOE proposed testing non-integrated LED lamps according to the industry test standard CIE S025. 81 FR 14634. In the analysis phase of that NOPR, DOE determined that IES LM–79–08 was not intended for non-integrated LED lamps given that IES LM–79–08 states in section 1.1 that the test method covers ''LED-based SSL products with control electronics and heat sinks incorporated, that is, those devices that require only AC mains power or a DC voltage power supply to operate.'' Non-integrated LED lamps require external electronics; that is, the lamps are intended to connect to ballasts/drivers rather than directly to the branch circuit through an ANSI base and corresponding ANSI standard lamp holder (socket).

However, stakeholder feedback on the March 2016 GSL TP NOPR indicated that non-integrated LED lamps are commonly tested within industry according to IES LM–79–08. Further, based on a review of manufacturer specifications and input from independent testing laboratories, DOE determined that IES LM–79–08 is the most relevant industry standard, at the present time, for testing non-integrated LED lamps. 81 FR 47074. Although most manufacturers do not publish the test method used to determine performance characteristics of non-integrated LED lamps, DOE found that for those that did, IES LM–79–08 was the test method used to measure the performance of non-integrated LED lamps. See, for example, manufacturer specifications provided by Maxlite and Eiko available in the docket at: *https://www.regulations.gov/docket?D=EERE–2016–BT–TP–0005*. In addition, DOE contacted independent test laboratories and found that the laboratories generally used IES LM–79–08 when testing non-integrated LED lamps because, even though it does not specifically include them, the laboratories view IES LM–79–08 as the most applicable industry standard for these lamp types. 81 FR 47074. In the July 2016 GSL TP SNOPR, DOE also preliminarily concluded that once it is determined how to supply the power to the lamp or on which ballast/driver to operate the lamp for testing, there was little difference in testing an integrated versus a non-integrated LED lamp. Further, DOE noted that some of these products had been tested and the results reported in the LED Lighting Facts database and the qualified products list for the Lighting Design Lab. Both of these organizations specify IES LM–79–08 as a test method for all included products. *Id.*

Thus, upon reviewing the available information, DOE tentatively determined in the July 2016 GSL TP SNOPR that for the testing of non-integrated LED lamps, IES LM–79–08 was the most relevant industry standard at the time. Further, DOE reviewed IES LM–79–08 and found it appropriate for testing non-integrated LED lamps for the purpose of determining compliance with energy efficiency standards that may be applicable in the future. However, because non-integrated LED lamps are not included in the scope of the industry standard, DOE prescribed additional instruction to ensure consistent and repeatable results. Specifically, DOE found that IES LM–79–08 provided no information on which external ballast/driver or power supply to use for testing. After reviewing the approaches of independent test laboratories, DOE proposed that non-integrated LED lamps be tested according to IES LM–79–08, using the manufacturer-declared input voltage and current as the power supply. Because these metrics are typically not reported on the product packaging or in manufacturer literature, DOE also proposed revising the requirements for certification reports to include these quantities for non-integrated LED lamps. While manufacturers usually list compatible ballasts/drivers for these products, DOE

[2] A lamp base standardized by the American National Standards Institute.

noted that it is unknown with which ballast/driver these lamps may operate when installed in the field. By requiring these lamps to be tested using the manufacturer-declared input voltage and current as the power supply, DOE's approach is consistent with the industry practice of using reference ballasts for non-integrated lamps, such as non-integrated CFLs and general service fluorescent lamps (GSFLs). For those products, industry standards (and DOE's test procedures) specify electrical settings for reference ballasts and each specific lamp type is tested using those same settings. Because industry had not yet developed reference ballast/driver settings for non-integrated LED lamps, DOE proposed that a manufacturer report the settings that are used, which allows for a consistent and comparable assessment of the lamp's performance. Therefore, DOE proposed the requirement that non-integrated LED lamps be tested according to IES LM–79–08, using the manufacturer-declared input voltage and current as the power supply. *Id.*

DOE received comments on the proposed modifications to the test procedures for non-integrated LED lamps. Philips Lighting (Philips) agreed with DOE's reference to IES LM–79–08 for the testing of non-integrated LED lamps but with suggested modifications. (Philips, No. 12 at p. 3) [3] Specifically, Philips argued that requiring non-integrated LED lamps to be operated at the manufacturer-declared input voltage and current may create issues with non-integrated LED lamps that operate directly on an existing (*i.e.,* already installed) ballast or with a dedicated LED driver that utilizes a pulse width modulated (PWM) output voltage. Philips suggested the following alternative wording to address the issue: ''For non-integrated LED lamps, operate the lamp at the manufacturer-declared input voltage waveform and current, or using a manufacturer-declared commercial ballast.'' Philips noted that the alternative wording captures any frequency that needs to be included if operated on a ballast, addresses PWM operation, and allows for the use of a specific ballast during testing. (Philips, No. 12 at p. 4)

DOE notes that the test procedure must produce consistent and repeatable results as well as balance testing burden. Because a ballast and/or a provided input voltage and current can affect lamp performance, specific input settings need to be identified for testing. Otherwise, manufacturers would need to test every combination of lamp voltage and current with each ballast distributed in commerce. DOE notes that the alternative wording proposed by Philips allows the lamp to be operated on a manufacturer-declared input voltage and current or using a manufacturer-declared commercial ballast; however, only one of these options should be specified to improve the consistency and repeatability of results. DOE is therefore adopting that testing be conducted at the manufacturer-declared input voltage and current. These inputs can likely be supplied by existing lab equipment and do not require the purchase of additional ballasts for testing. DOE notes that certain ballasts may be difficult to acquire or possibly contain features that affect lamp performance. DOE therefore prefers to have manufacturers specify an input voltage and current to use for testing. In their alternative wording, Philips also suggested adding ''waveform'' when specifying the input voltage to account for drivers that provide a PWM output voltage. DOE notes that a PWM output voltage could affect the measured performance of the lamp. PWM operation modifies the time the input signal is on versus the time it is off at a given frequency, and thereby the resulting input waveform can vary the average total input voltage. Varying the input voltage could impact the temperature and subsequently the performance of LED lamps. Therefore, test settings should be specified at one voltage and waveform so that test results for one lamp are consistent and repeatable. Rather than the manufacturer selecting this voltage and waveform, DOE is specifying, as proposed in the July 2016 GSL TP SNOPR, that manufacturers test the lamp at the voltage and waveform present at maximum input power. This provision for testing captures the most consumptive state and also allows for performance to be more fairly compared among available products. DOE understands a PWM output voltage to be a common output of dimming ballasts/drivers. By specifying the lamp be tested at the maximum input power, DOE not only captures the most consumptive state but also allows dimmable products to be more fairly compared to products that cannot dim by operating all lamps at maximum input power (*i.e.,* full light output). In requiring that manufacturers specify input voltage and current and operate the lamp at full light output, DOE finds that no changes to the proposed wording are necessary for the testing of non-integrated LED lamps.

The California Investor Owned Utilities (CA IOUs) contended that because operating non-integrated LED lamps at the manufacturer-declared input voltage and current does not account for ballast losses which can be up to several watts, the test procedure does not accurately measure system luminous efficacy. CA IOUs noted that if only lamp wattage is measured and ballast losses are not accounted for, these lamps will appear more efficient than they are in practice. CA IOUs added that the test procedure should account for the energy consumption of each component necessary for the starting and stable operation of the lamp, which includes a ballast if paired with a non-integrated LED lamp. Thus, CA IOUs recommended DOE require that manufacturers use a commercially-available reference ballast for testing non-integrated LED lamps and report to DOE the ballast utilized in testing. CA IOUs concluded that a commercially-available ballast would better approximate actual installed conditions rather than using customized testing equipment designed to achieve low power losses. (CA IOUs, No. 11 at pp. 1–2)

As stated by CA IOUs, when testing on a commercially available ballast/driver, the losses associated with the ballast/driver would be included in the measured performance of the lamp. Including the ballast/driver losses in the measured performance of the lamp would result in a lower efficacy value (*i.e.,* system efficacy) than when measuring the performance of the lamp using manufacturer-declared input voltage and current as the power supply. In addition, allowing testing on commercially available ballasts/drivers could generate inconsistent test results across products as lamps would not be tested using the same settings, and the performance of the lamp would be dictated by the ballast/driver it was paired with during testing. Hence, consistent test results for the same lamp would not be possible. Therefore, DOE is adopting the requirement that manufacturers operate non-integrated LED lamps during testing using the manufacturer-declared input voltage and current, and is not allowing for testing on commercially available ballast/drivers. DOE notes that although the testing of integrated lamps includes ballast/driver losses, integrated lamps can operate on only one ballast (*i.e.,* the

[3] A notation in this form provides a reference for information that is in the docket of DOE's rulemaking to develop test procedures for GSLs (Docket No. EERE–2016–BT–TP–0005), which is maintained at *www.regulations.gov.* This notation indicates that the statement preceding the reference was made by Philips, is from document number 12 in the docket, and appears at page 3 of that document.

ballast contained within the lamp unit that cannot be removed) and therefore the inclusion of that ballast reflects typical performance. Non-integrated lamps can be commonly operated on more than one ballast/driver and therefore DOE is specifying test settings to consistently characterize the performance of the lamp. DOE also notes that the approach being adopted today for non-integrated LED lamps is comparable to DOE's regulatory approach for other non-integrated lamps (*e.g.,* GSFLs). While DOE acknowledges there may be losses associated with the commercially available ballasts paired with non-integrated lamps, DOE is declining to adopt the recommendation of the CA IOUs at this time. DOE does not believe consumers will be confused by this difference in approach for integrated lamps and non-integrated lamps because consumers do not typically compare these two categories of products because they serve different installations. The metric reflects the performance of the product tested rather than its performance on a unique, external component, which would significantly increase the burden due to the number of lamp and ballast/driver combinations. DOE will continue to work with stakeholders to monitor the ballast/driver losses and may consider an alternative approach in a future rulemaking.

Regarding the requirement for manufacturers to report the manufacturer-declared input voltage and current used for testing non-integrated LED lamps, Philips agreed with the proposal but noted that these settings should not be made available to the public as they do not typically appear on datasheets. (Philips, No. 12 at p. 3) DOE notes that it found some publicly available datasheets with input voltage and current listed for non-integrated LED lamps indicating that this information is not likely to be considered proprietary. *See, e.g., https://www.regulations.gov/docket?D=EERE-2016-BT-TP-0005.* Additionally, publishing manufacturer-declared input voltage and current allows for comparison of performance across products. Therefore, DOE adopts the requirement in this final rule for manufacturers to include the manufacturer-declared input voltage and current used for testing in the certification reports for non-integrated LED lamps.

In the July 2016 GSL TP SNOPR, DOE referred to appendix R for general service incandescent lamps, to appendix BB for integrated LED lamps, to IES LM–45–15 for other incandescent lamps that are not reflector lamps, and to IES LM–79–08 for OLED lamps. DOE reviewed all references to industry standards to ensure that only necessary sections were referenced. DOE removed all references to sections describing luminous intensity and/or color measurements as these are not necessary for the metrics covered by the test procedure. DOE also made references to IES LM–79–08 consistent with sections referenced in the July 2016 LED TP final rule; that is, DOE added a reference to section 1.3 (Nomenclature and Definitions) and removed the reference to section 6.0 (Operating Orientation). Additionally, DOE specified the appropriate operating orientation directly in appendix DD. 81 FR 47075.

Philips commented in general agreement with DOE's references to industry standards; however, Philips recommended DOE reference IES LM–79–08 in its entirety rather than selected sections. (Philips, No. 12 at p. 3) When providing comprehensive test procedures for multiple test metrics, DOE often has to clarify, limit, or add further specification to industry standards that are referenced to ensure consistent, repeatable results. Therefore, instead of incorporating an industry standard in its entirety, DOE references the relevant sections of the industry standard and clearly states any directions that differ from those in the industry standard.

Philips also commented on the language proposed in the July 2016 GSL TP SNOPR regarding operating orientation. In section 3.3 of appendix DD, DOE proposed an equal number of lamps in a sample be tested in the base-up and base-down orientation, except if the manufacturer restricts the position, in which case all units would be tested in the manufacturer-specified position. Philips argued that this is not a practical requirement for non-integrated LED lamps intended to replace linear lamps, which do not have a base-up or base-down orientation and are operated and tested horizontally in practice. Therefore, Philips suggested the operating orientation during testing should be as specified by the manufacturer. (Philips, No. 12 at p. 4) DOE notes that operating orientation is not typically specified on the packaging or specification sheets of LED lamps. DOE agrees, however that certain non-integrated LED lamps, such as double base non-integrated LED lamps designed to replace linear fluorescent lamps, cannot be operated in a base-up or base-down position since there are bases on both ends. Thus, DOE is modifying the operating orientation requirement in this final rule for testing double base lamps to state that manufacturers are to test all units in the horizontal orientation except that, if the manufacturer restricts the position, manufacturers are to test all of the units in the sample in the manufacturer-specified position. DOE is also specifying in this final rule that orientation is to be maintained as prescribed in the active mode test procedure when determining standby mode power.

In the March 2016 GSL TP NOPR, DOE proposed a new paragraph to be added to 10 CFR 430.23 to establish test procedures for all GSLs. 81 FR 14640. As stated previously, if test procedures already existed for a lamp type that meets the definition of GSL, DOE referenced the existing test procedure. Thus, in the paragraph proposed to be added to 10 CFR 430.23, DOE included references to the existing paragraphs in § 430.23 for those GSLs that already have test procedures and the metrics required by those existing test procedures. DOE received a comment from Philips on the proposed amendments to § 430.23. Specifically, Philips objected to the inclusion of start time as a metric for both integrated and non-integrated CFLs. Philips noted that it should not be included for non-integrated CFLs, as start time is highly dependent on the type of ballast paired with the non-integrated CFL. (Philips, No. 12 at p. 4) As stated previously, DOE simply referenced existing DOE test procedures in § 430.23 when possible. DOE further notes that for CFLs, the GSL test procedure references the test procedures adopted and amended in the August 2016 CFL TP final rule, which established a start time test procedure only for integrated CFLs. 81 FR 59396.

DOE did not receive any additional comments on its approach to referring to DOE test procedures if they already exist and referring to the most recent versions of relevant industry standards for lamp types that do not have existing DOE test procedures. Thus, DOE adopts this approach in the final rule. Table III.1 summarizes the test procedures that DOE is adopting for general service lamps.

TABLE III.1—TEST PROCEDURES FOR GENERAL SERVICE LAMPS

Lamp Type	Referenced test procedure
General service incandescent lamps	Appendix R to subpart B of 10 CFR 430.
Compact fluorescent lamps	Appendix W to subpart B of 10 CFR 430.
Integrated LED lamps	Appendix BB to subpart B of 10 CFR 430.
Other incandescent lamps that are not reflector lamps	IES LM–45–15, sections 4–6, and section 7.1.
Other incandescent lamps that are reflector lamps	IES LM–20–13, sections 4–6, and section 8.
Other fluorescent lamps	IES LM–9–09, sections 4–6, and section 7.5.
OLED lamps	IES LM–79–08, sections 1.3 (except 1.3f), 2.0, 3.0, 5.0, 7.0, 8.0, 9.1 and 9.2.
Non-integrated LED lamps	IES LM–79–08, sections 1.3 (except 1.3f), 2.0, 3.0, 5.0, 7.0, 8.0, 9.1 and 9.2.

C. Adopted Method for Determining Standby Mode Power

As described in section I, EPCA directs DOE to amend its test procedures for all covered products to integrate measures of standby mode and off mode energy consumption, if technically feasible. (42 U.S.C. 6295(gg)(2)(A)) In the March 2016 GSL TP NOPR, DOE proposed both active mode and standby mode test procedures for general service lamps. DOE did not propose a test procedure for off mode energy consumption because DOE initially determined that it would not be possible for GSLs included in the scope of the energy conservation standards rulemaking to meet the off-mode criteria. 81 FR 14634. DOE found that there was no condition in which a GSL connected to main power is not already in a mode accounted for in either active or standby mode. *Id.* DOE proposed to use the standby mode test procedures outlined in the IEC Standard 62301, which applies generally to household electrical appliances. Referencing IEC 62301 is consistent with the standby mode test procedures adopted for CFLs and integrated LED lamps. 81 FR 59401 and 81 FR 43415.

DOE received several comments in response to the March 2016 GSL TP NOPR regarding the proposed method for determining standby mode power. Osram Sylvania, Inc. (OSI) and National Electrical Manufacturers Association (NEMA) supported DOE's proposed test method for measuring standby mode power use, which they stated is consistent with other DOE test procedures and with industry practices. (OSI, No. 3 at p. 3; NEMA, No. 6 at p. 3) However, CA IOUs suggested a change to the standby mode test procedure. CA IOUs recommended that DOE specify testing with the communication protocol expected to have the highest energy consumption and provide a prioritization of the potential communication protocols available. If multiple communication protocols (Wi-Fi, Bluetooth, ZigBee, etc.) are available, CA IOUs recommended specifying that the communication protocol should be selected based on the following order: 1) Wi-Fi; 2) ZigBee; 3) ANT; 4) Bluetooth; 5) Other Radio Frequency (RF) Protocols; 6) Infrared (IR); 7) Other; 8) Wired. CA IOUs also recommended DOE require testing be conducted in the applicable communication mode that is representative of the operation mode that is typical of the end user (*i.e.,* normal operating mode as shipped). (CA IOUs, No. 11 at p. 2)

DOE reviewed lamps that can operate in standby mode and found that average standby power did not vary consistently by communication protocol. DOE reviewed the test data published in the technical support document [4] of the March 2016 GSL ECS NOPR and also test data submitted in a comment by the Pacific Gas and Electric Company, Southern California Gas Company, San Diego Gas and Electric, Southern California Edison, Arizona Public Service, and National Grid (Utility Coalition) in support of the GSL ECS rulemaking.[5] In both datasets, DOE found that the standby power of the communication protocols tested were generally available in a range of values and one communication protocol did not have consistently higher or lower power consumption than another. For example, data provided by CA IOUs showed the standby mode power of lamps operating using Wi-Fi varying from a minimum of 0.237 W to a maximum of 0.401 W (excluding the noted outlier of 2.42 W) and the standby mode power of lamps operating using ZigBee varying from a minimum of 0.185 W to a maximum of 0.439 W. With no clear trend, DOE is not specifying a prioritization order for testing at this time. DOE will continue to monitor the market and will revise the test procedure as needed as the market develops.

CA IOUs also commented that for connected products that may continue to search for control signals after receiving the last signal, waiting at least 60 minutes after the last signal before performing a standby mode power measurement would allow such products to enter a lower power state. CA IOUs noted that this would ensure that the product mode under test is representative of the power drawn the majority of the time the product is in standby mode. (CA IOUs, No. 11 at p. 2) In the March 2016 GSL TP NOPR, DOE proposed that standby mode power measurements be taken after the lamp had stabilized according to section 5 of IEC 62301. 81 FR 14640. The stabilization requirements ensure that the lamp has reached steady-state operation prior to taking measurements. Requiring a minimum period of at least 60 minutes before taking measurements is an unnecessary instruction because the stabilization requirements achieve the same goal of ensuring that the product is consuming a consistent amount of power. Therefore, in this final rule, DOE is not adding a requirement to wait at least 60 minutes after receiving the last communication signal before measuring standby mode power consumption.

As there were no other comments received on DOE's proposed method for determining standby mode power, DOE adopts the standby mode test procedure proposed in the March 2016 GSL TP NOPR in this final rule.

D. Laboratory Accreditation

In the July 2016 GSL TP SNOPR, DOE proposed to require that testing of initial lumen output, input power, lamp efficacy, power factor, and standby mode power (if applicable) for GSLs be conducted by test laboratories accredited by an Accreditation Body that is a signatory member to the

[4] The technical support document of the March 2016 GSL ECS NOPR is available at *https://www.regulations.gov/#!documentDetail;D=EERE-2013-BT-STD-0051-0042.*

[5] Comments submitted in support of the GSL ECS rulemaking are available at the rulemaking docket at *https://www.regulations.gov/docket?D=EERE-2013-BT-STD-0051*

International Laboratory Accreditation Cooperation (ILAC) Mutual Recognition Arrangement (MRA). 81 FR 47076. DOE noted that under existing test procedure regulations, testing for other regulated lighting products (such as general service fluorescent lamps, incandescent reflector lamps, and fluorescent lamp ballasts), in addition to general service lamps that must already comply with energy conservation standards (such as general service incandescent lamps and medium base compact fluorescent lamps), must be conducted in a similarly accredited facility. 10 CFR 430.25. DOE also proposed to align the proposed certification report language in § 429.57(b) with the proposed changes in § 430.25. Similarly, DOE proposed to update § 429.27(b) and § 429.35(b) to align with the proposed changes regarding accreditation bodies in § 430.25. *Id.*

DOE received a comment from Philips on the proposed certification report language regarding ILAC accreditation in § 429.35(b)(2). Philips noted that ILAC does not assign identification numbers to test laboratories; instead, the identification numbers come from accreditation bodies. Philips suggested DOE modify the language to state that the certification report must include the ''testing laboratory's identification number, or other approved identification, as assigned by the accreditation body . . .'' (Philips, No. 12 at p. 4) DOE notes that the language requiring ''the testing laboratory's ILAC accreditation body's identification number or other approved identification assigned by the ILAC accreditation body'' is not intended to imply that ILAC assigns the identification number to test laboratories, rather the language suggests that the ILAC-approved accreditation body would supply an identification number or another form of identification. Thus, DOE maintains that using ''ILAC'' as a designator to ''accreditation body'' in the regulatory text is necessary to ensure that the accreditation bodies are ILAC-approved.

DOE notes that the certification report language revision in § 429.35(b) was previously adopted in the August 2016 CFL TP final rule and therefore is no longer included in this test procedure.

E. Represented Values, Certification, and Rounding Requirements

In the March 2016 GSL TP NOPR, DOE proposed to create a new section for GSLs, 10 CFR 429.57, to provide sampling, represented value, certification, and rounding requirements. 81 FR 14634. Existing sampling procedures in 10 CFR part 429 are referenced, where applicable. If a test procedure does not currently exist, sampling and represented value calculations reference the existing DOE test procedure with the most similar lamp technology. For example, sampling and represented value calculations for OLED lamps are to be as described in section 10 CFR 429.56, the section that addresses integrated LED lamps. DOE also proposed certification and rounding requirements to include the relevant metrics for general service lamps. Rounding requirements are consistent with those for GSILs, CFLs, and integrated LED lamps. 81 FR 59415–59416 and 81 FR 43425–43426.

DOE did not make any modifications to this approach in the July 2016 GSL TP SNOPR and received no comments on these requirements; therefore, DOE adopts them in this final rule.

F. Effective Date and Compliance Dates

The test procedures adopted in this final rule for GSLs that are not integrated LED lamps, CFLs, or GSILs, are effective 30 days after publication in the **Federal Register** (referred to as the ''effective date''). DOE notes that manufacturers may voluntarily begin to make representations with respect to the energy use or efficiency of GSLs that are not integrated LED lamps, CFLs, and GSILs using the results of testing pursuant to this final rule, starting on the effective date of this final rule. Pursuant to EPCA, manufacturers of covered products are required to use the applicable test procedure as the basis for determining that their products comply with the applicable energy conservation standards and for making representations about the efficiency of those products. (42 U.S.C. 6293(c); 42 U.S.C. 6295(s)) For those energy efficiency or consumption metrics covered by the DOE test procedure (*i.e.,* the test method and sampling plan), EPCA requires that, beginning 180 days after publication of this final rule in the **Federal Register**, representations must reflect testing in accordance with the DOE test procedure. (42 U.S.C. 6293(c)(2)) Therefore, on or after 180 days after publication of this final rule, any representations, including certifications of compliance (if required), made with respect to the energy use or efficiency of GSLs that are not integrated LED lamps, CFLs, and GSILs must reflect the results of testing pursuant to this final rule.

DOE received comments regarding the dates discussed in the July 2016 GSL TP SNOPR. Philips commented that due to the volume of lamps covered under the scope of the rulemaking, DOE should require that manufacturers make representations based on this test procedure only for GSLs that have initiated testing after the effective date of the test procedure (*i.e.,* only new products should be tested under the test procedure). Philips noted that DOE could add ''test start date'' to the certification reports to ensure manufacturers comply. Philips concluded that retesting lamps is unproductive, burdensome on industry, and diverts resources from testing new products that are more efficient. (Philips, No. 12 at p. 3) DOE notes that existing basic models need only be retested if their representative values would no longer be valid under the test procedures adopted in this rulemaking. Because DOE has referenced the most recent versions of relevant industry standards for the lamp types covered by this rulemaking, it is unlikely that all of a manufacturer's existing basic models will need to be re-tested. After the effective date of this final rule (*i.e.,* 30 days after publication in the **Federal Register**), all new basic models must be tested in accordance with appendix DD. EPCA requires that on or after 180 days after publication of this final rule, the representations of existing basic models of GSLs that will no longer be valid must reflect testing in accordance with the adopted test procedures in appendix DD. In addition, DOE notes that under 42 U.S.C. 6293(c)(3), manufacturers may petition the Secretary for an extension of the compliance date for up to 180 days. Manufacturers may be granted an extension if the Secretary determines that the requirements would impose an undue hardship on the petitioner. (See 42 U.S.C. 6293(c)(3))

IV. Procedural Issues and Regulatory Review

A. Review Under Executive Order 12866

The Office of Management and Budget (OMB) has determined that test procedure rulemakings do not constitute ''significant regulatory actions'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, 58 FR 51735 (Oct. 4, 1993). Accordingly, this action was not subject to review under the Executive Order by the Office of Information and Regulatory Affairs (OIRA) in the OMB.

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires that when an agency promulgates a final rule under 5 U.S.C. 553, after being required by that section or any other law to publish a general notice of proposed rulemaking, the agency shall prepare a final regulatory flexibility analysis (FRFA),

unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. As required by Executive Order 13272, ''Proper Consideration of Small Entities in Agency Rulemaking,'' 67 FR 53461 (August 16, 2002), DOE published procedures and policies on February 19, 2003 to ensure that the potential impacts of its rules on small entities are properly considered during the DOE rulemaking process. 68 FR 7990. DOE has made its procedures and policies available on the Office of the General Counsel's Web site: *http://energy.gov/gc/office-general-counsel.*

DOE reviewed this final rule under the provisions of the Regulatory Flexibility Act and the procedures and policies published on February 19, 2003. DOE certifies that the rule will not have a significant economic impact on a substantial number of small entities. The factual basis for this certification is set forth in the following sections.

The Small Business Administration (SBA) considers a business entity to be a small business, if, together with its affiliates, it employs less than a threshold number of workers specified in 13 CFR part 121. These size standards and codes are established by the North American Industry Classification System (NAICS). Manufacturing of GSLs is classified under NAICS 335110, ''Electric Lamp Bulb and Part Manufacturing.'' The SBA sets a threshold of 1,250 employees or less for an entity to be considered as a small business for this category.

In the July 2016 GSL TP SNOPR, to estimate the number of companies that could be small businesses that sell GSLs, DOE conducted a market survey using publicly available information. DOE's research involved information provided by trade associations (*e.g.,* the National Electrical Manufacturers' Association) and information from DOE's Compliance Certification Management System (CCMS) Database, the Environmental Protection Agency's ENERGY STAR Certified Light Bulbs Database, LED Lighting Facts Database, previous rulemakings, individual company Web sites, SBA's database, and market research tools (*e.g.,* Hoover's reports). DOE screened out companies that did not meet the definition of a ''small business'' or are completely foreign owned and operated. DOE determined that nine companies are small businesses that maintain domestic production facilities for GSLs. 81 FR 47077. DOE did not receive comments on this determination, therefore it was maintained in the final rule.

In the July 2016 GSL TP SNOPR, DOE proposed test procedures for determining initial lumen output, input power, lamp efficacy, power factor, and standby power of GSLs. DOE noted that several of the lamp types included in the definition of general service lamp must already comply with energy conservation standards and therefore test procedures already existed for these lamps. If DOE test procedures already existed or were proposed in an ongoing rulemaking (such as for GSILs, CFLs, and integrated LED lamps), DOE proposed to reference them directly. For all other general service lamps, DOE proposed new test procedures in the July 2016 GSL TP SNOPR. For the new test procedures, DOE proposed to reference the most recent versions of relevant industry standards.

DOE estimated the testing costs and burden associated with conducting testing according to the new test procedures proposed in the July 2016 GSL TP SNOPR for GSLs. DOE did not consider the costs and burdens associated with DOE test procedures that already exist or that have been proposed in other ongoing rulemakings because these have been or are being addressed separately. DOE also assessed elements (testing methodology, testing times, and sample size) in the CFL and integrated LED lamp test procedures that could affect costs associated with complying with this rule. Having received no comments on the topic, the cost estimates of this final rule are the same as those determined under the July 2016 GSL TP SNOPR. The following is an analysis of both in-house and third party testing costs associated with this rulemaking.

In the July 2016 GSL TP SNOPR, DOE estimated that the labor costs associated with conducting in-house testing of initial lumen output, input power, and standby mode power were $41.68 per hour. DOE determined that calculating efficacy and power factor of a GSL would not result in any incremental testing burden beyond the cost of conducting the initial lumen output and input power testing. The cost of labor was then calculated by multiplying the estimated hours of labor by the hourly labor rate. For lamps not capable of operating in standby mode, DOE estimated that testing in-house in accordance with the appropriate proposed test procedure would require, at most, four hours per lamp by an electrical engineering technician. For lamps capable of operating in standby mode, DOE estimated that testing time would increase to five hours per lamp due to the additional standby mode power consumption test. DOE noted that these estimates are representative of the time it would take to test the most labor intensive technology, LED lamps. In total, DOE estimated that using the test method prescribed in the July 2016 GSL TP SNOPR to determine initial light output and input power would result in an estimated labor burden of $1,670 per basic model of certain GSLs and $2,080 per basic model of certain GSLs that can operate in standby mode. 81 FR 47078.

Because accreditation bodies [6] impose a variety of fees during the accreditation process, including fixed administrative fees, variable assessment fees, and proficiency testing fees, DOE included the costs associated with maintaining a NVLAP-accredited facility or a facility accredited by an organization recognized by NVLAP in the July 2016 GSL TP SNOPR. In the first year, for manufacturers without NVLAP accreditation who choose to test in-house, DOE estimated manufacturers on average would experience a maximum total cost burden of about $2,210 per basic model tested or $2,630 per basic model with standby mode power consumption testing.[7] *Id.*

Additionally, DOE requested pricing from independent testing laboratories for testing GSLs. DOE estimated the cost for testing at an independent laboratory to be up to $1,070 per basic model. This estimate included the cost of accreditation as quotes were obtained from accredited laboratories. *Id.*

DOE notes that its adopted test procedures directly reference existing industry standards that have been approved for widespread use by lamp manufacturers and test laboratories. The quantities that are directly measured, namely initial lumen output and input power, are commonly reported by the manufacturer on product packaging and on product specification sheets. Thus, testing for these quantities is already being conducted. Additionally, these quantities are required to be reported to ENERGY STAR if manufacturers certify the lamps as meeting the program requirements. Standby mode power consumption is also a reported quantity for the ENERGY STAR program, though it may not be a commonly reported value for lamps that are not certified with ENERGY STAR. In reviewing the lamps for which DOE adopts test procedures in this final rule, DOE notes that very few products can operate in standby mode and therefore very few

[6] As discussed in section III.D, laboratories can be accredited by any accreditation body that is a signatory member to the ILAC MRA. DOE based its estimate of the costs associated with accreditation on the NVLAP accreditation body.

[7] NVLAP costs are fixed and were distributed based on an estimate of 28 basic models per manufacturer.

products would be required to make representations of standby mode energy consumption. Although DOE is adopting the requirement that all testing be conducted in accredited laboratories, DOE notes that many manufacturers of these products have already accredited their own in-house laboratories because they also make products such as GSILs and CFLs that are required to be tested in similarly accredited laboratories.

In summary, DOE does not consider the test procedures adopted in this final rule to have a significant economic impact on small entities. The final cost per manufacturer primarily depends on the number of basic models the manufacturer sells. These are not annual costs because DOE does not require manufacturers to retest a basic model annually. The initial test results used to generate a certified rating for a basic model remain valid as long as the basic model has not been modified from the tested design in a way that makes it less efficient or more consumptive, which would require a change to the certified rating. If a manufacturer has modified a basic model in a way that makes it more efficient or less consumptive, new testing is required only if the manufacturer wishes to make representations of the new, more efficient rating.

Based on the criteria outlined earlier and the reasons discussed in this preamble, DOE certifies that the test procedures adopted in this final rule would not have a significant economic impact on a substantial number of small entities, and the preparation of a final regulatory flexibility analysis is not warranted. DOE has submitted a certification and supporting statement of factual basis to the Chief Counsel for Advocacy of the SBA for review under 5 U.S.C. 605(b).

C. Review Under the Paperwork Reduction Act of 1995

DOE established regulations for the certification and recordkeeping requirements for certain covered consumer products and commercial equipment. 10 CFR part 429, subpart B. This collection-of-information requirement was approved by OMB under OMB control number 1910–1400.

DOE requested OMB approval of an extension of this information collection for three years, specifically including the collection of information proposed in the present rulemaking, and estimated that the annual number of burden hours under this extension is 30 hours per company. In response to DOE's request, OMB approved DOE's information collection requirements covered under OMB control number 1910–1400 through November 30, 2017. 80 FR 5099 (January 30, 2015).

Notwithstanding any other provision of the law, no person is required to respond to, nor must any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number.

D. Review Under the National Environmental Policy Act of 1969

In this final rule, DOE adopts test procedures for certain categories of GSLs that will be used to support the ongoing GSL standards rulemaking. DOE has determined that this rule falls into a class of actions that are categorically excluded from review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and DOE's implementing regulations at 10 CFR part 1021. Specifically, this final rule adopts existing industry test procedures for certain categories of general service lamps, so it will not affect the amount, quality or distribution of energy usage, and, therefore, will not result in any environmental impacts. Thus, this rulemaking is covered by Categorical Exclusion A6 under 10 CFR part 1021, subpart D. Accordingly, neither an environmental assessment nor an environmental impact statement is required.

E. Review Under Executive Order 13132

Executive Order 13132, ''Federalism,'' 64 FR 43255 (August 4, 1999), imposes certain requirements on agencies formulating and implementing policies or regulations that preempt State law or that have Federalism implications. The Executive Order requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. The Executive Order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have Federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations. 65 FR 13735. DOE examined this final rule and determined that it 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. EPCA governs and prescribes Federal preemption of State regulations as to energy conservation for the products that are the subject of this final rule. States can petition DOE for exemption from such preemption to the extent, and based on criteria, set forth in EPCA. (42 U.S.C. 6297(d)) No further action is required by Executive Order 13132.

F. Review Under Executive Order 12988

Regarding the review of existing regulations and the promulgation of new regulations, section 3(a) of Executive Order 12988, ''Civil Justice Reform,'' 61 FR 4729 (Feb. 7, 1996), imposes on Federal agencies the general duty to adhere to the following requirements: (1) Eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; (3) provide a clear legal standard for affected conduct rather than a general standard; and (4) promote simplification and burden reduction. Section 3(b) of Executive Order 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation (1) clearly specifies the preemptive effect, if any; (2) clearly specifies any effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of Executive Order 12988 requires Executive agencies to review regulations in light of applicable standards in sections 3(a) and 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. DOE has completed the required review and determined that, to the extent permitted by law, this final rule meets the relevant standards of Executive Order 12988.

G. Review Under the Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. Public Law 104–4, sec. 201 (codified at 2 U.S.C. 1531). For a regulatory action resulting in a rule that may cause the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of $100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that

estimates the resulting costs, benefits, and other effects on the national economy. (2 U.S.C. 1532(a), (b)) The UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a proposed ''significant intergovernmental mandate,'' and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect small governments. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA. 62 FR 12820; also available at *http://energy.gov/gc/office-general-counsel.* DOE examined this final rule according to UMRA and its statement of policy and determined that the rule contains neither an intergovernmental mandate, nor a mandate that may result in the expenditure of $100 million or more in any year, so these requirements do not apply.

H. Review Under the Treasury and General Government Appropriations Act, 1999

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105–277) requires Federal agencies to issue a Family Policymaking Assessment for any rule that may affect family well-being. This final rule will not have any impact on the autonomy or integrity of the family as an institution. Accordingly, DOE has concluded that it is not necessary to prepare a Family Policymaking Assessment.

I. Review Under Executive Order 12630

DOE has determined, under Executive Order 12630, ''Governmental Actions and Interference with Constitutionally Protected Property Rights'' 53 FR 8859 (March 18, 1988), that this regulation will not result in any takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

J. Review Under Treasury and General Government Appropriations Act, 2001

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516 note) provides for agencies to review most disseminations of information to the public under guidelines established by each agency pursuant to general guidelines issued by OMB. OMB's guidelines were published at 67 FR 8452 (Feb. 22, 2002), and DOE's guidelines were published at 67 FR 62446 (Oct. 7, 2002). DOE has reviewed this final rule under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

K. Review Under Executive Order 13211

Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,'' 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to OMB, a Statement of Energy Effects for any significant energy action. A ''significant energy action'' is defined as any action by an agency that promulgated or is expected to lead to promulgation of a final rule, and that (1) is a significant regulatory action under Executive Order 12866, or any successor order; and (2) is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (3) is designated by the Administrator of OIRA as a significant energy action. For any significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use if the regulation is implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use.

This regulatory action to adopt test procedures for certain categories of GSLs is not a significant regulatory action under Executive Order 12866. Moreover, it would not have a significant adverse effect on the supply, distribution, or use of energy, nor has it been designated as a significant energy action by the Administrator of OIRA. Therefore, it is not a significant energy action, and, accordingly, DOE has not prepared a Statement of Energy Effects.

L. Review Under Section 32 of the Federal Energy Administration Act of 1974

Under section 301 of the Department of Energy Organization Act (Pub. L. 95–91; 42 U.S.C. 7101), DOE must comply with section 32 of the Federal Energy Administration Act of 1974, as amended by the Federal Energy Administration Authorization Act of 1977. (15 U.S.C. 788; FEAA) Section 32 essentially provides in relevant part that, where a proposed rule authorizes or requires use of commercial standards, the notice of proposed rulemaking must inform the public of the use and background of such standards. In addition, section 32(c) requires DOE to consult with the Attorney General and the Chairman of the Federal Trade Commission (FTC) concerning the impact of the commercial or industry standards on competition.

The test procedures for certain categories of GSLs adopted in this final rule incorporate test methods contained in certain sections of the following commercial standards:

(1) IES LM–9–09, ''IES Approved Method for the Electrical and Photometric Measurement of Fluorescent Lamps,'' 2009;

(2) IES LM–20–13, ''IES Approved Method for Photometry of Reflector Type Lamps,'' 2013;

(3) IES LM–45–15, ''IES Approved Method for the Electrical and Photometric Measurement of General Service Incandescent Filament Lamps,'' 2015;

(4) IES LM–79–08, ''Approved Method: Electrical and Photometric Measurements of Solid-State Lighting Products,'' 2008; and

(5) IEC Standard 62301 (Edition 2.0), ''Household electrical appliances—Measurement of standby power,'' 2011.

DOE has evaluated these standards and is unable to conclude whether they fully comply with the requirements of section 32(b) of the FEAA (*i.e.,* that they were developed in a manner that fully provides for public participation, comment, and review.) DOE has consulted with both the Attorney General and the Chairman of the FTC about the impact on competition of using the methods contained in these standards and has received no comments objecting to their use.

M. Description of Materials Incorporated by Reference

In this final rule, DOE incorporates by reference specific sections of the test standard published by IES, titled ''IES Approved Method for the Electrical and Photometric Measurement of Fluorescent Lamps,'' IES LM–9–09. IES LM–9–09 is an industry accepted test standard that specifies procedures to be observed in performing measurements of electrical and photometric characteristics of fluorescent lamps under standard conditions. The test procedures adopted in this final rule reference sections of IES LM–9–09 for performing electrical and photometric measurements of other fluorescent lamps. IES LM–9–09 is readily available on IES's Web site at *www.ies.org/store/.*

DOE also incorporates by reference specific sections of the test standard published by IES, titled ''IES Approved Method for Photometry of Reflector Type Lamps,'' IES LM–20–13. IES LM–20–13 is an industry accepted test standard that specifies photometric test methods for reflector lamps. The test procedures adopted in this final rule reference sections of IES LM–20–13 for performing electrical and photometric measurements of other incandescent lamps that are reflector lamps. IES LM–

20–13 is readily available on IES's Web site at *www.ies.org/store.*

DOE also incorporates by reference specific sections of the test standard published by IES, titled ''IES Approved Method for the Electrical and Photometric Measurement of General Service Incandescent Filament Lamps,'' IES LM–45–15. IES LM–45–15 is an industry accepted test standard that specifies procedures to be observed in performing measurements of electrical and photometric characteristics of general service incandescent filament lamps under standard conditions. The test procedures adopted in this final rule reference sections of IES LM–45–15 for performing electrical and photometric measurements of other incandescent lamps that are not reflector lamps. IES LM–45–15 is readily available on IES's Web site at *www.ies.org/store/.*

DOE also incorporates by reference specific sections of the test standard published by IES, titled ''IES Approved Method for the Electrical and Photometric Measurement of Solid-State Lighting Products,'' IES LM–79–08. IES LM–79–08 is an industry accepted test standard that specifies electrical and photometric test methods for solid-state lighting products. The test procedures adopted in this final rule reference sections of IES LM–79–08 for performing electrical and photometric measurements of OLED lamps and non-integrated LED lamps. IES LM–79–08 is readily available on IES's Web site at *www.ies.org/store.*

DOE incorporates by reference certain sections of the test standard published by IEC, titled ''Household electrical appliances—Measurement of standby power (Edition 2.0),'' IEC 62301. IEC 62301 is an industry accepted test standard that describes measurements of electrical power consumption in standby mode, off mode, and network mode. The test procedures adopted in this final rule reference sections of IEC 62301 for testing standby mode power consumption of GSLs. IEC 62301 is readily available on IEC's Web site at *https://webstore.iec.ch/home.*

N. Congressional Notification

As required by 5 U.S.C. 801, DOE will report to Congress on the promulgation of this rule before its effective date. The report will state that it has been determined that the rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

V. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this final rule.

List of Subjects

10 CFR Part 429

Administrative practice and procedure, Confidential business information, Energy conservation, Household appliances, Reporting and recordkeeping requirements.

10 CFR Part 430

Administrative practice and procedure, Confidential business information, Energy conservation, Household appliances, Imports, Incorporation by reference, Intergovernmental relations, Small businesses.

Issued in Washington, DC, September 30, 2016.

Kathleen B. Hogan,

Deputy Assistant Secretary for Energy Efficiency, Energy Efficiency and Renewable Energy.

For the reasons stated in the preamble, DOE amends parts 429 and 430 of chapter II of title 10, Code of Federal Regulations as set forth below:

PART 429—CERTIFICATION, COMPLIANCE, AND ENFORCEMENT FOR CONSUMER PRODUCTS AND COMMERCIAL AND INDUSTRIAL EQUIPMENT

■ 1. The authority citation for part 429 continues to read as follows:

Authority: 42 U.S.C. 6291–6317; 28 U.S.C. 2461 note.

■ 2. Section 429.27 is amended by revising paragraphs (b)(2)(i) through (iii) to read as follows:

§ 429.27 General service fluorescent lamps, general service incandescent lamps, and incandescent reflector lamps.

* * * * *

(b) * * *

(2) * * *

(i) General service fluorescent lamps: The testing laboratory's ILAC accreditation body's identification number or other approved identification assigned by the ILAC accreditation body, production dates of the units tested, the 12-month average lamp efficacy in lumens per watt (lm/W), lamp wattage (W), correlated color temperature in Kelvin (K), and the 12-month average Color Rendering Index (CRI).

(ii) Incandescent reflector lamps: The testing laboratory's ILAC accreditation body's identification number or other approved identification assigned by the ILAC accreditation body, production dates of the units tested, the 12-month average lamp efficacy in lumens per watt (lm/W), and lamp wattage (W).

(iii) General service incandescent lamps: The testing laboratory's ILAC accreditation body's identification number or other approved identification assigned by the ILAC accreditation body, production dates of the units tested, the 12-month average maximum rate wattage in watts (W), the 12-month average minimum rated lifetime (hours), and the 12-month average Color Rendering Index (CRI).

* * * * *

■ 3. Section 429.57 is added to read as follows:

§ 429.57 General service lamps.

(a) *Determination of represented value.* Manufacturers must determine represented values, which includes certified ratings, for each basic model of general service lamp in accordance with following sampling provisions.

(1) The requirements of § 429.11 are applicable to general service lamps, and

(2) For general service incandescent lamps, use § 429.27(a);

(3) For compact fluorescent lamps, use § 429.35(a);

(4) For integrated LED lamps, use § 429.56(a);

(5) For other incandescent lamps, use § 429.27(a);

(6) For other fluorescent lamps, use § 429.35(a); and

(7) For OLED lamps and non-integrated LED lamps, use § 429.56(a).

(b) *Certification reports.* (1) The requirements of § 429.12 are applicable to general service lamps;

(2) Values reported in certification reports are represented values;

(3) For general service incandescent lamps, use § 429.27(b);

(4) For compact fluorescent lamps, use § 429.35(b);

(5) For integrated LED lamps, use § 429.56(b); and

(6) For other incandescent lamps, for other fluorescent lamps, for OLED lamps and non-integrated LED lamps, pursuant to § 429.12(b)(13), a certification report must include the following public product-specific information: The testing laboratory's ILAC accreditation body's identification number or other approved identification assigned by the ILAC accreditation body, initial lumen output, input power, lamp efficacy, and power factor. For non-integrated LED lamps, the certification report must also include the input voltage and current used for testing.

(c) *Rounding requirements.* (1) Round input power to the nearest tenth of a watt.

(2) Round initial lumen output to three significant digits.

(3) Round lamp efficacy to the nearest tenth of a lumen per watt.

(4) Round power factor to the nearest hundredths place.

(5) Round standby mode power to the nearest tenth of a watt.

PART 430—ENERGY CONSERVATION PROGRAM FOR CONSUMER PRODUCTS

■ 4. The authority citation for part 430 continues to read as follows:

Authority: 42 U.S.C.6291–6309; 28 U.S.C. 2461 note.

■ 5. Section 430.3 is amended by:

■ a. Redesignating paragraphs (o)(3) through (o)(16) as follows:

Old paragraph	New paragraph
(o)(3)	(o)(4)
(o)(4)	(o)(5)
(o)(5)	(o)(7)
(o)(6)	(o)(9)
(o)(7)	(o)(10)
(o)(8)	(o)(11)
(o)(9)	(o)(12)
(o)(10)	(o)(13)
(o)(11)	(o)(14)
(o)(12)	(o)(15)
(o)(13)	(o)(16)
(o)(14)	(o)(18)
(o)(15)	(o)(19)
(o)(16)	(o)(20)

■ b. Adding new paragraphs (o)(3); (6); (8); and (17);

■ c. Redesignating paragraphs (p)(6) and (7) as paragraphs (p)(7) and (8), respectively; and

■ d. Adding a new paragraph (p)(6).

The additions read as follows:

§ 430.3 Materials incorporated by reference.

* * * * *

(o) * * *

(3) IES LM–9–09 (''IES LM–9–09–DD''), IES Approved Method for the Electrical and Photometric Measurement of Fluorescent Lamps, approved January 31, 2009; IBR approved for appendix DD to subpart B, as follows:

(i) Section 4.0—Ambient and Physical Conditions;

(ii) Section 5.0—Electrical Conditions;

(iii) Section 6.0—Lamp Test Procedures; and

(iv) Section 7.0—Photometric Test Procedures: Section 7.5—Integrating Sphere Measurement.

* * * * *

(6) IES LM–20–13, IES Approved Method for Photometry of Reflector Type Lamps, approved February 4, 2013; IBR approved for appendix DD to subpart B, as follows:

(i) Section 4.0—Ambient and Physical Conditions;

(ii) Section 5.0—Electrical and Photometric Test Conditions;

(iii) Section 6.0—Lamp Test Procedures; and

(iv) Section 8.0—Total Flux Measurements by Integrating Sphere Method.

* * * * *

(8) IES LM–45–15, IES Approved Method for the Electrical and Photometric Measurement of General Service Incandescent Filament Lamps, approved August 8, 2015; IBR approved for appendix DD to subpart B as follows:

(i) Section 4.0—Ambient and Physical Conditions;

(ii) Section 5.0—Electrical Conditions;

(iii) Section 6.0—Lamp Test Procedures; and

(iv) Section 7.0—Photometric Test Procedures: Section 7.1—Total Luminous Flux Measurements with an Integrating Sphere.

* * * * *

(17) IES LM–79–08 (''IES LM–79–08–DD''), Approved Method: Electrical and Photometric Measurements of Solid-State Lighting Products, approved December 31, 2007; IBR approved for appendix DD to subpart B as follows:

(i) Section 1.0 Introduction: Section 1.3—Nomenclature and Definitions (except section 1.3f);

(ii) Section 2.0—Ambient Conditions;

(iii) Section 3.0—Power Supply Characteristics;

(iv) Section 5.0—Stabilization of SSL Product;

(v) Section 7.0—Electrical Settings;

(vi) Section 8.0—Electrical Instrumentation;

(vii) Section 9.0—Test Methods for Total Luminous Flux measurement: Section 9.1 Integrating sphere with a spectroradiometer (Sphere-spectroradiometer system); and Section 9.2—Integrating sphere with a photometer head (Sphere-photometer system).

* * * * *

(p) * * *

(6) IEC 62301, (''IEC 62301–DD''), Household electrical appliances—Measurement of standby power, (Edition 2.0, 2011–01); Section 5—Measurements, IBR approved for appendix DD to subpart B.

* * * * *

■ 6. Section 430.23 is amended by adding paragraph (gg) to read as follows:

§ 430.23 Test procedures for the measurement of energy and water consumption.

* * * * *

(gg) *General Service Lamps.* (1) For general service incandescent lamps, use paragraph (r) of this section.

(2) For compact fluorescent lamps, use paragraph (y) of this section.

(3) For integrated LED lamps, use paragraph (ee) of this section.

(4) For other incandescent lamps, measure initial light output, input power, lamp efficacy, power factor, and standby mode power in accordance with appendix DD of this subpart.

(5) For other fluorescent lamps, measure initial light output, input power, lamp efficacy, power factor, and standby mode power in accordance with appendix DD of this subpart.

(6) For OLED and non-integrated LED lamps, measure initial light output, input power, lamp efficacy, power factor, and standby mode power in accordance with appendix DD of this subpart.

■ 7. Section 430.25 is revised to read as follows:

§ 430.25 Laboratory Accreditation Program.

The testing for general service fluorescent lamps, general service incandescent lamps (with the exception of lifetime testing), general service lamps (with the exception of applicable lifetime testing), incandescent reflector lamps, compact fluorescent lamps, and fluorescent lamp ballasts, and integrated light-emitting diode lamps must be conducted by test laboratories accredited by an Accreditation Body that is a signatory member to the International Laboratory Accreditation Cooperation (ILAC) Mutual Recognition Arrangement (MRA). A manufacturer's or importer's own laboratory, if accredited, may conduct the applicable testing.

■ 8. Appendix DD to subpart B of part 430 is added to read as follows:

Appendix DD to Subpart B of Part 430—Uniform Test Method for Measuring the Energy Consumption and Energy Efficiency of General Service Lamps That Are Not General Service Incandescent Lamps, Compact Fluorescent Lamps, or Integrated LED Lamps.

Note: On or after April 19, 2017, any representations, including certifications of compliance (if required), made with respect to the energy use or efficiency of general service lamps that are not general service incandescent lamps, compact fluorescent lamps, or integrated LED lamps must be made in accordance with the results of testing pursuant to this appendix DD.

1. *Scope:* This appendix DD specifies the test methods required to measure the initial lumen output, input power, lamp efficacy, power factor, and standby mode energy consumption of general service lamps that are not general service incandescent lamps,

compact fluorescent lamps, or integrated LED lamps.

2. *Definitions:*

Measured initial input power means the input power to the lamp, measured after the lamp is stabilized and seasoned (if applicable), and expressed in watts (W).

Measured initial lumen output means the lumen output of the lamp, measured after the lamp is stabilized and seasoned (if applicable), and expressed in lumens (lm).

Power factor means the measured initial input power (watts) divided by the product of the input voltage (volts) and the input current (amps) measured at the same time as the initial input power.

3. Active Mode Test Procedures

3.1. Take measurements at full light output.

3.2. Do not use a goniophotometer.

3.3. For single base OLED and non-integrated LED lamps, position a lamp in either the base-up and base-down orientation throughout testing. Test an equal number of lamps in the sample in the base-up and base-down orientations, except that, if the manufacturer restricts the orientation, test all of the units in the sample in the manufacturer-specified orientation. For double base OLED and non-integrated LED lamps, test all units in the horizontal orientation except that, if the manufacturer restricts the orientation, test all of the units in the sample in the manufacturer-specified orientation.

3.4. Operate the lamp at the rated voltage throughout testing. For lamps with multiple rated voltages including 120 volts, operate the lamp at 120 volts. If a lamp is not rated for 120 volts, operate the lamp at the highest rated input voltage. For non-integrated LED lamps, operate the lamp at the manufacturer-declared input voltage and current.

3.5. Operate the lamp at the maximum input power. If multiple modes occur at the same maximum input power (such as variable CCT or CRI), the manufacturer may select any of these modes for testing; however, all measurements must be taken at the same selected mode. The manufacturer must indicate in the test report which mode was selected for testing and include detail such that another laboratory could operate the lamp in the same mode.

3.6. To measure initial lumen output, input power, input voltage, and input current use the test procedures in the table in this section.

TABLE 3.1—REFERENCES TO INDUSTRY STANDARD TEST PROCEDURES

Lamp type	Referenced test procedure
General service incandescent lamps	Appendix R to subpart B of 10 CFR part 430.
Compact fluorescent lamps	Appendix W to subpart B of 10 CFR part 430.
Integrated LED lamps	Appendix BB to subpart B of 10 CFR part 430.
Other incandescent lamps that are not reflector lamps	IES LM–45–15, sections 4–6, and section 7.1.*
Other incandescent lamps that are reflector lamps	IES LM–20–13, sections 4–6, and section 8.*
Other fluorescent lamps	IES LM–9–09–DD, sections 4–6, and section 7.5.*
OLED lamps	IES LM–79–08–DD, sections 1.3 (except 1.3f), 2.0, 3.0, 5.0, 7.0, 8.0, 9.1 and 9.2.*
Non-integrated LED lamps	IES LM–79–08–DD, sections 1.3 (except 1.3f), 2.0, 3.0, 5.0, 7.0, 8.0, 9.1 and 9.2.*

* Incorporated by reference, see § 430.3.

3.7. Determine initial lamp efficacy by dividing the measured initial lumen output (lumens) by the measured initial input power (watts).

3.8. Determine power factor by dividing the measured initial input power (watts) by the product of the measured input voltage (volts) and measured input current (amps).

4. Standby Mode Test Procedure

4.1. Measure standby mode power only for lamps that are capable of standby mode operation.

4.2. Maintain lamp orientation as specified in section 3.3 of this appendix.

4.3. Connect the lamp to the manufacturer-specified wireless control network (if applicable) and configure the lamp in standby mode by sending a signal to the lamp instructing it to have zero light output. Lamp must remain connected to the network throughout testing.

4.4. Operate the lamp at the rated voltage throughout testing. For lamps with multiple rated voltages including 120 volts, operate the lamp at 120 volts. If a lamp is not rated for 120 volts, operate the lamp at the highest rated input voltage.

4.5. Stabilize the lamp prior to measurement as specified in section 5 of IEC 62301–DD (incorporated by reference; see § 430.3).

4.6. Measure the standby mode power in watts as specified in section 5 of IEC 62301–DD (incorporated by reference; see § 430.3).

[FR Doc. 2016–25180 Filed 10–19–16; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2014–0578; Directorate Identifier 2013–SW–048–AD; Amendment 39–18684; AD 2016–21–03]

RIN 2120–AA64

Airworthiness Directives; Airbus Helicopters Deutschland GmbH (Previously Eurocopter Deutschland GmbH) (Airbus Helicopters) Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for Airbus Helicopters Model MBB–BK 117 C–2 helicopters with certain duplex trim actuators installed. This AD requires repetitively inspecting the lateral and longitudinal trim actuator output levers for correct torque of the nuts. This AD was prompted by a design review that indicated the attachment screws can become loose under certain circumstances. These actions are intended to prevent the loss of an attachment screw, which could result in movement of the output lever in an axial direction, contact of a bolt connecting the control rod to an output lever with the actuator housing, and subsequent loss of helicopter control.

DATES: This AD is effective November 25, 2016.

ADDRESSES: For service information identified in this final rule, contact Airbus Helicopters, Inc., 2701 N. Forum Drive, Grand Prairie, TX 75052; telephone (972) 641–0000 or (800) 232–0323; fax (972) 641–3775; or at *http://www.airbushelicopters.com/techpub.* You may review the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy, Room 6N–321, Fort Worth, TX 76177.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* or in person at the Docket Operations Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the European Aviation Safety Agency (EASA) AD, the economic evaluation, any comments received, and other information. The street address for the Docket Operations Office (phone: 800–647–5527) is U.S. Department of Transportation, Docket

Operations Office, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Matt Wilbanks, Aviation Safety Engineer, Regulations and Policy Group, Rotorcraft Directorate, FAA, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177; telephone (817) 222–5110; email *matt.wilbanks@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

On August 18, 2014, at 79 FR 48696, the **Federal Register** published our notice of proposed rulemaking (NPRM), which proposed to amend 14 CFR part 39 by adding an AD that would apply to Airbus Helicopters Model MBB–BK 117 C–2 helicopters with a lateral duplex trim actuator, part number (P/N) 418–00878–050 or P/N 418–00878–051, or a longitudinal duplex trim actuator, P/N 418–00878–000 or P/N 418–00878–001, installed. The NPRM proposed to require repetitively inspecting the lateral and longitudinal trim actuator output levers for correct torque of the nuts. The proposed requirements were intended to prevent a loose attachment screw, which could result in movement of the output lever in an axial direction, contact of a bolt connecting the control rod to an output lever with the actuator housing, and subsequent loss of helicopter control.

The NPRM was prompted by AD No. 2013–0182, dated August 12, 2013, issued by EASA, which is the Technical Agent for the Member States of the European Union, to correct an unsafe condition for Airbus Helicopters Model MBB–BK 117 C–2 helicopters with a lateral duplex trim actuator, P/N 418–00878–050 or P/N 418–00878–051, or with a longitudinal duplex trim actuator, P/N 418–00878–000 or P/N 418–00878–001. EASA advises that under unfavorable circumstances, a total loss of the trim actuator output lever attachment screw could lead to a restriction of the lateral and longitudinal control range. According to EASA, without the attachment screw, the output lever can move in the axial direction. This condition, if not detected, could cause the bolt that connects the control rod to the output lever to make contact with actuator housing, possibly resulting in reduced control of the helicopter.

To prevent this condition, EASA requires an initial torque check of the lateral and longitudinal trim actuator output lever attachment screws, the application of a torque marking, and repetitive inspections for correct torque thereafter. The EASA AD's requirements are considered an interim solution, pending a terminating modification.

Since the issuance of EASA AD No. 2013–0182, Eurocopter Deutschland GmbH has changed its name to Airbus Helicopters Deutschland GmbH.

Comments

We gave the public the opportunity to participate in developing this AD, but we received no comments on the NPRM (79 FR 48696, August 18, 2014).

FAA's Determination

These helicopters have been approved by the aviation authority of Germany and are approved for operation in the United States. Pursuant to our bilateral agreement with Germany, EASA, its technical representative, has notified us of the unsafe condition described in the EASA AD. We are issuing this AD because we evaluated all information provided by EASA and determined the unsafe condition exists and is likely to exist or develop on other helicopters of these same type designs and that air safety and the public interest require adopting the AD requirements as proposed.

Interim Action

We consider this AD to be an interim action because Airbus Helicopters is currently developing a modification that will address the unsafe condition identified in this AD. Once this modification is developed, approved and available, we might consider additional rulemaking.

Related Service Information

We reviewed Eurocopter (now Airbus Helicopters) Alert Service Bulletin MBB–BK117 C–2–67A–020, Revision 0, dated June 18, 2013 (ASB), which advises of a design review that showed that a loss of the attachment screw of the trim actuator output lever could restrict the lateral and longitudinal control range. The ASB consequently calls for an initial torque check and application of torque markings of the self-locking nuts, and subsequent repetitive inspections to maintain the proper torque.

Costs of Compliance

We estimate that this AD affects 100 helicopters of U.S. Registry and that labor costs average $85 per work-hour. Based on these estimates, we expect the following costs:

- Applying torque and torque marking to the lateral and longitudinal trim actuator output levers requires 1 work-hour for a labor cost of $85. No parts are needed, so the cost for the U.S. fleet totals $8,500.
- Visually inspecting for correct torque requires 0.5 work-hour for a labor cost of about $43. No parts are needed, so the total cost for the U.S. fleet is $4,300 per inspection cycle.

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 helicopters identified in this rulemaking action.

Regulatory Findings

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

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

(1) Is not a ''significant regulatory action'' under Executive Order 12866;

(2) Is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979);

(3) Will not affect intrastate aviation in Alaska to the extent that it justifies making a regulatory distinction; and

(4) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared an economic evaluation of the estimated costs to comply with this AD and placed it in the AD docket.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator,

the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2016–21–03 Airbus Helicopters Deutschland GmbH (Previously Eurocopter Deutschland GmbH) (Airbus Helicopters) Helicopters: Amendment 39–18684; Docket No. FAA–2014–0578; Directorate Identifier 2013–SW–048–AD.

(a) Applicability

This AD applies to Airbus Helicopters Model MBB–BK 117 C–2 helicopters with a lateral duplex trim actuator, part number (P/N) 418–00878–050 or P/N 418–00878–051, or a longitudinal duplex trim actuator, P/N 418–00878–000 or P/N 418–00878–001, installed, certificated in any category.

(b) Unsafe Condition

This AD defines the unsafe condition as loss of a trim actuator output lever attachment screw. This condition could result in movement of the output lever in an axial direction, contact of a bolt connecting the control rod to an output lever with the actuator housing, and subsequent loss of control of the helicopter.

(c) Effective Date

This AD becomes effective November 25, 2016.

(d) Compliance

You are responsible for performing each action required by this AD within the specified compliance time unless it has already been accomplished prior to that time.

(e) Required Actions

(1) Within 300 hours time-in-service (TIS), apply a torque of 31.0 inch-pounds (3.5 Nm) to the self-locking nut (nut) on each lateral and longitudinal trim actuator output lever and apply a torque marking between the nut and the screw.

(2) Thereafter at intervals not to exceed 400 hours TIS, visually inspect each nut on each lateral and longitudinal trim actuator output lever to determine whether the torque is at 31.0 inch-pounds (3.5 Nm). If the torque is not at 31.0 inch-pounds, apply a torque of 31.0 inch-pounds (3.5 Nm), remove the previous torque marking, and apply a new torque marking between the nut and the screw.

(3) Do not install a lateral duplex trim actuator, part number (P/N) 418–00878–050 or P/N 418–00878–051, or a longitudinal duplex trim actuator, P/N 418–00878–000 or P/N 418–00878–001, on any helicopter unless each nut has been inspected for proper torque in accordance with the requirements of this AD.

(f) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Safety Management Group, FAA, may approve AMOCs for this AD. Send your proposal to: Matt Wilbanks, Aviation Safety Engineer, Regulations and Policy Group, Rotorcraft Directorate, FAA, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177; telephone (817) 222–5110; email *9-ASW-FTW-AMOC-Requests@faa.gov.*

(2) For operations conducted under a 14 CFR part 119 operating certificate or under 14 CFR part 91, subpart K, we suggest that you notify your principal inspector, or lacking a principal inspector, the manager of the local flight standards district office or certificate holding district office, before operating any aircraft complying with this AD through an AMOC.

(g) Additional Information

(1) Eurocopter Alert Service Bulletin MBB–BK117 C–2–67A–020, Revision 0, dated June 18, 2013, which is not incorporated by reference, contains additional information about the subject of this AD. For service information identified in this final rule, contact Airbus Helicopters, Inc., 2701 N. Forum Drive, Grand Prairie, TX 75052; telephone (972) 641–0000 or (800) 232–0323; fax (972) 641–3775; or at *http://www.airbushelicopters.com/techpub.* You may review a copy of the service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Parkway, Room 6N–321, Fort Worth, TX 76177.

(2) The subject of this AD is addressed in the European Aviation Agency (EASA) AD No. 2013–0182, dated August 12, 2013. You may view the EASA AD on the Internet at *http://www.regulations.gov* in Docket No. FAA–2014–0578.

(h) Subject

Joint Aircraft Service Component (JASC) Code: 6700, Rotorcraft Flight Control.

Issued in Fort Worth, Texas, on October 5, 2016.

Lance T. Gant,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 2016–24860 Filed 10–19–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2016–5589; Directorate Identifier 2014–NM–252–AD; Amendment 39–18678; AD 2016–20–12]

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) 2012–20–07 for certain Airbus Model A318, A319, A320, and A321 series airplanes. AD 2012–20–07 required revising the Airworthiness Limitations section (ALS) of the Instructions for Continued Airworthiness (ICA) to incorporate new limitations for fuel tank systems, and revising the maintenance program to incorporate revised fuel maintenance and inspection tasks. This new AD requires revising the maintenance or inspection program to incorporate revised fuel airworthiness limitations. This AD was prompted by Airbus issuing more restrictive maintenance requirements and/or airworthiness limitations. We are issuing this AD to prevent the potential of ignition sources inside fuel tanks, which, in combination with flammable fuel vapors, could result in a fuel tank explosion and consequent loss of the airplane.

DATES: This AD is effective November 25, 2016.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of November 25, 2016.

The Director of the Federal Register approved the incorporation by reference of a certain other publication listed in this AD as of November 21, 2012 (77 FR 63716, October 17, 2012).

The Director of the Federal Register approved the incorporation by reference of a certain other publication listed in this AD as of December 14, 2009 (74 FR 62219, November 27, 2009).

The Director of the Federal Register approved the incorporation by reference of a certain other publication listed in this AD as of August 28, 2007 (72 FR 40222, July 24, 2007).

ADDRESSES: For service information identified in this final rule, 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;* 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–2016–5589.

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–2016–5589; 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 address for the Docket Office (telephone 800–647–5527) is 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 20590.

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 2012–20–07, Amendment 39–17213 (77 FR 63716, October 17, 2012) (''AD 2012–20–07''). AD 2012–20–07 applied to all Airbus Model A318, A319, A320, and A321 series airplanes. The NPRM published in the **Federal Register** on April 14, 2016 (81 FR 22033). The NPRM was prompted by Airbus issuing more restrictive maintenance requirements and/or airworthiness limitations. The NPRM proposed to continue to require revising the ALS of the ICA to incorporate new limitations for fuel tank systems in accordance with the type design, and revising the maintenance program to incorporate revised fuel maintenance and inspection tasks. The NPRM also proposed to require revising the maintenance or inspection program to incorporate revised fuel airworthiness limitations. We are issuing this AD to prevent the potential of ignition sources inside fuel tanks, which, in combination with flammable fuel vapors, could result in a fuel tank explosion and consequent loss 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 2014–0260, dated December 5, 2014 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition. The MCAI states:

> Prompted by an accident * * *, the Federal Aviation Administration (FAA) published Special Federal Aviation Regulation (SFAR) 88, and the Joint Aviation Authorities (JAA) published interim Policy INT/POL/25/12. In response to these regulations, Airbus conducted a design review to develop Fuel Airworthiness Limitations (FAL) for Airbus A320 family aeroplanes.
>
> The FAL were specified in Airbus A318/A319/A320/A321 FAL document ref. 95A.1931/05 at issue 04 for A318/A319/A320/A321 aeroplanes. This document was approved by the European Aviation Safety Agency (EASA) and is now referenced in Airbus A318/A319/A320/A321 ALS Part 5 to comply with EASA policy statement (EASA D2005/CPRO).
>
> Failure to comply with items as identified in Airbus A318/A319/A320/A321 ALS Part 5 could result in a fuel tank explosion and consequent loss of the aeroplane.
>
> For the reasons described above, this [EASA] AD retains the requirements of EASA AD 2011–0155R1, which is superseded [and which corresponds to FAA AD 2012–20–07], and requires implementation of the new or more restrictive maintenance requirements and/or airworthiness limitations as specified in Airbus A318/A319/A320/A321 ALS Part 5 at Rev.01.
>
> * * * * *

The required action is revising the maintenance or inspection program to incorporate revised fuel airworthiness limitations. 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–2016–5589.

Comments

We gave the public the opportunity to participate in developing this AD. The following presents the comments received on the NPRM and the FAA's response to each comment.

Support for the NPRM

The Airline Pilots Association, International stated that it supports the intent of the NPRM.

Request To Clarify and Revise Applicability

American Airlines (AAL) asked if airplanes with an operating certificate issued after the applicability date of July 19, 2014, in paragraph (c) of the NPRM, are excluded from the proposed requirements. AAL stated that it has received several Model A321 airplanes after July 19, 2014, that have the fuel tank inerting system (FTIS) installed in production; AAL thinks the requirement to replace the air separation module (ASM) having P/N 2060017–102 every 27,000 flight hours and other tasks listed in Airbus A318/A319/A320/A321 ALS Part 5, Fuel Airworthiness Limitations, Revision 01, dated July 9, 2014 (''ALS part 5 R01''), should apply to these airplanes. AAL requested that we revise the applicability by removing the July 19, 2014, date in paragraph (c) of the proposed AD and revising the applicability to be in sync with ALS part 5 R01.

We partially agree with AAL's requests. We agree that clarification is necessary. AAL stated that, for airplanes with the FTIS installed, operators must incorporate the ALS associated with the system in accordance with ALS part 5 R01. However, we would like to reiterate the information stated in the preamble of the NPRM under ''Airworthiness Limitations Based on Type Design,'' which states that operators of airplanes with an original certificate of airworthiness or original export certificate of airworthiness issued after July 19, 2014, must comply with the airworthiness limitations specified as part of the approved type design. These airplanes are not subject to the requirements of this AD. Therefore, if an airplane's type design includes systems such as the FTIS, then the corresponding ALS specified as part of the approved type design should address those systems as appropriate, and must be incorporated into the maintenance/inspection programs. Therefore, we disagree with AAL's request to change the applicability of this AD. We have not changed this AD in this regard.

Request To Remove Task Requirement

AAL requested that we remove ''Task 470000–05–1'' from paragraph (j)(2) of the proposed AD because this is a one-time task, which AAL has completed.

We do not agree with AAL's request. Even if the current U.S. registered fleet already complies with the requirements of ''Task 470000–05–1'' in paragraph (j)(2) of this AD, the requirement is still necessary to ensure that any affected airplane imported and placed on the U.S. register in the future complies as well. We have not changed this AD in this regard.

Request To Revise Service Information

AAL requested that we revise paragraph (j)(2)(ii) of the proposed AD to include Airbus Service Bulletins A320–47–1025 and A320–47–1026, which apply to AAL's airplanes.

We do not agree with AAL's request. AAL's suggested changes are for the retained requirements of AD 2012–20–07. Accomplishing the requirements of paragraph (l) of this AD terminates the retained requirements of paragraph (j) of this AD. Therefore, no change to this AD is needed in this regard.

Request To Revise Service Information

AAL requested that we revise table 1 to paragraph (j)(4) of the proposed AD to include ASMs having P/N 2060017–

103 to ensure that these parts are being tracked for removal every 27,000 flight hours. AAL stated that 25 airplanes in its fleet are equipped with ASMs having P/N 2060017–103.

We do not agree with AAL's request. The suggested changes are for the retained requirements of AD 2012–20–07. Adding additional requirements to the retained requirements could put operators out of compliance. As previously stated, incorporating the requirements of paragraph (l) of this AD terminates the requirements of paragraph (j) of this AD. Therefore, no change to this AD is needed in this regard.

Request for Alternative Method of Compliance (AMOC) Approval

Spirit Airlines requested that we revise the NPRM to specify that AMOC ANM–116–16–248 is approved as a means of compliance for the actions proposed in paragraph (i) of the proposed AD. Spirit Airlines stated that this AMOC permits the use of Airbus A318/A319/A320/A321 ALS Part 5, Fuel Airworthiness Limitations, Revision 02, dated December 18, 2015.

We agree with Spirit Airlines that AMOC ANM–116–16–248 is approved as a method of compliance for the corresponding provisions of paragraph (i) of this AD. However, no change is necessary to this AD because paragraph (n)(1)(ii) of this AD already specifies that AMOCs approved previously for AD 2012–20–07 are approved as AMOCs for the corresponding provisions of this AD.

Conclusion

We reviewed the available data, including the comments received, and determined that air safety and the public interest require adopting this AD as proposed except for 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 1 CFR Part 51

Airbus has issued A318/A319/A320/A321 ALS Part 5, Fuel Airworthiness Limitations, Revision 01, dated July 9, 2014. The service information describes fuel system airworthiness limitations. 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 953 airplanes of U.S. registry.

The actions required by AD 2012–20–07 and retained in this AD take about 4 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 2012–20–07 is $340 per product.

We also estimate that it would take about 1 work–hour 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 $81,005, or $85 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 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.

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) 2012–20–07, Amendment 39–17213 (77 FR 63716, October 17, 2012), and adding the following new AD:

2016–20–12 Airbus: Amendment 39–18678; Docket No. FAA–2016–5589; Directorate Identifier 2014–NM–252–AD.

(a) Effective Date

This AD is effective November 25, 2016.

(b) Affected ADs

This AD replaces AD 2012–20–07, Amendment 39–17213 (77 FR 63716, October 17, 2012) (''AD 2012–20–07'').

(c) Applicability

This AD applies to the Airbus airplanes identified in paragraphs (c)(1) through (c)(4) of this AD, certificated in any category, with an original certificate of airworthiness or original export certificate of airworthiness issued on or before July 19, 2014.

(1) Model A318–111, –112, –121, and –122 airplanes.

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

(3) Model A320–211, –212, –214, –231, –232, and –233 airplanes.

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

(d) Subject

Air Transport Association (ATA) of America Code 05, Periodic inspections.

(e) Reason

This AD was prompted by Airbus issuing more restrictive maintenance requirements and/or airworthiness limitations. We are issuing this AD to prevent the potential of ignition sources inside fuel tanks, which, in combination with flammable fuel vapors, could result in a fuel tank explosion and consequent loss of the airplane.

(f) Compliance

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

(g) Retained Revision of the Airworthiness Limitations Section (ALS) To Incorporate Fuel Maintenance and Inspection Tasks, With No Changes

This paragraph restates the requirements of paragraph (g) of AD 2012–20–07, with no changes. For Model A318–111 and –112 airplanes, and Model A319, A320, and A321 airplanes: Within 3 months after August 28, 2007 (the effective date of AD 2007–15–06, Amendment 39–15135 (72 FR 40222, July 24, 2007) (''AD 2007–15–06'')), revise the ALS of the Instructions for Continued Airworthiness to incorporate Airbus A318/A319/A320/A321 ALS Part 5—Fuel Airworthiness Limitations, dated February 28, 2006, as defined in Airbus A318/A319/A320/A321 Fuel Airworthiness Limitations, Document 95A.1931/05, Issue 1, dated December 19, 2005 (approved by the European Aviation Safety Agency (EASA) on March 14, 2006), Section 1, ''Maintenance/Inspection Tasks;'' or Airbus A318/A319/A320/A321 Fuel Airworthiness Limitations, Document 95A.1931/05, Issue 2, dated July 8, 2008 (approved by the EASA on December 19, 2008), Section 1, ''Maintenance/Inspection Tasks.'' For all tasks identified in Section 1, ''Maintenance/Inspection Tasks,'' of Airbus A318/A319/A320/A321 Fuel Airworthiness Limitations, Document 95A.1931/05, Issue 1, dated December 19, 2005; or Issue 2, dated July 8, 2008; the initial compliance times start from August 28, 2007 (the effective date of AD 2007–15–06), and the repetitive inspections must be accomplished thereafter at the intervals specified in Section 1, ''Maintenance/Inspection Tasks,'' of Airbus A318/A319/A320/A321 Fuel Airworthiness Limitations, Document 95A.1931/05, Issue 1, dated December 19, 2005; or Issue 2, dated July 8, 2008.

Note 1 to paragraph (g) of this AD: Guidance on identifying the applicable sections of the Airbus A318/A319/A320/A321 Airplane Maintenance Manual for accomplishing the tasks specified in Section 1 ''Maintenance/Inspection Tasks,'' of Airbus A318/A319/A320/A321 Fuel Airworthiness Limitations, Document 95A.1931/05, Issue 1, dated December 19, 2005; or Issue 2, dated July 8, 2008, can be found in Airbus Operator Information Telex (OIT) SE 999.0076/06, dated June 20, 2006.

(h) Retained Revision of the ALS To Incorporate Critical Design Configuration Control Limitations (CDCCLs), With No Changes

This paragraph restates the requirements of paragraph (h) of AD 2012–20–07, with no changes. For Airbus Model A318–111 and –112 airplanes, and Model A319, A320, and A321 airplanes: Within 12 months after August 28, 2007 (the effective date of AD 2007–15–06), revise the ALS of the Instructions for Continued Airworthiness to incorporate Airbus A318/A319/A320/A321 ALS Part 5—Fuel Airworthiness Limitations, dated February 28, 2006, as defined in Airbus A318/A319/A320/A321 Fuel Airworthiness Limitations, Document 95A.1931/05, Issue 1, dated December 19, 2005 (approved by EASA on March 14, 2006), Section 2, ''Critical Design Configuration Control Limitations;'' or Airbus A318/A319/A320/A321 Fuel Airworthiness Limitations, Document 95A.1931/05, Issue 2, dated July 8, 2008 (approved by EASA on December 19, 2008), Section 2, ''Critical Design Configuration Control Limitations.''

(i) Retained Requirement of AD 2012–20–07: No Alternative Inspections, Inspection Intervals, or CDCCLs, With New Exception

This paragraph restates the requirements of paragraph (i)(1) of AD 2012–20–07, with new exception. Except as provided by paragraph (n)(1) of this AD: After accomplishing the actions specified in paragraphs (g) and (h) of this AD, no alternative inspections, inspection intervals, or CDCCLs may be used.

(j) Retained Revision of the Maintenance Program, With Specific Delegation Approval Language in Paragraph (j)(4) of This AD

This paragraph restates the requirements of paragraph (j) of AD 2012–20–07, with specific delegation approval language in paragraph (j)(4) of this AD. Within 6 months after November 21, 2012 (the effective date of AD 2012–20–07): Revise the maintenance program to incorporate the new or revised tasks, life limits, and CDCCLs specified in Airbus A318/A319/A320/A321 Fuel Airworthiness Limitations, Document 95A.1931/05, Issue 4, dated August 26, 2010, except as required in paragraph (j)(4) of this AD. The initial compliance times and intervals are stated in this ALS document, except as required in paragraphs (j)(1) through (j)(4) of this AD, or within 6 months after November 21, 2012, whichever occurs later. For certain tasks, the compliance times depend on the pre-modification and post-modification status of the airplane. Incorporating the requirements of this paragraph terminates the corresponding requirements of paragraphs (g) and (h) of this AD only.

(1) For airplanes for which the first flight occurred before August 28, 2007 (the effective date of AD 2007–15–06), the first accomplishment of Tasks 281800–01–1, Functional Check of Tank Vapour Seal and Vent Drain System; and 281800–02–1, Detailed Inspection of Vapour Seal; must be performed no later than 11 months after November 21, 2012 (the effective date of AD 2012–20–07).

(2) The first accomplishment of Tasks 470000–01–1, Operational Check of Dual Flapper Shutoff Valves (DFSOV), Dual Flapper Check Valves and Nitrogen Enriched Air (NEA) Line for Leaks; 470000–02–1, Operational Check of Both Dual Flapper Check Valves for Leaks; 470000–03–1, Operational Check of Dual Flapper Check Valves for Reverse Flow and NEA Line for Leaks; 470000–04–1, Operational Check of Dual Flapper Check Valves for Reverse Flow; and 470000–05–1, Remove Air Separation Module (ASM) and Return to Vendor for Workshop Check; must be calculated, in accordance with paragraph (j)(2)(i) or (j)(2)(ii) of this AD.

(i) From the airplane first flight for airplanes on which Airbus modification 38062 or 38195 has been embodied in production.

(ii) From the in-service installation of the fuel tank inerting system specified in Airbus Service Bulletin A320–47–1001, Airbus Service Bulletin A320–47–1002, Airbus Service Bulletin A320–47–1003, Airbus Service Bulletin A320–47–1004, Airbus Service Bulletin A320–47–1006, or Airbus Service Bulletin A320–47–1007.

(3) Although Airbus A318/A319/A320/A321 Fuel Airworthiness Limitations, Document 95A.1931/05, Issue 4, dated August 26, 2010, does not refer to Airbus Service Bulletin A320–47–1006 and Airbus Service Bulletin A320–47–1007, the tasks apply as specified in paragraphs (j)(3)(i) through (j)(3)(iv) of this AD.

(i) Tasks 470000–01–1, Operational Check of DFSOV, Dual Flapper Check Valves and NEA Line for Leaks; and 470000–02–1, Operational Check of Both Dual Flapper Check Valves for leaks; apply to airplanes that have previously accomplished the actions specified in Airbus Service Bulletin A320–47–1007.

(ii) Task 470000–03–1, Operational Check of Dual Flapper Check Valves for Reverse Flow and NEA Line for Leaks, applies to airplanes that have previously accomplished the actions specified in Airbus Service Bulletin A320–47–1006, and that have not accomplished the actions specified in Airbus Service Bulletin A320–47–1007.

(iii) Task 470000–04–1, Operational Check of Dual Flapper Check Valves for Reverse Flow, applies to airplanes in post-modification 38195 configuration and that have not accomplished the actions specified in Airbus Service Bulletin A320–47–1007.

(iv) Task 470000–05–1, Remove ASM and return to Vendor for Workshop Check, applies to airplanes that have previously accomplished the actions specified in Airbus Service Bulletin A320–47–1007, and are in pre-modification 151529 configuration.

(4) Replace each ASM identified in table 1 to paragraph (j)(4) of this AD in accordance with a method approved by either the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or EASA (or its delegated agent); or Airbus's EASA Design Organization Approval (DOA). The compliance time for the replacement is before the accumulation of 27,000 total flight hours (component time)—*i.e.,* the life limitation.

Note 2 to paragraph (j)(4) of this AD: Guidance for accomplishment of the removal and replacement of the ASM can be found in Airbus A318/A319/A320/A321 Aircraft Maintenance Manual Task 47–10–43–920–001–A, Air Separation Module Replacement.

TABLE 1 TO PARAGRAPH (j)(4) OF THIS AD—ASM REPLACEMENT

Affected airplane configuration	ASM part No.
Post-modification 38062	2060017–101
Post-Airbus Service Bulletin A320–47–1002	2060017–101
Post-Airbus Service Bulletin A320–47–1004	2060017–101
Post-Airbus Service Bulletin A320–47–1007	2060017–101
Post-modification 152033	2060017–102

TABLE 1 TO PARAGRAPH (j)(4) OF THIS AD—ASM REPLACEMENT—Continued

Affected airplane configuration	ASM part No.
Post-Airbus Service Bulletin A320–47–1011	2060017–102

(k) Retained Requirement: No Alternative Actions, Intervals, and/or CDCCLs, With No Changes

This paragraph restates the requirements of paragraph (k) of AD 2012–20–07, with no changes. Except as required by paragraph (l) of this AD, after accomplishing the revisions required by paragraph (j) of this AD, no alternative actions (*e.g.,* inspections), intervals, and/or CDCCLs may be used other than those specified in Airbus A318/A319/A320/A321 ALS Part 5—Fuel Airworthiness Limitations, dated February 28, 2006, as defined in Airbus A318/A319/A320/A321 Fuel Airworthiness Limitations, Document 95A.1931/05, Issue 4, dated August 26, 2010, unless the actions, intervals, and/or CDCCLs are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (n)(1) of this AD.

(l) New Requirement of This AD: Revise the Maintenance or Inspection Program

Within 60 days after the effective date of this AD, revise the maintenance or inspection program, as applicable, by incorporating the fuel airworthiness limitations (*e.g.,* life limits, tasks, and CDCCLs, and associated thresholds and intervals) described in Airbus A318/A319/A320/A321 ALS Part 5, Fuel Airworthiness Limitations, Revision 01, dated July 9, 2014. The initial compliance times for the tasks are at the times specified in Airbus A318/A319/A320/A321 ALS Part 5, Fuel Airworthiness Limitations, Revision 01, dated July 9, 2014, or within 60 days after the effective date of this AD, whichever occurs later. Incorporating the requirements of this paragraph terminates the requirements of paragraphs (g) through (k) of this AD.

(m) New Requirement of This AD: No Alternative Actions, Intervals, or CDCCLs

After the maintenance or inspection program has been revised as required by paragraph (l) of this AD, no alternative actions (*e.g.,* inspections), intervals, or CDCCLs may be used unless the actions, intervals, or CDCCLs are approved as an AMOC in accordance with the procedures specified in paragraph (n)(1) of this AD.

(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.*

(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 2012–20–07 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.

(o) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA Airworthiness Directive 2014–0260, dated December 5, 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–2016–5589.

(2) Service information identified in this AD that is not incorporated by reference is available at the addresses specified in paragraphs (p)(7) and (p)(8) of this AD.

(p) 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 November 25, 2016.

(i) Airbus A318/A319/A320/A321 Airworthiness Limitations Section (ALS) Part 5, Fuel Airworthiness Limitations, Revision 01, dated July 9, 2014. The title page of this document does not contain the revision date. The remaining pages of this document do not include the revision level.

(ii) Reserved.

(4) The following service information was approved for IBR on November 21, 2012 (77 FR 63716, October 17, 2012).

(i) Airbus A318/A319/A320/A321 Fuel Airworthiness Limitations, Document 95A.1931/05, Issue 4, dated August 26, 2010.

(ii) Reserved.

(5) The following service information was approved for IBR on December 14, 2009 (74 FR 62219, November 27, 2009).

(i) Airbus A318/A319/A320/A321 Fuel Airworthiness Limitations, Document 95A.1931/05, Issue 2, dated July 8, 2008.

(ii) Reserved.

(6) The following service information was approved for IBR on August 28, 2007 (72 FR 40222, July 24, 2007).

(i) Airbus A318/A319/A320/A321 Fuel Airworthiness Limitations, Document 95A.1931/05, Issue 1, dated December 19, 2005.

(ii) Reserved.

(7) 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;* Internet *http://www.airbus.com.*

(8) 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.

(9) 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 September 28, 2016.

Dionne Palermo,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2016–24078 Filed 10–19–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2015–6538; Directorate Identifier 2015–NM–031–AD; Amendment 39–18668; AD 2016–20–02]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain The Boeing Company Model 737–300, –400, and –500 series airplanes. This AD was prompted by an evaluation by the design approval holder (DAH) indicating that the aft pressure bulkhead is subject to widespread fatigue damage (WFD). This AD requires repetitive inspections of the aft pressure bulkhead web for any cracking, incorrectly drilled fastener holes, and elongated fastener holes; and related investigative and corrective actions, if necessary. We are issuing this AD to detect and correct fatigue cracking of the aft pressure bulkhead web at the ''Y''-chord, which could result in reduced structural

integrity of the airplane and rapid decompression of the fuselage.

DATES: This AD is effective November 25, 2016.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of November 25, 2016.

ADDRESSES: For service information identified in this final rule, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, WA 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; Internet *https://www.myboeingfleet.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–2015–6538.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–6538; 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 address for the Docket Office (phone: 800–647–5527) is 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 20590.

FOR FURTHER INFORMATION CONTACT: Payman Soltani, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, CA 90712–4137; telephone: 562–627–5313; fax: 562–627–5210; email: *payman.soltani@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain The Boeing Company Model 737–100, –200, –200C, –300, –400, and –500 series airplanes. The NPRM published in the **Federal Register** on November 30, 2015 (80 FR 74731) (''the NPRM''). The NPRM was prompted by an evaluation by the DAH indicating that the aft pressure bulkhead is subject to WFD. The NPRM proposed to require repetitive inspections of the aft pressure bulkhead web for any cracking, incorrectly drilled fastener holes, and elongated fastener holes, and related investigative and corrective actions, if necessary. We are issuing this AD to detect and correct fatigue cracking of the aft pressure bulkhead web at the ''Y''-chord, which could result in reduced structural integrity of the airplane and rapid decompression of the fuselage.

Comments

We gave the public the opportunity to participate in developing this AD. The following presents the comments received on the NPRM and the FAA's response to each comment.

Effect of Winglets on Accomplishment of the Proposed Actions

Aviation Partners Boeing stated that the installation of winglets per supplemental type certificate (STC) ST01219SE does not affect the accomplishment of the manufacturer's service instructions.

We agree with the commenter. We have redesignated paragraph (c) of the NPRM as paragraph (c)(1) in this final rule and added a new paragraph (c)(2) to state that STC ST01219SE does not affect the mitigating action or accomplishment of the actions required by this final rule. Therefore, for airplanes on which STC ST01219SE is installed, ''a change in product'' alternative method of compliance (AMOC) approval request is not necessary to comply with the requirements of 14 CFR 39.71.

Request To Clarify the Proposed Requirements of the NPRM

Mr. Cas Lausberg stated that the subject of the NPRM is addressed in AD 99–08–23, Amendment 39–11132 (64 FR 19879, April 23, 1999) (''AD 99–08–23''), which was superseded by AD 2012–18–13 R1, Amendment 39–17429 (78 FR 27020, May 9, 2013) (''AD 2012–18–13 R1''). The commenter questioned the need for the new NPRM.

We agree to provide clarification. As stated in the ''Discussion'' section of the NPRM, this final rule is being issued as part of the overall joint effort by Boeing and the FAA to satisfy requirements of the FAA's WFD final rule (75 FR 69746, November 15, 2010), which became effective on January 14, 2011. The inspections required by AD 99–08–23 and AD 2012–18–13 R1 do not address WFD concerns. However, Boeing Alert Service Bulletin 737–53A1214, Revision 5, dated January 30, 2015, addresses WFD with new inspection requirements, which incorporate a compliance time (threshold) corresponding to the WFD inspection start point (ISP) and shorter repetitive intervals where indicated. These requirements are included in this AD. We have not changed this AD in this regard.

Request To Revise the Term ''Global Fatigue Damage''

Boeing requested that the term ''global fatigue damage'' be changed to ''widespread fatigue damage'' in the NPRM. Boeing stated that this is the first time it has seen the term ''global'' used to describe WFD. Boeing commented that it is better not to introduce a new term.

We agree with the commenter. Although the ''Discussion'' section of the proposed rule is not carried over into the final rule, we agree that the term ''global fatigue damage'' should not be introduced as a new term. We have not changed this AD in this regard.

Request To Correct Reference to Group 1 LOV (Limit of Validity)

Boeing requested that we change the wording in the ''Differences Between This Proposed AD and the Service Information'' paragraph of the NPRM, which referred to WFD-based inspections specified in certain tables of Boeing Alert Service Bulletin 737–53A1214, Revision 5, dated January 30, 2015. The NPRM stated that the WFD-based inspections would affect only Group 2 airplanes because Group 1 airplanes will reach their LOV before the compliance times specified ''in tables 9, 10, and 11'' of Boeing Alert Service Bulletin 737–53A1214, Revision 5, dated January 30, 2015.

Boeing stated that the inspections listed in tables 9, 10, and 11 of Boeing Alert Service Bulletin 737–53A1214, Revision 5, dated January 30, 2015, also include non-WFD inspections that are required prior to the ISP threshold of 76,000 cycles. Boeing stated that, therefore, it is not true to say that Group 1 airplanes will reach their limit of validity before the compliance times specified in tables 9, 10 and 11.

We partially agree with the commenter. Although the ''Differences Between This Proposed AD and the Service Information'' paragraph of the proposed rule is not carried over into the final rule, we agree to provide clarification.

Since AD 2012–18–13 R1 was issued, Boeing issued Alert Service Bulletin 737–53A1214, Revision 5, dated January 30, 2015. Affected airplanes are now divided into two groups: Group 1, line numbers 1 through 2565 inclusive; and Group 2, line numbers 2566 through

3132 inclusive. Boeing's evaluation determined that inspections to address WFD concerns are required for the aft pressure bulkhead web at the ''Y'' chord at an ISP of 76,000 total flight cycles. Since Group 1 airplanes will reach their LOV of 75,000 total flight cycles (34,000 total flight cycles for line numbers 1 through 291 inclusive), which is prior to this ISP, no WFD inspections are provided for those airplanes. For Group 2 airplanes, which have an LOV of 85,000 total flight cycles, new tables 9, 10, and 11 of Boeing Alert Service Bulletin 737–53A1214, Revision 5, dated January 30, 2015, include inspections to address WFD. We have not changed this AD in this regard.

Request To Clarify the Applicability

Boeing requested that we clarify the applicability of the proposed AD. Boeing stated that Model 737–100, –200, and –200C airplanes should be removed from the ''Applicability'' paragraph. Boeing stated that the Group 2 airplanes only include Model 737–300, –400, and –500 airplanes.

We agree with the commenter's request for the reasons stated above. We have revised the applicability in paragraph (c) of this AD to remove Model 737–100, –200, and –200C series airplanes and revised the **SUMMARY** section to specify certain Model 737–300, –400, and –500 series airplanes.

Request To Clarify Airplanes Affected by Terminating Action Provisions

Boeing requested that we change the wording for the terminating action in paragraph (j) of the proposed AD. Boeing stated that the paragraph should specify that the terminating action applies only to Group 2 airplanes. Boeing stated that specifying Group 2 airplanes clearly states the intent of the terminating action.

We agree with the commenter's request for the reasons stated above. We have expanded the structure of paragraph (j) of this AD accordingly. In addition, we have clarified that the terminating action does not apply to stringer S–5L to S–7L and stringer S–5R to S–9R, as specified in AD 2012–18–13 R1 and Boeing Alert Service Bulletin 737–53A1214, Revision 5, dated January 30, 2015.

Request To Revise the Inspections for Group 2 Airplanes

All Nippon Airways (ANA) requested that we revise the inspection requirements in the proposed AD for Group 2 airplanes. ANA requested that we either mandate the inspections in tables 10 and 11 of Boeing Alert Service Bulletin 737–53A1214, Revision 5, dated January 30, 2015, for only Group 2 airplanes with 76,000 flight cycles and more, or create a new NPRM to supersede AD 2012–18–13 R1 to mandate all inspection requirements using Boeing Alert Service Bulletin 737–53A1214, Revision 5, dated January 30, 2015. ANA stated that if a new proposed rule is created, it requests that credit be given for any previously approved AMOCs to AD 2012–18–13 R1, to reduce additional burden for operators and the FAA.

We agree with the commenter's request for the reasons stated by the commenter. The intent of this final rule is to address the WFD concerns in accordance with the FAA's WFD final rule (75 FR 69746, November 15, 2010). We have revised paragraphs (g), (h), and (l) of this AD accordingly.

Additional Changes to This AD

In paragraphs (g) and (h) of this AD, we have clarified the compliance times by explicitly stating the compliance times instead of referring to the compliance tables in paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 737–53A1214, Revision 5, dated January 30, 2015.

The actions in paragraph (h) of the proposed AD states to do detailed and eddy current inspections of the aft pressure bulkhead web from the forward or aft side of the bulkhead for any cracking, incorrectly drilled fastener hole, and elongated fastener hole. In this AD, we have clarified the actions by providing the operators the option of doing detailed and LFEC inspections from the aft side of the aft pressure bulkhead, or doing a detailed and HFEC inspections from the forward side of the aft pressure bulkhead, for any cracking, incorrectly drilled fastener hole, and elongated fastener hole.

Conclusion

We reviewed the relevant data, considered 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 minor 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.

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

We reviewed Boeing Alert Service Bulletin 737–53A1214, Revision 5, dated January 30, 2015. The service information describes procedures for, among other actions, repetitive inspections of the aft pressure bulkhead web for any cracking, incorrectly drilled fastener holes, and elongated fastener holes; and related investigative and corrective actions. 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 122 airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspections of the web at the ''Y''-chord.	Up to 60 work-hours × $85 per hour = Up to $5,100 per inspection cycle.	$0	Up to $5,100 per inspection cycle.	Up to $622,200 per inspection cycle.

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

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

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

(1) Is not a ''significant regulatory action'' under Executive Order 12866,

(2) Is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979),

(3) Will not affect intrastate aviation in Alaska, and

(4) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2016–20–02 The Boeing Company: Amendment 39–18668; Docket No. FAA–2015–6538; Directorate Identifier 2015–NM–031–AD.

(a) Effective Date

This AD is effective November 25, 2016.

(b) Affected ADs

This AD affects AD 2012–18–13 R1, Amendment 39–17429 (78 FR 27020, May 9, 2013) (''AD 2012–18–13 R1'').

(c) Applicability

(1) This AD applies to The Boeing Company Model 737–300, –400, and –500 series airplanes, certificated in any category, identified as Group 2 in Boeing Alert Service Bulletin 737–53A1214, Revision 5, dated January 30, 2015.

(2) Installation of Supplemental Type Certificate (STC) ST01219SE (*http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgstc.nsf/0/EBD1CEC7B301293E86257CB30045557A?OpenDocument&Highlight=st01219s*) does not affect the ability to accomplish the actions required by this AD. Therefore, for airplanes on which STC ST01219SE is installed, a ''change in product'' alternative method of compliance (AMOC) approval request is not necessary to comply with the requirements of 14 CFR 39.17.

(d) Subject

Air Transport Association (ATA) of America Code 53, Fuselage.

(e) Unsafe Condition

This AD was prompted by an evaluation by the design approval holder indicating that the aft pressure bulkhead is subject to widespread fatigue damage. We are issuing this AD to detect and correct fatigue cracking of the aft pressure bulkhead web at the ''Y''-chord, which could result in reduced structural integrity of the airplane and rapid decompression of the fuselage.

(f) Compliance

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

(g) Repetitive Inspections of the Aft Pressure Bulkhead Web at the ''Y''-Chord Upper Bulkhead

Within 76,000 total flight cycles, or within 4,500 flight cycles since the most recent low frequency eddy current (LFEC) inspection accomplished in accordance with AD 2012–18–13 R1, or within 9,500 flight cycles since the most recent high frequency eddy current (HFEC) inspection accomplished in accordance with AD 2012–18–13 R1, whichever occurs latest: Do detailed and LFEC inspections from the aft side of the aft pressure bulkhead web, or do detailed and HFEC inspections from the forward side of the aft pressure bulkhead web, for any cracking, incorrectly drilled fastener hole, and elongated fastener hole, and do all applicable related investigative and corrective actions, in accordance with Part I of the Accomplishment Instructions of Boeing Alert Service Bulletin 737–53A1214, Revision 5, dated January 30, 2015, except as required by paragraph (i) of this AD. Do all related investigative and corrective actions before further flight. If any cracking, incorrectly drilled fastener hole, or elongated fastener hole is found, before further flight, repair the aft pressure bulkhead web using a method approved in accordance with the procedures specified in paragraph (l) of this AD. Thereafter, repeat the inspections at the applicable times specified in table 10 of paragraph 1.E., ''Compliance'' of Boeing Alert Service Bulletin 737–53A1214, Revision 5, dated January 30, 2015.

(h) Repetitive Inspections of the Aft Pressure Bulkhead Web at the ''Y''-Chord Below S–15

Within 76,000 total flight cycles, or within 4,500 flight cycles since the most recent LFEC inspection accomplished in accordance with AD 2012–18–13 R1, or within 9,500 flight cycles since the most recent HFEC inspection accomplished in accordance with AD 2012–18–13 R1, whichever occurs latest: Do detailed and LFEC inspections from the aft side of the aft pressure bulkhead, or do detailed and HFEC inspections from the forward side of the aft pressure bulkhead, for any cracking, incorrectly drilled fastener hole, and elongated fastener hole, and do all applicable corrective actions, in accordance with Part III of the Accomplishment Instructions of Boeing Alert Service Bulletin 737–53A1214, Revision 5, dated January 30, 2015, except as required by paragraph (i) of this AD. Do all corrective actions before further flight. If any cracking, incorrectly drilled fastener hole, or elongated fastener hole is found, before further flight, repair the aft pressure bulkhead web using a method approved in accordance with the procedures specified in paragraph (l) of this AD. Thereafter, repeat the inspections at the applicable times specified in table 11 of paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 737–53A1214, Revision 5, dated January 30, 2015.

(i) Exception to the Service Information

Where Boeing Alert Service Bulletin 737–53A1214, Revision 5, dated January 30, 2015, specifies to contact Boeing for repair instructions: Before further flight, repair using a method approved in accordance with the procedures specified in paragraph (l) of this AD.

(j) Terminating Action for Other Rulemaking

(1) For Group 2 airplanes specified in Boeing Alert Service Bulletin 737–53A1214, Revision 5, dated January 30, 2015: Accomplishing the actions required by paragraph (g) of this AD terminates the inspections required by paragraph (k) of AD 2012–18–13 R1, except for stringer S–5L to S–7L and stringer S–5R to S–9R.

(2) For Group 2 airplanes specified in Boeing Alert Service Bulletin 737–53A1214, Revision 5, dated January 30, 2015: Accomplishing the actions required by paragraph (h) of this AD terminates the inspections required by paragraph (l) of AD 2012–18–13 R1.

(k) Credit for Previous Actions

This paragraph provides credit for the actions required by paragraphs (g) and (h) of this AD, if the actions were performed before the effective date of this AD using Boeing Alert Service Bulletin 737–53A1214, Revision 4, dated December 16, 2011.

(l) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Los Angeles Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to the attention of the person identified in paragraph (m)(1) of this AD. Information may be emailed to: *9-ANM-LAACO-AMOC-Requests@faa.gov.*

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(3) An AMOC that provides an acceptable level of safety may be used for any repair, modification, or alteration required by this AD if it is approved by the Boeing Commercial Airplanes Organization Designation Authorization (ODA) that has been authorized by the Manager, Los Angeles ACO, to make those findings. To be approved, the repair method, modification deviation, or alteration deviation must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

(4) AMOCs approved previously for AD 2012–18–13 R1, Amendment 39–17429 (78 FR 27020, May 9, 2013), are approved as AMOCs for the corresponding provisions of this AD.

(m) Related Information

(1) For more information about this AD, contact Payman Soltani, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Los Angeles ACO, 3960 Paramount Boulevard, Lakewood CA 90712–4137; telephone: 562–627–5313; fax: 562–627–5210; email: *payman.soltani@faa.gov.*

(2) Service information identified in this AD that is not incorporated by reference is available at the addresses specified in paragraphs (n)(3) and (n)(4) of this AD.

(n) Material Incorporated by Reference

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

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

(i) Boeing Alert Service Bulletin 737–53A1214, Revision 5, dated January 30, 2015.

(ii) Reserved.

(3) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, WA 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; Internet *https://www.myboeingfleet.com.*

(4) 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.

(5) 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 September 16, 2016.

Thomas Groves,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2016–23078 Filed 10–19–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2016–0465; Directorate Identifier 2015–NM–096–AD; Amendment 39–18679; AD 2016–20–13]

RIN 2120–AA64

Airworthiness Directives; Airbus Airplanes

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

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Airbus Model A330–200 and –300 series airplanes; and Model A340–200 and –300 series airplanes. This AD was prompted by a determination that the compliance times for certain post-repair inspections and certain allowable damage limits (ADLs) must be reduced in order to address fatigue. This AD requires identifying any repairs and ADLs used to assess or control any structural damage on certain structural areas, and corrective action if necessary. We are issuing this AD to prevent fatigue damage on primary structure and structural repairs, which could result in reduced structural integrity of the airplane.

DATES: This AD is effective November 25, 2016.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of November 25, 2016.

ADDRESSES: For service information identified in this final rule, 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;* 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–2016–0465.

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–2016–0465; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone: 800–647–5527) is 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 20590.

FOR FURTHER INFORMATION CONTACT: Vladimir Ulyanov, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone: 425–227–1138; fax: 425–227–1149.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain Airbus Model A330–200 and –300 series airplanes; and Model A340–200 and –300 series airplanes. The NPRM published in the **Federal Register** on February 18, 2016 (81 FR 8160) (''the NPRM''). The NPRM was prompted by a determination that the compliance times for certain post-repair inspections and certain ADLs must be reduced in order to address fatigue. The NPRM proposed to require identifying any repairs and ADLs used to assess or control any structural damage on certain structural areas, and corrective action if necessary. We are issuing this AD to prevent fatigue damage on primary structure and structural repairs, which 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 AD 2015–0101R1, dated June 12, 2015 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the

MCAI''), to correct an unsafe condition for certain Airbus Model A330–200 and –300 series airplanes; and Model A340–200 and –300 series airplanes. The MCAI states:

> Result of a fleet survey accomplished in 2008 identified that the nature of flight missions of A330 and A340–200/300 fleets had significantly changed in comparison with assumed usage during the type certification. Consequently, it was decided to recalculate the Structural Repair Manual (SRM) fatigue values to ensure that the given threshold and intervals remain valid.
>
> The results of this recalculation identified reduced thresholds and intervals applicable for repairs and Allowable Damage Limits (ADL) affecting the following areas:
>
> —Door cut-out corners of door surrounding panels (forward cargo door, forward passenger (PAX) door, mid PAX door, emergency exit door/PAX door 3, aft cargo door, bulk cargo door, aft PAX door), on both Left Hand (LH) and Right Hand (RH) sides,
>
> —Stringer (STGR) 9 junction between Frame (FR) 10 and FR13 on both LH and RH sides, and
>
> —Fuselage skin doubler repairs on both LH and RH sides.
>
> Failing to apply the reduced thresholds and intervals, could adversely affect the structural integrity of the aeroplane.
>
> To address this unsafe condition, Airbus issued SRM revision dated April 2013 and temporary revision (TR) 53–001 for the STGR9 junction between FR10 and FR13 area (and subsequent revisions) to introduce reduced thresholds and intervals for the affected ADLs and repairs and issued a set of Service Bulletins (SB) to identify the ADLs used and repairs made, as well as to enable operators to update aeroplane repair records.
>
> Consequently EASA issued AD * * *, to require identification of any repairs and/or ADL used to assess or control any structural damage on certain structural areas and, depending on findings, accomplishment of corrective action(s) [including revising the maintenance or inspection program as applicable to incorporate revised thresholds and intervals and repair].
>
> Since that [EASA] AD was issued, data review confirmed that A330 freighter versions are not affected by the unsafe condition.
>
> This [EASA] AD is revised to remove A330–223F and A330–243F from the Applicability.

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–2016–0465.

Comments

We gave the public the opportunity to participate in developing this AD. The following presents the comments received on the NPRM and the FAA's response.

Requests To Revise Paragraph (g) of the Proposed AD To Include Physical Inspection as Alternative to Records Check

Delta Air Lines (DAL) and American Airlines requested that we revise the proposed AD to include a physical inspection of affected areas of the airplane in case the maintenance records are unavailable or inconclusive as an alternative to the records check specified in paragraph (g) of the proposed AD. DAL pointed out that their maintenance record search for applied SRM ADLs had inconclusive results. DAL also pointed out that other U.S. operators may not be able to comply with the proposed AD by performing a maintenance records check. American Airlines provided no further justification.

We agree that an alternative inspection method in lieu of a maintenance records check could be appropriate. When the repair records and/or applied SRM ADL are unavailable or inconclusive, then an alternative method of inspection can be done 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). We have revised paragraph (g) of this AD to include an alternative method of inspection in the case of inconclusive or unavailable records.

We have also revised paragraph (h)(2) of this AD to clarify the affected repairs for that paragraph.

Additional Change Made in This AD

We have converted Tables 1 and 2 of the proposed AD into text. These changes are for formatting purposes only and do not change the intent of those requirements.

Conclusion

We reviewed the relevant data, considered 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 minor 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 1 CFR Part 51

We reviewed the following Airbus service information. The service information describes procedures for updating the airplane repair records with revised thresholds and intervals. These documents are distinct since they apply to different airplane models in different configurations.

- Airbus Service Bulletin A330–53–3232, dated November 4, 2014.
- Airbus Service Bulletin A330–53–3233, dated September 26, 2014.
- Airbus Service Bulletin A330–53–3234, dated December 8, 2014.
- Airbus Service Bulletin A330–53–3235, Revision 01, dated January 14, 2015.
- Airbus Service Bulletin A340–53–4222, dated November 25, 2014.
- Airbus Service Bulletin A340–53–4223, dated September 26, 2014.
- Airbus Service Bulletin A340–53–4224, dated December 15, 2014.
- Airbus Service Bulletin A340–53–4225, Revision 01, dated January 14, 2015.

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 95 airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Records review	2 work-hours × $85 per hour = $170	$0	$170	$16,150

We have received no definitive data that would 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.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2016–20–13 Airbus: Amendment 39–18679. Docket No. FAA–2016–0465; Directorate Identifier 2015–NM–096–AD.

(a) Effective Date

This AD is effective November 25, 2016.

(b) Affected ADs

None.

(c) Applicability

This AD applies to the airplanes identified in paragraphs (c)(1) and (c)(2) of this AD, certificated in any category, manufacturer serial numbers (MSNs) 1 through 1,600 inclusive.

(1) Airbus Model A330–201, –202, –203, –223, –243, –301, –302, –303, –321, –322, –323, –341, –342, and –343 airplanes.

(2) Airbus Model A340–211, –212, –213, –311, –312, and –313 airplanes.

(d) Subject

Air Transport Association (ATA) of America Code 53, Fuselage.

(e) Reason

This AD was prompted by a determination that the compliance times for certain post-repair inspections and certain allowable damage limits (ADLs) must be reduced in order to address fatigue. We are issuing this AD to prevent fatigue damage on primary structure and structural repairs, which could result in reduced structural integrity of the airplane.

(f) Compliance

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

(g) Records Review

(1) At the applicable times in paragraphs (g)(1)(i) through (g)(1)(x) of this AD, review the airplane maintenance records to identify any structural repair manual (SRM) ADLs used to assess or control any structural damage or any structural repair accomplished as specified in an SRM, as applicable, that have been applied on the applicable areas as specified in paragraphs (g)(2)(i) through (g)(2)(iv) of this AD. If the review of the airplane maintenance records is inconclusive or the records are unavailable, inspect the airplane to identify any SRM ADL used to assess or control any structural damage or any structural repair accomplished in accordance with a SRM, as applicable, using a method approved by Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the European Aviation Safety Agency (EASA); or Airbus's EASA Design Organization Approval (DOA).

(i) For Model A330–200 pre-mod 49144 airplanes, with left-hand (LH) and right-hand (RH) mid passenger (PAX) door surround panels, as specified in Airbus Service Bulletin A330–53–3232, dated November 4, 2014: Within 12 months after the effective date of this AD.

(ii) For Model A330–200 pre-mod 49144 airplanes, with forward cargo door, emergency exit door/PAX door 3, aft cargo door, bulk cargo door, and aft PAX door surround panels; as specified in Airbus Service Bulletin A330–53–3232, dated November 4, 2014: Within 24 months after the effective date of this AD.

(iii) For Model A330–300 pre-mod 49144 airplanes and Model A340–200 and –300 pre-mod 49144 airplanes, with mid PAX door surround panels, forward cargo door, emergency exit door/PAX door 3, aft cargo door, bulk cargo door, and aft PAX door surround panels; as specified in Airbus Service Bulletin A330–53–3232, dated November 4, 2014; or Airbus Service Bulletin A340–53–4222, dated November 25, 2014; as applicable: Within 24 months after the effective date of this AD.

(iv) For Model A330–201, –202, –203, –223, –243, –301, –302, –303, –321, –322, –323, –341, –342, and –343 and Model A340–211, –212, –213, –311, –312, and –313, all post-mod 40347 airplanes, with forward PAX door surround panels with an ADL with a temporary life limit; as specified in Airbus Service Bulletin A330–53–3233, dated September 26, 2014; or Airbus Service Bulletin A340–53–4223, dated September 26, 2014; as applicable: Within 12 months after the effective date of this AD.

(v) For Model A330–201, –202, –203, –223, –243, –301, –302, –303, –321, –322, –323, –341, –342, and –343 and Model A340–211, –212, –213, –311, –312, and –313, all post-mod 40347 airplanes, with forward PAX door surround panels with an ADL with a Permanent Acceptance; as specified in Airbus Service Bulletin A330–53–3233, dated September 26, 2014; or Airbus Service Bulletin A340–53–4223, dated September 26, 2014; as applicable: Within 24 months after the effective date of this AD.

(vi) For Model A330–201, –202, –203, –223, –243, –301, –302, –303, –321, –322, –323, –341, –342, and –343 airplanes and Model A340–211, –212, –213, –311, –312, and –313 airplanes; stringer 9 junction between frame (FR) 10 and FR13; as specified in Airbus Service Bulletin A330–53–3235, Revision 01, dated January 14, 2015; or Airbus Service Bulletin A340–53–4225, Revision 01, dated January 14, 2015; as applicable: Within 12 months after the effective date of this AD.

(vii) For Model A340–200 and –300 Weight Variant (WV)00s airplanes; forward and rear fuselage; as specified in Airbus Service Bulletin A340–53–4224, dated December 15, 2014: Within 12 months after the effective date of this AD.

(viii) For Model A340–200 and –300 WV00s airplanes; nose forward and center fuselage; as specified in Airbus Service Bulletin A340–53–4224, dated December 15, 2014: Within 24 months after the effective date of this AD.

(ix) For Model A330–200 and –300 pre-mod 49144 airplanes, and Model A340–200

and –300 WV20s airplanes; forward and rear fuselage, nose forward and center fuselage; as specified in Airbus Service Bulletin A330–53–3234, dated December 8, 2014; or Airbus Service Bulletin A340–53–4224, dated December 15, 2014; as applicable: Within 24 months after the effective date of this AD.

(x) For Model A330–200 and –300 post-mod 49144 airplanes and Model A340–200 and –300 post-mod 49144 airplanes; nose forward and center fuselage; as specified in Airbus Service Bulletin A330–53–3234, dated December 8, 2014; or Airbus Service Bulletin A340–53–4224, dated December 15, 2014; as applicable: Within 24 months after the effective date of this AD.

(2) Applicable areas (on both LH and RH sides) are identified in paragraphs (g)(2)(i) through (g)(2)(iv) of this AD.

(i) Door cut-out corners of door surrounding panels (forward cargo door, mid PAX door, emergency exit door/PAX door 3, aft cargo door, bulk cargo door, aft PAX door), as specified in Airbus Service Bulletin A330–53–3232, dated November 4, 2014; or Airbus Service Bulletin A340–53–4222, dated November 25, 2014; as applicable.

(ii) Forward PAX door surround panels, as specified in Airbus Service Bulletin A330–53–3233, dated September 26, 2014; or Airbus Service Bulletin A340–53–4223, dated September 26, 2014; as applicable.

(iii) Fuselage skin doubler repairs, as specified in Airbus Service Bulletin A330–53–3234, dated December 8, 2014; or Airbus Service Bulletin A340–53–4224, dated December 15, 2014; as applicable.

(iv) Stringer 9 junction between FR10 and FR13, as specified in Airbus Service Bulletin A330–53–3235, Revision 01, dated January 14, 2015; or Airbus Service Bulletin A340–53–4225, Revision 01, dated January 14, 2015; as applicable.

(h) Corrective Actions

If, during any review or inspection required by paragraph (g)(1) of this AD, it is determined that an SRM ADL was used on an area specified in paragraphs (g)(2)(i) through (g)(2)(iv) of this AD to assess or control any structural damage, or any structural repair of an area specified in paragraphs (g)(2)(i) through (g)(2)(iv) of this AD was accomplished as specified in the instructions of the applicable SRM revision dated before April 2013 or SRM temporary revision (TR) dated before November 28, 2014: Within the applicable compliance time specified in paragraphs (g)(1)(i) through (g)(1)(x) of this AD, do the actions specified in paragraphs (h)(1) or (h)(2) of this AD, as applicable.

(1) Revise the maintenance or inspection program, as applicable, with the applicable revised thresholds and intervals for the identified structural repairs embodied on the airplane, and accomplish all updated inspections, in accordance with the Accomplishment Instructions of the applicable service information identified in paragraphs (g)(2)(i) through (g)(2)(iv) of this AD, except as required by paragraphs (h)(1)(i) and (h)(1)(ii) of this AD.

(i) Where the applicable service information identified in paragraphs (g)(2)(i) through (g)(2)(iv) of this AD specifies to contact Airbus for specific assessment, revise the maintenance or inspection program and accomplish all updated inspections, as applicable, using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or EASA; or Airbus's EASA DOA.

(ii) Where the applicable service information identified in paragraphs (g)(2)(i) through (g)(2)(iv) of this AD specifies ''current SRM,'' no SRM revision dated before April 2013 or SRM TR dated before November 28, 2014, is considered a ''current SRM.''

(2) For any repair that was previously allowed in any revision of the Airbus A330 or A340 SRM, as applicable, dated before April 2013; or in any SRM TR dated before November 28, 2014, to the applicable SRM, and is no longer allowed by the applicable SRM revision dated on or after April 2013: Make an assessment using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the EASA; or Airbus's EASA DOA; and perform necessary corrective actions at the applicable times identified therein.

(i) Limitation on Repair/Replacement

As of the effective date of this AD, for any structural damage in the areas identified in paragraphs (g)(2)(i) through (g)(2)(iv) of this AD that has exceeded the ADL, no repair or replacement may be done using an Airbus A330 or A340 SRM dated before April 2013, or any Airbus A330 or A340 SRM TR dated before November 28, 2014.

(j) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) Alternative Methods of Compliance (AMOCs): The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Vladimir Ulyanov, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone: 425–227–1138; fax: 425–227–1149. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

(2) 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 EASA; or Airbus's EASA DOA. If approved by the DOA, the approval must include the DOA-authorized signature.

(3) Required for Compliance (RC): Except as required by paragraphs (h)(1)(i), (h)(1)(ii), and (h)(2) of this AD: If any service information contains procedures or tests that are identified as RC, those procedures and tests must be done to comply with this AD; any procedures or tests that are not identified as RC are recommended. Those procedures and tests that are not identified as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the procedures and tests identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to procedures or tests identified as RC require approval of an AMOC.

(k) Related Information

Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA AD 2015–0101R1, dated June 12, 2015, 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–2016–0465.

(l) 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.

(i) Airbus Service Bulletin A330–53–3232, dated November 4, 2014.

(ii) Airbus Service Bulletin A330–53–3233, dated September 26, 2014.

(iii) Airbus Service Bulletin A330–53–3234, dated December 8, 2014.

(iv) Airbus Service Bulletin A330–53–3235, Revision 01, dated January 14, 2015.

(v) Airbus Service Bulletin A340–53–4222, dated November 25, 2014.

(vi) Airbus Service Bulletin A340–53–4223, dated September 26, 2014.

(vii) Airbus Service Bulletin A340–53–4224, dated December 15, 2014.

(viii) Airbus Service Bulletin A340–53–4225, Revision 01, dated January 14, 2015.

(3) 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;* Internet: *http://www.airbus.com.*

(4) 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.

(5) 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 September 28, 2016.

Dionne Palermo,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2016–24191 Filed 10–19–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

Bureau of Economic Analysis

15 CFR Part 801

[Docket No. 160531475–6465–01]

RIN 0691–0691–AA85

Direct Investment Surveys: BE–13, Survey of New Foreign Direct Investment in the United States, and Changes to Private Fund Reporting on Direct Investment Surveys

AGENCY: Bureau of Economic Analysis, Commerce.

ACTION: Final rule.

SUMMARY: The final rule amends regulations of the Department of Commerce's Bureau of Economic Analysis (BEA) to set forth the reporting requirements for the BE–13, Survey of New Foreign Direct Investment in the United States. This rule also amends the reporting requirements for certain private funds on BEA's surveys of foreign direct investment in the United States, including the BE–605, Quarterly Survey of Foreign Direct Investment in the United States; the BE–15, Annual Survey of Foreign Direct Investment in the United States; and the BE–13, Survey of New Foreign Direct Investment in the United States.

The BE–13 survey collects information on the acquisition or establishment of U.S. business enterprises by foreign investors, and information on expansions by existing U.S. affiliates of foreign companies. The data collected through the survey are used to measure the amount of new foreign direct investment in the United States and ensure complete coverage of BEA's other foreign direct investment statistics. BEA will make several changes to the survey that will simplify reporting and provide more complete information for use in BEA's direct investment statistics. BEA will also change the survey form design and accompanying instructions to improve the quality of the data collected and reduce respondent burden. This mandatory BE–13 survey is required from persons subject to the reporting requirements, whether or not they are contacted by BEA.

DATES: This final rule will be effective November 21, 2016.

FOR FURTHER INFORMATION CONTACT: Patricia Abaroa, Chief, Direct Investment Division (BE–49), Bureau of Economic Analysis, U.S. Department of Commerce, 4600 Silver Hill Road, Washington, DC 20233; phone (301) 278–9591; or via email at *Patricia.Abaroa@bea.gov.*

SUPPLEMENTARY INFORMATION: On July 1, 2016, BEA published a notice of proposed rulemaking that set forth revised reporting criteria for the BE–13, Survey of New Foreign Direct Investment in the United States (81 FR 43126–43130). One comment on the proposed rule was received.

The comment was written by a group representing U.S. asset management firms whose combined assets under management exceed $30 trillion. The letter was generally supportive of the changes to the reporting requirements for private funds, but it did raise two points, one of which lead to a clarification in the reporting requirements for private funds which is outlined below.

One point raised in the letter led to an adjustment to the language of the reporting requirements for private funds used in the proposed rule. As stated in the proposed rule, a foreign-owned U.S. private fund would be required to report on BEA's direct investment surveys if it owns at least 10 percent of an operating company. The letter pointed out that under this standard a private fund may be required to report on direct investment surveys even though in certain cases its foreign parent may own less than 10 percent of an operating company. For example, if a foreign parent owns 10 percent voting interest in a U.S. private fund, and that private fund owns 10 percent of an operating company, under the proposed rule the U.S. private fund would be required to report even though the foreign parent's indirect ownership interest in the operating company is just 1 percent. It was not BEA's intention to include investments of less than 10 percent foreign ownership in the direct investment statistics. In this final rule, BEA has clarified language regarding the private fund reporting requirements to indicate that if the *foreign parent* of a U.S. private fund does not own *through the private fund* 10 percent or more of an operating company, the private fund is not required to file.

The letter also indicated that the burden estimate provided on the BE–13 form is understated. BEA's burden estimate is an average across the various BE–13 survey forms and across survey respondents with different levels of complexity and different activities or transactions that may be reported on the survey. BEA has noted the input from the private fund industry on burden estimates.

This final rule amends 15 CFR part 801.7 to set forth the reporting requirements for the BE–13, Survey of New Foreign Direct Investment in the United States.

BEA conducts the BE–13 survey under the authority of the International Investment and Trade in Services Survey Act (22 U.S.C. 3101–3108).

The BE–13 survey collects data on the acquisition or establishment of U.S. business enterprises by foreign investors and the expansion of existing U.S. affiliates of foreign companies to establish a new facility where business is conducted. The data collected on the survey are used to measure the amount of new foreign direct investment in the United States, assess the impact on the U.S. economy, and based on this assessment, make informed policy decisions regarding foreign direct investment in the United States. Foreign direct investment in the United States is defined as the ownership or control, directly or indirectly, by one foreign person (foreign parent) of 10 percent or more of the voting securities of an incorporated U.S. business enterprise, or an equivalent interest of an unincorporated U.S. business enterprise, including a branch.

BEA will make the survey available via eFile, BEA's electronic filing system. Notifications will be mailed to respondents as BEA becomes aware of a potentially reportable investment or when annual cost updates are needed. A response is required whether or not the respondent is contacted by BEA. The forms are due no later than 45 days after the acquisition is completed, the new U.S. business enterprise is established, the expansion is begun, the cost update is requested, or a notification letter is received from BEA by a U.S. business enterprise that does not meet the filing requirements for the survey.

Description of Changes

BEA amends the reporting requirements for certain private funds that file BEA's surveys of foreign direct investment in the United States: the BE–605, Quarterly Survey of Foreign Direct Investment in the United States; BE–15, Annual Survey of Foreign Direct Investment in the United States; and the BE–13, Survey of New Foreign Direct Investment in the United States. The BE–12, Benchmark Survey of Foreign Direct Investment in the United States, will also be affected by this change but

will be addressed in a proposed rule in 2017.

BEA, in cooperation with the U.S. Treasury Department, will instruct reporters of investments in private funds that meet the definition of direct investment (that is, ownership by one person of 10 percent or more of the voting interest of a business enterprise) but display characteristics of portfolio investment (specifically, investors who do not intend to control or influence the management of an operating company) to report through the Treasury International Capital (TIC) reporting system, where other related portfolio investments are already being reported, and not to report on BEA's direct investment surveys. Direct investment in operating companies, including investment by and through private funds, will continue to be reported to BEA. This change aligns the U.S. direct investment and portfolio investment data more closely with the intent of the investment with respect to management control. In addition, it reduces burden for respondents, many of whom now report both to the TIC reporting system and to BEA's direct investment reporting system. Under the revised regulations, U.S. affiliates that are private funds but whose foreign parents do not own through the private fund 10 percent or more of the voting interest of another business enterprise that is not a private fund or holding company, will no longer be required to report on BEA surveys of foreign direct investment in the United States.

The changes also amend the regulations and the survey forms for the BE–13 survey. These amendments include changes in reporting requirements and questionnaire design and instructions as well as data items collected. The following changes are specific to the BE–13.

BEA will combine Forms BE–13A, Report for Acquisition of a U.S. Business Enterprise That Remains a Separate Entity, and BE–13C, Report for Acquisition of a U.S. Business Enterprise That is Merged With an Existing U.S. Affiliate, into one form and discontinue the use of Form BE–13C. These acquisitions should be filed on Form BE–13A along with acquired U.S. business enterprises that will operate as a separate legal entity after the acquisition. The revised Form BE–13A will be a report for a U.S. business enterprise when a foreign entity acquires a voting interest (directly, or indirectly through an existing U.S. affiliate) in that U.S. business enterprise (including segments, operating units, or real estate) and (1) the total cost of the acquisition is greater than $3 million; and (2) by this acquisition, the foreign entity now owns at least 10 percent of the voting interest (directly, or indirectly through an existing U.S. affiliate) in the acquired U.S. business enterprise.

BEA will add an instruction to eliminate the requirement to file two forms—Form BE–13B (establishment) and Form BE–13A (acquisition)—when a new U.S. business enterprise is established to facilitate a single U.S. acquisition that takes place within 30 days. The U.S. business enterprise will be asked to consolidate the new U.S. business enterprise with the acquired U.S. business enterprise and submit a single Form BE–13A. A question will be added to Form BE–13A to capture the names of both the established and acquired entities in this scenario.

BEA will clarify the reporting requirements for Form BE–13E, Cost Update for Projects Originally Reported on Forms BE–13B or BE–13D, by removing the reference to the established or expanded business enterprise still being under construction. At least one Form BE–13E must be filed for each reported BE–13B or BE–13D form to obtain actual costs since the cost data provided on these forms may not be final when filed.

BEA will not change the reporting requirements for Form BE–13D, Report for the Expansion of an Existing U.S. Affiliate, or Form BE–13 Claim for Exemption.

BEA will modify the questions on existing U.S. affiliates in the ownership chain between the acquired or established U.S. business enterprise and the foreign parent to narrow the focus to the specific affiliates needed for analysis and to improve the sample frames of the other BEA surveys.

BEA will restructure and rephrase the cost questions to more accurately capture any funding from the affiliated foreign group to facilitate the new foreign direct investment and to determine whether the funding was in the form of a loan or capital contribution.

BEA will add an instruction on Forms BE–13B and BE–13D to direct U.S. businesses to report total expected costs by year based on their fiscal year end.

BEA will add an instruction on Form BE–13 Claim for Exemption to direct U.S. businesses that are reporting expansions to skip the questions asking for U.S. affiliates' total assets, total liabilities, and net income (loss). These questions are not asked on Form BE–13D, Report for the Expansion of an Existing U.S. Affiliate, where expected costs are greater than $3 million, so they are not required for expansions with expected costs of $3 million or less.

BEA will eliminate ''lease'' and ''construction'' from the list of expected costs on Forms BE–13B and BE–13D. BEA will continue to collect data on land; property, plant, and equipment (PP&E); intellectual property rights; fees, taxes, permits, and licenses; and other costs.

BEA will add a question to Form BE–13D to collect the name of the expanding U.S. affiliate and to Form BE–13 Claim for Exemption to collect the name of the acquired, established, or expanding U.S. business enterprise.

BEA will add a question to Form BE–13 Claim for Exemption to collect the state where the new investment is located in cases when this form is being filed to report a new investment that met all the requirements for filing on Forms BE–13A, BE–13B, or BE–13D except the $3 million reporting threshold.

Executive Order 12866

This final rule has been determined to be not significant for purposes of E.O. 12866.

Executive Order 13132

This final rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under E.O. 13132.

Paperwork Reduction Act

The collection-of-information in this final rule was submitted to the Office of Management and Budget (OMB) pursuant to the requirements of the Paperwork Reduction Act (PRA). OMB approved the information collection under OMB control number 0608–0035.

Notwithstanding any other provisions of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA unless that collection displays a currently valid OMB control number.

The BE–13 survey is expected to result in the filing of reports from approximately 2,550 U.S. affiliates each year. The respondent burden for this collection of information will vary from one company to another, but is estimated to average 1.1 hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Thus the total respondent burden for this survey is estimated at 2,860 hours, compared to 2,160 hours for the

previous BE–13 survey estimate. The increase in burden hours is due to the increase in the number of respondents expected to file. The previous estimate of the number of respondents was made before the survey was launched; the revised estimate is based on two years of data collection.

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in the final rule should be sent to both BEA via email at *Patricia.Abaroa@bea.gov,* and to OMB, O.I.R.A., Paperwork Reduction Project 0608–0035, Attention PRA Desk Officer for BEA, via email at *pbugg@omb.eop.gov.*

Regulatory Flexibility Act

The Chief Counsel for Regulation, Department of Commerce, certified at the proposed rule stage to the Chief Counsel for Advocacy, Small Business Administration, under the provisions of the Regulatory Flexibility Act (RFA), 5 U.S.C. 605(b), that this final rule will not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule and is not repeated here. No comments were received regarding the certification or the economic impact of the rule more generally aside from the comment regarding the burden estimate. No final regulatory flexibility analysis was prepared.

List of Subjects in 15 CFR Part 801

Economic statistics, Foreign investment in the United States, International transactions, Penalties, Reporting and recordkeeping requirements.

Dated: October 6, 2016.

Brent Moulton,

Acting Director, Bureau of Economic Analysis.

For reasons set forth in the preamble, BEA amends 15 CFR part 801 as follows:

PART 801—SURVEY OF INTERNATIONAL TRADE IN SERVICES BETWEEN U.S. AND FOREIGN PERSONS AND SURVEYS OF DIRECT INVESTMENT

■ 1. The authority citation for 15 CFR part 801 continues to read as follows:

Authority: 5 U.S.C. 301; 15 U.S.C. 4908; 22 U.S.C. 3101–3108; E.O. 11961 (3 CFR, 1977 Comp., p. 86), as amended by E.O. 12318 (3 CFR, 1981 Comp. p. 173); and E.O. 12518 (3 CFR, 1985 Comp. p. 348).

■ 2. Revise § 801.7 to read as follows:

§ 801.7 Rules and regulations for the BE–13, Survey of New Foreign Direct Investment in the United States.

The BE–13, Survey of New Foreign Direct Investment in the United States, is conducted to collect data on the acquisition or establishment of U.S. business enterprises by foreign investors and the expansion of existing U.S. affiliates of foreign companies to establish new facilities where business is conducted. Foreign direct investment is defined as the ownership or control by one foreign person (foreign parent) of 10 percent or more of the voting securities of an incorporated U.S. business enterprise, or an equivalent interest of an unincorporated U.S. business enterprise, including a branch. All legal authorities, provisions, definitions, and requirements contained in §§ 801.1 through 801.2 and §§ 801.4 through 801.6 are applicable to this survey. Specific additional rules and regulations for the BE–13 survey are given in paragraphs (a) through (d) of this section. More detailed instructions are given on the report forms and instructions.

(a) *Response required.* A response is required from persons subject to the reporting requirements of the BE–13, Survey of New Foreign Direct Investment in the United States, contained herein, whether or not they are contacted by BEA. Also, persons, or their agents, that are contacted by BEA about reporting in this survey, either by sending them a report form or by written inquiry, must respond in writing pursuant to this section. This may be accomplished by filing the properly completed BE–13 report (BE–13A, BE–13B, BE–13D, BE–13E, or BE–13 Claim for Exemption).

(b) *Who must report.* A BE–13 report is required of any U.S. business enterprise, except certain private funds, see exception in paragraph (b)(4) of this section, in which:

(1) A foreign direct investment in the United States relationship is created;

(2) An existing U.S. affiliate of a foreign parent establishes a new U.S. business enterprise, expands its U.S. operations, or acquires a U.S. business enterprise, or;

(3) BEA requests a cost update (Form BE–13E) for a U.S. business enterprise that previously filed Form BE–13B or BE–13D.

(4) Certain private funds are exempt from reporting on the BE–13 survey. If a U.S. business enterprise is a private fund and its foreign parent does not own through the private fund 10 percent or more of the voting interest of a business enterprise that is not also a private fund or a holding company, the private fund is not required to file any BE–13 report except to indicate exemption from the survey if contacted by BEA.

(c) *Forms to be filed.* Depending on the type of investment transaction, U.S. affiliates shall report their information on one of five forms—BE–13A, BE–13B, BE–13D, BE–13E, or BE–13 Claim for Exemption.

(1) Form BE–13A—Report for a U.S. business enterprise when a foreign entity acquires a voting interest (directly, or indirectly through an existing U.S. affiliate) in that U.S. business enterprise including segments, operating units, or real estate; and

(i) The total cost of the acquisition is greater than $3 million; and

(ii) By this acquisition, the foreign entity now owns at least 10 percent of the voting interest (directly, or indirectly through an existing U.S. affiliate) in the acquired U.S. business enterprise.

(2) Form BE–13B—Report for a U.S. business enterprise when it is established by a foreign entity or by an existing U.S. affiliate of a foreign parent; and

(i) The expected total cost to establish the new U.S. business enterprise is greater than $3 million; and

(ii) The foreign entity owns at least 10 percent of the voting interest (directly, or indirectly through an existing U.S. affiliate) in the new U.S. business enterprise.

(3) Form BE–13D—Report for an existing U.S. affiliate of a foreign parent when it expands its operations to include a new facility where business is conducted and the expected total cost of the expansion is greater than $3 million.

(4) Form BE–13E—Report for a U.S. business enterprise that previously filed Form BE–13B or BE–13D. Form BE–13E collects updated cost information and will be collected annually until the establishment or expansion of the U.S. business enterprise is complete.

(5) Form BE–13 Claim for Exemption—Report for a U.S. business enterprise that:

(i) Was contacted by BEA but does not meet the requirements for filing Forms BE–13A, BE–13B, or BE–13D; or

(ii) Whether or not contacted by BEA, met all requirements for filing Forms BE–13A, BE–13B, or BE–13D except the $3 million reporting threshold.

(d) *Due date.* The BE–13 forms are due no later than 45 calendar days after the acquisition is completed, the new U.S. business enterprise is established, the expansion is begun, the cost update is requested, or a notification letter is received from BEA by a U.S. business

enterprise that does not meet the filing requirements for the survey.

[FR Doc. 2016–25208 Filed 10–19–16; 8:45 am]

BILLING CODE 3510–06–P

DEPARTMENT OF STATE

22 CFR Part 41

[Public Notice: 9530]

RIN 1400–AD93

Visas: Visa Information Update Requirements Under the Electronic Visa Update System (EVUS)

AGENCY: Department of State.

ACTION: Final rule with request for comments.

SUMMARY: The Department of State is coordinating with the Department of Homeland Security on instituting a requirement for nonimmigrant aliens who hold a passport issued by an identified country containing a U.S. nonimmigrant visa of a designated category to provide required information to DHS after the receipt of his or her visa of a designated category.

DATES: This Final rule is effective on November 29, 2016. The Department of State will accept comments until December 19, 2016.

ADDRESSES: You may submit comments, identified by RIN 1400–AD93, by one of the following methods:

- *Electronic comments:* Submit through the Federal eRulemaking Portal *http://www.regulations.gov* and search for docket number DOS–2016–0066.
- *Mail:* Address all written submissions to Chief, CA/VO/L/R, U.S. Department of State, 600 19th St. NW., 12th Floor, Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Kevin J. Earnest, Legislation and Regulations Division, Legal Affairs, Office of Visa Services, Bureau of Consular Affairs, Department of State, 600 19th St. NW., Washington, DC 20006, (202) 485–7588.

SUPPLEMENTARY INFORMATION: The Department of State (State) regulation on the revocation of nonimmigrant visas is at 22 CFR 41.122. State is amending 22 CFR 41.122 in support of a joint program with the Department of Homeland Security (DHS) that requires nonimmigrant aliens who hold a passport issued by an identified country containing a U.S. nonimmigrant visa of a designated category to periodically provide required information to DHS after the receipt of his or her visa of a designated category.

The revised 22 CFR 41.122(b)(3) and the contemporaneous DHS rule amending 8 CFR part 215, subpart B (RIN 1651–AB08), are creating the Electronic Visa Update System (EVUS). As provided in 8 CFR part 215, subpart B, EVUS is an online information update system. Under EVUS, nonimmigrant aliens who hold a passport issued by an identified country containing a U.S. nonimmigrant visa of a designated category are required to enroll in EVUS by providing information to DHS after the receipt of their visa of a designated category, and periodically thereafter. Successful enrollment in EVUS is evidenced by the receipt of a notification of compliance. Identified countries and designated visa categories are those countries and visa categories that the Secretary of Homeland Security, in consultation with the Secretary of State, has determined will be subject to EVUS enrollment requirements. Identified countries and designated visa categories will be announced in a notice published in the **Federal Register**. Failure to comply with EVUS after November 29, 2016, will result in an automatic provisional revocation of the visa and will preclude travel to the United States on that visa. The visa will be automatically reinstated upon compliance with the EVUS requirements outlined in 8 CFR 215.24, as established by receipt of a notification of compliance. While, as discussed in the DHS rulemaking, individuals may enroll in EVUS prior to November 29, such enrollment is not required for travel to the United State prior to that date.

This rulemaking provides State the mechanism for visas to be automatically provisionally revoked, and the revocation to automatically be reversed and visas reinstated upon subsequent compliance with EVUS (22 CFR 41.122(b)(3)). The rule also makes other modifications to the visa revocation regulations consistent with the EVUS enrollment requirements.

As discussed in the contemporaneous DHS EVUS rule, DHS is exercising its authority under INA 214(a)(1) and 215(a)(1) (8 U.S.C. 1184(a)(1) and 1185(a)(1)) to require that nonimmigrant aliens who hold a passport issued by an identified country containing a U.S. nonimmigrant visa of a designated category comply with the requirements in 8 CFR part 215, subpart B, and successfully enroll in EVUS by providing certain information to DHS after the receipt of their visas of a designated category as a condition of admission to the United States. Recognizing that holders of such visas who have not complied with the requirements in 8 CFR part 215, subpart B, will not be admitted to the United States under 8 CFR. 214.1(a)(3)(i), State is amending 22 CFR 41.122 to provide for automatic provisional revocation of the visas. Once the visa holder makes the required submission of biographic and other information and successfully enrolls in EVUS, the revocation of the visa will automatically be reversed, and the visa will be valid for travel to the United States.

To implement EVUS, State is amending 22 CFR 41.122 and DHS is contemporaneously amending 8 CFR part 212, 214, 215, and 273.

Description of Regulation Changes

In 22 CFR 41.122, paragraph (b) is now subdivided. New paragraph (b)(1) describes the force and effect of a provisional revocation generally. The paragraph also describes how a provisional revocation can be reversed and how the revocation authority contained in INA 221(i) (8 U.S.C. 1201(i)) is not limited by this paragraph. Paragraph (b)(2) contains the current language of paragraph (b) with the addition of a new header. New paragraph (b)(3) describes the new process of automatic provisional revocation of U.S. visas of designated categories held by nonimmigrant aliens in a passport issued by an identified country who fail to comply with EVUS after the receipt of his or her visa as required by 8 CFR 215.24.

Paragraph (c) is modified to make a notification exception to visa holders where visas have been automatically provisionally revoked under new paragraph (b)(3) of this section.

Paragraph (d) is modified to make an exception to the requirement of physically cancelling visas for visas that are automatically provisionally revoked by paragraph (b)(3).

Paragraph (e) remains unchanged.

Regulatory Findings

Administrative Procedure Act

This regulation involves a foreign affairs function of the United States and, therefore, in accordance with 5 U.S.C. 553(a)(1), is not subject to the notice-and-comment rule making procedures set forth in 5 U.S.C. 553.

This final rule is also exempt from notice and comment requirements under the ''good cause'' exception set forth at 5 U.S.C. 553(b)(3)(B). This rule is critical because it improves the security of granting longer-length visas while also facilitating legitimate travel. Implementation of this rule as soon as possible is necessary to protect the national security of the United States and to prevent the harm that could be

caused by the exploitation of longer-length visas.

Small Business Regulatory Enforcement Fairness Act of 1996

Under Section 251 of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 804), a rule that is likely to result in an annual effect on the U.S. economy of $100,000,000 or more, along with other criteria, is considered a major rule. State concludes that this rule does not meets the criteria for a major rule.

Regulatory Flexibility Act/Executive Order 13272: Small Business

Since this rule is exempt from the notice-and-comment rulemaking provisions of 5 U.S.C. 553, the Regulatory Flexibility Act does not apply to this rulemaking. See 5 U.S.C. 601(2).

The Unfunded Mandates Reform Act of 1995

Section 202 of the Unfunded Mandates Reform Act of 1995, Public Law 104–4, 109 Stat. 48, 2 U.S.C. 1532, generally requires agencies to prepare a statement before promulgating any general notice of proposed rulemaking, or any final rule for which a general notice of proposed rulemaking was published, that may result in an annual expenditure of $100 million or more by State, local, or tribal governments, or by the private sector. No such burden is being imposed by this rulemaking.

Executive Orders 12866 and 13563

State has reviewed this rule to ensure its consistency with the regulatory philosophy and principles set forth in Executive Order 12866 and certifies that the benefits of this rulemaking outweigh the costs. State does not consider this rule to be an economically significant regulatory action under Executive Order 12866. In addition, State has considered this rule in light of Executive Order 13563 and affirms that this regulation is consistent with the guidance therein.

Executive Orders 12372 and 13132: Federalism

This regulation will not have substantial direct effects on the States, on the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government. Nor will the rule have federalism implications warranting the application of Executive Orders No. 12372 and No. 13132.

Executive Order 13175—Consultation and Coordination With Indian Tribal Governments

The Department has determined that this rulemaking will not have tribal implications, will not impose substantial direct compliance costs on Indian tribal governments, and will not pre-empt tribal law. Accordingly, the requirements of section 5 of Executive Order 13175 do not apply to this rulemaking.

Paperwork Reduction Act

This rule does not impose information collection requirements under the provisions of the Paperwork Reduction Act, 44 U.S.C., Chapter 35.

List of Subjects in 22 CFR Part 41

Aliens, Foreign officials, Immigration, Passports and visas, Students.

Accordingly, for the reasons set forth in the preamble, 22 CFR part 41 is amended as follows:

PART 41—VISAS: DOCUMENTATION OF NONIMMIGRANTS UNDER THE IMMIGRATION AND NATIONALITY ACT, AS AMENDED

■ 1. The authority citation for part 41 continues to read as follows:

Authority: 8 U.S.C. 1104; Pub. L. 105–277, 112 Stat. 2681–795 through 2681–801; 8 U.S.C. 1185 note (section 7209 of Pub. L. 108–458, as amended by section 546 of Pub. L. 109–295).

■ 2. In § 41.122:

■ a. Revise paragraph (b);

■ b. Add a sentence at the end of paragraph (c); and

■ c. Revise paragraph (d).

The revisions and addition read as follows:

§ 41.122 Revocation of visas.

* * * * *

(b) *Provisional revocation*—(1) *General.* A provisional revocation is subject to reversal through internal procedures established by the Department of State. Upon reversal of the revocation, the visa immediately resumes the validity provided for on its face. Provisional revocation shall have the same force and effect as any other visa revocation under INA 221(i), unless and until the revocation has been reversed. Neither the provisional revocation of a visa nor the reversal of a provisional revocation limits, in any way, the revocation authority provided for under INA 221(i), with respect to the particular visa or any other visa.

(2) *Pending visa eligibility determination.* A consular officer, the Secretary, or any Department official to whom the Secretary has delegated this authority may provisionally revoke a nonimmigrant visa while considering information related to whether a visa holder is eligible for the visa.

(3) *Automatic provisional revocation based on failure to comply with all EVUS requirements.* Visas held by individuals subject to the Electronic Visa Update System (EVUS) who have not complied with the conditions described in 8 CFR 215.24 or whose notification of compliance has expired or been rescinded are automatically provisionally revoked and are no longer valid for travel to the United States, without further notice to the visa holder. The automatic provisional revocation pursuant to this paragraph (b)(3) shall be automatically reversed upon compliance with EVUS requirements set out at 8 CFR part 215, subpart B, as confirmed by receipt of a notification of compliance. A visa revoked on grounds other than failure to comply with EVUS shall remain revoked, notwithstanding compliance with EVUS.

(c) * * * This paragraph (c) does not apply to provisional revocations under paragraph (b)(3) of this section.

(d) *Procedure for physically canceling visas.* Except for provisional revocations pursuant to paragraph (b)(3) of this section, a nonimmigrant visa that is revoked shall be canceled by writing or stamping the word ''REVOKED'' plainly across the face of the visa, if the visa is available to the consular officer. The failure or inability to physically cancel the visa does not affect the validity of the revocation.

* * * * *

Dated: October 13, 2016.

Michele Thoren Bond,

Assistant Secretary for Consular Affairs, Department of State.

[FR Doc. 2016–25308 Filed 10–19–16; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 64

[Docket ID: DOD–2016–OS–0096]

RIN 0790–AJ52

Management and Mobilization of Regular and Reserve Retired Military Members

AGENCY: Office of the Under Secretary of Defense for Personnel and Readiness, DoD.

ACTION: Final rule.

SUMMARY: This final rule removes DoD's regulation concerning the management and mobilization of regular and reserve retired military members. This rule does not create the DoD's authority to recall retired members, but it directs how DoD can deploy those members once recalled into active service. Accordingly, the codified rule deals with agency management/personnel, and has been determined to not require rulemaking. Alternatively, this rule is covered by the notice-and-comment exception for military affairs, because the rule governs the uniquely military decision of how best to employ and deploy assets. Therefore, this CFR part can be removed.

DATES: This rule is effective on October 20, 2016.

FOR FURTHER INFORMATION CONTACT: Patricia Toppings at 571–372–0485.

SUPPLEMENTARY INFORMATION: Once signed, a copy of DoD's internal guidance contained in DoD Instruction 1352.01 will be made available on the DoD Directives Web site at *https://www.dtic.mil/whs/directives/corres/pdf/135201p.pdf.*

It has been determined that publication of this CFR part removal for public comment is impracticable, unnecessary, and contrary to public interest since it is based on removing DoD internal policies and procedures that are publically available on the Department's issuance Web site.

The removal of this rule will be reported in future status updates of DoD's retrospective review plan in accordance with the requirements in Executive Order 13563. DoD's full plan can be accessed at: *http://www.regulations.gov/#!docketDetail;D=DOD-2011-OS-0036.*

List of Subjects in 32 CFR Part 64

Military personnel.

PART 64—[REMOVED]

■ Accordingly, by the authority of 5 U.S.C. 301, 32 CFR part 64 is removed.

Dated: October 14, 2016.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2016–25260 Filed 10–19–16; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 235

[Docket ID: DOD–2016–OS–0098]

RIN 0790–AJ15

Sale or Rental of Sexually Explicit Material on DoD Property

AGENCY: Office of the Under Secretary of Defense for Personnel and Readiness, DoD.

ACTION: Final rule.

SUMMARY: This final rule removes DoD's regulation concerning sale or rental of sexually explicit material on Department of Defense (DoD) property. The codified rule does not impose any duty or obligation on the public that is not already imposed by statute. The rule paraphrases and does not substantially deviate from 10 U.S.C. 2495b, which establishes the prohibition on selling or renting sexually explicit material on DoD property. Also, the codified rule delegates internal authorities and establishes procedures for administering the statute, neither of which have public impact. Consequently, **Federal Register** rulemaking is not necessary under the Administrative Procedure Act.

DATES: This rule is effective on October 20, 2016.

FOR FURTHER INFORMATION CONTACT: Patricia Toppings at 571–372–0485.

SUPPLEMENTARY INFORMATION: The Department of Defense published a proposed rule in the **Federal Register** titled ''Prohibition of the Sale or Rental of Sexually Explicit Material on DoD Property'' on December 22, 2015 (80 FR 79526–79528) for a 60-day public comment period. The Department of Defense received five public comments.

After publishing the proposed rule, DoD began a review of all rules currently being processed to determine if publication in the **Federal Register** is required. After reconsidering publication of the proposed rule against Administrative Procedure Act criteria and exceptions, DoD decided not to publish a final rule and to remove the previously-codified rule from the CFR. Although DoD has decided to remove the previously-codified rule, we are addressing the public comments received on the proposed rule that published in the **Federal Register** on December 22, 2015.

Comment 1: I believe this proposed rule is not only an excellent example of agency waste, but a direct infringement of Constitutional Rights that employment by the DoD in any manner cannot supersede. It would appear there are some great ambiguities associated with the definitions that structure this rule. The definition of Lascivious, ''lewd and intended or designed to elicit a sexual response,'' which also controlling in the definition of sexual elicit material is too ambiguous. If an employee or citizen acting as a representative of the DoD has a foot fetish, will all magazines depicting bare feet be banned? Then the word lewd within the definition, what qualifies as lewd? Is it more or less lewd if in a novel the author describes an intimate evening between a hetero couple or homosexual couple?

Comment 2: So not only can a man or woman be sent into harm's way without questioning the reasons for being sent, but they can't even purchase from the exchange or PX material that is deemed ''. . . Lascivious. Lewd and intended or designed to elicit a sexual response.''? And who deems material to be considered prohibited for sale or rent on DoD property? A board of censors. Yes this is censorship, plain and simple. This is an end around the First Amendment of the Constitution. Why? Will this regulation improve our readiness or war fighting capability? No. Will this regulation reduce our readiness or war fighting capability? No. Is there solid, objective science showing that availability of this sort of deemed material leads to other behavior or effects that reduces our readiness or war fighting capability to a greater extent than other products or services offered for sale on DoD property such as alcoholic beverages, tobacco products, sugar-laden pop and greasy carbs-loaded prepared food? Hence making the reason for this regulation by reference to other directives spurious. Will this regulation reduce revenue generated by the retail sales operations of the various branches of our military services? Yes. If so, has this cost been included in the calculation of the cost of compliance with this regulation? No. Is the cost of the time of the members of the board and of the various submissions of material for review and judgement of the board been included in calculating the cost of this regulation? No. What objective criteria is used to determine if material should be submitted for review or upon which a determination be made to offer for sale or not? Not specified. For instance, under the authority of regulation, the purchase of the right to play a song by the DoD said to contain lyrics deemed lascivious, lewd and intended or designed to elicit a sexual response could be prohibited. This would make virtually the entire book of

Cole Porter and Frank Sinatra songs subject to possible prohibition under a reasonable understanding of the words lascivious, lewd and the process of eliciting a sexual response. To whom can an appeal be made regarding the decision or judgement of material under this regulation? Re-submission to the same board after 5 years? That's not an appeal, that's a sentence longer than what is typically given to criminals who cause effects of far greater cost in terms of readiness and manpower to our military forces. I am quite certain we can certainly find better things to decide when offering products and services for sale on DoD property? How about lower prices and better quality products?

Comment 3: I am having trouble understanding reasoning and purpose for this rule. This rule would cost ''$5,500 annually for the life of the rule to manage the Board.'' It seems as if nearly 6 grand annually could be saved and spent on something else that would have greater effects. I do not believe that it is the government's place to say what a person may or may not do within the comfort and privacy of their own home. And by doing so becomes dangerously close to interfering with fundamental liberties that we, as Americans, enjoy. I believe the deterring effects of this rule would do little good. Because those in the military are specifically trained to deal with instances of sexual harassment, military members are already equipped with the information they need to deal with these unique situations. This rule, which would ban the sale or rental of sexually explicit material on property under DoD jurisdiction, in my opinion, could have the opposite intended affect. Just think back to when you were a kid, and your parents told you that you were not allowed to eat ice cream after 9 p.m. What is the one single thing you wanted to do after 9 p.m.? I do not know about you, but I would want to eat ice cream. If you do not draw attention to something in the first place, then it is more likely to go unnoticed. Therefore, I see little persuasive reasoning for the passage of this rule. Not only does it waste money, but also it is also a waste of time and valuable resources that could be better spent elsewhere.

Comment 4: This proposed rule seems to be a waste of money, no matter how small the amount in controversy is. With a growing budget deficit, and no end in sight, all possible means should be taken to tighten the purse strings and prevent excess spending. Furthermore, I am troubled by any proposal which cannot state for certainty that the cost will not go up in the future. Second, there does not seem to be any identified criteria for determining what can and can't be sold. It seems to be what is considered prohibited will turn on whoever is making the decision at that time. This will lead to inconsistent enforcement and a regulation that changes over time.

Comment 5: This rule is just plain silly. Aside from wasting money I don't see any value this rule would have. Just because military members have access to sexually explicit material does not mean they will turn into sexual predators. I believe the opposite is true. Military members have extensive training on sexual harassment, and have an effective method to report sexual misconduct. As stated above, this rule would be a waste of money.

Response: DoD thanks each commenter for their comments. However, no changes will be made to DoD's policy because it has been mandated by Congress through 10 U.S.C. 2495b. Based upon the information in the **SUMMARY** and **SUPPLEMENTARY INFORMATION** sections of this rule, we are removing the rule from the Code of Federal Regulations. Nevertheless, DoD's initial guidance contained in DoD Instruction 4105.70, which may be updated from time to time, remains in effect and is available at *http://www.dtic.mil/whs/directives/corres/pdf/410570p.pdf.*

DoD has determined that publication for public comment of this CFR part removal is impracticable, unnecessary, and contrary to public interest, since removal from the CFR will remove DoD internal policies and procedures that are publically available on the DoD issuance Web site.

The removal of this rule will be reported in future status updates of DoD's retrospective review in accordance with Executive Order 13563, ''Improving Regulation and Regulatory Review.'' DoD's full plan can be accessed at: *http://www.regulations.gov/#!docketDetail;D=DOD-2011-OS-0036.*

List of Subjects in 32 CFR Part 235

Business and industry, Concessions, Government contracts, Military personnel.

PART 235—[REMOVED]

■ Accordingly, by the authority of 5 U.S.C. 301, 32 CFR part 235 is removed.

Dated: October 14, 2016.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2016–25275 Filed 10–19–16; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 249

[Docket ID: DOD–2016–OS–0097]

RIN 0790–AI75

Presentation of DoD-Related Scientific and Technical Papers at Meetings

AGENCY: Office of the Under Secretary of Defense for Acquisition, Technology, and Logistics, DoD.

ACTION: Final rule.

SUMMARY: This final rule removes DoD's regulation concerning the presentation of DoD-related scientific and technical papers at meetings. The codified rule is outdated and no longer accurate or applicable as written. The codified rule contains internal guidance relating to how and when DoD scientific and technical papers in the possession or under the control of DoD can be presented at meetings. The rule does not impose obligations on members of the public. Therefore, 32 CFR part 249 can be removed from the CFR.

DATES: This rule is effective on October 20, 2016.

FOR FURTHER INFORMATION CONTACT: Patricia Toppings at 571–372–0485.

SUPPLEMENTARY INFORMATION: DoD internal guidance concerning the presentation of DoD-related scientific and technical papers at meetings will continue to be published in DoD Instruction 5230.27. Once the revision of DoD Instruction 5230.27 is signed, a copy will be made available at *http://www.dtic.mil/whs/directives/corres/pdf/523027p.pdf.*

It has been determined that publication of this CFR part removal for public comment is impracticable, unnecessary, and contrary to public interest since it is based on removing DoD internal policies and procedures that are publically available on the Department's issuance Web site.

The removal of this rule will be reported in future status updates of DoD's retrospective review plan in accordance with the requirements in Executive Order 13563. DoD's full plan can be accessed at: *http://www.regulations.gov/#!docketDetail;D=DOD-2011-OS-0036.*

List of Subjects in 32 CFR Part 249

Armed forces, Classified information, Science and technology.

PART 249—[REMOVED]

■ Accordingly, by the authority of 5 U.S.C. 301, 32 CFR part 249 is removed.

Dated: October 14, 2016.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2016–25276 Filed 10–19–16; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Parts 344, 352a, 383a, 395, 396, 397, 398, and 399

[Docket ID: DOD–2016–OS–0102]

RIN 0790–AJ53

Organizational Charters

AGENCY: Department of Defense.

ACTION: Final rule.

SUMMARY: This final rule removes Department of Defense (DoD) Subchapter R concerning organizational charters. The rules in this subchapter address DoD organizational processes for Assistant Secretary of Defense for Reserve Affairs (ASD(RA)), Defense Finance and Accounting Service (DFAS), Defense Commissary Agency (DeCA), and Defense Legal Services Agency (DLSA). It has been determined that there is no need to codify the rules in the Code of Federal Regulations (CFR) because these documents will not create a mandate applicable to persons outside of the DoD.

DATES: Effective October 20, 2016.

FOR FURTHER INFORMATION CONTACT: Patricia Toppings at 571–372–0485.

SUPPLEMENTARY INFORMATION: A copy of the current DoD Directives may be obtained from the DoD Directives Division Web site at the following Web addresses: *http://www.dtic.mil/whs/directives/corres/pdf/512501p.pdf, http://www.dtic.mil/whs/directives/corres/pdf/511805p.pdf, http://www.dtic.mil/whs/directives/corres/pdf/510555p.pdf, http://www.dtic.mil/whs/directives/corres/pdf/514504p.pdf.*

Moreover, it has been determined that publication of these CFR part removals for public comment is impracticable, unnecessary, and contrary to public interest since it is based on removing DoD internal policies and procedures that are publically available on the Department's issuance Web site.

List of Subjects in 32 CFR Parts 344, 352a, 383a, 395, 396, 397, 398, and 399

Authority delegations (Government agencies), Legal services, Organization and functions (Government agencies).

Subchapter R—[Removed]

■ Accordingly, by the authority of 5 U.S.C. 301, Title 32, subtitle A, chapter I, is amended by removing subchapter R, consisting of parts 344, 352a, 383a, and 395 through 399.

Dated: October 14, 2016.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2016–25330 Filed 10–19–16; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2016–0783]

Drawbridge Operation Regulation; Chester River, Chestertown, MD

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from drawbridge regulation; Modification.

SUMMARY: The Coast Guard has modified a temporary deviation from the operating schedule that governs the S213 (MD 213) Bridge across the Chester River, mile 26.8, at Chestertown, MD. This modified deviation is necessary to perform bridge maintenance. This modified deviation allows the bridge to remain in the closed-to-navigation position.

DATES: This modified deviation is effective from 6 a.m. on October 30, 2016 through 6 a.m. on November 20, 2016.

ADDRESSES: The docket for this deviation, [USCG–2016–0783] is available at *http://www.regulations.gov.* Type the docket number in the ''SEARCH'' box and click ''SEARCH''. Click on Open Docket Folder on the line associated with this deviation.

FOR FURTHER INFORMATION CONTACT: If you have questions on this modified temporary deviation, call or email Mr. Michael R. Thorogood, Bridge Administration Branch Fifth District, Coast Guard, telephone 757–398–6557, email *Michael.R.Thorogood@uscg.mil.*

SUPPLEMENTARY INFORMATION: On August 25, 2016, the Coast Guard published a temporary deviation entitled ''Drawbridge Operation Regulation; Chester River, Chestertown, MD'' in the **Federal Register** (81 FR 58846). Under that temporary deviation, the bridge would remain in the closed-to-navigation position from 8 p.m. on September 6, 2016 to 6 a.m. on October 30, 2016. The bridge would open for vessels on signal during the scheduled closure periods, if at least 24 hours notice were given.

The Maryland State Highway Administration, who owns and operates the S213 (MD 213) Bridge, has requested a modified temporary deviation from the currently published deviation to extend the time needed to complete the bridge painting project.

Under this modified temporary deviation, the bridge will be maintained in the closed-to-navigation position from 6 a.m. on October 30, 2016 through 6 a.m. on November 20, 2016. The bridge is a double bascule draw bridge and has a vertical clearance in the closed position of 12 feet above mean high water.

The Chester River is used by recreational vessels. The Coast Guard has carefully considered the nature and volume of vessel traffic on the waterway in publishing this temporary deviation.

For the duration of the bridge maintenance, vessels will not be allowed to pass through the bridge due to placement of barges and equipment in the main navigation span. The bridge will open for vessels on signal during the scheduled closure period, if at least 24 hours notice is given. The bridge will not be able to open for emergencies and there is no immediate alternative route for vessels to pass. The Coast Guard will also inform the users of the waterways through our Local and Broadcast Notices to Mariners of the change in operating schedule for the bridge so that vessel operators can arrange their transit to minimize any impact caused by the temporary deviation.

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

Dated: October 17, 2016.

Hal R. Pitts,

Bridge Program Manager, Fifth Coast Guard District.

[FR Doc. 2016–25434 Filed 10–19–16; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2016–0946]

Drawbridge Operation Regulation; Elizabeth River, Norfolk, VA

AGENCY: Coast Guard, DHS.

ACTION: Notice of deviation from drawbridge regulation.

SUMMARY: The Coast Guard has issued a temporary deviation from the operating schedule that governs the Berkley (U.S. 460/S.R. 337) Bridge across the Elizabeth River, mile 0.4, at Norfolk, VA. The deviation is necessary to facilitate testing of the emergency drive motors. This deviation allows the bridge to remain in the closed-to-navigation position.

DATES: The deviation is effective from 4 a.m. to 10 a.m. on October 30, 2016.

ADDRESSES: The docket for this deviation, [USCG–2016–0946] is available at *http://www.regulations.gov.* Type the docket number in the ''SEARCH'' box and click ''SEARCH''. Click on Open Docket Folder on the line associated with this deviation.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary deviation, call or email Mr. Mickey Sanders, Bridge Administration Branch Fifth District, Coast Guard, telephone 757–398–6587, email *Mickey.D.Sanders2@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Virginia Department of Transportation, who owns and operates the Berkley (U.S. 460/S.R. 337) Bridge across the Elizabeth River, mile 0.4, at Norfolk, VA, has requested a temporary deviation from the current operating regulation set out in 33 CFR 117.1007(b), to facilitate testing of the emergency drive motors on both spans of the bridge.

Under this temporary deviation, the bridge will remain in the closed-to-navigation position from 4 a.m. to 10 a.m. on October 30, 2016. The drawbridge has two spans, each with double-leaf bascule draws, and both spans have a vertical clearance in the closed-to-navigation position of 48 feet above mean high water.

The Berkley Bridge is used by recreational vessels, tug and barge traffic, fishing vessels, and small commercial vessels. The Coast Guard has carefully considered the nature and volume of vessel traffic on the waterway in publishing this temporary deviation.

Vessels able to pass through the bridges in the closed position may do so at anytime. The bridge spans will not be able to open in case of an emergency and there is no immediate alternate route for vessels to pass. The Coast Guard will also inform the users of the waterway through our Local Notice and Broadcast Notices to Mariners of the change in operating schedule for the bridge so that vessel operators can arrange their transits to minimize any impact caused by the temporary deviation.

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

Dated: October 17, 2016.

Hal R. Pitts,

Bridge Program Manager, Fifth Coast Guard District.

[FR Doc. 2016–25435 Filed 10–19–16; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2016–0749]

RIN 1625–AA00

Safety Zone; Pago Pago Harbor, America Samoa

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a safety zone during the 2016 Fautasi Ocean Challenge canoe race in Pago Pago Harbor, American Samoa, on November 11 and 25, 2016. This action is necessary to safeguard the participants and spectators, including all crews, vessels, and persons on the water in Pago Pago Harbor during the event. This regulation will functionally close the port to vessel traffic during the race, but will not require the evacuation of any vessels from the harbor. Entry into, transiting, or anchoring in the harbor would be prohibited to all vessels not registered with the sponsor as participants or not part of the race patrol, unless specifically authorized by the Captain of the Port (COTP) Honolulu or a designated representative. Vessels who are already moored or anchored in the harbor seeking permission to remain there shall request permission from COTP unless deemed a spectator vessel that is moored to a waterfront facility within the safety zone.

DATES: This rule is effective from 10:00 a.m. on November 11, 2016 to 4:00 p.m. on November 25, 2016.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type USCG–2016–0749 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Lieutenant Commander Nicolas Jarboe, Waterways Management Division, U.S. Coast Guard Sector Honolulu; telephone (808) 541–4359, email *nicolas.a.jarboe@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of proposed rulemaking
§ Section
U.S.C. United States Code

II. Background Information and Regulatory History

On June 1, 2016, the Coast Guard received formal notification from the American Samoa Government that the 2016 Fautasi Ocean Challenge is scheduled to occur in Pago Pago Harbor on November 11 and 25, 2016. This annual event has strengthened local tradition for over a century. The event will consist of a series of races entirely within Pago Pago Harbor between longboats with paddling crews of 32–48 persons each. It is anticipated that a large number of spectator pleasure crafts will be drawn to the event. Spectator vessels and commercial vessel traffic will pose a significant safety hazard to the longboats, longboat crew members, and other persons and vessels involved with the event.

In response, on August 29, 2016, the Coast Guard published a notice of proposed rulemaking (NPRM) titled Safety Zone; Pago Pago Harbor, American Samoa (81FR59163). There we stated why we issued the NPRM, and invited comments on our proposed regulatory action related to this fireworks display. During the comment period that ended September 28, 2016, we received one comment.

We are issuing this rule, and under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making it effective less than 30 days after publication in the **Federal Register**. The Coast Guard did not receive notification of this event in sufficient time to

conduct a review and publish the final rule 30 days before the event is scheduled. Thus, delaying the effective date of this rule to wait for the 30 day post-publication period to run would be impracticable because it would inhibit the Coast Guard's ability to protect participants, mariners, and vessels from the hazards associated with this event.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1231. The Captain of the Port Honolulu (COTP) has determined that potential hazards associated with anticipated large number of spectator pleasure crafts and commercial traffic on November 11 and 25, 2016 will pose a significant safety hazard to the longboats, longboat crew members, and other persons and vessels involved with the event. The purpose of this rule is to minimize vessel traffic in Pago Pago Harbor before, during, and after the scheduled event to safeguard persons and vessels during the longboat races.

IV. Discussion of Comments, Changes, and the Rule

As noted above, we received one comment on our NPRM published on August 29, 2016. To address the concern specified during the commenting period, the U.S. Coast Guard will conduct an outreach to the local community regarding the temporary safety zone. Additionally, the maritime community will be notified of the temporary safety zone through publication of both marine safety information broadcast and local notice to mariners, and a broadcast notice to mariners via VHF–FM marine channel 16. Port meetings held by the Harbor Master prior to the event will inform and educate the maritime community and industry about the temporary safety zone and any concerns regarding possible affects to the local economy and travel. No other terminals or locations will be available within the temporary safety zone during the duration of the event.

This rule establishes a safety zone on November 11 and November 25, 2016. The safety zone will close Pago Pago Harbor to all vessels not authorized by the COTP for entry into, transiting, or anchoring within the port for the duration of the event. The COTP will authorize registered participants, support vessels, and enforcement vessels to enter and remain in the zone. No other vessels will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative. The harbor will remain closed until the Coast Guard issues an ''All Clear'' after races conclude and the harbor is deemed safe for normal operations. This rule will not require any vessel already moored to evacuate the port, provided that they are moored in such a way that they do not interfere with the progress of the event.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has not been designated a ''significant regulatory action,'' under Executive Order 12866. Accordingly, it has not been reviewed by the Office of Management and Budget.

As discussed above, the Coast Guard will conduct an outreach to the local community regarding the temporary safety zone. The Coast Guard will issue a Broadcast Notice to Mariners with information pertaining to the safety zone via VHF–FM marine channel 16. Additionally, the maritime community will be notified of the temporary safety zone through publication of a marine safety information broadcast and local notice to mariners. Port meetings held by the Harbor Master prior to the event will inform and educate the maritime community and industry about the temporary safety zone. These measures are being employed to help the maritime community better plan and prepare for the event.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard received no comments from the Small Business Administration on this rulemaking. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

Some owners or operators of vessels intending to transit the safety zone may be small entities and may not be authorized to do so. This rule would not create significant economic impact on a substantial number of these entities. Moreover, the rule would allow vessels to seek permission from the Coast Guard to enter the safety zone. Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

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

C. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial

direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this rule has implications for federalism or Indian tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

E. Unfunded Mandates Reform Act

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

F. Environment

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

G. Protest Activities

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T14–0749 to read as follows:

§ 165.T14–0749 Safety Zone; Pago Pago Harbor, American Samoa.

(a) *Location.* The following area is a safety zone: Breakers Point (eastern edge of Pago Pago Harbor entrance) thence southeast to 14°18′47″ S, 170°38′54.5″ W thence southwest to 14°19′03″ S, 170°39′14″ W, thence northwest to Tulutulu Point and then following the coastline encompassing Pago Pago Harbor. This regulated area extends from the surface of the water to the ocean floor.

(b) *Enforcement period.* This rule will be enforced from 10:00 a.m. to 4:00 p.m. on November 11, 2016 and from 10:00 a.m. to 4:00 p.m. on November 25, 2016.

(c) *Regulations.* (1) All persons and vessels not registered with the sponsor as participants or support/enforcement vessels are considered spectators. The ''support/enforcement vessels'' consist of any territory, local law enforcement, and sponsor provided vessels assigned or approved by the Captain of the Port Honolulu to patrol the safety zone.

(2) No spectator shall anchor, block, loiter or impede the transit of participants or support/enforcement vessels in the safety zone during the enforcement dates and times, unless cleared for entry by or through a support/enforcement vessel.

(3) Spectator vessels may be moored to a waterfront facility within the safety zone in such a way that they shall not interfere with the progress of the event. Such mooring must be complete at least 30 minutes prior to the establishment of the safety zone and remain moored through the duration of the event.

(d) *Informational Broadcasts.* The safety zones shall be effective between 10:00 a.m. and 4:00 p.m. (SST) on November 11 and 25, 2016. If circumstances render enforcement of the safety zone unnecessary for the entirety of these periods, the Captain of the Port or his designated representative will inform the public through broadcast notices to mariners that the safety zone is no longer being enforced. The harbor will remain closed until the Coast Guard issues an ''All Clear'' for the harbor after the race has concluded and the harbor is deemed safe for normal operations.

(e) *Penalties.* Vessels or persons violating this rule may be subject to the penalties set forth in 33 U.S.C. 1232.

Dated: October 12, 2016.

M.C. Long,

Captain, U.S. Coast Guard, Captain of the Port Honolulu.

[FR Doc. 2016–25365 Filed 10–19–16; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2013–0816; FRL–9953–90-Region 3]

Delaware; Disapproval of Air Quality Implementation Plan for Nonattainment New Source Review; Emissions Offset Provisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is disapproving a State Implementation Plan (SIP) revision submitted by the Delaware Department of Natural Resources and Environmental Control (DNREC) for the State of Delaware on October 15, 2013. EPA is disapproving this action because the submittal does not satisfy the requirements of the Clean Air Act (CAA) or the federal implementing regulations, which establish the criteria under which the owner or operator of a new or modified major stationary source must obtain the required emission offsets from the same source or other sources in the same nonattainment area with limited exceptions under Delaware's nonattainment new source review (NSR) preconstruction permitting program. In addition, EPA is finalizing disapproval of the SIP revision because Delaware exercises authorities that are reserved for EPA under section 107 of the CAA. EPA is disapproving this revision to DNREC's SIP in accordance with the requirements of the CAA.

DATES: This final rule is effective on November 21, 2016.

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA–R03–OAR–2013–0816. All documents in the docket are listed on the *http://www.regulations.gov* Web site. Although listed in the index, some

information is not publicly available, *e.g.,* confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available through *http://www.regulations.gov,* or please contact the person identified in the ''For Further Information Contact'' section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Amy Johansen, (215) 814–2156, or by email at *johansen.amy@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On May 26, 2015 (80 FR 30015), EPA published a notice of proposed rulemaking (NPR) for the State of Delaware. At the request of a commenter, EPA published a notice reopening the comment period for the NPR on July 15, 2015 (80 FR 41449), which allowed the public to comment on the May 26, 2015 NPR until August 14, 2015. In the NPR, EPA proposed disapproval of DNREC's SIP revision because the submittal does not satisfy the requirements of CAA sections 172(c)(5) and 173(c)(1) or the federal implementing regulations in 40 CFR 51.165 and in 40 CFR part 51, appendix S,[1] which establish the criteria under which the owner or operator of a new or modified major stationary source must obtain the required emission offsets ''from the same source or other sources in the same nonattainment area'' with limited exceptions, for Delaware's nonattainment NSR preconstruction permitting program. In addition, EPA proposed disapproval of the SIP revision because Delaware exercises authorities that are reserved for EPA under section 107 of the CAA. The formal SIP revision was submitted by Delaware on October 15, 2013.

II. Summary of SIP Revision

The SIP revision consists of changes to 7 DE Admin. Code 1125 (herein referred to as 7 DNREC 1125 or Regulation 1125), Requirements for Preconstruction Review, sections 2.5.5 and 2.5.6, Emission Offset Provisions. First, Delaware's revised regulation enables sources in Delaware seeking NSR permits to obtain emission offsets from sources located in other areas, including areas outside of the State of Delaware, irrespective of the areas' nonattainment status as compared to Delaware's nonattainment status for the same national ambient air quality standard (NAAQS). Second, the revised regulation also permits sources seeking NSR permits in Delaware to obtain emissions offsets from areas without a determination that the other areas ''contribute to a violation'' of the NAAQS in Delaware where a source seeking a NSR permit would be located, as required in CAA section 173 and its implementing regulations. The language in section 2.5.6 in 7 DNREC 1125 provides that sources can obtain emission offsets ''in the nonattainment area which the source is located which shall specifically include any area in the States of Connecticut, Delaware, Illinois, Indiana, Kentucky, Maryland, Michigan, Missouri, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Tennessee, Virginia, West Virginia and Wisconsin.''

Finally, the revised regulation language allows ''the Department'' to determine the areas in which owners or operators can acquire emission offsets, regardless of the attainment status of those areas. Specifically, Delaware proposed language for the SIP that ''the Department may consider any area in the following states as having the same nonattainment classification as the area of Delaware where the offsets are used: Connecticut, Delaware, Illinois, Indiana, Kentucky, Maryland, Michigan, Missouri, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Tennessee, Virginia, West Virginia and Wisconsin.''

Other specific requirements of 7 DNREC 1125, Requirements for Preconstruction Review, sections 2.5.5 and 2.5.6, Emission Offset Provisions and the rationale for EPA's disapproval are explained in the NPR and will not be restated here. *See* 80 FR 30015 (May 26, 2015). EPA received three sets of comments on the NPR. A summary of the comments and EPA's responses are provided in Section III of this document.

III. Public Comments and EPA Responses

During the reopened public comment period for the May 26, 2015 proposed rule, EPA received three sets of comments, which are summarized and addressed here. The comments were submitted by DNREC (herein referred to as Delaware), the New Jersey Department of Environmental Protection (herein referred to as New Jersey), and the Delaware State Chamber of Commerce (DSCC).

Comment 1: Generally, Delaware and New Jersey noted that unhealthy levels of ground-level ozone continue to impact their states years after the passage of the CAA and after they have implemented several rounds of voluntary and required emissions reduction strategies. The States allege ground-level ozone and precursor emissions are pervasive and readily transported. Delaware and New Jersey stated that they cannot attain the 75 parts per billion (ppb) ozone NAAQS due to emissions from other states' pollution and not their own, as they have done all they can to control large and small sources throughout their States.

Response 1: EPA appreciates Delaware's and New Jersey's interest in addressing interstate transport of ozone pollution and other air quality concerns through implementation of the CAA requirements. While it is not relevant to the approvability of Delaware's revisions to 7 DNREC 1125, sections 2.5.5 and 2.5.6, EPA recognizes both Delaware and New Jersey have implemented various regulations to address the ozone NAAQS in their respective States. Delaware's and New Jersey's commitment, as well as other states' commitments, has had a beneficial impact on the air quality in areas designated nonattainment for the 2008 ozone NAAQS including the Philadelphia-Wilmington-Atlantic City Area, the PA-NJ-MD-DE Area (Philadelphia Area) and the Seaford, DE Area, for example. Currently, the Philadelphia Area is meeting the 2008 ozone NAAQS of 75 ppb with preliminary 2013–2015 air quality monitoring (AQM) data showing a design value of 75 ppb.[2] Additionally, on May 4, 2016, EPA made a final determination that the Seaford, DE marginal nonattainment area attained the 2008 ozone NAAQS by the applicable attainment date of July 20, 2015, with a design value of 74 ppb, pursuant to section 181(b)(2)(A) of the CAA and 40 CFR 51.1103. *See* 81 FR 26701.

Comment 2: Delaware discussed efforts they have made to ''prod EPA'' into addressing interstate transport through a petition under CAA section 126 and a joint state petition asking EPA to enlarge the Ozone Transport Region (OTR) under CAA section 176A. Delaware stated that EPA has failed to respond to those petitions despite statutory deadlines.

[1] 40 CFR 51.165(a)(3)(ii)(F) requires that ''[p]rocedures relating to the permissible location of offsetting emissions shall be followed which are at least as stringent as those set out in 40 CFR part 51 appendix S section IV.D.''

[2] The 2008 ozone NAAQS is an 8-hour ozone standard that was set at 75 ppb. *See* 73 FR 16436 (March 27, 2008).

Response 2: EPA acknowledges that Delaware previously submitted a CAA section 126 petition seeking emissions reductions from large electric generating units in a number of upwind states in order to reduce the contributions from their emissions to fine particulate matter ($PM_{2.5}$) and ozone problems in Delaware. Additionally, EPA acknowledges that a number of states, including Delaware, submitted a petition under CAA section 176A requesting that the EPA add additional states to the OTR that was established under section 184 of the CAA. EPA is reviewing the petitions separately and is not acting on those petitions in this action. Delaware's comments are not germane to EPA's disapproval of the Delaware October 15, 2013 SIP revision and as such no further response is provided.

Comment 3: Generally, Delaware and New Jersey noted their extensive efforts to regulate sources in their respective states in order to attain the NAAQS. As a result, commenters expressed concerns about economic burdens imposed on their citizens, business, and industry locating in both Delaware and New Jersey. More specifically, Delaware asserted that it is more expensive for industry to locate in its State versus nearby locations which EPA has classified as ''attainment/unclassifiable'' despite evidence showing that those areas cause and contribute to Delaware's nonattainment status. The DSCC also noted it will become more expensive for new industry to locate within or to expand within Delaware compared to locating or expanding business in other areas that are attainment/unclassifiable especially as Delaware is small and its sources are well controlled.

Response 3: EPA appreciates the commenters' continued efforts to regulate sources in their States to meet NAAQS, as well as their concerns with respect to economic burdens on citizens, business, and industry; however, this comment is not germane to EPA's current action disapproving Delaware's October 15, 2013 SIP revision. EPA evaluated Delaware's October 15, 2013 SIP revision submittal in accordance with requirements for NSR permitting programs in CAA sections 172 and 173 and in 40 CFR 51.165 and found the SIP revision submittal did not meet those requirements as discussed in the NPR. EPA notes that the NAAQS for each criteria air pollutant are established to provide protection for the nation's public health and the environment. Additionally, EPA's NSR program was specifically designed to allow for responsible economic growth while at the same time allowing states to achieve and maintain the NAAQS. As the comments are not germane to the reasons for EPA's disapproval of this SIP, no further response is provided.

Comment 4: Delaware discussed design values at some Delaware air quality monitors and stated that based in part upon EPA data, a large group of upwind states create the pollution that is causing Delaware's nonattainment and that those states should reduce their emissions in order for Delaware to attain and maintain the NAAQS.

Response 4: As noted in a previous response to comment, Delaware currently has areas attaining the 2008 ozone NAAQS, which would indicate that emissions reductions have occurred and have had a beneficial impact on Delaware's air quality.[3] Nonetheless, EPA readily acknowledges the role interstate transport of precursors to ozone pollution plays in the efforts of downwind areas to attain and maintain the NAAQS. To that end, EPA has taken a number of steps to ensure implementation of CAA section 110(a)(2)(D), or the ''good neighbor'' provision, which addresses interstate pollution, including the NO_X (oxides of nitrogen) SIP Call, the Clean Air Interstate Rule (CAIR), and the Cross-State Air Pollution Rule (CSAPR). Most recently, EPA promulgated an update to CSAPR specifically to address interstate pollution with respect to the 2008 ozone NAAQS with tightened NO_X budgets designed to achieve emission reductions in upwind states before the moderate area attainment date of July 2018. *See* Cross-State Air Pollution Rule Update for the 2008 Ozone NAAQS, Final Rule, (signed September 7, 2016, publication pending);[4] Proposed Rule, 80 FR 46271 (August 8, 2015); and Notice of Data Availability (NODA), 80 FR 75706 (December 3, 2015). As noted above, however, comments regarding the interstate transport obligations of other states are not germane to EPA's current action disapproving Delaware's October 15, 2013 SIP revision.

Comment 5: Delaware noted that EPA went against the State's designation recommendations and adopted smaller 2008 ozone nonattainment areas that include parts of Delaware but not certain upwind states, which triggered various provisions of the CAA in part D of title I, including the applicability of nonattainment NSR permitting, in each of the three counties in Delaware.

Response 5: As noted in our May 26, 2015 NPR, pursuant to section 107 of the CAA, New Castle and Sussex Counties, Delaware were designated by EPA for the 2008 ozone NAAQS as ''marginal'' nonattainment under 40 CFR part 81, while Kent County was designated as ''unclassifiable/attainment.'' *See* 77 FR 30088 (May 21, 2012). New Castle County is a portion of the Philadelphia Area for the 2008 ozone NAAQS. Upon designation, a nonattainment area for ozone is required to meet the plan submission requirements under section 182 of the CAA (in subpart 2 of part D of title I of the CAA) for its nonattainment area classification (marginal, moderate, serious, severe, or extreme) as well as the general SIP planning requirements in sections 172 and 173 of subpart 1 of part D of title I. The State of Delaware is also part of the OTR, as established in CAA section 184(a). Therefore, at a minimum, the entire State of Delaware is required to meet the plan submission requirements for a moderate nonattainment area classification as specified in CAA sections 182(b) and 184(b), regardless of the attainment classification for areas in the State. Moderate area classification plan requirements include the emissions offset provisions within section 173 of the CAA and within its implementing regulations. Delaware's comment regarding the size of the nonattainment area is irrelevant to whether Delaware's regulations for NSR emissions offsets meet CAA requirements. The time for Delaware to challenge EPA's ozone designations for the 2008 ozone NAAQS has passed. As explained in the NPR, Delaware's revisions to 7 DNREC 1125, sections 2.5.5 and 2.5.6 on their face do not meet CAA requirements, and, thus, no further response is provided.

Comment 6: Delaware asserted that EPA did not consider its October 15, 2013 SIP revision submittal because EPA did not refer to any of it in the proposed disapproval. Delaware also stated its arguments in the comments were largely repeating information presented in the October 15, 2013 SIP submittal. Delaware stated NSR was its only tool to achieve further reductions of ozone within the state as Delaware has no ability to regulate sources in other states.

[3] Currently, the Philadelphia Area (which includes portions of Delaware) is meeting the 2008 ozone NAAQS of 75 ppb with preliminary 2013–2015 AQM data showing a design value of 75 ppb. Additionally, on May 4, 2016, EPA made a final determination that the Seaford, DE Marginal nonattainment area attained the 2008 ozone NAAQS by the applicable attainment date of July 20, 2105 with a design value of 74 ppb. 81 FR 26701.

[4] Available at *https://www3.epa.gov/airmarkets/CSAPRU/Cross-State%20Air%20Pollution%20Rule%20Update%20for%20the%202008%20Ozone%20NAAQS%202060%20AS05%20FRM.pdf.*

Response 6: EPA does not agree with Delaware's characterization that EPA did not consider or evaluate the October 15, 2013 SIP revision submittal before publishing a NPR proposing disapproval of revisions to 7 DNREC 1125, Requirements for Preconstruction Review, sections 2.5.5 and 2.5.6, Emission Offset Provisions. While EPA did not cite to specific language or provisions within the October 15, 2013 SIP submission in the May 26, 2015 NPR, nothing in the CAA nor its implementing regulations requires EPA to cite to the SIP submittal when acting to approve or disapprove pursuant to section 110 of the CAA. *See* 80 FR 30015. EPA reviewed and evaluated all information submitted by Delaware to EPA in the October 15, 2013 SIP submittal and compared that information and the regulations to the requirements of the CAA and its implementing regulations. As discussed in the NPR, EPA found that 7 DNREC 1125, sections 2.5.5 and 2.5.6 do not meet the clear requirements of CAA sections 172(c)(5) and 173(c)(1) nor the federal implementing regulations in 40 CFR 51.165 and part 51, appendix S, section IV.D for offsets to come from areas with the same or higher attainment classifications and from areas that contribute to nonattainment in the area in which a source is locating.[5] Additionally, as noted in the NPR, EPA proposed to disapprove the Delaware SIP revision because Delaware's regulations attempt to exercise authorities that are reserved solely for EPA in CAA section 107 by treating certain upwind areas as ozone nonattainment areas regardless of EPA's classification of those areas for attainment of the ozone NAAQS. EPA is required to fully consider a SIP revision submittal upon making a decision to approve or disapprove a SIP submittal revision. Here, EPA considered Delaware's submission but found the regulations clearly inconsistent with CAA requirements in part D of title I of the CAA for offset provisions. Regarding Delaware's comment about needing NSR to reach attainment, the CAA provides many tools to assist states with attaining and maintaining the NAAQS. EPA appreciates Delaware's in-state implementation efforts, and EPA will continue to work with other states to address interstate transport of emissions through SIPs and other federal programs.

[5] 40 CFR 51.165(a)(3)(ii)(F) requires that ''[p]rocedures relating to the permissible location of offsetting emissions shall be followed which are at least as stringent as those set out in 40 CFR part 51 appendix S section IV.D.''

Comment 7: Delaware asserted that EPA erroneously concluded that Delaware's revised regulation does not comply with the requirements in CAA sections 172(c)(5) and 173(c)(1) and the implementing regulations in 40 CFR 51.165 and part 51, appendix S. Delaware stated that CAA section 116 allows states to adopt rules that are not exactly the same as the federal regulations, as long as they are not less stringent. Delaware argues its regulations in 7 DNREC 1125, sections 2.5.5 and 2.5.6 are more stringent than EPA's requirements in CAA 172 and 173 and in the implementing regulations based on emission reductions, environmental outcomes, and environmentally beneficial economic growth. Delaware further asserted the actual application of its regulations for offsets results in greater reductions of criteria pollution than would be the case if EPA's rules were applied.

In agreement with Delaware's stringency assertions, New Jersey stated that EPA has no published guidance on procedures for demonstrating that state-specific provisions are at least as stringent as federal provisions. New Jersey asserts that a demonstration that the implementation of state provisions results in air quality benefit over a federal provision that is designed to ensure new source emissions are controlled, that more offsetting emissions reductions will be obtained, and that there will be more progress towards achievement of the NAAQS is a reasonable basis to conclude that the state provision is at least as stringent as the federal provisions.

Response 7: EPA disagrees that Delaware has established regulations in 7 DNREC 1125, sections 2.5.5 and 2.5.6 that are more stringent than the federal requirements for offsets in CAA section 173 and 40 CFR 51.165 based on the alleged greater emission reductions potential offered by Delaware's revisions. While EPA may not have specific guidance on procedures for demonstrating that state-specific provisions are at least as stringent as federal provisions, neither Delaware nor New Jersey provided a compelling argument as to why the changes in Delaware's emission offset provisions are more beneficial to air quality and more stringent. In summary, Delaware provided an example from applying the current federally required (SIP) offset requirements of a theoretical source which could locate in Delaware, where lowest achievable emission rate (LAER) applies, which would need to acquire emission offsets from local emitters at a high cost because offsets are scarce. Delaware posits that such a source might thus choose to locate instead in an attainment area in another state, which would presumptively not otherwise require LAER (and presumptively not require similar emission reductions as Delaware does) to avoid buying offsets and would then potentially contribute its emissions to Delaware's nonattainment. Under that scenario, Delaware foresees higher emission of ozone precursors to impact the State. Delaware claimed that under its revised regulation (7 DNREC 1125, sections 2.5.5 and 2.5.6)) such a source could still locate in Delaware, apply LAER resulting in lower emissions, and could obtain emission offsets from West Virginia at a much lower cost because emission offsets are more affordable per ton in some upwind states and Delaware asserts that EPA's 1997 ozone NAAQS modeling demonstrates that West Virginia emissions contribute to Delaware's nonattainment. Delaware relies on this example to support its argument that its revised regulation for offsets could produce greater reduction in ozone precursors and correspondingly be more stringent than federal requirements (because such a hypothetical source would apply LAER as well as buying offsets if locating in Delaware with this revised regulation versus locating outside Delaware and neither installing LAER nor purchasing offsets if federal rules for offsets were applied). While EPA acknowledges that Delaware's hypothetical example could plausibly result in the emissions reductions Delaware claims, Delaware has not provided any evidence, argument, or facts to support the contention that its revised regulation 7 DNREC 1125, as presently written, would consistently result in greater reductions impacting Delaware. It is equally plausible such sources could locate in Delaware and purchase offsets within Delaware providing greater reductions reducing ozone within Delaware as Delaware sources do impact the State most directly. *See* 80 FR 46271 (EPA's NODA). Delaware has not provided any evidence that its expanded offset program would always yield greater ozone reduction within the State versus reductions achieved from applying the federal offset requirements. While emissions reductions from offsets obtained from upwind sources pursuant to Delaware's revised regulation 7 DNREC 1125 may be equivalent in raw tons to offsets obtained within Delaware, Delaware provided no evidence that emission reductions from an upwind state would provide greater ozone reducing benefits within Delaware especially if offsets are

obtained from upwind states a great distance from Delaware such as Wisconsin (a state included within the revised regulation).

EPA is required by CAA section 110(k) and (l) to evaluate proposed SIP revisions for compliance with the CAA and its implementing regulations. While states may adopt regulations that differ from federal requirements as long as they are as stringent per CAA section 116, Delaware made no such demonstration that its regulations are as stringent as EPA's requirements nor provide any greater ozone reducing benefit. In addition, Delaware's regulations at 7 DNREC 1125, sections 2.5.5 and 2.5.6 do not meet and are not equivalent to federal requirements for offsets. As discussed in detail in the NPR, Delaware's submittal does not on its face comport with the requirements of CAA sections 172(c)(5) and 173(c)(1) and the implementing regulations in 40 CFR 51.165 and part 51, appendix S. Delaware's regulations allow the acquisition of offsets from areas that may not be of the same or higher nonattainment status and may not be from areas found to contribute to a violation of the 2008 ozone NAAQS in Delaware.

Comment 8: Delaware stated its regulations allow the State to determine that offsets can be acquired in areas that EPA has previously determined significantly contribute to Delaware's nonattainment in modeling for CSAPR for the 1997 ozone standard, thus allowing economically-beneficial growth and additional reductions to out-of-state impacts on Delaware's air quality. Delaware asserted EPA's regulations for offsets deter environmentally beneficial economic growth in Delaware and result in more emissions impacts on Delaware.

Response 8: As stated previously in response to a prior comment, EPA's NSR program was designed to allow for responsible economic growth while at the same time allowing states to achieve and maintain the NAAQS. As stated in the NPR, Delaware's October 15, 2013 SIP revision seeks to expand the geographical area in which owners and operators of new or modified major stationary sources may obtain emissions offsets, regardless of the area's attainment classification for the ozone NAAQS and without specific requirements that the area ''contribute to violation'' of the ozone NAAQS in the area in which a new or modified source is locating or located. The contribution data calculated to support the promulgation of CSAPR evaluated whether emissions from an entire state, and from all source categories, would contribute to projected nonattainment in downwind states, but the air quality modeling did not separately evaluate contribution from nonattainment areas in upwind states to downwind air quality problems. Thus, regardless of the levels of contribution calculated from other states to air quality in Delaware, the State's regulations do not satisfy the minimum statutory criteria for demonstrating that emissions offsets (1) are obtained from another nonattainment area of equal or higher classification than the area in which the source is located, and (2) that emissions from such other nonattainment area contribute to a violation of the NAAQS in the nonattainment area where the new or modified source is locating or located. Moreover, contrary to Delaware's assertions, its regulations allow acquisition of offsets from more states than just states that Delaware contends contribute to ozone nonattainment in Delaware for the 1997 or 2008 ozone NAAQS based on modeling conducted to support CSAPR. Even if some of the states Delaware identified as contributing to its nonattainment for prior ozone NAAQS, Delaware's regulations allow acquisition of offsets from those states without requiring that the areas in which offsets may be attained in those states to have the same or higher attainment classification. In addition, the CSAPR modeling Delaware cites in its comments was conducted in 2011 and does not consider subsequent changes in emissions or contributions from sources in upwind states. As the modeling is not based on current emissions or contribution levels from other states, it cannot be used to meet the requirement for showing contribution to nonattainment in Delaware at the time a source would be seeking offsets for a NSR permit required under 7 DNREC 1125. EPA is disapproving this SIP revision for two reasons: (1) Delaware's emissions offset provision language does not comport with the specific requirements under CAA sections 172(c)(5) and 173(c)(1) or the federal implementing regulations in 40 CFR 51.165 and appendix S; and, (2) Delaware lacks legal authority to designate an area as nonattainment under CAA section 107(c) and (d). As stated previously, the economic impacts are not relevant to whether Delaware's regulations meet CAA requirements, and, thus, EPA provides no further response to that issue.

Comment 9: Delaware asserted that EPA incorrectly concluded that Delaware's SIP revision submittal did not include any information supporting Delaware's determination that emissions in the area specified in the regulation ''contribute to a violation'' for the 2008 ozone NAAQS. CAA section 173(c)(1) requires that all emissions offsets must come from an area which contributes to a violation of the NAAQS where the source seeking a permit is located. Delaware pointed to EPA modeling that supported the CSAPR for the 1997 ozone NAAQS of 80 ppb and in its evaluation asserted that there are minimal differences between the 1997 and 2008 ozone NAAQS modeling. Delaware claimed it evaluated EPA's 1997 modeling based on a threshold of 0.75 ppb, which is 1 percent of the 2008 ozone NAAQS. The State notes that the level of the ozone NAAQS standards have no bearing on the actual location of emissions and the movement of the air, concluding that the 1997 modeling is pertinent and reliable.

Response 9: EPA disagrees with Delaware's hybrid use of EPA's CSAPR modeling conducted to evaluate interstate transport for the 1997 ozone NAAQS to support its revised rule language in 7 DNREC 1125 sections 2.5.5 and 2.5.6. As discussed earlier, the CSAPR modeling for evaluating interstate transport with respect to the 1997 standard does not consider present-day, current emission levels or contributions from sources throughout the country. Moreover, the CSAPR modeling was also not completed for a source-specific situation where, among other things, a source needs to show that the particular emission offsets it is obtaining contribute to a violation of the NAAQS in the nonattainment area where the major new or modified source is currently seeking to locate. Thus, Delaware cannot rely on this older modeling which used emissions data prior to 2011 to support a ''contribution'' argument for a source seeking to use offsets for a NSR permit in the future. Finally, even if the CSAPR modeling data was a relevant metric by which to evaluate contribution for purposes of obtaining offsets, as noted above, the Delaware regulations do not constrain sources to only acquiring offsets from those states identified as impacting Delaware in the modeling analysis or otherwise comply with the statutory requirement that such offsets be obtained from an area with the same or higher attainment classification.

Accordingly, Delaware's reliance on EPA's CSAPR modeling is insufficient to support approval of its offset regulations, as the State does not take into account the complexities that a full modeling analysis requires to make the demonstration required by the statute; does not consider present day emissions

and contributions from states where a potential new source may seek offsets; and, does not meet the CAA requirements for an owner or operator of a source requiring emission offsets as discussed in the NPR and previous response to comments.

Comment 10: Delaware believes EPA erroneously concluded that Delaware is trying to exercise authorities reserved for EPA under CAA section 107(c) and (d) by treating certain areas as ozone nonattainment areas regardless of EPA's classification of those states for attainment of the ozone NAAQS and is therefore disapproving the SIP revision because it's not in accordance with provisions of the CAA. Delaware asserted that EPA misinterpreted its actions because CAA section 107(c) and (d) are provisions in which EPA designates an area as nonattainment (in doing so imposing substantive nonattainment requirements on that area) and Delaware's revisions to its offset regulation do not impose any such planning requirements on any other state. According to Delaware, its regulations only identify ''other areas as areas where Delaware sources can obtain emissions offsets, and which is the area that Delaware demonstrated is more stringent than the minimum area defined in the underlying federal requirements.''

Response 10: As noted in the NPR, EPA disagrees with Delaware's attempt to treat entire states as an area of equal or higher nonattainment classification for the ozone NAAQS, regardless of their designation by EPA under CAA section 107, in an effort to allow sources to obtain emission offsets from those states. Delaware's SIP revision submittal of 7 DNREC 1125 sections 2.5.5 and 2.5.6 does not meet the requirements in CAA section 173(c), 40 CFR 51.165(a)(3)(ii)(F) and appendix S, section IV.D.1, because the identified sections allow emissions offsets to be used from areas not designated by EPA pursuant to CAA section 107 as an area of equal or higher nonattainment classification for any ozone NAAQS and do not address contribution requirements in the CAA and its implementing regulations. In an attempt to broaden where sources can obtain emissions offsets, Delaware essentially created a large multi-state area in which sources locating in Delaware can automatically obtain emission offsets, without fully evaluating the impacts on air quality. This action circumvents the basic requirements of CAA section 173(c), 40 CFR 51.165(a)(3)(ii)(F) and appendix S, section IV.D.1. The use of emissions offsets under a state's NSR permit program should be evaluated on a case-by-case basis whereby the major new or modified source ensures that offsets obtained from one source, in a nonattainment area of equal or higher nonattainment classification, are actually contributing to a violation of the NAAQS in the nonattainment area where the major new or modified source is locating. Delaware's attempts to treat more states as nonattainment areas equal to Delaware's attainment classifications regardless of how EPA has designated these other states is not in accordance with the requirements of the CAA and the federal implementing regulations, as EPA stated previously. Delaware cannot avoid this improper exercise of designation authority under CAA 107 merely by saying its regulation treating areas as nonattainment does not impose SIP planning obligations on these other states. Thus, EPA disagrees with Delaware's argument it did not usurp authority under CAA 107 because Delaware's regulation attempts to exercise authorities that are reserved solely for EPA in CAA section 107 by treating certain upwind areas as ozone ''nonattainment areas'' to meet the requirement of ''equal or higher nonattainment classification'' for emission offset purposes regardless of EPA's classification of those areas for attainment of the ozone NAAQS.

Comment 11: Delaware asserted that the state areas specified in its revised regulation (7 DNREC 1125) are the primary cause of its ozone problem and there is no substantive difference between the areas indicated by Delaware and the areas EPA has designated as marginal nonattainment for ozone as those areas still contribute to Delaware's ozone issues. As an example, Delaware stated that EPA designated Queen Anne's County, Maryland, as ''attainment/unclassifiable'' rather than ''moderate nonattainment'' even though reductions in ozone precursors in that area would assist Delaware with attaining the NAAQS, because the area is directly upwind of Sussex County, Delaware. Delaware also stated that the only purpose of emission offsets is to reduce pollution that impacts the nonattainment area and that there is no practical reason not to accept reductions in these areas that directly impact and cause Delaware's nonattainment problem with ozone.

Response 11: EPA appreciates Delaware's interest in regulating sources in other states in order to meet the ozone NAAQS, so long as it is done in accordance with the CAA; however, this comment is not relevant to EPA's current action disapproving Delaware's October 15, 2013 SIP revision. CAA section 173(c) specifies offset requirements for owners and operators of new or modified major stationary sources. Specifically, section 173(c)(1) requires that: ''the owner or operator of a new or modified major source may comply with any offset requirement in effect under this part for increased emissions of any air pollutant *only* by obtaining emission reductions of such air pollutant from the same source or other sources in the *same nonattainment area,* except that the State may allow the owner or operator of a source to obtain such emission reductions in another nonattainment area *if* (A) the other area has *an equal or higher nonattainment classification* than the area in which the source is located *and* (B) emissions from such other area *contribute* to a violation of the national ambient air quality standard in the nonattainment area in which the source is located (emphasis added).''

The CAA clearly establishes two separate criteria to permit a source to obtain offsets in ''another nonattainment area.'' Delaware's example of Queen Anne's County, Maryland, is inconsistent with the CAA as the County is not even ''another nonattainment area'', much less a nonattainment area that ''has *an equal or higher nonattainment classification* than the area in which the source is located.'' Delaware and other states can allow owners and operators to obtain emissions offsets from any other nonattainment area, so long as the applicable CAA requirements are met. Delaware cannot authorize owners and operators of a source in the State to obtain emission offsets from any area where Delaware decides it would attain some emissions reduction benefit as it is in direct conflict with the clear requirements in the CAA.

Comment 12: Delaware questioned EPA's legal rationale that a disapproval of Delaware's SIP submission would not trigger a federal implementation plan (FIP) obligation. Delaware amended its Regulation 1125, effective September 11, 2013, by replacing Regulation 1125 section 2.5.5 and adding a sentence to section 2.5.6 to effectuate the modification to the offset provision. As the prior regulation which EPA had approved for the SIP is no longer in place, Delaware stated it did not understand EPA's legal rational to not issue a FIP.

Response 12: As previously noted in the NPR, under CAA section 179(a)(2), final disapproval pursuant to CAA section 110(k) of a submission that addresses a requirement of a part D plan (CAA sections 171–193), starts a

sanction clock. Under CAA section 110(c)(1)(A), EPA also has an obligation to promulgate a FIP where EPA finds the SIP does not meet CAA criteria under CAA section 110(k)(1). Delaware's SIP revision addresses a part D Plan requirement for a NSR permitting program, but Delaware presently has a fully-approved NSR permit program in the approved Delaware SIP. *See* 77 FR 60053 (October 2, 2012). Even though Delaware's underlying State regulation is now different, the approved Delaware SIP contained in 40 CFR 52.420 still contains the previously-approved NSR program and will continue to do so until EPA approves a SIP revision either replacing the program or removing it without replacement (neither of which has occurred). Thus, at this time, there is no deficiency in Delaware's SIP with regards to NSR permitting, and Delaware's approved SIP continues to meet CAA NSR criteria. Therefore, as a result of this final action to disapprove Delaware's October 15, 2013 SIP revision, no sanctions under CAA section 179 will be triggered, and EPA has no obligation to promulgate a FIP under CAA section 110(c). As stated in the NPR, EPA expects Delaware to implement the EPA-approved NSR permitting program contained in the SIP, including the offsets requirements in the previously-approved version of Regulation 1125, and to revise its State provisions at section 2.0 of Regulation 1125 accordingly to address CAA 173(c)(1), 40 CFR 51.165, and part 51, appendix S, section IV.D for offsets.[6]

Comment 13: Multiple comments were made in support of Delaware's proposed SIP revision, urging EPA to approve Delaware's SIP revision submittal, noting that it would encourage upwind states to reduce their emissions and help states attain and maintain the federal 75 ppb ozone NAAQS.

Response 13: EPA appreciates the commenter's support for Delaware and the interest in improving air quality by reducing emissions from upwind states; however, all states are required to have regulations in place that meet the specific requirements of the CAA and federal implementing regulations, as noted in our responses to comments and in the NPR. EPA is disapproving Delaware's October 15, 2013 SIP revision submittal because it does not meet the requirements of the CAA and federal implementing regulations. Those requirements will not be restated here. *See* 80 FR 30015. While EPA appreciates Delaware's interest in securing upwind emission reductions, such concerns are not relevant to our review of Delaware's regulations regarding acquisition of offsets.

Comment 14: New Jersey asserted that expanding the geographical area for offsets is good for air quality as it encourages reductions in upwind emissions. New Jersey further noted that federal requirements for offsets encourage a transported pollution burden on downwind states to get worse and that new or modified major sources in New Jersey and Delaware are required to install controls that represent LAER technology and seek offsets from limited areas while sources in upwind states would not be held accountable for their pollution transported to downwind states. New Jersey asserted that EPA should allow sources to obtain offsets from upwind states that trigger nonattainment and the offset requirements in downwind states based on if the upwind state significantly contributes to the downwind nonattainment, giving New Jersey and Delaware a broader geographic area from which to obtain emissions offsets, while removing emissions offsets from being used by sources located in upwind states, making more offsets available for economic growth in New Jersey and Delaware.

Response 14: EPA appreciates New Jersey's comments and its interest in securing upwind reductions in ozone precursors as well as reductions in ozone precursors within New Jersey and Delaware. EPA has explained in the NPR and in prior responses to comment why Delaware's regulations for offsets do not meet federal NSR requirements in the CAA and its implementing regulations. While upwind reductions and additional availability of offsets within Delaware are important concerns, they are not relevant criteria for whether Delaware's regulations address CAA NSR requirements. Thus, EPA provides no further response to these comments.

Comment 15: New Jersey commented that current air monitoring data shows that New Jersey and Delaware are in nonattainment and/or have maintenance issues with the 75 ppb ozone NAAQS and New Jersey also has one site in the northern New Jersey multi-state nonattainment area that cannot attain the 84 ppb ozone NAAQS; therefore, New Jersey states it is imperative that downwind states be able to reduce the amount of offsets available in upwind states.

Response 15: EPA appreciates New Jersey's concern with attaining and maintaining old and new ozone NAAQS and has recently promulgated the CSAPR Update Rule specifically to address interstate transport with respect to the 2008 ozone NAAQS with tightened ozone-season NO_X budgets designed to achieve emission reductions in upwind states. In response to New Jersey's concern with attaining and maintaining the ozone standards since publication of the NPR on May 26, 2015, we note that the Philadelphia Area is meeting the 2008 ozone NAAQS of 75 ppb with preliminary 2013–2015 AQM data showing a design value of 75 ppb. Additionally, on May 4, 2016, EPA made a final determination that the Seaford, DE marginal nonattainment area attained the 2008 ozone NAAQS by the applicable attainment date of July 20, 2015 with a design value of 74 ppb. *See* 81 FR 26701. EPA is working with the states to address transport of ozone pollution so downwind states can attain and maintain the ozone NAAQS.

Comment 16: DSCC referenced EPA's recently promulgated CSAPR, effective January 1, 2015, noting that Delaware is not considered an upwind contributor to downwind states, and, thus, is not even subject to CSAPR.

Response 16: EPA thanks DSCC for its comment with respect to CSAPR applicability. While DSCC's characterization of CSAPR applicability in Delaware may be accurate, this comment is not relevant to EPA's disapproval of Delaware's October 15, 2013 SIP revision submittal revising 7 DNREC 1125, sections 2.5.5 and 2.5.6. It is noted that while emission sources in Delaware are not subject to the requirements of CSAPR, the State of Delaware is expected to experience improved air quality as a result of its full implementation.

Comment 17: DSCC commented that, in 2008, EPA designated portions of Delaware as marginal nonattainment for ground-level ozone, which triggers nonattainment provisions of the CAA. DSCC claims Delaware is left with a requirement to attain, but no ability to regulate the out-of-state sources that cause its nonattainment problems.

Response 17: EPA agrees with DSCC's comment that in 2008 EPA designated portions of Delaware as marginal nonattainment for ozone, specifically as noted in the NPR disapproving Delaware's October 15, 2013 SIP submittal revising 7 DNREC 1125, sections 2.5.5 and 2.5.6 and again in

[6] EPA approved Regulation 1125 for the Delaware SIP on October 2, 2012 (77 FR 60053) including the emission offset requirements that address requirements in CAA 173(c)(1), 40 CFR 51.165, and part 51, appendix S, section IV.D. The State effective date of this version of Regulation 1125 was February 11, 2012, and it is this version of Regulation 1125 that EPA expects Delaware to implement.

these responses to comment. While EPA appreciates DSCC's concerns, such concerns are not relevant to our disapproval of Delaware's regulations regarding acquisition of offsets. Transport of ozone precursors from one state to another is being addressed by states and EPA under other provisions of the CAA.

IV. Final Action

Pursuant to CAA section 110(k)(3), EPA is disapproving Delaware's October 15, 2013 SIP revision consisting of revisions to DNREC's regulations related to nonattainment NSR preconstruction permit program requirements for emission offsets in the State of Delaware. Specifically, Delaware's revised Regulation 1125 which Delaware submitted as a SIP revision sought to expand the geographical area in which owners and operators of new or modified major stationary sources may obtain emissions offsets, regardless of the area's attainment classification for the ozone NAAQS and without specific requirements that the area ''contribute to violation'' of the ozone NAAQS in the area in which a new or modified source is locating or located. EPA is disapproving this SIP revision for two reasons: (1) Delaware's proposed emissions offset provision language does not comport with the specific requirements under CAA sections 172(c)(5) and 173(c)(1) or the federal implementing regulations in 40 CFR 51.165 and appendix S; and, (2) Delaware lacks legal authority to designate an area as nonattainment under CAA section 107(c) and (d).

VI. 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 action does not impose additional requirements beyond those imposed by state law.

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 beyond those imposed by state law.

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 does not impose additional requirements beyond those imposed by state law. Accordingly, no additional costs to state, local, or tribal governments, or to the private sector, will 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 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 it does not impose additional requirements beyond those imposed by state law.

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.

K. Congressional Review Act (CRA)

This action is subject to the CRA, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

L. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 19, 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 pertaining to disapproval of the Air Quality Management portion of Delaware's Administrative Code, which revises the regulations related to nonattainment NSR preconstruction permit program requirements for emission offsets may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: September 30, 2016.

Shawn M. Garvin,

Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart I—Delaware

■ 2. In § 52.420, the table in paragraph (c) is amended under the heading ''1125 Requirements for Preconstruction Review'' by revising the entry for ''Section 2.0'' to read as follows:

§ 52.420 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED REGULATIONS AND STATUTES IN THE DELAWARE SIP

State regulation (7 DNREC 1100)	Title/subject	State effective date	EPA approval date	Additional explanation
* *	*	*	* *	*
1125 Requirements for Preconstruction Review				
* *	*	*	* *	*
Section 2.0	Emission Offset Provisions (EOP) including sections 1.0 through 3.16.4.	2/11/12	10/2/12, 77 FR 60053	Added Section 2.2.5, 2.4.3.3 and 2.5.7.
	Sections 2.5.5 and 2.5.6	9/11/2013	10/20/2016 [Insert **Federal Register** citation].	Disapproval. See 40 CFR 52.433(a).
* *	*	*	* *	*

* * * * *

■ 3. Add § 52.433 to read as follows:

§ 52.433 Nonattainment new source review.

(a) *Disapproval.* EPA is disapproving Delaware's October 15, 2013 submittal of revisions to 7 DNREC 1125, sections 2.5.5 and 2.5.6 because it does not meet Clean Air Act (CAA) requirements which establish the criteria under which the owner or operator of a new or modified major stationary source must obtain the required emission offsets for the nonattainment new source review (NSR) preconstruction permitting program and because Delaware exercises authorities that are reserved for EPA under section 107 of the CAA. Delaware's Federally-approved nonattainment NSR preconstruction program in 7 DNREC 1125, sections 1.0 through 3.16.4, effective in Delaware on February 11, 2012, was fully-approved by EPA on October 2, 2012 and continues to apply.

(b) [Reserved]

[FR Doc. 2016–24657 Filed 10–19–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2016–0325; FRL–9951–81]

Fluridone; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a tolerance for residues of fluridone in or on cotton gin byproducts. SePRO Corporation requested the tolerance under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective October 20, 2016. Objections and requests for hearings must be received on or before December 19, 2016, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2016–0325, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Michael Goodis, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; main telephone number: (703) 305–7090; email address: *RDFRNotices@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

B. How can I get electronic access to other related information?

You may access a frequently updated electronic version of EPA's tolerance regulations at 40 CFR part 180 through the Government Printing Office's e-CFR site at *http://www.ecfr.gov/cgi-bin/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl.*

C. How can I file an objection or hearing request?

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation

and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2016–0325 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before December 19, 2016. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2016–0325, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be CBI or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.*

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

II. Summary of Petitioned-for Tolerance

In the **Federal Register** of July 20, 2016 (81 FR 47150) (FRL–9948–45), EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP# 6F8451) by SePRO Corporation, 11550 North Meridian Street, Suite 600, Carmel, IN 46032. The petition requested that 40 CFR part 180 be amended by establishing a tolerance for residues of the herbicide fluridone in or on cotton, gin byproducts at 0.1 ppm. That document referenced a summary of the petition prepared SePRO, the registrant, which is available in the docket EPA–HQ–OPP–2016–0325 at *http://www.regulations.gov.* No comments were received in response to the notice of filing.

III. Aggregate Risk Assessment and Determination of Safety

Section 408(b)(2)(A)(i) of FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) of FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .''

Consistent with FFDCA section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for fluridone in or on cotton gin byproducts, consistent with FFDCA section 408(b)(2).

In the **Federal Register** of February 17, 2016 (81 FR 7982) (FRL–9941–69), EPA established a tolerance for residues of fluridone in or on cotton, undelinted seed. EPA is relying upon the risk assessments that supported the findings made in the February 17, 2016 **Federal Register** document in support of this action. The toxicity profile of fluridone has not changed, and the previous risk assessments that supported the establishment of that tolerance remain valid.

For the February 17, 2016 action, the petitioner did not propose a tolerance for residues of fluridone on cotton gin byproducts, however, the Agency determined that a cotton gin byproduct tolerance was needed to cover the cotton raw agricultural commodities (RAC). The commodity ''cotton gin byproducts'' was included in the risk assessments that supported the February 17, 2016 Final Rule, but because they were not proposed by the registrant, they could not be established at that time. The registrant has subsequently proposed the cotton gin byproducts tolerance and therefore, the tolerance can now be established.

EPA concludes that the aggregate exposure and risk estimates presented in the most recent human health risk assessment document, which were not of concern to the Agency, adequately account for exposures and risk resulting from all fluridone uses including cotton gin byproducts.

Therefore, EPA relies upon the findings made in the February 17, 2016, **Federal Register** document in support of this rule. EPA concludes that there is a reasonable certainty that no harm will result to the general population, or to infants and children from aggregate exposure to fluridone residues.

For a detailed discussion of the aggregate risk assessments and determination of safety for these tolerances, please refer to the February 17, 2016, **Federal Register** document and its supporting documents, available at *http://www.regulations.gov* in docket ID number EPA–HQ–OPP–2014–0913.

IV. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodology high performance liquid chromatography (HPLC) method (originally submitted as method AM–AA–CA–RO52–AA–755) is available in the Pesticide Analytical Manual (PAM) Volume II for residues of fluridone in plant commodities.

B. International Residue Limits

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. EPA considers the international maximum residue limits (MRLs) established by the Codex Alimentarius Commission (Codex), as required by FFDCA section 408(b)(4). The Codex Alimentarius is a joint United Nations Food and Agriculture Organization/World Health Organization food standards program, and it is recognized as an international food safety standards-setting organization in trade agreements to which the United States is a party. EPA may establish a tolerance that is different from a Codex MRL; however, FFDCA section 408(b)(4) requires that EPA explain the reasons for departing from the Codex level.

There is no Codex MRL for fluridone residues in or on cotton.

V. Conclusion

Therefore, a tolerance is established for residues of fluridone, 1-methyl-3-

phenyl-5-(3-(trifluoromethyl)phenyl)-4(1*H*)-pyridinone, in or on cotton, gin byproducts at 0.1 ppm.

VI. Statutory and Executive Order Reviews

This action establishes tolerances under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993). Because this action has been exempted from review under Executive Order 12866, this action is not subject to Executive Order 13211, entitled ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997). This action does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), nor does it require any special considerations under Executive Order 12898, entitled ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations'' (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerances in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), do not apply.

This action directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000) do not apply to this action. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 1501 *et seq.*).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note).

VII. Congressional Review Act

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

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: October 7, 2016.

Daniel J. Rosenblatt,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. In § 180.420, in paragraph (a)(2) add an entry ''Cotton, gin byproducts'' in alphabetical order to read as follows:

§ 180.420 Fluridone; tolerances for residues.

(a) * * *

(2) * * *

Commodity	Parts per million
* * * * *	
Cotton, gin byproducts	0.1
* * * * *	

* * * * *

[FR Doc. 2016–25291 Filed 10–19–16; 8:45 am]

BILLING CODE 6560–50–P

SURFACE TRANSPORTATION BOARD

49 CFR Part 1022

[Docket No. EP 716 (Sub-No. 1)]

Civil Monetary Penalty Inflation Adjustment Rule

AGENCY: Surface Transportation Board.

ACTION: Interim final rule.

SUMMARY: The Surface Transportation Board (Board) is issuing an interim final rule to adjust the Board's civil monetary penalties for inflation pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015. As mandated by that act, the Board is issuing a ''catch-up adjustment'' for its penalties and will thereafter make annual inflation adjustments according to a specified formula.

DATES: This interim final rule is effective on October 20, 2016.

FOR FURTHER INFORMATION CONTACT: Allison Davis: (202) 245–0378. Federal Information Relay Service (FIRS) for the hearing impaired: 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

I. Background

On November 2, 2015, the President signed the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (2015 Act), passed as part of the Bipartisan Budget Act of 2015, Public Law 114–74, 129 Stat. 599. The 2015 Act further amended the Federal Civil Penalties Inflation Adjustment Act of 1990 (1990 Act), Public Law 101–410, 104 Stat. 890 (codified as amended at 28 U.S.C. 2461 note), as previously amended by the Debt Collection Improvement Act of 1996 (1996 Act), Public Law 104–134, 110 Stat. 1321, in order to improve the effectiveness of civil monetary penalties and to maintain their deterrent effect.[1]

The 1996 Act required each federal agency to adopt regulations at least once every four years that adjust for inflation the maximum amount of civil monetary penalties under the statutes administered by the agency. In accordance with the 1996 Act, the Board increased its existing civil monetary penalties, which had not been adjusted for inflation since they were prescribed

[1] A ''civil monetary penalty'' is defined by the 1990 Act as: ''any penalty, fine, or other sanction that—(A)(i) is for a specific monetary amount as provided by Federal law; or (ii) has a maximum amount provided for by Federal law; and (B) is assessed or enforced by an agency pursuant to Federal law; and (C) is assessed or enforced pursuant to an administrative proceeding or a civil action in the Federal courts.'' *See also* 49 CFR 1022.2(b).

in the ICC Termination Act of 1995 (ICCTA), Public Law 104–88, 109 Stat. 803, by 10%, through a final rule issued in the main docket of this proceeding on October 22, 2012.

The 2015 Act requires agencies to adjust their civil monetary penalties for inflation through an initial ''catch-up adjustment.'' [2] The 2015 Act requires that this adjustment be issued through an interim final rulemaking and sets forth a specific methodology to calculate the adjustment. To arrive at the adjusted penalty, the agency must multiply the penalty amount when it was established or last adjusted by Congress, excluding adjustments under the 1990 Act, by a multiplier that is based on the percent change between the Consumer Price Index for all Urban Consumers (CPI–U) for the month of October in the year the penalty amount was established or last adjusted by Congress, and the October 2015 CPI–U.[3] As mandated by statute, penalty level adjustments should be rounded to the nearest dollar, and the initial increase of penalties shall not exceed 150%.

Following the catch-up adjustment, the 2015 Act then directs agencies to adjust their civil penalties for inflation annually, beginning on January 15, 2017, and no later than January 15 of every year thereafter. Annual inflation adjustments will be based on the percent change between the October CPI–U preceding the date of the adjustment and the prior year's October CPI–U. As with the catch-up adjustment, penalty level adjustments should be rounded to the nearest dollar.

II. Discussion

The statutory definition of civil monetary penalty covers the civil penalty provisions under the Rail Carrier (Part A), Motor and Water Carriers (Part B), and Pipeline Carrier (Part C) provisions of the Interstate Commerce Act, as amended by ICCTA. The Board's civil (and criminal) penalty authority related to rail transportation appears at 49 U.S.C. 11901–11908.

The Board's penalty authority related to motor carriers, water carriers, brokers, and freight forwarders appears at 49 U.S.C. 14901–14915. The Board's penalty authority related to pipeline carriers appears at 49 U.S.C. 16101–16106.[4]

As set forth in this interim final rule, the Board is amending 49 CFR pt. 1022 so that its regulations and civil monetary penalties conform to the requirements of the 2015 Act. The adjusted penalties set forth in the rule will apply only to violations which occur after the effective date of this regulation.

III. Interim Final Rule

The interim final rule is set forth at the end of this decision. This interim final rule is issued without prior public notice or opportunity for public comment. The Administrative Procedure Act (APA), 5 U.S.C. 553(b)(B), does not require that process ''when the agency for good cause finds'' that public notice and comment are ''unnecessary.'' Here, Congress has mandated that the agency make the catch-up inflation adjustment through an interim final rule. The Board has no discretion to set alternative levels of adjusted civil monetary penalties, because the amount of the inflation adjustment must be calculated in accordance with the statutory formula. The Board simply determines the amount of inflation adjustments by performing technical, ministerial computations. Because the Board has no discretion to do anything except promulgate the rule and perform ministerial computations to apply it, public comment would serve no useful purpose. Accordingly, the Board has determined that there is good cause to promulgate this rule without soliciting public comment and to make this regulation effective immediately upon publication.

The following chart shows the relevant statutory provision and penalty description, the baseline penalty, the values used in the calculations, the relevant cap imposed by the 2015 Act for the catch-up adjustment,[5] and the rounded catch-up adjustment.

U.S. Code citation	Civil monetary penalty description	Baseline penalty	Multiplier (year)	Multiplier result	2015 Act cap	Adjusted penalty amount
Rail Carrier Civil Penalties						
49 U.S.C. 11901(a).	Unless otherwise specified, maximum penalty for each knowing violation under this part, and for each day.	$5,000	1.50245 (1996)	$7,512	$13,750	$7,512
49 U.S.C. 11901(b).	For each violation under section 11124(a)(2) or (b).	$500	1.50245 (1996)	$751	$1,375	$751
49 U.S.C. 11901(b).	For each day violation continues.	$25	1.50245 (1996)	$38	$69	$38
49 U.S.C. 11901(c).	Maximum penalty for each knowing violation under sections 10901–10906.	$5,000	1.50245 (1996)	$7,512	$13,750	$7,512

[2] Under the 2015 Act, the initial penalty adjustments were to take effect no later than August 1, 2016. The rules issued here will take effect immediately upon publication.

[3] The Office of Management and Budget issued guidance to agencies on implementing the catch-up adjustments and provided multipliers to adjust the penalty level based on the year the penalty was established or last adjusted pursuant to law. *See* Memorandum from the Office of Management and Budget, M–16–06, *Implementation of the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015* (Feb. 24, 2016).

[4] The Board also has criminal penalty authority, enforceable in a federal criminal court. Congress has not, however, authorized federal agencies to adjust statutorily-prescribed criminal penalty provisions for inflation, and this rule does not address those provisions.

[5] All of the applicable penalty adjustments fell below the 150% cap on the catch-up adjustments.

U.S. Code citation	Civil monetary penalty description	Baseline penalty	Multiplier (year)	Multiplier result	2015 Act cap	Adjusted penalty amount
49 U.S.C. § 11901(d).	For each violation under sections 11123 or 11124(a)(1).	$100–$500	1.50245 (1996)	$150–$751	$275–$1,375	$150–$751
49 U.S.C. 11901(d).	For each day violation continues.	$50	1.50245 (1996)	$75	$138	$75
49 U.S.C. 11901(e)(1).	For each violation under sections 11141–11145.	$500	1.50245 (1996)	$751	$1,375	$751
49 U.S.C. 11901(e)(2).	For each violation under section 11144(b)(1).	$100	1.50245 (1996)	$150	$275	$150
49 U.S.C. 11901(e)(3–4).	For each violation of reporting requirements, for each day.	$100	1.50245 (1996)	$150	$275	$150
	Motor and Water Carrier Civil Penalties					
49 U.S.C. 14901(a).	Minimum penalty for each violation and for each day.	$1,000	1.02819 (2012)	$1,028	n/a	$1,028
49 U.S.C. 14901(a).	For each violation under sections 13901 or 13902(c).	$10,000	1.02819 (2012)	$10,282	n/a	$10,282
49 U.S.C. 14901(a).	For each violation related to transportation of passengers.	$25,000	1.02819 (2012)	$25,705	n/a	$25,705
49 U.S.C. 14901(b).	For each violation of the hazardous waste rules under section 3001 of the Solid Waste Disposal Act.	$20,000–$40,000	1.02819 (2012)	$20,564–$41,128	n/a	$20,564–$41,128
49 U.S.C. 14901(d)(1).	Minimum penalty for each violation of household good regulations, and for each day.	$1,000	1.50245 (1996)	$1,502	$2,750	$1,502
49 U.S.C. 14901(d)(2).	Minimum penalty for each instance of transportation of household goods if broker provides estimate without carrier agreement.	$10,000	1.50245 (1996)	$15,025	$27,500	$15,025
49 U.S.C. 14901(d)(3).	Minimum penalty for each instance of transportation of household goods without being registered.	$25,000	1.50245 (1996)	$37,561	$68,750	$37,561
49 U.S.C. 14901(e).	Minimum penalty for each violation of a transportation rule.	$2,000	1.50245 (1996)	$3,005	$5,500	$3,005
49 U.S.C. 14901(e).	Minimum penalty for each additional violation.	$5,000	1.50245 (1996)	$7,512	$13,750	$7,512
49 U.S.C. 14903(a).	Maximum penalty for undercharge or overcharge of tariff rate, for each violation.	$100,000	1.50245 (1996)	$150,245	$275,000	$150,245

U.S. Code citation	Civil monetary penalty description	Baseline penalty	Multiplier (year)	Multiplier result	2015 Act cap	Adjusted penalty amount
49 U.S.C. 14904(a).	For first violation, rebates at less than the rate in effect.	$200	1.50245 (1996)	$300	$550	$300
49 U.S.C. 14904(a).	For all subsequent violations.	$250	1.50245 (1996)	$376	$688	$376
49 U.S.C. 14904(b)(1).	Maximum penalty for first violation for under-charges by freight for-warders.	$500	1.50245 (1996)	$751	$1,375	$751
49 U.S.C. 14904(b)(1).	Maximum penalty for subsequent violations.	$2,000	1.50245 (1996)	$3,005	$5,500	$3,005
49 U.S.C. 14904(b)(2).	Maximum penalty for other first violations under § 13702.	$500	1.50245 (1996)	$751	$1,375	$751
49 U.S.C. 14904(b)(2).	Maximum penalty for subsequent violations.	$2,000	1.50245 (1996)	$3,005	$5,500	$3,005
49 U.S.C. 14905(a).	Maximum penalty for each know-ing violation of section 14103(a), and knowingly au-thorizing, con-senting to, or permitting a vio-lation of section 14103(a) & (b).	$10,000	1.50245 (1996)	$15,025	$27,500	$15,025
49 U.S.C. 14906 ..	Minimum penalty for first attempt to evade regula-tion.	$2,000	1.02819 (2012)	$2,056	n/a	$2,056
49 U.S.C. § 14906	Minimum amount for each subse-quent attempt to evade regula-tion.	$5,000	1.02819 (2012)	$5,141	n/a	$5,141
49 U.S.C. 14907 ..	Maximum penalty for record-keeping/report-ing violations.	$5,000	1.50245 (1996)	$7,512	$13,750	$7,512
49 U.S.C. 14908(a)(2).	Maximum penalty for violation of section 14908(a)(1).	$2,000	1.50245 (1996)	$3,005	$5,500	$3,005
49 U.S.C. § 14910	When another civil penalty is not specified under this part, for each violation, for each day.	$500	1.50245 (1996)	$751	$1,375	$751
49 U.S.C. 14915(a)(1) & (2).	Minimum penalty for holding a household goods shipment hostage, for each day.	$10,000	1.19397 (2005)	$11,940	$27,500	$11,940
			Pipeline Carrier Civil Penalties			
49 U.S.C. § 16101(a).	Maximum penalty for violation of this part, for each day.	$5,000	1.50245 (1996)	$7,512	$13,750	$7,512

U.S. Code citation	Civil monetary penalty description	Baseline penalty	Multiplier (year)	Multiplier result	2015 Act cap	Adjusted penalty amount
49 U.S.C. 16101(b)(1) & (4).	For each record-keeping violation under section 15722, each day.	$500	1.50245 (1996)	$751	$1,375	$751
49 U.S.C. 16101(b)(2) & (4).	For each inspection violation liable under section 15722, each day.	$100	1.50245 (1996)	$150	$275	$150
49 U.S.C. 16101(b)(3) & (4).	For each reporting violation under section 15723, each day.	$100	1.50245 (1996)	$150	$275	$150
49 U.S.C. 16103(a).	Maximum penalty for improper disclosure of information.	$1,000	1.50245 (1996)	$1,502	$2,750	$1,502

IV. Regulatory Flexibility Statement

The Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 801 *et seq.,* generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Because the Board has determined that notice and comment are not required under the APA for this rulemaking, the requirements of the RFA do not apply.

V. Paperwork Reduction Act

This interim final rule does not contain a new or amended information collection requirement subject to the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.*

List of Subjects in 49 CFR Part 1022

Administrative practice and procedures, Brokers, Civil penalties, Freight forwarders, Motor carriers, Pipeline carriers, Rail carriers, Water carriers.

It is ordered:

1. The Board amends its rules as set forth in this decision. Notice of the interim final rule will be published in the **Federal Register.**

2. This decision is effective on its date of service.

Decided: October 12, 2016.

By the Board, Chairman Elliott, Vice Chairman Miller, and Commissioner Begeman.

Kenyatta Clay,

Clearance Clerk.

For the reasons set forth in the preamble, part 1022 of title 49, chapter X, of the Code of Federal Regulations is amended as follows:

PART 1022—CIVIL MONETARY PENALTY INFLATION ADJUSTMENT

■ 1. The authority citation for part 1022 continues to read as follows:

Authority: 5 U.S.C. 551–557; 28 U.S.C. 2461 note; 49 U.S.C. 11901, 14901, 14903, 14904, 14905, 14906, 14907, 14908, 14910, 14915, 16101, 16103.

■ 2. Revise § 1022.1 to read as follows:

§ 1022.1 Scope and purpose.

The purpose of this part is to establish a method to adjust for inflation the civil monetary penalties provided by law within the jurisdiction of the Board, in conformity with the Federal Civil Penalties Inflation Adjustment Act of 1990, Public Law 101–410, 104 Stat. 890 (codified as amended at 28 U.S.C. 2461 note), as amended by the Debt Collection Improvement Act of 1996, Public Law 104–134, 110 Stat. 1321, and further amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, Public Law 114–74, 129 Stat. 599. These penalties shall be subject to review and adjustment annually using the method specified in this part.

■ 3. Amend § 1022.2 as follows:

■ a. Revise paragraph (d).

■ b. Add paragraph (e).

The revisions read as follows:

§ 1022.2 Definitions.

* * * * *

(d) *Cost-of-Living Adjustment* means the percentage (if any) by which the Consumer Price Index for the month of October preceding the adjustment exceeds the Consumer Price Index for the month of October one year before the month of October preceding date of the adjustment.

(e) *Initial Cost-of-Living Adjustment* means, for each civil monetary penalty, the percentage (if any) by which the Consumer Price Index for the month of October 2015 exceeds the Consumer Price Index of the month of October of the calendar year during which the amount of such civil monetary penalty was established or adjusted under a provision of law.

■ 4. Amend § 1022.3 by revising the introductory text to read as follows:

§ 1022.3 Civil monetary penalty inflation adjustment.

The Board shall, immediately, and at least every year thereafter—

* * * * *

■ 5. Revise § 1022.4 to read as follows:

§ 1022.4 Cost-of living adjustments of civil monetary penalties.

(a) The inflation adjustment under § 1022.3 will initially be determined by increasing each maximum civil monetary penalty by the initial cost-of-living adjustment. Not later than January 15 of every year thereafter, the inflation adjustment will subsequently be determined by increasing the maximum civil monetary penalty for each civil monetary penalty by the cost-of-living adjustment. Any increase determined under this section shall be rounded to the nearest dollar.

(b) The initial cost-of-living inflation adjustment required by the statute results in the following adjustments to the civil monetary penalties within the jurisdiction of the Board:

U.S. Code citation	Civil monetary penalty description	Baseline penalty amount	Adjusted penalty amount (2016)
	Rail Carrier Civil Penalties		
49 U.S.C. 11901(a)	Unless otherwise specified, maximum penalty for each knowing violation under this part, and for each day.	$5,000	$7,512
49 U.S.C. 11901(b)	For each violation under section 11124(a)(2) or (b)	$500	$751
49 U.S.C. 11901(b)	For each day violation continues	$25	$38
49 U.S.C. 11901(c)	Maximum penalty for each knowing violation under section 10901–10906.	$5,000	$7,512
49 U.S.C. 11901(d)	For each violation under section 11123 or 11124(a)(1)	$100–$500	$150–$751
49 U.S.C. 11901(d)	For each day violation continues	$50	$75
49 U.S.C. 11901(e)(1)	For each violation under section s 11141–11145	$500	$751
49 U.S.C. 11901(e)(2)	For each violation under section 11144(b)(1)	$100	$150
49 U.S.C. 11901(e)(3–4)	For each violation of reporting requirements, for each day	$100	$150
	Motor and Water Carrier Civil Penalties		
49 U.S.C. 14901(a)	Minimum penalty for each violation and for each day	$1,000	$1,028
49 U.S.C. 14901(a)	For each violation under sections 13901 or 13902(c)	$10,000	$10,282
49 U.S.C. 14901(a)	For each violation related to transportation of passengers	$25,000	$25,705
49 U.S.C. 14901(b)	For each violation of the hazardous waste rules under section 3001 of the Solid Waste Disposal Act.	$20,000–$40,000	$20,564–$41,128
49 U.S.C. 14901(d)(1)	Minimum penalty for each violation of household good regulations, and for each day.	$1,000	$1,502
49 U.S.C. 14901(d)(2)	Minimum penalty for each instance of transportation of household goods if broker provides estimate without carrier agreement.	$10,000	$15,025
49 U.S.C. 14901(d)(3)	Minimum penalty for each instance of transportation of household goods without being registered.	$25,000	$37,561
49 U.S.C. 14901(e)	Minimum penalty for each violation of a transportation rule	$2,000	$3,005
49 U.S.C. 14901(e)	Minimum penalty for each additional violation	$5,000	$7,512
49 U.S.C. 14903(a)	Maximum penalty for undercharge or overcharge of tariff rate, for each violation.	$100,000	$150,245
49 U.S.C. 14904(a)	For first violation, rebates at less than the rate in effect	$200	$300
49 U.S.C. 14904(a)	For all subsequent violations	$250	$376
49 U.S.C. 14904(b)(1)	Maximum penalty for first violation for undercharges by freight forwarders.	$500	$751
49 U.S.C. 14904(b)(1)	Maximum penalty for subsequent violations	$2,000	$3,005
49 U.S.C. 14904(b)(2)	Maximum penalty for other first violations under section 13702	$500	$751
49 U.S.C. 14904(b)(2)	Maximum penalty for subsequent violations	$2,000	$3,005
49 U.S.C. 14905(a)	Maximum penalty for each knowing violation of section 14103(a), and knowingly authorizing, consenting to, or permitting a violation of section 14103(a) & (b).	$10,000	$15,025
49 U.S.C. 14906	Minimum penalty for first attempt to evade regulation	$2,000	$2,056
49 U.S.C. 14906	Minimum amount for each subsequent attempt to evade regulation	$5,000	$5,141
49 U.S.C. 14907	Maximum penalty for recordkeeping/reporting violations	$5,000	$7,512
49 U.S.C. 14908(a)(2)	Maximum penalty for violation of section 14908(a)(1)	$2,000	$3,005
49 U.S.C. 14910	When another civil penalty is not specified under this part, for each violation, for each day.	$500	$751
49 U.S.C. 14915(a)(1) & (2)	Minimum penalty for holding a household goods shipment hostage, for each day.	$10,000	$11,940
	Pipeline Carrier Civil Penalties		
49 U.S.C. 16101(a)	Maximum penalty for violation of this part, for each day	$5,000	$7,512
49 U.S.C. 16101(b)(1) & (4)	For each recordkeeping violation under section 15722, each day	$500	$751
49 U.S.C. 16101(b)(2) & (4)	For each inspection violation liable under section 15722, each day	$100	$150
49 U.S.C. 16101(b)(3) & (4)	For each reporting violation under section 15723, each day	$100	$150
49 U.S.C. 16103(a)	Maximum penalty for improper disclosure of information	$1,000	$1,502

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration 50 CFR Parts 223 and 224

[Docket No. 150527481–6928–02]

RIN 0648–XD971

Endangered and Threatened Wildlife and Plants: Final Rule To List the Island Grouper (Mycteroperca fusca) as Threatened and the Gulf Grouper (Mycteroperca jordani) as Endangered Under the Endangered Species Act

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

ACTION: Final rule.

SUMMARY: We, NMFS, issue a final rule to list two foreign grouper species under the Endangered Species Act (ESA). We considered comments submitted on the proposed listing rule and have determined that the gulf grouper (*Mycteroperca jordani*) and the island grouper (*Mycteroperca fusca*) warrant listing as endangered and threatened species, respectively. We will not designate critical habitat for either of these species because the geographical areas occupied by these species are entirely outside U.S. jurisdiction, and we have not identified any unoccupied areas within U.S. jurisdiction that are currently essential to the conservation of either of these species.

DATES: This final rule is effective November 21, 2016.

ADDRESSES: Chief, Endangered Species Division, NMFS Office of Protected Resources (F/PR3), 1315 East West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Marta Nammack, NMFS, Office of Protected Resources (OPR), (301) 427–8469.

SUPPLEMENTARY INFORMATION:

Background

On July 15, 2013, we received a petition from WildEarth Guardians to list 81 marine species or subpopulations as threatened or endangered under the ESA. This petition included species from many different taxonomic groups, and we prepared our 90-day findings in batches by taxonomic group. We found that the petitioned actions may be warranted for 24 of the species and 3 of the subpopulations and announced the initiation of status reviews for each of the 24 species and 3 subpopulations (78 FR 63941, October 25, 2013; 78 FR 66675, November 6, 2013; 78 FR 69376, November 19, 2013; 79 FR 9880, February 21, 2014; and 79 FR 10104, February 24, 2014). On September 23, 2015, we published a proposed rule to list the gulf grouper (*Mycteroperca jordani*) as an endangered species and the island grouper (*Mycteroperca fusca*) as a threatened species (80 FR 57314). We requested public comment on the information in the draft status review and proposed rule, and the comment period was open through November 23, 2015. This final rule provides a discussion of the information we received during the public comment period and our final determinations on the petition to list the gulf grouper and island grouper under the ESA. The status of the findings and relevant **Federal Register** notices for the other 22 species and 3 subpopulations can be found on our Web site at *http://www.nmfs.noaa.gov/pr/species/petition81.htm.*

Listing Species Under the Endangered Species Act

We are responsible for determining whether species are threatened or endangered under the ESA (16 U.S.C. 1531 *et seq.*). To make this determination, we first consider whether a group of organisms constitutes a ''species'' under the ESA, then whether the status of the species qualifies it for listing as either threatened or endangered. Section 3 of the ESA defines a ''species'' to include ''any subspecies of fish or wildlife or plants, and any distinct population segment of any species of vertebrate fish or wildlife which interbreeds when mature.''

Section 3 of the ESA defines an endangered species as ''any species which is in danger of extinction throughout all or a significant portion of its range'' and a threatened species as one ''which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.'' We interpret an endangered species to be one that is presently in danger of extinction. A threatened species, on the other hand, is not presently in danger of extinction, but is likely to become so in the foreseeable future (that is, at a later time). In other words, the primary statutory difference between a threatened and endangered species is the timing of when a species may be in danger of extinction, either presently (endangered) or in the foreseeable future (threatened).

Section 4(a)(1) of the ESA requires us to determine whether any species is endangered or threatened due to any one or a combination of the following five threat factors: The present or threatened destruction, modification, or curtailment of its habitat or range; overutilization for commercial, recreational, scientific, or educational purposes; disease or predation; the inadequacy of existing regulatory mechanisms; or other natural or manmade factors affecting its continued existence. We are also required to make listing determinations based solely on the best scientific and commercial data available, after conducting a review of the species' status and after taking into account efforts being made by any State or foreign nation to protect the species.

In making a listing determination, we first determine whether a petitioned species meets the ESA definition of a ''species.'' Next, using the best available information gathered during the status review for the species, we complete a status and extinction risk assessment. In assessing extinction risk for these two grouper species, we considered the demographic viability factors developed by McElhany *et al.* (2000). The approach of considering demographic risk factors to help frame the consideration of extinction risk has been used in many of our status reviews, including for Pacific salmonids, Pacific hake, walleye pollock, Pacific cod, Puget Sound rockfishes, Pacific herring, scalloped hammerhead sharks, and black abalone (see *http://www.nmfs.noaa.gov/pr/species/* for links to these reviews). In this approach, the collective condition of individual populations is considered at the species level according to four viable population descriptors: Abundance, growth rate/productivity, spatial structure/connectivity, and diversity. These viable population descriptors reflect concepts that are well-founded in conservation biology and that individually and collectively provide strong indicators of extinction risk (NMFS 2015).

We then assess efforts being made to protect the species to determine if these conservation efforts are adequate to mitigate the existing threats. Section 4(b)(1)(A) of the ESA requires the Secretary, when making a listing determination for a species, to take into consideration those efforts, if any, being made by any State or foreign nation to protect the species.

Summary of Comments

In response to our request for comments on the proposed rule, we received comments from eight parties. All commenters presented general

information on threats or provided data that were already cited, discussed, and considered in the draft status review reports (Dennis 2015; Salz 2015) or the proposed rule (80 FR 57314; September 23, 2015). Summaries of the substantive public comments received, and our responses, are provided below, with references to our prior documents where relevant.

Comment 1: One commenter noted that WildEarth Guardians had submitted the petition to list these two grouper species and wondered at what level we involved WildEarth Guardians or other organizations in the process of making the assessment.

Response: WildEarth Guardians did not have any role in evaluating the status of the two grouper species under the ESA beyond providing us with the information in its petition.

Comment 2: Most commenters expressed support for the proposed rule, though several recommended we consider economic and social impacts on the tourism and fishing industries when determining what is restricted and prohibited or when developing recovery plans. One of these commenters noted that U.S. fishing companies will suffer if the gulf grouper is listed as endangered under the ESA because Mexico will not have regulations and laws for bycatch prevention devices and Mexican fishers do not have to abide by the ESA. And another commenter suggested allowing small amounts of sustainable yield to support those industries dependent on these two groupers.

Response: The ESA requires us to base our listing determinations solely on the best available scientific and commercial information. We may not consider economic or social impacts in making these determinations. When a species is listed as endangered, the ESA section 9 prohibitions are automatically extended to that species. The gulf grouper is listed as endangered, and therefore, it is a violation for anybody subject to U.S. jurisdiction to harvest this species in U.S. waters or on the high seas.

Therefore, we cannot authorize even small amounts of harvest of this species to support the fishing industry. However, when a species is listed as threatened, section 9 prohibitions are not automatically extended to that species. In this case, we have not extended any section 9 prohibitions to the threatened island grouper, so there is no prohibition against harvesting them. However, any Federal agency that funds, authorizes, or carries out an action that may affect an ESA listed species must consult with us under section 7 of the ESA to ensure that the action is not likely to jeopardize the continued existence of any species listed under the ESA.

Comment 3: One commenter asserted that Mexico has an 8,000 km^2 area where gill nets are illegal, but more efforts are needed to protect the two grouper species.

Response: Although we have no authority with respect to how other countries manage species within their territories, we encourage Spain, Portugal, and Mexico to provide for the conservation of these species that are found in their waters.

Comment 4: One commenter stated that he understood the need to protect these grouper species, but he asserted that ESA protection will not have the protective effect NMFS is seeking, especially for the gulf grouper. This commenter noted that the gulf grouper has limited habitat, the habitat is threatened by dams, and ESA listing will not help. The commenter suggested that NMFS consider public outreach to bring attention to the many problems dams cause.

Response: While it is true that fewer protections apply under the ESA for foreign species, important protections do apply. All persons subject to the jurisdiction of the United States (including its citizens) must comply with section 9 of the ESA, which, among other things, makes it unlawful to import endangered species into the United States or to export them from the United States, or to ''take'' endangered species within the territorial sea of the United States or upon the high seas (16 U.S.C. 1538(a)(1)(A)–(C)). Also, any Federal agency that funds, authorizes, or carries out an action that may affect an ESA listed species must consult with us under section 7 of the ESA to ensure that the action is not likely to jeopardize the continued existence of any species listed under the ESA. In addition, listing provides important educational benefits by informing the public about the plight of these species and promotes conservation actions by Federal and State agencies, foreign entities, private groups, and individuals.

Comment 5: One commenter wondered why NMFS was listing the island grouper, which is a foreign species. The commenter noted that ESA listing would have no legal impact, and it would be better to impose a ≥700mm size limit for these two grouper species.

Response: Section 4 of the ESA requires that we list any species that we determine to be endangered or threatened, whether it occurs within the United States or elsewhere. Demonstrating a need to secure particular protections under the other sections of the ESA, or that such protections will be afforded where the species is found, is not a precondition to listing. As we noted in our response to Comment 3, although we have no authority with respect to how other countries manage species within their territories, we encourage Spain, Portugal, and Mexico to provide for the conservation of these species that are found in their waters. Please see our response to Comment 4 for a summary of protections that will apply to the endangered gulf grouper and threatened island grouper.

Comment 6: One commenter stated that it would be helpful if other countries would realize that the imminent threats of tidal power, desalination, commercial fishing, and waste runoff are big factors in the degradation and loss of habitat for these grouper species and that they would follow through to begin addressing these issues and help bring these groupers back to viable numbers.

Response: Again, although we have no authority with respect to how other countries manage species within their territories, we encourage Spain, Portugal, and Mexico to provide for the conservation of these species that are found in their waters.

Comment 7: One commenter suggested a campaign to increase recreational scuba diving aimed at hunting lionfish for sport, feeding them to the gulf grouper, and serving them at restaurants as an effective tool for conserving gulf grouper (and lionfish eradication), as this has been successful in helping eradicate lionfish in the Caribbean.

Response: We appreciate the commenter's suggestion, but this is beyond the scope of our final rule.

Summary of Changes From the Proposed Listing Rule

We did not receive, nor did we find, scientific data from references that were not previously included in the draft status review reports (Dennis 2015; Salz 2015) and proposed rule (80 FR 57314; September 23, 2015). We incorporate, as appropriate, relevant information received as communications during the public comment process.

However, this information does not present significant new findings that change any of our proposed listing determinations.

Status Review

Status reviews for the gulf grouper and the island grouper were conducted by NMFS OPR staff and an in-house contractor. In order to complete the

status reviews, we compiled information on the species' biology, ecology, life history, threats, and conservation status from information contained in the petition, our files, a comprehensive literature search, and consultation with experts. Prior to publication of the proposed rule, the status review reports were subjected to peer review. Peer reviewer comments are available at *http://www.cio.noaa.gov/services_programs/prplans/PRsummaries.html.*

The status review reports provide a thorough discussion of the life history, demographic risks, and threats to the two grouper species. We considered all identified threats, both individually and cumulatively, to determine whether these grouper species respond in a way that causes actual impacts at the species level. The collective condition of individual populations was also considered at the species level, according to the four viable population descriptors discussed above.

The proposed rule (80 FR 57314; September 23, 2015) summarizes general background information on the description, reproductive biology and spawning behavior, population structure, distribution, abundance, and habitat of the gulf grouper and island grouper. All of that information is incorporated herein.

Species Determinations

Based on the best available scientific and commercial information described or referenced above, and included in the status review reports, and as stated in the proposed rule (80 FR 57314; September 23, 2015), we have determined that the gulf grouper (*Mycteroperca jordani*) and the island grouper (*Mycteroperca fusca*) are taxonomically-distinct species and therefore meet the definition of ''species'' pursuant to section 3 of the ESA and are eligible for listing under the ESA.

Summary of Factors Affecting the Two Species

Next we consider whether any one or a combination of the five threat factors specified in section 4(a)(1) of the ESA contribute to the extinction risk of these species. The comments that we received on the proposed rule did not change our conclusions regarding any of the section 4(a)(1) factors or their interactions for these species. In fact, the comments lend further support to our conclusion that the threats of overutilization and inadequacy of existing regulatory mechanisms are contributing significantly to the risk of extinction for both *Mycteroperca* species. Therefore, we incorporate herein all information, discussion, and conclusions on the summary of factors affecting the two grouper species in the status review reports (Dennis 2015; Salz 2015) and proposed rule (80 FR 57314; September 23, 2015).

Extinction Risk

None of the comments we received from public comment on the proposed rule affected our extinction risk evaluations of these two grouper species. Our evaluations and conclusions regarding extinction risk for these species remain the same. Therefore, we incorporate herein all information, discussion, and conclusions on the extinction risk of the two grouper species in the status review reports (Dennis 2015; Salz 2015) and proposed rule (80 FR 57314; September 23, 2015).

Protective Efforts

Finally, we considered conservation efforts to protect both species and evaluated whether these conservation efforts are adequate to mitigate the existing threats to the point where extinction risk is significantly lowered and the species' status is improved. None of the information we received from public comment on the proposed rule affected our conclusions regarding conservation efforts to protect the two grouper species. We incorporate herein all information, discussion, and conclusions on the protective efforts for the two grouper species in the status review reports (Dennis 2015; Salz 2015) and proposed rule (80 FR 57314; September 23, 2015).

Final Determinations

We have reviewed the best available scientific and commercial information, including the petition, the information in the status review reports (Dennis 2015; Salz 2015), the comments of peer reviewers, and public comments. Following are summaries of our listing determinations for these two species.

Gulf Grouper

Based on the best available scientific and commercial information, as summarized here, in our proposed rule (80 FR 57314; September 23, 2015), and in Dennis (2015), and consideration of protective efforts being made to protect the species, we find that the gulf grouper (*Mycteroperca jordani*) is at a high risk of extinction. The gulf grouper was once considered abundant, and now it is rare (Jenkins and Evermann 1889, Croker 1937, and Sáenz-Arroyo *et al.* 2005a). Direct harvest is the major reason for gulf grouper decline (Sala *et al.* 2004, Sáenz-Arroyo *et al.* 2005a, Aburto-Oropeza *et al.* 2008) and, due to the lack of protective regulations in Mexico (no meaningful quotas nor protective regulations for gulf grouper), there is no reason to expect fishing to be a diminishing threat.

Moreover, gulf grouper are intrinsically vulnerable to overfishing due to life history traits, including large size, late onset of reproductive maturity, protogynous hermaphrodite life history, transient aggregate spawning, slow growth rate, long life-span, and restricted geographic range (Sadovy de Mitcheson *et al.* 2012). Based on the best available information, we find that the gulf grouper is in danger of extinction throughout its range. After considering efforts being made to protect this species, we could not conclude that the existing or proposed conservation efforts would alter its extinction risk. We therefore list it as endangered under the ESA.

Island Grouper

Based on the best available scientific and commercial information, as summarized here, in our proposed rule (80 FR 57314; September 23, 2015), and in Salz (2015), and consideration of protective efforts being made to protect the species, we find that the island grouper (*Mycteroperca fusca*) is at a moderate risk of extinction. The nature of the threats and demographic risks identified, taking into account the uncertainty associated with the threats and risks, does not demonstrate the species is presently in danger of extinction; and therefore, it does not meet the definition of an endangered species.

However, the current threats to island grouper from fishing overutilization and inadequate regulatory mechanisms are likely to continue in the future, further exacerbating the demographic risk factors associated with abundance, growth rate and productivity, and spatial structure and connectivity. We conclude that both the species' current risk of extinction and the best available information on the extent of, and trends in, the major threats affecting this species make it likely this species will become an endangered species within the foreseeable future (defined as 40 years, as explained in the proposed rule (80 FR 57314; September 23, 2015)) throughout its range. We therefore list it as threatened under the ESA.

Effects of Listing

Conservation measures provided for species listed as endangered or threatened under the ESA include recovery actions (16 U.S.C. 1533(f));

Federal agency requirements to consult with NMFS under section 7 of the ESA to ensure their actions do not jeopardize the species or result in adverse modification or destruction of critical habitat should it be designated (16 U.S.C. 1536); designation of critical habitat if prudent and determinable (16 U.S.C. 1533(a)(3)(A)); and prohibitions on taking (16 U.S.C. 1538). In addition, recognition of the species' plight through listing promotes conservation actions by Federal and State agencies, foreign entities, private groups, and individuals. Because the ranges of these two species are entirely outside U.S. jurisdiction, the main effects of this final rule are the prohibitions on take, including export and import, of the endangered gulf grouper.

Identifying Section 7 Consultation Requirements

Section 7(a)(2) (16 U.S.C. 1536(a)(2)) of the ESA and NMFS/USFWS regulations require Federal agencies to consult with us to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of listed species or destroy or adversely modify critical habitat. It is unlikely that the listing of these species under the ESA will increase the number of section 7 consultations, because these species occur entirely outside of the United States and are unlikely to be affected by Federal actions. Although the gulf grouper's historical range includes parts of Southern California, there are no recent records indicating that this species still exists in U.S. waters.

Critical Habitat

Critical habitat is defined in section 3 of the ESA (16 U.S.C. 1532(5)) as: (1) The specific areas within the geographical area occupied by a species, at the time it is listed in accordance with the ESA, on which are found those physical or biological features (a) essential to the conservation of the species and (b) that may require special management considerations or protection; and (2) specific areas outside the geographical area occupied by a species at the time it is listed upon a determination that such areas are essential for the conservation of the species. Our regulations at 50 CFR 424.12(b) specify that the Secretary will identify, at a scale determined by the Secretary to be appropriate, specific areas outside the geographical area occupied by the species that are essential for its conservation, considering the life history, status, and conservation needs of the species based on the best available scientific data. Section 4(a)(3)(A) of the ESA (16 U.S.C. 1533(a)(3)(A)) requires that, to the extent prudent and determinable, critical habitat be designated concurrently with the listing of a species. However, critical habitat shall notbe designated in foreign countries or other areas outside U.S. jurisdiction (50 CFR 424.12(g)).

The best available scientific and commercial information as discussed above, the status review reports (Dennis 2015; Salz 2015), and the proposed rule (80 FR 57314; September 23, 2015) does not indicate that U.S. waters provide any specific essential biological or physical function for the gulf grouper. U.S. waters account for a very small portion on the northern limit of the gulf grouper's historical range, and may no longer be part of the species' current range. Based on the best available information, we have not identified unoccupied areas in U.S. waters that are currently essential to the conservation of gulf grouper. Therefore, based on the available information, we do not intend to designate critical habitat for the gulf grouper.

The island grouper occurs entirely outside of the United States. Therefore, we cannot designate critical habitat for island grouper.

Identification of Those Activities That Would Likely Constitute a Violation of Section 9 of the ESA

On July 1, 1994, NMFS and FWS published a policy (59 FR 34272) that requires us to identify, to the maximum extent practicable at the time a species is listed, those activities that would or would not likely constitute a violation of section 9 of the ESA. Because we are listing *Mycteroperca jordani* as endangered, all of the prohibitions of section 9(a)(1) of the ESA will apply to this species. These include prohibitions against the import, export, interstate or foreign trade (including delivery, receipt, carriage, shipment, transport, sale and offering for sale), and ''take'' of these species. These prohibitions apply to all persons subject to the jurisdiction of the United States, including in the United States, its territorial sea, or on the high seas. Take is defined as ''to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct.'' The intent of this policy is to increase public awareness of the effects of this listing on proposed and ongoing activities within the species' ranges. Activities that we believe could (subject to the exemptions set forth in 16 U.S.C. 1539) result in a violation of section 9 prohibitions for the endangered gulf grouper include, but are not limited to, the following:

(1) Possessing, delivering, transporting, or shipping any individual or part (dead or alive) taken in violation of section 9(a)(1);

(2) Delivering, receiving, carrying, transporting, or shipping in interstate or foreign commerce any individual or part, in the course of a commercial activity;

(3) Selling or offering for sale in interstate or foreign commerce any individual or part, except antique articles at least 100 years old; and

(4) Importing or exporting gulf grouper or any part of this species.

We emphasize that whether a particular activity constitutes a violation is entirely dependent upon the facts and circumstances of each incident. Further, an activity not listed above may in fact constitute a violation.

Identification of Those Activities That Would Not Likely Constitute a Violation of Section 9 of the ESA

Although the determination of whether any given activity constitutes a violation is fact dependent, we consider the following actions, depending on the circumstances, as being unlikely to violate the prohibitions in ESA section 9 with regard to *M. jordani:* (1) Take authorized by, and carried out in accordance with the terms and conditions of, an ESA section 10(a)(1)(A) permit issued by NMFS for purposes of scientific research or the enhancement of the propagation or survival of the species; and (2) continued possession of parts that were in possession at the time of listing. Such parts may be non-commercially exported or imported; however the importer or exporter must be able to provide evidence to show that the parts meet the criteria of ESA section 9(b)(1) (*i.e.,* held in a controlled environment at the time of listing, in a non-commercial activity).

Section 11(f) of the ESA gives NMFS authority to promulgate regulations that may be appropriate to enforce the ESA. We may promulgate future regulations to regulate trade or holding of gulf grouper, if necessary. We will provide the public with the opportunity to comment on future proposed regulations.

Protective Regulations Under Section 4(d) of the ESA

We are listing the island grouper as a threatened species. In the case of threatened species, ESA section 4(d) leaves it to the Secretary's discretion whether, and to what extent, to extend the section 9(a) ''take'' prohibitions to

the species, and authorizes us to issue regulations necessary and advisable for the conservation of the species. Thus, we have flexibility under section 4(d) to tailor protective regulations, taking into account the effectiveness of available conservation measures. The 4(d) protective regulations may prohibit, with respect to threatened species, some or all of the acts which section 9(a) of the ESA prohibits with respect to endangered species. These 9(a) prohibitions apply to all individuals, organizations, and agencies subject to U.S. jurisdiction.

Because the island grouper occurs entirely outside of the United States, and is not commercially traded with the United States, extending the section 9(a) ''take'' prohibitions to this species will not result in added conservation benefits or species protection. Therefore, we do not intend to issue section 4(d) regulations for the island grouper.

References

A complete list of the references used in this final rule is available upon request (see **ADDRESSES**).

Classification

National Environmental Policy Act

The 1982 amendments to the ESA, in section 4(b)(1)(A), restrict the information that may be considered when assessing species for listing. Based on this limitation of criteria for a listing decision and the opinion in *Pacific Legal Foundation* v. *Andrus,* 675 F.2d 825 (6th Cir. 1981), NMFS has concluded that ESA listing actions are not subject to the environmental assessment requirements of the National Environmental Policy Act (NEPA).

Executive Order 12866, Regulatory Flexibility Act, and Paperwork Reduction Act

As noted in the Conference Report on the 1982 amendments to the ESA, economic impacts cannot be considered when assessing the status of a species. Therefore, this final rule is exempt from review under Executive Order 12866 and the economic analysis requirements of the Regulatory Flexibility Act are not applicable to the listing process. This final rule does not contain a collection-of-information requirement for the purposes of the Paperwork Reduction Act.

Executive Order 13132, Federalism

In accordance with E.O. 13132, we determined that this final rule does not have significant Federalism effects and that a Federalism assessment is not required.

List of Subjects in 50 CFR Part 224

Administrative practice and procedure, Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Dated: October 11, 2016.

Samuel D. Rauch, III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR parts 223 and 224 are amended as follows:

PART 223—THREATENED MARINE AND ANADROMOUS SPECIES

■ 1. The authority citation for part 223 continues to read as follows:

Authority: 16 U.S.C. 1531 1543; subpart B, § 223.201–202 also issued under 16 U.S.C. 1361 *et seq.;* 16 U.S.C. 5503(d) for § 223.206(d)(9).

■ 2. In § 223.102, in the table in paragraph (e), add an entry for ''Grouper, island'' under Fishes in alphabetical order by common name to read as follows:

§ 223.102 Enumeration of threatened marine and anadromous species.

* * * * *

(e) * * *

Species[1]			Citation(s) for listing determination(s)	Critical habitat	ESA rules
Common name	Scientific name	Description of listed entity			
Fishes					
*	*	*	* *	*	*
Grouper, island	*Mycteroperca fusca*	Entire species	[Insert **Federal Register** page where the document begins], October 20, 2016.	NA	NA
*	*	*	* *	*	*

[1] Species includes taxonomic species, subspecies, distinct population segments (DPSs) (for a policy statement, see 61 FR 4722, February 7, 1996), and evolutionarily significant units (ESUs) (for a policy statement, see 56 FR 58612, November 20, 1991).

PART 224—ENDANGERED MARINE AND ANADROMOUS SPECIES

■ 3. The authority citation for part 224 continues to read as follows:

Authority: 16 U.S.C. 1531–1543 and 16 U.S.C. 1361 *et seq.*

■ 4. In § 224.101, in the table in paragraph (h), add an entry for ''Grouper, gulf'' under Fishes in alphabetical order by common name to read as follows:

§ 224.101 Enumeration of endangered marine and anadromous species.

* * * * *

(h) * * *

Species[1]			Citation(s) for listing determination(s)	Critical habitat	ESA rules
Common name	Scientific name	Description of listed entity			
Fishes					
*	*	*	* * *	*	*
Grouper, gulf	*Mycteroperca jordani*.	Entire species	[Insert **Federal Register** page where the document begins], October 20, 2016.	NA	NA
*	*	*	* * *	*	*

[1] Species includes taxonomic species, subspecies, distinct population segments (DPSs) (for a policy statement, see 61 FR 4722, February 7, 1996), and evolutionarily significant units (ESUs) (for a policy statement, see 56 FR 58612, November 20, 1991).

[FR Doc. 2016–25420 Filed 10–19–16; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 81, No. 203
Thursday, October 20, 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.

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

6 CFR Part 5

[Docket No. DHS–2016–0070]

Privacy Act of 1974: Implementation of Exemptions; Department of Homeland Security, United States Customs and Border Protection DHS/CBP–023 Border Patrol Enforcement Records, System of Records

AGENCY: Privacy Office, Department of Homeland Security.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Department of Homeland Security is giving concurrent notice of a newly established system of records pursuant to the Privacy Act of 1974 for the ''Department of Homeland Security (DHS)/U.S. Customs and Border Protection (CBP)–023 Border Patrol Enforcement Records (BPER) System of Records'' and this proposed rulemaking. In this proposed rulemaking, the Department proposes to exempt portions of the system of records from one or more provisions of the Privacy Act because of criminal, civil, and administrative enforcement requirements.

DATES: Comments must be received on or before November 21, 2016.

ADDRESSES: You may submit comments, identified by docket number DHS–2016–0070, by one of the following methods:

- *Federal e-Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–343–4010.
- *Mail:* Jonathan R. Cantor, Acting Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, DC 20528.

Instructions: All submissions received must include the agency name and docket number for this notice. All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: For general questions please contact: Debra L. Danisek, (202) 344–1610, Acting Privacy Officer, U.S. Customs and Border Protection, Washington, DC 20229. For privacy questions, please contact: Jonathan R. Cantor, (202) 343–1717, Acting Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, DC 20528.

SUPPLEMENTARY INFORMATION:

I. Background

In accordance with the Privacy Act of 1974, 5 U.S.C. 552a, the Department of Homeland Security/U.S. Customs and Border Protection proposes to establish a new DHS system of records titled, ''DHS/CBP–023 Border Patrol Enforcement Records (BPER) System of Records.'' Concurrent with this newly issued system of records, DHS/CBP is proposing to exempt the BPER System of Records from certain provisions of the Privacy Act.

The Privacy Act embodies fair information practice principles in a statutory framework governing the means by which Federal Government agencies collect, maintain, use, and disseminate personally identifiable information. The Privacy Act applies to information that is maintained in a ''system of records.'' A ''system of records'' is a group of any records under the control of an agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual. In the Privacy Act, an individual is defined to encompass U.S. citizens and lawful permanent residents. As a matter of policy, DHS extends administrative Privacy Act protections to all individuals when systems of records maintain information on U.S. citizens, lawful permanent residents, and visitors.

The Privacy Act permits Government agencies to exempt certain records from the access and amendment provisions. If an agency claims an exemption, however, it must issue a Notice of Proposed Rulemaking to make clear to the public the reasons why a particular exemption is claimed.

DHS is claiming exemptions from certain requirements of the Privacy Act for BPER System of Records. Some information in BPER System of Records relates to official DHS national security, law enforcement, immigration, and intelligence activities. These exemptions are needed to protect information relating to DHS activities from disclosure to subjects or others related to these activities. Specifically, the exemptions are required to preclude subjects of these activities from frustrating these processes; to avoid disclosure of activity techniques; to protect the identities and physical safety of confidential informants and law enforcement personnel; to ensure DHS's ability to obtain information from third parties and other sources; to protect the privacy of third parties; and to safeguard classified information. Disclosure of information to the subject of the inquiry could also permit the subject to avoid detection or apprehension.

The exemptions proposed here are exercised by a large number of federal law enforcement agencies to support law enforcement and national security missions. In appropriate circumstances, when compliance would not appear to interfere with or adversely affect the law enforcement purposes of this system and the overall law enforcement process, the applicable exemptions may be waived on a case by case basis.

A notice of system of records for BPER System of Records is also published in this issue of the **Federal Register**.

List of Subjects in 6 CFR Part 5

Freedom of information; Privacy.

For the reasons stated in the preamble, DHS proposes to amend chapter I of title 6, Code of Federal Regulations, as follows:

PART 5—DISCLOSURE OF RECORDS AND INFORMATION

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

Authority: 6 U.S.C. 101 *et seq.;* Public Law 107–296, 116 Stat. 2135; 5 U.S.C. 301. Subpart A also issued under 5 U.S.C. 552. Subpart B also issued under 5 U.S.C. 552a.

■ 2. Amend appendix C to add paragraph 74 to read as follows:

Appendix C to Part 5—DHS Systems of Records Exempt From the Privacy Act

* * * * *

74. The DHS/CBP–023 Border Patrol Enforcement Records (BPER) System of Records consists of electronic and paper records and will be used by DHS and its components. The DHS/CBP–023 Border Patrol Enforcement Records System of Records is a repository of information held by DHS in connection with its several and varied missions and functions, including, but not limited to the enforcement of civil and criminal laws; investigations, inquiries, and proceedings there under; and national security and intelligence activities. The DHS/CBP–023 Border Patrol Enforcement Records System of Records contains information that is collected by, on behalf of, in support of, or in cooperation with DHS and its components and may contain personally identifiable information collected by other federal, state, local, tribal, foreign, or international government agencies. The Secretary of Homeland Security, pursuant to 5 U.S.C. 552a(j)(2), has exempted this system from the following provisions of the Privacy Act: 5 U.S.C. 552a (c)(3), (c)(4); (d); (e)(1), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(5), (e)(8); and (g). Additionally, the Secretary of Homeland Security, pursuant to 5 U.S.C. 552a(k)(2), has exempted this system from the following provisions of the Privacy Act: 5 U.S.C. 552a(c)(3); (d); (e)(1), (e)(4)(G), and (e)(4)(H). When records received from another system have been exempted in that source system under 5 U.S.C. 552a(j)(2), DHS will claim the same exemptions for those records that are claimed for the original primary systems of records from which they originated, and claims any additional exemptions set forth here. Exemptions from these particular subsections are justified, on a case-by-case basis to be determined at the time a request is made, for the following reasons:

(a) From subsection (c)(3) and (4) (Accounting for Disclosures) because release of the accounting of disclosures could alert the subject of an investigation of an actual or potential criminal, civil, or regulatory violation to the existence of the investigation, and reveal investigative interest on the part of DHS as well as the recipient agency. Disclosure of the accounting would therefore present a serious impediment to law enforcement efforts and/or efforts to preserve national security. Disclosure of the accounting would also permit the individual who is the subject of a record to impede the investigation, to tamper with witnesses or evidence, and to avoid detection or apprehension, which would undermine the entire investigative process.

(b) From subsection (d) (Access and Amendment to Records) because access to the records contained in this system of records could inform the subject of an investigation of an actual or potential criminal, civil, or regulatory violation, to the existence of the investigation, and reveal investigative interest on the part of DHS or another agency. Access to the records could permit the individual who is the subject of a record to impede the investigation, to tamper with witnesses or evidence, and to avoid detection or apprehension. Amendment of the records could interfere with ongoing investigations and law enforcement activities and would impose an impossible administrative burden by requiring investigations to be continuously reinvestigated. In addition, permitting access and amendment to such information could disclose security-sensitive information that could be detrimental to homeland security.

(c) From subsection (e)(1) (Relevancy and Necessity of Information) because in the course of investigations into potential violations of Federal law, the accuracy of information obtained or introduced occasionally may be unclear or the information may not be strictly relevant or necessary to a specific investigation. In the interests of effective law enforcement, it is appropriate to retain all information that may aid in establishing patterns of unlawful activity.

(d) From subsection (e)(2) (Collection of Information from Individuals) because requiring that information be collected from the subject of an investigation would alert the subject to the nature or existence of an investigation, thereby interfering with the related investigation and law enforcement activities.

(e) From subsection (e)(3) (Notice to Subjects) because providing such detailed information would impede law enforcement in that it could compromise investigations by: Revealing the existence of an otherwise confidential investigation and thereby provide an opportunity for the subject of an investigation to conceal evidence, alter patterns of behavior, or take other actions that could thwart investigative efforts; reveal the identity of witnesses in investigations, thereby providing an opportunity for the subjects of the investigations or others to harass, intimidate, or otherwise interfere with the collection of evidence or other information from such witnesses; or reveal the identity of confidential informants, which would negatively affect the informant's usefulness in any ongoing or future investigations and discourage members of the public from cooperating as confidential informants in any future investigations.

(f) From subsections (e)(4)(G) and (H) (Agency Requirements) because portions of this system are exempt from the individual access provisions of subsection (d) for the reasons noted above, and therefore DHS is not required to establish requirements, rules, or procedures with respect to such access. Providing notice to individuals with respect to existence of records pertaining to them in the system of records or otherwise establishing procedures pursuant to which individuals may access and view records pertaining to themselves in the system would undermine investigative efforts and reveal the identities of witnesses, and potential witnesses, and confidential informants.

(g) From subsection (e)(5) (Collection of Information) because in the collection of information for law enforcement purposes it is impossible to determine in advance what information is accurate, relevant, timely, and complete. Compliance with (e)(5) would preclude DHS agents from using their investigative training and exercise of good judgment to both conduct and report on investigations.

(h) From subsection (e)(8) (Notice on Individuals) because compliance would interfere with DHS's ability to obtain, serve, and issue subpoenas, warrants, and other law enforcement mechanisms that may be filed under seal, and could result in disclosure of investigative techniques, procedures, and evidence.

(i) From subsection (g) to the extent that the system is exempt from other specific subsections of the Privacy Act relating to individuals' rights to access and amend their records contained in the system. Therefore DHS is not required to establish rules or procedures pursuant to which individuals may seek a civil remedy for the agency's: Refusal to amend a record; refusal to comply with a request for access to records; failure to maintain accurate, relevant, timely, and complete records; or failure to otherwise comply with an individual's right to access or amend records.

Dated: October 5, 2016.

Jonathan R. Cantor,

Acting Chief Privacy Officer, Department of Homeland Security.

[FR Doc. 2016–25209 Filed 10–19–16; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2016–9226; Directorate Identifier 2016–SW–065–AD]

RIN 2120–AA64

Airworthiness Directives; NavWorx, Inc. Automatic Dependent Surveillance Broadcast Universal Access Transceiver Units

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for NavWorx, Inc. (NavWorx) Automatic Dependent Surveillance Broadcast (ADS–B) Universal Access Transceiver Units (unit). This proposed AD would require removing the ADS–B unit and would prohibit installing the affected unit on any aircraft. This proposed AD is prompted by a design change for the unit to broadcast a Source Integrity Level (SIL) of 3 when the uncertified internal global positioning system (GPS) source necessitates a SIL of 0. The proposed actions are intended to prevent an ADS–B unit from

communicating unreliable position information to Air Traffic Control (ATC) and nearby aircraft, resulting in a potential aircraft collision.

DATES: We must receive comments on this proposed AD by December 19, 2016.

ADDRESSES: You may send comments by any of the following methods:

- *Federal eRulemaking Docket:* Go to *http://www.regulations.gov.* Follow the online instructions for sending your comments electronically.
- *Fax:* 202–493–2251.
- *Mail:* Send comments 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 20590–0001.
- *Hand Delivery:* Deliver to the ''Mail'' address between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

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–2016–9226; or in person at the Docket Operations Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the economic 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: Kyle Cobble, Aviation Safety Engineer, Fort Worth Aircraft Certification Office, Rotorcraft Directorate, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177, telephone (817) 222–5172, email *kyle.cobble@faa.gov;* or Michael Heusser, Program Manager, Continued Operational Safety Branch, Rotorcraft Directorate, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177, telephone (817) 222–5038, email *michael.a.heusser@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to participate in this rulemaking by submitting written comments, data, or views. We also invite comments relating to the economic, environmental, energy, or federalism impacts that might result from adopting the proposals in this document. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should send only one copy of written comments, or if comments are filed electronically, commenters should submit only one time.

We will file in the docket all comments that we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. Before acting on this proposal, we will consider all comments we receive on or before the closing date for comments. We will consider comments filed after the comment period has closed if it is possible to do so without incurring expense or delay. We may change this proposal in light of the comments we receive.

Discussion

NavWorx produces ADS–B units under Technical Standard Order (TSO) C–154c. NavWorx has implemented a design change by revising its software for ADS–B units, Model ADS600–B part number (P/N) 200–0012 and 200–0013 and Model ADS600–EXP P/N 200–8013. The design of the units includes an internal uncertified GPS source. ADS–B units with an uncertified GPS source are required to broadcast a SIL of 0. The software revision (version 4.0.6) resulted in the units broadcasting a SIL of 3. This design change was not approved by the FAA and rendered the units noncompliant with TSO–C154c. Because the ADS–B unit incorrectly broadcasts a SIL of 3 instead of 0, the unit could communicate unreliable position information to ATC and nearby aircraft, resulting in an aircraft collision.

NavWorx ADS–B units with P/N 200–0112 and 200–0113 are TSO–C154c compliant and are not the subject of this proposed AD.

FAA's Determination

We are proposing this AD because we evaluated all known relevant information and determined that an unsafe condition exists and is likely to exist or develop on other products of this same type design.

Proposed AD Requirements

This proposed AD would require removing the ADS–B unit before further flight and would also prohibit installing the affected ADS–B unit on any aircraft.

Costs of Compliance

We estimate that this proposed AD would affect approximately 800 ADS–B units installed on various aircraft of U.S. registry. Operators may incur the following costs in order to comply with this proposed AD. The average labor rate is $85 per work-hour and removing the ADS–B unit, if required, would take about 1 work-hour, for a total of $85 per aircraft.

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, I certify this proposed regulation:

1. Is not a ''significant regulatory action'' under Executive Order 12866;

2. Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979);

3. Will not affect intrastate aviation in Alaska to the extent that it justifies making a regulatory distinction; and

4. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared an economic evaluation of the estimated costs to comply with this proposed AD and placed it in the AD docket.

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator,

the FAA proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

NavWorx, Inc.: Docket No. FAA–2016–9226; Directorate Identifier 2016–SW–065–AD.

(a) Applicability

This AD applies to the following NavWorx, Inc., Automatic Dependent Surveillance-Broadcast (ADS–B) Universal Access Transceiver units (unit) installed on aircraft certificated in any category:

(1) Model ADS600–B part number (P/N) 200–0012;

(2) Model ADS600–B P/N 200–0013; and

(3) Model ADS600–EXP P/N 200–8013.

(b) Unsafe Condition

This AD defines the unsafe condition as an ADS–B unit incorrectly broadcasting a Source Integrity Level of 3 instead of 0. This condition could result in the unit communicating unreliable position information to Air Traffic Control and nearby aircraft and a subsequent aircraft collision.

(c) Comments Due Date

We must receive comments by December 19, 2016.

(d) Compliance

You are responsible for performing each action required by this AD within the specified compliance time unless it has already been accomplished prior to that time.

(e) Required Actions

(1) Before further flight, remove the ADS–B unit.

(2) After the effective date of this AD, do not install any ADS–B unit that is listed in the applicability of this AD on any aircraft.

(f) Alternative Methods of Compliance (AMOC)

(1) The Manager, Fort Worth Aircraft Certification Office, FAA, may approve AMOCs for this AD. Send your proposal to: Kyle Cobble, Aviation Safety Engineer, Fort Worth Aircraft Certification Office, Rotorcraft Directorate, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177, telephone (817) 222–5172, email *kyle.cobble@faa.gov;* or Michael Heusser, Program Manager, Continued Operational Safety Branch, Rotorcraft Directorate, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177, telephone (817) 222–5038, email *michael.a.heusser@faa.gov.*

(2) For operations conducted under a 14 CFR part 119 operating certificate or under 14 CFR part 91, subpart K, we suggest that you notify your principal inspector, or lacking a principal inspector, the manager of the local flight standards district office or certificate holding district office before operating any aircraft complying with this AD through an AMOC.

(g) Subject

Joint Aircraft Service Component (JASC) Code: 3452, ATC Transponder System.

Issued in Fort Worth, Texas, on October 11, 2016.

Lance T. Gant,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 2016–25255 Filed 10–19–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2016–9188; Directorate Identifier 2016–NM–102–AD]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to supersede Airworthiness Directive (AD) 2007–26–04, which applies to certain Boeing Model 737–100, –200, –200C, –300, –400, and –500 series airplanes. AD 2007–26–04 currently requires repetitive inspections for cracking around the heads of the fasteners on the forward fastener row of certain areas of a certain circumferential butt splice, and repair if necessary; and also requires a preventive modification, which eliminates the need for the repetitive inspections. Since we issued AD 2007–26–04, an evaluation by the design approval holder (DAH) indicating that the forward skin panel at a circumferential butt splice between certain stringers is subject to widespread fatigue damage (WFD). This proposed AD would remove the mandatory modification. It would add repetitive inspections of the skin for cracking at the aft fastener column and a one-time inspection for defects of the production countersunk rivets, and require corrective actions if necessary. It would also add an optional skin trim-out repair, which would terminate certain inspections. We are proposing this AD to prevent cracking of the station (STA) 259.5 circumferential butt splice, which could result in loss of structural integrity of the fuselage skin and possible loss of cabin pressure.

DATES: We must receive comments on this proposed AD by December 5, 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:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this NPRM, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, WA 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; Internet *https://www.myboeingfleet.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–2016–9188.

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–2016–9188; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (phone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Wade Sullivan, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office (ACO), 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6430; fax: 425–917–6590; email: *wade.sullivan@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about

this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2016–9188; Directorate Identifier 2016–NM–102–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

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

Discussion

Fatigue damage can occur locally, in small areas or structural design details, or globally, in widespread areas. Multiple-site damage is widespread damage that occurs in a large structural element such as a single rivet line of a lap splice joining two large skin panels. Widespread damage can also occur in multiple elements such as adjacent frames or stringers. Multiple-site damage and multiple-element damage cracks are typically too small initially to be reliably detected with normal inspection methods. Without intervention, these cracks will grow, and eventually compromise the structural integrity of the airplane. This condition is known as widespread fatigue damage. It is associated with general degradation of large areas of structure with similar structural details and stress levels. As an airplane ages, WFD will likely occur, and will certainly occur if the airplane is operated long enough without any intervention.

The FAA's WFD final rule (75 FR 69746, November 15, 2010) became effective on January 14, 2011. The WFD rule requires certain actions to prevent structural failure due to WFD throughout the operational life of certain existing transport category airplanes and all of these airplanes that will be certificated in the future. For existing and future airplanes subject to the WFD rule, the rule requires that DAHs establish a limit of validity (LOV) of the engineering data that support the structural maintenance program. Operators affected by the WFD rule may not fly an airplane beyond its LOV, unless an extended LOV is approved.

The WFD rule (75 FR 69746, November 15, 2010) does not require identifying and developing maintenance actions if the DAHs can show that such actions are not necessary to prevent WFD before the airplane reaches the LOV. Many LOVs, however, do depend on accomplishment of future maintenance actions. As stated in the WFD rule, any maintenance actions necessary to reach the LOV will be mandated by airworthiness directives through separate rulemaking actions.

In the context of WFD, this action is necessary to enable DAHs to propose LOVs that allow operators the longest operational lives for their airplanes, and still ensure that WFD will not occur. This approach allows for an implementation strategy that provides flexibility to DAHs in determining the timing of service information development (with FAA approval), while providing operators with certainty regarding the LOV applicable to their airplanes.

On December 10, 2007, we issued AD 2007–26–04, Amendment 39–15806 (72 FR 71216, December 17, 2007) (''AD 2007–26–04''), for certain Boeing Model 737–100, –200, –200C, –300, –400, and –500 series airplanes. AD 2007–26–04 currently requires repetitive inspections for cracking around the heads of the fasteners on the forward fastener row of certain areas of the STA 259.5 circumferential butt splice, and repair if necessary; and also requires a preventive modification, which eliminates the need for the repetitive inspections. AD 2007–26–04 resulted from a report of multiple cracks in the fuselage skin of a Model 737–200 airplane, at the forward fastener row of the STA 259.5 circumferential butt splice between stringers 19 and 24. We issued AD 2007–26–04 to prevent cracking of the STA 259.5 circumferential butt splice, which could result in loss of structural integrity of the fuselage skin and possible loss of cabin pressure.

Actions Since AD 2007–26–04 Was Issued

Since we issued AD 2007–26–04, an evaluation by the DAH indicated that the forward skin panel at STA 259.5 circumferential butt splice between stringers 19L and 24L is subject to WFD.

Related Service Information Under 1 CFR Part 51

We reviewed Boeing Alert Service Bulletin 737–53A1267, Revision 1, dated March 8, 2016 (''ASB 737–53A1267 R1''). The service information describes procedures for detailed inspections and high frequency eddy current (HFEC) surface inspections of the skin around the fastener heads for any crack on the forward and aft fastener columns, left and right sides, at STA 259.5 circumferential butt splice; a detailed inspection for any defect of the production countersunk rivet heads on both forward and aft fastener columns, left and right sides, at STA 259.5 circumferential butt splice; and corrective actions, including a skin trim-out repair and other repairs. 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

We are proposing this AD because we evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of these same type designs.

Proposed AD Requirements

Although this proposed AD does not explicitly restate the requirements of AD 2007–26–04, this proposed AD would retain certain requirements of AD 2007–26–04. Those requirements are referenced in the service information identified previously, which, in turn, is referenced in this proposed AD.

This proposed AD would also require accomplishing the actions specified in the service information described previously, except as discussed under ''Differences Between this Proposed AD and the Service Information.'' For information on the procedures and compliance times, see this service information at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–9188.

The phrase ''corrective actions'' is used in this proposed AD. Corrective actions correct or address any condition found. Corrective actions in an AD could include, for example, repairs.

Explanation of Applicability

Model 737 airplanes having line numbers 1 through 291 have a limit of validity (LOV) of 34,000 total flight cycles, and the actions proposed in this NPRM, as specified in ASB 737–53A1267 R1, would be required at a compliance time occurring after that LOV. Although operation of an airplane beyond its LOV is prohibited by 14 CFR 121.1115 and 129.115, this proposed AD would include those airplanes in the applicability in the event the LOV is extended in the future.

Differences Between This Proposed AD and the Service Information

ASB 737–53A1267 R1, specifies to contact the manufacturer for certain instructions, but this proposed AD

would require accomplishment of repair methods, modification deviations, and alteration deviations in one of the following ways:

- In accordance with a method that we approve; or
- Using data that meet the certification basis of the airplane, and that have been approved by the Boeing Commercial Airplanes Organization Designation Authorization (ODA) whom we have authorized to make those findings.

Costs of Compliance

We estimate that this proposed AD affects 115 airplanes of U.S. registry. We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspections	28 work-hours × $85 per hour = $2,380 per inspection cycle.	$0	$2,380 per inspection cycle	$273,700 per inspection cycle.

We have received no definitive data that would enable us to provide cost estimates for the optional skin-trim-out repair specified in this proposed AD.

We have received no definitive data that would enable us to provide cost estimates for the on-condition actions specified in this proposed 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 have determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that the proposed regulation:

(1) Is not a ''significant regulatory action'' under Executive Order 12866,

(2) Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979),

(3) Will not affect intrastate aviation in Alaska, and

(4) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2007–26–04, Amendment 39–15806 (72 FR 71216, December 17, 2007), and adding the following new AD:

The Boeing Company: Docket No. FAA–2016–9188; Directorate Identifier 2016–NM–102–AD.

(a) Comments Due Date

The FAA must receive comments on this AD action by December 5, 2016.

(b) Affected Ads

This AD replaces AD 2007–26–04, Amendment 39–15806 (72 FR 71216, December 17, 2007) (''AD 2007–26–04'').

(c) Applicability

This AD applies to The Boeing Company Model 737–100, –200, –200C, –300, –400, and –500 series airplanes, certificated in any category, as identified in Boeing Alert Service Bulletin 737–53A1267, Revision 1, dated March 8, 2016 (''ASB 737–53A1267 R1'').

(d) Subject

Air Transport Association (ATA) of America Code 53, Fuselage.

(e) Unsafe Condition

This AD was prompted by an evaluation by the design approval holder (DAH) indicating that the forward skin panel at station (STA) 259.5 circumferential butt splice between stringers 19L and 24L is subject to widespread fatigue damage (WFD). We are issuing this AD to prevent cracking of the STA 259.5 circumferential butt splice, which could result in loss of structural integrity of the fuselage skin and possible loss of cabin pressure.

(f) Compliance

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

(g) Actions for Group 2 Airplanes

For airplanes identified as Group 2 in ASB 737–53A1267 R1: Within 120 days after the effective date of this AD, inspect the airplane and do all applicable corrective actions using a method approved in accordance with the procedures specified in paragraph (k) of this AD.

(h) Inspections for Group 1 Airplanes

For airplanes identified as Group 1 in ASB 737–53A1267 R1: Except as specified in paragraph (j)(1) of this AD, at the applicable time specified in paragraph 1.E. ''Compliance'' of ASB 737–53A1267 R1, do the applicable actions specified in paragraphs (h)(1) and (h)(2) of this AD; and do all applicable corrective actions; in accordance with the Accomplishment Instructions of ASB 737–53A1267 R1, except as specified in paragraph (j)(2) of this AD. Do all applicable corrective actions before further flight. Repeat the applicable inspections specified in paragraph (h)(1) of this AD thereafter at the applicable intervals specified paragraph 1.E., ''Compliance,'' of ASB 737–53A1267 R1, except as provided by paragraph (i) of this AD.

(1) Do detailed inspections and high frequency eddy current (HFEC) surface inspections of the skin around the fastener heads for any crack on the forward and aft fastener columns, left and right sides, at STA 259.5 circumferential butt splice, in accordance with Parts 1, 2, 6, 7, 8, and 9 of

the Accomplishment Instructions of ASB 737–53A1267 R1, as applicable.

(2) Do a one-time detailed inspection for any defect of the production countersunk rivet heads on both forward and aft fastener columns, left and right sides, at STA 259.5 circumferential butt splice, in accordance with Part 3 of the Accomplishment Instructions of ASB 737–53A1267 R1.

(i) Optional Terminating Repairs

(1) For airplanes identified as Group 1, Configuration 1 in ASB 737–53A1267 R1: Doing the skin trim-out repair specified in Part 5 of the Accomplishment Instructions of ASB 737–53A1267 R1 terminates the repetitive inspections required by paragraph (h) of this AD that are specified in Part 1 of the Accomplishment Instructions of ASB 737–53A1267 R1 only; all other repetitive inspections required by paragraph (h) of this AD must be done, except as provided by paragraph (i)(2) of this AD.

(2) For airplanes identified as Group 1, Configuration 1 in ASB 737–53A1267 R1: Doing the skin repair specified in Part 4 of the Accomplishment Instructions of ASB 737–53A1267 R1, terminates the repetitive inspections required by paragraph (h) of this AD that are specified in Part 1 and Part 2 of the Accomplishment Instructions of ASB 737–53A1267 R1 for the repaired area only; all other repetitive inspections required by paragraph (h) of this AD must be done, except as provided by paragraph (i)(1) of this AD.

(j) Exceptions to Service Information

(1) Where paragraph 1.E., ''Compliance,'' of ASB 737–53A1267 R1, specifies a compliance time ''after the Revision 1 date of this service bulletin,'' this AD requires compliance within the specified compliance time after the effective date of this AD.

(2) Although ASB 737–53A1267 R1, specifies to contact Boeing for appropriate action, and specifies that action as ''RC'' (Required for Compliance), this AD requires repair before further flight using a method approved in accordance with the procedures specified in paragraph (k) of this AD.

(k) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Los Angeles Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to the attention of the person identified in paragraph (l)(1) of this AD. Information may be emailed to: *9-ANM-LAACO-ACO-AMOC-Requests@faa.gov.*

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(3) An AMOC that provides an acceptable level of safety may be used for any repair, modification, or alteration required by this AD if it is approved by the Boeing Commercial Airplanes Organization Designation Authorization (ODA) that has been authorized by the Manager, Los Angeles ACO, to make those findings. To be approved, the repair method, modification deviation, or alteration deviation must meet the certification basis of the airplane and the approval must specifically refer to this AD.

(4) AMOCs approved previously for AD 2007–26–04 are approved as AMOCs for the corresponding provisions of this AD.

(5) Except as required by paragraph (j)(2) of this AD: For service information that contains steps that are labeled as RC, the provisions of paragraphs (k)(5)(i) and (k)(5)(ii) of this AD apply.

(i) The steps labeled as RC, including substeps under an RC step and any figures identified in an RC step, must be done to comply with the AD. If a step or sub-step is labeled ''RC Exempt,'' then the RC requirement is removed from that step or sub-step. An AMOC is required for any deviations to RC steps, including substeps and identified figures.

(ii) Steps not labeled as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the RC steps, including substeps and identified figures, can still be done as specified, and the airplane can be put back in an airworthy condition.

(l) Related Information

(1) For more information about this AD, contact Wade Sullivan, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office (ACO), 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6430; fax: 425–917–6590; email: *wade.sullivan@faa.gov.*

(2) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, WA 98124–2207; telephone 206–544–5000, extension 1; fax 206–66–5680; Internet *https://www.myboeingfleet.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on September 30, 2016.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2016–24262 Filed 10–19–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2016–9186; Directorate Identifier 2015–NM–160–AD]

RIN 2120–AA64

Airworthiness Directives; BAE Systems (Operations) Limited

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to supersede Airworthiness Directive (AD) 2012–16–08, for certain BAE Systems (Operations) Limited Model BAe 146 and Avro 146–RJ series airplanes. AD 2012–16–08 currently requires repetitive detailed inspections for bulging, surface anomalies, and cracking of the fuselage skin adjacent to the discharge valves, and repair and application of additional sealant in the affected area if necessary. Since we issued AD 2012–16–08, it was found that airplanes on which a certain modification was incorporated during production were excluded from the applicability, but are also affected by the condition that precipitated AD 2012–16–08. This proposed AD would retain the requirements of AD 2012–16–08, expand the applicability, and require an additional one-time inspection for the presence of water traps/air driers to determine which airplanes must be inspected. We are proposing this AD to detect and correct bulging, surface anomalies, and cracking that could propagate towards the forward discharge valve outlet and result in the failure of the fuselage skin, leading to a possible sudden loss of cabin pressure and injury to occupants.

DATES: We must receive comments on this proposed AD by December 5, 2016.

ADDRESSES: You may send comments by any of the following methods:

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

For service information identified in this NPRM, contact BAE Systems (Operations) Limited, Customer Information Department, Prestwick International Airport, Ayrshire, KA9 2RW, Scotland, United Kingdom; telephone +44 1292 675207; fax +44 1292 675704; email *RApublications@baesystems.com;* Internet *http://www.baesystems.com/Businesses/RegionalAircraft/index.htm.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

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–2016–9186; 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: Theodore Thompson, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1175; 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–2016–9186; Directorate Identifier 2015–NM–160–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

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

Discussion

On July 31, 2012, we issued AD 2012–16–08, Amendment 39–17155 (77 FR 48420, August 14, 2012) (''AD 2012–16–08''). AD 2012–16–08 requires repetitive detailed inspections for bulging, surface anomalies, and cracking of the fuselage skin adjacent to the discharge valves, and repair and application of additional sealant in the affected area if necessary.

Since we issued AD 2012–16–08, it was found that airplanes that have incorporated auto-pressurization modification No. HCM50259A during production, which were excluded from the applicability, are also affected by this condition. In addition, and in order to simplify instructions and determine affected airplanes, BAE Systems (Operations) Limited issued BAE Systems (Operations) Limited Inspection Service Bulletin ISB.21–162, Revision 4, dated January 28, 2015, introducing a one-time inspection to determine if water trap/air driers are installed.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA Airworthiness Directive 2015–0180, dated August 28, 2015 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for all BAE Systems (Operations) Limited Model BAe 146 series airplanes and Model Avro 146–RJ series airplanes. The MCAI states:

> An operator reported finding cracking and surface anomalies (bulges and/or dents) of the fuselage skin at the water trap/air drier unit of the forward discharge valve, located between fuselage frame (FR) 22 and FR23 and between stringers 22 and 23. Further investigation established that these surface anomalies were due to corrosion beneath the water trap/air drier unit that has resulted in cracking of the fuselage skin
>
> This condition, if not detected and corrected, could lead to failure of the fuselage skin, possibly resulting in loss of cabin pressure and injury to occupants.
>
> To address this potential unsafe condition, EASA issued AD 2011–0099 [which corresponds to FAA AD 2012–16–08] to require repetitive detailed visual inspections (DVI) of the fuselage skin adjacent to the front and rear discharge valves to check for bulging, surface anomalies and cracking, and, depending on findings, accomplishment of applicable corrective action(s), and the application of additional sealant in the affected area.
>
> Since that [EASA] AD was issued, it was found that aeroplanes that have incorporated auto-pressurisation modification No. HCM50259A during production, which were excluded from the Applicability, were also affected by this condition.
>
> In addition, and in order to simplify instructions for applicability, BAE Systems (Operations) Limited issued Revision 4 of Inspection Service Bulletin (ISB) No. 21–162, introducing a one-time inspection to identify if water trap/air driers are installed.
>
> For the reasons described above, this [EASA] AD retains the requirements of EASA AD 2011–0099, which is superseded, expands the Applicability and requires the additional one-time inspection as specified in the latest ISB revision.

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–2016–9186.

Related Service Information Under 1 CFR Part 51

BAE Systems (Operations) Limited has issued BAE Systems (Operations) Limited Service Bulletin ISB.21–162, Revision 4, dated January 28, 2015. The service information describes procedures for a visual inspection of the internal fuselage at the location of the water trap/air driers to determine if water trap/air driers are installed; an external DVI for bulging, surface anomalies, and cracking of the fuselage skin adjacent to the forward and rear discharge valve outlets; repair; and sealant application.

BAE Systems (Operations) Limited has also issued the following service information, which describes procedures for structural repairs.

- Subject 53–00–00, ''Fuselage, General Description,'' of Chapter 53, ''Fuselage,'' of the BAE SYSTEMS BAe 146 Series/AVRO 146–RJ Series Structural Repair Manual for Series 100–200, Revision 68, dated October 15, 2014.
- Subject 53–00–00, ''Fuselage, General Description,'' of Chapter 53, ''Fuselage,'' of the BAe SYSTEMS BAE 146 Series/AVRO 146–RJ Series Structural Repair Manual for Series 300, Revision 46, dated October 15, 2014.

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.

Costs of Compliance

We estimate that this proposed AD affects 4 airplanes of U.S. registry.

The actions required by AD 2012–16–08 and retained in this proposed AD take about 8 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 2012–16–08 is $680 per product.

We also estimate that it would take about 8 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is $85 per work-hour. Based on these figures, we estimate the cost of this proposed AD on U.S. operators to be $2,720, or $680 per product.

We have received no definitive data that would enable us to provide cost estimates for the on-condition actions specified in this proposed 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 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 removing Airworthiness Directive (AD) 2012–16–08, Amendment 39–17155 (77 FR 48420, August 14, 2012), and adding the following new AD:

BAE Systems (Operations) Limited: Docket No. FAA–2016–9186; Directorate Identifier 2015–NM–160–AD.

(a) Comments Due Date

We must receive comments by December 5, 2016.

(b) Affected ADs

This AD replaces AD 2012–16–08, Amendment 39–17155 (77 FR 48420, August 14, 2012) (''AD 2012–16–08'').

(c) Applicability

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

(1) BAE Systems (Operations) Limited Model BAe 146–100A, –200A, and –300A airplanes.

(2) BAE Systems (Operations) Limited Model Avro 146–RJ70A, 146–RJ85A, and 146–RJ100A airplanes.

(d) Subject

Air Transport Association (ATA) of America Code 21, Air Conditioning.

(e) Reason

This AD was prompted by reports of cracking and surface anomalies of the fuselage skin at the water trap/air drier unit of the forward discharge valve due to corrosion, and the determination that airplanes on which auto-pressurization modification No. HCM50259A was incorporated during production were excluded from the applicability of AD 2012–16–08, but are also affected by this condition. We are issuing this AD to detect and correct bulging, surface anomalies, and cracking that could propagate towards the forward discharge valve outlet and result in the failure of the fuselage skin, leading to a possible sudden loss of cabin pressure and injury to occupants.

(f) Compliance

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

(g) Retained Detailed Inspection of External Fuselage Skin, With Specific Delegation Approval Language

This paragraph restates the requirements of paragraph (g) of AD 2012–16–08, with specific delegation approval language. For all airplanes except airplanes that have incorporated auto-pressurization modification HCM50259A during production: Within 12 months after September 18, 2012 (the effective date of AD 2012–16–08), do a detailed inspection to check for bulging, surface anomalies, and cracking of the fuselage skin adjacent to the discharge valve outlets (one frame fore and aft, one stringer above and below), in accordance with the Accomplishment Instructions of BAE Systems (Operations) Limited Inspection Service Bulletin ISB.21–162, Revision 1, dated September 16, 2010. Repeat the inspection thereafter at intervals not to exceed 24 months.

(1) If any bulging, surface anomalies, or cracking of the fuselage skin is found to be within the criteria defined in Subject 53–00–00, ''Fuselage, General Description,'' of Chapter 53, ''Fuselage,'' of the BAE SYSTEMS BAe 146 Series/AVRO 146–RJ Series Structural Repair Manual for Series 100–200, Revision 66, dated October 15, 2011 (for Model 146–100A and –200A, and Avro 146–RJ70A and 146–RJ85A airplanes); or Subject 53–00–00, ''Fuselage, General Description,'' of Chapter 53, ''Fuselage,'' of the BAe SYSTEMS BAE 146 Series/AVRO 146–RJ Series Structural Repair Manual for Series 300, Revision 44, dated October 15, 2011 (for Model 146–300A and Avro 146–RJ100A airplanes): Before further flight, repair the damage, in accordance with the Accomplishment Instructions specified in BAE Systems (Operations) Limited Inspection Service Bulletin ISB.21–162, Revision 1, dated September 16, 2010.

(2) If any bulging, surface anomalies, or cracking of the fuselage skin is found exceeding the criteria specified by Subject 53–00–00, ''Fuselage, General Description,'' of Chapter 53, ''Fuselage,'' of the BAE SYSTEMS BAe 146 Series/AVRO 146–RJ Series Structural Repair Manual for Series 100–200, Revision 66, dated October 15, 2011 (for Model 146–100A and –200A, and Avro 146–RJ70A and 146–RJ85A airplanes); or Subject 53–00–00, ''Fuselage, General Description,'' of Chapter 53, ''Fuselage,'' of the BAE SYSTEMS BAE 146 Series/AVRO 146–RJ Series Structural Repair Manual for Series 300, Revision 44, dated October 15, 2011 (for Model 146–300A and Avro 146–RJ100A airplanes): Before further flight,

repair the condition according to a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the European Aviation Safety Agency (EASA); or BAE Systems (Operations) Limited's EASA Design Organization Approval (DOA).

(h) Retained Application of Sealant, With No Changes

This paragraph restates the requirements of paragraph (h) of AD 2012–16–08, with no changes. For all airplanes except airplanes on which auto-pressurization modification HCM50259A was incorporated during production: Within 24 months after September 18, 2012 (the effective date of AD 2012–16–08), unless a repair has already been accomplished in accordance with paragraph (g) of this AD, apply additional PR1422A–2 or PR1764B–2 edge sealant between the water trap/air drier and the fuselage skin, in accordance with the Accomplishment Instructions of BAE Systems (Operations) Limited Inspection Service Bulletin ISB.21–162, Revision 1, dated September 16, 2010. Application of additional sealant does not constitute terminating action for the repetitive detailed inspections required by paragraph (g) of this AD. Accomplishment of a repair as required by paragraph (g) of this AD terminates the repetitive inspection requirements of paragraph (g) of this AD.

(i) New Requirement of This AD: Inspection for Water Traps/Air Driers

Within 12 months after the effective date of this AD, inspect the airplane to determine whether water traps/air driers are installed, in accordance with paragraph 2.C of BAE Systems (Operations) Limited Service Bulletin ISB.21–162, Revision 4, dated January 28, 2015 (''ISB.21–162 R4''). If there are no water traps/air driers installed on an airplane, then no further inspections are required by this AD, except as required by paragraph (n) of this AD.

(j) New Requirement of This AD: Repetitive Inspections

For airplanes that have water traps/air driers installed, determined as required by paragraph (i) of this AD: Within 12 months after the effective date of this AD, accomplish a detailed visual inspection for bulging, surface anomalies, and cracking of the external fuselage skin adjacent to the discharge valve outlets (one frame bay fore and aft, one stringer above and below), in accordance with the Accomplishment Instructions of paragraph 2.C. of ISB.21–162 R4. Repeat the inspection of the external fuselage skin adjacent to the discharge valve outlets thereafter at intervals not to exceed 24 months. Accomplishing an inspection required by this paragraph terminates the inspections required by paragraph (g) of this AD.

(k) New Requirement of This AD: Corrective Actions

If, during any detailed visual inspection required by paragraph (j) of this AD, any bulging, surface anomalies, or cracking is found, before further flight, accomplish the applicable corrective action as specified in paragraphs (k)(1) and (k)(2) this AD.

(1) If any bulging, surface anomalies, or cracking is found to be within the criteria as specified in the applicable service information specified in paragraph (k)(1)(i) or (k)(1)(ii) of this AD, before further flight, repair in accordance with the Accomplishment Instructions of paragraph 2.G. of ISB.21–162 R4.

(i) For Model BAe 146–100A and –200A airplanes, and Model Avro 146–RJ70A and 146–RJ85A airplanes: Subject 53–00–00, ''Fuselage, General Description,'' of Chapter 53, ''Fuselage,'' of the BAE SYSTEMS BAe 146 Series/AVRO 146–RJ Series Structural Repair Manual for Series 100–200, Revision 68, dated October 15, 2014.

(ii) For Model BAe 146–300A airplanes and Model Avro 146–RJ100A airplanes: Subject 53–00–00, ''Fuselage, General Description,'' of Chapter 53, ''Fuselage,'' of the BAe SYSTEMS BAE 146 Series/AVRO 146–RJ Series Structural Repair Manual for Series 300, Revision 46, dated October 15, 2014.

(2) If any bulging, surface anomalies, or cracking is found exceeding the criteria as specified in the applicable service information specified in paragraph (k)(1)(i) or (k)(1)(ii) of this AD, before further flight, repair using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or EASA; or BAE Systems (Operations) Limited's EASA DOA.

(l) New Requirement of This AD: Application of Sealant

Within 24 months after the effective date of this AD, unless a repair has already been accomplished as required by paragraph (k) of this AD, apply additional sealant, in accordance with the Accomplishment Instructions of paragraph 2.C.(3) of ISB.21–162 R4. Application of additional sealant on an airplane does not constitute terminating action for the repetitive inspections required by paragraph (j) of this AD for that airplane.

(m) New Terminating Action for Inspections Required by Paragraph (j) of This AD

Accomplishment of a repair on the forward (FWD) or aft (AFT) position as required by paragraph (k) of this AD constitutes terminating action for the repetitive inspections required by paragraph (j) of this AD for that FWD or AFT position.

(n) New Requirement of This AD: Actions for Airplanes on Which Water Trap/Air Driers Are Installed After the Effective Date of This AD

For airplanes that, determined as required by paragraph (i) of this AD, do not have water traps/air driers installed: If water traps/air driers are installed in service after the effective date of this AD, accomplish the actions required by paragraphs (j), (k), and (l) of this AD on that airplane within the applicable compliance times specified in paragraphs (j), (k), and (l) of this AD; except that where paragraphs (j) and (l) of this AD refer to ''the effective date of this AD,'' this AD requires compliance within the specified compliance time after the installation of water traps/air driers.

(o) Credit for Previous Actions

(1) This paragraph provides credit for inspections and sealant applications required by paragraphs (g) and (h) of this AD, if those actions were performed before September 18, 2012 (the effective date of AD 2012–16–08), using BAE SYSTEMS (OPERATIONS) LIMITED Inspection Service Bulletin ISB.21–162, dated June 7, 2010.

(2) This paragraph provides credit for using criteria defined in the following subject of the applicable structural repair manual, as required by paragraphs (g)(1) and (g)(2) of this AD, if those criteria were used before September 18, 2012 (the effective date of AD 2012–16–08), using Subject 53–00–00, ''Fuselage, General—Description,'' of Chapter 53, ''Fuselage,'' of the BAE SYSTEMS BAe 146 Series/AVRO 146–RJ Series Structural Repair Manual for Series 100–200, Revision 65, dated September 15, 2010 (for Model 146–100A and –200A, and Avro 146–RJ70A and 146–RJ85A airplanes); or Subject 53–00–00, ''Fuselage, General—Description,'' of Chapter 53, ''Fuselage,'' of the BAE SYSTEMS BAe 146 Series/AVRO 146–RJ Series Structural Repair Manual for Series 300, Revision 43, dated September 15, 2010 (for Model 146–300A and Avro 146–RJ100A airplanes).

(3) This paragraph provides credit for actions required by paragraphs (i), (j), and (l) of this AD, if those actions were performed before the effective date of this AD using any of the service information specified in paragraphs (i)(3)(i) through (i)(3)(iv) of this AD.

(i) BAE Systems (Operations) Limited Inspection Service Bulletin ISB.21–162, dated June 7, 2010.

(ii) BAE Systems (Operations) Limited Inspection Service Bulletin ISB.21–162, Revision 1, dated September 16, 2010.

(iii) BAE Systems (Operations) Limited Inspection Service Bulletin ISB.21–162, Revision 2, dated December 12, 2012.

(iv) BAE Systems (Operations) Limited Inspection Service Bulletin ISB.21–162, Revision 3, dated January 15, 2013.

(p) 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: Theodore Thompson, Aerospace Engineer, telephone 425–227–1175; fax 425–227–1149. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

(2) 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 European Aviation Safety Agency (EASA); or BAE Systems (Operations) Limited's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(q) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA Airworthiness Directive 2015–0180, dated August 28, 2015, 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–2016–9186.

(2) For service information identified in this AD, contact BAE Systems (Operations) Limited, Customer Information Department, Prestwick International Airport, Ayrshire, KA9 2RW, Scotland, United Kingdom; telephone +44 1292 675207; fax +44 1292 675704; email *RApublications@baesystems.com;* Internet *http://www.baesystems.com/Businesses/RegionalAircraft/index.htm.* 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 September 28, 2016.

Dionne Palermo,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2016–24201 Filed 10–19–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 41, 48, and 145

[REG–103380–05]

RIN 1545–BE31

Excise Tax; Tractors, Trailers, Trucks, and Tires; Definition of Highway Vehicle; Hearing

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of a public hearing on notice of proposed rulemaking.

SUMMARY: This document provides a notice of public hearing on proposed regulations relating to the excise taxes imposed on the sale of highway tractors, trailers, trucks, and tires; the use of heavy vehicles on the highway; and the definition of highway vehicle related to these and other taxes.

DATES: The public hearing is being held on Monday, November 21, 2016, at 10:00 a.m. The IRS must receive outlines of the topics to be discussed at the public hearing by Monday, November 7, 2016.

ADDRESSES: The public hearing is being held in the IRS Auditorium, Internal Revenue Service Building, 1111 Constitution Avenue NW., Washington, DC 20224. Due to building security procedures, visitors must enter at the Constitution Avenue entrance. In addition, all visitors must present photo identification to enter the building.

Send Submissions to CC:PA:LPD:PR (REG–103380–05), Room 5205, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered Monday through Friday to CC:PA:LPD:PR (REG–103380–05), Couriers Desk, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224 or sent electronically via the Federal eRulemaking Portal at *www.regulations.gov* (IRS REG–103380–05).

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Celia Gabrysh (202) 317–6855; concerning submissions of comments, the hearing and/or to be placed on the building access list to attend the hearing Regina Johnson at (202) 317–6901 (not toll-free numbers).

SUPPLEMENTARY INFORMATION: The subject of the public hearing is the notice of proposed rulemaking (REG–103380–05) that was published in the **Federal Register** on Thursday, March 31, 2016 (81 FR 18544).

The rules of 26 CFR 601.601(a)(3) apply to the hearing. Persons who wish to present oral comments at the hearing that submitted written comments by June 29, 2016, must submit an outline of the topics to be addressed and the amount of time to be devoted to each topic by Monday, November 7, 2016.

A period of 10 minutes is allotted to each person for presenting oral comments. After the deadline for receiving outlines has passed, the IRS will prepare an agenda containing the schedule of speakers. Copies of the agenda will be made available, free of charge, at the hearing or by contacting the Publications and Regulations Branch at (202) 317–6901 (not a toll-free number).

Because of access restrictions, the IRS will not admit visitors beyond the immediate entrance area more than 30 minutes before the hearing starts. For information about having your name placed on the building access list to attend the hearing, see the **FOR FURTHER INFORMATION CONTACT** section of this document.

Martin V. Franks,

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

[FR Doc. 2016–25376 Filed 10–19–16; 8:45 am]

BILLING CODE 4830–01–P

Notices

Federal Register

Vol. 81, No. 203

Thursday, October 20, 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 October 26, 2016 President's Global Development Council Meeting

AGENCY: United States Agency for International Development.

ACTION: Notice of meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, notice is hereby given of a meeting of the President's Global Development Council (GDC).

Date: Wednesday, October 26, 2016.

Time: 11:30–1:30 p.m.

Location: National Press Club Ballroom, 13th Floor, 529 14th Street NW., Washington, DC 20045.

Agenda

The purpose of the meeting is to solicit public input on key global development issues. The meeting will begin with opening remarks, followed by a panel presentation from GDC members on recommendations for U.S. development policies and practices, and the opportunity for public comment. The full meeting agenda will be forthcoming on *https://www.usaid.gov/who-we-are/global-development-council.*

Stakeholders

The meeting is free and open to the public. Persons wishing to attend should register online at *https://www.usaid.gov/who-we-are/global-development-council.*

FOR FURTHER INFORMATION CONTACT: Jayne Thomisee, *gdc@usaid.gov.*

Dated: October 11, 2016.

Jayne Thomisee,

Executive Director & Policy Advisor, U.S. Agency for International Development.

[FR Doc. 2016–25366 Filed 10–19–16; 8:45 am]

BILLING CODE P

DEPARTMENT OF AGRICULTURE

Forest Service

Request for Applications: The Community Forest and Open Space Conservation Program

AGENCY: Forest Service, USDA.

ACTION: Request for applications.

SUMMARY: The U.S. Department of Agriculture, Forest Service, State and Private Forestry, Cooperative Forestry staff, requests applications for the Community Forest and Open Space Conservation Program (Community Forest Program or CFP). This is a competitive grant program whereby local governments, qualified nonprofit organizations, and Indian tribes are eligible to apply for grants to establish community forests through fee simple acquisition of private forest land from a willing seller. The purpose of the program is to establish community forests by protecting forest land from conversion to non-forest uses and provide community benefits such as sustainable forest management, environmental benefits including clean air, water, and wildlife habitat; benefits from forest-based educational programs; benefits from serving as models of effective forest stewardship; and recreational benefits secured with public access.

Eligible lands for grants funded under this program are private forest that is at least five acres in size, suitable to sustain natural vegetation, and at least 75 percent forested. The lands must also be threatened by conversion to non-forest uses, must not be held in trust by the United States on behalf of any Indian Tribe, must not be Tribal allotment lands, must be offered for sale by a willing seller, and if acquired by an eligible entity, must provide defined community benefits under CFP and allow public access.

DATES: Interested local government and nonprofit applicants must submit applications to the State Forester. Tribal applicants must submit applications to the appropriate Tribal government officials. All applications, either hardcopy or electronic, must be received by State Foresters or Tribal governments by January 13, 2017. State Foresters or Tribal government officials must forward applications to the Forest Service Region, Northeastern Area or International Institute of Tropical Forestry by February 17, 2017.

ADDRESSES: All local government and qualified nonprofit organization applications must be submitted to the State Forester of the State where the property is located. All Tribal applications must be submitted to the equivalent Tribal government official. Applicants are encouraged to contact and work with the Forest Service Region, Northeastern Area or International Institute of Tropical Forestry, and State Forester or equivalent Tribal government official when developing their proposal. Applicants must consult with the State Forester and equivalent Tribal government official prior to requesting technical assistance for a project. The State Forester's member roster may be found on *www.stateforesters.org/about/who-we-are.* All applicants must also send an email to *communityforest@fs.fed.us* to confirm an application has been submitted for funding consideration.

State Foresters and Tribal government officials shall submit applications, either electronic or hardcopy, to the appropriate Forest Service Regional/Area/Institute contact noted below.

Northern and Intermountain Regions

Regions 1 and 4

(ID, MT, ND, NV, UT)

Janet Valle, U.S. Forest Service, 324 25th St., Ogden, UT 84401, 801–625–5258 (phone), 801–625–5716 (fax), *jvalle@fs.fed.us.*

Rocky Mountain Region

Region 2

(CO, KS, NE, SD, WY)

Claire Harper, U.S. Forest Service, 740 Simms Street, Golden, CO 80401, 303–895–6157 (phone), 303–275–5754 (fax), *claireharper@fs.fed.us.*

Southwestern Region

Region 3

(AZ, NM)

Alicia San Gil, U.S. Forest Service, 333 Broadway SE., Albuquerque, NM 87102, 505–842–3289 (phone), 505–842–3165 (fax), *agsangil@fs.fed.us.*

Pacific Southwest Region

Region 5

(CA)

Paula Randler, U.S. Forest Service, 1323 Club Drive, Vallejo, CA 94592, 707–562–8875 (phone), 707–562–9054 (fax), *pbrandler@fs.fed.us.*

(Hawaii, Guam, American Samoa, Federated States of Micronesia and other Pacific Islands)

Katie Friday, 60 Nowelo St., Hilo, HI 96720, 808–854–2620 (phone), 503–808–2469 (fax), *kfriday@fs.fed.us.*

Pacific Northwest, and Alaska Regions

Regions 6 and 10

(AK, OR, WA)

Brad Siemens, U.S. Forest Service, 120 Southwest 3rd Ave., Portland, OR 97204, 503–808–2353 (phone), 503–808–2469 (fax), *btsiemens@fs.fed.us.*

Southern Region

Region 8

(AL, AR, FL, GA, KY, LA, MS, NC, OK, SC, TN, TX, VA)

Mike Murphy, U.S. Forest Service, 1720 Peachtree Rd. NW., Suite 700B 850S North, Atlanta, GA 30309, 404–347–5214 (phone), 404–347–2776 (fax), *mwmurphy@fs.fed.us.*

International Institute of Tropical Forestry

(PR, VI)

Magaly Figueroa, U.S. Forest Service, Jardin Botanico Sur, 1201 Calle Ceiba, San Juan, PR 00926–1119, 787–764–7718 (phone), 787–766–6263 (fax), *mafigueroa@fs.fed.us.*

Northeastern Area

(CT, DC, DE, IA, IL, IN, MA, MD, ME, MI, MN, MO, NH, NJ, NY, OH, PA, RI, VT, WI, WV)

Neal Bungard, U.S. Forest Service, 271 Mast Road, Durham, NH 03824–4600, 603–868–7719 (phone), 603–868–7604 (fax), *nbungard@fs.fed.us.*

FOR FURTHER INFORMATION: For questions regarding the grant application or administrative regulations, contact Scott Stewart, Program Coordinator, 202–205–1618, *sstewart@fs.fed.us.*

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339 twenty-four hours a day, every day of the year, including holidays.

SUPPLEMENTARY INFORMATION:

CFDA Number 10.689: To address the goals of Section 7A of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2103d) as amended, the Forest Service is requesting proposals for community forest projects that protect forest land that has been identified as a national, regional, or local priority for protection and to assist communities in acquiring forestland that will provide public recreation, environmental and economic benefits, and forest-based educational programs.

Detailed information regarding what to include in the application, definitions of terms, eligibility, and necessary prerequisites for consideration can be found in the final program rule, published October 20, 2011 (76 FR 65121–65133), which is available at *www.fs.fed.us/spf/coop/programs/loa/cfp.shtml* and at *www.grants.gov (Opportunity number CFP-FS-1002017).*

Grant Application Requirements

1. Eligibility Information

a. *Eligible Applicants.* A local governmental entity, Indian Tribe (including Alaska Native Corporations), or a qualified nonprofit organization that is qualified to acquire and manage land (see § 230.2 of the final rule). Individuals are not eligible to receive funds through this program.

b. *Cost Sharing (Matching Requirement).* All applicants must demonstrate a 50 percent match of the total project cost. The match can include cash, in-kind services, or donations, which shall be from a non-Federal source. For additional information, please see § 230.6 of the final rule at *www.fs.fed.us/spf/coop/programs/loa/cfp.shtml.*

c. *DUNS Number.* All applicants shall include a Data Universal Numbering System (DUNS) number in their application. For this requirement, the applicant is the entity that meets the eligibility criteria and has the legal authority to apply for and receive the grant. For assistance in obtaining a DUNS number at no cost, call the DUNS number request line 1–866–705–5711 or register on-line at *http://fedgov.dnb.com/webform.*

d. *System for Award Management.* All prospective awardees shall be registered in the System for Award Management prior to award, during performance, and through final payment of any grant resulting from this solicitation. Further information can be found at *www.sam.gov.* For assistance, contact Federal Service Desk 1–866–606–8220.

2. Award Information

The Administration proposed to fund the CFP at $2 million for fiscal year 2017. Individual grant applications may not exceed $400,000, which does not include technical assistance requests. The Federal Government's obligation under this program is contingent upon the availability of appropriated funds.

No legal liability on the part of the Government shall be incurred until funds are committed by the grant officer for this program to the applicant in writing. The initial grant period shall be for two years, and acquisition of lands should occur within that timeframe. Lands acquired prior to the grant award are not eligible for CFP funding. The grant may be reasonably extended by the Forest Service when necessary to accommodate unforeseen circumstances in the land acquisition process. Written annual financial performance reports and semi-annual project performance reports shall be required and submitted to the appropriate grant officer.

Technical assistance funds, totaling not more than 10 percent of all funds, may be allocated to State Foresters and equivalent officials of the Indian tribe. Technical assistance, if provided, will be awarded at the time of the grant. Applicants shall work with State Foresters and equivalent officials of the Indian Tribe to determine technical assistance needs and include the technical assistance request in the project budget.

As funding allows, applications submitted through this request may be funded in future years, subject to the availability of funds and the continued feasibility and viability of the project.

3. Application Information

Application submission. All local governments and qualified nonprofit organizations' applications must be submitted to the State Forester where the property is located by January 13, 2017. All Tribal applications must be submitted to the equivalent Tribal officials by January 13, 2017. Applications may be submitted either electronic or hardcopy to the appropriate official. The State Forester's contact information may be found at *http://www.fs.fed.us/spf/coop/programs/loa/cfp.shtml.*

All applicants must also send an email to *communityforest@fs.fed.us* to confirm an application has been submitted to the State Forester or equivalent Tribal official for funding consideration.

All State Foresters and Tribal government officials must forward applications to the Forest Service by February 17, 2017.

4. Application Requirements

The following section outlines grant application requirements:

a. The application can be no more than eight pages long, plus no more than two maps (eight and half inches by eleven inches in size), the grant forms specified in (b), and the draft community forest plan specified in (d).

b. The following grant forms and supporting materials must be included in the application:

(1) An Application for Federal Assistance (Standard Form 424);

(2) Budget information (Standard Form SF 424c—Construction Programs); and

(3) Assurances of compliance with all applicable Federal laws, regulations, and policies (Standard Form 424d—Construction Programs).

c. Documentation verifying that the applicant is an eligible entity and that the land proposed for acquisition is eligible (see § 230.2 of the final rule).

d. Applications must include the following, regarding the property proposed for acquisition:

(1) A description of the property, including acreage and county location;

(2) A description of current land uses, including improvements;

(3) A description of forest type and vegetative cover;

(4) A map of sufficient scale to show the location of the property in relation to roads and other improvements as well as parks, refuges, or other protected lands in the vicinity;

(5) A description of applicable zoning and other land use regulations affecting the property;

(6) A description of the type and extent of community benefits, including to underserved communities (see selection criteria);

(7) A description of relationship of the property within and its contributions to a landscape conservation initiative; and

(8) A description of any threats of conversion to non-forest uses, including any encumbrances on the property that prevent conversion to non-forest uses.

e. Information regarding the proposed establishment of a community forest, including:

(1) A description of the benefiting community, including demographics, and the associated benefits provided by the proposed land acquisition;

(2) A description of community involvement to-date in the planning of the community forest acquisition and of community involvement anticipated long-term management;

(3) An identification of persons and organizations that support the project and their specific role in establishing and managing the community forest; and

(4) A draft community forest plan. The eligible entity is encouraged to work with the State Forester or equivalent Tribal government official for technical assistance when developing or updating the Community Forest Plan. In addition, the eligible entity is encouraged to work with technical specialists, such as professional foresters, recreation specialists, wildlife biologists, or outdoor education specialists, when developing the Community Forest Plan.

f. Information regarding the proposed land acquisition, including:

(1) A proposed project budget not exceeding $400,000 and technical assistance needs as coordinated with the State Forester or equivalent Tribal government official (section § 230.6 of the final program rule);

(2) The status of due diligence, including signed option or purchase and sale agreement, title search, minerals determination, and appraisal;

(3) Description and status of cost share (secure, pending, commitment letter, etc. (section § 230.6 of the final rule);

(4) The status of negotiations with participating landowner(s) including purchase options, contracts, and other terms and conditions of sale;

(5) The proposed timeline for completing the acquisition and establishing the community forest; and;

(6) Long term management costs and funding source(s).

g. Applications must comply with the United States Department of Agriculture's Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards also referred to as the Omni Circular (2 CFR 400).

h. Applications must also include the forms required to process a Federal grant. Section 6 *Grant Requirements* references the grant forms that must be included in the application and the specific administrative requirements that apply to the type of Federal grant used for this program.

A sample grant outline and scoring guidance can be found on the CFP Web site at: *http://www.fs.fed.us/spf/coop/programs/loa/cfp.shtml.*

5. Forest Service's Project Selection Criteria

a. Using the criteria described below, to the extent practicable, the Forest Service will give priority to applications that maximize the delivery of community benefits, as defined in the final rule (see section § 230.2 of the final rule); and

b. The Forest Service will evaluate all applications received by the State Foresters or equivalent Tribal government officials and award grants based on the following criteria:

(1) Type and extent of community benefits provided, including to underserved communities. Community benefits are defined in the final program rule as:

(i) Economic benefits, such as timber and non-timber products;

(ii) Environmental benefits, including clean air and water, stormwater management, and wildlife habitat;

(iii) Benefits from forest-based experiential learning, including K–12 conservation education programs; vocational education programs in disciplines such as forestry and environmental biology; and environmental education through individual study or voluntary participation in programs offered by organizations such as 4–H, Boy or Girl Scouts, Master Gardeners, etc.;

(iv) Benefits from serving as replicable models of effective forest stewardship for private landowners; and

(v) Recreational benefits such as hiking, hunting and fishing secured through public access.

(2) Extent and nature of community engagement in the establishment and long-term management of the community forest;

(3) Amount of cost share leveraged;

(4) Extent to which the community forest contributes to a landscape conservation initiative;

(5) Extent of due diligence completed on the project, including cost share committed and status of appraisal;

(6) Likelihood that, unprotected, the property would be converted to non-forest uses; and

(7) Costs to the Federal Government.

6. Grant Requirements

a. Once an application is selected, funding will be obligated to the grant recipient through a grant.

b. Local and Indian Tribal governments should refer to 2 CFR part 225, Cost Principles for State, Local, and Indian Tribal Governments (OMB Circular A–87) and 7 CFR part 3016 (Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments) for directions.

c. Nonprofit organizations should refer to 2 CFR part 215 Uniform Administrative Requirements for Grants and Other Agreements with Institutions of Higher Education, Hospitals and Other Nonprofit Organizations (OMB Circular A–110) and 7 CFR part 3019 Uniform Administrative Requirements for Grants and Cooperative Agreements with Institutions of Higher Education, Hospitals, and other Nonprofit Organizations for directions.

d. Forest Service must approve any amendments to a proposal or request to reallocate funding within a grant proposal. If negotiations on a selected project fail, the applicant cannot substitute an alternative site.

e. The grant recipient must comply with the requirements in section § 230.8 in the final rule before funds will be released.

f. After the project has closed, as a requirement of the grant, grant recipients will be required to provide the Forest Service with a Geographic Information System (GIS) shapefile: A digital, vector-based storage format for storing geometric location and associated attribute information, of CFP project tracts and cost share tracts, if applicable.

g. Any funds not expended within the grant period must be de-obligated and revert to the Forest Service.

h. All media, press, signage, and other documents discussing the creation of the community forest must reference the partnership and financial assistance by the Forest Service through the CFP.

Additional information may be found in section § 230.9 of the final rule.

Dated: September 19, 2016.

Debra S. Pressman,

Acting Deputy Chief, State and Private Forestry.

[FR Doc. 2016–25334 Filed 10–19–16; 8:45 am]

BILLING CODE 3411–15–P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Illinois Advisory Committee for a Meeting To Discuss Preparations for a Public Hearing on Civil Rights and Voter Participation in the State

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 Illinois Advisory Committee (Committee) will hold a meeting on Friday, November 18, 2016, at 12:00pm CST for the purpose of discussing preparations to host a public hearing on civil rights and voter participation in the state.

DATES: The meeting will be held on Friday, November 18, 2016, at 12:00 p.m. CST.

ADDRESSES: Public call information: Dial: 888–455–2238, Conference ID: 6912685.

FOR FURTHER INFORMATION CONTACT: Melissa Wojnaroski, DFO, at *mwojnaroski@usccr.gov* or 312–353–8311.

SUPPLEMENTARY INFORMATION: Members of the public can listen to the discussion. This meeting is available to the public through the following toll-free call-in number: 888–455–2238, conference ID: 6912685. 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 regular charges for calls they initiate over wireless lines, according to their wireless plan. 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 proceedings by first calling the Federal Relay Service at 1–800–977–8339 and providing the Service with the conference call number and conference ID number.

Members of the public are also entitled to 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 Midwestern Regional Office, 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.* Persons who desire additional information may contact the Midwestern Regional Office at (312) 353–8311.

Records generated from this meeting may be inspected and reproduced at the Midwestern Regional Office, as they become available, both before and after the meeting. Records of the meeting will be available via *www.facadatabase.gov* under the Commission on Civil Rights, Illinois Advisory Committee link (*http://www.facadatabase.gov/committee/meetings.aspx?cid=246*). Select ''meeting details'' and then ''documents'' to download. Persons interested in the work of this Committee are directed to the Commission's Web site, *http://www.usccr.gov,* or may contact the Midwestern Regional Office at the above email or street address.

Agenda

Welcome and Introductions

Discussion of Project Preparation: Voting Rights in Illinois

Public Comment

Future Plans and Actions

Adjournment

Dated: October 17, 2016.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2016–25436 Filed 10–19–16; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–43–2016]

Foreign-Trade Zone (FTZ) 158—Vicksburg/Jackson, Mississippi; Authorization of Production Activity; Bauhaus Furniture Group, LLC; H.M. Richards Company, Inc.; Lane Home Furniture; Morgan Fabrics Corporation; (Upholstered Furniture); Tupelo, Mississippi, Area

On June 17, 2016, the Greater Mississippi Foreign-Trade Zone, Inc., grantee of FTZ 158, submitted a notification of proposed production activity to the FTZ Board on behalf of Bauhaus Furniture Group, LLC, H.M. Richards Company, Inc., Lane Home Furniture, and Morgan Fabrics Corporation within FTZ 158 in the greater Tupelo, Mississippi, area.

The notification was processed in accordance with the regulations of the FTZ Board (15 CFR part 400), including notice in the **Federal Register** inviting public comment (81 FR 42648, June 30, 2016). The FTZ Board has determined that no further review of the activity is warranted at this time. The production activity described in the notification is authorized, subject to the FTZ Act and the Board's regulations, including Section 400.14. The activity also remains subject to the conditions of B–29–2013, B–21–2013, B–28–2013 and Board Order 1877.

Dated: October 17, 2016.

Elizabeth Whiteman,

Acting Executive Secretary.

[FR Doc. 2016–25437 Filed 10–19–16; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–42–2016]

Foreign-Trade Zone (FTZ) 158—Vicksburg/Jackson, Mississippi; Authorization of Production Activity; Southern Motion, Inc.; (Upholstered Furniture) Pontotoc and Baldwyn, Mississippi

On June 17, 2016, the Greater Mississippi Foreign-Trade Zone, Inc., grantee of FTZ 158, submitted a notification of proposed production activity to the FTZ Board on behalf of Southern Motion, Inc., within Subzone 158G, in Pontotoc and Baldwyn, Mississippi.

The notification was processed in accordance with the regulations of the FTZ Board (15 CFR part 400), including notice in the **Federal Register** inviting public comment (81 FR 42649–42650, June 30, 2016). The FTZ Board has determined that no further review of the activity is warranted at this time. The production activity described in the notification is authorized, subject to the FTZ Act and the Board's regulations, including Section 400.14. The activity also remains subject to the restrictions and conditions established under Docket B–45–2014.

Dated: October 17, 2016.

Elizabeth Whiteman,

Acting Executive Secretary.

[FR Doc. 2016–25432 Filed 10–19–16; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Transportation and Related Equipment Technical Advisory Committee; Notice of Partially Closed Meeting

The Transportation and Related Equipment Technical Advisory Committee will meet on November 16, 2016, 9:30 a.m., in the Herbert C. Hoover Building, Room 3884, 14th Street between Constitution & Pennsylvania Avenues NW., Washington, DC. The Committee advises the Office of the Assistant Secretary for Export Administration with respect to technical questions that affect the level of export controls applicable to transportation and related equipment or technology.

Agenda

Public Session

1. Welcome and Introductions.

2. Status reports by working group chairs.

3. Public comments and Proposals.

Closed Session

4. Discussion of matters determined to be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 §§ 10(a)(1) and 10(a)(3).

The open session will be accessible via teleconference to 20 participants on a first come, first serve basis. To join the conference, submit inquiries to Ms. Yvette Springer at *Yvette.Springer@bis.doc.gov* no later than November 9, 2016.

A limited number of seats will be available during the public session of the meeting. Reservations are not accepted. To the extent time permits, members of the public may present oral statements to the Committee. The public may submit written statements at any time before or after the meeting. However, to facilitate distribution of public presentation materials to Committee members, the Committee suggests that presenters forward the public presentation materials prior to the meeting to Ms. Springer via email.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on November 5, 2015, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. app. 2 § (10)(d)), that the portion of the meeting dealing with pre-decisional changes to the Commerce Control List and U.S. export control policies shall be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 §§ 10(a)(1) and 10(a)(3). The remaining portions of the meeting will be open to the public.

For more information, call Yvette Springer at (202) 482·2813.

Dated: October 17, 2016.

Yvette Springer,

Committee Liaison Officer.

[FR Doc. 2016–25397 Filed 10–19–16; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Materials Technical Advisory Committee; Notice of Partially Closed Meeting

The Materials Technical Advisory Committee will meet on November 3, 2016, 10:00 a.m., Herbert C. Hoover Building, Room 3884, 14th Street between Constitution & Pennsylvania Avenues NW., Washington, DC. The Committee advises the Office of the Assistant Secretary for Export Administration with respect to technical questions that affect the level of export controls applicable to materials and related technology.

Agenda

Open Session

1. Opening remarks and Introductions.

2. Remarks from the Bureau of Industry and Security senior management.

3. Report by regime representatives.

4. Report by working groups (Composite Working Group, Biological Working Group, Pump and Valves Working Group, and the Chemicals Working Group).

5. Public Comments and New Business.

Closed Session

6. Discussion of matters determined to be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 §§ l0(a)(1) and 10(a)(3).

The open session will be accessible via teleconference to 20 participants on a first come, first serve basis. To join the conference, submit inquiries to Ms. Yvette Springer at *Yvette.Springer@bis.doc.gov*, no later than October 27, 2016.

A limited number of seats will be available during the public session of the meeting. Reservations are not accepted. To the extent time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting. However, to facilitate distribution of public presentation materials to Committee members, the materials should be forwarded prior to the meeting to Ms. Springer via email.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on November 5, 2015, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. app. 2 § 10(d)), that the portion of the meeting dealing with pre-decisional changes to the Commerce Control List and the U.S. export control policies shall be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 § § 10(a)(1) and 10(a)(3). The remaining portions of the meeting will be open to the public.

For more information, call Yvette Springer at (202) 482–2813.

Dated: October 17, 2016.

Yvette Springer,

Committee Liaison Officer.

[FR Doc. 2016–25390 Filed 10–19–16; 8:45 am]

BILLING CODE 3510–JT–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–836]

Glycine From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2014–2015

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: On April 15, 2016, the Department of Commerce (the Department) published the preliminary results of the administrative review of the antidumping duty order on glycine from the People's Republic of China (PRC).[1] The review covers five companies, Baoding Mantong Fine Chemistry Co., Ltd. (Baoding Mantong), Kumar Industries (Kumar), Nutracare International (Nutracare), Ravi Industries (Ravi), and Rudraa International (Rudraa). The period of review (POR) is March 1, 2014, through February 28, 2015. As a result of our analysis of the comments and information received, these final results do not differ from the *Preliminary Results.*

DATES: Effective October 20, 2016.

FOR FURTHER INFORMATION CONTACT: Dena Crossland or Brian Davis, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–3362 or (202) 482–7924, respectively.

SUPPLEMENTARY INFORMATION:

Background

On April 15, 2016, the Department published the *Preliminary Results.* In accordance with 19 CFR 351.309(c)(1)(ii), we invited parties to comment on our *Preliminary Results.*[2] On May 16, 2016, GEO submitted a case brief and requested a hearing.[3] On August 10, 2016, the Department issued a memorandum extending the time period for issuing the final results of this administrative review from August 15, 2016, to October 12, 2016.[4] On September 21, 2016, GEO withdrew its request for a public hearing. As no other party had requested a hearing, no public hearing was held. The Department conducted on-site verifications of Kumar and Salvi Chemical Industries Ltd., Nutracare's affiliate and glycine producer, from August 1, 2016, through August 5, 2016.[5] On September 2, 2016, GEO and respondents submitted post-verification comments.[6] On September 7, 2016, GEO and respondents submitted post-verification rebuttal comments.[7]

Scope of the Order

The product covered by the antidumping duty order is glycine, which is a free-flowing crystalline material, like salt or sugar.[8] The subject merchandise is currently classifiable under the Harmonized Tariff Schedule of the United States (HTSUS) subheading 2922.49.4020. The HTSUS subheading is provided for convenience and customs purposes only; the written product description of the scope of the order is dispositive.[9]

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this administrative review are addressed in the Issues and Decision Memorandum.[10] A list of the issues that parties raised and to which we responded is attached to this notice as an Appendix. The Issues and Decision Memorandum is a public document and is on-file electronically via ACCESS. ACCESS is available to registered users at *http://access.trade.gov* and in the Central Records Unit, Room B8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on the Internet at *http://enforcement.ita.doc.gov/frn/index.html.* The signed Issues and Decision Memorandum and the electronic version of the Issues and Decision Memorandum are identical in content.

Final Results of the Review

Based on a review of the record and comments received from interested parties regarding our *Preliminary Results,* we determine that that Baoding Mantong, Kumar, Nutracare, Ravi, and Rudraa did not have reviewable transactions of subject merchandise during the POR.

[1] *See Glycine From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2014–2015,* 81 FR 22212 (April 15, 2016) (*Preliminary Results*).

[2] *See Preliminary Results* at 22212–22213.

[3] *See* Letter to the Department of Commerce from GEO Specialty Chemicals, Inc. regarding ''Glycine from the People's Republic of China: GEO Specialty Chemicals' Case Brief,'' dated May 16, 2016.

[4] *See* Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, from Madeline Heeren, International Trade Compliance Analyst, Antidumping and Countervailing Duty Operations, Office VI, through Scot Fullerton, Antidumping and Countervailing Duty Operations, Office VI, on the subject of ''Glycine from the People's Republic of China: Extension of Deadline for Final Results of Antidumping; 2014/2015,'' dated August 10, 2016.

[5] *See* Memorandum to The File from Marcus A. Kraker, Import Policy Analyst, Office of Deputy Assistant Secretary for Policy & Negotiations, and Elisabeth Urfer, Senior International Trade Compliance Analyst, Customs Liaison Unit, through Brian Davis, Program Manager, Antidumping and Countervailing Duty Operations, Office VI, on the subject of ''Verification of the Questionnaire Responses of Kumar Industries in the Antidumping Duty Review of Glycine from the People's Republic of China,'' dated August 19, 2016, and Memorandum to The File from Marcus A. Kraker, Import Policy Analyst, Office of Deputy Assistant Secretary for Policy & Negotiations, and Elisabeth Urfer, Senior International Trade Compliance Analyst, Customs Liaison Unit, through Brian Davis, Program Manager, Antidumping and Countervailing Duty Operations, Office VI, on the subject of ''Verification of the Questionnaire Responses of Salvi Chemical Industries Ltd. in the Antidumping Duty Review of Glycine from the People's Republic of China,'' dated August 19, 2016.

[6] *See* Letter to the Department of Commerce from GEO Specialty Chemicals, Inc. regarding ''Glycine from the People's Republic of China: Comments on Verification Reports,'' dated September 2, 2016, and Letter to the Department of Commerce from Nutracare International, Ravi Industries, Kumar Industries, and Rudraa International regarding ''Glycine from the People's Republic of China: Comments on the Preliminary Determination,'' dated September 2, 2016. In its September 2, 2016, letter, Nutracare, Kumar, Ravi, and Rudraa alleged that GEO submitted untimely, new factual information in its post-verification comments. On September 12, 2016, GEO, submitted a letter in response to respondents' new factual information allegation. We have rejected GEO's submission and requested that they resubmit their comments without the new factual information. GEO resubmitted their comments on October 7, 2016 (*see* Letter to the Department of Commerce from GEO Specialty Chemicals, Inc. regarding, ''Glycine from the People's Republic of China: Removal of Information from September 2, 2016 and September 7, 2016 Submissions,'' dated October 7, 2016).

[7] *See* Letter to the Department of Commerce from GEO Specialty Chemicals, Inc. regarding ''Glycine from the People's Republic of China: GEO's Rebuttal to the Preliminary Determination and Verification Report Comments of Nutracare, Ravi, Kumar and Rudraa,'' dated September 7, 2016, and Letter to the Department of Commerce from Nutracare International, Ravi Industries, Kumar Industries, and Rudraa International regarding ''Glycine from the People's Republic of China: Rebuttal Comments to Petitioner's Case Brief,'' dated September 7, 2016.

[8] *See* ''Issues and Decision Memorandum for the Preliminary Results of Antidumping Duty Administrative Review: Glycine from the People's Republic of China; 2014–2015'' from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Ronald K. Lorentzen, Acting Assistant Secretary for Enforcement and Compliance, dated concurrently with this notice (Issues and Decision Memorandum), for a complete description of the scope of the order.

[9] *See Glycine from the People's Republic of China: Antidumping Duty Order,* 60 FR 16116 (March 29, 1995).

[10] *Id.*

Duty Assessment

The Department shall determine and U.S. Customs and Border Protection (CBP) shall assess antidumping duties on all appropriate entries. We intend to issue assessment instructions directly to CBP 15 days after publication of the final results of this review. Given that the Department continues to determine that the exporters under review had no shipments of the subject merchandise, any suspended entries that entered under the exporter's case number (*i.e.,* at that exporter's rate) will be liquidated at the PRC-wide rate, in accordance with our practice.[11]

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of this notice for all shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication of these final results, as provided by section 751(a)(2)(C) of the Act: (1) For Baoding Mantong, Nutracare International, Ravi Industries, Kumar Industries, and Rudraa International, which all claimed no shipments, the cash deposit rate will remain unchanged from rates assigned to these companies in the most recently completed reviews of these companies; (2) for previously investigated or reviewed PRC and non-PRC exporters who are not under review in this segment of the proceeding but who have separate rates, the cash deposit rate will continue to be the exporter-specific rate published for the most recent period; (3) for all PRC exporters of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be the PRC-wide rate of 453.79 percent; and (4) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporter(s) that supplied the non-PRC exporter. These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers Regarding the Reimbursement of Duties

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping and/or countervailing duties prior to liquidation of the relevant entries during the POR. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping and/or countervailing duties occurred and the subsequent assessment of doubled antidumping duties.

Administrative Protective Order

This notice also serves as a reminder to parties subject to administrative protective orders (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.213(h).

Dated: October 12, 2016.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Final Issues and Decision Memorandum

[FR Doc. 2016–25430 Filed 10–19–16; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–938]

Citric Acid and Certain Citrate Salts From the People's Republic of China: Rescission of Countervailing Duty Administrative Review; 2015

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce is rescinding the administrative review of the countervailing duty order on citric acid and certain citrate salts from the People's Republic of China (PRC) for the period of review January 1, 2015, through December 31, 2015, based on the timely withdrawal of the only request for review.

DATES: Effective October 20, 2016.

FOR FURTHER INFORMATION CONTACT: Alice Maldonado, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–4682.

SUPPLEMENTARY INFORMATION:

Background

On May 2, 2016, the Department published in the **Federal Register** a notice of ''Opportunity to Request Administrative Review'' of the countervailing duty order on citric acid and certain citrate salts (citric acid) from the PRC for the period January 1, 2015, through December 31, 2015.[1] In May 2016, the Department received a timely request, in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.213(b), for an administrative review of this countervailing duty order from the Archer Daniels Midland Company, Cargill, Incorporated, and Tate & Lyle Ingredients Americas LLC (collectively, the petitioners).[2] On July 7, 2016, the Department published in the **Federal Register** a notice of initiation with respect to 18 individually-named companies or company groups.[3]

On October 5, 2016, the petitioners timely withdrew their administrative review request.[4]

Rescission of Review

Pursuant to 19 CFR 351.213(d)(1), the Department will rescind an administrative review, in whole or in part, if a party that requested a review withdraws the request within 90 days of the date of publication of notice of initiation of the requested review. The petitioners withdrew their requests for review by the 90-day deadline. No other parties requested an administrative review of the order. Therefore, we are rescinding the administrative review of the countervailing duty order on citric acid from the PRC covering the period

[11] *See Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR 65694 (October 23, 2011).

[1] *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review,* 81 FR 26206 (May 2, 2016).

[2] *See* letter requesting an administrative review from the petitioners, dated May 31, 2016.

[3] *See Initiation of Antidumping Duty Administrative Reviews,* 81 FR 44260 (July 7, 2016).

[4] *See* the letter withdrawing request for an administrative review from the petitioners, dated October 5, 2016.

January 1, 2015, through December 31, 2015.

Assessment

The Department will instruct U.S. Customs and Border Protection (CBP) to assess countervailing duties on all appropriate entries. Countervailing duties shall be assessed at rates equal to the cash deposit of estimated countervailing duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i). The Department intends to issue appropriate assessment instructions directly to CBP 15 days after the date of publication of this notice in the **Federal Register**.

Notification Regarding Administrative Protective Order

This notice serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This notice is published in accordance with section 751 of the Act and 19 CFR 351.213(d)(4).

Dated: October 13, 2016.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2016–25429 Filed 10–19–16; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–821–809]

Certain Hot-Rolled Flat-Rolled Carbon-Quality Steel Products From the Russian Federation: Continuation of Antidumping Duty Order

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: As a result of the determinations by the Department of Commerce (the Department) and the U.S. International Trade Commission (USITC) that revocation of the antidumping duty order on certain hot-rolled flat-rolled carbon-quality steel products (hot-rolled steel) from the Russian Federation (Russia) would likely lead to continuation or recurrence of dumping and material injury to an industry in the United States, the Department is publishing a notice of continuation of this antidumping duty order.

DATES: *Effective date:* October 20, 2016.

FOR FURTHER INFORMATION CONTACT: Dena Crossland, AD/CVD Operations, Office VI, Enforcement and Compliance, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone (202) 482–3362.

SUPPLEMENTARY INFORMATION:

Background

On December 24, 2014, the Department published the antidumping duty order on hot-rolled steel from Russia.[1] On May 2, 2016, the Department initiated a sunset review of the *Russia Order* pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act).[2]

As a result of this sunset review, the Department determined that revocation of the *Russia Order* would likely lead to continuation or recurrence of dumping and, therefore, notified the USITC of the magnitude of the margins of dumping likely to prevail should the order be revoked.[3]

On October 5, 2016, the USITC published its determination, pursuant to section 751(c) of the Act, that revocation of the *Russia Order* would be likely to lead to continuation or recurrence of material injury to an industry in the United Sates within a reasonably foreseeable time.[4]

Scope of the Order

For the purposes of this order, ''hot-rolled steel'' means certain hot-rolled flat-rolled carbon-quality steel products of a rectangular shape, of a width of 0.5 inch or greater, neither clad, plated, nor coated with metal and whether or not painted, varnished, or coated with plastics or other non-metallic substances, in coils (whether or not in successively superimposed layers) regardless of thickness, and in straight lengths, of a thickness less than 4.75 mm and of a width measuring at least 10 times the thickness.

Universal mill plate (*i.e.,* flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 mm but not exceeding 1250 mm and of a thickness of not less than 4 mm, not in coils and without patterns in relief) of a thickness not less than 4.0 mm is not included within the scope of this order.

Specifically included in this scope are vacuum degassed, fully stabilized (commonly referred to as interstitial-free (IF)) steels, high strength low alloy (HSLA) steels, and the substrate for motor lamination steels. IF steels are recognized as low carbon steels with micro-alloying levels of elements such as titanium and/or niobium added to stabilize carbon and nitrogen elements. HSLA steels are recognized as steels with micro-alloying levels of elements such as chromium, copper, niobium, titanium, vanadium, and molybdenum. The substrate for motor lamination steels contains micro-alloying levels of elements such as silicon and aluminum.

Steel products to be included in the scope of this order, regardless of Harmonized Tariff Schedule of the United States (HTSUS) definitions, are products in which: (1) Iron predominates, by weight, over each of the other contained elements; (2) the carbon content is 2 percent or less, by weight; and (3) none of the elements listed below exceeds the quantity, by weight, respectively indicated: 1.80 percent of manganese, or 1.50 percent of silicon, or 1.00 percent of copper, or 0.50 percent of aluminum, or 1.25 percent of chromium, or 0.30 percent of cobalt, or 0.40 percent of lead, or 1.25 percent of nickel, or 0.30 percent of tungsten, or 0.012 percent of boron, or 0.10 percent of molybdenum, or 0.10 percent of niobium, or 0.41 percent of titanium, or 0.15 percent of vanadium, or 0.15 percent of zirconium.

All products that meet the physical and chemical description provided above are within the scope of this order unless otherwise excluded. The following products, by way of example, are outside and/or specifically excluded from the scope of this order:

—Alloy hot-rolled steel products in which at least one of the chemical elements exceeds those listed above (including *e.g.,* ASTM specifications A543, A387, A514, A517, and A506).
—SAE/AISI grades of series 2300 and higher.
—Ball bearing steels, as defined in the HTSUS.

[1] *See Termination of the Suspension Agreement on Hot-Rolled Flat-Rolled Carbon-Quality Steel Products From the Russian Federation, Rescission of 2013–2014 Administrative Review, and Issuance of Antidumping Duty Order,* 79 FR 77455 (December 24, 2014) (*Russia Order*).

[2] *See Initiation of Five-Year (''Sunset'') Review,* 81 FR 26209 (May 2, 2016).

[3] *See Certain Hot-Rolled Flat-Rolled Carbon-Quality Steel Products From the Russian Federation: Final Results of the Expedited Sunset Review of the Antidumping Duty Order,* 81 FR 62094 (September 8, 2016) and accompanying Issues and Decision Memorandum.

[4] *See Investigation No. 731–TA–808 (Third Review),* 81 FR 69079 (October 5, 2016), and USITC Publication 4639 (September 2016), entitled *Hot-Rolled Flat-Rolled Carbon-Quality Steel Products from Russia: Investigation No. 731–TA–808 (Third Review).*

—Tool steels, as defined in the HTSUS.
—Silico-manganese (as defined in the HTSUS) or silicon electrical steel with a silicon level exceeding 1.50 percent.
—ASTM specifications A710 and A736.
—USS Abrasion-resistant steels (USS AR 400, USS AR 500).

—Hot-rolled steel coil which meets the following chemical, physical and mechanical specifications:

C (%)	Mn (%)	P (%)	S (%)	Si (%)	Cr (%)	Cu (%)	Ni (%)
0.10–0.14	0.90 Max	0.025 Max	0.005 Max	0.30–0.50	0.50–.70	0.20–0.40	0.20 Max

Width = 44.80 inches maximum; Thickness = 0.063–0.198 inches; Yield Strength = 50,000 ksi minimum; Tensile Strength = 70,000–88,000 psi.

—Hot-rolled steel coil which meets the following chemical, physical and mechanical specifications:

C (%)	Mn (%)	P (%)	S (%)	Si (%)	Cr (%)	Cu (%)	Ni (%)	Mo (%)
0.10–0.16	0.70–0.90	0.25 Max	0.006 Max	0.30–0.50	0.50–0.70	0.25 Max	0.20 Max	0.21 Max

Width = 44.80 inches maximum; Thickness = 0.350 inches maximum; Yield Strength = 80,000 ksi minimum; Tensile Strength = 105,000 psi Aim.

—Hot-rolled steel coil which meets the following chemical, physical and mechanical specifications:

C (%)	Mn (%)	P (%)	S (%)	Si (%)	Cr (%)	Cu (%)	Ni (%)	V(wt.) (%)	Cb (%)
0.10–0.14	1.30–1.80	0.025 Max	0.005 Max	0.30–0.50	0.50–0.70	0.20–0.40	0.20 Max	0.10 Max	0.08 Max

Width = 44.80 inches maximum; Thickness = 0.350 inches maximum; Yield Strength = 80,000 ksi minimum; Tensile Strength = 105,000 psi Aim.

—Hot-rolled steel coil which meets the following chemical, physical and mechanical specifications:

C (%)	Mn (%)	P (%)	S (%)	Si (%)	Cr (%)	Cu (%)	Ni (%)	Nb (%)	Ca (%)	Al (%)
0.15 Max	1.40 Max	0.025 Max	0.010 Max	0.50 Max	1.00 Max	0.50 Max	0.20 Min	0.005 Min	Treated	0.001–0.07

Width = 39.37 inches; Thickness = 0.181 inches maximum; Yield Strength = 70,000 psi minimum for thicknesses ≤ 0.148 inches and 65,000 psi minimum for thicknesses >0.148 inches; Tensile Strength = 80,000 psi minimum.

—Hot-rolled dual phase steel, phase-hardened, primarily with a ferritic-martensitic microstructure, contains 0.9 percent up to and including 1.5 percent silicon by weight, further characterized by either (i) tensile strength between 540 N/mm2 and 640 N/mm2 and an elongation percentage 26 percent for thicknesses of 2 mm and above, or (ii) a tensile strength between 590 N/mm2 and 690 N/mm2 and an elongation percentage 25 percent for thicknesses of 2 mm and above.
—Hot-rolled bearing quality steel, SAE grade 1050, in coils, with an inclusion rating of 1.0 maximum per ASTM E 45, Method A, with excellent surface quality and chemistry restrictions as follows:
—0.012 percent maximum phosphorus, 0.015 percent maximum sulfur, and 0.20 percent maximum residuals including 0.15 percent maximum chromium.
—Grade ASTM A570–50 hot-rolled steel sheet in coils or cut lengths, width of 74 inches (nominal, within ASTM tolerances), thickness of 11 gauge (0.119 inch nominal), mill edge and skin passed, with a minimum copper content of 0.20 percent.

The covered merchandise is classified in the HTSUS at subheadings: 7208.10.15.00, 7208.10.30.00, 7208.10.60.00, 7208.25.30.00, 7208.25.60.00, 7208.26.00.30, 7208.26.00.60, 7208.27.00.30, 7208.27.00.60, 7208.36.00.30, 7208.36.00.60, 7208.37.00.30, 7208.37.00.60, 7208.38.00.15, 7208.38.00.30, 7208.38.00.90, 7208.39.00.15, 7208.39.00.30, 7208.39.00.90, 7208.40.60.30, 7208.40.60.60, 7208.53.00.00, 7208.54.00.00, 7208.90.00.00, 7210.70.30.00, 7210.90.90.00, 7211.14.00.30, 7211.14.00.90, 7211.19.15.00, 7211.19.20.00, 7211.19.30.00, 7211.19.45.00, 7211.19.60.00, 7211.19.75.30, 7211.19.75.60, 7211.19.75.90, 7212.40.10.00, 7212.40.50.00, 7212.50.00.00. Certain hot-rolled flat-rolled carbon-quality steel covered include: Vacuum degassed, fully stabilized; high strength low alloy; and the substrate for motor lamination steel may also enter under the following tariff numbers: 7225.11.00.00, 7225.19.00.00, 7225.30.30.50, 7225.30.70.00, 7225.40.70.00, 7225.99.00.90, 7226.11.10.00, 7226.11.90.30, 7226.11.90.60, 7226.19.10.00, 7226.19.90.00, 7226.91.50.00, 7226.91.70.00, 7226.91.80.00, and 7226.99.00.00. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this order is dispositive.

Continuation of the Order

As a result of the determinations by the Department and the USITC that revocation of the *Russia Order* would be likely to lead to continuation or recurrence of dumping and material injury to an industry in the United States, pursuant to section 751(d)(2) of the Act, the Department hereby orders the continuation of the *Russia Order.*

U.S. Customs and Border Protection will continue to collect cash deposits of estimated antidumping duties at the rates in effect at the time of entry for all imports of subject merchandise. The effective date of the continuation of this order will be the effective date listed

above. Pursuant to section 751(c)(2) of the Act, the Department intends to initiate the next sunset review of this order not later than 30 days prior to the fifth anniversary of the effective date of continuation.

This five-year (sunset) review and this notice are in accordance with sections 751(c) and 777(i)(1) of the Act and 19 CFR 351.218(f)(4).

Dated: October 12, 2016.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2016–25431 Filed 10–19–16; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XE978

New England Fishery Management Council; Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Herring Advisory Panel to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: The meeting will be held on Tuesday, November 8, 2016 at 10:30 a.m.

ADDRESSES: The meeting will be held at the Four Points by Sheraton, 1 Audubon Road, Wakefield, MA 01880; telephone: (781) 245–9300.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Thomas A. Nies, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION:

Agenda

The Advisory Panel review alternatives and analyses prepared for Framework Adjustment 5 to the Atlantic Herring Fishery Management Plan (FMP), an action considering modification of accountability measures (AMs) that trigger if the sub-ACL of Georges Bank haddock is exceeded by the midwater trawl herring fishery. The panel may recommend preferred alternatives for the Committee to consider for final action. The panel will also review additional Plan Development Team analysis and Committee discussion of the range of measures developed to date related to localized depletion and user conflicts that will be considered in Amendment 8 to the Atlantic Herring FMP as well as review plans for future workshop on Management Strategy Evaluation of Atlantic Herring Acceptable Biological Catch control rules being considered in Amendment 8 to the Atlantic Herring FMP. Other business may be discussed as necessary.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Thomas A. Nies, Executive Director, at (978) 465–0492, at least 5 days prior to the meeting date.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: October 17, 2016.

Tracey L. Thompson,

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

[FR Doc. 2016–25394 Filed 10–19–16; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Alaska Pacific Halibut Fisheries: Charter Recordkeeping

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before December 19, 2016.

ADDRESSES: Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at *JJessup@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Patsy A. Bearden, (907) 586–7008 or *Patsy.Bearden@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

This request is for extension of a currently approved information collection.

Management of and regulations for Pacific halibut in Alaska are developed on the international, Federal, and state levels by the International Pacific Halibut Commission (IPHC), the North Pacific Fishery Management Council (Council), National Marine Fisheries Service (NMFS), Alaska Region and the State of Alaska Department of Fish and Game (ADF&G). The IPHC and NMFS manage fishing for Pacific halibut through regulations established under authority of the Convention between the United States Halibut Fishery of the Northern Pacific Ocean and Bering Sea (Convention), the Northern Pacific Halibut Act of 1982, 16 U.S.C. 773c (Halibut Act), and Section 303(b) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*). Regulations that implement this collection-of-information are found at 50 CFR part 300.60 through 300.66 and at 50 CFR 679.5(l)(7).

Annual catch quotas are determined by the IPHC, and Federal responsibility for halibut management extends to halibut stocks and fishing activity within State of Alaska waters. In order to manage halibut effectively, international and Federal managers need information on halibut fishing effort and harvest by all user groups, including the guided sport charter sector of the fishery.

Federal regulations at 50 CFR 300.65 require charter vessel operators fishing in IPHC Areas 2C and 3A to comply with the ADF&G annual registration of sport fishing guides and businesses and ADF&G saltwater charter halibut logbook. NMFS and ADF&G coordinate closely in the development of this information collection for the monitoring and enforcement of the charter vessel catch limit of halibut.

A Catch Sharing Program was developed in IPHC Regulatory Areas 2C and 3A for the guided sport and commercial fisheries which authorized commercial halibut quota share (QS) holders to transfer individual fishing quota (IFQ) as guided angler fish (GAF)

to charter halibut permit holders. A GAF electronic landing report and GAF permit log were added to provide efficiency in monitoring quota.

The primary objectives of the Catch Sharing Program are to change the annual process of allocating halibut between the charter and commercial fisheries in IPHC Areas 2C and 3A, establish allocations that balance the differing needs of the charter and commercial sectors that also float with varying levels of annual halibut abundance, and specify a process for determining harvest restrictions for charter anglers that are intended to limit harvest to the annual charter fishery catch limit.

II. Method of Collection

Respondents have a choice of either electronic or paper forms. Methods of submittal include email of electronic forms, and mail and facsimile transmission of paper forms.

III. Data

OMB Control Number: 0648–0575.

Form Number: None.

Type of Review: Regular submission (extension of a currently approved collection).

Affected Public: Business or other For-profit; individuals or households.

Estimated Number of Respondents: 696.

Estimated Time per Response: 5 minutes each for Charter halibut logbook and GAF electronic landing report; 2 minutes for GAF permit log.

Estimated Total Annual Burden Hours: 4,733.

Estimated Total Annual Cost to Public: $2,366 in recordkeeping/reporting costs.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: October 14, 2016.

Sarah Brabson,

NOAA PRA Clearance Officer.

[FR Doc. 2016–25327 Filed 10–19–16; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC744

Endangered and Threatened Species; Recovery Plans

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

ACTION: Notice of Availability; request for comments.

SUMMARY: The National Marine Fisheries Service (NMFS) announces the availability of the Southern Distinct Population Segment (DPS) of Eulachon (*Thaleichthys pacificus*) Draft Recovery Plan (Plan) for public review. NMFS is soliciting review and comment from the public and all interested parties on the draft Plan, and will consider all substantive comments received during the review period before submitting the Plan for final approval.

DATES: Comments and information on the draft Plan must be received by close of business on December 19, 2016.

ADDRESSES: You may submit comments on this document, identified by NOAA–NMFS–2016–0136 by either of the following methods:

- *Electronic Submissions:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2016-0136.* Click the 'Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to Robert Anderson, National Marine Fisheries Service, 1201 NE. Lloyd Boulevard, Suite 1100, Portland, OR 97232.

Instructions: You must submit comments by one of the above methods to ensure that we receive, document, and consider them. Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered. All comments received are a part of the public record and will generally be posted for public viewing on *http://www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. We will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: Robert Anderson, NMFS Eulachon Recovery Coordinator, at (503) 231–2226, or *robert.c.anderson@noaa.gov.*

SUPPLEMENTARY INFORMATION:

Background

On March 18, 2010, we listed the southern DPS of eulachon as a threatened species under the ESA (75 FR 13012). The listing of the DPS of eulachon was informed by the best available scientific and commercial data and the status review conducted by a Biological Review Team (BRT) (Gustafson et al., 2010). The final critical habitat rule for the listed DPS of eulachon was published in the **Federal Register** on October 20, 2011 (76 FR 65324). In 2013, we appointed a recovery team and initiated recovery planning for eulachon to assist the West Coast Region with the development of research and recovery actions for the recovery plan. In 2015 we announced a 5-year review (80 FR 6695; February 6, 2015) for eulachon. Based on the 5-year review, the southern DPS of eulachon shall remain threatened under the ESA. The 5-year review was completed April 1, 2016 (NMFS 2016) and is available at: *http://www.westcoast.fisheries.noaa.gov/publications/status_reviews/other_species/other_marine_species_esa_status_reviews.html.*

Draft Recovery Plan

Recovery plans describe actions beneficial to the conservation and recovery of species listed under the Endangered Species Act of 1973 (ESA), as amended (16 U.S.C. 1531 *et seq.*). Section 4(f)(1) of the ESA requires that recovery plans incorporate, to the maximum extent practicable: (1) Objective, measurable criteria which, when met, would result in a determination that the species is no longer threatened or endangered; (2) site-specific management actions necessary to achieve the Plan's goals; and (3) estimates of the time required and costs to implement recovery actions. The ESA requires the development of recovery plans for each listed species unless such a plan would not promote its recovery.

The Plan for eulachon was developed by NMFS in cooperation with a recovery team made up of experts from the Washington Department of Fish and

Wildlife, the Northwest Fisheries Science Center, and the Southwest Fisheries Science Center. Additionally, individuals from the Eulachon Stakeholder Group also provided input to the development of the Plan.

NMFS's goal is to restore the threatened eulachon DPS to the point where they are again secure, self-sustaining members of their ecosystems and no longer need the protections of the ESA. The Plan provides background on the natural history of eulachon, population trends, and the potential threats to their viability. The Plan lays out a recovery strategy to address the potential threats based on the best available science, identifies site-specific actions with time lines and costs, and includes recovery goals and criteria. NMFS concludes that the Plan meets the requirements of the ESA. The primary factors responsible for the decline of eulachon are climate change impacts on ocean conditions, eulachon bycatch in shrimp trawl fisheries, climate change impacts on freshwater habitats, dams/water diversions, and predation. The Plan assesses these factors and other threats using the best available scientific and commercial data, provides current information and conservation measures to assess, rank, and prioritize, and provides guidance to address the threats. In some cases, more information is needed to understand the extent of a threat or whether the threat is limiting recovery, and in those cases research to address these data gaps is outlined.

The Plan is not regulatory, but presents guidance for use by agencies and interested parties to assist in the recovery of eulachon. The Plan identifies substantive actions needed to achieve recovery by assessing the species' population abundance, distribution, and genetic changes over time and addressing the threats to the species. When determining recovery actions, the Plan prioritized actions that increase knowledge of the species, threats ranked as high risk threats, and aims to improve understanding of whether a particular threat is limiting recovery and to eliminate or mitigate that threat, or to improve our understanding of, and ability to manage, that threat. The actions in the Plan include research, management, monitoring, and outreach efforts, because a comprehensive approach to eulachon recovery is likely to have greater success than focusing on any one type of action. There are also actions targeted at incorporating new information and conducting regular reassessments, making this Plan an adaptive management plan.

We expect the Plan to inform section 7 consultations with Federal agencies under the ESA and to support other ESA decisions, such as considering permits under section 10. We have already begun implementation of several actions as described in the plan, such as partnering with the Washington Department of Fish and Wildlife and the Oregon Department of Fish and Wildlife to conduct spawning stock biomass estimations of eulachon in the Columbia River and coastal systems. After public comment and the adoption of the Final Recovery Plan, we will continue to implement actions in the plan for which we have authority, work cooperatively on implementation of other actions, and encourage other Federal and state agencies to implement recovery actions for which they have responsibility and authority.

The total time and cost to recovery are difficult to predict with the current information. The Plan outlines recovery research and actions, priority numbers, and estimated eulachon recovery program cost over an initial 5-year period. Projections of which actions may continue beyond year five are provided, but there is uncertainty regarding how long recovery will take. Currently, we do not have reliable abundance and productivity information for all subpopulations of eulachon. As prioritized information is obtained on abundance and productivity, as well as additional information to assess the impact on how some threats may limit recovery and how the threats can be effectively managed or mitigated, more robust time and expense projections can be developed.

The cost of the approximately 70 actions recommended in this Plan for the first 5 years of recovery is approximately $14,750,000. A gross estimate for the total cost of recovery action to be implemented is between $29,500,000 (25 years) to $84,765,000 (100 years).

There are numerous parallel efforts underway, independent from listed eulachon recovery, to protect and restore the Columbia River and Washington, Oregon, and California coastal ecosystems. These efforts will provide benefits to listed eulachon and their habitats and prey base and are thus highlighted in the plan. However, the costs of these actions are not included in the total cost of listed eulachon recovery because they would occur independently of this Plan. Similarly, actions conducted to restore listed eulachon and their habitats will benefit other listed species that utilize the Columbia River and Washington, Oregon, and California coastal ecosystems, such as the 28 salmon and steelhead (*Oncorhynchus spp.*) species, and may provide economic benefits. We are unable to quantify the economic benefits of listed eulachon recovery actions, but it is likely the benefits to the ecosystem and economy would offset the total recovery costs estimated in the Plan. NMFS requests and will consider all substantive comments and information presented during the public comment period as we finalize this Plan.

References Cited

The complete citations for the references used in this document can be obtained by contacting NMFS (See **ADDRESSES** and **FOR FURTHER INFORMATION CONTACT**) or online at: *http://www.westcoast.fisheries.noaa.gov/protected.*

Authority: 16 U.S.C. 1531 *et seq.*

Dated: October 17, 2016.

Angela Somma,

Chief, Endangered Species Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2016–25399 Filed 10–19–16; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XE979

Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The Pacific Fishery Management Council's (Pacific Council) Groundfish Management Team (GMT) will hold a webinar that is open to the public.

DATES: The GMT webinar will be held on Monday, November 7, 2016, from 1:30 p.m. until 3:30 p.m., or until business for the day is complete.

ADDRESSES: To attend the webinar: (1) Join the meeting by visiting this link *http://www.gotomeeting.com/online/webinar/join-webinar;* (2) enter the Webinar ID: 917–479–603, and (3) enter your name and email address (required). After logging in to the webinar, please (1) dial this TOLL number +1 (415) 655–0052 (not a toll-free number); (2) enter the attendee phone audio access code

764–818–012; and (3) then enter your audio phone pin (shown after joining the webinar). **Note:** We have disabled Mic/Speakers as on option and require all participants to use a telephone or cell phone to participate. Technical Information and System Requirements: PC-based attendees are required to use Windows® 7, Vista, or XP; Mac®-based attendees are required to use Mac OS® X 10.5 or newer; Mobile attendees are required to use iPhone®, iPad®, Android™ phone or Android tablet (See the GoToMeeting WebinarApps). You may send an email to *Kris.Kleinschmidt@noaa.gov* or contact him at (503) 820–2280, extension 425 for technical assistance. A public listening station will also be available at the Pacific Council office.

Council address: Pacific Council, 7700 NE Ambassador Place, Suite 101, Portland, OR 97220–1384.

FOR FURTHER INFORMATION CONTACT: Ms. Kelly Ames, Pacific Council, (503) 820–2426.

SUPPLEMENTARY INFORMATION: The primary purpose of the GMT webinar is to prepare and develop recommendations for the November 13–21, 2016 Pacific Council meeting in Garden Grove, CA. The GMT may also address other assignments relating to groundfish management. No management actions will be decided by the GMT. Public comment will be accommodated if time allows, at the discretion of the GMT Chair. A detailed agenda will be provided on the Council's Web site one week prior to the meeting.

Although non-emergency issues not contained in the meeting agenda may be discussed, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this document and any issues arising after publication of this document that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Special Accommodations

The public listening station is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Mr. Kris Kleinschmidt at (503) 820–2425 at least 10 business days prior to the meeting date.

Dated: October 17, 2016.

Tracey L. Thompson,

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

[FR Doc. 2016–25395 Filed 10–19–16; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XE977

New England Fishery Management Council; Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Herring Committee to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: This meeting will be held on Wednesday, November 9, 2016 at 9:30 a.m.

ADDRESSES: The meeting will be held at the Four Points by Sheraton, 1 Audubon Road, Wakefield, MA 01880; telephone: (781) 245–9300.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Thomas A. Nies, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION:

Agenda

The Herring Committee review alternatives and analyses prepared for Framework Adjustment 5 to the Atlantic Herring Fishery Management Plan (FMP), an action considering modification of accountability measures (AMs) that trigger if the sub-ACL of Georges Bank haddock is exceeded by the midwater trawl herring fishery. The committee may recommend preferred alternatives for the Council to consider for final action. The committee will also review additional Plan Development Team analysis and discuss a range of the range of measures developed to date related to localized depletion and user conflicts that will be considered in Amendment 8 to the Atlantic Herring FMP as well as review plans for future workshop on Management Strategy Evaluation of Atlantic Herring Acceptable Biological Catch control rules being considered in Amendment 8 to the Atlantic Herring FMP. Other business may be discussed as necessary.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Thomas A. Nies, Executive Director, at (978) 465–0492, at least 5 days prior to the meeting date.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: October 17, 2016.

Tracey L. Thompson,

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

[FR Doc. 2016–25393 Filed 10–19–16; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Rip Current Visualization Survey and Focus Groups.

OMB Control Number: 0648-xxxx.

Form Number(s): None.

Type of Request: Regular (request for a new information collection).

Number of Respondents: 580.

Average Hours per Response: Survey, 30 minutes; focus groups, 1.5 hours.

Burden Hours: 370.

Needs and Uses: This is a request for a new collection of information. The objective of the survey and focus groups is to collect information on the current use and knowledge of NOAA's National Weather Service (NWS) products and perceptions of various rip current products. The focus groups will ask participants to explain their responses. This information will help create better rip current products used by the National Weather Service (NWS) to protect lives and prevent injury from rip currents.

The primary data collection vehicles will be an internet-based, public survey and face to face focus groups. The focus groups will target lifeguards and

decision makers. Telephone and personal interviews may be employed to supplement and verify survey responses.

Affected Public: Business or other for-profit, state, local and tribal government, individuals or households.

Frequency: One time.

Respondent's Obligation: Voluntary.

This information collection request may be viewed at *reginfo.gov*. Follow the instructions to view Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov* or fax to (202) 395–5806.

Dated: October 17, 2016.

Sarah Brabson,

NOAA PRA Clearance Officer.

[FR Doc. 2016–25402 Filed 10–19–16; 8:45 am]

BILLING CODE 3510–KE–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DOD–2016–OS–0104]

Privacy Act of 1974; System of Records

AGENCY: Office of the Secretary of Defense, DoD.

ACTION: Notice to alter a System of Records.

SUMMARY: Pursuant to the Privacy Act of 1974 and Office of Management and Budget (OMB) Circular No. A–130, notice is hereby given that the Office of the Secretary of Defense proposes to alter a system of records, DAU 06, entitled ''Defense Acquisition University Mailing Lists.'' Data is used by DAU to provide a mailing list for the distribution of the Defense AT&L Magazine and Defense Acquisition Research Journal.

This update reflects considerable administrative changes that in sum warrant an alteration to the systems of records notice. The applicable DoD Routine Uses have been incorporated in the notice to provide clarity for the public. Additionally, the categories system name, system location, category of individuals and records, the authorities, purpose, storage, retrievability, safeguards, retention and disposal, system manager address, notification and record access procedures, and the record source categories.

DATES: Comments will be accepted on or before November 21, 2016. This proposed action will be effective the day following the end of the comment period unless comments are received which result in a contrary determination.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

- *Federal Rulemaking Portal: http://www.regulations.gov*. Follow the instructions for submitting comments.
- *Mail:* Department of Defense, Office of the Deputy Chief Management Officer, Directorate of Oversight and Compliance, 4800 Mark Center Drive, Mailbox #24, Alexandria, VA 22350–1700.

Instructions: All submissions received must include the agency name and docket number for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Mrs. Luz D. Ortiz, Chief, Records, Privacy and Declassification Division (RPD2), 1155 Defense Pentagon, Washington, DC 20301–1155, or by phone at (571) 372–0478.

SUPPLEMENTARY INFORMATION: The Office of the Secretary of Defense notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address in **FOR FURTHER INFORMATION CONTACT** or at the Defense Privacy, Civil Liberties and Transparency Division Web site at *http://dpcld.defense.gov/*.

The proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on September 27, 2016, to the House Committee on Oversight and Government Reform, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4 of Appendix I to OMB Circular No. A–130, ''Federal Agency Responsibilities for Maintaining Records About Individuals,'' revised November 28, 2000 (December 12, 2000 65 FR 77677).

Dated: October 17, 2016.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

DAU 06

SYSTEM NAME:

Defense Acquisition University Mailing Lists (May 13, 2004, 69 FR 26557).

CHANGES:

* * * * *

SYSTEM NAME:

Delete entry and replace with ''Defense Acquisition University (DAU), Visual Arts and Press Records.''

SYSTEM LOCATION:

Delete entry and replace with ''Gray Graphics, 8607 Central Avenue, Capitol Heights, MD 20743–3604.

Paper records are located at Defense Acquisition University (DAU), Visual Arts and Press Department, Building 206, Fort Belvoir, VA 22060–5565.''

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete entry and replace with ''Program management course graduates, alumni association members, and other DoD affiliated individuals submitting a request to be added to the mailing list.''

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with ''Name, work and/or home mailing address, rank or grade, position title, work and/or personal email address, and service affiliation or organization.''

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with ''10 U.S.C. 133, Under Secretary of Defense for Acquisition, Technology and Logistics; and DoD Instruction 5000.57, Defense Acquisition University.''

PURPOSE(S):

Delete entry and replace with ''Data is used by DAU to provide a mailing list for the distribution of the Defense AT&L Magazine and Defense Acquisition Research Journal.''

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Delete entry and replace with ''In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, as amended, the records contained herein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

Disclosure of Information to the National Archives and Records

Administration Routine Use: A record from a system of records maintained by a DoD Component may be disclosed as a routine use to the National Archives and Records Administration for the purpose of records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

DATA BREACH REMEDIATION PURPOSES ROUTINE USE:

A record from a system of records maintained by a Component may be disclosed to appropriate agencies, entities, and persons when (1) The Component suspects or has confirmed that the security or confidentiality of the information in the system of records has been compromised; (2) the Component has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Component or another agency or entity) that rely upon the compromised information; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Components efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.''

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Delete entry and replace with ''Paper records and electronic storage media.''

RETRIEVABILITY:

Delete entry and replace with ''Files are retrievable by full name, mailing address, and email address.''

SAFEGUARDS:

Delete entry and replace with ''Files are stored in a controlled access area and locked during non-business hours. Only authorized personnel have access to files. Access to electronic records requires Common Access Card (CAC), password, and Personal Identification Number (PIN).''

RETENTION AND DISPOSAL:

Delete entry and replace with ''All records are destroyed after appropriate revision of mailing list or after 3 months, whichever is sooner.''

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with ''Director, DAU Visual Arts and Press Department, Defense Acquisition University, Fort Belvoir, VA 22060–5565.''

NOTIFICATION PROCEDURE:

Delete entry and replace with ''Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Director, DAU Visual Arts and Press Department, Defense Acquisition University, Building 206, Fort Belvoir, VA 22060–5565.

Signed, written requests should contain full name, current address, and telephone number (for possible quick response).

In addition, the requester must provide a notarized statement or an unsworn declaration made in accordance with 28 U.S.C. 1746, in the following format:

If executed outside the United States: ''I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature).''

If executed within the United States, its territories, possessions, or commonwealths: ''I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)''.''

RECORD ACCESS PROCEDURES:

Delete entry and replace with ''Individuals seeking access to information about themselves contained in this system should address written inquiries to the Office of the Secretary of Defense/Joint Staff Freedom of Information Act Requester Service Center, 1155 Defense Pentagon, Washington, DC 20301–1155.

Signed, written requests for information should contain full name of the individual, current address, and the name and number of this system of records notice.

In addition, the requester must provide a notarized statement or an unsworn declaration made in accordance with 28 U.S.C. 1746, in the following format:

If executed outside the United States: ''I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature).''

If executed within the United States, its territories, possessions, or commonwealths: ''I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)''.''

* * * * *

RECORD SOURCE CATEGORIES:

Delete entry and replace with ''Data is provided by the individual, employer, or staff and faculty of DAU.''

* * * * *

DAU 06

SYSTEM NAME:

Defense Acquisition University (DAU), Visual Arts and Press Records.

SYSTEM LOCATION:

Gray Graphics, 8607 Central Avenue, Capitol Heights, MD 20743–3604.

Paper records are located at Defense Acquisition University (DAU), Visual Arts and Press Department, Building 206, Fort Belvoir, VA 22060–5565.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Program management course graduates, alumni association members, and other DoD affiliated individuals submitting a request to be added to the mailing list.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, work and/or home mailing address, rank or grade, position title, work and/or personal email address, and service affiliation or organization.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 133, Under Secretary of Defense for Acquisition, Technology and Logistics; and DoD Instruction 5000.57, Defense Acquisition University.

PURPOSE(S):

Data is used by DAU to provide a mailing list for the distribution of the Defense AT&L Magazine and Defense Acquisition Research Journal.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, as amended, the records contained herein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

Disclosure of Information to the National Archives and Records Administration Routine Use: A record from a system of records maintained by a DoD Component may be disclosed as a routine use to the National Archives and Records Administration for the purpose of records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

Data Breach Remediation Purposes Routine Use: A record from a system of records maintained by a Component

may be disclosed to appropriate agencies, entities, and persons when (1) The Component suspects or has confirmed that the security or confidentiality of the information in the system of records has been compromised; (2) the Component has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Component or another agency or entity) that rely upon the compromised information; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Components efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and electronic storage media.

RETRIEVABILITY:

Files are retrievable by full name, mailing address, and email address.

SAFEGUARDS:

Files are stored in a controlled access area and locked during non-business hours. Only authorized personnel have access to files. Access to electronic records requires Common Access Card (CAC), password, and Personal Identification Number (PIN).

RETENTION AND DISPOSAL:

All records are destroyed after appropriate revision of mailing list or after 3 months, whichever is sooner.

SYSTEM MANAGER(S) AND ADDRESS:

Director, DAU Visual Arts and Press Department, Defense Acquisition University, Fort Belvoir, VA 22060–5565.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Director, DAU Visual Arts and Press Department, Defense Acquisition University, Building 206, Fort Belvoir, VA 22060–5565.

Signed, written requests should contain full name, current address, and telephone number (for possible quick response).

In addition, the requester must provide a notarized statement or an unsworn declaration made in accordance with 28 U.S.C. 1746, in the following format:

If executed outside the United States: ''I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature).''

If executed within the United States, its territories, possessions, or commonwealths: ''I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)''.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Office of the Secretary of Defense/Joint Staff Freedom of Information Act Requester Service Center, 1155 Defense Pentagon, Washington, DC 20301–1155.

Signed, written requests for information should contain full name of the individual, current address, and the name and number of this system of records notice.

In addition, the requester must provide a notarized statement or an unsworn declaration made in accordance with 28 U.S.C. 1746, in the following format:

If executed outside the United States: ''I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature).''

If executed within the United States, its territories, possessions, or commonwealths: ''I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)''.

CONTESTING RECORD PROCEDURES:

The OSD rules for accessing records, for contesting contents, and appealing initial agency determinations are published in OSD Administrative Instruction 81; 32 CFR part 311; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Data is provided by the individual, employer, or staff and faculty of DAU.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 2016–25428 Filed 10–19–16; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DOD–2016–OS–0103]

Privacy Act of 1974; System of Records

AGENCY: Office of the Secretary of Defense, DoD.

ACTION: Notice to alter a system of records.

SUMMARY: Pursuant to the Privacy Act of 1974, 5 U.S.C. 552a, and Office of Management and Budget (OMB) Circular No. A–130, notice is hereby given that the Office of the Secretary of Defense proposes to alter a system of records, DUSDA 14, entitled ''Science, Mathematics, and Research for Transformation Information Management System,'' last published at 74 FR 66959, December 17, 2009. This system of records exists to enable the Science, Mathematics, and Research for Transformation (SMART) program officials to select qualified scholarship applicants and monitor their progress through the program.

This update reflects considerable administrative changes that in sum warrant an alteration to the systems of records notice. The categories of records were updated to delineate the information maintained in the records. The purpose was revised to advise individuals that the data may be used for statistical analysis, reporting, research, and evaluation of the program's effectiveness. Additionally, the applicable DoD Routine Uses have been incorporated in the notice to provide clarity for the public. Lastly, the system name, system location, categories of individuals, authorities, storage, retrievability, safeguards, retention and disposal, system manager(s) and address, notification procedures, record access procedures, contesting record procedures, and record source categories have also been updated to ensure the information is accurate and current.

DATES: Comments will be accepted on or before November 21, 2016. This proposed action will be effective the date following the end of the comment period unless comments are received which result in a contrary determination.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

* *Federal Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

* *Mail:* Department of Defense, Office of the Deputy Chief Management

Officer, Directorate of Oversight and Compliance, 4800 Mark Center Drive, Mailbox #24, Alexandria, VA 22350–1700.

Instructions: All submissions received must include the agency name and docket number for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Mrs. Luz D. Ortiz, Chief, Records, Privacy and Declassification Division (RPD2), 1155 Defense Pentagon, Washington, DC 20301–1155, or by phone at (571) 372–0478.

SUPPLEMENTARY INFORMATION: The Office of the Secretary of Defense notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address in **FOR FURTHER INFORMATION CONTACT** or at the Defense Privacy, Civil Liberties and Transparency Division Web site at *http://dpcld.defense.gov/.*

The proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on September 23, 2016, to the House Committee on Oversight and Government Reform, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, ''Federal Agency Responsibilities for Maintaining Records About Individuals,'' revised November 28, 2000 (December 12, 2000 65 FR 77677).

Dated: October 17, 2016.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

DUSDA 14

SYSTEM NAME:

Science, Mathematics, and Research for Transformation Information Management System (December 17, 2009, 74 FR 66959).

CHANGES:

* * * * *

SYSTEM NAME:

Delete entry and replace with ''Science, Mathematics, and Research for Transformation (SMART) Information Management System.''

SYSTEM LOCATION:

Delete entry and replace with ''Defense Technical Information Center (DTIC), Directorate of User Services, Marketing and Registration Division, 8725 John J. Kingman Road, Fort Belvoir, VA 22060–6218.

American Society of Engineering Education (ASEE), 1818 N Street NW., Washington, DC 20036–2476.

Naval Postgraduate School (NPS), 1 University Circle, Bldg. 330, Monterey, CA 93943–5197.

NCI Inc., 400 Camino Aguajito, 1st Floor, Monterey, CA 93940–3541.''

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete entry and replace with ''Applicants and participants of the Science, Mathematics, and Research for Transformation (SMART) Scholarship for Service Program.''

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with ''Information includes full name and any other names used, Social Security Number (SSN), home and school mailing addresses, home and cell phone numbers, school and alternate email addresses.

Additional information collected may include SMART Program identification number, resumes and/or curricula vitae, publications, U.S. Citizenship, Selective Service registration status, birth date, employment status, state and country of birth, race/ethnicity, gender, security clearance status, veterans preference, academic status, assessment test scores, copies of transcripts, bank account numbers, bank routing numbers, Individualized Education Program (IEP) or special accommodations testing requirements, projected and actual graduation dates, and projected and actual award amounts.''

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with ''5 U.S.C. 3304, Competitive service, examinations; 10 U.S.C. 2192a, Science, Mathematics, and Research for Transformation (SMART) Defense Education Program; 20 U.S.C. Chapter 17, National Defense Education Program; DoD Instruction 1400.25, Volume 410, DoD Civilian Personnel Management System: Training, Education, and Professional Development; and E.O. 9397 (SSN), as amended.''

PURPOSE(S):

Delete entry and replace with ''To enable SMART officials to select qualified applicants to be awarded SMART scholarships and monitor participant progress and status through the program. The system is also used as a management tool for statistical analysis, tracking, reporting, evaluating program effectiveness, and conducting research.''

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Delete entry and replace with ''In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, as amended, the records contained herein may specifically be disclosed outside the Department of Defense as a routine use pursuant to § 552a(b)(3) as follows:

To contractors working on a contract for DoD, when necessary to accomplish an agency function related to this system of records. Contractor's provided information under this routine use are subject to the same Privacy Act requirements and limitations on disclosure as applicable to DoD offices and employees.

To academic institutions for the purpose of providing progress reports for applicants and participants.

To consumer reporting agencies as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)). The purpose of this disclosure is to aid in the collection of outstanding debts owed to the Federal government, typically to provide an incentive for debtors to repay delinquent Federal government debts by making these debts part of their credit records.

Law Enforcement Routine Use: If a system of records maintained by a DoD Component to carry out its functions indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or by regulation, rule, or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the agency concerned, whether federal, state, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto.

Disclosure When Requesting Information Routine Use: A record from a system of records maintained by a DoD Component may be disclosed as a routine use to a federal, state, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain

information relevant to a DoD Component decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit.

Disclosure of Requested Information Routine Use: A record from a system of records maintained by a DoD Component may be disclosed to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

Congressional Inquiries Disclosure Routine Use: Disclosure from a system of records maintained by a DoD Component may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Disclosure to the Department of Justice for Litigation Routine Use: A record from a system of records maintained by a DoD Component may be disclosed as a routine use to any component of the Department of Justice for the purpose of representing the Department of Defense, or any officer, employee or member of the Department in pending or potential litigation to which the record is pertinent.

Disclosure of Information to the National Archives and Records Administration Routine Use: A record from a system of records maintained by a DoD Component may be disclosed as a routine use to the National Archives and Records Administration for the purpose of records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

Data Breach Remediation Purposes Routine Use: A record from a system of records maintained by a Component may be disclosed to appropriate agencies, entities, and persons when (1) The Component suspects or has confirmed that the security or confidentiality of the information in the system of records has been compromised; (2) the Component has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Component or another agency or entity) that rely upon the compromised information; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Components efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.''

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Delete entry and replace with ''Paper and electronic storage media.''

RETRIEVABILITY:

Delete entry and replace with ''Records are retrieved by name and SMART Program identification number.''

SAFEGUARDS:

Delete entry and replace with ''Access to records is permission-granted based on the role of the individual (need-to-know) and further restricted to individuals who require the data in the performance of official duties. Electronic records are maintained on servers in controlled areas accessible only to authorized personnel. Access to storage areas is restricted to personnel with a valid requirement and authorization to enter. Hardcopy records are kept in locked safes. Physical entry is restricted by the use of one or more of the following: Security guards, identification badges, cipher locks, electronic locks, combination locks, key card access and closed circuit TV. Technical controls consist of user identification, passwords, intrusion detection systems, encryption, External Certificate Authority, firewalls, Virtual Private Network (VPN), DoD Public Key Infrastructure certificates, and Common Access Cards (CACs). Administrative controls consist of periodic security audits, regular monitoring of users' security practices, methods to ensure only authorized personnel have access to Personally Identifiable Information (PII). Personnel who have access to SMART PII take annual Information Assurance and Privacy Act training, as required by the DoD.''

RETENTION AND DISPOSAL:

Delete entry and replace with ''Participant information will be deleted/destroyed 6 years and 3 months after completion of service commitment, or upon repayment of funds. Records of individuals not chosen for participation in the program will be deleted when 3 years old. DoD research and engineering facility data will be deleted/destroyed upon termination of affiliation.''

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with ''Director, SMART Scholarship for Service Program, 4800 Mark Center Drive, Alexandria, VA 22350–3600.''

NOTIFICATION PROCEDURE:

Delete entry and replace with ''Individuals seeking to determine whether this system of records contains information about themselves may address their inquiries to the Director, SMART Scholarship for Service Program, 4800 Mark Center Drive, Alexandria, VA 22350–3600.

Signed, written requests should contain the individual's full name and SMART Program identification number.''

RECORD ACCESS PROCEDURES:

Delete entry and replace with ''Individuals seeking access to information about themselves contained in this system should address written inquiries to the Office of the Secretary of Defense/Joint Staff, Freedom of Information Act Requester Service Center, 1155 Defense Pentagon, Washington, DC 20301–1155.

Signed, written requests should contain the individual's full name and SMART Program identification number, and the name and number of this system of records notice.

In addition, the requester must provide a notarized statement or an unsworn declaration made in accordance with 28 U.S.C. 1746, in the following format:

If executed outside the United States: 'I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature).'

If executed within the United States, its territories, possessions, or commonwealths: 'I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature).'''

CONTESTING RECORD PROCEDURES:

Delete entry and replace with ''OSD rules for accessing records, contesting contents, and appealing initial agency determinations are published in the OSD Administrative Instruction 81; 32 CFR part 311; or may be obtained from the system manager.''

RECORD SOURCE CATEGORIES:

Delete entry and replace with ''Information is received from the individual and SMART Program support staff.''

* * * * *

DUSDA 14

SYSTEM NAME:

Science, Mathematics, and Research for Transformation (SMART) Information Management System.

SYSTEM LOCATION:

Defense Technical Information Center (DTIC), Directorate of User Services, Marketing and Registration Division, 8725 John J. Kingman Road, Fort Belvoir, VA 22060–6218.

American Society of Engineering Education (ASEE), 1818 N Street NW., Washington, DC 20036–2476.

Naval Postgraduate School (NPS), 1 University Circle, Bldg. 330, Monterey, CA 93943–5197.

NCI Inc., 400 Camino Aguajito, 1st Floor, Monterey, CA 93940–3541.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants and participants of the Science, Mathematics, and Research for Transformation (SMART) Scholarship for Service Program.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information includes full name and any other names used, Social Security Number (SSN), home and school mailing addresses, home and cell phone numbers, school and alternate email addresses.

Additional information collected may include SMART Program identification number, resumes and/or curricula vitae, publications, U.S. Citizenship, Selective Service registration status, birth date, employment status, state and country of birth, race/ethnicity, gender, security clearance status, veterans preference, academic status, assessment test scores, copies of transcripts, bank account numbers, bank routing numbers, Individualized Education Program (IEP) or special accommodations testing requirements, projected and actual graduation dates, and projected and actual award amounts.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 3304, Competitive service, examinations; 10 U.S.C. 2192a, Science, Mathematics, and Research for Transformation (SMART) Defense Education Program; 20 U.S.C. Chapter 17, National Defense Education Program; DoD Instruction 1400.25, Volume 410, DoD Civilian Personnel Management System: Training, Education, and Professional Development; and E.O. 9397 (SSN), as amended.

PURPOSE(S):

To enable SMART officials to select qualified applicants to be awarded SMART scholarships and monitor participant progress and status through the program. The system is also used as a management tool for statistical analysis, tracking, reporting, evaluating program effectiveness, and conducting research.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, as amended, the records contained herein may specifically be disclosed outside the Department of Defense as a routine use pursuant to § 552a(b)(3) as follows:

To contractors working on a contract for DoD, when necessary to accomplish an agency function related to this system of records. Contractor's provided information under this routine use are subject to the same Privacy Act requirements and limitations on disclosure as applicable to DoD offices and employees.

To academic institutions for the purpose of providing progress reports for applicants and participants.

To consumer reporting agencies as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)). The purpose of this disclosure is to aid in the collection of outstanding debts owed to the Federal government, typically to provide an incentive for debtors to repay delinquent Federal government debts by making these debts part of their credit records.

Law Enforcement Routine Use: If a system of records maintained by a DoD Component to carry out its functions indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or by regulation, rule, or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the agency concerned, whether federal, state, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto.

Disclosure When Requesting Information Routine Use: A record from a system of records maintained by a DoD Component may be disclosed as a routine use to a federal, state, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to a DoD Component decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit.

Disclosure of Requested Information Routine Use: A record from a system of records maintained by a DoD Component may be disclosed to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

Congressional Inquiries Disclosure Routine Use: Disclosure from a system of records maintained by a DoD Component may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Disclosure to the Department of Justice for Litigation Routine Use: A record from a system of records maintained by a DoD Component may be disclosed as a routine use to any component of the Department of Justice for the purpose of representing the Department of Defense, or any officer, employee or member of the Department in pending or potential litigation to which the record is pertinent.

Disclosure of Information to the National Archives and Records Administration Routine Use: A record from a system of records maintained by a DoD Component may be disclosed as a routine use to the National Archives and Records Administration for the purpose of records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

Data Breach Remediation Purposes Routine Use: A record from a system of records maintained by a Component may be disclosed to appropriate agencies, entities, and persons when (1) The Component suspects or has confirmed that the security or confidentiality of the information in the system of records has been compromised; (2) the Component has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Component or another agency or entity) that rely upon the compromised

information; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Components efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and electronic storage media.

RETRIEVABILITY:

Records are retrieved by name and SMART Program identification number.

SAFEGUARDS:

Access to records is permission-granted based on the role of the individual (need-to-know) and further restricted to individuals who require the data in the performance of official duties. Electronic records are maintained on servers in controlled areas accessible only to authorized personnel. Access to storage areas is restricted to personnel with a valid requirement and authorization to enter. Hardcopy records are kept in locked safes. Physical entry is restricted by the use of one or more of the following: Security guards, identification badges, cipher locks, electronic locks, combination locks, key card access and closed circuit TV. Technical controls consist of user identification, passwords, intrusion detection systems, encryption, External Certificate Authority, firewalls, Virtual Private Network (VPN), DoD Public Key Infrastructure certificates, and Common Access Cards (CACs). Administrative controls consist of periodic security audits, regular monitoring of users' security practices, methods to ensure only authorized personnel have access to Personally Identifiable Information (PII). Personnel who have access to SMART PII take annual Information Assurance and Privacy Act training, as required by the DoD.

RETENTION AND DISPOSAL:

Participant information will be deleted/destroyed 6 years and 3 months after completion of service commitment, or upon repayment of funds. Records of individuals not chosen for participation in the program will be deleted when 3 years old. DoD research and engineering facility data will be deleted/destroyed upon termination of affiliation.

SYSTEM MANAGER(S) AND ADDRESS:

Director, SMART Scholarship for Service Program, 4800 Mark Center Drive, Alexandria, VA 22350–3600.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves may address their inquiries to the Director, SMART Scholarship for Service Program, 4800 Mark Center Drive, Alexandria, VA 22350–3600.

Signed, written requests should contain the individual's full name and SMART Program identification number.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Office of the Secretary of Defense/Joint Staff, Freedom of Information Act Requester Service Center, 1155 Defense Pentagon, Washington, DC 20301–1155.

Signed, written requests should contain the individual's full name and SMART Program identification number, and the name and number of this system of records notice.

In addition, the requester must provide a notarized statement or an unsworn declaration made in accordance with 28 U.S.C. 1746, in the following format:

If executed outside the United States: ''I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature).''

If executed within the United States, its territories, possessions, or commonwealths: ''I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature).''

CONTESTING RECORD PROCEDURES:

OSD rules for accessing records, contesting contents, and appealing initial agency determinations are published in the OSD Administrative Instruction 81; 32 CFR part 311; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Information is received from the individual and SMART Program support staff.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 2016–25411 Filed 10–19–16; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2016–ICCD–0113]

Agency Information Collection Activities; Comment Request; NCER–NPSAS Grants—Financial Aid Nudges: A National Experiment To Increase Retention of Financial Aid and College Persistence

AGENCY: National Center for Education Statistics (NCES), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing a new information collection.

DATES: Interested persons are invited to submit comments on or before December 19, 2016.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2016–ICCD–0113. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Room 2E–349, Washington, DC 20202–4537.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact NCES Information Collections at *NCES.Information.Collections@ed.gov.*

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that

is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: NCER–NPSAS Grants—Financial Aid Nudges: A National Experiment to Increase Retention of Financial Aid and College Persistence.

OMB Control Number: 1850–NEW.

Type of Review: A new information collection.

Respondents/Affected Public: Individuals.

Total Estimated Number of Annual Responses: 112,500.

Total Estimated Number of Annual Burden Hours: 11,625.

Abstract: In 2010, the National Center for Education Research (NCER) and the National Center for Education Statistics (NCES), both within the U.S. Department of Education's Institute of Education Sciences (IES), began collaborating on an education grant opportunity related to the cross-sectional National Postsecondary Student Aid Study (NPSAS). NPSAS is a large, nationally-representative sample of postsecondary institutions and students that contains student-level records on student demographics and family background, work experience, expectations, receipt of financial aid, and postsecondary enrollment (see *http://nces.ed.gov/surveys/npsas/about.asp;* (OMB #1850–0666)). Since 1987, NPSAS has been fielded every 3 to 4 years, most recently during the 2015–16 academic year. The goal of this NCER–NCES collaboration is to provide researchers the opportunity to develop ''one-off'' projects that would target a subset of the NPSAS sample. Under this NCER–NCES grant opportunity, researchers submit applications to the Education Research Grants program (84.305A) under the Postsecondary and Adult Education topic and to the Exploration or Efficacy/Replication research goals. NCER supports research projects using NPSAS subsamples to: (1) Explore the relations between postsecondary persistence and completion, and malleable factors (as well as the mediators and moderators of those relationships), and (2) evaluate the efficacy of interventions aimed at improving persistence and completion of postsecondary education. Through the grant award, researchers can obtain indirect access to a subsample of the NPSAS sample after the study's student interviews have been completed. This request is to conduct, in 2017, the ''Financial Aid Nudges: A National Experiment to Increase Retention of Financial Aid and College Persistence'' study, funded by the NCER–NPSAS grant, designed to measure the effectiveness of an intervention that will provide financial aid information, reminders, and advising to college students who were initially interviewed as part of NPSAS:16.

Dated: October 17, 2016.

Tomakie Washington,

Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.

[FR Doc. 2016–25427 Filed 10–19–16; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2016–ICCD–0112]

Agency Information Collection Activities; Comment Request; NCER–NPSAS Grants—Connecting Students 2017: Testing the Effectiveness of FAFSA Interventions on College Outcomes

AGENCY: National Center for Education Statistics (NCES), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing a new information collection.

DATES: Interested persons are invited to submit comments on or before December 19, 2016.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2016–ICCD–0112. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Room 2E–349, Washington, DC 20202–4537.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact NCES Information Collections at *NCES.Information.Collections@ed.gov.*

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: NCER–NPSAS Grants—Connecting Students 2017: Testing the Effectiveness of FAFSA Interventions on College Outcomes.

OMB Control Number: 1850–NEW.

Type of Review: A new information collection.

Respondents/Affected Public: Individuals.

Total Estimated Number of Annual Responses: 53,900.

Total Estimated Number of Annual Burden Hours: 30,144.

Abstract: In 2010, the National Center for Education Research (NCER) and the National Center for Education Statistics (NCES), both within the U.S. Department of Education's Institute of Education Sciences (IES), began collaborating on an education grant opportunity related to the cross-

sectional National Postsecondary Student Aid Study (NPSAS). NPSAS is a large, nationally-representative sample of postsecondary institutions and students that contains student-level records on student demographics and family background, work experience, expectations, receipt of financial aid, and postsecondary enrollment (see *http://nces.ed.gov/surveys/npsas/about.asp;* (OMB #1850–0666)). Since 1987, NPSAS has been fielded every 3 to 4 years, most recently during the 2015–16 academic year. The goal of this NCER–NCES collaboration is to provide researchers the opportunity to develop ''one-off'' projects that would target a subset of the NPSAS sample. Under this NCER–NCES grant opportunity, researchers submit applications to the Education Research Grants program (84.305A) under the Postsecondary and Adult Education topic and to the Exploration or Efficacy/Replication research goals. NCER supports research projects using NPSAS subsamples to: (1) Explore the relations between postsecondary persistence and completion, and malleable factors (as well as the mediators and moderators of those relationships), and (2) evaluate the efficacy of interventions aimed at improving persistence and completion of postsecondary education. Through the grant award, researchers can obtain indirect access to a subsample of the NPSAS sample after the study's student interviews have been completed. This request is to conduct, in 2017, the ''Connecting Students 2017: Testing the Effectiveness of FAFSA Interventions on College Outcomes'' study, funded by the NCER–NPSAS grant, designed to measure the effectiveness of an intervention that will provide financial aid information and reminders to college students who were initially interviewed as part of NPSAS:16.

Dated: October 17, 2016.

Tomakie Washington,

Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.

[FR Doc. 2016–25426 Filed 10–19–16; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice Of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC17–11–000.

Applicants: AEP Generation Resources Inc., AEP Generating Company, Gavin Power, LLC., Darby Power, LLC., Waterford Power, LLC., Lawrenceburg Power, LLC.

Description: Joint Application for Authorization of Disposition of Jurisdictional Assets Under Section 203 of the FPA of AEP Generation Resources, Inc., et al.

Filed Date: 10/13/16.

Accession Number: 20161013–5201.

Comments Due: 5 p.m. ET 11/3/16.

Docket Numbers: EC17–12–000.

Applicants: Duquesne Light Company.

Description: Application for Approval under Section 203 of the Federal Power Act and Request for Expedited Treatment of Duquesne Light Company, et al.

Filed Date: 10/13/16.

Accession Number: 20161013–5203.

Comments Due: 5 p.m. ET 11/3/16.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG17–8–000.

Applicants: Moapa Southern Paiute Solar, LLC.

Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Moapa Southern Paiute Solar, LLC.

Filed Date: 10/13/16.

Accession Number: 20161013–5205.

Comments Due: 5 p.m. ET 11/3/16.

Docket Numbers: EG17–9–000.

Applicants: Ocean State Power LLC.

Description: Ocean State Power LLC. Notice of Self-Certification of Exempt Wholesale Generator Status.

Filed Date: 10/13/16.

Accession Number: 20161013–5206.

Comments Due: 5 p.m. ET 11/3/16.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–1910–012; ER10–1911–012.

Applicants: Duquesne Light Company, Duquesne Power, LLC.

Description: Notice of Change in Status of the Duquesne MBR Sellers.

Filed Date: 10/13/16.

Accession Number: 20161013–5212.

Comments Due: 5 p.m. ET 11/3/16.

Docket Numbers: ER13–343–007.

Applicants: CPV Maryland, LLC.

Description: Notice of Change in Status of CPV Maryland, LLC.

Filed Date: 10/13/16.

Accession Number: 20161013–5200.

Comments Due: 5 p.m. ET 11/3/16.

Docket Numbers: ER17–85–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Third Revised ISA No. 2301, Queue No. AA1–079 to be effective 9/13/2016.

Filed Date: 10/13/16.

Accession Number: 20161013–5172.

Comments Due: 5 p.m. ET 11/3/16.

Docket Numbers: ER17–86–000.

Applicants: Pacific Gas and Electric Company.

Description: § 205(d) Rate Filing: Revisions to PG&E's WDT LGIA and SGIA in Compliance With Order Nos. 827 and 828 to be effective 10/17/2016.

Filed Date: 10/14/16.

Accession Number: 20161014–5002.

Comments Due: 5 p.m. ET 11/4/16.

Docket Numbers: ER17–87–000.

Applicants: NorthWestern Corporation.

Description: Compliance filing: Order Nos. 827 and 828 Combined Compliance Filing (Montana OATT) to be effective 10/14/2016.

Filed Date: 10/14/16.

Accession Number: 20161014–5032.

Comments Due: 5 p.m. ET 11/4/16.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES17–3–000.

Applicants: Monongahela Power Company.

Description: Application for Authorization Under Section 204 of the Federal Power Act of Monongahela Power Company.

Filed Date: 10/13/16.

Accession Number: 20161013–5210.

Comments Due: 5 p.m. ET 11/3/16.

Take notice that the Commission received the following qualifying facility filings:

Docket Numbers: QF15–999–000.

Applicants: Garnet Solar Power Generation Station 1.

Description: Refund Report of Garnet Solar Power Generation Station 1 LLC.

Filed Date: 10/13/16.

Accession Number: 20161013–5180.

Comments Due: 5 p.m. ET 11/3/16.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests,

service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: October 14, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–25360 Filed 10–19–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC16–184–000.

Applicants: WGP Acquisition, LLC, Lea Power Partners, LLC, Waterside Power, LLC, Badger Creek Limited, Chalk Cliff Limited, Double C Generation Limited Partnership, High Sierra Limited, Kern Front Limited, McKittrick Limited, Bear Mountain Limited, Live Oak Limited.

Description: Supplement to September 19, 2016 Joint Section 203 Application for WPG Acquisition, LLC, et al.

Filed Date: 10/12/16.

Accession Number: 20161012–5093.

Comments Due: 5 p.m. ET 10/24/16.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG17–10–000.

Applicants: Applied Energy LLC.

Description: Notice of Self-Certification of Exempt Wholesale Generator of Applied Energy LLC.

Filed Date: 10/13/16.

Accession Number: 20161013–5207.

Comments Due: 5 p.m. ET 11/3/16.

Docket Numbers: EG17–11–000.

Applicants: Applied Energy LLC.

Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Applied Energy LLC.

Filed Date: 10/13/16.

Accession Number: 20161013–5208.

Comments Due: 5 p.m. ET 11/3/16.

Docket Numbers: EG17–12–000.

Applicants: Javelina Wind Energy II, LLC.

Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Javelina Wind Energy II, LLC under EG17–12.

Filed Date: 10/13/16.

Accession Number: 20161013–5209.

Comments Due: 5 p.m. ET 11/3/16.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER14–19–006.

Applicants: West Deptford Energy, LLC.

Description: Notification of Change in Status of West Deptford Energy, LLC.

Filed Date: 10/13/16.

Accession Number: 20161013–5214.

Comments Due: 5 p.m. ET 11/3/16.

Docket Numbers: ER15–2631–005.

Applicants: Odell Wind Farm, LLC.

Description: Notice of Non-Material Change in Status of Odell Wind Farm, LLC.

Filed Date: 10/14/16.

Accession Number: 20161014–5150.

Comments Due: 5 p.m. ET 11/4/16.

Docket Numbers: ER16–1672–002; ER16–1354–002; ER16–1913–001

Applicants: Chaves County Solar, LLC, Live Oak Solar, LLC, River Bend Solar, LLC.

Description: Notice of Non-Material Change in Status of Chaves County Solar, LLC, et al.

Filed Date: 10/14/16.

Accession Number: 20161014–5147.

Comments Due: 5 p.m. ET 11/4/16.

Docket Numbers: ER16–2654–001.

Applicants: City Point Energy Center, LLC.

Description: Tariff Amendment: Amendment to 1 to be effective 12/31/9998.

Filed Date: 10/14/16.

Accession Number: 20161014–5110

Comments Due: 5 p.m. ET 11/4/16.

Docket Numbers: ER17–79–001.

Applicants: Portland General Electric Company.

Description: Compliance filing: Errata to Combined Order 827 and 828 Compliance Filing to be effective 10/14/2016.

Filed Date: 10/14/16.

Accession Number: 20161014–5118.

Comments Due: 5 p.m. ET 11/4/16.

Docket Numbers: ER17–88–000.

Applicants: Puget Sound Energy, Inc.

Description: § 205(d) Rate Filing: Flexible Ramping Product Revisions to be effective 11/1/2016.

Filed Date: 10/14/16.

Accession Number: 20161014–5040.

Comments Due: 5 p.m. ET 11/4/16.

Docket Numbers: ER17–89–000.

Applicants: Midcontinent Independent System Operator, Inc., Entergy Services, Inc.

Description: § 205(d) Rate Filing: 2016–10–14_Entergy Texas, Inc. Filing to Amend ETI Attachment O to be effective 12/19/2013.

Filed Date: 10/14/16.

Accession Number: 20161014–5043.

Comments Due: 5 p.m. ET 11/4/16.

Docket Numbers: ER17–90–000.

Applicants: Public Service Company of Colorado.

Description: Compliance filing: OATT Order 827–828 Compliance to be effective 10/14/2016.

Filed Date: 10/14/16.

Accession Number: 20161014–5048.

Comments Due: 5 p.m. ET 11/4/16.

Docket Numbers: ER17–91–000.

Applicants: Public Service Company of Colorado.

Description: § 205(d) Rate Filing: 20161014_IREA Amended PPA to be effective 7/13/2015.

Filed Date: 10/14/16.

Accession Number: 20161014–5064.

Comments Due: 5 p.m. ET 11/4/16.

Docket Numbers: ER17–92–000.

Applicants: Public Service Company of Colorado.

Description: § 205(d) Rate Filing: 20161014_IREA Amended PPA to be effective 4/16/2016.

Filed Date: 10/14/16.

Accession Number: 20161014–5074.

Comments Due: 5 p.m. ET 11/4/16.

Docket Numbers: ER17–93–000.

Applicants: PacifiCorp.

Description: § 205(d) Rate Filing: UAMPS Construction Agmt Lehi (Upgrades to Eagle Mountain) to be effective 12/14/2016.

Filed Date: 10/14/16.

Accession Number: 20161014–5087.

Comments Due: 5 p.m. ET 11/4/16.

Docket Numbers: ER17–94–000.

Applicants: ESS Snook Project, LLC.

Description: Baseline eTariff Filing: Baseline new to be effective 12/13/2016.

Filed Date: 10/14/16.

Accession Number: 20161014–5089.

Comments Due: 5 p.m. ET 11/4/16.

Docket Numbers: ER17–95–000.

Applicants: Alabama Power Company.

Description: Compliance filing: Order Nos. 827 and 828 Compliance Filing to be effective 10/14/2016.

Filed Date: 10/14/16.

Accession Number: 20161014–5092.

Comments Due: 5 p.m. ET 11/4/16.

Docket Numbers: ER17–96–000.

Applicants: ISO New England Inc.

Description: § 205(d) Rate Filing: Part 1 of Two-Part Filing to Update Eff Date of Accepted Demand Response Chgs to be effective 6/1/2017.

Filed Date: 10/14/16.

Accession Number: 20161014–5098.

Comments Due: 5 p.m. ET 11/4/16.

Docket Numbers: ER17–97–000.

Applicants: Florida Power & Light Company.

Description: Compliance filing: FPL's Order Nos. 827 and 828 Single

Combined Compliance Filing to be effective 10/14/2016.

Filed Date: 10/14/16.

Accession Number: 20161014–5099.

Comments Due: 5 p.m. ET 11/4/16.

Docket Numbers: ER17–98–000.

Applicants: Sky River LLC.

Description: Compliance filing: Sky River LLC's Order Nos. 827 and 828 Single Combined Compliance Filing to be effective 10/14/2016.

Filed Date: 10/14/16.

Accession Number: 20161014–5100.

Comments Due: 5 p.m. ET 11/4/16.

Docket Numbers: ER17–99–000.

Applicants: Tucson Electric Power Company.

Description: Compliance filing: Compliance Filing per Orders 827 & 828 (LGIA & SGIA) to be effective 12/14/2016.

Filed Date: 10/14/16.

Accession Number: 20161014–5101.

Comments Due: 5 p.m. ET 11/4/16.

Docket Numbers: ER17–100–000.

Applicants: UNS Electric, Inc.

Description: Compliance filing: Compliance Filing per Orders 827 & 828 (LGIA & SGIA) to be effective 12/14/2016.

Filed Date: 10/14/16.

Accession Number: 20161014–5105.

Comments Due: 5 p.m. ET 11/4/16.

Docket Numbers: ER17–101–000.

Applicants: Sagebrush, a California partnership.

Description: Tariff Cancellation: Notice of Cancellation of Sagebrush, a California partnership's OATT to be effective 12/14/2016.

Filed Date: 10/14/16.

Accession Number: 20161014–5113.

Comments Due: 5 p.m. ET 11/4/16.

Docket Numbers: ER17–102–000.

Applicants: California Independent System Operator Corporation.

Description: Compliance filing: 2016–10–14 Compliance Order No. 827 and Order No. 828 to be effective 9/21/2016.

Filed Date: 10/14/16.

Accession Number: 20161014–5131.

Comments Due: 5 p.m. ET 11/4/16.

Docket Numbers: ER17–103–000.

Applicants: San Diego Gas & Electric Company.

Description: § 205(d) Rate Filing: SDGEs Order Nos. 827 and 828 Compliance Filing to be effective 10/17/2016.

Filed Date: 10/14/16.

Accession Number: 20161014–5146.

Comments Due: 5 p.m. ET 11/4/16.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: October 14, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–25361 Filed 10–19–16; 8:45 am]

BILLING CODE 6717–01–P

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Agency Information Collection Activities

AGENCY: Equal Employment Opportunity Commission.

ACTION: Notice of Information Collection—Extension without Change: Demographic Information on Applicants for Federal Employment.

SUMMARY: In accordance with the Paperwork Reduction Act, the Equal Employment Opportunity Commission (EEOC or Commission) announces that it intends to submit to the Office of Management and Budget (OMB) a request for a three-year extension of the Demographic Information on Federal Job Applicants, OMB No. 3046–0046.

DATES: Written comments on this notice must be submitted on or before December 19, 2016.

ADDRESSES: Comments should be sent to Bernadette Wilson, Acting Executive Officer, Executive Secretariat, Equal Employment Opportunity Commission, 131 M Street NE., Washington, DC 20507. As a convenience to commenters, the Executive Secretariat will accept comments totaling six or fewer pages by facsimile (''FAX'') machine. This limitation is necessary to assure access to the equipment. The telephone number of the FAX receiver is (202) 663–4114. (This is not a toll-free number). Receipt of FAX transmittals will not be acknowledged, except that the sender may request confirmation of receipt by calling the Executive Secretariat staff at (202) 663–4070 (voice) or (202) 663–4074 (TTD). (These are not toll-free telephone numbers.) Instead of sending written comments to the EEOC, you may submit comments and attachments electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments. All comments received through this portal will be posted without change, including any personal information you provide, except as noted below. The EEOC reserves the right to refrain from posting libelous or otherwise inappropriate comments including those that contain obscene, indecent, or profane language; that contain threats or defamatory statements; that contain hate speech directed at race, color, sex, national origin, age, religion, disability, or genetic information; or that promote or endorse services or products. All comments received, including any personal information provided, also will be available for public inspection during normal business hours by appointment only at the EEOC Headquarters' Library, 131 M Street NE., Washington, DC 20507. Upon request, individuals who require assistance viewing comments will be provided appropriate aids such as readers or print magnifiers. To schedule an appointment to inspect the comments at EEOC's library, contact the library staff at (202) 663–4630 (voice) or (202) 663–4641 (TTY). (These are not toll-free numbers.)

FOR FURTHER INFORMATION CONTACT: Jamie Price, Federal Sector Programs, Office of Federal Operations, 131 M Street NE., Washington, DC 20507, (202) 663–4484 (voice); (202) 663–4593 (TTY).

SUPPLEMENTARY INFORMATION: On July 26, 2010, President Obama issued Executive Order 13548, which directs Executive departments and agencies (hereafter ''agencies'') to improve their efforts to employ Federal workers with disabilities through increased recruitment, hiring, and retention of these individuals. OPM, in consultation with the White House (including the Office of Management and Budget (OMB), the Department of Labor (DOL), and the EEOC has developed, as required by the E.O. 13548, model recruitment and hiring strategies for agencies to use to increase their employment of individuals with disabilities. The strategies include collecting, maintaining, and analyzing applicant flow data and examining existing recruitment programs and hiring practices to identify and eliminate any barriers to recruiting/hiring individuals with disabilities and, in particular, individuals with targeted disabilities. The EEOC's Demographic

Information on Federal Job Applicants form (OMB No. 3046–0046) is intended for use by federal agencies in gathering data on the race, ethnicity, sex, and disability status of job applicants. This form is used by the EEOC and other agencies to gauge progress and trends over time with respect to equal employment opportunity goals.

Pursuant to the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, and OMB regulation 5 CFR 1320.8(d)(1), the Commission solicits public comment to enable it to:

(1) Evaluate whether the proposed data collection tool will have practical utility by enabling a federal agency to determine whether recruitment activities are effectively reaching all segments of the relevant labor pool in compliance with the laws enforced by the Commission and whether the agency's selection procedures allow all applicants to compete on a level playing field regardless of race, national origin, sex or disability status;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on applicants for federal employees who choose to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

Collection Title: Demographic Information on Federal Job Applicants.

OMB Control No.: 3046–0046.

Description of Affected Public: Individuals submitting applications for federal employment.

Number of Annual Responses: 5,800.

Estimated Time per Response: 3 minutes.

Total Annual Burden Hours: 290.[1]

Annual Federal Cost: None.

Abstract: Under section 717 of Title VII and 501 of the Rehabilitation Act, the Commission is charged with reviewing and approving federal agencies plans to affirmatively address potential discrimination before it occurs. Pursuant to such oversight responsibilities, the Commission has established systems to monitor compliance with Title VII and the Rehabilitation Act by requiring federal agencies to evaluate their employment practices through the collection and analysis of data on the race, national origin, sex and disability status of applicants for both permanent and temporary employment.

Several federal agencies (or components of such agencies) have previously obtained separate OMB approval for the use of forms collecting data on the race, national origin, sex, and disability status of applicants. In order to avoid unnecessary duplication of effort and a proliferation of forms, the EEOC seeks an extension of the approval of a common form to be used by all federal agencies.

Response by applicants is optional. The information obtained will be used by federal agencies only for evaluating whether an agency's recruitment activities are effectively reaching all segments of the relevant labor pool and whether the agency's selection procedures allow all applicants to compete on a level playing field regardless of race, national origin, sex, or disability status. The voluntary responses are treated in a highly confidential manner and play no part in the job selection process. The information is not provided to any panel rating the applications, to selecting officials, to anyone who can affect the application, or to the public. Rather, the information is used in summary form to determine trends over many selections within a given occupational or organization area. No information from the form is entered into an official personnel file.

Burden Statement: Because of the predominant use of online application systems, which require only pointing and clicking on the selected responses, and because the form requests only eight questions regarding basic information, the EEOC estimates that an applicant can complete the form in approximately 3 minutes or less. Based on past experience, we expect that 5,800 applicants will choose to complete the form.

Upon approval of this common form by OMB, federal agencies may request OMB approval to use this common form without having to publish notices and request public comments for 60 and 30 days. Each agency must account for the burden associated with their use of the common form.

Dated: October 14, 2016.

For the Commission.

Jenny R. Yang,

Chair.

BILLING CODE 6570–01–P

[1] This total is calculated as follows: 5,800 annual responses × 3 minutes per response = 17,400 minutes. 17,400/60 = 290 hours.

DEMOGRAPHIC INFORMATION ON APPLICANTS

OMB No.:
Expiration Date:

Vacancy Announcement No.:
Position Title:

YOUR PRIVACY IS PROTECTED

This information is used to determine if our equal employment opportunity efforts are reaching all segments of the population, consistent with Federal equal employment opportunity laws. Responses to these questions are voluntary. Your responses will not be shown to the panel rating the applications, to the official selecting an applicant for a position, or to anyone else who can affect your application. This form will not be placed in your Personnel file nor will it be provided to your supervisors in your employing office should you be hired. The aggregate information collected through this form will be kept private to the extent permitted by law. See the Privacy Act Statement below for more information.

Completion of this form is voluntary. No individual personnel selections are made based on this information. There will be no impact on your application if you choose not to answer any of these questions.

Thank you for helping us to provide better service.

1. How did you learn about this position? (Check One):

- ☐ Agency Internet Site recruitment
- ☐ Private Employment Web Site
- ☐ Other Internet Site
- ☐ Job Fair
- ☐ Newspaper or magazine
- ☐ Agency or other Federal government on campus
- ☐ School or college counselor or other official
- ☐ Friend or relative working for this agency
- ☐ Private Employment Office
- ☐ Agency Human Resources Department (bulletin board or other announcement)
- ☐ Federal, State, or Local Job Information Center
- ☐ Other

2. Sex (Check One):

- ☐ **Male**
- ☐ **Female**

3. Ethnicity (Check One):

- ☐ **Hispanic or Latino** - a person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin, regardless of race.
- ☐ **Not Hispanic or Latino**

4. Race (Check all that apply):

- ☐ **American Indian or Alaska Native** - a person having origins in any of the original peoples of North or South America (including Central America), and who maintains tribal affiliation or community attachment.
- ☐ **Asian** - a person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent, including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, or Vietnam.
- ☐ **Black or African American** - a person having origins in any of the black racial groups of Africa.
- ☐ **Native Hawaiian or Other Pacific Islander** - a person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific islands.
- ☐ **White** - a person having origins in any of the original peoples of Europe, the Middle East, or North Africa.

5. Disability/Serious Health Condition

The next questions address disability and serious health conditions. Your responses will ensure that our outreach and recruitment policies are reaching a wide range of individuals with physical or mental conditions. Consider your answers without the use of medication and aids (except eyeglasses) or the help of another person.

A. Do you have any of the following? Check all boxes that apply to you:

- ☐ **Deaf or serious difficulty hearing**
- ☐ **Blind or serious difficulty seeing even when wearing glasses**
- ☐ **Missing an arm, leg, hand, or foot**
- ☐ **Paralysis: Partial or complete paralysis (any cause)**
- ☐ **Significant Disfigurement: for example, severe disfigurements caused by burns, wounds, accidents, or congenital disorders**
- ☐ **Significant Mobility Impairment: for example, uses a wheelchair, scooter, walker or uses a leg brace to walk**
- ☐ **Significant Psychiatric Disorder: for example, bipolar disorder, schizophrenia, PTSD, or major depression**
- ☐ **Intellectual Disability (formerly described as mental retardation)**
- ☐ **Developmental Disability: for example, cerebral palsy or autism spectrum disorder**
- ☐ **Traumatic Brain Injury**
- ☐ **Dwarfism**
- ☐ **Epilepsy or other seizure disorder**
- ☐ **Other disability or serious health condition: for example, diabetes, cancer, cardiovascular disease, anxiety disorder, or HIV infection; a learning disability, a speech impairment, or a hearing impairment**

If you did not select one of the options above, please indicate whether.

- ☐ **None of the conditions listed above apply to me.**
- ☐ **I do not wish to answer questions regarding disability/health conditions.**

If you have indicated that you have one of the above conditions, you may be eligible to apply under Schedule A Hiring Authority. For more information, please see http://www.opm.gov/policy-data-oversight/disability-employment/hiring/#url=Schedule-A-Hiring-Authority .

If an applicant checks the box for "other disability or serious health condition," the applicant will be taken to Section A.1.

A.1. Other Disability or Serious Health Condition (Optional)

You indicated that you have a disability or a serious health condition. If you are willing, please select any of the conditions listed below that apply to you. As explained above, your responses will not be shown to the panel rating the applications, to the selecting official, or to anyone else who can affect your application. All responses will remain private to the extent permitted by law. See the Privacy Act Statement below for more information.

Please check all that apply:

- ☐ **I do not wish to specify any condition.**
- ☐ **Alcoholism**
- ☐ **Cancer**
- ☐ **Cardiovascular or heart disease**
- ☐ **Crohn's disease, irritable bowel syndrome, or other gastrointestinal impairment**
- ☐ **Depression, anxiety disorder, or other psychological disorder**
- ☐ **Diabetes or other metabolic disease**
- ☐ **Difficulty seeing even when wearing glasses**
- ☐ **Hearing impairment**
- ☐ **History of drug addiction (but not currently using illegal drugs)**
- ☐ **HIV Infection/AIDS or other immune disorder**
- ☐ **Kidney dysfunction: for example, requires dialysis**
- ☐ **Learning disabilities or ADHD**
- ☐ **Liver disease: for example, hepatitis or cirrhosis**
- ☐ **Lupus, fibromyalgia, rheumatoid arthritis, or other autoimmune disorder**
- ☐ **Morbid obesity**
- ☐ **Nervous system disorder: for example, migraine headaches, Parkinson's disease, or multiple sclerosis**
- ☐ **Non-paralytic orthopedic impairments: for example, chronic pain, stiffness, weakness in bones or joints, or some loss of ability to use parts of the body**
- ☐ **Orthopedic impairments or osteo-arthritis**
- ☐ **Pulmonary or respiratory impairment: for example, asthma, chronic bronchitis, or TB**
- ☐ **Sickle cell anemia, hemophilia, or other blood disease**
- ☐ **Speech impairment**
- ☐ **Spinal abnormalities: for example, spina bifida or scoliosis**
- ☐ **Thyroid dysfunction or other endocrine disorder**
- ☐ **Other. Please identify the disability/health condition, if willing: _____**

PRIVACY ACT AND PAPERWORK REDUCTION ACT STATEMENTS

Privacy Act Statement: This Privacy Act Statement is provided pursuant to 5 U.S.C. 552a (commonly known as the Privacy Act of 1974). The authority for this form is 5 U.S.C. 7201, which provides that the Office of Personnel Management shall implement a minority recruitment program, by the Uniform Guidelines on Employee Selection Procedures, 29 C.F.R. Part 1607.4, which requires collection of demographic data to determine if a selection procedure has an unlawful disparate impact, and by Section 501 of the Rehabilitation Act of 1973, which requires federal agencies to prepare affirmative action plans for the hiring and advancement of people with disabilities. Data relating to an individual applicant are not provided to selecting officials. This form will be seen by Human Resource personnel in the Office of Personnel Management (who are not involved in considering an applicant for a particular job) and by Equal Employment Opportunity Commission officials who will receive aggregate, non-identifiable data from the Office of Personnel Management derived from this form. **Purpose and Routine Uses:** The aggregate, non-identifiable information summarizing all applicants for a position will be used by the Office of Personnel Management and by the Equal Employment Opportunity Commission to determine if the

executive branch of the Federal Government is effectively recruiting and selecting individuals from all segments of the population. **Effects of Nondisclosure:** Providing this information is voluntary. No individual personnel selections are made based on this information. There will be no impact on your application if you choose not to answer any of these questions.

Paperwork Reduction Act Statement: The Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et. seq.) requires us to inform you that this information is being collected for planning and assessing affirmative employment program initiatives. Response to this request is voluntary. 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. The estimated burden of completing this form is five (5) minutes per response, including the time for reviewing instructions. Direct comments regarding the burden estimate or any other aspect of this form to [INSERT: Agency name and address] and to the Office of Management Budget, Office of Information and Regulatory Affairs, Washington, DC 20503.

[FR Doc. 2016–25331 Filed 10–19–16; 8:45 am]
BILLING CODE 6570–01–C

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0865]

Information Collection Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written PRA comments should be submitted on or before December 19, 2016. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov*.

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–0865.

Title: Wireless Telecommunications Bureau Universal Licensing System Recordkeeping and Third Party Disclosure Requirements.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities, Individuals or households, Not-for-profit institutions, and State, Local or Tribal Government.

Number of Respondents and Responses: 62,490 respondents; 168,908 responses.

Estimated Time per Response: .166 hours (10 minutes)—4 hours.

Frequency of Response: Recordkeeping and third-party disclosure requirements; on occasion reporting requirement.

Obligation To Respond: Required to obtain or retain benefits. The statutory authority for this collection is contained in 47 U.S.C. 154(i) and 309(j).

Total Annual Burden: 88,927 hours.

Annual Cost Burden: None.

Privacy Act Impact Assessment: Yes.

Nature and Extent of Confidentiality: This information collection contains personally identifiable information (PII). The FCC has a system of records notice (SORN), FCC/WTB–1, ''Wireless Services Licensing Records,'' to cover the collection, maintenance, use(s), and destruction of this PII, which respondents may provide to the FCC as part of the information collection requirement(s). This SORN was published in the **Federal Register** on April 5, 2006 (71 FR 17234, 17269).

Needs and Uses: The Commission will submit this information collection to the Office of Management and Budget (OMB) as an extension after this 60 day comment period to obtain the full three-year clearance from them.

The purpose of this information collection is to continually streamline *64498 and simplify processes for wireless applicants and licensees, who previously used a myriad of forms for various wireless services and types of requests, in order to provide the Commission information that has been collected in separate databases, each for a different group of services. Such processes have resulted in unreliable reporting, duplicate filings for the same licensees/applicants, and higher cost burdens to licensees/applicants. By streamlining the Universal Licensing System (ULS), the Commission eliminates the filing of duplicative applications for wireless carriers; increases the accuracy and reliability of licensing information; and enables all wireless applicants and licensees to file all licensing-related applications and other filings electronically, thus increasing the speed and efficiency of the application process. The ULS also benefits wireless applicants/licensees by reducing the cost of preparing applications, and speeds up the licensing process in that the Commission can introduce new entrants more quickly into this already competitive industry. Finally, ULS enhances the availability of licensing information to the public, which has access to all publicly available wireless licensing information on-line, including maps depicting a licensee's geographic service area.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2016–25363 Filed 10–19–16; 8:45 am]
BILLING CODE 6712–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting

AGENCY: Federal Election Commission

DATE & TIME: Tuesday, October 25, 2016 At 10:00 a.m.

PLACE: 999 E Street NW., Washington, DC.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED: Compliance matters pursuant to 52 U.S.C. 30109.

Matters concerning participation in civil actions or proceedings or arbitration.

Information the premature disclosure of which would be likely to have a considerable adverse effect on the implementation of a proposed Commission action.

* * * * *

PERSON TO CONTACT FOR INFORMATION: Judith Ingram, Press Officer, Telephone: (202) 694–1220.

Shelley E. Garr,

Deputy Secretary.

[FR Doc. 2016–25570 Filed 10–18–16; 4:15 pm]

BILLING CODE 6715–01–P

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Sunshine Act Notice

October 18, 2016.

TIME AND DATE: 10:00 a.m., Thursday, November 17, 2016.

PLACE: The Richard V. Backley Hearing Room, Room 511N, 1331 Pennsylvania Avenue NW., Washington, DC 20004 (enter from F Street entrance).

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will hear oral argument in the matter *Michael K. McNary* v. *Alcoa World Alumina, Inc.,* 2015–279–DM (Issues include whether the Judge erred in issuing a summary decision concluding that the operator did not interfere with the complainant's statutory rights as a miners' representative.)

Any person attending this oral argument who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 29 CFR 2706.150(a)(3) and 2706.160(d).

CONTACT PERSON FOR MORE INFO: Emogene Johnson (202) 434–9935/(202) 708–9300 for TDD Relay/1–800–877–8339 for toll free.

Sarah L. Stewart,

Deputy General Counsel.

[FR Doc. 2016–25528 Filed 10–18–16; 4:15 pm]

BILLING CODE 6735–01–P

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Sunshine Act Notice

October 18, 2016.

TIME AND DATE: 10:00 a.m., Friday, November 18, 2016.

PLACE: The Richard V. Backley Hearing Room, Room 511N, 1331 Pennsylvania Avenue NW., Washington, DC 20004 (enter from F Street entrance).

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following in open session: *Michael K. McNary* v. *Alcoa World Alumina, Inc.,* 2015–279–DM. (Issues include whether the Judge erred in issuing a summary decision concluding that the operator did not interfere with the complainant's statutory rights as a miners' representative.)

Any person attending this meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 29 CFR 2706.150(a)(3) and 2706.160(d).

CONTACT PERSON FOR MORE INFO: Emogene Johnson (202) 434–9935/(202) 708–9300 for TDD Relay/1–800–877–8339 for toll free.

Sarah L. Stewart,

Deputy General Counsel.

[FR Doc. 2016–25529 Filed 10–18–16; 4:15 pm]

BILLING CODE 6735–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Community Living

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Process Evaluation of the Long Term Care Ombudsman Program

AGENCY: Administration for Community Living, HHS.

ACTION: Notice.

SUMMARY: The Administration for Community Living (formerly the Administration on Aging (AoA)) is announcing that the continuation of collection of information listed below has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Submit written comments on the collection of information by November 21, 2016.

ADDRESSES: Submit written comments on the collection of information by fax 202–395–6974 to the OMB Desk Officer for ACL, Office of Information and Regulatory Affairs, OMB.

FOR FURTHER INFORMATION CONTACT: Susan Jenkins, 202–795–7369.

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, the Administration for Community Living (Formerly the Administration for Aging) has submitted the following proposed collection of information to OMB for review and clearance.

The purpose of the process evaluation is to obtain a thorough understanding of the LTCOP's structure and operations at the national, state and local levels; use of resources to carry out legislative mandates; the nature of program partnerships; and processes for sharing information on promising program practices and areas for improvement. Data collection for the process evaluation consists of two rounds. ACL seeks clearance for round one and provisional clearance for Round 2 dependent upon receiving final marked up surveys. The first round focuses on obtaining information from three respondent categories at the national and state levels: Federal staff, national stakeholders, and State ombudsmen. Data collection from these respondents will help inform and refine the second round of data collection focusing on obtaining information from respondents at the local level. These include local directors/regional representatives, local representatives, and volunteers. For example, data collected from Round 1 will serve to inform the subsequent data collection for Task 7 of the project. This task focuses on investigating how the ombudsman program has been addressing and affecting the changing landscape of long term services and supports (LTSS). State ombudsmen responses to questions about reforms in LTSS and home and community-based care will help identify states for further study and obtain information at the local level. This package addresses these two rounds of the project, with an emphasis on the first round.

In response to the 60-day **Federal Register** notice related to this proposed data collection and published on July 19, 2016, no relevant comments were was received. The proposed data

collection tool may be found on the ACL Web site: *http://www.aoa.acl.gov/Program_Results/Program_survey.aspx.*

The total burden estimate for the remaining data collection is: 482.67 hours.

Dated: October 12, 2016.

Edwin L. Walker,

Acting Assistant Secretary for Aging.

[FR Doc. 2016–25416 Filed 10–19–16; 8:45 am]

BILLING CODE 4154–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Community Living

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Evaluation of the Elderly Nutritional Services Program

AGENCY: Administration for Community Living, HHS.

ACTION: Notice.

SUMMARY: The Administration for Community Living (formerly the Administration on Aging (AoA)) is announcing that the continuation of collection of information listed below has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Submit written comments on the collection of information by November 21, 2016.

ADDRESSES: Submit written comments on the collection of information by fax 202.395.6974 to the OMB Desk Officer for ACL, Office of Information and Regulatory Affairs, OMB.

FOR FURTHER INFORMATION CONTACT: Susan Jenkins, 202.795.7369.

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, the Administration for Community Living (Formerly the Administration for Aging) has submitted the following proposed collection of information to OMB for review and clearance. The data collection associated with the Evaluation of the Elderly Nutrition Services Program (ENSP) is necessary to meet three broad objectives of ACL: (1) To provide information to support program planning, including an analysis of program processes, (2) to develop information about program efficiency and cost issues, and (3) to assess program effectiveness, as measured by the program's effects on a variety of important outcomes, including nutrient adequacy, socialization opportunities, health outcomes, and, ultimately, helping elderly people avoid institutionalization. The renewal is to complete the data collection related to objective 3.

In response to the 60-day **Federal Register** notice related to this proposed data collection and published on July 19, 2016, no relevant comments were was received. The proposed data collection tool may be found on the ACL Web site: *http://www.aoa.acl.gov/Program_Results/Program_survey.aspx.*

The total burden estimate for the remaining data collection is: 192 hours.

Dated: October 14, 2016.

Edwin L. Walker,

Acting Assistant Secretary for Aging.

[FR Doc. 2016–25414 Filed 10–19–16; 8:45 am]

BILLING CODE 4154–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Community Living/Administration on Aging

Agency Information Collection Activities; Public Comment Request; State Annual Long-Term Care Ombudsman Report and Instructions

AGENCY: Administration for Community Living/Administration on Aging, HHS.

ACTION: Notice.

SUMMARY: The Administration on Aging (AoA) is announcing that the proposed collection of information listed below has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Submit written comments on the collection of information by November 21, 2016.

ADDRESSES: Submit written comments on the collection of information by fax 202.395.5806 or by email to *OIRA_submission@omb.eop.gov,* Attn: OMB Desk Officer for ACL.

FOR FURTHER INFORMATION CONTACT: Louise Ryan, telephone: (206) 615–2514; email: *louise.ryan@acl.hhs.gov*

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, AoA has submitted the following proposed collection of information to OMB for review and clearance.

States provide the following data and narrative information in the report:

1. Numbers and descriptions of cases filed and complaints made on behalf of long-term care facility residents to the statewide ombudsman program;

2. Major issues identified that impact the quality of care and life of long-term care facility residents;

3. Statewide program operations; and

4. Ombudsman activities in addition to complaint investigation.

5. A new requirement to include organizational conflict of interest reporting as required by the reauthorized Older Americans Act and the LTC Ombudsman program rule CFR 1324.21.

The report form and instructions have been in continuous use, with minor modifications, since they were first approved by OMB for the FY 1995 reporting period. This current request is for a Revision of a Currently Approved Collection (ICR Rev), which will provide approval for FFY 2016–2018 with modifications to include organizational conflict of interest reporting as required by the reauthorized Older Americans Act, Section 712(f) and the LTC Ombudsman program rule CFR 1324.21.

The data collected on complaints filed with ombudsman programs and narrative on long-term care issues provide information to Centers for Medicare and Medicaid Services and others on patterns of concerns and major long-term care issues affecting residents of long-term care facilities. Both the complaint and program data collected assist the states and local ombudsman programs in planning strategies and activities, providing training and technical assistance and developing performance measures.

Comments in Response to the 60 Day Federal Register Notice

A notice was published in the **Federal Register**/Vol. 81, No. 126/Thursday, June 30, 2016 Notices, Pages 42712–42713, announcing that AoA was requesting modification of the current form and instructions to incorporate conflict of interest reporting requirements, directing readers to the AoA Web site where these documents are posted and providing an opportunity for public comment. One comment was received from the National Association of Ombudsman Programs (NASOP).

NASOP members disagreed with the burden estimate developed by AoA, stating:

Because an overwhelming majority of state long-term care ombudsman programs designate local ombudsman entities, those circumstances lead to a greater likelihood of organizational conflicts of interest. The burden is compounded by the number of local ombudsman entities within a state and will have multiple sources of reporting organizational conflicts at local or regional levels up to the states before states can report via NORS. Further, because approximately half of state

long-term care ombudsman programs are housed within an umbrella agency, this also increases the likelihood that state programs have multiple organizational conflicts that must be identified, remedied or removed, and reported via NORS.

In response to NASOP's concerns about burden estimates, we made a change in our estimated burden hours from one-half hour per state to one hour per state.

NASOP requested additions to the instructions and report form such as the ability to certify that there was no change in conflicts/remedies from the previous reporting year; and to allow for the ability to report a conflict and remedy that applies to many entities as a reporting entry. These suggestions were helpful and were incorporated into the instructions and form. They did not affect the estimated burden.

NASOP also recommended that AoA/ACL add a reporting option in a check box to indicate a state has identified a conflict, but the conflict has not been remedied. We do not intend to take this recommendation because it would be contrary to the rule and law which require states to identify, remove or remedy conflicts and to report on such remedies. ACL is providing on-going technical assistance to states on the implementation of the Ombudsman program rule, including technical assistance on conflicts of interest and steps to remedy any identified conflicts.

A reporting form and instructions may be viewed in the ombudsman section of the AoA Web site: *http://www.aoa.acl.gov/AoA_Programs/Elder_Rights/Ombudsman/index.aspx.* AoA estimates the burden of this collection and entering the additional report information as follows: Approximately 10 to 60 minutes per respondent, depending on the number of conflicts to report, with 52 state Ombudsman programs responding annually. This brings the total burden hours to approximately 7,753 hours, (149 hours on average per program) with 52 Offices of Long-Term Care Ombudsman programs responding annually.

Summary	Local Ombudsman programs	Office of state Ombudsman	Total burden hours	52 Programs
Hours	132.1	17	149.1	7,753 hours.

Dated: October 12, 2016.

Edwin L. Walker,

Acting Administrator and Assistant Secretary for Aging.

[FR Doc. 2016–25418 Filed 10–19–16; 8:45 am]

BILLING CODE 4154–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2012–D–0530]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Pre-Submission Program for Medical Devices

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 November 21, 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.* All comments should be identified with the OMB control number 0910–0756. 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, Three White Flint North 10A63, 11601 Landsdown St., North Bethesda, MD 20852, *PRAStaff@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.

Pre-Submission Program for Medical Devices—OMB Control Number 0910–0756—Extension

The guidance entitled ''Requests for Feedback on Medical Device Submissions: The Pre-Submission Program and Meetings with Food and Drug Administration Staff'' describes the Pre-Submission program for medical devices reviewed in the Center for Devices and Radiological Health (CDRH) and the Center for Biologics Evaluation and Research (CBER). The guidance provides recommendations regarding the information that should be submitted in a Pre-Submission package and procedures that should be followed for meetings between CDRH and CBER staff and industry representatives or application sponsors. In addition to Pre-Submissions, the guidance addresses other feedback mechanisms including Informational Meetings, Study Risk Determinations, Formal Early Collaboration Meetings, and Submission Issue Meetings and the procedures to request feedback using these mechanisms.

A Pre-Submission is defined as a formal written request from an applicant for feedback from FDA to be provided in the form of a formal written response or, if the manufacturer chooses, a meeting or teleconference in which the feedback is documented in meeting minutes. A Pre-Submission is appropriate when FDA's feedback on specific questions is necessary to guide product development and/or application preparation. The proposed collections of information are necessary to allow the Agency to receive Pre-Submission packages in order to implement this voluntary submission program.

For clarity, we are requesting that the title of the information collection request, OMB control number 0910–0756, be changed to ''Pre-Submission Program for Medical Devices.''

In the **Federal Register** of July 28, 2016 (81 FR 49678), FDA published a 60-day notice requesting public comment on the proposed collection of information. No comments were received.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

FDA center	Number of respondents	Annual frequency per response	Total annual responses	Hours per response	Total hours
CDRH	2,465	1	2,465	137	337,705
CBER	79	1	79	137	10,823
Total	.....	.....	.....	.....	348,528

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Respondents are medical device manufacturers subject to FDA's laws and regulations. FDA's annual estimate of 2,544 submissions is based on experienced trends over the past several years. FDA's administrative and technical staffs, who are familiar with the requirements for current Pre-Submissions, estimate that an average of 137 hours is required to prepare a Pre-Submission.

Dated: October 13, 2016.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2016–25359 Filed 10–19–16; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Request for Comments on the Proposed Measures and 2020 Targets for the National Action Plan for Adverse Drug Event Prevention: Inpatient and Outpatient Measures for Reduction of Adverse Drug Events From Anticoagulants, Diabetes Agents, and Opioid Analgesics

AGENCY: Office of Disease Prevention and Health Promotion, Office of the Assistant Secretary for Health, Office of the Secretary, Department of Health and Human Services.

ACTION: Notice.

SUMMARY: The Office of Disease Prevention and Health Promotion (ODPHP), on behalf of the U.S. Department of Health and Human Services (HHS) Federal Interagency Steering Committee for Adverse Drug Events, proposes new measures and targets for adverse drug events (ADEs) from anticoagulants, diabetes agents, and opioid analgesics for the *National Action Plan for Adverse Drug Event Prevention* (*ADE Action Plan*). Based on input from the Federal Interagency Workgroups for Adverse Drug Events, six national measures and targets for the reduction of ADEs are being proposed. Each drug class highlighted in the *ADE Action Plan* (anticoagulants, diabetes agents, and opioid analgesics) includes a proposed inpatient and outpatient measure to track national progress in reduction of ADEs from these drug classes. The proposed targets will reflect improvement efforts over a four to six year period since the release of the *ADE Action Plan* in August 2014. As such, HHS is proposing a baseline year of 2014 for five of the measures and 2016 for one measure. All targets are to be achieved by 2020. HHS invites interested public and private professionals, organizations, and consumer representatives to submit written comments on the proposed 2020 ADE targets, found at *https://health.gov/hcq/ade-measures.asp.*

DATES: Comments on the proposed ADE 2020 measures and targets must be received no later than 5 p.m. on November 21, 2016.

ADDRESSES: Interested persons or organizations are invited to submit written comments by any of the following methods:

- *Email: OHQ@hhs.gov* (please indicate in the subject line: Proposed ADE Measures and Targets)
- *Mail/Courier:* Office of Disease Prevention and Health Promotion, Attn: Division of Health Care Quality, Department of Health and Human Services, 1101 Wootton Parkway, Suite LL100, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Anna Gribble, Health Policy Fellow, Office of Disease Prevention and Health Promotion, via email at *anna.gribble@hhs.gov.*

SUPPLEMENTARY INFORMATION: In September 2012, in response to heightened awareness of the contribution of ADEs to the burden of health care-related harm and costs, the Office of the Assistant Secretary for Health (OASH) marshaled the wide-ranging and diverse resources of federal partners to form an extensive interagency partnership, the Federal Interagency Steering Committee and Workgroups for Adverse Drug Events, whose goals would be to develop the *ADE Action Plan,* as well as identify measures to track national progress in reducing ADEs and targets to meet based on those measures.

ODPHP, in conjunction with the Federal Interagency Steering Committee and three Federal Interagency Workgroups, developed and released the final *ADE Action Plan* in 2014. The *ADE Action Plan* seeks to engage all stakeholders in a coordinated, aligned, and multi-sector effort to reduce ADEs that are clinically significant, account for the greatest number of measurable harms as identified by existing surveillance systems, and are largely preventable; these were identified as ADEs resulting from inpatient and outpatient use of anticoagulants, diabetes agents, and opioid analgesics (with specific focus on ADEs from therapeutic use of opioids). The *ADE Action Plan* identifies the federal government's highest priority strategies and opportunities for advancement, which will have the greatest impact on reducing ADEs. Implementation of these strategies is expected to result in safer and higher quality health care services, reduced health care costs, informed and engaged consumers and ultimately, improved health outcomes. The reduction of ADEs subsequent to implementation of these strategies will be tracked by the proposed measures and will aim to meet the targeted reduction rate by 2020.

The six proposed measures use data from the Agency for Healthcare Research and Quality (AHRQ), the Centers for Disease Control and Prevention (CDC), and the Food and Drug Administration (FDA). The inpatient and outpatient measures for anticoagulants and diabetes agents and the outpatient measure for opioids will set baseline rates using data from 2014 and establish targets to be achieved by 2020. The inpatient opioids measure will have a 2016 baseline and a 2020 target year. The inpatient opioids measure will use data from AHRQ's Quality Safety Review System (QSRS) which will begin collecting data in 2016. The inpatient measures for anticoagulants and diabetes agents will use AHRQ's Medicare Patient Monitoring System (MPSMS) for 2015

and QSRS for 2016–2020 and data will be adjusted accordingly. MPSMS did not include an opioids specific measure and QSRS now allows AHRQ to now track inpatient opioids adverse drug events.

Descriptions of the surveillance systems, measures, and targets can be found here: *https://health.gov/hcq/ade-measures.asp.*

Interested persons or organizations are invited to submit written comments in response to the proposed measures and targets. Written comments should not exceed more than two pages per ADE measure. The comments should reference the specific measure or target to which feedback refers. To be considered, the person or representative from an organization must self-identify and submit the written comments by close of business on November 21, 2016.

Dated: September 30, 2016.

Don Wright,

Deputy Assistant Secretary for Health, Director, Office of Disease Prevention and Health Promotion Office of the Assistant Secretary for Health.

[FR Doc. 2016–25424 Filed 10–19–16; 8:45 am]

BILLING CODE 4150–32–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflicts: Genetics and Genomics.

Date: October 25, 2016.

Time: 3:30 p.m. to 6:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Richard A. Currie, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1108, MSC 7890, Bethesda, MD 20892, (301) 435–1219, *currieri@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Risk, Prevention, and Health Behavior.

Date: October 31–November 1, 2016.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road NW., Washington, DC 20015.

Contact Person: Martha M. Faraday, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3110, MSC 7808, Bethesda, MD 20892, (301) 435–3575, *faradaym@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Brain injury.

Date: November 7, 2016.

Time: 11:00 a.m. to 12:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Samuel C. Edwards, Ph.D., IRG CHIEF, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5210, MSC 7846, Bethesda, MD 20892, (301) 435–1246, *edwardss@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: October 14, 2016.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–25336 Filed 10–19–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel Rapid Assessment of Zika Virus (ZIKV) Complications (R21).

Date: November 14, 2016

Time: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 5601 Fishers Lane, Rockville, MD 20892, (Telephone Conference Call).

Contact Person: Travis J. Taylor, Ph.D., Scientific Review Officer Scientific, Review Program, Division of Extramural Activities, Room 3G62B, 5601 Fishers Lane, MSC 9823, Bethesda, MD 20892–9823, (240) 669–5082, *Travis.Taylor@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: October 14, 2016.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–25339 Filed 10–19–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Invention; Availability for Licensing

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: The invention listed below is owned by an agency of the U.S. Government and is available for licensing in the U.S. in accordance with 35 U.S.C. 209 and 37 CFR part 404 to achieve expeditious commercialization of results of federally-funded research and development.

FOR FURTHER INFORMATION CONTACT: Licensing information may be obtained by emailing the indicated licensing contact at the National Heart, Lung, and Blood, Office of Technology Transfer and Development Office of Technology

Transfer, 31 Center Drive Room 4A29, MSC 2479, Bethesda, MD 20892–2479; telephone: 301–402–5579. A signed Confidential Disclosure Agreement may be required to receive any unpublished information.

SUPPLEMENTARY INFORMATION:

Technology description follows.

Capsid-Free AAV Vectors for Gene Delivery and Their Use for Gene Therapy

Description of Technology: The invention concerns novel capsid-free AAV vectors that can be used for gene delivery and gene therapy applications. The invention provides for a linear nucleic acid molecule comprising in this order: A first adeno-associated virus (AAV) inverted terminal repeat (ITR), a nucleotide sequence of interest, and a second AAV ITR, wherein said nucleic acid molecule is devoid of AAV capsid protein coding sequences. The said nucleic acid molecule can be applied to a host at repetition without eliciting an immune response. Methods of producing and purifying this nucleic acid molecule, as well as its use for gene transfer and gene therapy are also described.

Potential Commercial Applications: The commercial applications of the technology relate to the field of gene therapy. It may offer significant advantages compared to existing methods of gene delivery and gene therapy.

Competitive Advantages:

- The AAV vectors described in the invention devoid the AAV capsid proteins and thus are not exposed to the adverse effects caused by immunogenicity.
- In contrast to the use of plasmid DNA for gene delivery, the AAV DNA of the invention seems to confer greater stability in cell nuclei, allowing prolonged expression compared to plasmid DNA.
- The vector DNA of the invention is not limited in size to the packageable size genome.
- The production of the AAV DNA vector is economical, simple and provides high yields.

Development Stage: Early-stage; In vitro data available

Inventors: Drs. Luis Garcia, Cyriaque Beley, and Thomas Voit (INSERM Paris); Drs. Robert M. Kotin and Lina Li (NHLBI).

Publication: Li L, Dimitriadis EK, Yang Y, Li J, Yuan Z, Qiao C, Beley C, Smith RH, Garcia L, Kotin RM. Production and characterization of novel recombinant adeno-associated virus replicative-form genomes: A eukaryotic source of DNA for gene transfer. PLoS One. 2013 Aug 1;8(8):e69879. doi: 10.1371/journal.pone.0069879.

Intellectual Property: NIH Reference No. E–241–2010/0—US Patent Application No. 14/004,379 (Publication No. 2014–0107186 A), and its foreign counterparts in Europe (11 157986.8; 12 708035.6), Canada (2,829,518), Australia (2012228376), Brazil (BR 1 1 2013 023185 8), China (201280022523.5), Israel (228328), India (8000/DELNP/2013), Japan (2013–557138), and South Korea (10–2013–7026982).

Licensing Contact: Uri Reichman, Ph.D., M.BA.; Phone: 301–435–4616; Email: *uri.reichman@nih.gov.*

Dated: October 13, 2016.

Uri Reichman,

Senior Advisor for Licensing, Office of Technology Transfer and Development, National Heart, Lung, and Blood Institute.

[FR Doc. 2016–25343 Filed 10–19–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR16–297: Native American Research Centers for Health (NARCH).

Date: November 14–16, 2016.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Crowne Plaza Tyson's Corner, 1960 Chain Bridge Road, Mclean, VA 22102.

Contact Person: Delia Olufokunbi Sam, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3158, MSC 7770, Bethesda, MD 20892, 301–435–0684, *olufokunbisamd@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Genetic Diseases.

Date: November 15, 2016.

Time: 1:00 p.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Dominique Lorang-Leins, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5108, MSC 7766, Bethesda, MD 20892, 301–326–9721, *Lorangd@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Non-HIV Diagnostics, Food Safety, Sterilization/Disinfection, and Bioremediation.

Date: November 17–18, 2016.

Time: 8:00 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda North Marriott Hotel & Conference Center, 5701 Marinelli Road, Bethesda, MD 20852.

Contact Person: Gagan Pandya, Ph.D., Scientific Review Officer, National Institutes of Health, Center for Scientific Review, 6701 Rockledge Drive, RM 3200, MSC 7808, Bethesda, MD 20892, 301–435–1167, *pandyaga@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Medical Imaging.

Date: November 17–18, 2016.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Alexandria Mark Center, 5000 Seminary Road, Alexandria, VA 22311.

Contact Person: Leonid V. Tsap, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5128, MSC 7854, Bethesda, MD 20892, (301) 435–2507, *tsapl@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Biological Chemistry and Macromolecular Biophysics.

Date: November 17–18, 2016.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Sergei Ruvinov, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4158, MSC 7806, Bethesda, MD 20892, 301–435–1180, *ruvinser@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel: Basic Research in Cancer Health Disparities/Diversity.

Date: November 17–18, 2016.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Arnold Revzin, Ph.D., Scientific Review Officer, Center for

Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4146, MSC 7824, Bethesda, MD 20892, (301) 435–1153, *revzina@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR–15–024: Molecular Profiles and Biomarkers of Food and Nutrient Intake.

Date: November 17, 2016.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Gregory S. Shelness, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6156, Bethesda, MD 20892–7892, (301) 435–0492, *shelnessgs@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Clinical Neurophysiology, Devices, Neuroprosthetics, and Biosensors.

Date: November 17–18, 2016.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Westgate Hotel, San Diego, 1055 Second Ave., San Diego, CA 92101.

Contact Person: Cristina Backman, Ph.D., Scientific Review Officer, ETTN IRG, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5211, MSC 7846, Bethesda, MD 20892, *cbackman@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Cancer Drug Development and Therapeutics.

Date: November 17–18, 2016.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Marines' Memorial Club and Hotel, 609 Sutter Street, San Francisco, CA 94102.

Contact Person: Lilia Topol, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6192, MSC 7804, Bethesda, MD 20892, 301–451–0131, *ltopol@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Biomaterials, Delivery and Nanotechnology.

Date: November 17–18, 2016.

Time: 9:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: David Filpula, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health 6701 Rockledge Drive, Room 6181, MSC 7892, Bethesda, MD 20892, 301–435–2902, *filpuladr@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Innate and Adaptive Immunity to Pathogens.

Date: November 17, 2016.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892.

Contact Person: Deborah Hodge, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4207 MSC 7812, Bethesda, MD 20892, (301) 435–1238, *hodged@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Physiological Mechanism of Diabetes/Obesity and Molecular Integrative Reproduction.

Date: November 17, 2016.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Hui Chen, M.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, 301–435–1044, *chenhui@csr.nih.gov*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Radiation Biology and Therapeutics.

Date: November 17, 2016.

Time: 1:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Denise R. Shaw, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6158, MSC 7804, Bethesda, MD 20892, 301–435–0198, *shawdeni@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Informatics.

Date: November 17–18, 2016.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road NW., Washington, DC 20015.

Contact Person: Claire E. Gutkin, MPH, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3106, MSC 7808, Bethesda, MD 20892, 301–594–3139, *gutkincl@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: October 14, 2016.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–25337 Filed 10–19–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel; Urgent Review of Exposure Evaluation Applications.

Date: October 27, 2016.

Time: 11:30 a.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: NIEHS/National Institutes of Health, Keystone, 530 Davis Drive, Room 3118, Research Triangle Park, NC 27709, (Telephone Conference Call).

Contact Person: Janice B Allen, Ph.D., Scientific Review Officer Scientific Review Branch, Division of Extramural Research and Training, Nat. Institute of Environmental Health Science, P.O. Box 12233, MD EC–30/Room 3170 B, Research Triangle Park, NC 27709, 919/541–7556.

(Catalogue of Federal Domestic Assistance Program Nos. 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences; 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing, National Institutes of Health, HHS)

Dated: October 13, 2016.

Carolyn Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–25342 Filed 10–19–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Non-HIV Microbial Vaccines.

Date: November 4, 2016.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Ritz-Carlton Hotel, 1700 Tysons Boulevard, McLean, VA 22102.

Contact Person: Andrea Keane-Myers, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4218, Bethesda, MD 20892, 301–435–1221, *andrea.keane-myers@nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR–16–089: Imaging and Biomarkers for Early Detection of Aggressive, Cancer (U01).

Date: November 9, 2016.

Time: 11:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Chiayeng Wang, Ph.D., Scientific Review Officer, Center for Scientific Review, 6701 Rockledge Drive, Room 5213, MSC 7852, Bethesda, MD 20892, 301–435–2397, *chiayeng.wang@nih.gov.*

Name of Committee: AIDS and Related Research Integrated Review Group; Behavioral and Social Science Approaches to Preventing HIV/AIDS Study Section.

Date: November 15–16, 2016.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Sheraton Suites Alexandria, 801 North Saint Asaph, Alexandria, VA 22314171.

Contact Person: Jose H. Guerrier, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5222, MSC 7852, Bethesda, MD 20892, 201–435–1137, *guerriej@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Endocrinology, Metabolism, Nutrition and Reproductive Sciences.

Date: November 15–16, 2016.

Time: 8:00 a.m. to 1:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Clara M. Cheng, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6170, MSC 7892, Bethesda, MD 20892, 301–435–1041, *chengc@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Cardiovascular and Respiratory Sciences AREA.

Date: November 15–16, 2016.

Time: 9:00 a.m. to 4:00 p.m.

Agenda: To provide concept review of proposed grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Sara Ahlgren, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, RM 4136, Bethesda, MD 20892, 301–435–0904, *sara.ahlgren@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel: International Research Ethics Education and Curriculum Development.

Date: November 15, 2016.

Time: 9:00 a.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Karin F. Helmers, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3148, MSC 7770, Bethesda, MD 20892, (301) 254–9975, *helmersk@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Program Project: Gene Regulatory Networks.

Date: November 15, 2016.

Time: 1:00 p.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Baishali Maskeri, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, 301–827–2864, *maskerib@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Program Project: Biomedical Technology Research Resource for NMR Spectroscopy.

Date: November 15–17, 2016.

Time: 6:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott Suites, 6711 Democracy Boulevard, Bethesda, MD 20817.

Contact Person: Kee Hyang Pyon, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5148, MSC 7806, Bethesda, MD 20892, *pyonkh2@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Program Project: Limited Competition National Primate Research.

Date: November 16–18, 2016.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Double Tree by Hilton, Madison, 525 West Johnson Street, Madison, WI 53703.

Contact Person: Biao Tian, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3089B, MSC 7848, Bethesda, MD 20892, (301) 402–4411, *tianbi@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Hematology.

Date: November 16–17, 2016.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Bukhtiar H. Shah, DVM, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4120, MSC 7802, Bethesda, MD 20892, 301–806–7314, *shahb@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Hematology—Rump A.

Date: November 16–17, 2016.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Katherine M. Malinda, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4140, MSC 7814, Bethesda, MD 20892, 301–435–0912, *Katherine_Malinda@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Topics on Infectious Diseases and Drug Discovery.

Date: November 16, 2016.

Time: 10:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Liangbiao Zheng, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3202, MSC 7808, Bethesda, MD 20892, 301–996–5819, *zhengli@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Skeletal Muscle—Structure and Function.

Date: November 16, 2016.

Time: 11:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Srikanth Ranganathan, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Road, RM 4214, MSC–7802, Bethesda, MD 20892, 301–435–1787, *srikanth.ranganathan@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Molecular and Computational Genetics.

Date: November 16, 2016.

Time: 1:00 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge 6700, 6701 Rockledge Drive, Bethesda, MD 20817 (Telephone Conference Call).

Contact Person: Ronald Adkins, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2206, MSC 7890, Bethesda, MD 20892, 301–435–4511, *ronald.adkins@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Program Projects: BTRR Center Review.

Date: November 16–18, 2016.

Time: 6:00 p.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Wyndham Pittsburgh University Center, 100 Lytton Ave., Pittsburgh, PA 15213.

Contact Person: Craig Giroux, Ph.D., Scientific Review Officer, BST IRG, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5150, Bethesda, MD 20892, 301–435–2204, *girouxcn@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Eukaryotic Parasites and Vectors.

Date: November 16–17, 2016.

Time: 8:00 p.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Fouad A El-Zaatari, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3206, MSC 7808, Bethesda, MD 20892, (301) 435–1149, *elzaataf@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: October 13, 2016.

Carolyn Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–25335 Filed 10–19–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Arthritis and Musculoskeletal and Skin Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Arthritis and Musculoskeletal and Skin Diseases, Special Emphasis Panel.

Date: November 3, 2015.

Time: 1:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Democracy Blvd., Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Yin Liu, Ph.D., MD, Scientific Review Officer, Scientific Review Branch, National Institute of Arthritis and Musculoskeletal and Skin Diseases, National Institute of Health, Bethesda, MD 20892, 301–496–0505, *liuy@mail.nih.gov.*

Name of Committee: National Institute of Arthritis and Musculoskeletal and Skin Diseases Special Emphasis Panel.

Date: November 4, 2015.

Time: 9:00 a.m. to 1:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Democracy Blvd., Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Yin Liu, Ph.D., MD, Scientific Review Officer, Scientific Review Branch, National Institute of Arthritis, and Musculoskeletal and Skin Diseases, National Institute of Health, Bethesda, MD 20892, 301–496–0505, *liuy@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.846, Arthritis, Musculoskeletal and Skin Diseases Research, National Institutes of Health, HHS)

Dated: October 14, 2016.

Sylvia L. Neal,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–25341 Filed 10–19–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; Zika R21 Rapid Review.

Date: November 14, 2016.

Time: 11:00 a.m. to 12:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Room 7189, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Stephanie L. Constant, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7189, Bethesda, MD 20892, 301–443–8784, *constantsl@nhlbi.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: October 14, 2016.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–25338 Filed 10–19–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel Pilot Clinical Trials to Eliminate the Latent HIV Reservoir (U01).

Date: November 17, 2016.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 5601 Fishers Lane, Rockville, MD 20892, (Telephone Conference Call).

Contact Person: J. Bruce Sundstrom, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, Room 3G11A, National Institutes of Health/NIAID, 5601 Fishers Lane, MSC 9823, Bethesda, MD 20892–9823, 240–669–5045, *sundstromj@niaid.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: October 14, 2016.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–25340 Filed 10–19–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[CBP Dec. No. 16–18]

Electronic Visa Update System (EVUS) Requirements: Identification of the People's Republic of China (PRC) as an EVUS Country and Designation of Maximum Validity B–1, B–2, and B–1/B–2 Visas as Designated Visa Categories

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice.

SUMMARY: In this **Federal Register**, DHS is publishing a final rule titled ''Establishment of the Electronic Visa Update System (EVUS)'' (hereafter ''EVUS Final Rule''), amending 8 CFR part 215, subpart B, to establish the Electronic Visa Update System and to specify certain requirements. According to the rule, nonimmigrant aliens who hold a passport issued by an identified country containing a U.S. nonimmigrant visa of a designated category will be required to provide biographic and other information to DHS by enrolling in EVUS to maintain the validity of those visas. The EVUS final rule specifies that the Secretary of Homeland Security, in consultation with the Secretary of State, may identify countries and designate nonimmigrant visa categories for purposes of the EVUS requirements and that notice of identified countries and designated nonimmigrant visa categories will be published in the **Federal Register**. Through this notice, the Secretary of Homeland Security, after consultation with the Secretary of State, identifies the People's Republic of China (PRC) as an EVUS country and designates B–1, B–2, and B–1/B–2 visas issued without restriction for the maximum validity period, which is generally 10 years,[1] as designated visa categories when the visas are contained in a passport issued by the PRC.

DATES: This identification and designation is effective October 20, 2016.

FOR FURTHER INFORMATION CONTACT: Suzanne Shepherd, Office of Field Operations, *Suzanne.M.Shepherd@cbp.dhs.gov* or (202) 344–2073.

SUPPLEMENTARY INFORMATION:

Background

In this **Federal Register**, DHS is publishing a final rule titled ''Establishment of the Electronic Visa Update System (EVUS)'' amending 8 CFR part 215, subpart B, to establish the Electronic Visa Update System. EVUS is an online information update system that allows for the collection of biographic and other information from nonimmigrant aliens who hold a passport issued by an identified country containing a U.S. nonimmigrant visa of a designated category. *See* EVUS Final Rule. Nonimmigrant aliens subject to these regulations must periodically enroll in EVUS and obtain a notification of compliance prior to travel to the United States. As discussed in the Department of State's parallel rule, ''Visa Information Update Requirements under the Electronic Visa Update System (EVUS),'' also published in this **Federal Register**, individuals subject to the EVUS requirements must comply with the EVUS regulations in 8 CFR part 215, subpart B, in order to maintain the validity of their visas of a designated category.

As specified in 8 CFR 215.22, and explained in the EVUS Final Rule, the Secretary of Homeland Security, in the Secretary's discretion and in consultation with the Secretary of State, may identify countries (''EVUS countries'') whose passport holders will be subject to the EVUS regulations, if the passport contains a U.S. nonimmigrant visa of a designated category, and designate applicable visa categories. The regulations state that notice of identified countries and designated visa categories will be published in the **Federal Register**. *See* 8 CFR 215.22 and 8 CFR 215.23(c). This announcement provides such a notice.

Identification and Designation

Pursuant to 8 CFR 215.22, the Secretary, following consultation with the Secretary of State, identifies the People's Republic of China (PRC) as an EVUS country and designates all B–1, B–2, and B–1/B–2 visas issued without restriction for maximum validity, which generally will be 10 years, but includes visas issued for more than nine years and all replacement visas issued to correct errors in the original visa, as designated visa categories when the visas are contained in a passport issued by the PRC.

B nonimmigrant visas, often referred to as ''visitor visas,'' are issued to individuals seeking to travel and be admitted to the United States temporarily for business (visa category B–1); for tourism or pleasure, (visa

[1] This includes visas issued for more than nine years and all replacement visas issued to correct errors in the original instance.

category B–2), or a combination of both purposes (visa category B–1/B–2). *See* section 101(a)(15)(B) of the Immigration and Nationality Act of 1952, as amended (INA) (8 U.S.C. 1101(a)(15)(B)), 8 CFR 214.1(a), and 22 CFR 41.31.

Accordingly, nonimmigrant aliens who hold a passport issued by the PRC containing a U.S. nonimmigrant B–1, B–2 or B–1/B–2 visa issued without restriction, for maximum validity, which generally will be 10 years, but includes visas issued for more than nine years and all replacement visas issued to correct an error in the original visa, must comply with the EVUS regulations in 8 CFR part 215, subpart B, in addition to all other applicable immigration laws and regulations.

Dated: October 13, 2016.

Jeh Charles Johnson,

Secretary.

[FR Doc. 2016–25326 Filed 10–19–16; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

[Docket No. DHS–2016–0067]

Privacy Act of 1974; Department of Homeland Security, United States Customs and Border Protection DHS/CBP–023 Border Patrol Enforcement Records, System of Records

AGENCY: Department of Homeland Security, Privacy Office.

ACTION: Notice of Privacy Act System of Records.

SUMMARY: In accordance with the Privacy Act of 1974, the Department of Homeland Security proposes to establish a new Department of Homeland Security system of records titled, ''Department of Homeland Security (DHS)/U.S. Customs and Border Protection (CBP)–023 Border Patrol Enforcement Records (BPER) System of Records.'' This system of records contains information DHS/CBP collects and maintains to secure the U.S. border between the Ports of Entry (POE), furthering its enforcement and immigration mission. DHS previously maintained these records under the DHS/ICE–011 U.S. Immigration and Customs Enforcement Operational Records (ENFORCE) (April 30, 2015, 80 FR 24269) and the DHS/USVISIT–004 DHS Automated Biometric Identification System (IDENT) (June 5, 2007, 72 FR 31080) System of Records Notices (SORNs), as part of a DHS-wide initiative in 2008 to restructure the former INS–012 Deportable Alien Control System (DACS) SORN.

DHS/CBP is issuing this new system of records to claim ownership of records created as a result of CBP interactions between the POE. CBP inputs non-intelligence information it collects as a result of these interactions into its E3 Portal. CBP also collects and maintains information related to camera and sensor alerts in its Intelligent Computer Assisted Detection (ICAD) database. This system of records applies to the categories of information input and maintained in these systems. This information includes biographic, biometric, geolocation imagery and coordinates, and other enforcement and detention data associated with encounters, investigations, border violence, seized property in relation to an apprehension, inspections, prosecutions, and custody operations of DHS/CBP between the ports of entry for law enforcement, immigration, or border security purposes.

Additionally, the Department of Homeland Security is issuing a Notice of Proposed Rulemaking to exempt this system of records from certain provisions of the Privacy Act, elsewhere in the **Federal Register**. This newly established system of records will be included in the Department of Homeland Security's inventory of record systems.

DATES: Submit comments on or before November 21, 2016. This new system will be effective November 21, 2016.

ADDRESSES: You may submit comments, identified by docket number DHS–2016–0067 by one of the following methods:

- *Federal e-Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–343–4010.
- *Mail:* Jonathan R. Cantor, Acting Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, DC 20528.

Instructions: All submissions received must include the agency name and docket number for this rulemaking. All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

Docket: For access to the docket to read background documents or comments received, please visit *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: For general questions, please contact: Debra L. Danisek, (202) 344–1610, Acting Privacy Officer, U.S. Customs and Border Protection, Washington, DC 20229. For privacy questions, please contact: Jonathan R. Cantor, (202) 343–1717, Acting Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, DC 20528.

SUPPLEMENTARY INFORMATION:

I. Background

In accordance with the Privacy Act of 1974, 5 U.S.C. 552a, the Department of Homeland Security (DHS)/U.S. Customs and Border Protection (CBP) proposes to establish a new DHS system of records titled, ''DHS/CBP–023 Border Patrol Enforcement Records (BPER) System of Records.''

This system of records contains information DHS/CBP collects and maintains to prevent the illegal entry of people, terrorists, terrorist weapons, and contraband from entering the United States between the Ports of Entry (POE) (for records collected at the POE, either for lawful admission or entry to the United States or for enforcement purposes, please see DHS/CBP–007 Border Crossing Information (BCI) (January 25, 2016, 81 FR 4040 and DHS/CBP–011 U.S. Customs and Border Protection TECS (December 19, 2008, 73 FR 77778), respectfully). DHS previously covered these records under the DHS/ICE–011 U.S. Immigration and Customs Enforcement (ICE) Operational Records (ENFORCE) (April 30, 2015, 80 FR 24269) and the DHS/NPPD–004 DHS Automated Biometric Identification System (IDENT) (June 5, 2007, 72 FR 31080) SORNs, as part of a DHS-wide initiative in 2008 to restructure the former Immigration and Naturalization Service (INS)–012 DACS SORN.

DHS/CBP is issuing this new system of records to claim ownership of records created as a result of CBP interactions between the POE. CBP inputs non-intelligence information it collects as a result of these interactions into its E3 Portal,[1] which serves as a conduit to ICE Enforcement and Integrated Database (EID) and DHS Office of Biometric Identity Management (OBIM) IDENT (for biometric storage). CBP also collects and maintains information related to camera and sensor alerts in its ICAD database.[2] This system of records applies to the categories of information input and maintained in these systems. This information includes biographic, biometric, geolocation imagery and coordinates, and other enforcement and

[1] DHS/CBP/PIA–012 CBP Portal (E3) to ENFORCE/IDENT (July 25, 2012), *available at https://www.dhs.gov/publication/cbp-portal-e3-enforceident.*

[2] DHS/CBP/PIA–022 Border Surveillance Systems (BSS) (August 29, 2014), *available at https://www.dhs.gov/publication/border-surveillance-systems-bss.*

detention data associated with encounters, investigations, border violence, seized property in relation to an apprehension, inspections, prosecutions, and custody operations of DHS/CBP between the ports of entry for law enforcement, immigration, or border security purposes.

CBP, through the U.S. Border Patrol (USBP), plays a critical role in securing the U.S. borders between POE against all threats. CBP/USBP prevent terrorists and terrorist weapons from entering the United States between the POE through improved and focused intelligence-driven operations and enhanced integration, planning, and execution of operations with law enforcement partners. CBP/USBP manages risk through the introduction and expansion of sophisticated technologies, tactics, techniques, and procedures, including mobile-response capabilities. CBP/USBP enforces the law, primarily immigration and customs laws, performs related homeland security functions, and disrupts and degrades Transnational Criminal Organizations (TCO) by targeting enforcement efforts against the highest priority threats and expanding programs that reduce smuggling and crimes associated with smuggling.

To facilitate and further the overall CBP/USBP goal to secure the U.S. borders, DHS/CBP uses BPER to collect, store, and retrieve geolocation imagery and coordinates, biographic, and biometric records about individuals, vehicles, vessels, property, or aircrafts encountered, apprehended, or seized between POE. These records include encounters of individuals (including U.S. citizens and non-U.S. citizens) between POE, related to border crossing events and activities, and information associated with individuals that are detected, apprehended, detained, or involved with surveillance technologies. These encounters can also include information about Border Patrol Agents and assaults made against them, as well as the use of force that may be necessarily exercised during an encounter.

BPER can include any associated encounter, enforcement, or detection information (including citizen reports) to assist CBP in making determinations about individuals that violated, or are suspected of violating, a law or regulation that is enforced or administered by DHS/CBP. DHS/CBP may use BPER information to determine immigration or citizenship status, eligibility for immigration benefits, to prosecute individuals apprehended for violation of U.S. laws enforced by DHS, and for other uses related to the enforcement of U.S. laws. DHS/CBP will also use BPER records to carry out its national security, law enforcement, immigration, and other homeland security functions.

Consistent with DHS's information sharing mission, information stored in DHS/CBP–023 BPER may be shared with other DHS components that have a need to know the information in order to carry out their national security, law enforcement, immigration, intelligence, or other homeland security functions. In addition, DHS/CBP may share information with appropriate federal, state, local, tribal, territorial, foreign, or international government agencies consistent with the routine uses set forth in this system of records notice.

Additionally, DHS is issuing a Notice of Proposed Rulemaking to exempt this system of records from certain provisions of the Privacy Act elsewhere in the **Federal Register**. This newly established system will be included in DHS's inventory of record systems.

II. Privacy Act

The Privacy Act embodies fair information practice principles in a statutory framework governing the means by which Federal Government agencies collect, maintain, use, and disseminate individuals' records. The Privacy Act applies to information that is maintained in a ''system of records.'' A ''system of records'' is a group of any records under the control of an agency from which information is retrieved by the name of an individual or by some identifying number, symbol, or other identifying particular assigned to the individual. In the Privacy Act, an individual is defined to encompass U.S. citizens and lawful permanent residents. As a matter of policy, DHS extends administrative Privacy Act protections to all individuals when systems of records maintain information on U.S. citizens, lawful permanent residents, and visitors.

Below is the description of the DHS/CBP–023 Border Patrol Enforcement Records, System of Records.

In accordance with 5 U.S.C. 552a(r), DHS has provided a report of this system of records to the Office of Management and Budget and to Congress.

System of Records

Department of Homeland Security (DHS)/U.S. Customs and Border Protection–023.

SYSTEM NAME:

DHS/CBP–023 Border Patrol Enforcement Records (BPER).

SECURITY CLASSIFICATION:

Unclassified. The data may be retained on the classified networks but this does not change the nature and character of the data until it is combined with classified information.

SYSTEM LOCATION:

DHS/CBP primarily maintains records at the CBP Headquarters offices in Washington, DC and at Office of Border Patrol Sector and Station locations. BPER are primarily collected and or maintained within three information technology systems (E3 Portal, U.S. Immigration and Customs Enforcement (ICE) EID, and the ICAD database), however these records may also be stored locally by Sector or Station offices, checkpoints, mobile information collection devices, and border surveillance technologies. This system of record notice encompasses the categories of information currently input and or maintained in E3, EID, and ICAD. On behalf of CBP, DHS stores BPER biometric records in the DHS biometrics repository, OBIM IDENT.[3]

DHS/CBP also replicates records from these operational systems and maintains them on other DHS unclassified and classified systems and networks.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Categories of individuals covered by this system of records include:

1. Individuals encountered, apprehended, detained, or removed in relation to border crossings, checkpoint operations, law enforcement actions and investigations, inspections, patrols, examinations, legal proceedings, or other operations that implement and enforce the Immigration and Nationality Act (INA) (8 U.S.C. 1101 *et seq.*) and related treaties, statutes, orders, and regulations;

2. Individuals wanted by other law enforcement agencies, including federal, state, local, tribal, foreign, and international, or individuals who are the subject of inquiries, lookouts, or notices by another agency or a foreign government; and

3. Individuals who contact DHS/CBP with complaints, tips, leads, or other information regarding a violation, or potential violation, of laws enforced by DHS/CBP.

CATEGORIES OF RECORDS IN THE SYSTEM:

Categories of records in this system include:

[3] DHS/NPPD/PIA–002 Automated Biometric Identification System (IDENT), and Appendices (December 7, 2012), *available at https://www.dhs.gov/publication/dhsnppdpia-002-automated-biometric-identification-system.*

1. Biographic, descriptive, historical, and other identifying data, including but not limited to: Names; aliases; fingerprint identification number (FIN) or other biometric identifying numbers; date and place of birth; passport and other travel or identification document information; nationality; aliases; Alien Registration Number (A–Number); Social Security number (SSN); contact or location information (*e.g.,* known or possible addresses, phone numbers); employment, educational, immigration, and criminal history; marital status; occupation; height, weight, eye color, hair color, and other unique physical characteristics (*e.g.,* scars and tattoos). Identifying information also includes vehicle, vessel, and aircraft identifying information, such as license plate numbers, even if not directly related to an individual at the time of collection.

2. Biometric data including: Fingerprints, iris scans, blood type, and photographs. Biometric information is obtained directly from individuals, and from matches against other Government biometric databases. Biometric data is not normally collected for individuals under the age of 14.

3. Geolocation imagery and coordinates including: Sensor alerts and camera images of individuals, vehicles, vessels, or aircraft and the time, date, and location of the image.

4. Enforcement-related data including: Case number, record number, and other data describing an event involving alleged violations of criminal, immigration, or other laws (location, date, time, event category, types of criminal or immigration law violations alleged, types of property involved, use of violence, weapons, or assault against DHS personnel or third parties, attempted escape, and other related information); CBP encounter management information, including: Category (event categories describe broad categories of criminal law enforcement, such as smuggling and human trafficking), agent or officer, location of officer or officer's vehicle, date/time initiated, date/time completed, assets used for encounter (bike, horse, vehicle, etc.), results of the encounter, and any agent or officer notes and comments.

5. Data on aliens in custody or detained, including: Transportation information, identification numbers, custodial actions (such as meals, conditions of detainee cell, overall detainee care information), custodial property, information related to detainers, book-in/book-out date and time, and other alerts.

6. Limited health information gathered during a temporary detention in a CBP facility or otherwise relevant to transportation requirements.

7. Contact, biographical, and identifying data of relatives, associates of an alien (which may include information for individuals such as an attorney), or witnesses to an encounter, but not limited to: Name, date of birth, place of birth, address, telephone number, and business or agency name.

8. Alerts, typically containing biographic but occasionally biometric information, concerning individuals who are the subject of inquiries, lookouts, or notices by another federal agency, state, local, tribal, territorial, or foreign government.

9. Data concerning personnel of other agencies that arrested, or assisted or participated in the arrest or investigation of, or are maintaining custody of, an individual whose arrest record is contained in this system of records. This can include: Name, title, agency name, address, telephone number, and other information.

10. Basic contact information, including name, phone numbers, and address, from members of the public who voluntarily contact DHS with complaints, tips, leads, or information about violations, or potential violations, of law.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 6 U.S.C. 202; 8 U.S.C. secs. 1103, 1185, 1225, 1357, 1365a, 1365b, 1379, and 1732; 19 U.S.C. secs. 482, 1461, 1496, 1581, 1582; Homeland Security Act of 2002 (Pub. L. 107–296); Justice for All Act of 2004 (Pub. L. 108–405); Intelligence Reform and Terrorism Prevention Act of 2004 (Pub. L. 108–458); Secure Fence Act of 2006 (Pub. L. 109, 367); 8 CFR 287.

PURPOSE(S):

The purposes of this system of records are to:

1. Prevent the entry of inadmissible aliens into the United States;

2. Record the detection, location, encounter, identification, apprehension, and/or detention of individuals who commit violations of U.S. laws enforced by CBP or DHS between the POE;

3. Support the identification and arrest of individuals (both citizens and non-citizens) who commit violations of federal criminal laws enforced by DHS;

4. Support the grant, denial, and tracking of individuals who seek or receive parole into the United States;

5. Provide criminal and immigration history information during DHS enforcement encounters, and background checks on applicants for DHS immigration benefits (*e.g.,* employment authorization and petitions); and

6. Identify potential terrorist and criminal activity, immigration violations, and threats to homeland security; to uphold and enforce the law; and to ensure public safety.

DHS/CBP maintains a replica of some or all of the data in the operating system on other unclassified and classified systems and networks to allow for analysis and vetting consistent with the above stated purposes and this published notice.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside DHS as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

A. To the Department of Justice, including Offices of the United States Attorneys, or other federal agency conducting litigation or in proceedings before any court, adjudicative, or administrative body, when it is relevant or necessary to the litigation and one of the following is a party to the litigation or has an interest in such litigation:

1. DHS or any component thereof;

2. Any employee or former employee of DHS in his/her official capacity;

3. Any employee or former employee of DHS in his/her individual capacity when DOJ or DHS has agreed to represent the employee; or

4. The United States or any agency thereof.

B. To a congressional office from the record of an individual in response to an inquiry from that congressional office made pursuant to a written Privacy Act waiver at the request of the individual to whom the record pertains;

C. To the National Archives and Records Administration (NARA) or General Services Administration pursuant to records management inspections being conducted under the authority of 44 U.S.C. secs. 2904 and 2906;

D. To an agency or organization for the purpose of performing audit or oversight operations as authorized by law, but only such information as is necessary and relevant to such audit or oversight function;

E. To appropriate agencies, entities, and persons when:

1. DHS suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised;

2. DHS has determined that as a result of the suspected or confirmed

compromise, there is a risk of identity theft or fraud, harm to economic or property interests, harm to an individual, or harm to the security or integrity of this system or other systems or programs (whether maintained by DHS or another agency or entity) that rely upon the compromised information; and

3. The disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with DHS's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

F. To contractors and their agents, grantees, experts, consultants, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for DHS, when necessary to accomplish an agency function related to this system of records. Individuals provided information under this routine use are subject to the same Privacy Act requirements and limitations on disclosure as are applicable to DHS officers and employees;

G. To an appropriate federal, state, tribal, local, international, or foreign law enforcement agency or other appropriate authority charged with investigating or prosecuting a violation or enforcing or implementing a law, rule, regulation, or order, when a record, either on its face or in conjunction with other information, indicates a violation or potential violation of law, which includes criminal, civil, or regulatory violations and such disclosure is proper and consistent with the official duties of the person making the disclosure;

H. To appropriate federal, state, tribal, local, or foreign governmental agencies or multilateral governmental organizations responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, when DHS/CBP believes the information would assist in the enforcement of applicable civil or criminal laws;

I. To federal and foreign government intelligence or counterterrorism agencies or components when DHS/CBP becomes aware of an indication of a threat or potential threat to national or international security, or when such use is to assist in the anti-terrorism efforts and disclosure is appropriate in the proper performance of the official duties of the person making the disclosure;

J. To a federal, state, or local agency, or other appropriate entity or individual, or through established liaison channels to selected foreign governments, in order to provide intelligence, counterintelligence, or other information for the purposes of intelligence, counterintelligence, or antiterrorism activities authorized by U.S. law, Executive Order, or other applicable national security directive;

K. To an organization or person in either the public or private sector, either foreign or domestic, when there is a reason to believe that the recipient is or could become the target of a particular terrorist activity or conspiracy, or when the information is relevant to the protection of life, property, or other vital interests of a person;

L. To a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, or in connection with criminal law proceedings;

M. To third parties during the course of a law enforcement investigation to the extent necessary to obtain information pertinent to the investigation, provided disclosure is appropriate in the proper performance of the official duties of the officer making the disclosure;

N. To other federal agencies for the purposes of biometric identity verification and resolution, such as the Department of Defense (DoD) Automated Biometric Information System and the DOJ Next Generation Identification (NGI);

O. To foreign governments for the purpose of coordinating and conducting the removal of aliens to other nations, including issuance of relevant travel documents; and to international, foreign, and intergovernmental agencies, authorities, and organizations in accordance with law and formal or informal international arrangements;

P. To federal, state, local, territorial, tribal, and foreign law enforcement or custodial agencies for the purpose of placing an immigration detainer on an individual in that agency's custody, or to facilitate the transfer of custody of an individual from CBP to the other agency. This will include the transfer of information about unaccompanied minor children to the U.S. Department of Health and Human Services (HHS), Office of Refugee Resettlement (ORR), to facilitate the custodial transfer of such children from CBP to HHS;

Q. To appropriate federal, state, local, tribal, foreign governmental agencies, multilateral governmental organizations, or other public health entities, for the purpose of protecting the vital interests of a data subject or other persons, including to assist such agencies or organizations in preventing exposure to or transmission of a communicable or quarantinable disease or to combat other significant public health threats; appropriate notice will be provided of any identified health threat or risk;

R. To appropriate federal, state, local, tribal, or foreign governmental agencies or multilateral governmental organizations when CBP is aware of a need to use relevant data for purposes of testing new technology and systems designed to enhance border security or identify other violations of law.

S. To the news media and the public, with the approval of the Chief Privacy Officer in consultation with counsel, when there exists a legitimate public interest in the disclosure of the information or when disclosure is necessary to preserve confidence in the integrity of DHS or is necessary to demonstrate the accountability of DHS's officers, employees, or individuals covered by the system, except to the extent the Chief Privacy Officer determines that the release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

DHS/CBP stores records in this system electronically (on unclassified and classified systems and networks) or on paper in secure facilities in a locked drawer behind a locked door. The records may be stored on magnetic disc, tape, and digital media, or in any other electronic form.

RETRIEVABILITY:

DHS/CBP may be retrieve records by name or other personal identifiers listed in the categories of records, above.

SAFEGUARDS:

DHS/CBP safeguards records in this system according to applicable rules and policies, including all applicable DHS automated systems security and access policies. DHS/CBP has imposed strict controls to minimize the risk of compromising the information that is being stored. Access to the computer systems containing the records in this system of records is limited to those individuals who have a need to know the information for the performance of their official duties and who have appropriate permissions.

RETENTION AND DISPOSAL:

CBP is in the process of drafting a proposed record retention schedule for the information maintained in the BPER SORN. CBP anticipates retaining records of arrests, detentions, and removals for seventy-five (75) years. Investigative information that does not result in an individual's arrest, detention, or removal, is stored for twenty (20) years after the investigation is closed, consistent with the N1–563–08–4–2. User account management records for ten (10) years following an individual's separation of employment from federal service; statistical records for ten (10) years; audit files for fifteen (15) years; and backup files for up to one (1) month. Records replicated on other DHS or CBP unclassified and classified systems and networks will follow the same retention schedule.

SYSTEM MANAGER AND ADDRESS:

Associate Chief, U.S. Border Patrol, Enforcement Systems Branch, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW., Washington, DC 20229.

NOTIFICATION PROCEDURE:

The Secretary of Homeland Security has exempted this system from the notification, access, accounting, and amendment procedures of the Privacy Act because it is a law enforcement system. However, DHS/CBP will consider individual requests to determine whether or not information may be released. Thus, individuals seeking notification of and access to any record contained in this system of records, or seeking to contest its content, may submit a request in writing to the Chief Privacy Officer and Headquarters or CBP Freedom of Information Act (FOIA) Officer, whose contact information can be found at *http://www.dhs.gov/foia* under ''Contacts.'' If an individual believes more than one component maintains Privacy Act records concerning him or her, the individual may submit the request to the Chief Privacy Officer and Chief Freedom of Information Act Officer, Department of Homeland Security, 245 Murray Drive SW., Building 410, STOP–0655, Washington, DC 20528.

When seeking records about yourself from this system of records or any other Departmental system of records, your request must conform with the Privacy Act regulations set forth in 6 CFR part 5.20, *et seq.* You must first verify your identity, meaning that you must provide your full name, current address, and date and place of birth. You must sign your request, and your signature must either be notarized or submitted under 28 U.S.C. 1746, a law that permits statements to be made under penalty of perjury as a substitute for notarization. While no specific form is required, you may obtain forms for this purpose from the Chief Privacy Officer and Chief Freedom of Information Act Officer, *http://www.dhs.gov/foia* or 1–866–431–0486. In addition, you should:

- Explain why you believe the Department would have information on you;
- Identify which component(s) of the Department you believe may have the information about you;
- Specify when you believe the records would have been created; and
- Provide any other information that will help the FOIA staff determine which DHS component agency may have responsive records;

If your request is seeking records pertaining to another living individual, you must include a statement from that individual certifying his/her agreement for you to access his/her records.

Without the above information, the component(s) may not be able to conduct an effective search, and your request may be denied due to lack of specificity or lack of compliance with applicable regulations.

In processing Privacy Act requests for related to information in this system, DHS/CBP will review the records in the operational system, and coordinate review of records that were replicated on other unclassified and classified systems and networks.

RECORD ACCESS PROCEDURES:

See ''Notification procedure'' above.

CONTESTING RECORD PROCEDURES:

See ''Notification procedure'' above.

RECORD SOURCE CATEGORIES:

Records in the system are supplied by several sources. In general, information is obtained from individuals covered by this system, and other federal, state, local, tribal, or foreign governments. More specifically, DHS/CBP–023 BPER derive from the following sources:

(a) Individuals covered by the system and other individuals (*e.g.,* witnesses, family members);

(b) Other federal, state, local, tribal, or foreign governments and government information systems;

(c) Business records;

(d) Evidence, contraband, and other seized material; and

(e) Public and commercial sources.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

The Secretary of Homeland Security has exempted portions of this system of records from subsecs. (c)(3) and (4); (d); (e)(1), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(5), and (e)(8); and (g) of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2). In addition, the Secretary of Homeland Security has exempted portions of this system of records from subsections (c)(3); (d); (e)(1), (e)(4)(G), and (e)(4)(H) of the Privacy Act pursuant to 5 U.S.C. 552a(k)(2). These exemptions apply only to the extent that records in the system are subject to exemption pursuant to 5 U.S.C. 552a(j)(2) and (k)(2). In addition, to the extent a record contains information from other exempt systems of records, DHS will rely on the exemptions claimed for those systems.

Dated: October 5, 2016

Jonathan R. Cantor,

Acting Chief Privacy Officer, Department of Homeland Security.

[FR Doc. 2016–25206 Filed 10–19–16; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5988–N–01]

The Performance Review Board

AGENCY: Office of the Deputy Secretary, HUD.

ACTION: Notice of appointments.

SUMMARY: The Department of Housing and Urban Development announces the establishment of two Performance Review Boards to make recommendations to the appointing authority on the performance of its senior executives. Towanda A. Brooks, Sarah L. Gerecke, Keith W. Surber, Joy L. Hadley, Craig T. Clemmensen, and Barbara M. Cooper-Jones will serve as members of the Departmental Performance Review Board to review career SES performance. Laura H. Hogshead, Rafael C. Diaz, Tonya T. Robinson, and Patrick J. Pontius will serve as members of the Departmental Performance Review Board to review noncareer SES performance. The address is: Department of Housing and Urban Development, Washington, DC 20410–0050.

FOR FURTHER INFORMATION CONTACT: Persons desiring any further information about the Performance Review Board and its members may contact Lynette Warren, Director, Office of Executive Resources, Department of Housing and Urban Development, Washington, DC 20410. Telephone (202) 402–4169. (This is not a toll-free number)

Dated: October 14, 2016.

Nani A. Coloretti,

Deputy Secretary.

[FR Doc. 2016–25413 Filed 10–19–16; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. FWS–HQ–IA–2016–0128; FXIA16710900000–178–FF09A30000]

Endangered Species; Marine Mammals; Receipt of Applications for Permit

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of applications for permit.

SUMMARY: We, the U.S. Fish and Wildlife Service, invite the public to comment on the following applications to conduct certain activities with endangered species, marine mammals, or both. With some exceptions, the Endangered Species Act (ESA) and Marine Mammal Protection Act (MMPA) prohibit activities with listed species unless Federal authorization is acquired that allows such activities.

DATES: We must receive comments or requests for documents on or before November 21, 2016. We must receive requests for marine mammal permit public hearings, in writing, at the address shown in the **ADDRESSES** section by November 21, 2016.

ADDRESSES:

Submitting Comments: You may submit comments by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments on Docket No. FWS–HQ–IA–2016–0128.
- *U.S. mail or hand-delivery:* Public Comments Processing, Attn: Docket No. FWS–HQ–IA–2016–0128; U.S. Fish and Wildlife Service Headquarters, MS: BPHC; 5275 Leesburg Pike, Falls Church, VA 22041–3803.

When submitting comments, please indicate the name of the applicant and the PRT# you are commenting on. We will post all comments on *http://www.regulations.gov.* This generally means that we will post any personal information you provide us (see the Public Comments section below for more information).

Viewing Comments: Comments and materials we receive will be available for public inspection on *http://www.regulations.gov*, or by appointment, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays, at the U.S. Fish and Wildlife Service, Division of Management Authority, 5275 Leesburg Pike, Falls Church, VA 22041–3803; telephone 703–358–2095.

FOR FURTHER INFORMATION CONTACT: Brenda Tapia, (703) 358–2104 (telephone); (703) 358–2281 (fax); *DMAFR@fws.gov* (email).

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures

A. How do I request copies of applications or comment on submitted applications?

Send your request for copies of applications or comments and materials concerning any of the applications to the contact listed under **ADDRESSES**. Please include the **Federal Register** notice publication date, the PRT-number, and the name of the applicant in your request or submission. We will not consider requests or comments sent to an email or address not listed under **ADDRESSES**. If you provide an email address in your request for copies of applications, we will attempt to respond to your request electronically.

Please make your requests or comments as specific as possible. Please confine your comments to issues for which we seek comments in this notice, and explain the basis for your comments. Include sufficient information with your comments to allow us to authenticate any scientific or commercial data you include.

The comments and recommendations that will be most useful and likely to influence agency decisions are: (1) Those supported by quantitative information or studies; and (2) Those that include citations to, and analyses of, the applicable laws and regulations. We will not consider or include in our administrative record comments we receive after the close of the comment period (see **DATES**) or comments delivered to an address other than those listed above (see **ADDRESSES**).

B. May I review comments submitted by others?

Comments, including names and street addresses of respondents, will be available for public review at the street address listed under **ADDRESSES**. The public may review documents and other information applicants have sent in support of the application unless our allowing viewing would violate the Privacy Act or Freedom of Information Act. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

II. Background

To help us carry out our conservation responsibilities for affected species, and in consideration of section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), and the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), along with Executive Order 13576, ''Delivering an Efficient, Effective, and Accountable Government,'' and the President's Memorandum for the Heads of Executive Departments and Agencies of January 21, 2009—Transparency and Open Government (74 FR 4685; January 26, 2009), which call on all Federal agencies to promote openness and transparency in Government by disclosing information to the public, we invite public comment on these permit applications before final action is taken. Under the MMPA, you may request a hearing on any MMPA application received. If you request a hearing, give specific reasons why a hearing would be appropriate. The holding of such a hearing is at the discretion of the Service Director.

III. Permit Applications

A. Endangered Species

Applicant: Saginaw Valley Zoological Society, Saginaw, MI; PRT–31852A

The applicant requests an amendment of an existing captive-bred wildlife registration under 50 CFR 17.21(g) for the following species to enhance species propagation or survival: Black-footed cat (*Felis nigripes*). This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Phoenix Herpetological Society, Scottsdale, AZ; PRT–02044C

The applicant requests a permit to import four captive-bred Tomistoma, or false gharial (*Tomistoma schlegelii*), for the purpose of enhancement of the survival of the species. This notification covers activities to be conducted by the applicant over a 5-year period.

Multiple Applicants

The following applicants each request a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus pygargus*) culled from a captive herd maintained under the management program of the

Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: Lawrence Miller, Palatine, IL; PRT–03197C

Applicant: Seixas Milner, Lawrenceville, GA; PRT–04168C

Applicant: David McNeil, Buhl, AL; PRT–05019C

B. Endangered Marine Mammals and Marine Mammals

Applicant: Anthony Pagano, USGS/Alaska Science Center, Anchorage, AK; PRT–77245B

The applicant requests an amendment to the permit to take captive polar bears for the purpose of scientific research on polar bear diets and energetics. This notification covers activities to be conducted by the applicant over a 5-year period.

Concurrent with publishing this notice in the **Federal Register**, we are forwarding copies of the above applications to the Marine Mammal Commission and the Committee of Scientific Advisors for their review.

Brenda Tapia,

Program Analyst/Data Administrator, Branch of Permits, Division of Management Authority.

[FR Doc. 2016–25382 Filed 10–19–16; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[178A2100DD/AAKC001030/A0A501010.999900 253G]

Model Indian Juvenile Code

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of availability.

SUMMARY: The Bureau of Indian Affairs is announcing availability of the final version of the updated 2016 Model Indian Juvenile Code. The updated Model Indian Juvenile Code is intended as a tool to assist Indian Tribes in creating or revising their juvenile codes.

FOR FURTHER INFORMATION CONTACT: Natasha Anderson, Deputy Associate Director, Tribal Justice Support Directorate, Office of Justice Services, Bureau of Indian Affairs, (202) 513–0367 or *BIA_Tribal_Courts@bia.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The BIA initially contracted with the National Indian Justice Center to develop the first Code in 1988 after the passage Public Law 99–570, title IV, section 4221, which required the creation of a ''Model Indian Juvenile Code'' (25 U.S.C. 2454).

Most codes should be updated on a regular basis; and it has been over 25 years since the initial Model Indian Juvenile Code was created. Additionally, after the passage of the Tribal Law and Order Act of 2010, a Memorandum of Agreement among DOI, DOJ, and DHHS was developed to establish a framework for collaboration that results in the coordination of resources and programs. The MOA specifically referenced 25 U.S.C. 2454 and the Model Indian Juvenile Code.

Since the creation of the initial Model Indian Juvenile Code, much has changed in the field of juvenile justice. Since the late 1980s, many jurisdictions have engaged in reforms of their juvenile justice systems in response to research finding that the standard juvenile justice system model used in the United States showed no impact to juvenile delinquency and may have, in fact, increased delinquency rates. Research has also found that adolescent brains develop later in life than previously thought. Researchers, advocates and policy makers urge changes to the more punitive models of juvenile justice and encourage systems that are more restorative.

After contracting with the Center of Indigenous Research & Justice (CIRJ), the BIA shepherded an ''information gathering phase'' beginning with a workshop to discuss a plan of action in updating the Code, at the Office on Victims of Crime's National Indian Nations Conference in Palm Springs, California on December 12, 2014. In April 2015, BIA made available a Discussion Draft on the BIA Web site for review and comment. The CIRJ contractor presented details on the Discussion Draft at the 2015 Annual Federal Bar Indian Law Conference. The BIA held a listening session on the Discussion Draft at the 2015 National Congress of American Indians' Mid-Year Conference in Saint Paul, Minnesota. NCAI hosted a follow-up webinar in November 2015 on Juvenile Justice with a focus on the principles of the Model Indian Juvenile Code update.

On February 24, 2016, the BIA announced the availability of the Draft 2016 Model Indian Juvenile Code for Consultation. Four telephonic Tribal consultation sessions were held on March 30–31 and April 13–14, 2016 in addition to an in-person listening session on April 6, 2016, at the Annual Conference of the National Indian Child Welfare Association. Written Comments were also accepted with a deadline of May 27, 2016.

II. Summary of the Model Indian Juvenile Code

The 2016 Model Indian Juvenile Code is divided into three categories: (1) Delinquency; (2) Child in Need of Services; and (3) Truancy.

The 2016 Model Indian Juvenile Code focuses on several principles including, but not limited to:

- Ability to divert out of formal process at each decision point;
- Embeds right to counsel for juveniles in delinquency/truancy;
- Restricts use of detention;
- Commentary on choices made in the code and discussion of options for implementation—including diversion examples;
- Distinguishing between delinquent acts and need for services;
  - For delinquent acts, focus on supervision, treatment and rehabilitation;
- Process ensuring rights of parties; and
- Coordination of services.

We have considered the comments received on the draft; and now issue the updated and annotated Model Indian Juvenile Code available at: *http://www.bia.gov/cs/groups/xojs/documents/document/idc2-047015.pdf* or by contacting the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice. The updated Code is available in both an Annotated PDF and a Microsoft Word version which can be adapted for each Tribe's needs. Further information is available on the Tribal Justice Support Directorate's page at *http://www.bia.gov/WhoWeAre/BIA/OJS/ojs-services/ojs-tjs/index.htm.*

Dated: October 7, 2016.

Lawrence Roberts,

Principal Deputy Assistant Secretary—Indian Affairs.

[FR Doc. 2016–25374 Filed 10–19–16; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[178A2100DD/AAKC001030/A0A501010.999900 253G]

HEARTH Act Approval of Chemehuevi Indian Tribe Regulations

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: On October 7, 2016, the Bureau of Indian Affairs (BIA) approved the Chemehuevi Indian Tribe of the

Chemehuevi Reservation, California leasing regulations under the Helping Expedite and Advance Responsible Tribal Homeownership Act of 2012 (HEARTH Act). With this approval, the Chemehuevi Indian Tribe is authorized to enter into business site leases without further BIA approval.

FOR FURTHER INFORMATION CONTACT: Ms. Sharlene Round Face, Bureau of Indian Affairs, Division of Real Estate Services, MS–4642–MIB, 1849 C Street NW., Washington, DC 20240, at (202) 208–3615.

SUPPLEMENTARY INFORMATION:

I. Summary of the HEARTH Act

The HEARTH Act makes a voluntary, alternative land leasing process available to Tribes, by amending the Indian Long-Term Leasing Act of 1955, 25 U.S.C. 415. The HEARTH Act authorizes Tribes to negotiate and enter into agricultural and business leases of Tribal trust lands with a primary term of 25 years, and up to two renewal terms of 25 years each, without the approval of the Secretary of the Interior (Secretary). The HEARTH Act also authorizes tribes to enter into leases for residential, recreational, religious or educational purposes for a primary term of up to 75 years without the approval of the Secretary. Participating Tribes develop Tribal leasing regulations, including an environmental review process, and then must obtain the Secretary's approval of those regulations prior to entering into leases. The HEARTH Act requires the Secretary to approve Tribal regulations if the Tribal regulations are consistent with the Department of the Interior's (Department) leasing regulations at 25 CFR part 162 and provide for an environmental review process that meets requirements set forth in the HEARTH Act. This notice announces that the Secretary, through the Assistant Secretary—Indian Affairs, has approved the Tribal regulations for the Chemehuevi Indian Tribe of the Chemehuevi Reservation, California.

II. Federal Preemption of State and Local Taxes

The Department's regulations governing the surface leasing of trust and restricted Indian lands specify that, subject to applicable Federal law, permanent improvements on leased land, leasehold or possessory interests, and activities under the lease are not subject to State and local taxation and may be subject to taxation by the Indian Tribe with jurisdiction. *See* 25 CFR 162.017. As explained further in the preamble to the final regulations, the Federal government has a strong interest in promoting economic development, self-determination, and Tribal sovereignty. 77 FR 72440, 72447–48 (December 5, 2012). The principles supporting the Federal preemption of State law in the field of Indian leasing and the taxation of lease-related interests and activities applies with equal force to leases entered into under Tribal leasing regulations approved by the Federal government pursuant to the HEARTH Act.

Section 5 of the Indian Reorganization Act, 25 U.S.C. 465, preempts State and local taxation of permanent improvements on trust land. *Confederated Tribes of the Chehalis Reservation* v. *Thurston County,* 724 F.3d 1153, 1157 (9th Cir. 2013) (citing *Mescalero Apache Tribe* v. *Jones,* 411 U.S. 145 (1973)). Similarly, section 465 preempts State taxation of rent payments by a lessee for leased trust lands, because ''tax on the payment of rent is indistinguishable from an impermissible tax on the land.'' *See Seminole Tribe of Florida* v. *Stranburg,* No. 14–14524, *13–*17, n.8 (11th Cir. 2015). In addition, as explained in the preamble to the revised leasing regulations at 25 CFR part 162, Federal courts have applied a balancing test to determine whether State and local taxation of non-Indians on the reservation is preempted. *White Mountain Apache Tribe* v. *Bracker,* 448 U.S. 136, 143 (1980). The *Bracker* balancing test, which is conducted against a backdrop of ''traditional notions of Indian self-government,'' requires a particularized examination of the relevant State, Federal, and Tribal interests. We hereby adopt the *Bracker* analysis from the preamble to the surface leasing regulations, 77 FR at 72447–48, as supplemented by the analysis below.

The strong Federal and Tribal interests against State and local taxation of improvements, leaseholds, and activities on land leased under the Department's leasing regulations apply equally to improvements, leaseholds, and activities on land leased pursuant to Tribal leasing regulations approved under the HEARTH Act. Congress's overarching intent was to ''allow tribes to exercise greater control over their own land, support self-determination, and eliminate bureaucratic delays that stand in the way of homeownership and economic development in tribal communities.'' 158 Cong. Rec. H. 2682 (May 15, 2012). The HEARTH Act was intended to afford Tribes ''flexibility to adapt lease terms to suit [their] business and cultural needs'' and to ''enable [Tribes] to approve leases quickly and efficiently.'' *Id.* at 5–6.

Assessment of State and local taxes would obstruct these express Federal policies supporting Tribal economic development and self-determination, and also threaten substantial Tribal interests in effective Tribal government, economic self-sufficiency, and territorial autonomy. *See Michigan* v. *Bay Mills Indian Community,* 134 S. Ct. 2024, 2043 (2014) (Sotomayor, J., concurring) (determining that ''[a] key goal of the Federal Government is to render Tribes more self-sufficient, and better positioned to fund their own sovereign functions, rather than relying on Federal funding''). The additional costs of State and local taxation have a chilling effect on potential lessees, as well as on a Tribe that, as a result, might refrain from exercising its own sovereign right to impose a Tribal tax to support its infrastructure needs. *See id.* at 2043–44 (finding that State and local taxes greatly discourage tribes from raising tax revenue from the same sources because the imposition of double taxation would impede tribal economic growth).

Similar to BIA's surface leasing regulations, Tribal regulations under the HEARTH Act pervasively cover all aspects of leasing. *See* 25 U.S.C. 415(h)(3)(B)(i) (requiring Tribal regulations be consistent with BIA surface leasing regulations). Furthermore, the Federal government remains involved in the Tribal land leasing process by approving the Tribal leasing regulations in the first instance and providing technical assistance, upon request by a Tribe, for the development of an environmental review process. The Secretary also retains authority to take any necessary actions to remedy violations of a lease or of the Tribal regulations, including terminating the lease or rescinding approval of the Tribal regulations and reassuming lease approval responsibilities. Moreover, the Secretary continues to review, approve, and monitor individual Indian land leases and other types of leases not covered under the Tribal regulations according to the part 162 regulations.

Accordingly, the Federal and Tribal interests weigh heavily in favor of preemption of State and local taxes on lease-related activities and interests, regardless of whether the lease is governed by Tribal leasing regulations or Part 162. Improvements, activities, and leasehold or possessory interests may be subject to taxation by the Chemehuevi Indian Tribe of the Chemehuevi Reservation, California.

Dated: October 7, 2016.

Lawrence S. Roberts,

Principal Deputy Assistant Secretary—Indian Affairs.

[FR Doc. 2016–25373 Filed 10–19–16; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLNVL02000 L58480000.EU0000 241A; N–89322; N–89336; N–89778; MO # 4500095617]

Notice of Realty Action: Proposed Competitive Sale of Public Lands in Lincoln County, NV

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action.

SUMMARY: The Bureau of Land Management (BLM) proposes to offer by competitive sale three parcels of public land totaling 165.92 acres in Lincoln County, Nevada, at no less than the appraised fair market values (FMV) of $154,000 for N–89778, containing 12.20 acres; $145,000 for N–89322 containing 143.72 acres; and $140,000 for N–89336 containing 10.00 acres. The sale will be subject to the applicable provision of the Federal Land Policy and Management Act of 1976 (FLPMA), as amended, and applicable BLM land sale regulations.

DATES: Interested persons may submit written comments to the BLM at the address below. The BLM must receive the comments on or before December 5, 2016. The sale by sealed bid and oral public auction will be held on January 10, 2017, at 1:00 p.m., Pacific Time at the Caliente Railroad Depot, 100 Depot Avenue, Caliente, NV 89008. The BLM will start accepting sealed bids beginning December 29, 2016. Sealed bids must be received at the BLM, Ely District Office no later than 4:30 p.m., Pacific Time on January 6, 2017. The BLM will open sealed bids on the day of the sale just prior to the oral bidding.

ADDRESSES: Send written comments concerning this notice and submit sealed bids to Ely District Office, Bureau of Land Management, 702 N. Industrial Way, Ely, NV 89301.

FOR FURTHER INFORMATION CONTACT: Susan Grande, Realty Specialist, Ely District Office, 702 N. Industrial Way, Ely, NV 89301 or by telephone at 775–289–1809 or by email at *sgrande@blm.gov;* or Chris Carlton, Field Manager, Caliente Field Office, at 775–726–8100 or by email at *ccarlton@blm.gov* or *http://www.blm.gov/nv/st/en/fo/ely_field_office.html.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service at 1–800–877–8339 to contact the above individual during normal business hours. The Service is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The BLM will conduct a competitive sale (N–89322, N–89336, N–89778) for three parcels totaling 165.92 acres of public land in Lincoln County described as follows:

Mount Diablo Meridian

N–89322

Parcel 1

T. 3 S., R. 60 E.,
Sec. 35, lots 1 and 3.
T. 4 S., R. 60 E.,
Sec. 1, NW¼SW¼SW¼.
T. 4 S., R. 60 E.,
Sec. 2, lot 5.
T. 4 S., R. 60 E.,
Sec. 2, lot 8.
T. 4 S., R. 60 E.,
Sec. 11, N½SW¼SE¼.
T. 4 S., R. 60 E.,
Sec. 11, S½NW¼SE¼NW¼,
S½NE¼SE¼NW¼, and S½SE¼NW¼.

The area described aggregates 143.72 acres.

N–89336

T. 6 S., R. 61 E.,
Sec. 29, lots 8 and 9, and
S½SW¼NE¼SW¼.

The area described contains 10.00 acres.

N–89778

T. 6 S., R. 61 E.,
Sec. 32, lots 4 and 6.

The area described contains 12.20 acres.
The total area aggregates 165.92 acres.

Upon publication of this Notice in the **Federal Register**, the described land will be segregated from all forms of appropriation under the public land laws, except for the sale provisions of FLPMA. Upon publication and until completion of the sale, the BLM will no longer accept land use applications affecting the identified public lands, except applications for the amendment of previously filed right-of-way (ROW) applications or existing authorizations to increase the term of the grants in accordance with 43 CFR 2807.15 and 2886.15. The segregated effect will terminate upon issuance of a patent, publication in the **Federal Register** of a termination of the segregation, or on October 22, 2018, unless extended by the BLM State Director, Nevada in accordance with 43 CFR 2711.1–2(d) prior to the termination date.

These tracts of public land meet the disposal criteria consistent with Section 203 of FLPMA and the BLM Ely District Record of Decision and Approved Resource Management Plan (ROD/RMP) dated August 20, 2008. The parcels are suitable for disposal and would be in compliance with Public Law 108–424, Lincoln County Conservation, Recreation, and Development Act (LCCRDA), enacted on November 30, 2004, and conform to the ROD/RMP as referenced in the Lands and Realty objectives LR–8, page 66; and Appendix B, page B–1. An Environmental Assessment NV–L030–2015–0027 was prepared and a decision record signed on January 8, 2016. All documents including a map and the appraisal for the sale are available for review at the BLM Caliente Field Office.

FLPMA Section 209, 43 U.S.C. 1719(a), states that ''[a]ll conveyances of title issued by the Secretary . . . shall reserve to the United States all minerals in the lands.'' The BLM prepared a mineral potential report dated July 22, 2014, which concluded that no significant mineral resource value will be affected by the disposal of these parcels. These parcels are not required for any Federal purposes, and their disposal is in the public interest and meets the intent of the LCCRDA.

In accordance with the policy direction in 43 CFR Section 2710.0–6(c)(3)(i), a competitive sale of public land may be used where ''there would be a number of interested parties bidding for the lands and (A) wherever in the judgment of the authorized officer the lands are accessible and usable regardless of adjoining land ownership and (B) wherever the lands are within a developing or urbanizing area and land values are increasing due to their location and interest on the competitive market.'' The BLM examined the parcels and found them to be consistent with and suitable for disposal using competitive sale procedures.

Competitive Sale Procedures as prescribed by 43 CFR Section 2711.3–1:

Sales Procedures: Registration for oral bidding will begin at 12:00 p.m., Pacific Time at the Depot Building, 100 Depot Avenue, Council Chambers Room, Caliente, NV 89008, on the day of the sale. There will be no prior registration before the sale date. The public sale auction will be through sealed and oral bids. To determine the high bids among the qualified bids received, the sealed bids must be received at the place of the sale prior to the hour fixed in the notice. They will be opened and recorded on the day of the sale. The highest bid above FMV of the sealed bids will set the starting point for oral bidding on a parcel. Parcels that receive no qualified sealed bids will begin at the established

FMV. Bidders who are participating and attending the oral auction on the day of the sale are not required to submit a sealed bid but may choose to do so.

Sealed-bid envelopes must be clearly marked on the lower front left corner with the parcel number and name of the sale, for example: ''N–XXXXX, 3-parcel LCCRDA Land Sale 2016.'' Sealed bids must include an amount not less than 20 percent of the total bid amount by certified check, bank draft, cashier's check, or U.S. postal money order made payable in U.S. dollars to the ''Department of the Interior—Bureau of Land Management.'' The BLM will not accept personal or company checks. The sealed-bid envelope *must* contain the deposit and a completed and signed ''Certificate of Eligibility'' form stating the name, mailing address, and telephone number of the entity or person submitting the bid. Certificate of Eligibility and registration forms are available at the BLM Caliente Field Office at the address listed in the **ADDRESSES** section and on the BLM Web site at: *http://www.blm.gov/nv/st/en/snplma/Land_Auctions.html.* Pursuant to 43 CFR 2711.3–1(c), if two or more sealed-bid envelopes contain valid bids of the same amount, the bidders will be notified via phone or in person to submit another bid within ten minutes or to withdraw their original bid. Oral bidding will start at the highest sealed-bid amount. If there are no oral bids on the parcel, the authorized officer will determine the winning bidder. Bids for less than the federally approved FMV will not be qualified.

The high bidder will be declared the successful bidder in accordance with 43 CFR 2711.3–1(d), competitive bidding procedures, where the ''highest qualifying bid received shall be publicly declared by the authorized officer.'' Acceptance or rejection of any offer(s) to purchase will be in accordance with the procedures set forth in 43 CFR 2711.3–1 (f) and (g).

Bid Deposits and Payment: A high bidder will be declared by BLM's authorized officer. In accordance with 2711.3–1(d), the person declared the highest bidder shall submit their bid deposit in the form of a bank draft, cashier's check, certified check, or U.S. postal money order, or any combination thereof, and made payable in U.S. dollars to the ''Department of the Interior—Bureau of Land Management.'' The high bidder shall submit a deposit of no less than 20 percent of the successful bid by 4:00 p.m., Pacific Time on the day of the sale to the BLM, Collections Officers at BLM, Caliente Field Office, 1400 South Front Street, Caliente, NV 89008. Failure to submit the bid deposit following the close of the sale will result in the forfeiture of the bid deposit and the cancellation of the sale. No contractual or other rights against the United States may accrue until the BLM officially accepts the offer to purchase and the full bid price is paid. All funds submitted with unsuccessful bids will be returned to the bidders or their authorized representative upon presentation of acceptable photo identification at the BLM Caliente Field Office or by certified mail.

In accordance with 43 CFR 2711.3–1(d), ''The successful bidder . . . shall submit the remainder of the full bid price prior to the expiration of 180 days from the date of the sale.'' Failure to pay the full purchase price within 180 days of the sale will result in forfeiture of the bid deposit. No exceptions will be made. The BLM cannot accept the remainder of the bid price at any time following the 180th day after the sale.

Arrangements for electronic fund transfer to the BLM shall be made a minimum of two weeks prior to final payment. Failure to meet conditions established for this sale will void the sale and any funds received will be forfeited.

In order to qualify for a Federal conveyance of title, you must meet one of these conditions: (1) A citizen of the United States 18 years of age or older; (2) A corporation subject to the laws of any State or of the United States; (3) A State, State instrumentality, or political subdivision authorized to hold property; or (4) An entity legally capable of conveying and holding lands or interests therein under the laws of the State of Nevada.

Evidence of United States citizenship is a birth certificate, passport, or naturalization papers. Failure to submit the above requested documents to the BLM within 30 days from receipt of the high-bidder letter will result in cancellation of the sale and forfeiture of the bid deposit. Citizenship documents and Articles of Incorporation (as applicable) must be provided to the BLM Caliente Field Office for each sale. The successful bidder is allowed 180 days from the date of the sale to submit the remainder of the full purchase price.

The public land will not be offered for sale prior to 60 days from the date this Notice is published in the **Federal Register**. The patents, if issued, would be subject to the following terms, conditions, and reservations:

1. A reservation for any right-of-way thereon for ditches or canals constructed by the authority of the United States, Act of August 30, 1890 (43 U.S.C. 945);

2. A reservation for all mineral deposits in the land so patented, and to it or person authorized by it, the right to prospect for, mine, or remove such deposits from the same under applicable law and such regulations as the Secretary of the Interior may prescribe shall be reserved to the United States;

3. The parcels are subject to valid existing rights; and

4. By accepting this patent, the purchasers/patentees agree to indemnify, defend, and hold the United States harmless from any costs, damages, claims, causes of action, penalties, fines, liabilities, and judgments of any kind or nature arising from the past, present, and future acts or omissions of the patentee, its employees, agents, contractors, or lessees, or any third-party, arising out of or in connection with the patentee's use, occupancy, or operations on the patented real property. This indemnification and hold harmless agreement includes, but is not limited to, acts and omissions of the patentee, its employees, agents, contractors, or lessees, or any third party, arising out of or in connection with the use and/or occupancy of the patented real property resulting in: (a) Violations of Federal, State, and local laws and regulations that are now or may in the future become, applicable to the real property; (b) Judgments, claims or demands of any kind assessed against the United States; (c) Costs, expenses, or damages of any kind incurred by the United States; (d) Releases or threatened releases of solid or hazardous waste(s) and/or hazardous substances(s), as defined by Federal or State environmental laws, off, on, into or under land, property and other interests of the United States; (e) Other activities by which solid waste or hazardous substances or waste, as defined by Federal and State environmental laws are generated, released, stored, used or otherwise disposed of on the patented real property, and any cleanup response, remedial action or other actions related in any manner to said solid or hazardous substances or wastes; or (f) Natural resource damages as defined by Federal and State law. This covenant shall be construed as running with the patented real property, and may be enforced by the United States in a court of competent jurisdiction.

No representation, warranty, or covenant of any kind, express or implied, is given or made by the United States, its officers or employees, as to title, access to or from the above described parcels of land, the title of the land, whether or to what extent the land may be developed, its physical

condition, or past, present or future uses, and the conveyance of any such parcel will not be on a contingency basis. The buyer is responsible to be aware of all applicable federal, state, and local government policies and regulations that would affect the subject lands. It is also the buyer's responsibility to be aware of existing or prospective uses of nearby properties. Lands without access from a public road or highway will be conveyed as such, and future access acquisition will be the responsibility of the buyer.

The parcels may be subject to land use applications received prior to publication of this notice if processing the application would have no adverse effect on the marketability of title, or the FMV of the parcel. Encumbrances of record, appearing in the case file are available for review during business hours, 7:30 a.m. to 4:30 p.m., Pacific Time, Monday through Friday at the Caliente Field Office, except during federally recognized holidays.

The parcels are subject to limitations prescribed by law and regulation, and prior to patent issuance, a holder of any ROW within the parcels will be given the opportunity to amend the ROW for conversion to a new term, including perpetuity, if applicable, or to an easement.

The BLM will notify valid existing ROW holders of their ability to convert their complaint ROW to perpetual ROW or easements. Each valid holder will be notified in writing of their rights and then must apply for the conversion of their current authorization.

Unless other satisfactory arrangements are approved in advance by a BLM authorized officer, conveyance of title shall be through the use of escrow. Designation of the escrow agent shall be through mutual agreement between the BLM and the prospective patentee, and costs of escrow shall be borne by the prospective patentee.

Requests for all escrow instructions must be received by the Caliente Field Office 30 days before the scheduled closing date. There are no exceptions.

All name changes and supporting documentation must be received at the Caliente Field Office 30 days from the date of the high bidder letter by 4:00 p.m. Pacific Standard Time. Name changes will not be accepted after that date. To submit a name change, the high bidder must submit the name change on the Certificate of Eligibility form to the BLM, Caliente Field Office in writing. Certificate of Eligibility forms are available at the Caliente Field Office and at the BLM Web site at: *http://www.blm.gov/nv/st/en/fo/ely_field_office.html.*

The BLM will not sign any documents related to 1031 Exchange transactions. The timing for completion of the exchange is the bidder's responsibility in accordance with Internal Revenue Service regulations. The BLM is not a party to any 1031 Exchange.

In order to determine the FMV through appraisal, certain extraordinary assumptions and hypothetical conditions are made concerning the attributes and limitations of the land and potential effects of local regulations and policies on potential future land uses. Through publication of this Notice, the BLM advises that these assumptions may not be endorsed or approved by units of local Government.

In accordance with 43 CFR 2711.3–1(f), the BLM may accept or reject any or all offers to purchase, or withdraw any parcel of land or interest therein from sale, if, in the opinion of the BLM authorized officer, consummation of the sale would be inconsistent with any law, or for other reasons.

Only written comments will be considered properly filed.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment, including your personal identifying information, may be made publicly available at any time. While you can ask us in your comment to withhold your personnel identifying information from public review, we cannot guarantee that we will be able to do so.

Any comments regarding the proposed date will be reviewed by the BLM Nevada State Director, who may sustain, vacate, or modify this realty action. In the absence of any adverse comments, this realty action will become the final determination of the Department of Interior.

(Authority: 43 CFR 2711.1–2(a) and (c)).

Chris Carlton,

Caliente Field Manager.

[FR Doc. 2016–25406 Filed 10–19–16; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCOF00000–L19900000.PO0000–17X]

Notice of Meeting, Rocky Mountain Resource Advisory Council

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act and the Federal Advisory Committee Act of 1972, the U.S. Department of the Interior, Bureau of Land Management (BLM) Rocky Mountain Resource Advisory Council (RAC), will meet as indicated below.

DATES: The meeting will be held on November 10, 2016, from 9:00 a.m. to 4:00 p.m.

ADDRESSES: The meeting will be held at the BLM Royal Gorge Field Office, 3028 E. Main St., Cañon City, CO 81212.

FOR FURTHER INFORMATION CONTACT: Jayson Barangan, Public Affairs Specialist, BLM Colorado State Office, 2850 Youngfield St., Lakewood, CO 80215. Phone: (303) 239–3681. Email: *jbaranga@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, seven days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The 15-member Council advises the Secretary of the Interior, through the BLM, on a variety of planning and management issues associated with public land management in the BLM Rocky Mountain District, which includes the Gunnison, Royal Gorge and the San Luis Valley field offices in Colorado. Planned topics of discussion items include: Review of draft alternatives for the Eastern Colorado Resource Management Plan. The public is encouraged to make oral comments to the Council at 9:15 a.m., or written statements may be submitted for the Council's consideration. Summary minutes for the RAC meetings will be maintained in the Royal Gorge Field Office and will be available for public inspection and reproduction during regular business hours within thirty (30) days following the meeting. Previous meeting minutes and agendas are available at: *www.blm.gov/co/st/en/BLM_Resources/racs/frrac/co_rac_minutes_front.html.*

Ruth Welch,

Colorado State Director.

[FR Doc. 2016–25369 Filed 10–19–16; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

Bureau of Safety and Environmental Enforcement

[Docket ID BSEE–2016–0005; OMB Control Number 1014–0010; 17XE1700DX EEEE500000 EX1SF0000.DAQ000]

Information Collection Activities: Decommissioning Activities; Submitted for Office of Management and Budget (OMB) Review; Comment Request

ACTION: 30-day Notice.

SUMMARY: To comply with the Paperwork Reduction Act of 1995 (PRA), the Bureau of Safety and Environmental Enforcement (BSEE) is notifying the public that we have submitted to OMB an information collection request (ICR) to renew approval of the paperwork requirements in the regulations under Subpart Q, *Decommissioning Activities.* This notice also provides the public a second opportunity to comment on the revised paperwork burden of these regulatory requirements.

DATES: You must submit comments by November 21, 2016.

ADDRESSES: Submit comments by either fax (202) 395–5806 or email (*OIRA_Submission@omb.eop.gov*) directly to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for the Department of the Interior (1014–0010). Please provide a copy of your comments to BSEE by any of the means below.

- *Electronically* go to *http://www.regulations.gov.* In the Search box, enter BSEE–2016–0005 then click search. Follow the instructions to submit public comments and view all related materials. We will post all comments.
- *Email kye.mason@bsee.gov,* fax (703) 787–1546, or mail or hand-carry comments to the Department of the Interior; Bureau of Safety and Environmental Enforcement; Regulations and Standards Branch; ATTN: Nicole Mason; 45600 Woodland Road, Sterling, VA 20166. Please reference ICR 1014–0010 in your comment and include your name and return address.

FOR FURTHER INFORMATION CONTACT: Nicole Mason, Regulations and Standards Branch, (703) 787–1607, to request additional information about this ICR. To see a copy of the entire ICR submitted to OMB, go to *http://www.reginfo.gov* (select Information Collection Review, Currently Under Review).

SUPPLEMENTARY INFORMATION:

Title: 30 CFR part 250, subpart Q, *Decommissioning Activities.*

OMB Control Number: 1014–0010.

Abstract: The Outer Continental Shelf (OCS) Lands Act at 43 U.S.C. 1334 authorizes the Secretary of the Interior to prescribe rules and regulations necessary for the administration of the leasing provisions of that Act related to mineral resources on the OCS. Such rules and regulations will apply to all operations conducted under a lease, right-of-way, or a right-of-use and easement. Operations on the OCS must preserve, protect, and develop oil and natural gas resources in a manner that is consistent with the need to make such resources available to meet the Nation's energy needs as rapidly as possible; to balance orderly energy resource development with protection of human, marine, and coastal environments; to ensure the public a fair and equitable return on the resources of the OCS; and to preserve and maintain free enterprise competition.

In addition to the general rulemaking authority of the OCSLA at 43 U.S.C. 1334, section 301(a) of the Federal Oil and Gas Royalty Management Act (FOGRMA), 30 U.S.C. 1751(a), grants authority to the Secretary to prescribe such rules and regulations as are reasonably necessary to carry out FOGRMA's provisions. While the majority of FOGRMA is directed to royalty collection and enforcement, some provisions apply to offshore operations. For example, section 108 of FOGRMA, 30 U.S.C. 1718, grants the Secretary broad authority to inspect lease sites for the purpose of determining whether there is compliance with the mineral leasing laws. Section 109(c)(2) and (d)(1), 30 U.S.C. 1719(c)(2) and (d)(1), impose substantial civil penalties for failure to permit lawful inspections and for knowing or willful preparation or submission of false, inaccurate, or misleading reports, records, or other information. Because the Secretary has delegated some of the authority under FOGRMA to BSEE, 30 U.S.C. 1751 is included as additional authority for these requirements.

The Independent Offices Appropriations Act (31 U.S.C. 9701), the Omnibus Appropriations Bill (Pub. L. 104–133, 110 Stat. 1321, April 26, 1996), and OMB Circular A–25, authorize Federal agencies to recover the full cost of services that confer special benefits. Under the Department of the Interior's implementing policy, the Bureau of Safety and Environmental Enforcement (BSEE) is required to charge fees for services that provide special benefits or privileges to an identifiable non-Federal recipient above and beyond those which accrue to the public at large. Respondents pay cost recovery fees when removing a platform or other facility, or for decommissioning a pipeline lease term or a right-of-way.

This authority and responsibility are among those delegated to BSEE. The regulations at 30 CFR 250, Subpart Q, concern decommissioning of platforms, wells, and pipelines, as well as site clearance and platform removal and are the subject of this collection. This request also covers the related Notices to Lessees and Operators (NTLs) that BSEE issues to clarify, supplement, or provide additional guidance on some aspects of our regulations.

Responses to this collection are mandatory and are generally submitted on occasion, depending on the requirement. No questions of a sensitive nature are asked. BSEE will protect any confidential commercial or proprietary information according to the Freedom of Information Act (5 U.S.C. 552) and DOI's implementing regulations (43 CFR 2); section 26 of OCSLA (43 U.S.C. 1352); 30 CFR 250.197, *Data and information to be made available to the public or for limited inspection;* and 30 CFR part 252, *OCS Oil and Gas Information Program.*

The BSEE uses the information collected under Subpart Q primarily for the following reasons:

- To determine the necessity for allowing a well to be temporarily abandoned, the lessee/operator must demonstrate that there is a reason for not permanently plugging the well, and the temporary abandonment will not interfere with fishing, navigation, or other uses of the OCS. We use the information and documentation to verify that the lessee/operator is diligently pursuing the final disposition of the well and has performed the temporary plugging of the wellbore.
- To ensure the information submitted in initial decommissioning plans in the Alaska and Pacific OCS Regions will permit BSEE to become involved in the initial planning stages of platform removals anticipated to occur in these OCS regions.
- To ensure that all objects (wellheads, platforms, etc.) installed on the OCS are properly removed using procedures that will protect marine life and the environment during removal operations, and the site cleared so as not to conflict with or harm other uses of the OCS.
- To ensure that information regarding decommissioning a pipeline in place will not constitute a hazard to navigation and commercial fishing

operations, unduly interfere with other uses of the OCS, such as sand resource areas for coastal restoration projects, or have adverse environmental effects.

- To verify that decommissioning activities comply with approved applications and procedures and are satisfactorily completed.
- To evaluate and approve the adequacy of the equipment, materials, and/or procedures that the lessee or operator plans to use during well modifications and changes in equipment, etc.
- To help BSEE better estimate future decommissioning costs for OCS leases, rights-of-way, and rights of use and easements. BSEE's future decommissioning cost estimates may then be used by BOEM to set necessary financial assurance levels to minimize or eliminate the possibility that the government will incur abandonment liability. The information will assist BSEE and BOEM in meeting their stewardship responsibilities and in their roles as regulators.

Frequency: Generally on occasion, annual, and as required by regulations.

Description of Respondents: Potential respondents comprise Federal OCS oil, gas, or sulfur lessees and/or operators and holders of pipeline rights-of-way.

Estimated Reporting and Recordkeeping Hour Burden: The estimated annual hour burden for this information collection is a total of 15,524 hours and $1,686,396 non-hour costs. The following chart details the individual components and estimated hour burdens. In calculating the burdens, we assumed that respondents perform certain requirements in the normal course of their activities. We consider these to be usual and customary and took that into account in estimating the burden.

BURDEN BREAKDOWN

Citation 30 CFR 250 subpart Q	Reporting requirement*	Non-hour cost burdens		
		Hour burden	Average number of annual responses	Annual burden hours (rounded)
General				
1704(g); 1706(a), (f); 1712; 1715; 1716; 1721(a),(d), (f)–(g); 1722(a), (b), (d); 1723(b); 1743(a); Sub G.	These sections contain references to information, approvals, requests, payments, etc., which are submitted with an APM, the burdens for which are covered under its own information collection.	APM burden covered under 1014–0026.		
1700 thru 1754	General departure and alternative compliance requests not specifically covered elsewhere in Subpart Q regulations.	Burden covered under Subpart A 1014–0022		0
1703; 1704	Request approval for decommissioning	Burden included below		0
1704(i), (j)	Submit to BSEE, within 120 days after completion of each decommissioning activity, a summary of expenditures incurred; any additional information that will support and/or verify the summary.	1	820 summaries/additional information.	820
Subtotal			820 responses	820 hours
Permanently Plugging Wells				
1712	Required data if permanently plugging a well	Requirement not considered Information Collection under 5 CFR 1320.3(h)(9).		0
1713	Notify BSEE 48 hours before beginning operations to permanently plug a well.	0.5	725 notices	363
Subtotal			725 responses	363 hours
Temporary Abandoned Wells				
1721(f)	Install a protector structure designed according to 30 CFR 250, Subpart I, and equipped with aids to navigation. (These requests are processed via the appropriate Platform Application, 30 CFR 250 Subpart I by the OSTS.).	Burden covered under Subpart I 1014–0011		0
1721(e); 1722(e), (h)(1); 1741(c).	Identify and report subsea wellheads, casing stubs, or other obstructions; mark wells protected by a dome; mark location to be cleared as navigation hazard.	U.S. Coast Guard requirements.		0
1722(c), (g)(2); 1704(h)	Notify BSEE within 5 days if trawl does not pass over protective device or causes damages to it; or if inspection reveals casing stub or mud line suspension is no longer protected.	1	11 notices	11

BURDEN BREAKDOWN—Continued

Citation 30 CFR 250 subpart Q	Reporting requirement*	Non-hour cost burdens		
		Hour burden	Average number of annual responses	Annual burden hours (rounded)
1722(f), (g)(3)	Submit annual report on plans for re-entry to complete or permanently abandon the well and inspection report.	2.5	98 reports	245
1722(h)	Request waiver of trawling test	1.5	4 requests	6
Subtotal			113 responses	262 hours
Removing Platforms and Other Facilities				
1725(a)	Requests to maintain the structure to conduct other activities are processed, evaluated and permitted by the OSTS via the appropriate Platform Application process, 30 CFR 250 Subpart I. (Other activities include but are not limited to activities conducted under the grants of right-of-ways (ROWs), rights—of-use and easement (RUEs), and alternate rights-of-use and easement authority issued under 30 CFR 250 Subpart J, 30 CFR 550.160, and/or 30 CFR 585, etc.).	Burden covered under Subpart I 1014–0011		0
1725(e)	Notify BSEE 48 hours before beginning removal of platform and other facilities.	0.5	175 notices	88
1726; 1704(a)	Submit initial decommissioning application in the Pacific and Alaska OCS Regions.	20	1 application	20
1727; 1728; 1730; 1703; 1704(b); 1725(b).	Submit final application and appropriate data to remove platform or other subsea facility structures (This included alternate depth departures and/or approvals of partial removal or toppling for conversion to an artificial reef.).	28	240 applications	6,720
		$4,684 fee × 240 = $1,124,160		
1729; 1704(c)	Submit post platform or other facility removal report; supporting documentation; signed statements, etc.	9.5	175 reports	1,663
Subtotal			591 responses	8,491 Hours
			$1,124,160 non-hour cost burdens	
Site Clearance for Wells, Platforms, and Other Facilities				
1740; 1741(g)	Request approval to use alternative methods of well site, platform, or other facility clearance; contact pipeline owner/operator before trawling to determine its condition.	12.75	30 requests/contacts	383
1743(b); 1704(f), (h)	Verify permanently plugged well, platform, or other facility removal site cleared of obstructions; supporting documentation; and submit certification letter.	5	200 certifications	1,000
Subtotal			230 Responses	1,383 Hours
Pipeline Decommissioning				
1750; 1751; 1752; 1754; 1704(d).	Submit application to decommission pipeline in place or remove pipeline (L/T or ROW).	10	213 L/T applications	2,130
		$1,142 L/T decommission fee × 213 = $243,246		
		10	147 ROW applications	1,470
		$2,170 ROW decommissioning fees × 147 = $318,990		
1753; 1704(e)	Submit post pipeline decommissioning report	2.5	242 reports	605

BURDEN BREAKDOWN—Continued

Citation 30 CFR 250 subpart Q	Reporting requirement*	Non-hour cost burdens		
		Hour burden	Average number of annual responses	Annual burden hours (rounded)
Subtotal			602 responses	4,205 hours
			$562,236 non-hour cost burdens	
			3,081 responses	15,524 hours
Total Burden			$1,686,396 non-hour cost burdens	

* In the future, BSEE may require electronic filing of some submissions.
L/T = Lease Term.
ROW = Right of Way.

Estimated Reporting and Recordkeeping Non-Hour Cost Burden: BSEE has identified three non-hour paperwork cost burdens for this collection. Respondents pay cost recovery fees when removing a platform or other facility under § 250.1727 for $4,684, or for decommissioning a pipeline under §§ 250.1751(a) and 250.1752(a)—L/T for $1,142 or a ROW for $2,170. We estimate a total reporting non-hour cost burden of $1,686,396 for this collection. Refer to the table above for the specific non-hour paperwork cost burden breakdown. We have not identified any other non-hour cost burdens associated with this collection of information.

Public Disclosure Statement: The PRA (44 U.S.C. 3501, *et seq.,)* provides that an agency may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. Until OMB approves a collection of information, you are not obligated to respond.

Comments: Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3501, *et seq.,*) requires each agency ''. . . to provide notice . . . and otherwise consult with members of the public and affected agencies concerning each proposed collection of information . . .'' Agencies must specifically solicit comments to: (a) Evaluate whether the collection is necessary or useful; (b) evaluate the accuracy of the burden of the proposed collection of information; (c) enhance the quality, usefulness, and clarity of the information to be collected; and (d) minimize the burden on the respondents, including the use of technology.

To comply with the public consultation process, on May 19, 2016, we published a **Federal Register** notice (81 FR 31660) announcing that we would submit this ICR to OMB for approval. The notice provided the required 60-day comment period. In addition, § 250.199 provides the OMB Control Number for the information collection requirements imposed by the 30 CFR 250, Subpart Q regulations. The regulation also informs the public that they may comment at any time on the collections of information and provides the address to which they should send comments. We received no comments in response to the **Federal Register** notice.

Public Availability of Comments: Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment–including your personal identifying information–may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

BSEE Information Collection Clearance Officer: Nicole Mason, (703) 787–1607.

Keith Good,

Senior Advisor, Office of Offshore Regulatory Programs.

[FR Doc. 2016–25371 Filed 10–19–16; 8:45 am]

BILLING CODE 4310–VH–P

DEPARTMENT OF JUSTICE

Office of Justice Programs

[OJP (NIJ) Docket No. 1726]

Voice Translation Technologies for Criminal Justice Applications Market Survey

AGENCY: National Institute of Justice.

ACTION: Notice of request for information.

SUMMARY: The National Institute of Justice (NIJ) is soliciting information on speech-to-speech voice translation technologies marketed for use by the criminal justice community. For law enforcement and corrections personnel, first responders, and others who work with the public, overcoming language barriers when working with individuals with limited English proficiency is vital to doing their jobs effectively. Voice translation technology can provide a practical solution. The National Criminal Justice Technology Research, Test, and Evaluation Center (NIJ RT&E Center) is developing a ''Market Survey of Voice Translation Technologies for Criminal Justice Applications'' to address this issue. This market survey will be published by NIJ to assist agencies in their assessment of relevant information prior to making purchasing decisions.

DATES: Responses to this request will be accepted through 11:59 p.m. Eastern Daylight Time on November 21, 2016.

ADDRESSES: Responses to this request may be submitted electronically in the body of or as an attachment to an email sent to *administrator@nijrtecenter.org* with the recommended subject line ''VTT **Federal Register** Response.'' Questions and responses may also be sent by mail (please allow additional time for processing) to the address: National Criminal Justice Technology Research, Test and Evaluation Center, ATTN: VTT **Federal Register** Response, Johns Hopkins University Applied Physics Laboratory, 11100 Johns Hopkins Road, Mail Stop 17N444, Laurel, MD 20723–6099.

FOR FURTHER INFORMATION CONTACT: For more information on this request, please contact Steven Taylor (NIJ RT&E Center) at (443) 778–9348 or *administrator@nijrtecenter.org.* For more information on the NIJ RT&E Center, visit *http://nij.gov/funding/awards/Pages/award-detail.aspx?award=2013-MU-CX-K111* and view the description or contact Steven Schuetz, by telephone at 202–514–7663 or by email at

Steven.Schuetz@usdoj.gov. Please note that these are not toll-free telephone numbers.

SUPPLEMENTARY INFORMATION:

Information Sought: The NIJ RT&E Center seeks input to its ''Market Survey of Voice Translation Technologies for Criminal Justice Applications.'' Vendors who respond to this request for information are invited to provide general comments with regard to the Survey for the NIJ RT&E Center to consider, including which categories of information are appropriate for comparison. They are invited also to submit promotional material (*e.g.,* slick sheet) and a print-quality photograph of the product being described. The NIJ RT&E Center intends to include, at a minimum, the following categories of information for each vendor and its product:

Vendor and Product information

1. Vendor name
   a. Vendor address
   b. Vendor point of contact (*e.g.,* name and contact number/email)
2. Number of years in business
   a. Number of years marketing voice translation technologies
3. Product name and model number
   a. General description of the components (*e.g.,* microphone type, screen, speaker, carrying case, adapters/chargers, phone/app.)
   b. Number of channels (*e.g.,* one for interviewer, one for interviewee)
   c. Battery and type (*e.g.,* commercial, rechargeable, lithium ion)
   d. Operating system
   e. Memory/processor requirements
4. Speech engine used for translation
5. Initial product cost
6. Cost for subsequent software upgrades
7. Warranty (in months)

Concept of Operation

1. Device type (*e.g.,* stand alone, app, or connect to human translator)
2. Primary audience(s) that uses the device (*e.g.,* law enforcement; corrections; courts; military; business; traveler)
3. Location where translation occurs (*e.g.,* onboard or client/server configuration)
4. Input type (*e.g.* pre-programmed words and phrases or dynamic)
5. Output type (*e.g.,* pre-programmed voice, dynamic voice, text)
6. Eligibility for use in court (if not already used for that application)
7. Languages
   a. Input languages the device or app can receive as input (number)
   b. Target languages into which the device can translate (number)

Quantitative Measures (Physical Device)

1. Dimensions of device (length x width x height, in inches)
2. Weight of device (in ounces)
3. Battery
   a. Power requirement (volts)
   b. Run time from full charge to full discharge (in hours)
   c. Charge time from full discharge to full charge (in hours)
   d. Average life expectancy from first use to replacement for battery (in months)
4. Average life expectancy of the system from first use to replacement (in months)
5. Ruggedness (environmental conditions)
   a. Rain tolerance or immersion (water depth, in feet)
   b. Operating temperature range (maximum and minimum, in degrees F)
   c. Operating humidity range (maximum and minimum, in % humidity)
   d. Shock (drop height in inches)
   e. Types of/results from other environmental testing
6. Delay between the end of source speech to beginning of target speech (time, in seconds)
7. Vocabulary size (number of words)
8. Volume
   a. Loudness of output (range, maximum and minimum, in decibels)
   b. Loudness of input required (range, maximum and minimum, in decibels)
   c. Maximum background noise (in decibels)
9. Accuracy of translation (% word recognition rate and degree of uncertainty for each language pair)
10. Maximum number of users per device (number)
11. Size of the corpus (*e.g.,* 100 word, 100,000 word) used to train the tool (number of words)
12. Input speed of speaking to the tool (range, maximum and minimum words per minute)
13. Output speed with which the device or app ''speaks'' (words per minute)
14. Limit to the length of the sentence/utterance to be translated (number of words)
15. Screen size (length x width x height, in inches)

Qualitative Measures

1. Source and target language pairs the device is capable of translating (*e.g.,* English-Spanish, English-Chinese, etc.)
2. Measures taken to ensure that the bi-directional speech output into the target language contains correct words
3. Methods taken to ensure and measure that bi-directional speech output conveys the intended meaning into the target language (*e.g.,* correct translation of speaker's intent and emotion)
4. Bi-directional ease of use (*e.g.,* trained and untrained)
5. Means by which the technology has been evaluated (*e.g.,* laboratory, operational)
6. Utilization of separate training and testing data sets during vendor evaluation of the product
7. Tool's capability to recognize proper names (*e.g.,* people, places)
8. Ability to use device in hands-free manner
9. Ability to record and store translations (*e.g.,* on the device, app, or server)
   a. Length of conversation that can be recorded (in minutes)
   b. Length of time stored on device, app, or server (in days)
   c. Costs for storage or archiving (in dollars)
   d. Ability to maintain chain-of-custody
10. Means of securing data in transit from device or app to server

Operations, Maintenance and Support

1. Language selection method (*e.g.,* automatic, user input)
2. Activation method (*e.g.,* voice activated, push to talk)
3. Method of indicating breaks between speakers
4. Conversation location recorded or geolocated
5. Conversation time/duration recorded (*e.g.,* time-stamped)
6. Frequency of retraining of speech engine
7. Frequency of software updates
8. Training types provided to user (*e.g.,* initial, recurring, yearly, etc.)
9. Support types provided to user (*e.g.,* on-demand, 24/7, manuals, etc.)

Speech Engine Implementation

1. Describe the means by which translation is accomplished (*e.g.,* natural language processing, text to speech conversion, grammar-based, statistics-based)
2. Describe method used to train the translation engine, if applicable
   a. For one to one or one to many language (*e.g.,* English to Spanish vs. English to Spanish and German and French)
   b. For languages with different structures (*e.g.,* English and

Japanese and Arabic)
c. For a domain or discipline (*e.g.,* law enforcement, travel)
d. For dialects, accents, or different pronunciations
e. For cultural norms regarding relationship and status (*e.g.,* sex, adult-child, age)
f. For colloquialisms, slang, jargon, codes, or terms of art
g. For poor grammar
h. For uncertainty (*e.g.,* um, ah, starts and stops, other natural sounds: Coughing, sneezing, throat clearing, lip smacking, lisping, slurring, stuttering, snorting)
i. For voice types (*e.g.,* adult female, adult male, child female, child male)

Describe security mechanisms employed on device or app (*e.g.,* strong passwords, password expirations, restricted privileges)

App-Specific Measures

a. Devices on which the app can be deployed (*e.g.,* iPhone 6, Samsung Galaxy, iPad3 etc.)
a. Hardware sensors required
b. Platforms on which the app can be deployed (*e.g.,* iOS, Android, Blackberry OS, Windows)
c. Performs in online/offline manner
d. Minimum and optimum network connectivity or performance needed
a. Operational impacts of a connection-deficient setting
e. User-friendliness
f. Rating in the online store where app was acquired
g. Interaction technique (*e.g.,* motion, voice activation)
h. Device orientation for optimum app utilization (*e.g.,* vertical, horizontal)
i. Means by which app conserves battery life
j. Means by which update notifications are delivered
k. Security designed into the app from inception
l. Means by which personal and organizational data are separated
m. Phone features required for app to function properly
n. Memory required
o. Number of simultaneous users (number)

Publication of product information in the resulting market survey does not constitute endorsement of any product or vendor by the National Institute of Justice, Office of Justice Programs, Department of Justice, or the Federal Government.

Nancy Rodriguez,

Director, National Institute of Justice.

[FR Doc. 2016–25401 Filed 10–19–16; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Employment and Training Administration

Agency Information Collection Activities; OMB Approval; Weekly Claims and Extended Benefits Data and Weekly Initial and Continued Weeks Claimed

ACTION: Notice.

SUMMARY: The notice announces Office of Management and Budget (OMB) approval and effective date for the unemployment insurance (UI), Extended Benefits-related Information Collection Request (ICR) pursuant to the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520).

DATES: The information collection referenced in this notice will take effect on October 24, 2016, the same date as for all other aspects of the Final Rule published August 24, 2016 (81 FR 57764).

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201602-1205-001* or by contacting Sandra Trujillo.

On an ongoing basis, ETA welcomes comments on its information collections. Submit comments about this information collection by mail or courier to Sandra Trujillo, Office of Unemployment Insurance, Employment & Training Administration, U.S. Department of Labor, Room S–4524, 200 Constitution Avenue NW., Washington, DC 20210; by Fax: 202–693–3229 (this is not a toll-free number); or by email: *Trujillo.Sandra@dol.gov*.

FOR FURTHER INFORMATION CONTACT: Ronald Wilus, Division of Fiscal and Actuarial Services Chief, Office of Unemployment Insurance, by telephone at 202–693–2931 (this is not a toll-free number) or by mail at Employment & Training Administration, U.S. Department of Labor, Room S–4524, 200 Constitution Avenue NW., Washington, DC 20210.

SUPPLEMENTARY INFORMATION: OMB issued a formal Notice of Approval for the information collection requirements under the PRA contained in the *Federal-State Unemployment Compensation Program; Implementing the Total Unemployment Rate as an Extended Benefits Indicator and Amending for Technical Corrections* Final Rule published in the **Federal Register** on August 24, 2016 (81 FR 57764). The expiration date for OMB authorization for OMB control number 1205–0028 and the information collection are September 30, 2019. The information collection is summarized as follows below.

Agency: DOL–ETA.

Title of Collection: Weekly Claims and Extended Benefits Data and Weekly Initial and Continued Weeks Claimed.

OMB Control Number: 1205–0028.

Affected Public: State, Local, and Tribal Governments.

Total Estimated Number of Respondents: 53.

Total Estimated Number of Responses: 5,512.

Total Estimated Annual Time Burden: 3,675 hours.

Total Estimated Annual Other Costs Burden: $0.

Dated: October 13, 2016.

Portia Wu,

Assistant Secretary for Employment and Training.

[FR Doc. 2016–25400 Filed 10–19–16; 8:45 am]

BILLING CODE 4510–FW–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Census of Fatal Occupational Injuries

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is submitting the Bureau of Labor Statistics (BLS) sponsored information collection request (ICR) titled, ''Census of Fatal Occupational Injuries,'' to the Office of Management and Budget (OMB) for review and approval for continued use, without change, in accordance with the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501 *et seq*. Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before November 21, 2016.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201607-1220-001* (this link will only become active on the day following publication of this notice) or by contacting Michel Smyth by

telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request by mail or courier to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–BLS, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503; by Fax: 202–395–5806 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor—OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW., Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov.*

FOR FURTHER INFORMATION CONTACT: Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Authority: 44 U.S.C. 3507(a)(1)(D).

SUPPLEMENTARY INFORMATION: This ICR seeks to extend PRA authority for the Census of Fatal Occupational Injuries information collection. The Census of Fatal Occupational Injuries provides policymakers and the public with comprehensive, verifiable, and timely measures of fatal work injuries. Data are compiled from various Federal, State, and local sources and include information on how the incident occurred as well as various characteristics of the employers and the deceased worker. This information is used for surveillance of fatal work injuries and for developing prevention strategies. Occupational Safety and Health Act of 1970 section 24(a) authorizes this information collection. *See* 29 U.S.C. 673(a).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1220–0133.

OMB authorization for an ICR cannot be for more than three (3) years without renewal, and the current approval for this collection is scheduled to expire on December 31, 2016. The DOL seeks to extend PRA authorization for this information collection for three (3) more years, without any change to existing requirements. The DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on June 28, 2016 (81 FR 42003).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within thirty (30) days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1220–0133. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Agency: DOL–BLS.

Title of Collection: Census of Fatal Occupational Injuries.

OMB Control Number: 1220–0133.

Affected Public: Individuals or Households; State Local, and Tribal Governments; Federal Government; and Private Sector—businesses or other for-profits, farms, and not-for-profit institutions.

Total Estimated Number of Respondents: 1,646.

Total Estimated Number of Responses: 16,449.

Total Estimated Annual Time Burden: 3,046 hours.

Total Estimated Annual Other Costs Burden: $0.

Dated: October 14, 2016.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2016–25356 Filed 10–19–16; 8:45 am]

BILLING CODE 4510–24–P

NATIONAL CREDIT UNION ADMINISTRATION

Agency Information Collection Activities: Proposed Collections; Comment Request

AGENCY: National Credit Union Administration (NCUA).

ACTION: Notice and request for comment.

SUMMARY: The National Credit Union Administration (NCUA), as part of a continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on the following extension requests of currently approved collections, as required by the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35).

DATES: Written comments should be received on or before December 19, 2016 to be assured consideration.

ADDRESSES: Interested persons are invited to submit written comments on the information collections to Dawn Wolfgang, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314; Fax No. 703–519–8579; or Email at *PRAComments@NCUA.gov*.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to the address above.

SUPPLEMENTARY INFORMATION:

OMB Number: 3133–0024.

Title: Mergers of Federally-Insured Credit Unions; Voluntary Termination or Conversion of Insured Status, 12 CFR part 708b.

Abstract: Part 708b of NCUA's rules sets forth the procedural and disclosure requirements for mergers of federally-insured credit unions, conversions from federal share insurance to nonfederal insurance, and federal share insurance terminations. Part 708b is designed to ensure NCUA has sufficient information whether to approve a proposed merger, share insurance conversion, or share insurance termination. It further ensures that members of credit unions have sufficient and accurate information to exercise their vote properly concerning a proposed merger, insurance conversion, or insurance termination. The rule also protects the property interests of members who may lose their federal share insurance due to a merger, share insurance conversion, or share insurance termination.

Type of Review: Extension of a previously approved collection.

Affected Public: Private Sector: Businesses or other for-profits.

Estimated No. of Respondents: 214 Mergers; 4 Share Insurance Conversions; 1 Share Insurance Terminations.

Estimated Annual Frequency: 1.

Estimated Annual No. of Responses: 1,519.

Estimated Burden Hours per Respondent: 35 Merger, 15 Share Insurance Conversions; 12 Share Insurance Terminations.

Estimated Total Annual Burden Hours: 7,562.

The adjustment in burden is attributable to a decrease in the number of credit unions engaging in mergers, increase in the number of credit unions engaged in share insurance conversions, correction to the number of hours spent notifying members of proposed conversions, and corrections made in the reporting the number of responses.

OMB Number: 3133–0068.

Title: Nondiscrimination Requirements in Real Estate-Related Lending—Appraisals, 12 CFR 701.31.

Abstract: Section 701.31 of NCUA's regulations implements requirements of the Fair Housing Act. It requires Federal credit unions (FCUs) to maintain a copy of the real estate appraisal used to support an applicant's real estate-related loan application and to make it available to that member/applicant for a period of 25 months (§ 701.31(c)(5)). The regulation also requires FCUs that use the collateral's location as a factor in evaluating real estate-related loan applications to disclose such fact on the appraisal, along with a statement justifying its use (§ 701.31 (c)(4)). NCUA and consumers use the information to ensure compliance with Fair Housing Act nondiscrimination requirements that prohibit consideration of race, color, religion, national origin, sex, handicap, or familial status in real estate appraisals.

Type of Review: Extension of a currently approved collection.

Affected Public: Private Sector: Not-for-profit institutions.

Estimated No. of Respondents/ Recordkeepers: 3,721.

Estimated No. of Responses per Respondent: 1.

Estimated Annual Responses: 3,721.

Estimated Burden Hours per Response: 1.

Estimated Total Annual Burden Hours: 3,721.

Adjustments reflect a reduction in the number of respondents due to a decline in the number of FCUs.

Request for Comments: Comments submitted in response to this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will become a matter of public record. The public is invited to submit comments concerning: (a) Whether the collection of information is necessary for the proper execution of the function of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of the information on the respondents, including the use of automated collection techniques or other forms of information technology.

By Gerard Poliquin, Secretary of the Board, the National Credit Union Administration, on October 17, 2016.

Dated: October 17, 2016.

Dawn D. Wolfgang,

NCUA PRA Clearance Officer.

[FR Doc. 2016–25419 Filed 10–19–16; 8:45 am]

BILLING CODE 7535–01–P

NATIONAL SCIENCE FOUNDATION

Notice of Request for a Revision to and Extension of Approval of an Information Collection; Qualitative Feedback on Agency Service Delivery

AGENCY: National Science Foundation.

ACTION: Revision to and extension of approval of an information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the National Science Foundation's intention to request a revision to and an extension of approval of an information collection associated with qualitative customer and stakeholder feedback on service delivery by the National Science Foundation.

DATES: Written comments on this notice must be received by December 19, 2016 to be assured of consideration. Comments received after that date will be considered to the extent practicable.

ADDRESSES: Written comments regarding the information collection and requests for copies of the proposed information collection request should be addressed to Suzanne Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Blvd., Rm. 1265, Arlington, VA 22230, or by email to *splimpto@nsf.gov.*

FOR FURTHER INFORMATION CONTACT: Ms. Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Boulevard, Suite 1265, Arlington, Virginia 22230; telephone (703) 292–7556; or send email to *splimpto@nsf.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-(800) 877–8339, which is accessible 24 hours a day, 7 days a week, 365 days a year (including federal holidays).

SUPPLEMENTARY INFORMATION:

Comments: Written comments are invited on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information shall have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information on respondents, including through the use of automated collection techniques or other forms of information technology; or (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Title: Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery.

OMB Number: 3145–0215.

Expiration Date of Approval: April 30, 2017.

Type of Request: Revision to and extension of approval of an information collection.

Abstract: The proposed information collection activity provides a means for the National Science Foundation (NSF) to garner qualitative customer and stakeholder feedback in an efficient, timely manner, in accordance with the Agency's commitment to improving service delivery.

By qualitative feedback we mean information that provides useful insights on perceptions and opinions, but not statistical surveys that yield quantitative results that can be generalized to the population of study. This feedback will provide insights into customer or stakeholder perceptions, experiences, and expectations; provide an early warning of issues with service; or focus attention on areas where communication, training, or changes in operations might improve delivery of products or services. This collection will allow for ongoing, collaborative and actionable communications between the

Agency and its customers and stakeholders. It will also allow feedback to contribute directly to the improvement of program management.

The solicitation of feedback will target areas such as: Timeliness, appropriateness, accuracy of information, courtesy, efficiency of service delivery, and resolution of issues with service delivery. Responses will be assessed to plan and inform efforts to improve or maintain the quality of service offered to the public. If this information is not collected, vital feedback from customers and stakeholders on the Agency's services will be unavailable.

NSF will only submit a collection for approval under this generic clearance if it meets the following conditions:

○ The collection is voluntary;

○ The collection is low-burden for respondents (based on considerations of total burden hours, total number of respondents, or burden-hours per respondent) and is low-cost for both the respondents and the Federal Government;

○ The collection is non-controversial and does not raise issues of concern to other Federal agencies;

○ The collection is targeted to the solicitation of opinions from respondents who have experience with the program or may have experience with the program in the near future;

○ Personally identifiable information (PII) is collected only to the extent necessary and is not retained;

○ Information gathered is intended to be used only internally for general service improvement and program management purposes and is not intended for release outside of NSF (if released, NSF must indicate the qualitative nature of the information);

○ Information gathered will not be used for the purpose of substantially informing influential policy decisions; and

○ Information gathered will yield qualitative information; the collection will not be designed or expected to yield statistically reliable results or used as though the results are generalizable to the population of study.

Feedback collected under this generic clearance provides useful information, but it does not yield data that can be generalized to the overall population. This type of generic clearance for qualitative information will not be used for quantitative information collections that are designed to yield reliably actionable results, such as monitoring trends over time or documenting program performance. Such data uses require more rigorous designs that address: The target population to which generalizations will be made, the sampling frame, the sample design (including stratification and clustering), the precision requirements or power calculations that justify the proposed sample size, the expected response rate, methods for assessing potential nonresponse bias, the protocols for data collection, and any testing procedures that were or will be undertaken prior to fielding this study. Depending on the degree of influence the results are likely to have, such collections may still be eligible for submission for other generic mechanisms that are designed to yield quantitative results.

As a general matter, this information collection will not result in any new system of records containing privacy information and will not ask questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.

Below we provide the National Science Foundation's projected average estimates for the next three years:

Affected Public: Individuals and Households, Businesses and Organizations, State, Local or Tribal Government.

Average Expected Annual Number of activities: 25.

Respondents: 500 per activity.

Annual responses: 7,500.

Frequency of Response: Once per request

Average minutes per response: 30.

Burden hours: 6,250.

Dated: October 17, 2016.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 2016–25403 Filed 10–19–16; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL TRANSPORTATION SAFETY BOARD

Plan for Information Collection Activity: Submission for OMB Review; Comment Request

AGENCY: National Transportation Safety Board (NTSB).

ACTION: Notice.

SUMMARY: The NTSB is announcing it is submitting a plan for an Information Collection Request (ICR) to the Office of Management and Budget (OMB) for approval, in accordance with the Paperwork Reduction Act. This ICR Plan describes a web-based report form an aircraft operator may use to report a serious incident as defined in NTSB regulations. Providing the option to permit operators to file reports electronically will increase efficiency and be more convenient for operators. This ICR Plan is the second of two required notices, pursuant to OMB regulations concerning approvals of information collections. This notice again describes the nature of the information collection and its expected burden and advises the public it may submit comments on this proposed information collection to the OIRA desk officer for the NTSB.

DATES: Submit written comments regarding this proposed plan for the collection of information by November 21, 2016.

ADDRESSES: Interested members of the public may submit written comments on the collection of information to the OMB Desk Officer for the NTSB at Office of Management and Budget, 725 17th Street NW., Washington, DC 20503, or via fax: 202–395–5806, (this is not a toll-free number), or email: *OIRA-submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments to the National Transportation Safety Board, Office of Aviation Safety, 490 L'Enfant Plaza SW., Washington, DC 20594.

FOR FURTHER INFORMATION, CONTACT: Josh Lindberg, NTSB Office of Aviation Safety, at (202) 314–6667.

SUPPLEMENTARY INFORMATION: In accordance with OMB regulations that require this Notice for proposed ICRs, the NTSB herein notifies the public that it may submit comments on this proposed ICR Plan to the Office of Information and Regulatory Affairs (OIRA) Desk Officer for the NTSB. 5 CFR 1320.10(a). This request for approval is not associated with a rulemaking activity.

This notice follows the first of the two required notices requesting comment, which appeared in the **Federal Register** on July 7, 2015. 80 FR 38751. Comments in response to the first notice were due by September 7, 2015. The NTSB did not receive any comments.

A. Paperwork Reduction Act Requirement

In accordance with OMB regulations that require this Notice for proposed ICRs, the NTSB herein notifies the public that it may submit comments on this proposed information collection. Title 5 CFR 1320.10(a) requires this notice to ''direct comments to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for [the NTSB]. A copy of the notice submitted to the **Federal Register**, together with the date of expected publication, shall

be included in the agency's submission to OMB.''

As stated in the NTSB's first of the two required notices under the Paperwork Reduction Act, the objective of these requests for comment is to receive input from the public concerning: (1) Whether the proposed collection is necessary for the NTSB to perform its mission; (2) the accuracy of the estimated burden; (3) ways for the NTSB to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized without reducing the quality of the collected information. 5 CFR 1320.8(d)(1). Following publication of this notice, the NTSB will submit to OIRA its evaluation of the above-mentioned considerations, in accordance with § 1320.8.

B. Description of Web-Based Report Form

The NTSB's proposed use of a web-based reporting form to collect information concerning reportable aviation incidents is distinct from its Pilot/Operator Aircraft Accident/Incident Report Form (NTSB Form 6120.1), which the NTSB uses in determining the facts, conditions, and circumstances for aircraft accident prevention activities and for statistical purposes.[1] The proposed electronic form to report serious incidents, as listed at 49 CFR 830.5, will be a concise electronic form available for completion on the NTSB Web site. The NTSB will obtain information on the form to determine whether to commence an investigation into the facts of the incident.

The form will ask, ''[w]hich of the following incidents did you experience?'' and include a listing of the serious incidents operators are required to report under 49 CFR 830.5. Respondents can check the link to the appropriate incident and fill out the information required to be reported for that incident. The form also asks whether serious injuries or substantial damage occurred, as well as whether the incident involved an unmanned aircraft system (UAS). The form will include web hyperlinks to the definitions of ''serious injury'' and ''substantial damage,'' as defined at 49 CFR 830.2, and a link to guidance on reporting UAS accidents and incidents. If a respondent answers ''yes'' to any of those questions, the information collection will conclude by displaying an instruction for the respondent to contact the NTSB Response Operations Center at 844–373–9922. The next set of questions on the form will seek the following information: Name of operator; date and time of event (UTC); flight origin and intended destination; aircraft registration number and type; approximate location of the incident; number of pilots, crew, and passengers; and a description of the nature of the incident. At the conclusion of the form, the form will seek the respondent's name, email address, and phone number.

C. Use of Information on the Web-Based Incident Report Form

The NTSB will use the information provided on the electronic report form for serious incidents to determine whether to commence an investigation into the incident. Everyone involved in an NTSB investigation, including the parties to the investigation (as defined at 49 CFR 831.11), depend on accurate information the NTSB collects while conducting the investigation and determining which areas warrant focus and attention. In this regard, if the NTSB determines it will commence an investigation into the incident the operator has reported via the electronic form, the NTSB will consider the form to be critical to its statutory function to investigate aviation accidents and incidents. In addition, the accuracy of the information the NTSB collects on the form will be used in issuing safety recommendations following the incident, in an effort to prevent future aviation accidents and incidents.

The NTSB has considered whether this collection of information on the draft electronic form is duplicative of any other agency's collections of information. The NTSB is unaware of any form the Federal Aviation Administration disseminates that solicits the same information the electronic form will require. However, the NTSB notes some operators may choose to provide a voluntary report to the National Aeronautics and Space Administration (NASA) in accordance with the Aviation Safety Reporting Program (ASRP).[2]

The NTSB notes informing the NTSB of a serious incident listed at 49 CFR 830.5 is not voluntary, but is required by 49 CFR 830.5 and 830.10. The NTSB, in general, will not accept partially completed forms; NTSB investigators will exercise their discretion in requesting completion of an electronic incident reporting form a respondent submits that is partially completed.

Currently, the NTSB accepts phone calls transmitting the information described above. The NTSB seeks to improve the efficiency of the receipt of the necessary information by offering respondents the option of submitting the information online.

The NTSB has reviewed the form carefully to ensure it has used plain, coherent, and unambiguous terminology in its request for information. While some incidents listed in the form contain terms specific to the aviation industry, the NTSB believes respondents completing the form will be knowledgeable about the terminology the NTSB uses in the form, and the NTSB has remained mindful of its choices of terms in the development of the draft web-based form. The NTSB estimates respondents will spend approximately 10 minutes in completing the form. The NTSB estimates approximately 50 respondents per year will complete the form, but notes this number may vary, given the unpredictable nature of the frequency of aviation incidents.

D. Request for Comments

In accordance with 44 U.S.C. 3506(c)(2)(A), the NTSB again requests feedback from the public concerning this proposed plan for information collection. In particular, the NTSB asks the public to evaluate whether the proposed collection of information is necessary; to assess the accuracy of the NTSB's burden estimate; to comment on how to enhance the quality, utility, and clarity of the information to be collected; and to comment on how the NTSB might minimize the burden of the collection of information.

The NTSB will work with OIRA to consider all feedback it receives in response to this notice. As described above, obtaining the information the NTSB seeks on these electronic incident report forms in a timely manner is important to the NTSB's mission in investigating incidents and thereby improving aviation safety. Therefore, obtaining approval from OIRA for this electronic collection of information is a priority for the NTSB.

Christopher A. Hart,

Chairman.

[FR Doc. 2016–25412 Filed 10–19–16; 8:45 am]

BILLING CODE 7533–01–P

[1] See Information Collection Review Reference Number 201311–3147–001; OMB Control Number 3147–0001.

[2] Under the ASRP, the Administrator of the Federal Aviation Administrator may waive the imposition of a sanction, despite the finding of a regulatory violation, as long as certain requirements are satisfied. Aviation Safety Reporting Program, Advisory Circular 00–46E (Dec. 16, 2011). To take advantage of the program, one must voluntarily file a report with NASA.

POSTAL SERVICE

Product Change—Priority Mail Express and Priority Mail Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Effective date:* October 20, 2016.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on October 14, 2016, it filed with the Postal Regulatory Commission a *Request of the United States Postal Service to Add Priority Mail Express & Priority Mail Contract 37 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2017–6, CP2017–12.

Stanley F. Mires,

Attorney, Federal Compliance.

[FR Doc. 2016–25357 Filed 10–19–16; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Effective date:* October 20, 2016.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on October 14, 2016, it filed with the Postal Regulatory Commission a *Request of the United States Postal Service to Add Priority Mail Contract 248 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2017–5, CP2017–11.

Stanley F. Mires,

Attorney, Federal Compliance.

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OFFICE OF SCIENCE AND TECHNOLOGY POLICY

Northeast Ocean Plan for National Ocean Council Certification

AGENCY: National Ocean Council, Office of Science and Technology Policy; Council on Environmental Quality; Department of Agriculture; Department of Commerce; Department of Defense; Department of Energy; Environmental Protection Agency; Department of Homeland Security; Department of the Interior; Department of Transportation; and Chairman, Joint Chiefs of Staff.

ACTION: Notice.

SUMMARY: The National Ocean Council notifies the public that the Northeast Ocean Plan was approved for submittal to the National Ocean Council by the Northeast Regional Planning Body and submitted to the National Ocean Council for certification on October 14, 2016, as required by Executive Order 13547. The National Ocean Council will certify, or not certify, the Northeast Ocean Plan as consistent with the National Ocean Policy, Final Recommendations of the Interagency Ocean Policy Task Force, and the Marine Planning Handbook no sooner than 30 days from the publication of this Notice. The Northeast Ocean Plan can be found on the National Ocean Council's Web site at: *https://www.whitehouse.gov/sites/default/files/microsites/ostp/NortheastOceanPlan_October2016.pdf.*

FOR FURTHER INFORMATION CONTACT: Deerin S. Babb-Brott, Director, National Ocean Council, 202–456–4444.

SUPPLEMENTARY INFORMATION:

I. Background

National Ocean Policy

Executive Order 13547, Stewardship of the Ocean, Our Coasts, and the Great Lakes, signed July 19, 2010, established the National Ocean Policy to protect, maintain, and restore the health and biodiversity of the ocean, coastal, and Great Lakes ecosystems and resources; enhance the sustainability of the ocean and coastal economies and provide for adaptive management; increase our scientific understanding and awareness of changing environmental conditions; and support preservation of navigational rights and freedoms, in accordance with customary international law, which are essential for conservation of marine resources, sustaining the global economy and promoting national security. The National Ocean Policy encourages a comprehensive, ecosystem-based, and transparent ocean planning process for analyzing current and anticipated uses of ocean and coastal areas and resources. This includes the voluntary development of regional marine plans by intergovernmental regional planning bodies such as the Northeast Regional Planning Board (NERPB). These regional plans build on existing Federal, State, and Tribal planning and decision-making processes to enable a more comprehensive and proactive approach to managing marine resources, sustaining coastal uses and improving the conservation of the ocean, our coasts, and the Great Lakes.

Northeast Regional Planning Body

The NERPB includes six States (Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont) and six federally recognized Indian Tribes (Aroostook Band of Micmacs, Houlton Band of Maliseet Indians, Mashpee Wampanoag Tribal Council, Mohegan Indian Tribe of Connecticut, Narragansett Indian Tribe of Rhode Island, and Wampanoag Tribe of Gay Head [Aquinnah]). Ten Federal Agencies serve on the NERPB: Department of Agriculture represented by the Natural Resource Conservation Service; Department of Commerce represented by the National Oceanic and Atmospheric Administration; Department of Defense represented by the U.S. Navy; Department of Energy; Department of Homeland Security represented by the U.S. Coast Guard; Department of the Interior represented by the Bureau of Ocean Energy Management in coordination with Fish and Wildlife Service, National Park Service, and U.S. Geological Survey; Department of Transportation represented by the Maritime Administration; Environmental Protection Agency; Chairman of the Joint Chiefs of Staff represented by the U.S. Navy; and the U.S. Army Corps of Engineers in an *ex officio* status. The New England Fishery Management Council also serves on the NERPB. The NERPB is not a regulatory body and has no independent legal authority to regulate or direct Federal, State, or Tribal entities, nor does the Northeast Ocean Plan (NE Ocean Plan or Plan) augment or subtract from any agency's

existing statutory or regulatory authorities.

National Ocean Council

Executive Order 13547 established the National Ocean Council (NOC) to direct implementation of the National Ocean Policy. The NOC is comprised of: The Secretaries of Agriculture, Commerce, Defense, Energy, Health and Human Services, Homeland Security, Interior, Labor, State, and Transportation; the Attorney General; the Administrators of the Environmental Protection Agency, the National Aeronautics and Space Administration, and National Oceanic and Atmospheric Administration; the Directors of the Office of Management and Budget, National Intelligence, the Office of Science and Technology Policy (OSTP), and National Science Foundation; the Chairman of the Joint Chiefs of Staff; the Chairs of the Council on Environmental Quality (CEQ) and the Federal Energy Regulatory Commission; the Assistants to the President for National Security Affairs, Homeland Security and Counterterrorism, Domestic Policy, Energy and Climate Change, and Economic Policy; and an employee of the Federal Government designated by the Vice President. The Chair of CEQ and the Director of OSTP co-chair the NOC.

NOC Certification of Regional Marine Plans

Executive Order 13547 adopts the Final Recommendations of the Interagency Ocean Policy Task Force (Final Recommendations). The Final Recommendations set forth the process for the NOC to review and certify each regional marine plan to ensure it is consistent with the National Ocean Policy and includes the essential elements described in the Final Recommendations as further characterized by the NOC's subsequent Marine Planning Handbook (Handbook; 2013). Consistent with the Final Recommendations and the Handbook, the NOC will determine whether to certify, or not certify, the Northeast Ocean Plan no sooner than 30 days from the publication of this Notice. Pursuant to Executive Order 13547, if the NOC certifies the NE Ocean Plan, Federal Agencies shall comply with the Plan in the conduct of their missions and programs to the fullest extent consistent with applicable law.

II. The Northeast Ocean Plan

The NE Ocean Plan is a comprehensive, ecosystem-based, and proactive approach to managing uses and resources in the marine environment of the Northeast United States. The Plan is intended to strengthen interagency coordination, enhance public participation, and improve planning and policy implementation. The Plan has three main goals: (1) Healthy ocean and coastal ecosystems; (2) effective decision-making; and (3) compatibility among past, current, and future ocean uses. The Plan also describes best practices for coordination among Federal Agencies, Tribes, States, stakeholders, and the public.

The NE Ocean Plan is informed by extensive stakeholder data and input. Throughout the planning process, stakeholders were involved in developing data products for human activities (such as shipping, fishing, recreation, energy, and aquaculture) and marine life and habitat (through review of the methods, analyses, and draft products for spatial data characterizing species and their habitat). These data products reside on the Northeast Ocean Data Portal (Data Portal or Portal). The NERPB developed the Portal, in collaboration with an associated working group, to serve as a user-friendly source of maps, data, and tools that can serve as one source of information to inform ocean planning from the Gulf of Maine to Long Island Sound. A range of government entities, non-government organizations, and stakeholders in the Northeast region are already using the Portal. It is available to the public online at *www.northeastoceandata.org.*

As described in a Notice by the National Oceanic and Atmospheric Administration, published in the **Federal Register** on May 25, (2016 81 FR 33213), the NERPB previously released a draft NE Ocean Plan for a sixty-day public comment period. The NERPB prepared a summary and response to the comments received from the public and stakeholders that can be found at www.*NOAA.oceanplanning.org.*

III. Implementation of the NE Ocean Plan

The Federal members of the NERPB administer a wide range of statutes and programs that involve or affect the marine environment in the Northeast regional ocean planning area. These Federal departments and agencies carry out actions under Federal laws involving a wide range of regulatory responsibilities and non-regulatory missions and management activities throughout the Nation's waterways and the ocean. Activities of Federal NERPB members include managing and developing marine transportation infrastructure, national security and homeland defense activities; regulating ocean discharges; siting energy facilities; permitting sand removal and beach re-nourishment; managing national parks, national wildlife refuges, and national marine sanctuaries; regulating commercial and recreational fishing; and managing activities affecting threatened and endangered species and migratory birds.

The specific manner and mechanism each Federal agency will use to implement the NE Ocean Plan will depend on that agency's mission, authorities, and activities. If the NOC certifies that the NE Ocean Plan is consistent with the National Ocean Policy, the Final Recommendations, and the Handbook, each Federal NERPB member will use the NE Ocean Plan to inform and guide its planning activities and decision-making actions, including permitting, authorizing, and leasing decisions that involve or affect the Northeast regional ocean planning area.

Specifically, consistent and within existing statutory authorities, Executive Order 13547 and the Final Recommendations, the Federal Agencies represented on the NERPB, and their relevant components, expressly including the U.S. Army Corps of Engineers in its *ex officio* status for responsibilities beyond those in Title 10, U.S. Code, will: (1) Identify, develop, and make publicly available implementing instructions, such as internal agency guidance, directives, or similar organizational or administrative documents, that describe the way the agency will use the Plan to inform and guide its actions and decisions in or affecting the Northeast regional ocean planning area; (2) ensure that the agency, through such internal administrative instructions, will consider the data products available from the Data Portal in its decision making and as it carries out its actions in or affecting the Northeast regional ocean planning area; and (3) explain its use of the Plan and Data Portal in its decisions, activities, or planning processes that involve or affect the Northeast regional ocean planning area.

IV. Conclusion

The National Ocean Policy provides a path for Federal Agencies, States and Tribes to work collaboratively and proactively to manage the many existing and future uses of the Nation's oceans, coasts and Great Lakes. If the NOC certifies the plan, NERPB members intend to use the NE Ocean Plan to align their priorities and share data and technical information to minimize conflicts among uses, take actions to

promote the productivity of marine resources, sustain healthy ecosystems, and promote the prosperity and security of the Nation's ocean and coastal communities and their economies for the benefit of present and future generations. The NOC will review the NE Ocean Plan for consistency with the National Ocean Policy, Final Recommendations of the Interagency Ocean Policy Task Force, and the Marine Planning Handbook and make its determination no sooner than 30 days from the publication of this Notice.

Authority: Executive Order 13547, ''Stewardship of the Ocean, Our Coasts and the Great Lakes'' (July 19, 2010).

Ted Wackler,

Deputy Chief of Staff and Assistant Director.

[FR Doc. 2016–25372 Filed 10–19–16; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–79103; File No. SR-BatsBZX–2016–60]

Self-Regulatory Organizations; Bats BZX Exchange, Inc.; Notice of Filing of a Proposed Rule Change to Bats BZX Rule 14.13, Company Listing Fees, and to the Bats BZX Fee Schedule; Suspension of and Order Instituting Proceedings To Determine Whether To Approve or Disapprove the Proposed Rule Change

October 14, 2016.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 29, 2016, Bats BZX Exchange, Inc. (the ''Exchange'' or ''BZX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and is, pursuant to Section 19(b)(3)(C) of the Act, hereby: (1) Temporarily suspending the proposed rule change; and (2) instituting proceedings to determine whether to approve or disapprove the proposal.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange filed a proposal to amend the fees applicable to securities listed on the Exchange, which are set forth in BZX Rule 14.13 as well as to amend the fee schedule applicable to Members [3] and non-Members of the Exchange pursuant to Exchange Rules 15.1(a) and (c). Changes to the Exchange's fees pursuant to this proposal are effective upon filing.

The text of the proposed rule change is available at the Exchange's Web site at *www.batstrading.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On August 30, 2011, the Exchange received approval of rules applicable to the qualification, listing, and delisting of companies on the Exchange,[4] which it modified on February 8, 2012 in order to adopt pricing for the listing of exchange traded products (''ETPs'') [5] on the Exchange,[6] which it subsequently modified again on June 4, 2014.[7] On October 16, 2014, the Exchange modified Rule 14.13, entitled ''Company Listing Fees'' to eliminate the annual fees for ETPs not participating in the Exchange's Competitive Liquidity Provider Program pursuant to Rule 11.8, Interpretation and Policy .02 (the ''CLP Program'').[8] On May 22, 2015, the Exchange further modified Rule 14.13 to eliminate the $5,000 application fee for ETPs, effectively eliminating any compulsory fees for both new ETP issues and transfer listings in ETPs on the Exchange.[9] On October 1, 2015, the Exchange started offering an incentive payment to ETPs listed on the Exchange based on the consolidated average daily volume (''CADV'') of the ETP (the ''Issuer Incentive Program'') [10] and subsequently made an administrative change to the Issuer Incentive Program that required an issuer to enroll in order to receive payment.[11] The Exchange is now proposing to amend the Issuer Incentive Program such that series of Portfolio Depository Receipts, Index Fund Shares, Trust Issued Receipts, and Managed Fund Shares (''Funds'') listed on the Exchange will no longer be eligible to receive payments under the Issuer Incentive Program. The Exchange is also proposing that the LMM [12] in a Fund [13] would receive a payment from the Exchange based on the CADV of the Fund, as described below (the ''LMM Partnership Program'').

Specifically, the Exchange is proposing that the Exchange would provide payments to the LMM in a Fund on a quarterly basis as follows: [14]

CADV range	Annualized payment
1,000,000–3,000,000 shares	$3,000
3,000,001–5,000,000 shares	10,000
5,000,001–10,000,000 shares	50,000
10,000,001–20,000,000 shares ..	100,000

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] A Member is defined as ''any registered broker or dealer that has been admitted to membership in the Exchange.'' See Exchange Rule 1.5(n).

[4] *See* Securities Exchange Act Release No. 65225 (August 30, 2011), 76 FR 55148 (September 6, 2011) (SR–BATS–2011–018).

[5] As defined in BZX Rule 11.8(e)(1)(A), the term ''ETP'' means any security listed pursuant to Exchange Rule 14.11.

[6] *See* Securities Exchange Act Release No. 66422 (February 17, 2012), 77 FR 11179 (February 24, 2012) (SR–BATS–2012–010).

[7] *See* Securities Exchange Act Release No. 72377 (June 12, 2014), 79 FR 34822 (June 18, 2014) (SR–BATS–2014–024).

[8] *See* Securities Exchange Act Release No. 73414 (October 23, 2014), 79 FR 64434 (October 29, 2014) (SR–BATS–2014–050).

[9] *See* Securities Exchange Act Release No. 75085 (June 1, 2015), 80 FR 32190 (June 5, 2015) (SR–BATS–2015–39).

[10] *See* Securities Exchange Act Release No. 76113 (October 8, 2015), 80 FR 62142 (October 15, 2015) (SR–BATS–2015–80) (the ''Issuer Incentive Program Filing'').

[11] *See* Securities Exchange Act Release No. 77960 (June 1, 2016), 81 FR 36632 (June 7, 2016) (SR–BatsBZX–2016–20).

[12] As defined in Rule 11.8(e)(1)(B), the term LMM means a Market Maker registered with the Exchange for a particular LMM Security that has committed to maintain Minimum Performance Standards in the LMM Security.

[13] As noted above, the term ''Fund'' includes Portfolio Depository Receipts, Index Fund Shares, Trust Issued Receipts, and Managed Fund Shares, which are defined in Rule 14.11(b), 14.11(c), 14.11(f), and 14.11(i), respectively, which the Exchange may propose to expand in the future as it adds products which may be listed on the Exchange. Any such expansion would require the Exchange to file a proposal with the Commission under Rule 19b–4 of the Act.

[14] The Exchange notes that the CADV standards and proposed payments applicable to the LMM Partnership Program are identical to the standards and payments currently applicable under the Issuer Incentive Program.

CADV range	Annualized payment
20,000,001–35,000,000 shares ..	250,000
Greater than 35,000,000 shares	400,000

The LMM would only be eligible to receive such payments in quarters during which it is a Qualified LMM [15] for each full month that the Fund was listed on the Exchange.

Because the payments would be provided for each trading day, where a Fund had a CADV of 4,000,000 over the course of a full calendar quarter that it was listed on the Exchange, the LMM for that Fund would receive a payment of $2,500 (.25 * $10,000, the annualized payment for that CADV) at the end of the quarter. Where the same Fund had a CADV of 4,000,000, but was only listed on the Exchange for exactly half of the trading days in the calendar quarter, the LMM for that Fund would receive a payment of $1,250 ((.25 * $10,000) * .5) at the end of the quarter.

The Exchange is proposing to make these changes as a means to equitably allocate the revenues and expenses associated with bringing a successful Fund to market among the issuer, the listing exchange, and the LMM. For example, in new Funds, the cost to a firm of making a market as an LMM, such as holding inventory in the security, is often not fully offset by the revenue provided through enhanced LMM rebates, as further discussed below, that it receives from the Exchange. In such cases, LMMs often take on the role as LMM despite the negative economics based on the hope, without guarantee, that the costs for acting as an LMM will eventually be reduced to a level lower than the gradually decreasing enhanced LMM rebates. Without an LMM taking this risk to make markets in these new Funds, the products would likely be significantly less liquid and would have a greatly reduced likelihood of achieving success.

As highlighted in the Issuer Incentive Program Filing, the primary listing exchange for a Fund earns additional trading fees through the outsized share of intraday trading volume that a primary listed security typically garners for the listing exchange as well as trading fees for orders participating in the opening and closing auctions. Such trading fees generally increase as the CADV for a Fund increases. Similarly, as the CADV increases for a Fund, so does the amount of assets under management (''AUM'') for a Fund tend to increase and AUM is a common measure of a Fund's success and is the basis for certain fees charged by a Fund. As such, both the primary listing exchange and the issuer experience financial benefits as the CADV for a Fund increases. For LMMs, however, as the CADV increases, the enhanced rebates that LMMs receive in securities for which they are an LMM decrease.[16] While this structure provides the potential for an LMM to financially share in the success of a Fund with a high CADV if the costs of making a market in the Fund, the enhanced LMM rebates, and the typical market conditions in the Fund align properly, it does not guarantee it and, further, even if the economics do align properly, the rebate structure fails to account for the LMM's importance in that Fund achieving a high CADV.

Based on the foregoing, the Exchange believes that the current model of compensation for LMMs could be amended to better reflect the role that LMMs play in the success of Funds by having the Exchange direct payments to the LMM. While the Issuer Incentive Program was originally designed to create a more equitable and appropriate allocation based on revenue and expenses associated with listing Funds, upon further examination, the Exchange believes that allowing LMMs to receive payment under the LMM Partnership Program will further enhance the equitability of the distribution of revenues and expenses associated with bringing a successful Fund to market. As such, the Exchange is proposing to adopt the above described tiered payment structure for LMMs in Funds listed on the Exchange under the LMM Partnership Program.

The Exchange is not proposing to make any changes to the Issuer Incentive Program as it currently applies to ETPs that are not Funds.

The Exchange proposes to implement the amendments to Rule 14.13(b)(2)(C) and to its fee schedule effective October 3, 2016.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6 of the Act.[17] Specifically, the Exchange believes that the proposed rule change is consistent with Section 6(b)(4) and 6(b)(5) of the Act,[18] in that it provides for the equitable allocation of reasonable dues, fees and other charges among issuers and its Members and is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest, and are not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that the proposed amendment to the fee schedule to provide payment to the LMM for a Fund listed on the Exchange based on the CADV of the Fund is reasonable, fair and equitable, and not an unfairly discriminatory allocation of fees and other charges, would promote just and equitable principles of trade, foster cooperation with persons engaged in facilitating transactions in securities, and remove impediments to and perfect the mechanism of a free and open market and a national market system because it would apply equally to all LMMs and create a distribution of fees and other charges that reflects a more equitable distribution among the Exchange, issuer, and LMM of revenue that a Fund listed on the Exchange creates. The Exchange believes that each of the issuer, the exchange, and the LMM play a key role in the ultimate success of a Fund. While no single party can take an action that will determine the ultimate success of a Fund, if just one of the three parties falters at any point in the life of the Fund, it can determine the Fund's failure. As such, the process of bringing a successful Fund to market requires the full commitment of all three of the issuer, the exchange, and the LMM. As described above, trading fees for the primary listing exchange generally increase as the CADV for a Fund increases. Similarly, as the CADV

[15] As defined in the fee schedule, the term ''Qualified LMM'' means an LMM that meets the Minimum Performance Standards, as defined in Rule 11.8(e)(1)(D).

[16] *See* Exchange Fee Schedule, Footnote 14. The Exchange offers standard credits for LMM orders that add liquidity in securities for which they are the LMM as follows: $0.0045 per share for securities with a CADV less than 1,000,000 shares; $0.0040 per share for securities with a CADV from 1,000,000 shares to 5,000,000 shares; $0.0035 per share for securities with a CADV greater than 5,000,000 shares. *See also* NYSE Arca Equities, Inc. Schedule of Fees and Charges for Exchange Services, *https://www.nyse.com/publicdocs/nyse/markets/nyse-arca/NYSE_Arca_Marketplace_Fees.pdf*. Standard credits for LMM orders that add liquidity in securities for which they are an LMM are as follows: $0.0045 per share for securities with a CADV less than 1,000,000 shares; $0.0040 per share for securities with a CADV between 1,000,000 shares and 3,000,000 shares; $0.0033 per share for securities with a CADV greater than 3,000,000 shares.

[17] 15 U.S.C. 78f.

[18] 15 U.S.C. 78f(b)(4) and (5).

increases for a Fund, so does the amount of AUM for a Fund tend to increase, which is a common measure of a Fund's success and the basis for certain fees charged by a Fund. As such, both the primary listing exchange and the issuer experience financial benefits as the CADV for a Fund increases and are rewarded for their commitment to the Fund. For LMMs, however, as the CADV increases, the enhanced rebates that LMMs receive in securities for which they are an LMM decrease. On its face, this rebate structure makes sense: As the CADV for a Fund increases, the market for that Fund becomes more liquid, spreads become tighter, and the cost associated with making a market in that Fund should generally decrease. Practically, however, the rebate structure fails to account for the LMM's important role in the Fund's success. The LMM Partnership Program, on the other hand, acknowledges the additional revenue brought to the Exchange by virtue of a Fund listing on the Exchange and moves to share that revenue in a more equitable manner based on the integral role that all three parties—the issuer, the exchange, and the LMM—play in the ultimate success of a Fund. Specifically, the proposal is designed to reward the LMM in that Fund for such additional revenue, which the Exchange believes creates a more equitable and appropriate relationship between the Exchange, issuers, and LMMs. As such, the Exchange believes that it is reasonable, fair and equitable, and not unfairly discriminatory allocation of fees and other charges to provide payment to LMMs in Funds listed on the Exchange under the LMM Partnership Program.

The Exchange also believes that the proposed amendment to its fee schedule to provide tiered payments to LMMs in Funds listed on the Exchange based on the CADV of a Fund is a reasonable, fair and equitable, and not unfairly discriminatory allocation of fees and other charges because it would create a distribution of fees and other charges applicable to all LMMs that are commensurate with the additional revenue that a Fund listed on the Exchange creates for the Exchange through executions occurring in the auctions and additional shares executed on the Exchange. As described above, where the CADV of a Fund increases, so does the additional trading fee revenue earned by the primary listing exchange. Similarly, as the CADV increases for a Fund, typically so does the amount of AUM for a Fund, which is the basis for certain fees charged by a Fund. As such, both the primary listing exchange and the issuer experience financial benefits as the CADV for a Fund increases. Accordingly, the proposed tiers within the LMM Partnership Program are designed to reward the LMM in a Fund on the basis of the additional revenue potential that the Fund brings to the Exchange and the issuer through increased CADV. Further to this point, the Exchange does not believe that the proposal is unfairly discriminatory because, as described above, the annualized payments associated with the various CADV tiers in the LMM Partnership Program are designed based on the approximate additional revenue that the Exchange will receive from a Fund listed on the Exchange within a particular CADV tier and are identical to those currently provided under the Issuer Incentive Program. The Exchange notes that certain LMMs in Funds in the proposed tiers with higher CADV would receive disproportionately higher rebates than LMMs in Funds in other tiers with lower CADV. The Exchange believes it is equitable and not unfairly discriminatory to provide a disproportionately higher payment to LMMs of Funds in higher tiers because such Funds would likely bring a disproportionately larger amount of revenue to the Exchange from the auctions the Exchange would conduct for such securities and increased trading activity on the Exchange in such securities. The Exchange believes that the additional revenue it will generate from Funds that are eligible for the LMM Partnership Program, including Funds that qualify for the higher tiers, will exceed the amount of such payments to LMMs. To the extent the additional revenue generated by Funds that are eligible to participate in the LMM Partnership Program does not exceed the amount of such payments to LMMs, the Exchange will modify the structure of the LMM Partnership Program such that the program does generate revenue for the Exchange.

The Exchange further believes that it is reasonable, fair and equitable, and not unfairly discriminatory allocation of fees and other charges, would promote just and equitable principles of trade, foster cooperation with persons engaged in facilitating transactions in securities, and remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest to provide payment to LMMs in Funds listed on the Exchange through the LMM Partnership Program because receiving payment under the LMM Partnership Program will provide additional incentives for market makers to act as LMM in all BZX-listed Funds, including newly listed Funds. For the vast majority of Funds, the LMM does not change after the Fund is launched. Stated another way, the LMM for a Fund at launch is very likely to be the LMM for the Fund for the foreseeable future. Because of this low turnover in LMMs, the Exchange believes that providing payments to LMMs on the basis of CADV will incentivize more market makers to seek to act as an LMM in more BZX-listed Funds. In particular, the Exchange believes that the implementation of the LMM Partnership Program in conjunction with the low turnover in LMMs for Funds would make it more attractive for a market maker to become an LMM at the launch of a Fund in order to ensure that the market maker does not miss out on the opportunity to receive a payment under the LMM Partnership at some point in the future. This incentive to register as an LMM in new Funds will benefit such Funds by creating greater interest in acting as an LMM and meeting the associated quoting requirements. The same mechanics under the LMM Partnership Program that incentivize market makers to register as LMMs in Funds would also incentivize LMMs in Funds to create the best market conditions for a Fund to increase its CADV and help it attract assets, which likely includes quoting in tighter spreads and at greater depth than they otherwise would in the absence of the LMM Partnership Program. Such tighter spreads and greater depth would result in enhanced market quality in BZX-listed Funds, which would also benefit all market participants. As such, the Exchange believes that aligning the interests and incentives of the LMMs, Fund issuers, and the Exchange will create an ecosystem that benefits all participants.

The Exchange further believes that it is reasonable, fair and equitable, and not unfairly discriminatory allocation of fees and other charges, would promote just and equitable principles of trade, foster cooperation with persons engaged in facilitating transactions in securities, and remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest because it is designed to attract additional Fund listings to the Exchange. Based on conversations with numerous market participants, the Exchange believes that the equitable allocation of revenue generated from a Fund listed on the Exchange under the LMM Partnership Program would make

the Exchange a more attractive listing venue from both issuers' and LMMs' perspectives. As such, the Exchange believes that the proposal is reasonable, fair and equitable, and not unfairly discriminatory in that the Exchange believes that it will attract additional Fund listings and LMMs in Funds, which will, in turn, benefit the Exchange and all other BZX-listed Funds.

In addition, the Exchange does not believe that it is unfairly discriminatory to exclude Funds with a CADV of less than 1,000,000 from the LMM Partnership Program because such Funds do not typically generate revenue to the same degree as the higher CADV products. The Exchange notes that Funds with a CADV of less than 1,000,000 are eligible to participate in the ETP CLP Program, which is designed to incentivize market makers to provide liquidity in less actively traded products with the goal of facilitating the growth of such products.[19]

Based on the foregoing, the Exchange believes that the proposed amendment to the fee schedule to provide payment to the LMM for a Fund listed on the Exchange under the LMM Partnership Program is a reasonable, equitable, and non-discriminatory allocation of fees to issuers and LMMs.

The Exchange believes that the proposed amendment to the annual listing fees in Rule 14.13(b)(2)(C) to eliminate the payment to Funds under the Issuer Incentive Program is reasonable, fair and equitable, and not an unfairly discriminatory allocation of fees and other charges because it would apply equally to all Funds and eliminating the payment will allow the Exchange to better allocate its resources in order to make BZX a more attractive listing venue for Funds. The payment to Funds under the Issuer Incentive Program has not had the impact that the Exchange sought when it was implemented. As noted above, eliminating the payment to all Funds under the Issuer Incentive Program will allow the Exchange to reallocate its resources in order to make BZX a more attractive listing venue for Funds. The Exchange does not believe that it is unfairly discriminatory to have Funds participate in the LMM Partnership Program and non-Funds remain under the Issuer Incentive Program because the only ETPs currently listed on the Exchange are Funds and the Exchange will continue to evaluate both of the LMM Partnership Program and the Issuer Incentive Program and how they should best apply to Funds and non-Funds moving forward. As such, the Exchange believes that the proposal is reasonable, fair and equitable, and not an unfairly discriminatory allocation of fees and other charges.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. With respect to the proposed new pricing, the Exchange does not believe that the changes burden competition, but instead, enhance competition, as they are intended to increase the competitiveness of the Exchange's listings program by eliminating certain payments under the Issuer Incentive Program that have not garnered their intended results and will providing [sic] LMMs in Funds with quarterly payments based on the CADV of the Fund, which the Exchange believes will be directly related to the amount of additional revenue that the Exchange receives from additional transactions in the Fund. As such, the proposal is a competitive proposal that is intended to attract additional Fund listings and LMMs in Funds, which will, in turn, benefit the Exchange and all other BZX-listed Funds.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any written comments from members or other interested parties.

III. Suspension of SR–BatsBZX–2016–60

Pursuant to Section 19(b)(3)(C) of the Act,[20] at any time within 60 days of the date of filing of a proposed rule change pursuant to Section 19(b)(1) of the Act,[21] the Commission summarily may temporarily suspend the change in the rules of a self-regulatory organization if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. The Commission believes it is appropriate in the public interest to temporarily suspend the proposal to solicit comment on and further evaluate the statutory basis for BZX's proposal to adopt the proposed LMM Partnership Program.

In temporarily suspending the proposal, the Commission intends to further assess whether the LMM Partnership Program is consistent with the statutory requirements applicable to a national securities exchange under the Act. In particular, the Commission will assess whether the proposed rule change satisfies the requirements of the Act and the rules thereunder requiring, among other things, that an exchange's rules provide for the equitable allocation of reasonable fees among members, issuers, and other persons using its facilities; not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers; and do not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.[22]

Therefore, the Commission finds that it is appropriate in the public interest,[23] for the protection of investors, and otherwise in furtherance of the purposes of the Act, to temporarily suspend the proposed rule change.

IV. Proceedings To Determine Whether To Approve or Disapprove SR–BatsBZX–2016–60

The Commission is instituting proceedings pursuant to Sections 19(b)(3)(C)[24] and 19(b)(2) of the Act[25] to determine whether BZX's proposed rule change should be approved or disapproved. Pursuant to Section 19(b)(2)(B) of the Act,[26] the Commission is providing notice of the grounds for disapproval under consideration. As discussed above, the Exchange proposes to make quarterly payments to LMMs in Funds with CADV of 1,000,000 or higher. These payments would increase

[19] Pursuant to Rule 11.8, Interpretation and Policy .03(n), a security participating in the ETP CLP Program will no longer be eligible to participate once such security sustains CADV of 1,000,000 shares or more for three consecutive months.

[20] 15 U.S.C. 78s(b)(3)(C).

[21] 15 U.S.C. 78s(b)(1).

[22] *See* 15 U.S.C. 78f(b)(4), (5) and (8).

[23] For purposes of temporarily suspending the proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

[24] 15 U.S.C. 78s(b)(3)(C). Once the Commission temporarily suspends a proposed rule change, Section 19(b)(3)(C) of the Act requires that the Commission institute proceedings under Section 19(b)(2)(B) to determine whether a proposed rule change should be approved or disapproved.

[25] 15 U.S.C. 78s(b)(2).

[26] 15 U.S.C. 78s(b)(2)(B). Section 19(b)(2)(B) of the Act also provides that proceedings to determine whether to disapprove a proposed rule change must be concluded within 180 days of the date of publication of notice of the filing of the proposed rule change. *Id.* The time for conclusion of the proceedings may be extended for up to 60 days if the Commission finds good cause for such extension and publishes its reasons for so finding. *Id.*

as the CADV of the Fund increases, up to a maximum annual payment of $400,000 to the LMM of a Fund with a CADV of 35,000,000 or more, and they would not be accompanied by enhanced market-quality requirements for the LMM or be determined based on the actual quoting or trading activity of the LMM.

As noted above, the Exchange asserts that the LMM Partnership Program is designed to ''equitably allocate the revenues and expenses associated with bringing a successful Fund to market among the issuer, the listing exchange, and the LMM.'' The Exchange notes that the Exchange's LMM rebate structure ''fails to account for the LMM's important role in [a] Fund's success,'' because ''as the CADV increases, the enhanced rebates that LMMs receive in securities for which they are an LMM decrease.'' [27] The Exchange believes that the LMM Partnership Program will ''provide additional incentives for market makers to act as LMM in all [Exchange]-listed Funds, including newly listed Funds.'' [28]

The Commission believes there are questions as to whether the Exchange has adequately explained why it is consistent with the Act to make substantial additional payments to LMMs in the most-liquid ETFs—where performance incentives would seem least necessary to maintain market quality—without the imposition of any additional performance standards. While the Exchange asserts that the LMM Partnership Program may incent market makers to become LMMs in newly listed Funds, the Commission does not believe it is clear how higher payments to LMMs in the most-liquid ETFs will encourage them to become LMMs in less-liquid ETFs, particularly given that the LMM Partnership Program does not obligate participants to become LMMs in any less-liquid ETFs or impose additional performance standards on them. As a result, the connection between the proposed LMM incentives and the desired LMM behavior appears indirect and tenuous.

The Commission believes it is appropriate to institute proceedings at this time in view of the legal and policy issues raised by the proposal. Institution of proceedings does not indicate, however, that the Commission has reached any conclusions with respect to the issues involved. The sections of the Act and the rules thereunder which are applicable to the proposed rule change include:

- Section 6(b)(4) of the Act,[29] which requires that the rules of a national securities exchange ''provide for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities.''
- Section 6(b)(5) of the Act,[30] which requires that the rules of a national securities exchange be designed to, among other things, ''remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest'' and not be ''designed to permit unfair discrimination between customers, issuers, brokers, or dealers.''
- Section 6(b)(8) of the Act,[31] which requires that the rules of a national securities exchange ''not impose any burden on competition not necessary or appropriate'' in furtherance of the Act.

V. Commission's Solicitation of Comments

The Commission requests written views, data, and arguments with respect to the concerns identified above as well as other relevant concerns. Such comments should be submitted by November 10, 2016. Rebuttal comments should be submitted by November 25, 2016. Although there do not appear to be any issues relevant to approval or disapproval which would be facilitated by an oral presentation of views, data, and arguments, the Commission will consider, pursuant to Rule 19b–4, any request for an opportunity to make an oral presentation.[32]

The Commission asks that commenters address the sufficiency and merit of the Exchange's statements in support of the proposal, in addition to any other comments they may wish to submit about the proposed rule change. Interested persons are invited to submit written data, views, and arguments concerning the proposed rule change, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–BatsBZX–2016–60 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BatsBZX–2016–60. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make publicly available. All submissions should refer to File Number SR–BatsBZX–2016–60 and should be submitted on or before November 10, 2016. Rebuttal comments should be submitted by November 25, 2016.

VI. Conclusion

It is therefore ordered, pursuant to Section 19(b)(3)(C) of the Act,[33] that File Number SR–BatsBZX–2016–60, be and hereby is, temporarily suspended. In addition, the Commission is instituting proceedings to determine whether the proposed rule changes should be approved or disapproved.

[27] *See* Section II.A.1, *supra.*

[28] *See* Section II.A.2, *supra.*

[29] 15 U.S.C. 78f(b)(4).

[30] 15 U.S.C. 78f(b)(5).

[31] 15 U.S.C. 78f(b)(8).

[32] 15 U.S.C. 78s(b)(2). Section 19(b)(2) of the Act grants the Commission flexibility to determine what type of proceeding—either oral or notice and opportunity for written comments—is appropriate for consideration of a particular proposal by a self-regulatory organization. *See* Securities Act Amendments of 1975, Senate Comm. on Banking, Housing & Urban Affairs, S. Rep. No. 75, 94th Cong., 1st Sess. 30 (1975).

[33] 15 U.S.C. 78s(b)(3)(C).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[34]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–25350 Filed 10–19–16; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 32318; File No. 812–14594]

First Investors Equity Funds, et al.; Notice of Application

October 14, 2016.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application for an order pursuant to: (a) Section 6(c) of the Investment Company Act of 1940 (''Act'') granting an exemption from sections 18(f) and 21(b) of the Act; (b) section 12(d)(1)(J) of the Act granting an exemption from section 12(d)(1) of the Act; (c) sections 6(c) and 17(b) of the Act granting an exemption from sections 17(a)(1), 17(a)(2) and 17(a)(3) of the Act; and (d) section 17(d) of the Act and rule 17d–1 under the Act to permit certain joint arrangements and transactions. Applicants request an order that would permit certain registered open-end management investment companies to participate in a joint lending and borrowing facility.

APPLICANTS: First Investors Equity Funds, First Investors Income Funds, First Investors Life Series Funds and First Investors Tax Exempt Funds (each a ''Trust''), each a Delaware statutory trust registered under the Act as an open-end management investment company with multiple series and Foresters Investment Management Company, Inc. (the ''Adviser''), a New York corporation registered as an investment adviser under the Investment Advisers Act of 1940.

DATES: *Filing Dates:* The application was filed on December 23, 2015 and amended on May 20, 2016 and September 16, 2016.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail.

Hearing requests should be received by the Commission by 5:30 p.m. on November 8, 2016 and should be accompanied by proof of service on the applicants, in the form of an affidavit, or, for lawyers, a certificate of service. Pursuant to Rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, U.S. Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090; Applicants: Mary Carty, Esq., Foresters Investment Management Company, Inc., 40 Wall Street, New York, NY 10005.

FOR FURTHER INFORMATION CONTACT: Kay-Mario Vobis, Senior Counsel, at (202) 551–6728 or Mary Kay Frech, Branch Chief, at (202) 551–6821 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Summary of the Application

1. Applicants request an order that would permit the applicants to participate in an interfund lending facility where each Fund could lend money directly to and borrow money directly from other Funds to cover unanticipated cash shortfalls, such as unanticipated redemptions or trade fails.[1] The Funds will not borrow under the facility for leverage purposes and the loans' duration will be no more than 7 days.[2]

2. Applicants anticipate that the proposed facility would provide a borrowing Fund with a source of liquidity at a rate lower than the bank borrowing rate at times when the cash position of the Fund is insufficient to meet temporary cash requirements. In addition, Funds making short-term cash loans directly to other Funds would earn interest at a rate higher than they otherwise could obtain from investing their cash in repurchase agreements or certain other short term money market instruments. Thus, applicants assert that the facility would benefit both borrowing and lending Funds.

3. Applicants agree that any order granting the requested relief will be subject to the terms and conditions stated in the application. Among others, the Adviser, through a designated committee, would administer the facility as a disinterested fiduciary as part of its duties under the investment management agreements with the Funds and would receive no additional fee as compensation for its services in connection with the administration of the facility. The facility would be subject to oversight and certain approvals by the Funds' Board, including, among others, approval of the interest rate formula and of the method for allocating loans across Funds, as well as review of the process in place to evaluate the liquidity implications for the Funds. A Fund's aggregate outstanding interfund loans will not exceed 15% of its net assets, and the Fund's loans to any one Fund will not exceed 5% of the lending Fund's net assets.[3]

4. Applicants assert that the facility does not raise the concerns underlying section 12(d)(1) of the Act given that the Funds are part of the same group of investment companies and there will be no duplicative costs or fees to the Funds.[4] Applicants also assert that the proposed transactions do not raise the concerns underlying sections 17(a)(1), 17(a)(3), 17(d) and 21(b) of the Act as the Funds would not engage in lending transactions that unfairly benefit insiders or are detrimental to the Funds. Applicants state that the facility will offer both reduced borrowing costs and enhanced returns on loaned funds to all participating Funds and each Fund would have an equal opportunity to borrow and lend on equal terms based on an interest rate formula that is objective and verifiable. With respect to the relief from section 17(a)(2) of the Act, applicants note that any collateral pledged to secure an interfund loan would be subject to the same conditions imposed by any other lender to a Fund

[34] 17 CFR 200.30–3(a)(57) and (58).

[1] Applicants request that the order apply to the applicants and to any existing or future registered open-end management investment company or series thereof for which the Adviser or any successor thereto or an investment adviser controlling, controlled by, or under common control with the Adviser or any successor thereto serves as investment adviser (each a ''Fund'' and collectively the ''Funds'' and each such investment adviser an ''Adviser''). For purposes of the requested order, ''successor'' is limited to any entity that results from a reorganization into another jurisdiction or a change in the type of a business organization.

[2] Any Fund, however, will be able to call a loan on one business day's notice.

[3] Under certain circumstances, a borrowing Fund will be required to pledge collateral to secure the loan.

[4] Applicants state that the obligation to repay an interfund loan could be deemed to constitute a security for the purposes of sections 17(a)(1) and 12(d)(1) of the Act.

that imposes conditions on the quality of or access to collateral for a borrowing (if the lender is another Fund) or the same or better conditions (in any other circumstance).[5]

5. Applicants also believe that the limited relief from section 18(f)(1) of the Act that is necessary to implement the facility (because the lending Funds are not banks) is appropriate in light of the conditions and safeguards described in the application and because the Funds would remain subject to the requirement of section 18(f)(1) that all borrowings of a Fund, including combined interfund loans and bank borrowings, have at least 300% asset coverage.

6. Section 6(c) of the Act permits the Commission to exempt any persons or transactions from any provision of the Act if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Section 12(d)(1)(J) of the Act provides that the Commission may exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision of section 12(d)(1) if the exemption is consistent with the public interest and the protection of investors. Section 17(b) of the Act authorizes the Commission to grant an order permitting a transaction otherwise prohibited by section 17(a) if it finds that (a) the terms of the proposed transaction are fair and reasonable and do not involve overreaching on the part of any person concerned; (b) the proposed transaction is consistent with the policies of each registered investment company involved; and (c) the proposed transaction is consistent with the general purposes of the Act. Rule 17d–1(b) under the Act provides that in passing upon an application filed under the rule, the Commission will consider whether the participation of the registered investment company in a joint enterprise, joint arrangement or profit sharing plan on the basis proposed is consistent with the provisions, policies and purposes of the Act and the extent to which such participation is on a basis different from or less advantageous than that of the other participants.

[5] Applicants state that any pledge of securities to secure an interfund loan could constitute a purchase of securities for purposes of section 17(a)(2) of the Act.

For the Commission, by the Division of Investment Management, under delegated authority.

Brent J. Fields,

Secretary.

[FR Doc. 2016–25346 Filed 10–19–16; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–79101; File No. SR–NYSEArca–2016–131]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change Relating to Listing and Trading of Shares of the Virtus Enhanced U.S. Equity ETF Under Commentary .01 to NYSE Arca Equities Rule 5.2(j)(3)

October 14, 2016.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on October 3, 2016, NYSE Arca, Inc. (the ''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to list and trade the shares of the Virtus Enhanced U.S. Equity ETF (the ''Fund''), a series of Virtus ETF Trust II (the ''Trust''), under Commentary .01 to NYSE Arca Equities Rule 5.2(j)(3) (''Investment Company Units''). The proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to list and trade shares (''Shares'') of the Virtus Enhanced U.S. Equity ETF (''Fund'') under Commentary .01 to NYSE Arca Equities Rule 5.2(j)(3), which governs the listing and trading of Investment Company Units on the Exchange.[4] The Fund will be an index-based exchange traded fund (''ETF''). The Shares will be offered by the Virtus ETF Trust II (the ''Trust''), which is registered with the Commission as an investment company and has filed a registration statement on Form N–1A (the ''Registration Statement'') with the Commission on behalf of the Fund.[5]

The investment adviser to the Fund will be Virtus ETF Advisers LLC (the ''Adviser''). ETF Distributors LLC will serve as the distributor (the ''Distributor'') of Fund shares on an agency basis. The Bank of New York Mellon (the ''Administrator'') will be the administrator, custodian and transfer agent for the Fund.[6]

Description of the Shares and the Fund

As discussed in more detail below, the Fund's investment objective is to seek investment results that, before fees and expenses, closely correspond to the price and yield performance of the Rampart Enhanced U.S. Equity Index (the ''Index''). The Index was developed by Rampart Investment Management Company, LLC (the ''Index Provider''), and the Index is calculated and

[1] 15 U.S.C.78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] NYSE Arca Equities Rule 5.2(j)(3)(A) provides that an Investment Company Unit is a security that represents an interest in a registered investment company that holds securities comprising, or otherwise based on or representing an interest in, an index or portfolio of securities (or holds securities in another registered investment company that holds securities comprising, or otherwise based on or representing an interest in, an index or portfolio of securities).

[5] *See* the Trust's registration statement on Form N–1A, dated September 1, 2016 (File Nos. 333–206600 and 811–23078). The descriptions of the Fund and the Shares contained herein are based, in part, on information in the Registration Statement.

[6] The Commission has issued an order granting certain exemptive relief to the Trust under the Investment Company Act of 1940 (15 U.S.C. 80a–1) (''1940 Act''). *See* Investment Company Act Release No. 30825 (December 11, 2013) (File No. 812–14212) (''Exemptive Order''). Investments made by the Fund will comply with the conditions in the Exemptive Order.

maintained by NYSE Global Index Group (the ''Index Calculation Agent''). The Index Provider is affiliated with the Adviser and the Distributor. The Index Calculation Agent is not affiliated with the Adviser, Distributor, Administrator, or the Trust.

Commentary .01(b)(1) to Rule 5.2(j)(3) provides that, if the applicable index is maintained by a fund advisor or a broker-dealer, such fund advisor or broker-dealer shall erect a ''fire wall'' around the personnel who have access to information concerning changes and adjustments to the index, and the index shall be calculated by a third party who is not a broker-dealer or fund advisor.[7] The Index Provider is registered as an investment adviser, but does not serve as adviser or sub-adviser to the Fund, and is affiliated with one or more broker-dealers. The Adviser is not registered as a broker-dealer. The Adviser and Index Provider are affiliated with one or more broker-dealers, and the Adviser and Index Provider each have implemented and will maintain a fire wall with respect to each such broker-dealer affiliate regarding access to information concerning the composition and/or changes to the portfolio and Index.[8] In addition, Adviser personnel who make decisions regarding the Fund's portfolio are subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the Fund's portfolio.[9]

In the event (a) the Adviser or Index Provider becomes registered as a broker-dealer or newly affiliated with a broker-dealer, or (b) any new adviser or index provider is a registered broker-dealer or becomes affiliated with a broker-dealer, it will implement a fire wall with respect to its relevant personnel or broker-dealer affiliate regarding access to information concerning the composition and/or changes to the portfolio, and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolio.

The Exchange is submitting this proposed rule change because the Index for the Fund does not meet all of the ''generic'' listing requirements of Commentary .01(a)(A) to NYSE Arca Equities Rule 5.2(j)(3), applicable to the listing of Investment Company Units based upon an index of ''US Component Stocks.'' [10] Specifically, Commentary .01(a)(A) to NYSE Arca Equities Rule 5.2(j)(3) sets forth the requirements to be met by components of an index or portfolio of US Component Stocks. Because, as discussed in more detail herein, the Index may consist partially of options on the S&P 500 Index, rather than entirely US Component Stocks, the Index does not satisfy the requirements of Commentary .01(a)(A) to NYSE Arca Equities Rule 5.2(j)(3).[11]

Except for the requirements of Commentary .01(a)(A) to NYSE Arca Equities Rule 5.2(j)(3), the Index meets all other requirements of Commentary .01 to NYSE Arca Equities Rule 5.2(j)(3).

Virtus Enhanced U.S. Equity ETF

Index Methodology

The Index is comprised of an equity portfolio enhanced by an ''Options Strategy Overlay''. The equity portfolio is comprised of the largest 400 U.S. exchange-listed stocks as measured by market capitalization. The portfolio is market capitalization-weighted and is reconstituted and rebalanced on a quarterly basis. The Options Strategy Overlay uses an objective, rules-based methodology to transact in options linked to the S&P 500 Index (SPX). SPX options are traded on the Chicago Board Options Exchange. Each week, out of the money SPX put options and out of the money SPX call options are sold. The proceeds are used to buy an SPX call option. The strike prices of the options are systematically selected according to the prevailing volatility environment. In general, in higher volatility environments the short options will be struck farther out of the money.

Principal Investments of the Fund

Under normal market conditions,[12] the Fund will invest not less than 80% of its total assets in component securities of the Index. Additionally, under normal market conditions, the Fund will invest not less than 80% of its total assets in U.S. exchange-traded common stocks. The Fund will also seek

[7] An investment adviser to an open-end fund is required to be registered under the Investment Advisers Act of 1940 (the ''Advisers Act''). As a result, the Adviser are subject to the provisions of Rule 204A–1 under the Advisers Act relating to codes of ethics. This Rule requires investment advisers to adopt a code of ethics that reflects the fiduciary nature of the relationship to clients as well as compliance with other applicable securities laws. Accordingly, procedures designed to prevent the communication and misuse of non-public information by an investment adviser must be consistent with Rule 204A–1 under the Advisers Act.

[8] The Adviser and the Index Provider have represented that a fire wall exists around the respective personnel who have access to information concerning changes and adjustments to the Index.

[9] The Exchange represents that the Adviser, and its related personnel, are subject to Advisers Act Rule 204A–1. This rule specifically requires the adoption of a code of ethics by an investment adviser to include, at a minimum: (i) Standards of business conduct that reflect the firm's/personnel fiduciary obligations; (ii) provisions requiring supervised persons to comply with applicable federal securities laws; (iii) provisions that require all access persons to report, and the firm to review, their personal securities transactions and holdings periodically as specifically set forth in Rule 204A–1; (iv) provisions requiring supervised persons to report any violations of the code of ethics promptly to the chief compliance officer (''CCO'') or, provided the CCO also receives reports of all violations, to other persons designated in the code of ethics; and (v) provisions requiring the investment adviser to provide each of the supervised persons with a copy of the code of ethics with an acknowledgement by said supervised persons. In addition, Rule 206(4)–7 under the Advisers Act makes it unlawful for an investment adviser to provide investment advice to clients unless such investment adviser has (i) adopted and implemented written policies and procedures reasonably designed to prevent violation, by the investment adviser and its supervised persons, of the Advisers Act and the Commission rules adopted thereunder; (ii) implemented, at a minimum, an annual review regarding the adequacy of the policies and procedures established pursuant to subparagraph (i) above and the effectiveness of their implementation; and (iii) designated an individual (who is a supervised person) responsible for administering the policies and procedures adopted under subparagraph (i) above.

[10] NYSE Arca Equities Rule 5.2(j)(3) provides that the term ''US Component Stock'' shall mean an equity security that is registered under Sections 12(b) or 12(g) of the Act and an American Depositary Receipt, the underlying equity securities of which is registered under Sections 12(b) or 12(g) of the Act.

[11] The Exchange notes that the S&P 500 Index has been previously approved by the Commission under Section 19(b)(2) of the Act in connection with the listing and trading of index options and Portfolio Depositary Receipts, as well as other securities. *See, e.g.,* Securities Exchange Act Release Nos. 19907 (June 24, 1983), 48 FR 30814 (July 5, 1983) (SR–CBOE–83–8) (approving the listing and trading of options on the S&P 500 Index); 31591 (December 18, 1992), 57 FR 60253 (December 18, 1992) (SR–Amex–92–18) (approving the listing and trading of Portfolio Depositary Receipts based on the S&P 500 Index). NYSE Arca Equities Rule 5.2(j)(3), Commentary .01(a)(A)(5) provides that all securities in the applicable index or portfolio shall be US Component Stocks listed on a national securities exchange and shall be NMS Stocks as defined in Rule 600 under Regulation NMS of the Act. Each component stock of the S&P 500 Index is a US Component Stock that is listed on a national securities exchange and is an NMS Stock. Options are excluded from the definition of NMS Stock. The Fund and the Index meet all of the requirements of the listing standards for Investment Company Units in Rule 5.2(j)(3) and the requirements of Commentary .01, except the requirements in Commentary .01(a)(A)(1)–(5), as the Index consists of options on the S&P 500 Index. The S&P 500 Index consists of US Component Stocks and satisfies the requirements of Commentary .01(a)(A)(1)–(5).

[12] The term ''normal market conditions'' is defined in NYSE Arca Equities Rule 8.600 (c)(5). On a temporary basis, including for defensive purposes, during the initial invest-up period and during periods of high cash inflows or outflows, the Fund may depart from its principal investment strategies; for example, it may hold a higher than normal proportion of its assets in cash. During such periods, the Fund may not be able to achieve its investment objectives. The Fund may adopt a defensive strategy when the Adviser believes securities in which the Fund normally invests have elevated risks due to political or economic factors and in other extraordinary circumstances.

to generate additional income by writing SPX call options and will seek additional capital appreciation by purchasing SPX call options.

Other Investments

While the Fund, under normal market conditions will invest at least 80% of its net assets in the securities and financial instruments described above, the Fund may invest its remaining assets in the securities and financial instruments described below.

The Fund may invest in short-term, high quality securities issued or guaranteed by the U.S. government (in addition to U.S. Treasury securities) and non-U.S. governments, and each of their agencies and instrumentalities; debt securities issued by U.S. government sponsored enterprises; repurchase agreements backed by U.S. government and non-U.S. government securities; money market mutual funds; and deposit and other obligations of U.S. and non-U.S. banks and financial institutions (''Money Market Instruments'').

The Fund may invest in exchange-traded funds (''ETFs'').[13]

The Fund may invest in U.S. exchange-traded equity index futures contracts.

The Fund may invest in U.S. exchange-traded index options (other than SPX) and U.S. exchange-traded options on ETFs.

The Fund may invest in U.S. exchange-traded options on futures contacts and U.S. exchange-traded options on stocks.

Investment Restrictions

The Fund will not invest in any non-U.S. equity securities. The Fund's investments will be consistent with the Fund's investment objective and will not be used to enhance leverage.[14]

The Fund intends to qualify each year as a regulated investment company (a ''RIC'') under Subchapter M of the Internal Revenue Code of 1986, as amended.[15]

Creation and Redemption of Shares

The Fund will issue and redeem Shares on a continuous basis at net asset value (''NAV''),[16] only in large blocks of Shares (''Creation Units''), in transactions with ''Authorized Participants'' (as described below). Creation Units generally will consist of 50,000 Shares, though the size of a Creation Unit may change from time to time.

The consideration for purchase of a Creation Unit of the Fund generally will consist of either (i) the in-kind deposit of a designated portfolio of securities (the ''Deposit Securities'') per Creation Unit and the ''Cash Component'' (defined below), computed as described below, or (ii) the cash value of the Deposit Securities (''Deposit Cash'') and the ''Cash Component,'' computed as described below. Because certain listed derivatives are not currently eligible for in-kind transfer, they will be substituted with an amount of cash of equal value (*i.e.,* Deposit Cash) when the Fund processes purchases of Creation Units in-kind. Specifically, the Fund will not accept exchange-traded options as Deposit Securities.

When accepting purchases of Creation Units for cash, the Fund may incur additional costs associated with the acquisition of Deposit Securities that would otherwise be provided by an in-kind purchase. Together, the Deposit Securities or Deposit Cash, as applicable, and the Cash Component constitute the ''Fund Deposit,'' which represents the minimum initial and subsequent investment amount for a Creation Unit of the Fund. The Cash Component is an amount equal to the difference between the NAV of the Shares (per Creation Unit) and the market value of the Deposit Securities or Deposit Cash, as applicable. The Cash Component serves the function of compensating for any difference between the NAV per Creation Unit and the market value of the Deposit Securities or Deposit Cash, as applicable.

A portfolio composition file, to be sent via the National Securities Clearing Corporation (''NSCC''), will be made available on each business day, prior to the opening of business on the Exchange (currently 9:30 a.m. E.T.) containing a list of the names and the required amount of each security in the Deposit Securities to be included in the current Fund Deposit for the Fund (based on information about the Fund's portfolio at the end of the previous business day). In addition, on each business day, the estimated Cash Component, effective through and including the previous business day, will be made available through NSCC.

The Fund Deposit will be applicable for purchases of Creation Units of the Fund until such time as the next-announced Fund Deposit is made available.

All purchase orders must be placed by an ''Authorized Participant.'' An Authorized Participant must be either a broker-dealer or other participant in the Continuous Net Settlement System (''Clearing Process'') of the NSCC or a participant in The Depository Trust Company (''DTC'') with access to the DTC system, and must execute an agreement with the Distributor that governs transactions in the Fund's Creation Units. In-kind portions of purchase orders will be processed though the Clearing Process when it is available.

Shares of the Fund may be redeemed only in Creation Units at their NAV next determined after receipt of a redemption request in proper form by the Fund through the Distributor and only on a business day. The Fund, through the NSCC, will make available immediately prior to the opening of business on each business day, the list of the names and quantities of the Fund's portfolio securities that will be applicable (subject to possible amendment or correction) to redemption requests received in proper form on that day (''Fund Securities''). Redemption proceeds for a Creation Unit will be paid either in-kind or in cash or a combination thereof, as determined by the Trust. With respect to in-kind redemptions of the Fund, redemption proceeds for a Creation Unit will consist of Fund Securities plus cash in an amount equal to the difference between the NAV of the Shares being redeemed, as next determined after a receipt of a request in proper form, and the value of the Fund Securities (the ''Cash Redemption Amount''). In the event that the Fund Securities have a value greater than the NAV of the Shares, a compensating cash payment equal to the differential will be required to be made by or through an Authorized Participant by the redeeming shareholder. Notwithstanding the foregoing, at the

[13] The ETFs in which the Fund may invest are Investment Company Units (as described in NYSE Arca Equities Rule 5.2(j)(3)), Portfolio Depositary Receipts (as described in NYSE Arca Equities Rule 8.100), and Managed Fund Shares (as described in NYSE Arca Equities Rule 8.600). The Fund will not invest in leveraged ETFs (*e.g.,* 2X or 3X) or inverse or inverse leveraged ETFs (*e.g.,* –1X or –2X).

[14] The Fund will include appropriate risk disclosure in its offering documents, including leveraging risk. Leveraging risk is the risk that certain transactions of a fund, including a fund's use of derivatives, may give rise to leverage, causing a fund to be more volatile than if it had not been leveraged. To mitigate leveraging risk, the Adviser will segregate or earmark liquid assets or otherwise cover the transactions that give rise to such risk. *See* 15 U.S.C. 80a–18; Investment Company Act Release No. 10666 (April 18, 1979), 44 FR 25128 (April 27, 1979); Dreyfus Strategic Investing, Commission No-Action Letter (June 22, 1987); Merrill Lynch Asset Management, L.P., Commission No-Action Letter (July 2, 1996).

[15] 26 U.S.C. 851.

[16] The NAV of the Fund's Shares generally will be calculated once daily Monday through Friday as of the close of regular trading on the New York Stock Exchange (''NYSE''), generally 4:00 p.m. Eastern Time (''E.T.'') (the ''NAV Calculation Time''). NAV per Share will be calculated by dividing the Fund's net assets by the number of Fund Shares outstanding.

Trust's discretion, an Authorized Participant may receive the corresponding cash value of the securities in lieu of the in-kind securities representing one or more Fund Securities.[17]

The right of redemption may be suspended or the date of payment postponed: (i) For any period during which the NYSE is closed (other than customary weekend and holiday closings); (ii) for any period during which trading on the NYSE is suspended or restricted; (iii) for any period during which an emergency exists as a result of which disposal of the Shares or determination of the Fund's NAV is not reasonably practicable; or (iv) in such other circumstances as permitted by the Commission.

For an order involving a Creation Unit to be effectuated at the Fund's NAV on a particular day, it must be received by the Distributor by or before the deadline for such order (''Order Cut-Off Time''). The Order Cut-Off Time for creation and redemption orders for the Fund will be 4:00 p.m. E.T. Order for creations or redemptions of Creation Units for cash generally must be submitted by 4:00 p.m. E.T. A standard creation or redemption transaction fee (as applicable) will be imposed to offset transfer and other transaction costs that may be incurred by the Fund.

The Fund Securities received on a redemption will generally correspond *pro rata,* to the extent practicable, to the securities in the Fund's portfolio. Fund Securities received on redemption may not be identical to Deposit Securities that are applicable to creations of Creation Units.

Because certain listed derivatives are not eligible for in-kind transfer, they will be substituted with an amount of cash of equal value when the Fund processes redemptions of Creation Units in-kind. Specifically, the Fund will transfer the corresponding cash value of exchange-traded options in lieu of in-kind securities.

Net Asset Value

The Fund will calculate its NAV at the close of the Exchange's Core Trading Session [18] of each business day (normally 4:00 p.m. E.T.) using the values of the Fund's portfolio securities. The Fund will calculate its NAV by: (i) Taking the current market value of its total assets; (ii) subtracting any liabilities; and (iii) dividing that amount by the total amount of Shares outstanding.

In valuing its securities, the Fund will use market quotes or official closing prices if they are readily available. In cases where quotes are not readily available, the Fund may value securities based on fair values developed using methods approved by the Fund's Board of Trustees (''Board''), as discussed below. When valuing Money Market Instruments with remaining maturities of 60 days or less, the Fund may use the security's amortized cost, which approximates the security's market value.

ETFs, index options, options on ETFs, equity index futures contracts, options on futures contracts, and options on stocks will be valued at the last reported sale price or the official closing price on that exchange where the security or other instrument is primarily traded on the day that the valuation is made. With respect to derivative instruments, if, however, neither the last sales price nor the official closing price is available, each of these derivative instruments will be valued based on the midpoint of bid-ask prices.

Money Market Instruments (except for money market mutual funds) will generally be valued based on the midpoint of bid-ask prices received from independent pricing services as of the announced closing time for trading in fixed-income instruments in the market in which they trade. In determining the value of such a Money Market Instrument, pricing services determine valuations for normal institutional-size trading units of such securities using valuation models or matrix pricing, which incorporates yield and/or price with respect to bonds that are considered comparable in characteristics such as rating, interest rate and maturity date and quotations from securities dealers to determine current value. Money market mutual funds will be valued at their respective NAV.

Availability of Information

The Fund's Web site (*www.virtus.com*), which will be publicly available prior to the public offering of Shares, will include a form of the prospectus for the Fund that may be downloaded. The Web site will include additional quantitative information updated on a daily basis, including, for the Fund: (1) The prior business day's reported NAV, mid-point of the bid/ask spread at the time of calculation of such NAV (the ''Bid/Ask Price''),[19] and a calculation of the premium and discount of the Bid/Ask Price against the NAV; and (2) data in chart format displaying the frequency distribution of discounts and premiums of the daily Bid/Ask Price against the NAV, within appropriate ranges, for each of the four previous calendar quarters.

On each business day, before commencement of trading in Shares in the Core Trading Session on the Exchange, the Trust will disclose on its Web site the following information regarding each portfolio holding, as applicable to the type of holding: Ticker symbol, CUSIP number or other identifier, if any; a description of the holding (including the type of holding); the identity of the security, index or other asset or instrument underlying the holding, if any; for options, the option strike price; quantity held (as measured by, for example, par value, notional value or number of shares, contracts or units); maturity date, if any; coupon rate, if any; market value of the holding; and the percentage weighting of the holding in the Fund's portfolio. The Web site information will be publicly available at no charge.

In addition, a portfolio composition file, which will include the security names and quantities of securities and other assets required to be delivered in exchange for the Fund's Shares, together with estimates and actual cash components, will be publicly disseminated prior to the opening of the Exchange via the NSCC. The portfolio will represent one Creation Unit of the Fund. Authorized Participants may refer to the portfolio composition file for information regarding options, short-term U.S. Treasury Securities, Money Market Instruments, and any other instrument that may comprise the Fund's portfolio on a given day.

Investors can also obtain the Trust's Statement of Additional Information (''SAI''), the Fund's Shareholder Reports, and its Form N–CSR and Form N–SAR, filed twice a year. The Trust's SAI and Shareholder Reports will be available free upon request from the Trust, and those documents and the Form N–CSR may be viewed on screen or downloaded from the Commission's Web site at *www.sec.gov.*

Information regarding market price and trading volume for the Shares will be continually available on a real-time basis throughout the day on brokers'

[17] The Adviser represents that, to the extent the Trust effects the redemption of Shares in cash, such transactions will be effected in the same manner for all Authorized Participants.

[18] The Core Trading Session is 9:30 a.m. to 4:00 p.m. E.T.

[19] The Bid/Ask Price of the Fund's Shares will be determined using the midpoint of the highest bid and the lowest offer on the Exchange as of the time of calculation of the Fund's NAV. The records relating to Bid/Ask Prices will be retained by the Fund and its service providers.

computer screens and other electronic services. Information regarding the previous day's closing price and trading volume information for the Shares will be published daily in the financial section of newspapers. Quotation and last sale information for the Shares and U.S. exchange-traded common stocks will be available via the Consolidated Tape Association (''CTA'') high-speed line. Quotation and last sale information for U.S. exchange-listed options contracts cleared by The Options Clearing Corporation will be available via the Options Price Reporting Authority.

In addition, the value of the Index will be published by one or more major market data vendors every 15 seconds during the Core Trading Session. In addition, the Intraday Indicative Value (''IIV'') as defined in NYSE Arca Equities Rule 5.2(j)(3), Commentary .01(c) will be widely disseminated at least every 15 seconds during the Core Trading Session by one or more major market vendors.[20] All Fund holdings will be included in calculating the IIV.

The dissemination of the IIV is intended to allow investors to determine the value of the underlying portfolio of the Fund on a daily basis and to approximate that value throughout the trading day. The intra-day, closing and settlement prices of the portfolio securities and other Fund investments, including common stocks and options, will also be readily available from the exchanges trading such instruments, automated quotation systems, published or other public sources. The intra-day, closing and settlement prices of Money Market Instruments will be readily available from published and other public sources or on-line information services.

Initial and Continued Listing

The Shares will conform to the initial and continued listing criteria under NYSE Arca Equities Rules 5.2(j)(3) and 5.5(g)(2), except that the Index will not meet the requirements of NYSE Arca Equities Rule 5.2(j)(3), Commentary .01(a)(A)(1–5) in that the Index will include options. The Exchange represents that, for initial and/or continued listing, the Fund must be in compliance with Rule 10A–3 [21] under the Act. A minimum of 100,000 Shares will be outstanding at the commencement of trading on the Exchange. The Exchange will obtain a representation from the issuer of the Shares that the NAV per Share will be calculated daily and that the NAV and the Disclosed Portfolio will be made available to all market participants at the same time.

Trading Halts

With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares of a Fund. Shares of the Fund will be halted if the ''circuit breaker'' parameters in NYSE Arca Equities Rule 7.12 are reached. Trading may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. These may include: (1) The extent to which trading is not occurring in the securities and/or the financial instruments of the Fund; or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present.

If the IIV, Index value or the value of the Index components is not being disseminated as required, the Exchange may halt trading during the day in which the disruption occurs; if the interruption persists past the day in which it occurred, the Exchange will halt trading no later than the beginning of the trading day following the interruption. The Exchange will obtain a representation from the Fund that the NAV for the Fund will be calculated daily and will be made available to all market participants at the same time. Under NYSE Arca Equities Rule 7.34(a)(5), if the Exchange becomes aware that the NAV for the Fund is not being disseminated to all market participants at the same time, it will halt trading in the Shares until such time as the NAV is available to all market participants.

Trading Rules

The Exchange deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities. Shares will trade on the NYSE Arca Marketplace from 4 a.m. to 8 p.m. E.T. in accordance with NYSE Arca Equities Rule 7.34 (Opening, Core, and Late Trading Sessions). The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions. As provided in NYSE Arca Equities Rule 7.6, Commentary .03, the minimum price variation (''MPV'') for quoting and entry of orders in equity securities traded on the NYSE Arca Marketplace is $0.01, with the exception of securities that are priced less than $1.00 for which the MPV for order entry is $0.0001.

Surveillance

The Exchange represents that trading in the Shares will be subject to the existing trading surveillances administered by the Exchange, as well as cross-market surveillances administered by the Financial Industry Regulatory Authority (''FINRA'') on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws.[22] The Exchange represents that these procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and federal securities laws applicable to trading on the Exchange.

The surveillances referred to above generally focus on detecting securities trading outside their normal patterns, which could be indicative of manipulative or other violative activity. When such situations are detected, surveillance analysis follows and investigations are opened, where appropriate, to review the behavior of all relevant parties for all relevant trading violations.

The Exchange or FINRA, on behalf of the Exchange, or both, will communicate as needed regarding trading in the Shares, ETFs, options and futures with markets and other entities that are members of the Intermarket Surveillance Group (''ISG''), and the Exchange or FINRA, on behalf of the Exchange, or both, may obtain trading information regarding trading in the Shares, ETFs, options and futures from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares, ETFs, options and futures from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.[23] The Exchange is able to access from FINRA, as needed, trade information for certain fixed income securities held by the Fund reported to FINRA's Trade Reporting and Compliance Engine (''TRACE'').

[20] Currently, it is the Exchange's understanding that several major market data vendors display and/or make widely available IIV's taken from the CTA or other data feeds.

[21] *See* 17 CFR 240.10A–3.

[22] FINRA conducts cross-market surveillances on behalf of the Exchange pursuant to a regulatory services agreement. The Exchange is responsible for FINRA's performance under this regulatory services agreement.

[23] For a list of the current members of ISG, *see www.isgportal.org.* The Exchange notes that not all components of the Disclosed Portfolio for the Fund may trade on markets that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

In addition, the Exchange also has a general policy prohibiting the distribution of material, non-public information by its employees.

All statements and representations made in this filing regarding (a) the description of the portfolio, (b) limitations on portfolio holdings or reference assets, or (c) the applicability of Exchange rules and surveillance procedures shall constitute continued listing requirements for listing the Shares on the Exchange.

The issuer has represented to the Exchange that it will advise the Exchange of any failure by the Fund to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Act, the Exchange will monitor for compliance with the continued listing requirements. If the Fund is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under NYSE Arca Equities Rule 5.5(m).

Information Bulletin

Prior to the commencement of trading of Shares in the Fund, the Exchange will inform its ETP Holders in an Information Bulletin (''Bulletin'') of the special characteristics and risks associated with trading the Shares. Specifically, the Bulletin will discuss the following: (1) The procedures for purchases and redemptions of Shares in Creation Unit aggregations (and that Shares are not individually redeemable); (2) NYSE Arca Equities Rule 9.2(a), which imposes a duty of due diligence on its ETP Holders to learn the essential facts relating to every customer prior to trading the Shares; (3) the risks involved in trading the Shares during the Opening and Late Trading Sessions when an updated IIV or Index value will not be calculated or publicly disseminated; (4) how information regarding the IIV and Index value will be disseminated; (5) the requirement that ETP Holders deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (6) trading information.

In addition, the Bulletin will reference that the Fund is subject to various fees and expenses described in the Registration Statement. The Bulletin will discuss any exemptive, no-action, and interpretive relief granted by the Commission from any rules under the Act. The Bulletin will also disclose that the NAV for the Shares will be calculated after 4:00 p.m. E.T. each trading day.

2. Statutory Basis

The Exchange believes that the proposal is consistent with Section 6(b) of the Act [24] in general and Section 6(b)(5) of the Act [25] in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices in that the Shares will be listed and traded on the Exchange pursuant to the initial and continued listing criteria in NYSE Arca Equities Rule 5.2(j)(3), except that the Index will partially consist of options on the S&P 500 Index. The Exchange believes that its surveillance procedures are adequate to properly monitor the trading of the Shares on the Exchange during all trading sessions and to deter and detect violations of Exchange rules and the applicable federal securities laws.

The proposed rule change is designed to promote just and equitable principles of trade and to protect investors and the public interest in that the Exchange will obtain a representation from the issuer of the Shares that the NAV per Share will be calculated daily every day the NYSE is open, and that the NAV will be made available to all market participants at the same time. In addition, a large amount of publicly available information will be publicly available regarding the Fund and the Shares, thereby promoting market transparency. The Index consists entirely of US Component Stocks and SPX options, which are traded on the Chicago Board Options Exchange.

Moreover, the IIV will be widely disseminated by one or more major market data vendors at least every 15 seconds during the Exchange's Core Trading Session. Information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services, and quotations and last sale information will be available via the CTA high-speed line. Quotation and last sale information for the Shares, ETFs, and U.S. exchange traded common stocks will be available via the CTA high-speed line. Quotation and last sale information for U.S. exchange-listed options contracts cleared by The Options Clearing Corporation will be available via the Options Price Reporting Authority. The intra-day, closing and settlement prices of exchange-traded portfolio assets, including common stocks and options will be readily available from the securities exchanges trading such securities, automated quotation systems, published or other public sources, or online information services such as Bloomberg or Reuters. The Fund's Web site, which will be publicly available prior to the public offering of Shares, will include a form of the prospectus for the Fund that may be downloaded. On each business day, before commencement of trading in Shares in the Core Trading Session on the Exchange, the Trust will disclose on its Web site the following information regarding each portfolio holding, as applicable to the type of holding: Ticker symbol, CUSIP number or other identifier, if any; a description of the holding (including the type of holding); the identity of the security, index or other asset or instrument underlying the holding, if any; for options, the option strike price; quantity held (as measured by, for example, par value, notional value or number of shares, contracts or units); maturity date, if any; coupon rate, if any; market value of the holding; and the percentage weighting of the holding in the Fund's portfolio. In addition, a portfolio composition file, which will include the security names and quantities of securities and other assets required to be delivered in exchange for the Fund's Shares, together with estimates and actual cash components, will be publicly disseminated prior to the opening of the Exchange via the NSCC. Authorized Participants may refer to the portfolio composition file for information regarding options, short-term U.S. Treasury Securities, Money Market Instruments, and any other instrument that may comprise the Fund's portfolio on a given day. Moreover, prior to commencement of trading, the Exchange will inform its ETP Holders in an Information Bulletin of the special characteristics and risks associated with trading the Shares. Trading in Shares of the Fund will be halted if the circuit breaker parameters in NYSE Arca Equities Rule 7.12 have been reached or because of market conditions or for reasons that, in the view of the Exchange, make trading the Shares inadvisable. In addition, as noted above, investors will have ready access to information regarding the Fund's

[24] 15 U.S.C. 78f.

[25] 15 U.S.C. 78f(b)(5).

holdings, the IIV, the Fund's portfolio, and quotation and last sale information for the Shares.

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest in that it will facilitate the listing and trading of an additional type of exchange-traded product that will enhance competition among market participants, to the benefit of investors and the marketplace. As noted above, the Shares will be subject to the existing trading surveillances administered by the Exchange and FINRA on behalf of the Exchange. The Exchange or FINRA, on behalf of the Exchange, or both, will communicate as needed regarding trading in the Shares, US Component Stocks and options with other markets and other entities that are members of ISG, and the Exchange and FINRA, on behalf of the Exchange, or both, may obtain trading information in the Shares, US Component Stocks and options from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares, US Component Stocks and options from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement. In addition, as noted above, investors will have ready access to information regarding the Fund's holdings, the IIV, and quotation and last sale information for the Shares.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that the proposed rule change will facilitate the listing and trading of an additional type of exchange-traded fund that will enhance competition among market participants, to the benefit of investors and the marketplace.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEArca–2016–131 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEArca–2016–131. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2016–131 and should be submitted on or before November 10, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[26]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–25345 Filed 10–19–16; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–79100; File No. SR–ISE–2016–25]

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Schedule of Fees

October 14, 2016.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 3, 2016, the International Securities Exchange, LLC (''ISE'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change, as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the Schedule of Fees as described in more detail below.

The text of the proposed rule change is available on the Exchange's Web site at *www.ise.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the

[26] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend the Exchange's Schedule of Fees to make changes to (1) the Market Maker Plus [3] program in SPY and QQQ, (2) Priority Customer [4] taker fees in Select Symbols,[5] and (3) the fee cap for strategy orders. Each of these changes is described below.

Market Maker Plus

In order to promote and encourage liquidity in Select Symbols, the Exchange offers Market Makers [6] that meet the quoting requirements for Market Maker Plus enhanced rebates for adding liquidity in those symbols. These Market Maker Plus rebates are provided on a per symbol basis in three tiers based on the time the Market Maker is quoting at the national best bid or offer (''NBBO''). Currently, the rebate is $0.10 per contract for Tier 1, $0.18 per contract for Tier 2, and $0.22 per contract for Tier 3.[7] The Exchange now proposes to introduce a special rebate program for Market Makers that achieve Market Maker Plus in SPY or QQQ.[8] Specifically, Market Makers that achieve Tier 2 or 3 of Market Maker Plus in either SPY or QQQ will receive the SPY or QQQ rebate based on the highest Market Maker Plus tier achieved in either product. For example, a Market Maker that achieves Tier 1 Market Maker Plus in QQQ but Tier 3 Market Maker Plus in SPY will receive a Tier 3 rebate in both SPY and QQQ. Instead of the current rebates, however, Market Maker Plus orders in SPY or QQQ would be entitled to a rebate of $0.16 per contract for Tier 2, and $0.20 per contract for Tier 3. The Exchange believes that allowing Market Makers to qualify for higher tiers of Market Maker Plus in SPY and QQQ based on quoting at the NBBO in either product will encourage Market Makers to continue to make tight markets in these very active symbols, even with the slightly lower proposed rebate amounts.

Priority Customer Taker Fees

The Exchange charges a taker fee for regular orders in Select Symbols. This fee is $0.44 per contract for Market Maker orders, and $0.45 per contract for Non-ISE Market Maker,[9] Firm Proprietary [10]/Broker-Dealer,[11] and Professional Customer orders.[12] For Priority Customer orders this fee is $0.30 per contract, or $0.25 per contract for Members with a total affiliated Priority Customer average daily volume (''ADV'') that equals or exceeds 200,000 contracts.[13] The Exchange now proposes to increase the taker fee for Priority Customer orders in Select Symbols to $0.31 per contract, or $0.26 per contract for Members that achieve the higher Priority Customer ADV tier.

Strategy Caps

In November 2015, the Exchange introduced a strategy fee cap program that provides a cap on Market Maker, Non-ISE Market Maker, Firm Proprietary/Broker-Dealer, and Professional Customer fees charged for six types of strategy trades: Reversals, conversions, jelly rolls, mergers, short stock interest, and box spreads.[14] In particular, the Exchange caps transaction fees associated with strategy executions at $750 per trade for orders executed on the same day in the same option class. In addition, strategy trades are subject to a monthly cap of $25,000 per member for all strategy executions.[15] If a member submits an order that qualifies for the per trade or per month fee cap for strategy orders, only the amount actually paid for those trades (*i.e.,* the capped amounts) are counted towards the Crossing Fee Cap, if applicable.[16] The Exchange now proposes to eliminate these strategy caps, which have not attracted a significant volume of strategy executions to the Exchange.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[17] in general, and Section 6(b)(4) of the Act,[18] in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among its members and other persons using its facilities.

Market Maker Plus

The Exchange believes that it is reasonable and equitable to offer special rebates for Market Makers that achieve Market Maker Plus in SPY or QQQ. As proposed, Market Makers would receive a slightly lower Market Maker Plus rebate in these two symbols, but would be able to receive higher tiers of rebates in both of these symbols by meeting the

[3] A Market Maker Plus is a Market Maker who is on the National Best Bid or National Best Offer a specified percentage of the time for series trading between $0.03 and $3.00 (for options whose underlying stock's previous trading day's last sale price was less than or equal to $100) and between $0.10 and $3.00 (for options whose underlying stock's previous trading day's last sale price was greater than $100) in premium in each of the front two expiration months. The specified percentage is at least 80% but lower than 85% of the time for Tier 1, at least 85% but lower than 95% of the time for Tier 2, and at least 95% of the time for Tier 3. A Market Maker's single best and single worst quoting days each month based on the front two expiration months, on a per symbol basis, will be excluded in calculating whether a Market Maker qualifies for this rebate, if doing so will qualify a Market Maker for the rebate.

[4] A ''Priority Customer'' is a person or entity that is not a broker/dealer in securities, and does not place more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s), as defined in ISE Rule 100(a)(37A).

[5] ''Select Symbols'' are options overlying all symbols listed on the ISE that are in the Penny Pilot Program.

[6] The term ''Market Makers'' refers to ''Competitive Market Makers'' and ''Primary Market Makers'' collectively. *See* ISE Rule 100(a)(25).

[7] For all Market Maker Plus tiers, a $0.30 per contract fee applies when trading against Priority Customer complex orders that leg into the regular order book. No fee is charged or rebate provided when trading against non-Priority Customer complex orders that leg into the regular order book.

[8] Market Makers will continue to receive the rebates described above for products other than SPY or QQQ.

[9] A ''Non-ISE Market Maker'' is a market maker as defined in Section 3(a)(38) of the Securities Exchange Act of 1934, as amended, registered in the same options class on another options exchange.

[10] A ''Firm Proprietary'' order is an order submitted by a member for its own proprietary account.

[11] A ''Broker-Dealer'' order is an order submitted by a member for a broker-dealer account that is not its own proprietary account.

[12] A ''Professional Customer'' is a person or entity that is not a broker/dealer and is not a Priority Customer.

[13] Priority Customer ADV includes all volume in all symbols and order types. All eligible volume from affiliated Members will be aggregated in determining total affiliated Priority Customer ADV, provided there is at least 75% common ownership between the Members as reflected on each Member's Form BD, Schedule A. For purposes of determining Priority Customer ADV, any day that the regular order book is not open for the entire trading day or the Exchange instructs members in writing to route their orders to other markets may be excluded from such calculation; provided that the Exchange will only remove the day for members that would have a lower ADV with the day included.

[14] *See* Securities Exchange Act Release No. 76451 (November 17, 2015), 80 FR 73034 (November 23, 2015) (SR–ISE–2015–37).

[15] All eligible volume from affiliated members will be aggregated for purposes of the fee cap, provided there is at least 75% common ownership between the members as reflected on each member's Form BD, Schedule A.

[16] For example, if a member submits a strategy order that would normally incur a fee of $2,000 but is capped at $750 per trade, only the $750 that is actually paid by the member is counted towards the Crossing Fee Cap, if applicable.

[17] 15 U.S.C. 78f.

[18] 15 U.S.C. 78f(b)(4).

requirements of Market Maker Plus in either symbol. The Market Maker Plus program was designed by the Exchange to reward members based on maintaining tight markets in options that they quote on ISE. The proposed changes will continue to provide these incentives to Market Makers, to the benefit of all market participants that trade on the Exchange. Furthermore, the Exchange does not believe that the proposed fee change is unfairly discriminatory as all Market Makers will qualify for the same rebates based on achieving the appropriate tier of Market Maker Plus status in these products. Finally, the Exchange continues to believe that it is not unfairly discriminatory to offer these rebates only to Market Makers as Market Makers, and, in particular, those Market Makers that achieve Market Maker Plus status, are subject to additional requirements and obligations (such as quoting requirements) that other market participants are not.

Priority Customer Taker Fees

The Exchange believes that the increased Priority Customer taker fees are reasonable and equitable because the proposed fees are only one cent above their current levels, and remain significantly lower than the fees charged to other market participants that remove liquidity on the Exchange. In addition, the Exchange believes that it is equitable and not unfairly discriminatory to continue to provide lower fees for Priority Customer orders. A Priority Customer is by definition not a broker or dealer in securities, and does not place more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s). This limitation does not apply to participants whose behavior is substantially similar to that of market professionals, including Professional Customers, who will generally submit a higher number of orders than Priority Customers.

Strategy Caps

The Exchange believes that it is reasonable, equitable, and not unfairly discriminatory to eliminate its fee cap for strategy orders as the fee cap has not been successful in attracting that order flow to the Exchange. In removing the fee cap, strategy trades will no longer be singled out for special incentives on the Exchange, consistent with treatment of these trades prior to the introduction of the fee cap in November 2015.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[19] the Exchange does not believe that the proposed rule change will impose any burden on intermarket or intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that the proposed fees and rebates remain competitive with those on other options markets, and will continue to attract order flow to the Exchange. The Exchange operates in a highly competitive market in which market participants can readily direct their order flow to competing venues. In such an environment, the Exchange must continually review, and consider adjusting, its fees and rebates to remain competitive with other exchanges. For the reasons described above, the Exchange believes that the proposed fee changes reflect this competitive environment.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act,[20] and subparagraph (f)(2) of Rule 19b–4 thereunder,[21] because it establishes a due, fee, or other charge imposed by ISE.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–ISE–2016–25 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–ISE–2016–25. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ISE–2016–25, and should be submitted on or before November 10, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–25344 Filed 10–19–16; 8:45 am]

BILLING CODE 8011–01–P

[19] 15 U.S.C. 78f(b)(8).

[20] 15 U.S.C. 78s(b)(3)(A)(ii).

[21] 17 CFR 240.19b–4(f)(2).

[22] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Public Notice: 9766]

Review of the Designation as a Foreign Terrorist Organization of Tehrik-e Taliban Pakistan (TTP) (and Other Aliases)

Based upon a review of the Administrative Record assembled pursuant to Section 219(a)(4)(C) of the Immigration and Nationality Act, as amended (8 U.S.C. § 1189(a)(4)(C)) (''INA''), and in consultation with the Attorney General and the Secretary of the Treasury, I conclude that the circumstances that were the basis for the designation of the aforementioned organization as a Foreign Terrorist Organization have not changed in such a manner as to warrant revocation of the designation and that the national security of the United States does not warrant a revocation of the designation.

Therefore, I hereby determine that the designation of the aforementioned organization as a Foreign Terrorist Organization, pursuant to Section 219 of the INA (8 U.S.C. § 1189), shall be maintained.

This determination shall be published in the **Federal Register**.

Dated: September 28, 2016.

John F. Kerry,

Secretary of State.

[FR Doc. 2016–25423 Filed 10–19–16; 8:45 am]

BILLING CODE 4710–AD–P

DEPARTMENT OF STATE

[Public Notice: 9769]

U.S. Department of State Advisory Committee on Private International Law: Notice of Annual Meeting

The Department of State's Advisory Committee on Private International Law (ACPIL) will hold its annual meeting on Wednesday, November 16, 2016 in Washington, DC The meeting will be held at the Howard University School of Law, 2900 Van Ness Street, Washington, DC 20008. The program is scheduled to run from 9:00 a.m. to 4:30 p.m.

Time permitting, we expect that the discussion will focus on developments and ongoing work in major PIL organizations, We also intend to discuss possible future work in the PIL field and solicit suggestions in that regard.

Please advise as early as possible if you plan to attend. The meeting is open to the public up to the capacity of the conference facility, and space will be reserved on a first come, first served basis. Persons who wish to have their views considered are encouraged, but not required, to submit written comments in advance. Those who are unable to attend are also encouraged to submit written views. Comments should be sent electronically to *pil@state.gov.* Those planning to attend should provide name, affiliation and contact information to *pil@state.gov.* You may also use this email address to obtain additional information. A member of the public needing reasonable accommodation should advise those same contacts not later than November 7th. Requests made after that date will be considered, but might not be able to be fulfilled.

Dated: October 7, 2016.

John J. Kim,

Assistant Legal Adviser, Office of Private International Law, Office of the Legal Adviser, Department of State.

[FR Doc. 2016–25415 Filed 10–19–16; 8:45 am]

BILLING CODE 7410–08–P

DEPARTMENT OF STATE

[Public Notice: 9765]

Review of the Designation as a Foreign Terrorist Organization of Army of Islam (and Other Aliases)

Based upon a review of the Administrative Record assembled pursuant to Section 219(a)(4)(C) of the Immigration and Nationality Act, as amended (8 U.S.C. 1189(a)(4)(C)) (''INA''), and in consultation with the Attorney General and the Secretary of the Treasury, I conclude that the circumstances that were the basis for the designation of the aforementioned organization as a Foreign Terrorist Organization have not changed in such a manner as to warrant revocation of the designation and that the national security of the United States does not warrant a revocation of the designation.

Therefore, I hereby determine that the designation of the aforementioned organization as a Foreign Terrorist Organization, pursuant to Section 219 of the INA (8 U.S.C. 1189), shall be maintained.

This determination shall be published in the **Federal Register.**

Dated: October 6, 2016.

John F. Kerry,

Secretary of State.

[FR Doc. 2016–25417 Filed 10–19–16; 8:45 am]

BILLING CODE 4710–AD–P

DEPARTMENT OF STATE

[Public Notice: 9768]

Review of the Designation as a Foreign Terrorist Organization of the Communist Party of the Philippines/New People's Army (and Other Aliases)

Based upon a review of the Administrative Record assembled pursuant to Section 219(a)(4)(C) of the Immigration and Nationality Act, as amended (8 U.S.C. 1189(a)(4)(C)) (''INA''), and in consultation with the Attorney General and the Secretary of the Treasury, I conclude that the circumstances that were the basis for the designation of the aforementioned organization as a Foreign Terrorist Organization have not changed in such a manner as to warrant revocation of the designation and that the national security of the United States does not warrant a revocation of the designation.

Therefore, I hereby determine that the designation of the aforementioned organization as a Foreign Terrorist Organization, pursuant to Section 219 of the INA (8 U.S.C. 1189), shall be maintained.

This determination shall be published in the **Federal Register**.

Dated: October 3, 2016.

John F. Kerry,

Secretary of State.

[FR Doc. 2016–25422 Filed 10–19–16; 8:45 am]

BILLING CODE 4710–AD–P

DEPARTMENT OF STATE

[Public Notice: 9767]

Review of the Designation as a Foreign Terrorist Organization of Indian Mujahedeen (and Other Aliases)

Based upon a review of the Administrative Record assembled pursuant to Section 219(a)(4)(C) of the Immigration and Nationality Act, as amended (8 U.S.C. 1189(a)(4)(C)) (''INA''), and in consultation with the Attorney General and the Secretary of the Treasury, I conclude that the circumstances that were the basis for the designation of the aforementioned organization as a Foreign Terrorist Organization have not changed in such a manner as to warrant revocation of the designation and that the national security of the United States does not warrant a revocation of the designation.

Therefore, I hereby determine that the designation of the aforementioned organization as a Foreign Terrorist Organization, pursuant to Section 219 of

the INA (8 U.S.C. 1189), shall be maintained.

This determination shall be published in the **Federal Register**.

Dated: September 28, 2016.

John F. Kerry,

Secretary of State.

[FR Doc. 2016–25421 Filed 10–19–16; 8:45 am]

BILLING CODE 4710–AD–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[FMCSA Docket No. FMCSA–2016–0219]

Qualification of Drivers; Exemption Applications; Diabetes Mellitus

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition.

SUMMARY: FMCSA confirms its decision to exempt 37 individuals from its rule prohibiting persons with insulin-treated diabetes mellitus (ITDM) from operating commercial motor vehicles (CMVs) in interstate commerce. The exemptions enable these individuals to operate CMVs in interstate commerce.

DATES: The exemptions were effective on September 30, 2016. The exemptions expire on September 30, 2018.

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov*, FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–113, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m. e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

I. Electronic Access

You may see all the comments online through the Federal Document Management System (FDMS) at: *http://www.regulations.gov.*

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* and/or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov*, as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

II. Background

On August 30, 2016, FMCSA published a notice of receipt of Federal diabetes exemption applications from 37 individuals and requested comments from the public (81 FR 59723. The public comment period closed on September 29, 2016, and 2 comments were received.

FMCSA has evaluated the eligibility of the 37 applicants and determined that granting the exemptions to these individuals would achieve a level of safety equivalent to or greater than the level that would be achieved by complying with the current regulation 49 CFR 391.41(b)(3).

Diabetes Mellitus and Driving Experience of the Applicants

The Agency established the current requirement for diabetes in 1970 because several risk studies indicated that drivers with diabetes had a higher rate of crash involvement than the general population. The diabetes rule provides that ''A person is physically qualified to drive a commercial motor vehicle if that person has no established medical history or clinical diagnosis of diabetes mellitus currently requiring insulin for control'' (49 CFR 391.41(b)(3)).

FMCSA established its diabetes exemption program, based on the Agency's July 2000 study entitled ''A Report to Congress on the Feasibility of a Program to Qualify Individuals with Insulin-Treated Diabetes Mellitus to Operate in Interstate Commerce as Directed by the Transportation Act for the 21st Century.'' The report concluded that a safe and practicable protocol to allow some drivers with ITDM to operate CMVs is feasible. The September 3, 2003 (68 FR 52441), **Federal Register** notice in conjunction with the November 8, 2005 (70 FR 67777), **Federal Register** notice provides the current protocol for allowing such drivers to operate CMVs in interstate commerce.

These 37 applicants have had ITDM over a range of 1 to 43 years. These applicants report no severe hypoglycemic reactions resulting in loss of consciousness or seizure, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning symptoms, in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the past 5 years. In each case, an endocrinologist verified that the driver has demonstrated a willingness to properly monitor and manage his/her diabetes mellitus, received education related to diabetes management, and is on a stable insulin regimen. These drivers report no other disqualifying conditions, including diabetes-related complications. Each meets the vision requirement at 49 CFR 391.41(b)(10).

The qualifications and medical condition of each applicant were stated and discussed in detail in the August 30, 2016, **Federal Register** notice and they will not be repeated in this notice.

III. Discussion of Comments

FMCSA received 2 comments in this proceeding. John Grubbs stated that he believes FMCSA should grant exemptions to drivers that use slow-acting insulin. FMCSA does grant exemptions to drivers who use slow-acting insulin. Deb Carlson stated that the state of Minnesota has no concerns with granting exemptions to Craig W. Dennis, Ross L. Christenson, Troy M. Keller, and Ray E. Vaughn.

IV. Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the diabetes requirement in 49 CFR 391.41(b)(3) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. The exemption allows the applicants to operate CMVs in interstate commerce.

To evaluate the effect of these exemptions on safety, FMCSA considered medical reports about the applicants' ITDM and vision, and reviewed the treating endocrinologists' medical opinion related to the ability of the driver to safely operate a CMV while using insulin.

Consequently, FMCSA finds that in each case exempting these applicants from the diabetes requirement in 49 CFR 391.41(b)(3) is likely to achieve a level of safety equal to that existing without the exemption.

V. Conditions and Requirements

The terms and conditions of the exemption will be provided to the applicants in the exemption document and they include the following: (1) That each individual submit a quarterly monitoring checklist completed by the treating endocrinologist as well as an annual checklist with a comprehensive medical evaluation; (2) that each individual reports within 2 business days of occurrence, all episodes of severe hypoglycemia, significant complications, or inability to manage diabetes; also, any involvement in an accident or any other adverse event in

a CMV or personal vehicle, whether or not it is related to an episode of hypoglycemia; (3) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (4) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy in his/her driver's qualification file if he/she is self-employed. The driver must also have a copy of the certification when driving, for presentation to a duly authorized Federal, State, or local enforcement official.

VI. Conclusion

Based upon its evaluation of the 37 exemption applications, FMCSA exempts the following drivers from the diabetes requirement in 49 CFR 391.41(b)(3), subject to the requirements cited above 49 CFR 391.64(b):

Scott G. Barr (FL)
John L. Bauers (NE)
Robert J. Borgese (NJ)
Rodger L. Bratton (LA)
John T. Brecken (MI)
Ross L. Christenson (MN)
Daniel B. Cox (WA)
Raymond Davila, Jr. (NJ)
Craig W. Dennis (MN)
Lawrence M. Duffy, III (NY)
Douglas Endicott (VA)
Carmine Ferraro (CT)
Thomas P. Fogerty (MA)
M.A. Gandolfo, Jr. (NY)
Merlyn C. Gerdes (IA)
Fabian Guerrero-Rodriguez (NV)
Loren T. Hall (NY)
Mark A. Hersh (PA)
James C. Holcomb (LA)
Eric E. Humphrey (MA)
Troy M. Keller (MN)
Ronald C. Kolb (MT)
Robert J. Lockwood (CT)
Kenneth R. Logan, Sr. (IL)
Adam W. Martin (MI)
Michael L. Mitchell (IA)
Clarence H. Mitchell 3rd (CT)
Lucas J. Preston (ND)
William B. L. Robinson (AR)
Michael T. Salsedo (HI)
F. Marino M. Sanchez (NY)
Andrew D. Sanford (TN)
Jeffery J. Stricherz (SD)
Michael A. Taylor (CT)
Jerry W. Thomas (NC)
Ray E. Vaughn (MN)
Ronald L. Yeager (PA)

In accordance with 49 U.S.C. 31136(e) and 31315 each exemption is valid for two years unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315. If the exemption is still effective at the end of the 2-year period, the person may apply to FMCSA for a renewal under procedures in effect at that time.

Issued on: October 14, 2016.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2016–25383 Filed 10–19–16; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[FMCSA Docket No. FMCSA–2015–0322]

Qualification of Drivers; Exemption Applications; Epilepsy and Seizure Disorders

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to exempt 17 individuals from the requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) that interstate commercial motor vehicle (CMV) drivers have ''no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause loss of consciousness or any loss of ability to control a CMV.'' The exemptions enable these individuals who have had one or more seizures and are taking anti-seizure medication to operate CMVs in interstate commerce.

DATES: The exemptions were effective on June 9, 2016. The exemptions expire on June 9, 2018.

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m. e.t., Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Electronic Access

You may see all the comments online through the Federal Document Management System (FDMS) at: *http://www.regulations.gov.*

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* and/or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *http://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *http://www.dot.gov/privacy.*

II. Background

On May 9, 2016, FMCSA published a notice announcing receipt of applications from 27 individuals requesting an exemption from the epilepsy prohibition in 49 CFR 391.41(b)(8) and requested comments from the public (81 FR 28131). The public comment period ended on June 8, 2016, and three comments were received.

FMCSA has evaluated the eligibility of these applicants and determined that granting exemptions to 17 of 27 individuals would achieve a level of safety equivalent to or greater than the level that would be achieved by complying with the current regulation 49 CFR 391.41(b)(8). On September 30, 2016, a notice announcing the denial of the remaining 10 applicants was published in the **Federal Register** (81 FR 67424).

The physical qualification standard for drivers regarding epilepsy found in 49 CFR 391.41(b)(8) states that a person is physically qualified to drive a CMV if that person:

> Has no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause the loss of consciousness or any loss of ability to control a CMV.

In addition to the regulations, FMCSA has published advisory criteria [1] to assist medical examiners in determining whether drivers with certain medical conditions are qualified to operate a CMV in interstate commerce. [49 CFR part 391, APPENDIX A TO PART 391—

[1] See *http://www.ecfr.gov/cgi-bin/text-idx?SID=e47b48a9ea42dd67d999246e23d97970&mc=true&node=pt49.5.391&rgn=div5#ap49.5.391_171.a* and *https://www.gpo.gov/fdsys/pkg/CFR-2015-title49-vol5/pdf/CFR-2015-title49-vol5-part391-appA.pdf.*

MEDICAL ADVISORY CRITERIA, section *H. Epilepsy: § 391.41(b)(8),* paragraphs 3, 4, and 5.]

III. Discussion of Comments

FMCSA received three comments in this proceeding. Eva Gonzales supports granting seizure exemptions to drivers who have maintained a safe driving record. Liam McMillin expressed concern for the risk of seizure while driving, and stated that ''motorists cannot predict when they will have their next episode''. The Minnesota Department of Public Safety expressed support for three of the applicants included in this notice and concern about health issues and the driving record of an applicant Shaen Smith. In response to this comment, Mr. Smith has been seizure-free over 18 years and meets the physical qualification standards to drive commercially. His five-year driving record includes no violations or accidents and the Agency has reviewed his ten-year driving history and concludes that he meets the requisite level of safety to drive commercially within the terms and conditions of his exemption.

IV. Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315(b), FMCSA may grant an exemption from the epilepsy/seizure standard in 49 CFR 391.41(b)(8) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. The exemption allows the applicants to operate CMVs in interstate commerce.

In reaching the decision to grant these exemption requests, FMCSA considered the 2007 recommendations of the Agency's Medical Expert Panel (MEP). The January 15, 2013, **Federal Register** notice (78 FR 3069) provides the current MEP recommendations, which is the criteria the Agency uses to grant seizure exemptions.

The Agency's decision regarding these exemption applications is based on an individualized assessment of each applicant's medical information, including the root cause of the respective seizure(s) and medical information about the applicant's seizure history, the length of time that has elapsed since the individual's last seizure, the stability of each individual's treatment regimen and the duration of time on or off of anti-seizure medication. In addition, the Agency reviewed the treating clinician's medical opinion related to the ability of the driver to safely operate a CMV with a history of seizure and each applicant's driving record found in the Commercial Driver's License Information System (CDLIS) for commercial driver's license (CDL) holders, and interstate and intrastate inspections recorded in the Motor Carrier Management Information System (MCMIS). For non-CDL holders, the Agency reviewed the driving records from the State Driver's Licensing Agency (SDLA).

These 17 applicants have been seizure-free over a range of six to 36 years while taking anti-seizure medication and maintained a stable medication treatment regimen for the last two years. In each case, the applicant's treating physician verified his or her seizure history and supports the ability to drive commercially. A summary of each applicant's seizure history was discussed in the May 9, 2016, **Federal Register** notice (81 FR 28131).

The Agency acknowledges the potential consequences of a driver experiencing a seizure while operating a CMV. However, the Agency believes the drivers granted this exemption have demonstrated that they are unlikely to have a seizure and their medical condition does not pose a risk to public safety.

Consequently, FMCSA finds that in each case exempting these applicants from the epilepsy/seizure standard in 49 CFR 391.41(b)(8) is likely to achieve a level of safety equal to that existing without the exemption.

IV. Conditions and Requirements

The terms and conditions of the exemption are provided to the applicants in the exemption document and includes the following: (1) Each driver must remain seizure-free and maintain a stable treatment during the two-year exemption period; (2) each driver must submit annual reports from their treating physicians attesting to the stability of treatment and that the driver has remained seizure-free; (3) each driver must undergo an annual medical examination by a certified Medical Examiner, as defined by 49 CFR 390.5; and (4) each driver must provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy of his/her driver's qualification file if he/she is self-employed. The driver must also have a copy of the exemption when driving, for presentation to a duly authorized Federal, State, or local enforcement official.

V. Preemption

During the period the exemption is in effect, no State shall enforce any law or regulation that conflicts with this exemption with respect to a person operating under the exemption.

VI. Conclusion

Based upon its evaluation of the 17 exemption applications, FMCSA exempts the following drivers from the epilepsy/seizure standard, 49 CFR 391.41(b)(8), subject to the requirements cited above:

Hamilton Barnard (CA)
Edward J. Carder, Jr. (OH)
Timothy M. Crampton (CT)
Henry Dennis Counts, Jr. (MD)
Michael D. Davis (ME)
Charlie E. Getchell (WI)
Dennis R. Giles (IN)
Robert W. Goddard (NH)
Larry G. Hediger (IL)
Martin Lancaster (ME)
Philip A. Logan (SC)
Eric J. McVetty (NH)
Donald John Richmond (SC)
Shaen Smith (MN)
Kevin Lee Sprinkle (NC)
Patrick Trimbo (MN)
Alan Washabaugh (PA)

In accordance with 49 U.S.C. 31315(b)(1), each exemption is valid for two years unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (1) The individual fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained prior to being granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136 and 31315.

Issued on: October 12, 2016.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2016–25387 Filed 10–19–16; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2016–0206]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to exempt 12 individuals from the vision requirement in the Federal Motor Carrier Safety Regulations (FMCSRs). They are unable to meet the vision requirement in one eye for various reasons. The exemptions will enable these individuals to operate

commercial motor vehicles (CMVs) in interstate commerce without meeting the prescribed vision requirement in one eye. The Agency has concluded that granting these exemptions will provide a level of safety that is equivalent to or greater than the level of safety maintained without the exemptions for these CMV drivers.

DATES: The exemptions were granted October 1, 2016. The exemptions expire on October 1, 2018.

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–113, Washington, DC 20590–0001. Office hours are 8:30 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Electronic Access

You may see all the comments online through the Federal Document Management System (FDMS) at *http://www.regulations.gov.*

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* and/or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

II. Background

On August 31, 2016, FMCSA published a notice of receipt of exemption applications from certain individuals, and requested comments from the public (81 FR 60115). That notice listed 12 applicants' case histories. The 12 individuals applied for exemptions from the vision requirement in 49 CFR 391.41(b)(10), for drivers who operate CMVs in interstate commerce.

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption for a 2-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The statute also allows the Agency to renew exemptions at the end of the 2-year period. Accordingly, FMCSA has evaluated the 12 applications on their merits and made a determination to grant exemptions to each of them.

III. Vision and Driving Experience of the Applicants

The vision requirement in the FMCSRs provides:

A person is physically qualified to drive a commercial motor vehicle if that person has distant visual acuity of at least 20/40 (Snellen) in each eye without corrective lenses or visual acuity separately corrected to 20/40 (Snellen) or better with corrective lenses, distant binocular acuity of a least 20/40 (Snellen) in both eyes with or without corrective lenses, field of vision of at least 70° in the horizontal meridian in each eye, and the ability to recognize the colors of traffic signals and devices showing red, green, and amber (49 CFR 391.41(b)(10)).

FMCSA recognizes that some drivers do not meet the vision requirement but have adapted their driving to accommodate their limitation and demonstrated their ability to drive safely. The 12 exemption applicants listed in this notice are in this category. They are unable to meet the vision requirement in one eye for various reasons, including amblyopia, aniosometropia, cerebrovascular accident, complete loss of vision, glaucoma, macular scar, prosthetic eye, and retinal detachment. In most cases, their eye conditions were not recently developed. Nine of the applicants were either born with their vision impairments or have had them since childhood.

The 3 individuals that sustained their vision conditions as adults have had it for a range of 7 to 30 years.

Although each applicant has one eye which does not meet the vision requirement in 49 CFR 391.41(b)(10), each has at least 20/40 corrected vision in the other eye, and in a doctor's opinion, has sufficient vision to perform all the tasks necessary to operate a CMV. Doctors' opinions are supported by the applicants' possession of valid commercial driver's licenses (CDLs) or non-CDLs to operate CMVs. Before issuing CDLs, States subject drivers to knowledge and skills tests designed to evaluate their qualifications to operate a CMV.

All of these applicants satisfied the testing requirements for their State of residence. By meeting State licensing requirements, the applicants demonstrated their ability to operate a CMV, with their limited vision, to the satisfaction of the State.

While possessing a valid CDL or non-CDL, these 12 drivers have been authorized to drive a CMV in intrastate commerce, even though their vision disqualified them from driving in interstate commerce. They have driven CMVs with their limited vision in careers ranging for 3 to 50 years. In the past three years, no drivers were involved in crashes, and no drivers were convicted of moving violations in a CMV.

The qualifications, experience, and medical condition of each applicant were stated and discussed in detail in the August 31, 2016 notice (81 FR 60115).

IV. Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the vision requirement in 49 CFR 391.41(b)(10) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. Without the exemption, applicants will continue to be restricted to intrastate driving. With the exemption, applicants can drive in interstate commerce. Thus, our analysis focuses on whether an equal or greater level of safety is likely to be achieved by permitting each of these drivers to drive in interstate commerce as opposed to restricting him or her to driving in intrastate commerce.

To evaluate the effect of these exemptions on safety, FMCSA considered the medical reports about the applicants' vision as well as their driving records and experience with the vision deficiency.

To qualify for an exemption from the vision requirement, FMCSA requires a person to present verifiable evidence that he/she has driven a commercial vehicle safely with the vision deficiency for the past 3 years. Recent driving performance is especially important in evaluating future safety, according to several research studies designed to correlate past and future driving performance. Results of these studies support the principle that the best predictor of future performance by a driver is his/her past record of crashes and traffic violations. Copies of the studies may be found at Docket Number FMCSA–1998–3637.

FMCSA believes it can properly apply the principle to monocular drivers, because data from the Federal Highway Administration's (FHWA) former waiver study program clearly demonstrate the driving performance of experienced monocular drivers in the program is

better than that of all CMV drivers collectively (See 61 FR 13338, 13345, March 26, 1996). The fact that experienced monocular drivers demonstrated safe driving records in the waiver program supports a conclusion that other monocular drivers, meeting the same qualifying conditions as those required by the waiver program, are also likely to have adapted to their vision deficiency and will continue to operate safely.

The first major research correlating past and future performance was done in England by Greenwood and Yule in 1920. Subsequent studies, building on that model, concluded that crash rates for the same individual exposed to certain risks for two different time periods vary only slightly (See Bates and Neyman, University of California Publications in Statistics, April 1952). Other studies demonstrated theories of predicting crash proneness from crash history coupled with other factors. These factors—such as age, sex, geographic location, mileage driven and conviction history—are used every day by insurance companies and motor vehicle bureaus to predict the probability of an individual experiencing future crashes (See Weber, Donald C., ''Accident Rate Potential: An Application of Multiple Regression Analysis of a Poisson Process,'' Journal of American Statistical Association, June 1971). A 1964 California Driver Record Study prepared by the California Department of Motor Vehicles concluded that the best overall crash predictor for both concurrent and nonconcurrent events is the number of single convictions. This study used 3 consecutive years of data, comparing the experiences of drivers in the first 2 years with their experiences in the final year.

Applying principles from these studies to the past 3-year record of the 12 applicants, no drivers were involved in crashes, and no drivers were convicted of moving violations in a CMV. All the applicants achieved a record of safety while driving with their vision impairment, demonstrating the likelihood that they have adapted their driving skills to accommodate their condition. As the applicants' ample driving histories with their vision deficiencies are good predictors of future performance, FMCSA concludes their ability to drive safely can be projected into the future.

We believe that the applicants' intrastate driving experience and history provide an adequate basis for predicting their ability to drive safely in interstate commerce. Intrastate driving, like interstate operations, involves substantial driving on highways on the interstate system and on other roads built to interstate standards. Moreover, driving in congested urban areas exposes the driver to more pedestrian and vehicular traffic than exists on interstate highways. Faster reaction to traffic and traffic signals is generally required because distances between them are more compact. These conditions tax visual capacity and driver response just as intensely as interstate driving conditions. The veteran drivers in this proceeding have operated CMVs safely under those conditions for at least 3 years, most for much longer. Their experience and driving records lead us to believe that each applicant is capable of operating in interstate commerce as safely as he/she has been performing in intrastate commerce. Consequently, FMCSA finds that exempting these applicants from the vision requirement in 49 CFR 391.41(b)(10) is likely to achieve a level of safety equal to that existing without the exemption. For this reason, the Agency is granting the exemptions for the 2-year period allowed by 49 U.S.C. 31136(e) and 31315 to the 12 applicants listed in the notice of August 31, 2016 (81 FR 60115).

We recognize that the vision of an applicant may change and affect his/her ability to operate a CMV as safely as in the past. As a condition of the exemption, therefore, FMCSA will impose requirements on the 12 individuals consistent with the grandfathering provisions applied to drivers who participated in the Agency's vision waiver program.

Those requirements are found at 49 CFR 391.64(b) and include the following: (1) That each individual be physically examined every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the requirement in 49 CFR 391.41(b)(10) and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy in his/her driver's qualification file if he/she is self-employed. The driver must have a copy of the certification when driving, for presentation to a duly authorized Federal, State, or local enforcement official.

V. Discussion of Comments

FMCSA received no comments in this proceeding.

IV. Conclusion

Based upon its evaluation of the 12 exemption applications, FMCSA exempts the following drivers from the vision requirement in 49 CFR 391.41(b)(10), subject to the requirements cited above 49 CFR 391.64(b):

Timothy D. Beaulier (MI)
Earl D. Edland (MN)
David M. Field (NH)
Jerry D. Gartman (TX)
William I. Innskeep (OH)
Spencer B. Jacobs (TX)
Edison Joe (NM)
Duane A. McCord (IL)
Odilio Monterroso De Leon (TX)
James M. Moore (MS)
Raymond White (NC)
Brian C. Wittenburg (NC)

In accordance with 49 U.S.C. 31136(e) and 31315, each exemption will be valid for 2 years unless revoked earlier by FMCSA. The exemption will be revoked if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136 and 31315.

If the exemption is still effective at the end of the 2-year period, the person may apply to FMCSA for a renewal under procedures in effect at that time.

Issued on: October 14, 2016.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2016–25381 Filed 10–19–16; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2016–0223]

Qualification of Drivers; Exemption Applications; Diabetes Mellitus

AGENCY: Federal Motor Carrier Safety Administration (FMCSA).

ACTION: Notice of applications for exemptions; request for comments.

SUMMARY: FMCSA announces receipt of applications from 46 individuals for exemption from the prohibition against persons with insulin-treated diabetes mellitus (ITDM) operating commercial motor vehicles (CMVs) in interstate commerce. If granted, the exemptions

would enable these individuals with ITDM to operate CMVs in interstate commerce.

DATES: Comments must be received on or before November 21, 2016.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket No. FMCSA–2016–0223 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.
- *Fax:* 1–202–493–2251.

Instructions: Each submission must include the Agency name and the docket numbers for this notice. Note that all comments received will be posted without change to *http://www.regulations.gov*, including any personal information provided. Please see the Privacy Act heading below for further information.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Federal Docket Management System (FDMS) is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov*, as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov*, FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–113, Washington, DC 20590–0001. Office hours are 8:30 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

I. Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the Federal Motor Carrier Safety Regulations for a 2-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The statute also allows the Agency to renew exemptions at the end of the 2-year period. The 46 individuals listed in this notice have recently requested such an exemption from the diabetes prohibition in 49 CFR 391.41(b)(3), which applies to drivers of CMVs in interstate commerce. Accordingly, the Agency will evaluate the qualifications of each applicant to determine whether granting the exemption will achieve the required level of safety mandated by statute.

II. Qualifications of Applicants

Colter E. Allen

Mr. Allen, 32, has had ITDM since 2000. His endocrinologist examined him in 2016 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Allen understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Allen meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2016 and certified that he does not have diabetic retinopathy. He holds an operator's license from Montana.

Bert F. Asa

Mr. Asa, 52, has had ITDM since 2016. His endocrinologist examined him in 2016 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Asa understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Asa meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2016 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Colorado.

Brandon D. Baird

Mr. Baird, 36, has had ITDM since 1989. His endocrinologist examined him in 2016 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Baird understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Baird meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2016 and certified that he does not have diabetic retinopathy. He holds an operator's license from Tennessee.

Glenn C. Blank

Mr. Blank, 74, has had ITDM since 2016. His endocrinologist examined him in 2016 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Blank understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Blank meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2016 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from Pennsylvania.

Michael H. Blosser

Mr. Blosser, 61, has had ITDM since 2016. His endocrinologist examined him in 2016 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Blosser understands

diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Blosser meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2016 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Washington.

Francis A. Boadu

Mr. Boadu, 60, has had ITDM since 2015. His endocrinologist examined him in 2016 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Boadu understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Boadu meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2016 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Massachusetts.

John K. Brown

Mr. Brown, 54, has had ITDM since 2016. His endocrinologist examined him in 2016 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Brown understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Brown meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2016 and certified that he does not have diabetic retinopathy. He holds a Class D CDL from Kentucky.

Timothy L. Dahlberg

Mr. Dahlberg, 65, has had ITDM since 2007. His endocrinologist examined him in 2016 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Dahlberg understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Dahlberg meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2016 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Wisconsin.

Randy S. Dorn

Mr. Dorn, 54, has had ITDM since 1998. His endocrinologist examined him in 2016 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Dorn understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Dorn meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2016 and certified that he does not have diabetic retinopathy. He holds an operator's license from Wisconsin.

Troy E. Dreisbach

Mr. Dreisbach, 52, has had ITDM since 2015. His endocrinologist examined him in 2016 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Dreisbach understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Dreisbach meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2016 and certified that he does not have diabetic retinopathy. He holds an operator's license from Pennsylvania.

Janice K. Epperson

Ms. Epperson, 70, has had ITDM since 2016. Her endocrinologist examined her in 2016 and certified that she has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. Her endocrinologist certifies that Ms. Epperson understands diabetes management and monitoring, has stable control of her diabetes using insulin, and is able to drive a CMV safely. Ms. Epperson meets the requirements of the vision standard at 49 CFR 391.41(b)(10). Her optometrist examined her in 2016 and certified that she does not have diabetic retinopathy. She holds a Class A CDL from Missouri.

Chase L. Fugere

Mr. Fugere, 22, has had ITDM since 2006. His endocrinologist examined him in 2016 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Fugere understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Fugere meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2016 and certified that he does not have diabetic retinopathy. He holds an operator's license from North Dakota.

Richard A. Geiger

Mr. Geiger, 55, has had ITDM since 2000. His endocrinologist examined him in 2016 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Geiger understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Geiger meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2016 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class B CDL from Illinois.

Kenneth B. Golden, Jr.

Mr. Golden, 73, has had ITDM since 2014. His endocrinologist examined him in 2016 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the

assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Golden understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Golden meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2016 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from New York.

Todd K. Grama

Mr. Grama, 49, has had ITDM since 2015. His endocrinologist examined him in 2016 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Grama understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Grama meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2016 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from New York.

Rick L. Hendrickson

Mr. Hendrickson, 54, has had ITDM since 2015. His endocrinologist examined him in 2016 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Hendrickson understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Hendrickson meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2016 and certified that he does not have diabetic retinopathy. He holds an operator's license from North Dakota.

Glenn E. Hoffman

Mr. Hoffman, 60, has had ITDM since 2015. His endocrinologist examined him in 2016 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Hoffman understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Hoffman meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2016 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Florida.

Jeffrey S. Horvath

Mr. Horvath, 37, has had ITDM since 2011. His endocrinologist examined him in 2016 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Horvath understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Horvath meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2016 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Ohio.

Herbert S. Johnson, II

Mr. Johnson, 58, has had ITDM since 2015. His endocrinologist examined him in 2016 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Johnson understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Johnson meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2016 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Iowa.

Randall L. Johnson

Mr. Johnson, 52, has had ITDM since 2016. His endocrinologist examined him in 2016 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Johnson understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Johnson meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2016 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from Georgia.

Gary D. Jones

Mr. Jones, 55, has had ITDM since 2015. His endocrinologist examined him in 2016 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Jones understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Jones meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2016 and certified that he has stable proliferative diabetic retinopathy. He holds a Class A CDL from Iowa.

Charles C. Kennedy

Mr. Kennedy, 23, has had ITDM since 2013. His endocrinologist examined him in 2016 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Kennedy understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Kennedy meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2016 and certified that he does not have diabetic retinopathy. He holds an operator's license from Utah.

John A. Larson

Mr. Larson, 66, has had ITDM since 2012. His endocrinologist examined him

in 2016 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Larson understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Larson meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2016 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Minnesota.

Jose A. Lucero

Mr. Lucero, 59, has had ITDM since 2014. His endocrinologist examined him in 2016 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Lucero understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Lucero meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2016 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class A CDL from Arizona.

Gerry A. Lutz

Mr. Lutz, 56, has had ITDM since 2015. His endocrinologist examined him in 2016 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Lutz understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Lutz meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2016 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Iowa.

Gary P. Marquez

Mr. Marquez, 54, has had ITDM since 2015. His endocrinologist examined him in 2016 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Marquez understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Marquez meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2016 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from California.

George F. McCrory

Mr. McCrory, 46, has had ITDM since 2016. His endocrinologist examined him in 2016 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. McCrory understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. McCrory meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2016 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Missouri.

Richard R. McDonald

Mr. McDonald, 57, has had ITDM since 2016. His endocrinologist examined him in 2016 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. McDonald understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. McDonald meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2016 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from New York.

William P. McLemore, Jr.

Mr. McLemore, 62, has had ITDM since 2002. His endocrinologist examined him in 2016 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. McLemore understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. McLemore meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2016 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from Illinois.

Jason M. Moch

Mr. Moch, 26, has had ITDM since 2014. His endocrinologist examined him in 2016 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Moch understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Moch meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2016 and certified that he does not have diabetic retinopathy. He holds an operator's license from North Dakota.

George K. Namauu, Jr.

Mr. Namauu, 49, has had ITDM since 2016. His endocrinologist examined him in 2016 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Namauu understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Namauu meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His

ophthalmologist examined him in 2016 and certified that he has stable proliferative diabetic retinopathy. He holds an operator's license from Hawaii.

Ashby J. Nuckols

Mr. Nuckols, 55, has had ITDM since 2015. His endocrinologist examined him in 2016 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Nuckols understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Nuckols meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2016 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Virginia.

Encarnacion Oranday, Jr.

Mr. Oranday, 60, has had ITDM since 2011. His endocrinologist examined him in 2016 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Oranday understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Oranday meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2016 and certified that he does not have diabetic retinopathy. He holds an operator's license from Texas.

Jonathan P. Preissler

Mr. Preissler, 23, has had ITDM since 2005. His endocrinologist examined him in 2016 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Preissler understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Preissler meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2016 and certified that he does not have diabetic retinopathy. He holds an operator's license from Massachusetts.

Charles R. Quilty

Mr. Quilty, 55, has had ITDM since 2016. His endocrinologist examined him in 2016 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Quilty understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Quilty meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2016 and certified that he does not have diabetic retinopathy. He holds an operator's license from Illinois.

Joseph M. Rowe

Mr. Rowe, 60, has had ITDM since 2015. His endocrinologist examined him in 2016 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Rowe understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Rowe meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2016 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Missouri.

Donald G. Runyon

Mr. Runyon, 58, has had ITDM since 2016. His endocrinologist examined him in 2016 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Runyon understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Runyon meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2016 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from Indiana.

John B. Simpson

Mr. Simpson, 72, has had ITDM since 1976. His endocrinologist examined him in 2016 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Simpson understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Simpson meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2016 and certified that he has stable nonproliferative diabetic retinopathy. He holds an operator's license from New Hampshire.

Ronnie J. Smith

Mr. Smith, 24, has had ITDM since 2006. His endocrinologist examined him in 2016 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Smith understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Smith meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2016 and certified that he has stable nonprofliferative diabetic retinopathy. He holds an operator's license from North Carolina.

Troy Smith

Mr. Smith, 46, has had ITDM since 2016. His endocrinologist examined him in 2016 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or

more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Smith understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Smith meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2016 and certified that he does not have diabetic retinopathy. He holds an operator's license from Ohio.

Mitchell A. Thomas

Mr. Thomas, 31, has had ITDM since 2015. His endocrinologist examined him in 2016 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Thomas understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Thomas meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2016 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Minnesota.

James M. Vavao

Mr. Vavao, 47, has had ITDM since 2005. His endocrinologist examined him in 2016 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Vavao understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Vavao meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2016 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from California.

Steven A. Vilardo

Mr. Vilardo, 48, has had ITDM since 2016. His endocrinologist examined him in 2016 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Vilardo understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Vilardo meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2016 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Kentucky.

Joseph H. Wamsley

Mr. Wamsley, 42, has had ITDM since 2013. His endocrinologist examined him in 2016 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Wamsley understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Wamsley meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2016 and certified that he does not have diabetic retinopathy. He holds an operator's license from West Virginia.

Richelle Y. Wyatt

Ms. Wyatt, 58, has had ITDM since 2013. Her endocrinologist examined her in 2016 and certified that she has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. Her endocrinologist certifies that Ms. Wyatt understands diabetes management and monitoring, has stable control of her diabetes using insulin, and is able to drive a CMV safely. Ms. Wyatt meets the requirements of the vision standard at 49 CFR 391.41(b)(10). Her optometrist examined him in 2016 and certified that he does not have diabetic retinopathy. She holds a Class B CDL from Pennsylvania.

Roy O. Young

Mr. Young, 60, has had ITDM since 2016. His endocrinologist examined him in 2016 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Young understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Young meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2016 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Pennsylvania.

III. Request for Comments

In accordance with 49 U.S.C. 31136(e) and 31315, FMCSA requests public comment from all interested persons on the exemption petitions described in this notice. We will consider all comments received before the close of business on the closing date indicated in the date section of the notice.

FMCSA notes that section 4129 of the Safe, Accountable, Flexible and Efficient Transportation Equity Act: A Legacy for Users requires the Secretary to revise its diabetes exemption program established on September 3, 2003 (68 FR 52441)[1]. The revision must provide for individual assessment of drivers with diabetes mellitus, and be consistent with the criteria described in section 4018 of the Transportation Equity Act for the 21st Century (49 U.S.C. 31305).

Section 4129 requires: (1) Elimination of the requirement for 3 years of experience operating CMVs while being treated with insulin; and (2) establishment of a specified minimum period of insulin use to demonstrate stable control of diabetes before being allowed to operate a CMV.

In response to section 4129, FMCSA made immediate revisions to the diabetes exemption program established by the September 3, 2003 notice. FMCSA discontinued use of the 3-year driving experience and fulfilled the requirements of section 4129 while continuing to ensure that operation of CMVs by drivers with ITDM will achieve the requisite level of safety required of all exemptions granted under 49 U.S.C.. 31136 (e).

Section 4129(d) also directed FMCSA to ensure that drivers of CMVs with ITDM are not held to a higher standard than other drivers, with the exception of limited operating, monitoring and

[1] Section 4129(a) refers to the 2003 notice as a ''final rule.'' However, the 2003 notice did not issue a ''final rule'' but did establish the procedures and standards for issuing exemptions for drivers with ITDM.

medical requirements that are deemed medically necessary.

The FMCSA concluded that all of the operating, monitoring and medical requirements set out in the September 3, 2003 notice, except as modified, were in compliance with section 4129(d). Therefore, all of the requirements set out in the September 3, 2003 notice, except as modified by the notice in the **Federal Register** on November 8, 2005 (70 FR 67777), remain in effect.

IV. Submitting Comments

You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov* and in the search box insert the docket number FMCSA–2016–0223 and click the search button. When the new screen appears, click on the blue ''Comment Now!'' button on the right hand side of the page. On the new page, enter information required including the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

We will consider all comments and material received during the comment period. FMCSA may issue a final determination at any time after the close of the comment period.

V. Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble, go to *http://www.regulations.gov* and in the search box insert the docket number FMCSA–2016–0223 and click ''Search.'' Next, click ''Open Docket Folder'' and you will find all documents and comments related to this notice.

Issued on: October 14, 2016.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2016–25379 Filed 10–19–16; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[FMCSA Docket No. FMCSA–2016–0043]

Qualification of Drivers; Exemption Applications; Diabetes Mellitus

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT

ACTION: Notice of final disposition.

SUMMARY: FMCSA confirms its decision to exempt 47 individuals from its rule prohibiting persons with insulin-treated diabetes mellitus (ITDM) from operating commercial motor vehicles (CMVs) in interstate commerce. The exemptions enable these individuals to operate CMVs in interstate commerce.

DATES: The exemptions were effective on September 7, 2016. The exemptions expire on September 7, 2018.

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–113, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m. e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

I. Electronic Access

You may see all the comments online through the Federal Document Management System (FDMS) at: *http://www.regulations.gov.*

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* and/or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

II. Background

On August 4, 2016, FMCSA published a notice of receipt of Federal diabetes exemption applications from 47 individuals and requested comments from the public (81 FR 51541. The public comment period closed on September 6, 2016, and no comments were received.

FMCSA has evaluated the eligibility of the 47 applicants and determined that granting the exemptions to these individuals would achieve a level of safety equivalent to or greater than the level that would be achieved by complying with the current regulation 49 CFR 391.41(b)(3).

Diabetes Mellitus and Driving Experience of the Applicants

The Agency established the current requirement for diabetes in 1970 because several risk studies indicated that drivers with diabetes had a higher rate of crash involvement than the general population. The diabetes rule provides that ''A person is physically qualified to drive a commercial motor vehicle if that person has no established medical history or clinical diagnosis of diabetes mellitus currently requiring insulin for control'' (49 CFR 391.41(b)(3)).

FMCSA established its diabetes exemption program, based on the Agency's July 2000 study entitled ''A Report to Congress on the Feasibility of a Program to Qualify Individuals with Insulin-Treated Diabetes Mellitus to Operate in Interstate Commerce as Directed by the Transportation Act for the 21st Century.'' The report concluded that a safe and practicable protocol to allow some drivers with ITDM to operate CMVs is feasible. The September 3, 2003 (68 FR 52441), **Federal Register** notice in conjunction with the November 8, 2005 (70 FR 67777), **Federal Register** notice provides the current protocol for allowing such drivers to operate CMVs in interstate commerce.

These 47 applicants have had ITDM over a range of 1 to 36 years. These applicants report no severe hypoglycemic reactions resulting in loss of consciousness or seizure, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning symptoms, in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the past 5 years. In each case, an endocrinologist verified that the driver has demonstrated a willingness to properly monitor and manage his/her diabetes mellitus, received education related to diabetes management, and is on a stable insulin regimen. These drivers report no other disqualifying conditions, including diabetes-related complications. The qualifications and medical condition of each applicant were stated and discussed in detail in the August 4, 2016, **Federal Register**

notice and they will not be repeated in this notice.

III. Discussion of Comments

FMCSA received no comments in this proceeding.

IV. Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the diabetes requirement in 49 CFR 391.41(b)(3) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. The exemption allows the applicants to operate CMVs in interstate commerce.

To evaluate the effect of these exemptions on safety, FMCSA considered medical reports about the applicants' ITDM and vision, and reviewed the treating endocrinologists' medical opinion related to the ability of the driver to safely operate a CMV while using insulin.

Consequently, FMCSA finds that in each case exempting these applicants from the diabetes requirement in 49 CFR 391.41(b)(3) is likely to achieve a level of safety equal to that existing without the exemption.

V. Conditions and Requirements

The terms and conditions of the exemption will be provided to the applicants in the exemption document and they include the following: (1) That each individual submit a quarterly monitoring checklist completed by the treating endocrinologist as well as an annual checklist with a comprehensive medical evaluation; (2) that each individual reports within 2 business days of occurrence, all episodes of severe hypoglycemia, significant complications, or inability to manage diabetes; also, any involvement in an accident or any other adverse event in a CMV or personal vehicle, whether or not it is related to an episode of hypoglycemia; (3) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (4) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy in his/her driver's qualification file if he/she is self-employed. The driver must also have a copy of the certification when driving, for presentation to a duly authorized Federal, State, or local enforcement official.

VI. Conclusion

Based upon its evaluation of the 47 exemption applications, FMCSA exempts the following drivers from the diabetes requirement in 49 CFR 391.41 (b)(3), subject to the requirements cited above in 49 CFR 391.64(b):

Larry S. Ankerson (WI)
Kenneth D. Beatty (MS)
Christopher R. Bianco (PA)
John J. Bittner (ND)
Brandon J. Brown (TN)
Justin D. Campbell (AL)
Anthony Cicciari (NY)
Noah F. Cockman (NC)
Vito J. Dambra (PA)
Linda D. Davis (IN)
Frank A. DeCarolis (KS)
Orlando Dominguez (CA)
Scott L. Fetzer (PA)
Carl E. Fisher (PA)
Ryan A. Gehrke (MN)
Davy O. Glanville (DC)
George S. Goanos (GA)
Shane R. Gousie (MA)
Randal E. Hampton (NV)
Lindell O. Hart (MI)
Reginald M. Hart (GA)
David R. Holbert (NY)
Robert J. King (SC)
Dennis J. Kniffen (SD)
Scott D. Lazzell (AZ)
Allen E. Lemaster (SC)
Wayne F. Leonard (IL)
Joshua W. Lockwood (MD)
Ryan D. Mace (WA)
Brian P. McCabe (WA)
Charles M. McKenzie (OH)
Michael C. McNamara (SC)
Michael S. Meulenberg (MI)
Adam P. Neppl (ND)
Timothy J. Newton (IA)
Harold N.J. Pennington III (PA)
David T. Petty (CA)
William T. Phipps, Jr. (MD)
Ronald K. Roe (PA)
Harry W. Roebuck (TX)
Jeffrey M. Shipley (SD)
Glenn M. Shockley, Jr. (MD)
Carl G. Stafford (WV)
James D. Tichnor (NJ)
Scott W. Waterman (SD)
Richard A. Wojciak (CT)
Ricky L. Young (PA)

In accordance with 49 U.S.C. 31136(e) and 31315 each exemption is valid for two years unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315. If the exemption is still effective at the end of the 2-year period, the person may apply to FMCSA for a renewal under procedures in effect at that time.

Issued on: October 14, 2016.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2016–25377 Filed 10–19–16; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2016–0222]

Qualification of Drivers; Exemption Applications; Diabetes Mellitus

AGENCY: Federal Motor Carrier Safety Administration (FMCSA).

ACTION: Notice of applications for exemptions; request for comments.

SUMMARY: FMCSA announces receipt of applications from 43 individuals for exemption from the prohibition against persons with insulin-treated diabetes mellitus (ITDM) operating commercial motor vehicles (CMVs) in interstate commerce. If granted, the exemptions would enable these individuals with ITDM to operate CMVs in interstate commerce.

DATES: Comments must be received on or before November 21, 2016.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket No. FMCSA–2016–0222 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.
- *Fax:* 1–202–493–2251.

Instructions: Each submission must include the Agency name and the docket numbers for this notice. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading below for further information.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of

the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Federal Docket Management System (FDMS) is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–113, Washington, DC 20590–0001. Office hours are 8:30 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

I. Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the Federal Motor Carrier Safety Regulations for a 2-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The statute also allows the Agency to renew exemptions at the end of the 2-year period. The 43 individuals listed in this notice have recently requested such an exemption from the diabetes prohibition in 49 CFR 391.41(b)(3), which applies to drivers of CMVs in interstate commerce. Accordingly, the Agency will evaluate the qualifications of each applicant to determine whether granting the exemption will achieve the required level of safety mandated by statute.

II. Qualifications of Applicants

Christopher Albano

Mr. Albano, 56, has had ITDM since 1981. His endocrinologist examined him in 2016 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Albano understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Albano meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2016 and certified that he has stable nonproliferative diabetic retinopathy. He holds an operator's license from Pennsylvania.

Gregory A. Behm

Mr. Behm, 68, has had ITDM since 2016. His endocrinologist examined him in 2016 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Behm understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Behm meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2016 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Nebraska.

Helena R. Berry

Ms. Berry, 48, has had ITDM since 2016. Her endocrinologist examined her in 2016 and certified that she has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. Her endocrinologist certifies that Ms. Berry understands diabetes management and monitoring has stable control of her diabetes using insulin, and is able to drive a CMV safely. Ms. Berry meets the requirements of the vision standard at 49 CFR 391.41(b)(10). Her optometrist examined her in 2016 and certified that she does not have diabetic retinopathy. She holds a Class A CDL from Georgia.

Kenneth W. Blizzard

Mr. Blizzard, 50, has had ITDM since 2015. His endocrinologist examined him in 2016 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Blizzard understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Blizzard meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2016 and certified that he does not have diabetic retinopathy. He holds an operator's license from New Jersey.

Larry A. Brabson, Jr.

Mr. Brabson, 31, has had ITDM since 2016. His endocrinologist examined him in 2016 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Brabson understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Brabson meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2016 and certified that he does not have diabetic retinopathy. He holds an operator's license from Ohio.

Jeffrey Campbell

Mr. Campbell, 41, has had ITDM since 1988. His endocrinologist examined him in 2016 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Campbell understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Campbell meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2016 and certified that he has stable proliferative diabetic retinopathy. He holds a Class A CDL from Indiana.

Gregory A. Carroll

Mr. Carroll, 51, has had ITDM since 2016. His endocrinologist examined him

in 2016 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Carroll understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Carroll meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2016 and certified that he does not have diabetic retinopathy. He holds an operator's license from Maryland.

Kent H. Carter

Mr. Carter, 53, has had ITDM since 2016. His endocrinologist examined him in 2016 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Carter understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Carter meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2016 and certified that he does not have diabetic retinopathy. He holds a chauffer's license from Indiana.

Archie Chischilly

Mr. Chischilly, 70, has had ITDM since 2015. His endocrinologist examined him in 2016 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Chischilly understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Chischilly meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2016 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Arizona.

Loren Curtis

Mr. Curtis, 60, has had ITDM since 2012. His endocrinologist examined him in 2016 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Curtis understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Curtis meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2016 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class A CDL from Missouri.

Scott E. Ennis

Mr. Ennis, 57, has had ITDM since 2014. His endocrinologist examined him in 2016 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Ennis understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Ennis meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2016 and certified that he does not have diabetic retinopathy. He holds an operator's license from New York.

Jackson E. Graham, Jr.

Mr. Graham, 51, has had ITDM since 1996. His endocrinologist examined him in 2016 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Graham understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Graham meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2016 and certified that he has stable proliferative diabetic retinopathy. He holds an operator's license from New Jersey.

Patrick E. Gratts

Mr. Gratts, 49, has had ITDM since 2016. His endocrinologist examined him in 2016 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Gratts understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Gratts meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2016 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Texas.

Alex J. Gravunder

Mr. Gravunder, 50, has had ITDM since 2016. His endocrinologist examined him in 2016 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Gravunder understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Gravunder meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2016 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Wisconsin.

Dion A. Harris

Mr. Harris, 40, has had ITDM since 2016. His endocrinologist examined him in 2016 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Harris understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV

safely. Mr. Harris meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2016 and certified that he does not have diabetic retinopathy. He holds an operator's license from Oklahoma.

Henry C. Hinton III

Mr. Hinton, 60, has had ITDM since 2011. His endocrinologist examined him in 2016 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Hinton understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Hinton meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2016 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from Indiana.

Harry L. Hiser III

Mr. Hiser, 50, has had ITDM since 2014. His endocrinologist examined him in 2016 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Hiser understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Hiser meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2016 and certified that he does not have diabetic retinopathy. He holds an operator's license from West Virginia.

George E. Huften

Mr. Huften, 57, has had ITDM since 2014. His endocrinologist examined him in 2016 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Huften understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Huften meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2016 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Connecticut.

Patrick L. Jackson

Mr. Jackson, 50, has had ITDM since 2010. His endocrinologist examined him in 2016 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Jackson understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Jackson meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2016 and certified that he does not have diabetic retinopathy. He holds an operator's license from Georgia.

Antonio J. Katzdorn

Mr. Katzdorn, 55, has had ITDM since 2013. His endocrinologist examined him in 2016 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Katzdorn understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Katzdorn meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2016 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Idaho.

Terry J. Koontz

Mr. Koontz, 69, has had ITDM since 2012. His endocrinologist examined him in 2016 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Koontz understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Koontz meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2016 and certified that he does not have diabetic retinopathy. He holds an operator's license from Illinois.

Richard H. LaDue

Mr. LaDue, 64, has had ITDM since 2009. His endocrinologist examined him in 2016 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. LaDue understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. LaDue meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2016 and certified that he does not have diabetic retinopathy. He holds an operator's license from New York.

William D. Lusk

Mr. Lusk, 60, has had ITDM since 2016. His endocrinologist examined him in 2016 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Lusk understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Lusk meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2016 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class A CDL from North Carolina.

Clavenda L. Mason

Ms. Mason, 62, has had ITDM since 2015. Her endocrinologist examined her in 2016 and certified that she has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without

warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. Her endocrinologist certifies that Ms. Mason understands diabetes management and monitoring has stable control of her diabetes using insulin, and is able to drive a CMV safely. Ms. Mason meets the requirements of the vision standard at 49 CFR 391.41(b)(10). Her optometrist examined her in 2016 and certified that she does not have diabetic retinopathy. She holds a Class B CDL from Maryland.

Kenneth E. McCain

Mr. McCain, 52, has had ITDM since 2015. His endocrinologist examined him in 2016 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. McCain understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. McCain meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2016 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from Illinois.

Glenn J. Michalek

Mr. Michalek, 61, has had ITDM since 2015. His endocrinologist examined him in 2016 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Michalek understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Michalek meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2016 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from Illinois.

Christopher M. Minor

Mr. Minor, 38, has had ITDM since 2016. His endocrinologist examined him in 2016 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Minor understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Minor meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2016 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Ohio.

William J. Navickas

Mr. Navickas, 58 has had ITDM since 2008. His endocrinologist examined him in 2016 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Navickas understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Navickas meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2016 and certified that he does not have diabetic retinopathy. He holds an operator's license from Pennsylvania.

Troi A. Palmer

Mr. Palmer, 43, has had ITDM since 2015. His endocrinologist examined him in 2016 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Palmer understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Palmer meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2016 and certified that he does not have diabetic retinopathy. He holds an operator's license from Maryland.

Corey M. Planck

Mr. Planck, 40, has had ITDM since 1990. His endocrinologist examined him in 2016 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Planck understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Planck meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2016 and certified that he does not have diabetic retinopathy. He holds an operator's license from Missouri.

Ronald J. Pomella, Jr.

Mr. Pomella, 54, has had ITDM since 2015. His endocrinologist examined him in 2016 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Pomella understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Pomella meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2016 and certified that he does not have diabetic retinopathy. He holds an operator's license from Florida.

Ivan A. Pruss

Mr. Pruss, 32, has had ITDM since 2003. His endocrinologist examined him in 2016 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Pruss understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Pruss meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2016 and certified that he has stable nonproliferative diabetic retinopathy. He holds an operator's license from New Jersey.

John M. Rawlinson

Mr. Rawlinson, 56, has had ITDM since 2010. His endocrinologist

examined him in 2016 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Rawlinson understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Rawlinson meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2016 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class A CDL from Indiana.

Darryl L. Reasby

Mr. Reasby, 56, has had ITDM since 2015. His endocrinologist examined him in 2016 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Reasby understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Reasby meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2016 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from Wisconsin.

Michael A. Roosa

Mr. Roosa, 51, has had ITDM since 2016. His endocrinologist examined him in 2016 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Roosa understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Roosa meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2016 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class A CDL from Massachusetts.

Gary W. Seal

Mr. Seal, 66, has had ITDM since 2014. His endocrinologist examined him in 2016 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Seal understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Seal meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2016 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from Tennessee.

Garey W. Smith

Mr. Smith, 71, has had ITDM since 2013. His endocrinologist examined him in 2016 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Smith understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Smith meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2016 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Tennessee.

John E. Steltz

Mr. Steltz, 51, has had ITDM since 2016. His endocrinologist examined him in 2016 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Steltz understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Steltz meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2016 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Minnesota.

James E. Vaughan, Jr.

Mr. Vaughan, 53, has had ITDM since 1999. His endocrinologist examined him in 2016 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Vaughan understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Vaughan meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2016 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from Tennessee.

Robert W. Wagner II

Mr. Wagner, 55, has had ITDM since 2010. His endocrinologist examined him in 2016 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Wagner understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Wagner meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2016 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class A CDL from Ohio.

Todd A. Waller

Mr. Waller, 51, has had ITDM since 2016. His endocrinologist examined him in 2016 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Waller understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Waller meets the requirements of the vision standard at

49 CFR 391.41(b)(10). His optometrist examined him in 2016 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Missouri.

Kevin A. Warren

Mr. Warren, 58, has had ITDM since 2014. His endocrinologist examined him in 2016 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Warren understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Warren meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2016 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from Ohio.

Kevin L. Wendt

Mr. Wendt, 56, has had ITDM since 2005. His endocrinologist examined him in 2016 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Wendt understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Wendt meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2016 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Wyoming.

III. Request for Comments

In accordance with 49 U.S.C. 31136(e) and 31315, FMCSA requests public comment from all interested persons on the exemption petitions described in this notice. We will consider all comments received before the close of business on the closing date indicated in the date section of the notice.

FMCSA notes that section 4129 of the Safe, Accountable, Flexible and Efficient Transportation Equity Act: A Legacy for Users requires the Secretary to revise its diabetes exemption program established on September 3, 2003 (68 FR 52441).[1] The revision must provide for individual assessment of drivers with diabetes mellitus, and be consistent with the criteria described in section 4018 of the Transportation Equity Act for the 21st Century (49 U.S.C. 31305).

Section 4129 requires: (1) Elimination of the requirement for 3 years of experience operating CMVs while being treated with insulin; and (2) establishment of a specified minimum period of insulin use to demonstrate stable control of diabetes before being allowed to operate a CMV.

In response to section 4129, FMCSA made immediate revisions to the diabetes exemption program established by the September 3, 2003 notice. FMCSA discontinued use of the 3-year driving experience and fulfilled the requirements of section 4129 while continuing to ensure that operation of CMVs by drivers with ITDM will achieve the requisite level of safety required of all exemptions granted under 49 U.S.C. 31136(e).

Section 4129(d) also directed FMCSA to ensure that drivers of CMVs with ITDM are not held to a higher standard than other drivers, with the exception of limited operating, monitoring and medical requirements that are deemed medically necessary.

The FMCSA concluded that all of the operating, monitoring and medical requirements set out in the September 3, 2003 notice, except as modified, were in compliance with section 4129(d). Therefore, all of the requirements set out in the September 3, 2003 notice, except as modified by the notice in the **Federal Register** on November 8, 2005 (70 FR 67777), remain in effect.

IV. Submitting Comments

You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov* and in the search box insert the docket number FMCSA–2016–0222 and click the search button. When the new screen appears, click on the blue ''Comment Now!'' button on the right hand side of the page. On the new page, enter information required including the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

We will consider all comments and material received during the comment period. FMCSA may issue a final determination at any time after the close of the comment period.

V. Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble, go to *http://www.regulations.gov* and in the search box insert the docket number FMCSA–2016–0222 and click ''Search.'' Next, click ''Open Docket Folder'' and you will find all documents and comments related to this notice.

Issued on: October 14, 2016.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2016–25378 Filed 10–19–16; 8:45 am]

BILLING CODE 4910–EX–P

[1] Section 4129(a) refers to the 2003 notice as a ''final rule.'' However, the 2003 notice did not issue a ''final rule'' but did establish the procedures and standards for issuing exemptions for drivers with ITDM.

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2010–0288; FMCSA–2012–0281; FMCSA–2014–0306; FMCSA–2014–0307]

Qualification of Drivers; Exemption Applications; Diabetes

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of renewal of exemptions; request for comments.

SUMMARY: FMCSA announces its decision to renew the exemptions of 71 individuals from its rule prohibiting persons with insulin-treated diabetes mellitus (ITDM) from operating commercial motor vehicles (CMVs) in interstate commerce. FMCSA has statutory authority to exempt individuals from this rule if the exemptions granted will not compromise safety. The Agency has concluded that granting these exemption renewals will provide a level of safety that is equivalent to or greater than the level of safety maintained without the exemptions for these CMV drivers.

DATES: Each group of renewed exemptions are effective from the dates

stated in the discussions below. Comments must be received on or before November 21, 2016.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) numbers: Docket No. FMCSA–2010–0288; FMCSA–2012–0281; FMCSA–2014–0306; FMCSA–2014–0307, using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.
- *Fax:* 1–202–493–2251.

Instructions: Each submission must include the Agency name and the docket number for this notice. Note that DOT posts all comments received without change to *http://www.regulations.gov,* including any personal information included in a comment. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Federal Docket Management System (FDMS) is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's Privacy Act Statement for the Federal Docket Management System (FDMS) published in the **Federal Register** on January 17, 2008 (73 FR 3316).

FOR FURTHER INFORMATION CONTACT: Christine A. Hydock, Chief, Medical Programs Division, 202–366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–113, Washington, DC 20590–0001. Office hours are from 8 a.m. to 5:30 p.m. Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may renew an exemption from the Federal Motor Carrier Safety Regulations 2-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The statute also allows the Agency to renew exemptions at the end of the 2-year period. The 71 individuals listed in this notice have recently become eligible for a renewed exemption from the diabetes prohibition in 49 CFR 391.41(b)(3), which applies to drivers of CMVs in interstate commerce. The drivers remain in good standing with the Agency, have maintained their required medical monitoring and have not exhibited any medical issues that would compromise their ability to safely operate a CMV during the previous 2-year exemption period.

Exemption Decision

This notice addresses 71 individuals who have requested renewal of their exemptions in accordance with FMCSA procedures. These 71 drivers remain in good standing with the Agency, have maintained their required medical monitoring and have not exhibited any medical issues that would compromise their ability to safely operate a CMV during the previous 2-year exemption period. Therefore, FMCSA has decided to extend each exemption for a renewable two-year period. Each individual is identified according to the renewal date.

The exemptions are renewed subject to the following conditions: (1) That each individual submit a quarterly monitoring checklist completed by the treating endocrinologist as well as an annual checklist with a comprehensive medical evaluation; (2) that each individual reports within 2 business days of occurrence, all episodes of severe hypoglycemia, significant complications, or inability to manage diabetes; also, any involvement in an accident or any other adverse event in a CMV or personal vehicle, whether or not it is related to an episode of hypoglycemia; (3) that each individual submit an annual ophthalmologist's or optometrist's report; and (4) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy in his/her driver's qualification file if he/she is self-employed. The driver must also have a copy of the certification when driving, for presentation to a duly authorized Federal, State, or local enforcement official.

Basis for Renewing Exemptions

Under 49 U.S.C. 31315(b)(1), an exemption may be granted for no longer than two years from its approval date and may be renewed upon application for additional two year periods. The following groups of drivers received renewed exemptions in the month of November and are discussed below.

As of November 1, 2016, and in accordance with 49 U.S.C. 31136(e) and 31315, the following 27 individuals have satisfied the renewal conditions for obtaining an exemption from the rule prohibiting drivers with ITDM from driving CMVs in interstate commerce. (79 FR 59351; 79 FR 77082):

Noe D. Aguilar (CA)
David N. Banks (NC)
Wayne W. Best (PA)
Gregory K. Blythe (IL)
Justin M. Brown (MT)
Clayton G. Hardwick (KY)
Audie C. Holton (GA)
John F. Kincaid (IL)
Craig T. LaPresti (PA)
Lester M. Lee, Jr. (GA)
Aretha Lewis (VA)
Marvin D. Mathis (NC)
Brian M. McFadden (MA)
Sean K. Myhand (GA)
Glen R. Parry (NM)
George E. Patton (AL)
Michael J. Ramey (CO)
Richard J. Rasmussen (NE)
Mark L. Rigby (UT)
Jeffrey K. Roberts (WI)
Marvin A. Ryan (IN)
Eric R. Storm (GA)
Daniel A. Swain (TX)
Sean P. Thomas (IN)
Glenn R. Tyrrell (MN)
Lewis W. Vaught Jr. (NC)
William L. Wiltrout (PA)

The drivers were included in Docket No. FMCSA–2014–0306. Their exemptions are effective as of November 1, 2016 and will expire on November 1, 2018.

As of November 16, 2016, and in accordance with 49 U.S.C. 31136(e) and 31315, the following 14 individuals have satisfied the renewal conditions for obtaining an exemption from the rule prohibiting drivers with ITDM from driving CMVs in interstate commerce. (75 FR 59788; 75 FR 70077):

Shale W. Anderson (FL)

Charles L. Arnburg (IA)
Ronald D. Ayers (WV)
Garrett D. Couch (MI)
Mark W. Garver (MN)
Donald S. Keller (MI)
Jason M. Luper (MO)
Harold L. Phillips (OK)
Heath A. Senkel (TX)
Roland R. Unruh (KS)
Norman J. VanTuyle II (MI)
John M. Warden (TX)
Donald E. Weadon (MD)
Douglas W. Williams (TN)

The drivers were included in Docket No. FMCSA–2010–0288. Their exemptions are effective as of November 16, 2016 and will expire on November 16, 2018.

As of November 22, 2016, and in accordance with 49 U.S.C. 31136(e) and 31315, the following 21 individuals have satisfied the renewal conditions for obtaining an exemption from the rule prohibiting drivers with ITDM from driving CMVs in interstate commerce. (79 FR 63214; 80 FR 1070):

Jeffrey S. Argabright (OH)
James L. Crane (MS)
Donald L. Feltman (MN)
Benjamin T. Filip (ND)
Harold L. Gomez (LA)
Arthur M. Gonzalez (TX)
William T. Jensen (NJ)
Robert W. Johnson, Sr. (NY)
Joseph J. Karas (NJ)
Randy C. Lee (NY)
John R. Miller II (OR)
Robert A. Nicolai (MO)
William P. Pearson, II (WI)
Alan M. Primus (IA)
Danny L. Reimers (NM)
Michael L. Reynolds (NC)
Samuel H. Schmidt (MN)
Timothy W. Selk (AK)
Dennis J. Stanley (WI)
Steven M. Weimer (PA)
Michael L. Westbury (SC)

The drivers were included in Docket No. FMCSA–2014–0307. Their exemptions are effective as of November 22, 2016 and will expire on November 22, 2018.

As of November 26, 2016, and in accordance with 49 U.S.C. 31136(e) and 31315, the following 9 individuals have satisfied the renewal conditions for obtaining an exemption from the rule prohibiting drivers with ITDM from driving CMVs in interstate commerce. (77 FR 59447; 77 FR 70529):

Charles E. Castle (OH)
Larry W. Dearing (IN)
Bradley E. DeWitt (WA)
Leonard R. Dobosenski (MN)
Michael L. Kiefer (SD)
Marcus J. Kyle (IA)
Robert C. Moore (PA)
Jedediaha C. Record (WY)
Jessie L. Webster (KY)

The drivers were included in Docket No. FMCSA–2012–0281. Their exemptions are effective as of November 26, 2016 and will expire on November 26, 2018.

Each of the 71 drivers in the aforementioned groups qualifies for a renewal of the exemption. They have maintained their required medical monitoring and have not exhibited any medical issues that would compromise their ability to safely operate a CMV during the previous 2-year exemption period.

These factors provide an adequate basis for predicting each driver's ability to continue to drive safely in interstate commerce. Therefore, FMCSA concludes that extending the exemption for each of the 71 drivers for a period of two years is likely to achieve a level of safety equal to that existing without the exemption. The drivers were included in docket numbers FMCSA–2010–0288; FMCSA–2012–0281; FMCSA–2014–0306; FMCSA–2014–0307.

Request for Comments

FMCSA will review comments received at any time concerning a particular driver's safety record and determine if the continuation of the exemption is consistent with the requirements at 49 U.S.C. 31136(e) and 31315. However, FMCSA requests that interested parties with specific data concerning the safety records of these drivers submit comments by November 21, 2016.

FMCSA believes that the requirements for a renewal of an exemption under 49 U.S.C. 31136(e) and 31315 can be satisfied by initially granting the renewal and then requesting and evaluating, if needed, subsequent comments submitted by interested parties. As indicated above, the Agency previously published notices of final disposition announcing its decision to exempt these 71 individuals from rule prohibiting persons with ITDM from operating CMVs in interstate commerce in 49 CFR 391.41(b)(3). The final decision to grant an exemption to each of these individuals was made on the merits of each case and made only after careful consideration of the comments received to its notices of applications. The notices of applications stated in detail the medical condition of each applicant for an exemption from rule prohibiting persons with ITDM from operating CMVs in interstate commerce. That information is available by consulting the above cited **Federal Register** publications.

Interested parties or organizations possessing information that would otherwise show that any, or all, of these drivers are not currently achieving the statutory level of safety should immediately notify FMCSA. The Agency will evaluate any adverse evidence submitted and, if safety is being compromised or if continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315, FMCSA will take immediate steps to revoke the exemption of a driver.

Submitting Comments

You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov* and in the search box insert the docket numbers FMCSA–2010–0288; FMCSA–2012–0281; FMCSA–2014–0306; FMCSA–2014–0307 and click the search button. When the new screen appears, click on the blue ''Comment Now!'' button on the right hand side of the page. On the new page, enter information required including the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

We will consider all comments and material received during the comment period. FMCSA may issue a final determination at any time after the close of the comment period.

Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble, go to *http://www.regulations.gov* and in the search box insert the docket number FMCSA–2010–0288; FMCSA–2012–0281; FMCSA–2014–0306; FMCSA–2014–0307 and click ''Search.'' Next, click ''Open Docket Folder'' and you will find all documents and comments related to this notice.

Issued on: October 14, 2016.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2016–25389 Filed 10–19–16; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2016–0009]

Qualification of Drivers; Exemption Applications; Epilepsy and Seizure Disorders

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of denials.

SUMMARY: FMCSA announces its decision to deny applications from 11 individuals who requested an exemption from the Federal Motor Carrier Safety Regulations (FMCSRs) prohibiting persons with a clinical diagnosis of epilepsy or any other condition that is likely to cause a loss of consciousness or any loss of ability to operate a commercial motor vehicle (CMV) from operating CMVs in interstate commerce.

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are 8:30 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Electronic Access

You may see all the comments online through the Federal Document Management System (FDMS) at: *http://www.regulations.gov.*

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* and/or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *http://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *http://www.dot.gov/privacy.*

II. Background

FMCSA received applications from 11 individuals who requested an exemption from the FMCSRs prohibiting persons with a clinical diagnosis of epilepsy or any other condition that is likely to cause a loss of consciousness or any loss of ability to operate a CMV from operating CMVs in interstate commerce.

FMCSA has evaluated the eligibility of these applicants and concluded that granting these exemptions would not provide a level of safety that would be equivalent to or greater than, the level of safety that would be obtained by complying with the regulation 49 CFR 391.41(b)(8).

III. Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption for two years if it finds ''such an exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such an exemption.''

The Agency's decision regarding these exemption applications is based on the eligibility criteria, the terms and conditions for Federal exemptions, and an individualized assessment of each applicant's medical information provided by the applicant.

IV. Conclusion

The Agency has determined that these applicants do not satisfy the criteria eligibility or meet the terms and conditions for a Federal exemption and granting these exemptions would not provide a level of safety that would be equivalent to or greater than, the level of safety that would be obtained by complying with the regulation 49 CFR 391.41(b)(8). Therefore, the 11 applicants in this notice have been denied exemptions from the physical qualification standards in 49 CFR 391.41(b)(8).

Each applicant has, prior to this notice, received a letter of final disposition regarding his/her exemption request. Those decision letters fully outlined the basis for the denial and constitutes final action by the Agency. This notice summarizes the Agency's recent denials as required under 49 U.S.C. 31315(b)(4) by periodically publishing names and reasons for denial.

The following 11 applicants do not meet the minimum time requirement for being seizure-free, either on or off of anti-seizure medication:

Cody Cousins (AK)
Robin Harrison (UT)
Elvis Hill (VA)
Jimmie Michael, Jr. (NC)
Eric Scott (NY)
Cody Skalon (IL)
Terry Thomas (WV)
Ryan Travis (IL)
Justin Wells (IL)
Paul Whitby (MD)
Salvatore Zeuner Jr. (NJ)

Issued on: October 12, 2016.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2016–25386 Filed 10–19–16; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2016–0353]

Qualification of Drivers; Exemption Applications; Implantable Cardioverter Defibrillators

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of applications for exemption; request for comments.

SUMMARY: FMCSA announces receipt of applications from three individuals for exemptions from the rules prohibiting operation of a commercial motor vehicle (CMV) by persons with a current clinical diagnosis of myocardial infarction, angina pectoris, coronary insufficiency, thrombosis, or any other cardiovascular disease of a variety known to be accompanied by syncope, dyspnea, collapse, or congestive heart failure. If granted, the exemptions would enable these individuals to operate CMVs for up to two years in interstate commerce.

DATES: Comments must be received on or before November 21, 2016.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket ID FMCSA–2016–0353 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *www.regulations.gov.* Follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE.,

Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

- *Fax:* 1–202–493–2251.

Instructions: Each submission must include the Agency name and the docket ID for this Notice. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading below for further information.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov,* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The FDMS is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments online.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *http://www.regulations.gov,* as described in the system records notice (DOT/ALL–14 FDMS), which can be reviewed at *http://www.dot.gov/privacy.*

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–113,Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

I. Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the Federal Motor Carrier Safety Regulations (FMCSRs) for a two-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The statute also allows the Agency to renew exemptions at the end of the two-year period. The three individuals listed in this notice have requested an exemption from 49 CFR 391.41(b)(4), which applies to drivers who operates CMVs in interstate commerce. Accordingly, the Agency will evaluate the qualifications of each applicant to determine whether granting the exemption will achieve the required level of safety mandated by statute.

The physical qualification standard found in 49 CFR 391.41(b)(4) states that a person is physically qualified to drive a CMV if that person

> Has no current clinical diagnosis of myocardial infarction, angina pectoris, coronary insufficiency, thrombosis, or any other cardiovascular disease of a variety known to be accompanied by syncope, dyspnea, collapse, or congestive cardiac failure.

In addition to the regulations, FMCSA has published advisory criteria[1] to assist medical examiners in determining whether drivers with certain medical conditions are qualified to operate a CMV in interstate commerce. [49 CFR part 391, APPENDIX A TO PART 391—MEDICAL ADVISORY CRITERIA, section *D. Cardiovascular: § 391.41(b)(4),* paragraph 4.] The advisory criteria states that ICDs are disqualifying due to risk of syncope.

Qualifications of Applicants

Gary Fancher

Mr. Fancher is a 73 year old Class A CDL holder in Arkansas. A May 2016 cardiologist report indicates that Mr. Fancher's biventricular ICD was implanted in December 2015 and ''since then he has done great making remarkable progress''. ''His EF (ejection fraction) has nearly normalized with optimal medication therapy and bi-V ICD optimization to currently 45%.'' ''Patient denies syncope, pre-syncope, chest pain, shortness of breath.'' ''His exercise capability has been totally normalized.''

Henry McGuire

Mr. McGuire is a 61 year old Class A CDL holder in Washington State. An April 2016 report from Mr. McGuire's cardiologist indicates that his ICD was implanted in 2001 and ''since following him (Mr. McGuire) believes since implant he has never had a shock or ATP therapy''. Mr. McGuire received an intrastate medical waiver by the State of Washington that expires in April 2017.

Matthew Wilson

Mr. Wilson is a 37 year old commercial motor vehicle driver in Florida. An August 2016 letter from his cardiologist indicates that Mr. Wilson's ICD was implanted in June 2014 and that '' this ICD device has never deployed and was implanted as a precautionary due to Mr. Wilson's past history''. Mr. Wilson is currently stable from heart failure standpoint''.

[1] See *http://www.ecfr.gov/cgi-bin/text-idx?SID=e47b48a9ea42dd67d999246e23d97970&mc=true&node=pt49.5.391&rgn=div5#ap49.5.391_171.a* and *https://www.gpo.gov/fdsys/pkg/CFR-2015-title49-vol5/pdf/CFR-2015-title49-vol5-part391-appA.pdf.*

II. Request for Comments

In accordance with 49 U.S.C. 31136(e) and 31315, FMCSA requests public comment from all interested persons on the exemption petitions described in this notice. We will consider all comments received before the close of business on the closing date indicated in the date section of the notice.

III. Submitting Comments

You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov* and in the search box insert the docket number ''FMCSA–2016–0353'' and click the search button. When the new screen appears, click on the blue ''Comment Now!'' button on the right hand side of the page. On the new page, enter information required including the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

We will consider all comments and materials received during the comment period. FMCSA may issue a final determination any time after the close of the comment period.

IV. Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble, go to *http://www.regulations.gov* and in the search box insert the docket number FMCSA–2016–0175 and click ''Search.'' Next, click ''Open Docket Folder'' and you will find all documents and comments related to this notice.

Issued on: October 12, 2016.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2016–25384 Filed 10–19–16; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2013–0109; FMCSA–2013–0444]

Qualification of Drivers; Exemption Applications; Epilepsy and Seizure Disorders

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of renewal of exemptions; request for comments.

SUMMARY: FMCSA announces its decision to renew exemptions of 10 individuals from the requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) that interstate commercial motor vehicle (CMV) drivers have ''no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause loss of consciousness or any loss of ability to control a CMV.'' The exemptions enable these individuals who have had one or more seizures and are taking anti-seizure medication to continue to operate CMVs in interstate commerce.

DATES: Each group of renewed exemptions was effective on the dates stated in the discussions below and will expire on the dates stated in the discussions below. Comments must be received on or before November 21, 2016.

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, 202–366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket No. FMCSA–2013–0109; FMCSA–2013–0444 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.
- *Fax:* 1–202–493–2251.

Instructions: Each submission must include the Agency name and the docket number(s) for this notice. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading below for further information.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The FDMS is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments online.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *http://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *http://www.dot.gov/privacy.*

I. Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption for two years if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The statute also allows the Agency to renew exemptions at the end of the two-year period.

The physical qualification standard for drivers regarding epilepsy found in 49 CFR 391.41(b)(8) states that a person is physically qualified to drive a CMV if that person:

> Has no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause the loss of consciousness or any loss of ability to control a CMV.

In addition to the regulations, FMCSA has published advisory criteria to assist Medical Examiners in determining whether drivers with certain medical conditions are qualified to operate a CMV in interstate commerce. [49 CFR part 391, APPENDIX A TO PART 391—MEDICAL ADVISORY CRITERIA, section H. Epilepsy: § 391.41(b)(8), paragraphs 3, 4, and 5.]

The 10 individuals listed in this notice have requested renewal of their exemptions from the Epilepsy and Seizure Disorders prohibition in 49 CFR 391.41(b)(8), in accordance with FMCSA procedures. Accordingly, FMCSA has evaluated these applications for renewal on their merits and decided to extend each exemption for a renewable two-year period.

II. Request for Comments

Interested parties or organizations possessing information that would otherwise show that any, or all, of these drivers are not currently achieving the statutory level of safety should immediately notify FMCSA. The Agency will evaluate any adverse evidence submitted and, if safety is being compromised or if continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315, FMCSA will take immediate steps to revoke the exemption of a driver.

III. Basis for Renewing Exemptions

Under 49 U.S.C. 31315(b)(1), an exemption may be granted for no longer than two years from its approval date and may be renewed upon application. In accordance with 49 U.S.C. 31136(e) and 31315, each of the 10 applicants has satisfied the conditions for obtaining an exemption from the Epilepsy and Seizure Disorder requirements and was published in the **Federal Register** (79 FR 23054, 79 FR 73400). In addition, for Commercial Driver's License (CDL) holders, the Commercial Driver's License information System (CDLIS) and the Motor Carrier Management Information System (MCMIS) are searched for crash and violation data. For non-CDL holders, the Agency reviews the driving records from the State Driver's Licensing Agency (SDLA). These factors provide an adequate basis for predicting each driver's ability to continue to safely operate a CMV in interstate commerce.

The 10 drivers in this notice remain in good standing with the Agency, have maintained their medical monitoring, and have not exhibited any medical

issues that would compromise their ability to safely operate a CMV during the previous two-year exemption period. FMCSA has concluded that renewing the exemptions for each of these applicants is likely to achieve a level of safety equal to that existing without the exemption. Therefore, FMCSA has decided to renew each exemption for a two-year period. In accordance with 49 U.S.C. 31136(e) and 31315, each driver has received a renewed exemption.

As of June 9, 2016, David Crowe (VA) has satisfied the renewal conditions for obtaining an exemption from the Epilepsy and Seizure Disorders prohibition in 49 CFR 391.41(b)(8) from driving CMVs in interstate commerce (79 FR 23054). This driver was included in FMCSA–2013–0109. The exemption was effective on June 9, 2016, and will expire on June 9, 2018.

As of June 24, 2016, the following 9 individuals have satisfied the renewal conditions for obtaining an exemption from the Epilepsy and Seizure Disorders prohibition in 49 CFR 391.41(b)(8) from driving CMVs in interstate commerce (79 FR 73400):

Travis Arend (VA)
Heath Crowe (LA)
Richard Degnan (AZ)
Peter DellaRocco (PA)
Domenick Panfie (NJ)
Scott Reaves (TX)
Milton Tatham (NV)
Thomas Tincher (VA)
Duane Troff (MN)

These drivers were included in FMCSA–2013–0444. The exemptions were effective on June 24, 2016, and will expire on June 24, 2018.

IV. Conditions and Requirements

The exemptions are extended subject to the following conditions: (1) Each driver must remain seizure-free and maintain a stable treatment during the two-year exemption period; (2) each driver must submit annual reports from their treating physicians attesting to the stability of treatment and that the driver has remained seizure-free; (3) each driver must undergo an annual medical examination by a certified Medical Examiner, as defined by 49 CFR 390.5; and (4) each driver must provide a copy of the annual medical certification to the employer for retention in the driver's qualification file or keep a copy of his/her driver's qualification file if he/she is self-employed. The driver must have a copy of the exemption when driving for presentation to a duly authorized Federal, State, or local enforcement official. The exemption will be rescinded if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315.

V. Preemption

During the period the exemption is in effect, no State shall enforce any law or regulation that conflicts with this exemption with respect to a person operating under the exemption.

VI. Conclusion

Based upon its evaluation of the 10 exemption applications, FMCSA renews the exemptions of the aforementioned drivers from the Epilepsy and Seizure Disorders requirement in 49 CFR 391.41 (b)(8). In accordance with 49 U.S.C. 31136(e) and 31315, each exemption will be valid for two years unless revoked earlier by FMCSA.

Issued on: October 13, 2016.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2016–25385 Filed 10–19–16; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2016–0210]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of applications for exemptions; request for comments.

SUMMARY: FMCSA announces receipt of applications from 22 individuals for exemption from the vision requirement in the Federal Motor Carrier Safety Regulations. They are unable to meet the vision requirement in one eye for various reasons. The exemptions will enable these individuals to operate commercial motor vehicles (CMVs) in interstate commerce without meeting the prescribed vision requirement in one eye. If granted, the exemptions would enable these individuals to qualify as drivers of commercial motor vehicles (CMVs) in interstate commerce.

DATES: Comments must be received on or before November 21, 2016. All comments will be investigated by FMCSA. The exemptions will be issued the day after the comment period closes.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket No. FMCSA–2016–0210 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.
- *Fax:* 1–202–493–2251.

Instructions: Each submission must include the Agency name and the docket numbers for this notice. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading below for further information.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The FDMS is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–113, Washington, DC 20590–0001. Office hours are 8:30 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the Federal Motor Carrier Safety Regulations for a 2-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' FMCSA can renew exemptions at the end of each 2-year period. The 22 individuals listed in this notice have each requested such an exemption from the vision requirement in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce. Accordingly, the Agency will evaluate the qualifications of each applicant to determine whether granting an exemption will achieve the required level of safety mandated by statute.

II. Qualifications of Applicants

Gary A. Behrends

Mr. Behrends, 58, has had amblyopia in his right eye since birth. The visual acuity in his right eye is 20/100, and in his left eye, 20/15. Following an examination in 2016, his optometrist stated, ''In my medical opinion Gary has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Behrends reported that he has driven straight trucks for 40 years, accumulating 400,000 miles, and tractor-trailer combinations for 40 years, accumulating 400,000 miles. He holds an operator's license from Nebraska. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Harry R. Brewer

Mr. Brewer, 53, has a macular scar in his left eye due to a traumatic incident in 1994. The visual acuity in his right eye is 20/20, and in his left eye, 20/60. Following an examination in 2016, his optometrist stated, ''In my professional medical opinion, Mr. Harry Rex Brewer has sufficient vision to safely perform the driving tasks necessary to operate a commercial vehicle.'' Mr. Brewer reported that he has driven straight trucks for 26 years, accumulating 1.56 million miles. He holds a Class A CDL from Tennessee. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Johnnie B. Bush

Mr. Bush, 69, has had a prosthetic right eye since childhood. The visual acuity in his right eye is no light perception, and in his left eye, 20/20. Following an examination in 2016, his optometrist stated, ''Vision is sufficient in the left eye to operate a commercial vehicle.'' Mr. Bush reported that he has driven straight trucks for 42 years, accumulating 84,000 miles, and tractor-trailer combinations for 42 years, accumulating 2.14 million miles. He holds an operator's license from Mississippi. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Nathan J. Bute

Mr. Bute, 35, has a prosthetic left eye due to a traumatic incident in 2003. The visual acuity in his right eye is 20/20, and in his left eye, no light perception. Following an examination in 2016, his optometrist stated, ''It is of my opinion that Nathan's visual condition is stable, & suitable for operation of a commercial vehicle.'' Mr. Bute reported that he has driven straight trucks for 7 years, accumulating 109,200 miles. He holds an operator's license from Indiana. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Gary L. Cox

Mr. Cox, 51, has had amblyopia in his right eye since childhood. The visual acuity in his right eye is 20/400, and in his left eye, 20/20. Following an examination in 2016, his optometrist stated, ''He has normal color vision and has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Cox reported that he has driven straight trucks for 3 years, accumulating 62,400 miles. He holds an operator's license from Kentucky. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Kevin J. Embrey

Mr. Embrey, 43, has had amblyopia in his right eye since childhood. The visual acuity in his right eye is 20/100, and in his left eye, 20/20. Following an examination in 2016, his ophthalmologist stated, ''In my medial [sic] opinion, he has sufficient vision to perform the driving task required to operate a commercial vehicle.'' Mr. Embrey reported that he has driven straight trucks for 24 years, accumulating 360,000 miles. He holds a Class B CDL from Illinois. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Peter J. Faber

Mr. Faber, 54, has had amblyopia in his left eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/100. Following an examination in 2016, his ophthalmologist stated, ''In my medical opinion, Peter J. Faber, DOB 8/21/1962, has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Faber reported that he has driven tractor-trailer combinations for 5 years, accumulating 600,000 miles. He holds a Class A CDL from Nebraska. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Ricky L. Gillum

Mr. Gillum, 49, has had a retinal detachment in his right eye since 2011. The visual acuity in his right eye is 20/400, and in his left eye, 20/20. Following an examination in 2016, his optometrist stated, ''I believe Mr. Gillum has sufficient vision to drive a commercial vehicle based on his left eye measurements.'' Mr. Gillum reported that he has driven straight trucks for 30 years, accumulating 2.25 million miles, and tractor-trailer combinations for 19 years, accumulating 1.24 million miles. He holds a Class A CDL Ohio. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Johnny E. Hill

Mr. Hill, 45, has enucleation in his right eye due to a traumatic incident in 2013. The visual acuity in his right eye is no light perception, and in his left eye, 20/20. Following an examination in 2016, his optometrist stated, ''Mr. Hill meets the vision waiver requirements for a CDL and should be able to operate a commercial vehicle.'' Mr. Hill reported that he has driven straight trucks for 2 years, accumulating 168,000 miles, and tractor-trailer combinations for 8 years, accumulating 520,000 miles. He holds a Class AM CDL from Alabama. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Justin A. Hooper

Mr. Hooper, 38, has glaucoma in his right eye due to a traumatic incident in 2012. The visual acuity in his right eye is counting fingers, and in his left eye, 20/20. Following an examination in 2016, his optometrist stated, ''In my medical opinion he has adequate vision to operate a commercial motor vehicle.'' Mr. Hooper reported that he has driven straight trucks for 17 years, accumulating 765,000 miles, and tractor-trailer combinations for 13 years, accumulating 65,000 miles. He holds a

Class A CDL from Missouri. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

John R. Horst

Mr. Horst, 71, has had macular atrophy in his right eye due to histoplasmosis since 1980. The visual acuity in his right eye is 20/200, and in his left eye, 20/15. Following an examination in 2016, his optometrist stated, ''It is my opinion that Mr. Horst has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Horst reported that he has driven straight trucks for 52 years, accumulating 1.09 million miles, and tractor-trailer combinations for 47 years, accumulating 235,000 miles. He holds a Class AM CDL from Pennsylvania. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Robert E. Kelley, Jr.

Mr. Kelley, 55, has amblyopia in his left eye due to a traumatic incident in childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/50. Following an examination in 2016, his ophthalmologist stated, ''Based on the requirements of the DOT the patient has sufficient vision to perform the driving tasks required to operate a commercial vehicle'' Mr. Kelley reported that he has driven straight trucks for 17 years, accumulating 255,000 miles, and tractor-trailer combinations for 1 years, accumulating 10,000 miles. He holds an operator's license from Washington. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

David L. Manktelow

Mr. Manktelow, 39, has had amblyopia in his left eye since birth. The visual acuity in his right eye is 20/20, and in his left eye, 20/100. Following an examination in 2016, his optometrist stated, ''It is my medical opinion that Mr. Manktelow has sufficient vision to operate a commercial vehicle.'' Mr. Manktelow reported that he has driven tractor-trailer combinations for 10 years, accumulating 175,000 miles. He holds a Class A CDL from Massachusetts. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

James F. McLaughlin

Mr. McLaughlin, 54, has had amblyopia in his left eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/60. Following an examination in 2016, his optometrist stated, ''James has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. McLaughlin reported that he has driven straight trucks for 35 years, accumulating 700,000 miles. He holds an operator's license from Minnesota. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Derrick P. Moore

Mr. Moore, 37, has had cataract in his right eye since birth. The visual acuity in his right eye is hand motion, and in his left eye, 20/15. Following an examination in 2016, his optometrist stated that Mr. Moore does have sufficient vision to perform the driving tasks required to operate a CMV. Mr. Moore reported that he has driven straight trucks for 21 years, accumulating 420,000 miles. He holds a Class A CDL from Minnesota. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Richard L. Moores

Mr. Moores, 41, has optic neuropathy and maculopathy in his left eye due to a traumatic incident in 1998. The visual acuity in his right eye is 20/20, and in his left eye, 20/400. Following an examination in 2016, his ophthalmologist stated, ''In my medical opinion Richard Moores has sufficient central and peripheral vision OD to operate a commercial vehicle.'' Mr. Moores reported that he has driven straight trucks for 24 years, accumulating 120,000 miles, and tractor-trailer combinations for 5 years, accumulating 6,250 miles. He holds a Class A CDL from Colorado. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Brian T. Morrison

Mr. Morrison, 42, has optic atrophy in his left eye due to a traumatic incident in 1993. The visual acuity in his right eye is 20/15, and in his left eye, 20/100. Following an examination in 2016, his optometrist stated, ''Optic Atrophy . . . The patient has been driving with a commercial driving license since 1996 without accident. [*sic*] and this adds to my opinion that he can drive safely [*sic*] at the present time and meets the licenses requirement.'' Mr. Morrison reported that he has driven straight trucks for 12 years, accumulating 360,000 miles, and tractor-trailer combinations for 6 years, accumulating 30,000 miles. He holds a Class A CDL from Missouri. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Tad W. Sexsmith

Mr. Sexsmith, 34, has had amblyopia in his left eye since childhood. The visual acuity in his right eye is 20/15, and in his left eye, 20/50. Following an examination in 2016, his optometrist stated, ''In my professional opinion, I certify that Tad Sexsmith has sufficient vision abilities to perform the driving tasks required to operate a commercial vehicle.'' Mr. Smith reported that he has driven straight trucks for 8 years, accumulating 320,000 miles. He holds a Class B CDL from Washington. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Dennis M. Varga, Jr.

Mr. Varga, 37, has had a prosthetic right eye since birth. The visual acuity in his right eye is no light perception, and in his left eye, 20/15. Following an examination in 2016, his optometrist stated, ''Mr. Varga was born with a non-functional right eye and does not have binocular vision. We would request that with his flawless record as a CDL holder, you would grant the necessary medical waiver for him to continue with both inter and intra-state driving privileges.'' Mr. Varga reported that he has driven straight trucks for 18 years, accumulating 360,000 miles, and tractor-trailer combinations for 18 years, accumulating 18,000 miles. He holds a Class A CDL from Ohio. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Michael J. Weber

Mr. Weber, 28, has had amblyopia in his left eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/200. Following an examination in 2016, his ophthalmologist stated, ''It is my opinion that Mr. Weber has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Weber reported that he has driven straight trucks for 4 years, accumulating 6,000 miles, tractor-trailer combinations for 4 years, accumulating 6,000 miles, and buses for 4 years, accumulating 4,000 miles. He holds an operator's license from New Jersey. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Mark B. Wilmer

Mr. Wilmer, 54, has had amblyopia in his right eye since childhood. The visual acuity in his right eye is 20/100, and in his left eye, 20/20. Following an examination in 2016, his optometrist stated, ''With these test results and Mark's past driving record, I feel he is qualified to safely operate a commercial vehicle.'' Mr. Wilmer reported that he has driven straight trucks for 3 years, accumulating 900 miles, and tractor-trailer combinations for 20 years, accumulating 30,000 miles. He holds a Class A CDL from Virginia. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Hezekiah Woodrup Sr.

Mr. Woodrup, 62, has a retinal scar in his right eye due to a traumatic incident in childhood. The visual acuity in his right eye is 20/400, and in his left eye, 20/30. Following an examination in 2016, his optometrist stated, ''It is in my opinion, that the patient meets vision requirements for use of commercial vehicle and is able to perform the driving tasks required to operate the vehicle.'' Mr. Woodrup reported that he has driven straight trucks for 7 years, accumulating 210,000 miles. He holds an operator's license from Maryland. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

III. Public Participation and Request for Comments

FMCSA encourages you to participate by submitting comments and related materials.

Submitting Comments

If you submit a comment, please include the docket number for this notice, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so the Agency can contact you if it has questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov* and put the docket number FMCSA–2016–0210 in the ''Keyword'' box, and click ''Search. When the new screen appears, click on ''Comment Now!'' button and type your comment into the text box in the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

FMCSA will consider all comments and material received during the comment period. FMCSA may issue a final determination at any time after the close of the comment period.

Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov* and insert the docket number FMCSA–2016–0210 in the ''Keyword'' box and click ''Search.'' Next, click ''Open Docket Folder'' button and choose the document listed to review. If you do not have access to the Internet, you may view the docket online by visiting the Docket Management Facility in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

Issued on: October 14, 2016.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2016–25380 Filed 10–19–16; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[Docket No. FTA–2016–0025]

Notice of Buy America Waiver of Domestic Content Requirement for Minivans and Vans

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of Buy America public interest waiver.

SUMMARY: In response to a formal petition from the Pace Suburban Bus Division of the Regional Transportation Authority (Pace) requesting a Buy America non-availability waiver to purchase 188 Dodge Caravan minivans for its vanpool program and informal requests from other FTA recipients for similar waivers, and because FTA has been unable to identify any minivan manufacturers who meet both the final assembly and domestic content requirements for non-ADA-accessible minivans, the Federal Transit Administrative (FTA) hereby waives its Buy America domestic content requirement for non-ADA-accessible minivans and vans. FTA's requirement for final assembly in the United States is not waived. This waiver applies to all contracts for the procurement of non-ADA-accessible minivans and vans entered into on or before September 30, 2019, or until a fully-compliant domestic source becomes available, whichever is earlier.

FOR FURTHER INFORMATION CONTACT: Cecelia Comito, Assistant Chief Counsel, Office of the Chief Counsel, phone: (202) 366–2217, or email, *Cecelia.Comito@dot.gov.*

SUPPLEMENTARY INFORMATION: FTA received a formal request from Pace for a Buy America non-availability waiver to purchase 188 Dodge Caravan minivans for its vanpool program. Minivans are considered rolling stock and are subject to the Buy America waiver set forth in 49 U.S.C. 5323(j)(2)(C), which requires that (i) rolling stock, including minivans, contain more than 60 percent domestic content, and (ii) final assembly of the vehicles occurs in the United States. Although initially Pace sought a waiver of only the final assembly requirement, Pace augmented its request to include a waiver of the domestic content and final assembly requirements. By way of background, Pace operates a vanpool program in the Chicago suburban area with more than 785 vehicles in service. A vanpool vehicle is defined, in pertinent part, as a vehicle with a seating capacity of at least six adults (not including the driver). *See* 49 U.S.C. 5323(i)(2)(C)(ii).

In October 2014, Pace issued an invitation for bid (IFB) for a five-year contract for the purchase of seven-person, non-ADA-accessible minivans. The successful bidder, Napoleon Fleet, Inc., proposed Dodge Caravan minivans, but certified that the vehicles were not compliant with the Buy America requirement because the vehicles are not assembled in the United States, but are assembled in Canada. On April 15, 2015, Pace petitioned FTA for a non-availability waiver to procure 188 Dodge Caravan minivans, believing that the vehicles would be able to meet the domestic content requirement.

In August 2015 and November 2015, however, Pace conducted pre-award Buy America audits of the Dodge Caravan minivans and discovered that the Dodge Caravan did not meet the current domestic content requirement of more than 60% US-made components. Pace informed FTA that the audit showed a 57.4% domestic content for

2015 model year minivans and a 52% domestic content for model year 2016 minivans. Pace therefore expanded its request to a non-availability waiver on the grounds that no seven-person non-ADA-accessible minivan that complies with both domestic content and final assembly requirements was available.

In addition to Pace, FTA has received inquiries from other transit agencies and vanpool operators regarding the lack of available non-ADA-accessible minivans that meet both domestic content and final assembly requirements.

With certain exceptions, FTA's Buy America statute prevents FTA from obligating an amount that may be appropriated to carry out its program for a project unless ''the steel, iron, and manufactured goods used in the project are produced in the United States.'' 49 U.S.C. 5323(j)(1). When procuring rolling stock, such as minivans, the cost of components and subcomponents produced in the United States for fiscal years 2016 and 2017 must be more than 60 percent of the cost of all components and subcomponents and final assembly of the rolling stock must occur in the United States.[1] 49 U.S.C. 5323(j)(2)(C).

FTA funds the procurement of between 2,500 and 3,000 minivans annually, including both ADA-accessible vans and non-ADA-accessible vans. The challenges associated with buying minivans that comply with FTA's Buy America statute and regulations have been well documented over the past six years. In 2010, El Dorado National, Kansas and Chrysler Group LLC petitioned FTA for a waiver of the Buy America final assembly requirement. In response to the request, FTA published a notice in the **Federal Register**, seeking comment from all interested parties. Numerous parties responded to the notice expressing support for the waiver. One manufacturer, Honda, indicated that its minivans were in compliance with the Buy America regulations but would not provide the additional information needed to support its claims. Ultimately, on June 21, 2010, FTA issued a public interest waiver of the Buy America final assembly requirement for all minivans and minivan chassis, but retained the domestic content requirement. *See* 75 **Federal Register** 35123.

On November 27, 2012, following the introduction of the Vehicle Production Group's wheelchair-accessible MV–1 vehicle into the marketplace, FTA rescinded the waiver of final assembly for minivans, finding that the manufacturer of the MV–1 was a manufacturer of paratransit vehicles that could meet both the domestic content and the final assembly requirements for rolling stock under Buy America. *See* 75 **Federal Register** 71676. Although FTA acknowledged that the MV–1 minivan is a wheelchair-lift equipped minivan and does not provide the seating capacity needed for vanpool programs, FTA did not continue the final assembly waiver for non-ADA-accessible vehicles, noting that it ''prefers to consider waiver requests for limited circumstances and on procurement-by-procurement basis . . . .'' *Id.*

On November 27, 2013, FTA issued a one-time, limited Buy America waiver of the final assembly requirement to the North Front Range Metropolitan Planning Organization (NFRMPO), for the purchase of 25 seven-passenger minivans, based upon non-availability. *See* 78 **Federal Register** 71025. FTA rejected comments suggesting that it reinstate the 2012 blanket waiver for seven-person minivans, and instead issued a waiver for final assembly for NFRMPO's purchase of up to 25 minivans.

The market for non-ADA-accessible minivans has changed since 2013. In 2013, the Chrysler minivan met the domestic content requirements but was not assembled in the United States. FTA issued a partial waiver for final assembly because more than 60 percent of the minivan's components were produced in the United States. According to Pace's pre-award audit of the Dodge Caravan, Dodge does not meet either Buy America requirement. However, there are at least four manufacturers—GMC, Ford, Honda and Toyota—that make non-ADA-accessible minivans or vans that are assembled in the U.S.[2]

In order to verify Pace's assertion that minivans are not available from a domestic source, on May 17, 2016, FTA published a notice in the **Federal Register** seeking public comment. In the notice, FTA stated that because there are at least four manufacturers who assemble their vehicles in the United States, FTA proposed issuing a general waiver of only the domestic content requirement for non-ADA-accessible minivans and vans. Final assembly for minivans still must occur in the U.S. FTA asked for comments from all interested parties regarding the proposed waiver and sought additional comments on whether manufacturers would consider submitting to a pre-award and post-delivery audit process conducted by FTA on each new model year, as opposed to requiring audits for each individual procurement.

Response to Comments

FTA received comments from 18 entities in Docket FTA–2016–0025 including a variety of transit agencies, national associations, vanpool operators, industry groups, state department of transportation, a manufacturer of electric passenger vehicles and buses, a research and development center, and the general public. Seventeen of the commenters expressed support for the waiver, recognizing the fact that non-ADA-accessible minivans do not meet the domestic content requirement. Two commenters asked that FTA reconsider providing a waiver for final assembly and domestic content. One anonymous commenter opposed the waiver, believing that the waiver would give vanpool operators a benefit not available to traditional public transit agencies.

Commenters supportive of the waiver noted the consequences of the rescission of the 2012 waiver, including the following: Minivans are being operated past their useful life since transit agencies are unable to use Federal funds to procure new minivans that are not Buy America compliant, agencies are procuring larger SUVs with less desirable access/egress characteristics compared to minivans, and vanpool programs are folding or failing to form because public transit agencies have been unable to purchase compliant minivans. Commenters supportive of the waiver also noted that vanpools provide an important transportation alternative both in large cities and rural regions and that the elderly and disabled who do not need an ADA-accessible van also benefit from vanpools.

The comments and questions can be categorized into the following primary categories:

A. What are the four minivans that meet the final assembly requirement?

Nine commenters asked that FTA identify the four minivans referenced in the May 2016 **Federal Register** Notice. These commenters noted that based on the 2016 American Automobile Labeling Act information provided on the National Highway Traffic Safety Administration's Web site, they identified six manufacturers of Multi-Purpose Vehicles (MPV). However, from

[1] Under recent amendments to 49 U.S.C. 5323(j)(2)(C), the domestic content for minivans will increase in FY2018 and FY2019 to more than 65 percent and in FY2020 or beyond, the domestic content will increase to more than 70 percent.

[2] This information is from the 2016 report submitted by car manufacturers to the National Highway Transportation Safety Administration (NHTSA) under the American Automobile Labeling Act. A copy of the report is posted on NHTSA's Web site at *http://www.nhtsa.gov.*

the information provided on the Web site, they identified only two ''true'' minivans—the Toyota Sienna and the Honda Odyssey—and both of these are not currently certified by their respective manufacturers as meeting the final assembly requirement. The commenters asked if FTA would identify the four minivans that it has determined meet the final assembly requirement.

FTA's Response: Based on the 2016 American Automobile Labeling Act information provided on the National Highway Traffic Safety Administration's Web site, the four minivans FTA has identified that comply with the Buy America final assembly requirement are the GMC Acadia, the Ford Expedition, the Toyota Sienna and the Honda Odyssey.[3]

B. What other federal requirements must a manufacturer comply with?

Six commenters asked that FTA clarify what non-Buy America federal requirements a van manufacturer would have to comply with, such as those contained in FTA's Master Agreement, and if there are additional certifications that a manufacturer would have to make before the vehicles can be procured by transit agencies using FTA funds. One commenter asked why FTA does not specifically exempt vans and minivans from FTA's other compliance requirements since FTA already exempts ''unmodified mass-produced vans'' in the 4-year, 100,000-mile service life category from its Bus Testing regulations. This commenter proposed that FTA clarify that unmodified mass-produced vans and minivans having a projected annual production rate of 20,000 or more units are exempt from the Bus Testing regulation in the 4-year, 100,000-mile service life category, and are also exempt from other FTA compliance requirements, such as: Civil rights, disadvantaged business enterprise, clean air, clean water and employee protections.

FTA's Response: Today's FTA action is limited to the Buy America compliance of vans and minivans procured with FTA financial assistance. Compliance with the USDOT's civil rights, disadvantaged business enterprise, and environmental and employee protections is governed by other Federal and Departmental regulations that are beyond the scope of this Notice and are not within FTA's authority to waive. If commenters believe additional regulatory amendments are warranted, they may petition the USDOT, consistent with the procedures outlined in 49 CFR part 5, subpart B.

C. Objection to the Proposed Waiver

One commenter objected to the proposed waiver, stating that the vanpool industry is a small subsection of alternate commuting and that it appears that FTA and the U.S. Department of Transportation are working to assist less than .25% of those who commute daily to work. The commenter further stated that small vanpool companies are pushing a mandate to give options to government employees who should be choosing more efficient modes of travel such as larger vehicles. The commenter contended that minivans allow companies to push ''maxing out'' the subsidy to improve top line results and if true, these companies should be held to the same standards as municipalities receiving federal funds and adhere to Buy America.

Another commenter noted that there are manufacturers of zero-emission vehicles (ZEV) who manufacture vehicles in the United States that contain compliant levels of domestic content and that these ZEVs can be used for public transportation service (vanpool, car share, fleet replacement), and in order to provide zero emission vanpools, the commenter asks that FTA deny Pace's request for a waiver.

FTA Response: FTA does not agree with this commenter that the proposed waiver would provide an undue advantage for individuals who commute by vanpool, noting that all public transit agencies are subject to FTA's Buy America requirements regardless of vehicle size, and those agencies are eligible to petition FTA for a Buy America waiver if faced with similar circumstances, regardless of the type of transportation they provide (*i.e.*, heavy rail, light rail, commuter bus, transit bus, paratransit, or vanpool).

FTA believes that the ZEV vehicles currently available on the market are sedans that are not suitable for all forms of public transportation services. While ZEV sedans can be used to provide ADA paratransit and similar demand-responsive services to ambulatory patrons, they do not yet exist in a configuration capable of accommodating a rider who cannot transfer out of a wheelchair, and they do not provide a passenger capacity that meets the statutory minimum for a vanpool vehicle.

However, as FTA stated at the beginning of this Notice, the waiver is only valid until a vehicle that complies with both the domestic content and final assembly requirement is manufactured in sufficient quantities to meet the requirements of FTA recipients, or September 30, 2019, whichever occurs first. When a vehicle that meets both domestic content and final assembly becomes available, the manufacturer of such vehicles may petition FTA for a review of today's waiver.

D. Will FTA apply this waiver in the future to 9–15 seat passenger vans?

Five commenters asked if FTA would be willing to consider a similar waiver for 9–15 passenger seat vans, with one commenter noting that 9–15 seat passenger vans are essential to their program and compose a substantial part of their fleet.

FTA Response: A separate waiver for 9–15 passenger seat vans is not needed since the proposed waiver encompasses any mass produced, unmodified non-ADA-accessible vans, including 9–15 passenger seat vans.

E. Request for FTA To Reconsider Pace's Domestic Manufacturer Waiver Request

Pace asked that FTA reconsider its waiver request. Following Pace's request to waive the final assembly requirement, Pace expanded its request to include domestic content based on the pre-award audit Pace conducted. According to Pace's research, there are only two minivan manufacturers that are compliant with FTA's final assembly requirement—Honda's Odyssey and Toyota's Sienna—and Pace asserts that Honda and Toyota have not participated in FTA-funded procurements due to the audit requirements in 49 CFR part 663 that require the manufacturer to open its records for audit and inspection in order to confirm U.S. content of more than 60%. The unwillingness of these two potential vendors to document their domestic content would make it unlikely that the transit authority could ever successfully award an FTA-assisted contract to a minivan manufacturer who met the Buy America regulation's final assembly requirements. Pace also asserts that other minivan manufacturers, who cannot meet FTA's final assembly requirement, including: GM and Chevrolet, Ford, Dodge/Chrysler, Nissan, Kia, and Mercedes Benz, may be unable to document compliance with the domestic content requirement. Consequently, Pace amended its petition to request FTA reconsider its request to expand the Buy America waiver to cover both domestic content

[3] The definition of ''minivan'' used in this Notice is based solely on the vehicles' published seating capacity and should not be taken as FTA's endorsement of a vehicle's suitability for use in all FTA-funded van procurements or vanpool programs.

and final assembly for non-ADA-accessible minivans.

FTA Response: With regard to a manufacturer's willingness to document its compliance with the audit requirements, because today's Notice waives the domestic content requirement, recipients will not be obligated to document or audit a covered vehicle's domestic components. However, a recipient still must confirm a vehicle's compliance with the other requirements of 49 CFR part 663, including conformity to the original bid specifications, and compliance with all applicable Federal Motor Vehicle Safety Standards (FMVSS).

F. Comments on FTA's Question Whether Manufacturers Would Consider Submitting to a Pre-Award and Post-Delivery Audit Process That Was Conducted by FTA on Each New Model Year, as Opposed To Requiring Audits for Each Individual Procurement

Commenters were supportive of the concept of annual audits of vehicle models, rather than requiring audits for each individual procurement. Six commenters provided input on FTA's pre-award and post-delivery audit process question. None of the commenters were minivan manufacturers and commenters noted that while they could not speak on behalf of automakers, they supported any policy that would promote more entrants, more competition, and more options in the procurement of minivans for vanpool purposes.

FTA Response: FTA believes this proposal has merit and will take this recommendation into consideration in a future action that FTA may take to address pre-award and post-delivery audits for minivan procurements. Until that time, however, recipients procuring vans with FTA financial assistance must still conduct pre-award and post-delivery audits, consistent with the statutory requirement at 49 U.S.C. 5323(m) and FTA's implementing regulation at 49 CFR part 663. Given the circumstances warranting this waiver, the audits will not need to document the domestic content of the vehicle for compliance, but will still need to confirm the place of final assembly. The audit will need to document that the vehicle conforms to the requirements outlined in the bid specifications, and complies with the FMVSS.

Conclusion

Although no minivans are presently available in the domestic market that meet both the final assembly and domestic content requirements, FTA has identified four non-ADA-accessible vehicles that may be suitable for vanpool use that meet FTA's Buy America final assembly requirement. Therefore, FTA is providing a Buy America waiver of the domestic content requirement for non-ADA-accessible minivans and vans; final assembly in the U.S. is still required. This waiver is limited to contracts entered into on or before September 30, 2019 or until a fully-compliant domestic source becomes available whichever is earlier.

Additionally, FTA is granting Pace a one-time non-availability waiver of both domestic content and final assembly requirements for the purchase of up to 188 Dodge Caravan minivans for its vanpool program, as set forth in Pace's original request for a waiver. Pace originally sought a waiver for the procurement of minivans for its vanpool program in April 2014, after the solicitation resulted in no bidders that certified compliance with Buy America. FTA requested that Pace re-advertise its procurement for minivans (IFB 412654), which Pace did in October 2014. The October 2014 solicitation also resulted in no bidders who could certify to both Buy America requirements. Pace has an immediate need for replacement vehicles for its vanpool program, and acquisition of these vehicles has been delayed due to the Buy America waiver review process. Therefore, FTA also is granting Pace a limited waiver of Buy America for the purchase up to 188 Dodge Caravan minivans for its vanpool program pursuant to IFB 412654.

Ellen Partridge,

Chief Counsel.

[FR Doc. 2016–25370 Filed 10–19–16; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket Number PHMSA–2016–0110; Notice No. 2016–21]

Hazardous Materials: Damaged, Defective, Recalled Lithium Cells or Batteries or Portable Electronic Devices

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Withdrawal of Safety Advisory Notice No. 2016–18.

SUMMARY: Safety Advisory Notice 2016–18 is withdrawn effective at noon (ET) on October 15, 2016. At that time, it will be superseded by an Emergency Restriction/Prohibition Order [Order No. FAA–2016–9288] by the United States Department of Transportation (DOT) pursuant to 49 U.S.C. 5121(d).

FOR FURTHER INFORMATION CONTACT: Kevin Leary, Standards and Rulemaking Division, Pipeline and Hazardous Materials Safety Administration, telephone: (202) 366–8553.

SUPPLEMENTARY INFORMATION:

Additional Information

Additional information pertinent to the Order is available through the Office of the Federal Register Web site (*https://www.federalregister.gov/public-inspection/current*).

Additional information pertinent to the traveling public is available through the DOT Safe Travel Web site (see *http://phmsa.dot.gov/safetravel/batteries*) and through the FAA Pack Safe Web site (see *http://www.faa.gov/Go/PackSafe*). For additional information on returning your device to the manufacturer, please call 1–800–SAMSUNG or 1–800–726–7864. For additional information on the recall please visit the Consumer Product Safety Commission's Web site at *www.cpsc.gov.*

Issued in Washington, DC, on October 14, 2016.

Marie Therese Dominguez,

Administrator, Pipeline and Hazardous Materials Safety Administration.

[FR Doc. 2016–25362 Filed 10–19–16; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Docket No.: DOT–OST–2016–0203]

Advisory Committee on Automation in Transportation

AGENCY: Office of the Secretary, U.S. Department of Transportation (DOT).

ACTION: Notice of establishment of the Advisory Committee on Automation in Transportation (ACAT) and solicitation of nominations for membership.

SUMMARY: Pursuant to Section 9(a)(2) of the Federal Advisory Committee Act (FACA), and in accordance with Title 41, Code of Federal Regulations, Section 102–3.65, and following consultation with the Committee Management Secretariat, General Services Administration, notice is hereby given that the ACAT will be established for a 2-year period.

It is the policy of the U.S. Department of Transportation to foster the safe deployment of advanced automated and connected vehicle technologies to

achieve national goals while also understanding the long term societal and ethical impacts that these technological advancements may impose. Within that context, the objective of this committee is to provide information, advice, and recommendations to the U.S. Secretary of Transportation on cross-modal matters relating to the development and deployment of automated vehicles and assess the state of Departmental research, policy and regulatory support within this framework. The committee may convene and determine topics and is assembled around subject areas related to transportation aspects including the safety, mobility, environmental sustainability, maintaining state of good repair, human impact, data use and cybersecurity.

The ACAT shall undertake information gathering activities, develop technical advice, and present recommendations to the Secretary to further inform this policy, including—but not limited to—aviation automated navigation systems technologies, unmanned aircraft systems, automated and connected road and transit vehicle technologies, enhanced freight movement technologies, railroad automated technologies, and advanced technology deployment in surface transportation environments. In particular, the ACAT will perform these activities as they may relate to emerging or ''not-yet-conceived'' innovations to ensure DOT is prepared when disruptive technologies emerge and can better manage long term evolution of training and education, regulation, and safety oversight. The ACAT shall consider these topics and areas of application as they alleviate or exacerbate challenges to disabled and disadvantaged populations.

Additionally, the establishment of the ACAT is necessary for the Department to carry out its mission and in the public interest. The Committee will operate in accordance with the provisions of the Federal Advisory Committee Act and the rules and regulations issued in implementation of that Act.

This notice also requests nominations for members of the Committee to ensure a wide range of member candidates and a balanced committee. The Under Secretary for Transportation may also make nominations to the Secretary to ensure balance on the committee.

DATES: The deadline for nominations for Committee members must be received on or before November 4, 2016.

ADDRESSES: All nomination materials should be emailed to *automation@dot.gov* or faxed to the attention of John Augustine at (202) 366–0263, or mailed to John Augustine, U.S. Department of Transportation, Office of the Secretary Office of Policy, Room W84–306, 1200 New Jersey Avenue SE., Washington, DC 20590. Any person needing accessibility accommodations should contact John Augustine at (202) 366–0353.

FOR FURTHER INFORMATION CONTACT: John Augustine, U.S. Department of Transportation, Office of the Secretary, Office of Policy, Room W84–306, 1200 New Jersey Avenue SE., Washington, DC 20590; phone (202) 366–0353; email: *automation@dot.gov.*

SUPPLEMENTARY INFORMATION: The Department of Transportation is hereby soliciting nominations for members of the ACAT. The Secretary of Transportation will appoint at least 15 Committee members. Members will be selected with a view toward achieving varied perspectives on automated transportation, including but not limited to (1) modes of transportation; (2) regional representation; (3) relevant policy areas such as safety, labor, and environment; (4) businesses developing automation technologies; and (5) government bodies. Committee members may serve for a term of 2 years or less and may be reappointed for successive terms, with no more than 2 successive terms. The Chair and Vice Chair of the Committee will be appointed by the Secretary from among the selected members, and the Committee is expected to meet approximately two times per year or as necessary. Subcommittees may be formed to address specific automation-related issues. Some Committee members may be appointed as special Government employees and will be subject to certain ethical restrictions, and such members will be required to submit certain information in connection with the appointment process.

Process and Deadline for Submitting Nominations: Qualified individuals can self-nominate or be nominated by any individual or organization. To be considered for the ACAT, nominators should submit the following information:

(1) Name, title, and relevant contact information (including phone, fax, and email address) of the individual requesting consideration;

(2) A letter of support from a company, union, trade association, academic or non-profit organization on letterhead containing a brief description why the nominee should be considered for membership;

(3) Short biography of nominee including professional and academic credentials;

(4) An affirmative statement that the nominee meets all Committee eligibility requirements. Please do not send company, trade association, or organization brochures or any other information. Materials submitted should total two pages or less. Should more information be needed, DOT staff will contact the nominee, obtain information from the nominee's past affiliations, or obtain information from publicly available sources, such as the Internet.

Nominations may be emailed to *automation@dot.gov* or faxed to the attention of John Augustine at (202) 366–0263, or mailed to John Augustine, U.S. Department of Transportation, Office of the Secretary Office of Policy, Room W84–306, 1200 New Jersey Avenue SE., Washington, DC 20590. Nominations must be received before November 4, 2016. Nominees selected for appointment to the Committee will be notified by return email and by a letter of appointment.

A selection team comprising representatives from several DOT offices will review the nomination packages. The selection team will make recommendations regarding membership to the Secretary of Transportation based on criteria including (1) professional or academic expertise, experience, and knowledge; (2) stakeholder representation; (3) availability and willingness to serve; and (4) skills working in committees and advisory panels. The Under Secretary of Transportation for Policy will submit a list of recommended candidates to the Secretary of Transportation for review and selection of Committee members.

Nominations are open to all individuals without regard to race, color, religion, sex, national origin, age, mental or physical handicap, marital status, or sexual orientation. To ensure that recommendations to the Secretary take into account the needs of the diverse groups served by DOT, membership shall include, to the extent practicable, individuals with demonstrated ability to represent minorities, women, and persons with disabilities. Please note, however, that federally registered lobbyists and individuals already serving on another Federal advisory committee are ineligible for nomination.

Issued in Washington, DC, on October 13, 2016.

Blair C. Anderson,

Under Secretary of Transportation for Policy.

[FR Doc. 2016–25392 Filed 10–19–16; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Agency Information Collection Activities: Information Collection Renewal; Comment Request; Retail Foreign Exchange Transactions

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The OCC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a continuing information collection as required by the Paperwork Reduction Act of 1995 (PRA).

In accordance with the requirements of the PRA, the OCC may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number.

The OCC is soliciting comment on the renewal of its information collection titled ''Retail Foreign Exchange Transactions.''

DATES: Comments must be submitted on or before December 19, 2016.

ADDRESSES: Because paper mail in the Washington, DC area and at the OCC is subject to delay, commenters are encouraged to submit comments by email, if possible. Comments may be sent to: Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, Attention: 1557–0250, 400 7th Street SW., Suite 3E–218, Mail Stop 9W–11, Washington, DC 20219. In addition, comments may be sent by fax to (571) 465–4326 or by electronic mail to *prainfo@occ.treas.gov.* You may personally inspect and photocopy comments at the OCC, 400 7th Street SW., Washington, DC 20219. For security reasons, the OCC requires that visitors make an appointment to inspect comments. You may do so by calling (202) 649–6700 or, for persons who are deaf or hard of hearing, TTY, (202) 649–5597. Upon arrival, visitors will be required to present valid government-issued photo identification and submit to a security screening in order to inspect and photocopy comments.

All comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

FOR FURTHER INFORMATION CONTACT: Shaquita Merritt, OCC Clearance Officer, (202) 649–5490 or, for persons who are deaf or hard of hearing, TTY, (202) 649–5597, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 400 7th Street SW., Washington, DC 20219.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from OMB for each collection of information that they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) to include 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 title 44 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, the OCC is publishing notice of the proposed collection of information set forth in this document.

Title: Retail Foreign Exchange Transactions.

OMB Control No.: 1557–0250.

Type of Review: Regular.

Frequency of Response: On occasion.

Affected Public: Businesses or other for-profit.

Estimated Number of Respondents: 15.

Total Annual Burden: 22,418 hours.

Description:

Background

The OCC's retail forex rule (12 CFR part 48) allows national banks and Federal savings associations to offer retail foreign exchange transactions to its customers. In order to engage in these transactions, institutions must comply with various reporting, disclosure, and recordkeeping requirements included in that rule.

Reporting Requirements

The reporting requirements in § 48.4 state that, prior to initiating a retail forex business, a national bank or Federal savings association must provide the OCC with prior notice and obtain a written supervisory no-objection letter. In order to obtain a supervisory no-objection letter, a national bank or Federal savings association must have written policies, procedures, and risk measurement and management systems and controls in place to ensure that retail forex transactions are conducted in a safe and sound manner. The national bank or Federal savings association also must provide other information required by the OCC, such as documentation of customer due diligence, new product approvals, and haircuts applied to noncash margins.

Disclosure Requirements

Under § 48.5, a national bank or Federal savings association must promptly provide the customer with a statement reflecting the financial result of the transactions and the name of the introducing broker to the account. The customer must provide specific written instructions on how the offsetting transaction should be applied.

Section 48.6 requires that a national bank or Federal savings association furnish a retail forex customer with a written disclosure before opening an account through which the customer will engage in retail forex transactions. It further requires a national bank or Federal savings association to secure an acknowledgment from the customer that the disclosure was received and understood. Finally, the section requires the disclosure by a national bank or Federal savings association of its fees and other charges and its profitable accounts ratio.

Section 48.10 requires a national bank or Federal savings association to issue monthly statements to each retail forex customer and to send confirmation statements following transactions.

Section 48.13(c) prohibits a national bank or Federal savings association engaging in retail forex transactions from knowingly handling the account of any related person of another retail forex counterparty unless it receives proper written authorization, promptly prepares a written record of the order, and transmits to the counterparty copies all statements and written records. Section 48.13(d) prohibits a related person of a national bank or Federal savings association engaging in forex transactions from having an account with another retail forex counterparty unless it receives proper written authorization and copies of all statements and written records for such accounts are transmitted to the counterparty.

Section 48.15 requires a national bank or Federal savings association to provide a retail forex customer with 30 days prior notice of any assignment of any position or transfer of any account of the retail forex customer. It also requires a national bank or Federal savings association to which retail forex accounts or positions are assigned or transferred to provide the affected customers with risk disclosure statements and forms of acknowledgment and obtain the signed acknowledgments within 60 days.

The customer dispute resolution provisions in § 48.16 require certain endorsements, acknowledgments, and signatures. The section also requires that a national bank or Federal savings association, within 10 days after receipt of notice from the retail forex customer that the customer intends to submit a claim to arbitration, provide the customer with a list of persons qualified in the dispute resolution.

Policies and Procedures; Recordkeeping

Sections 48.7 and 48.13 require that a national bank or Federal savings association engaging in retail forex transactions keep full, complete, and systematic records and to establish and implement internal rules, procedures, and controls. Section 48.7 also requires that a national bank or Federal savings association keep account, financial ledger, transaction, and daily records, as well as memorandum orders, post-execution allocation of bunched orders, records regarding its ratio of profitable accounts, possible violations of law, records for noncash margin, and monthly statements and confirmations. Section 48.9 requires policies and procedures for haircuts for noncash margin collected under the rule's margin requirements and annual evaluations and modifications of the haircuts.

Comments submitted in response to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the OCC, including whether the information has practical utility;

(b) The accuracy of the OCC's estimate of the burden of the information collection;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of the collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: October 13, 2016.

Karen Solomon,

Deputy Chief Counsel, Office of the Comptroller of the Currency.

[FR Doc. 2016–25391 Filed 10–19–16; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Agency Information Collection Activities: Information Collection Renewal; Submission for OMB Review; Reverse Mortgage Products: Guidance for Managing Compliance and Reputation Risks

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The OCC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on the renewal of an information collection, as required by the Paperwork Reduction Act of 1995 (PRA).

An agency may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number.

The OCC is soliciting comment concerning renewal of its information collection titled, ''Reverse Mortgage Products: Guidance for Managing Compliance and Reputation Risks'' (Guidance). The OCC also is giving notice that it has sent the collection to OMB for review.

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

ADDRESSES: Because paper mail in the Washington, DC area and at the OCC is subject to delay, commenters are encouraged to submit comments by email, if possible. Comments may be sent to: Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, Attention: 1557–0246, 400 7th Street SW., Suite 3E–218, Mail Stop 9W–11, Washington, DC 20219. In addition, comments may be sent by fax to (571) 465–4326 or by electronic mail to *prainfo@occ.treas.gov*. You may personally inspect and photocopy comments at the OCC, 400 7th Street SW., Washington, DC 20219. For security reasons, the OCC requires that visitors make an appointment to inspect comments. You may do so by calling (202) 649–6700 or, for persons who are deaf or hard of hearing, TTY, (202) 649–5597. Upon arrival, visitors will be required to present valid government-issued photo identification and submit to security screening in order to inspect and photocopy comments.

All comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not enclose any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

Additionally, please send a copy of your comments by mail to: OCC Desk Officer, 1557–0246, U.S. Office of Management and Budget, 725 17th Street NW., #10235, Washington, DC 20503 or by email to: *oira submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Shaquita Merritt, OCC Clearance Officer, (202) 649–5490 or, for persons who are deaf or hard of hearing, TTY, (202) 649–5597, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 400 7th Street SW., Suite 3E–218, Mail Stop 9W–11, Washington, DC 20219.

SUPPLEMENTARY INFORMATION: The OCC is proposing to extend OMB approval of the following information collection:

Abstract: On December 16, 2009, the OCC, FDIC, FRB and NCUA sought comment on the Guidance,[1] which they issued on August 17, 2010.[2] The Guidance focused on the need to provide adequate information to consumers about reverse mortgage products, to provide qualified independent counseling to consumers considering these products, and to avoid potential conflicts of interest. The Guidance also addressed related policies, procedures, internal controls, and third party risk management.

The information collection requirements included implementation of policies and procedures, training, and program maintenance. These are outlined below:

- Institutions offering reverse mortgages should have written policies and procedures that prohibit the practice of directing a consumer to a particular counseling agency or contacting a counselor on the consumer's behalf.

[1] 74 FR 66652.

[2] 75 FR 50801.

• Policies should be clear so that originators do not have an inappropriate incentive to sell other products that appear linked to the granting of a mortgage.

• Legal and compliance reviews should include oversight of compensation programs so that lending personnel are not improperly encouraged to direct consumers to particular products.

• Training should be designed so that relevant lending personnel are able to convey information to consumers about product terms and risks in a timely, accurate, and balanced manner.

Title of Information Collection: Reverse Mortgage Products: Guidance for Managing Compliance and Reputation Risks.

OMB Control No.: 1557–0246.

Affected Public: National banks, Federal savings associations, subsidiaries of national banks and Federal savings associations, and Federal branches or agencies of foreign banks.

Type of Review: Regular.

Estimated Burden:

Number of respondents: 15.

Burden per respondent: 40 hours to implement policies and procedures and to provide training; 8 hours annually to maintain program.

Total estimated annual burden: 160 hours.

Comments: On July 12, 2016, the OCC issued a 60-day notice soliciting comment on the information collection, 81 FR 45221. One comment was received from an individual.

The commenter stated that the collection of information is necessary and vital for the proper performance of the Federal banking agencies' functions and that it has a practical utility. The commenter believes that, in any information collection, automated collection techniques would reduce the burden of information collection requirements on the public and the agencies. The commenter suggested that requests for information from the public should include a link to a Web site where the requested information may be uploaded. The commenter doesn't believe that this would add significant cost and feels that it would make providing information less burdensome.

The OCC uses automated collection techniques whenever possible in its information collections, including links where information may be uploaded. Comments are invited on:

(a) Whether the collection of information is necessary for the proper performance of the Federal banking agencies' functions, including whether the information has practical utility;

(b) The accuracy of the estimates of the burden of the information collection, including the validity of the methodology and assumptions used;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or start up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: October 13, 2016.

Karen Solomon,

Deputy Chief Counsel, Office of the Comptroller of the Currency.

[FR Doc. 2016–25388 Filed 10–19–16; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

October 14, 2016.

The Department of the Treasury will submit the following information collection request(s) 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 November 21, 2016 to be assured of consideration.

ADDRESSES: Send comments regarding the burden estimates, or any other aspect of the information collection(s), 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* and (2) Treasury PRA Clearance Officer, 1750 Pennsylvania Ave. NW., Suite 8142, Washington, DC 20220, or email at *PRA@treasury.gov.*

FOR FURTHER INFORMATION CONTACT: Copies of the submissions may be obtained by emailing *PRA@treasury.gov,* calling (202) 622–0934, or viewing the entire information collection request at *www.reginfo.gov.*

Departmental Offices (DO)

OMB Control Number: 1505–0221.

Type of Review: Extension of a currently approved collection.

Title: Annual Performance Report and Certification for Section 1603: Payments for Specified Renewable Energy Property in Lieu of Tax Credits.

Abstract: The purpose of the 1603 payment is to reimburse eligible applicants for a portion of the cost of installing specified energy property used in a trade or business or for the production of income. A 1603 payment is made after the energy property is placed in service. Applicants for Section 1603 payments commit in the terms and conditions that are part of the Treasury program application to submitting an annual report for five years from the date the energy property is placed in service.

Affected Public: State, Local, and Tribal Governments.

Estimated Total Annual Burden Hours: 37,500.

Bob Faber,

Acting Treasury PRA Clearance Officer.

[FR Doc. 2016–25324 Filed 10–19–16; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF VETERANS AFFAIRS

Loan Guaranty: Assistance to Eligible Individuals in Acquiring Specially Adapted Housing; Cost-of-Construction Index

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The U.S. Department of Veterans Affairs (VA) announces that the aggregate amounts of assistance available under the Specially Adapted Housing (SAH) grant program will increase by 4.797 percent for Fiscal Year (FY) 2017.

FOR FURTHER INFORMATION CONTACT: John Bell, III, Assistant Director for Loan Policy and Valuation, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 632–8786 (not a toll-free number).

DATES: October 20, 2016.

SUPPLEMENTARY INFORMATION: In accordance with 38 U.S.C. 2102(e) and 38 U.S.C. 2102A(b)(2) and 38 CFR 36.4411, the Secretary of Veterans Affairs announces for FY 2017 the aggregate amounts of assistance available to veterans and servicemembers eligible for SAH program grants.

Public Law 110–289, the Housing and Economic Recovery Act of 2008, authorized the Secretary to increase the aggregate amounts of SAH assistance annually based on a residential home cost-of-construction index. Per 38 CFR

36.4411(a), the Secretary uses the Turner Building Cost Index for this purpose.

In the most recent quarter for which the Turner Building Cost Index is available, 2nd Quarter 2016, the index showed an increase of 4.797 percent over the index value listed by 2nd Quarter 2015. Pursuant to 38 CFR 36.4411(a), therefore, the aggregate amounts of assistance for SAH grants made pursuant to 38 U.S.C. 2101(a) and 2101(b) will increase by 4.797 percent for FY 2017.

Public Law 112–154, the Honoring America's Veterans and Caring for Camp Lejeune Families Act of 2012, required that the same percentage of increase apply to grants authorized pursuant to 38 U.S.C. 2102A. See 38 U.S.C. 2102A(b)(2). As such, the maximum amount of assistance available under these grants, which are called grants for Temporary Residence Adaptation (TRA grants), will also increase by 4.797 percent for FY2017.

The increases are effective as of October 1, 2016.

Specially Adapted Housing: Aggregate Amounts of Assistance Available During Fiscal Year 2017

2101(a) Grants and TRA Grants

Effective October 1, 2016, the aggregate amount of assistance available for SAH grants made pursuant to 38 U.S.C. 2101(a) will be $77,307 during FY 2017. The maximum TRA grant made to an individual who satisfies the eligibility criteria under 38 U.S.C. 2101(a) and 2102A will be $33,937 during FY 2017.

2101(b) Grants and TRA Grants

Effective as of October 1, 2016, the aggregate amount of assistance available for SAH grants made pursuant to 38 U.S.C. 2101(b) will be $15,462 during FY 2017. The maximum TRA grant made to an individual who satisfies the eligibility criteria under 38 U.S.C. 2101(b) and 2102A will be $6,059 during FY 2017.

Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Gina S. Farrisee, Deputy Chief of Staff, Department of Veterans Affairs, approved this document on October 5, 2016, for publication.

Dated: October 5, 2016.

Jeffrey Martin,

Office Program Manager, Office of Regulation Policy & Management, Office of the Secretary, Department of Veterans Affairs.

[FR Doc. 2016–25398 Filed 10–19–16; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL REGISTER

Vol. 81 Thursday,
No. 203 October 20, 2016

Part II

The President

Notice of October 18, 2016—Continuation of the National Emergency With Respect to Significant Narcotics Traffickers Centered in Colombia

Federal Register
Vol. 81, No. 203
Thursday, October 20, 2016

Presidential Documents

Title 3—

The President

Notice of October 18, 2016

Continuation of the National Emergency With Respect to Significant Narcotics Traffickers Centered in Colombia

On October 21, 1995, by Executive Order 12978, the President declared a national emergency with respect to significant narcotics traffickers centered in Colombia pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701–1706) to deal with the unusual and extraordinary threat to the national security, foreign policy, and economy of the United States constituted by the actions of significant narcotics traffickers centered in Colombia and the extreme level of violence, corruption, and harm such actions cause in the United States and abroad.

The actions of significant narcotics traffickers centered in Colombia continue to threaten the national security, foreign policy, and economy of the United States and to cause an extreme level of violence, corruption, and harm in the United States and abroad. For this reason, the national emergency declared in Executive Order 12978 of October 21, 1995, and the measures adopted pursuant thereto to deal with that emergency, must continue in effect beyond October 21, 2016. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing for 1 year the national emergency with respect to significant narcotics traffickers centered in Colombia declared in Executive Order 12978.

This notice shall be published in the *Federal Register* and transmitted to the Congress.

THE WHITE HOUSE,
October 18, 2016.

[FR Doc. 2016–25599
Filed 10–19–16; 11:15 am]
Billing code 3295–F7–P

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