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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1260

[No. AMS–LPS–15–0084]

Beef Promotion and Research Rules and Regulations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule amends the Beef Promotion and Research Order (Order) established under the Beef Promotion and Research Act of 1985 (Act) by adding six Harmonized Tariff Schedule (HTS) codes for imported veal and veal products and updating assessment levels for imported veal and veal products based on revised determinations of live animal equivalencies. In addition to the foregoing, the Agricultural Marketing Service (AMS) is amending the Order's definition of ''Imported beef or beef products'' by deleting its reference to tariff numbers that are no longer in use and obsolete.

DATES: Effective June 29, 2017.

FOR FURTHER INFORMATION CONTACT: Mike Dinkel, Agricultural Marketing Specialist, Research and Promotion Division, Livestock, Poultry, and Seed Program; AMS, USDA; Room 2610–S, STOP 0249, 1400 Independence Avenue SW., Washington, DC 20250–0249; fax (202) 720–1125; telephone (301) 352–7497; or email *Michael.Dinkel@ams.usda.gov.*

SUPPLEMENTARY INFORMATION:

Executive Orders 12866 and 13771, and Regulatory Flexibility Act

This rule does not meet the definition of a significant regulatory action contained in section 3(f) of Executive Order 12866, and is not subject to review by the Office of Management and Budget (OMB). Additionally, because this rule does not meet the definition of a significant regulatory action it does not trigger the requirements contained in Executive Order 13771. See OMB's Memorandum titled ''Interim Guidance Implementing Section 2 of the Executive Order of January 30, 2017, titled 'Reducing Regulation and Controlling Regulatory Costs' '' (February 2, 2017). Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA) [5 U.S.C. 601 *et seq.*], the Acting Administrator of AMS has considered the economic effect of this action on small entities and has determined that this final rule does not have a significant economic impact on a substantial number of small business entities. The effect of the Order upon small entities was discussed in the July 18, 1986, **Federal Register** [51 FR 26132]. The purpose of RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses will not be unduly burdened.

Based on conversations with importing companies, AMS estimates that approximately 270 importers import beef and beef products and veal and veal products into the U.S. and about 198 importers import live cattle into the U.S. The majority of these operations subject to the Order are considered small businesses under the criteria established by the Small Business Administration (SBA) [13 CFR 121.201]. SBA defines small agricultural service firms as those having annual receipts of $7.5 million or less.

This final rule imposes no significant burden on the industry. Importers are already required to pay assessments. It merely adds six HTS codes for imported veal and veal products and updates assessment rates for imported veal and veal products based on revised determinations of live animal equivalencies. The addition of HTS codes reflects an increase of imported veal and veal products into the U.S. Accordingly, the Acting Administrator of AMS has determined that this action does not have a significant impact on a substantial number of small entities.

Executive Order 12988

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have a retroactive effect.

Section 11 of the Act [7 U.S.C. 2910] provides that nothing in the Act may be construed to preempt or supersede any other program relating to beef promotion organized and operated under the laws of the U.S. or any state. There are no administrative proceedings that must be exhausted prior to any judicial challenge to the provisions of this rule.

Paperwork Reduction Act

In accordance with OMB regulations [5 CFR 1320] that implement the Paperwork Reduction Act of 1995 [44 U.S.C. Chapter 35], the information collection and recordkeeping requirements contained in the Order and accompanying Rules and Regulations have previously been approved by OMB under OMB control number 0581–0093.

Background

The Act authorized the establishment of a national beef promotion and research program. The final Order was published in the **Federal Register** on July 18, 1986 [51 FR 21632], and the collection of assessments began on October 1, 1986. The program is administered by the Cattlemen's Beef Promotion and Research Board (Board), appointed by the Secretary of Agriculture (Secretary) from industry nominations, and composed of 100 cattle producers and importers. The program is funded by a $1-per-head assessment on producers selling cattle in the U.S. as well as an equivalent assessment on importers of cattle, beef, and beef products.

Importers pay assessments on imported cattle, beef, and beef products. U.S. Customs and Border Protection collects and remits the assessment on imported cattle, beef, and beef products. The term ''importer'' is defined as ''any person who imports cattle, beef, or beef products from outside the United States'' [7 CFR 1260.117]. Imported beef or beef products is defined as ''products which are imported into the United States which the Secretary determines contain a substantial amount of beef including those products which have been assigned one or more of the following numbers in the Tariff Schedule of the United States'' [7 CFR 1260.121].

On March 16, 2016, AMS published a proposed rule in the **Federal Register** [81 FR 14022] amending 7 CFR 1260.172 of the Order to add six HTS codes for imported veal and veal

products. On May 6, 2016, AMS announced in a Notice to Trade that it was withdrawing the proposed rule because an error was discovered in the imported veal carcass weight. AMS also announced at that time that it intended to publish another proposed rule with the correct carcass weight and to include the formula and an explanation of how the new assessment rates are calculated. On June 30, 2016, AMS published the withdrawal notice in the **Federal Register** [81 FR 42576] and on August 23, 2016, published the corrected proposed rule in the **Federal Register** [81 FR 57495].

The Act requires that assessments on imported beef and beef products and veal and veal products be determined by converting such imports into live animal equivalents to ascertain the corresponding number of head of cattle. Carcass weight is the principle factor in calculating live animal equivalents.

Prior to publishing the March 16, 2016, proposed rule, the U.S. Department of Agriculture (USDA) received information from the Board regarding assessments on imported veal. The Board requested expanding the number of HTS codes for imported veal and veal products in order to capture product that is not currently being assessed and to update the live animal equivalency rate on imported veal to reflect the same assessment as domestic veal and veal products. The Board also suggested that AMS update the dressed veal weight to better reflect current dressed veal weights. The Board recommended using an average dressed veal weight from 2010 to the most current data. The Board stated that establishing an average over this period of time takes into account short-term highs and lows due to the cattle cycle, weather effects, and feed prices. In this final rule, the average dressed weight used to determine the assessment on imported veal and veal products is 154 pounds.

In order to convert carcasses and cuts back to a live animal equivalency, conversion factors are used. The conversion factor takes into account what is lost (feet, head, tail, hide, internal organs, and bone for boneless product) as the veal is processed into carcasses, bone-in cuts, and boneless cuts.

For bone-in carcasses and cuts, a one-to-one ratio is used to convert product weight to a live animal equivalent. For boneless veal cuts, the conversion factor ''adds back'' the weight of the bones removed from the product.

While the regulatory text in the proposed rule [81 FR 57495] includes two brief tables containing only the specific changes and additions, the regulatory text in this final rule includes comprehensive tables incorporating the changes and additions within previously existing tables that were never intended to be deleted.

Finally, upon further review of this final rule and the Order, AMS discovered that the seven digit HTS codes listed under section 1260.121, which defines the term ''Imported beef or beef products,'' are no longer in use and obsolete. Those codes were replaced by 10 digit HTS codes currently found in section 7 CFR 1262.172(b)(2) of the Order. As a result, AMS is amending the definition by removing those obsolete HTS code references. No other changes are made to the definition.

Summary of Comments

On August 23, 2016, AMS published a proposed rule with a request for public comment. AMS received four timely comments. Three comments were received from the Board and national veal and beef industry organizations that were relevant to the proposed rule. One comment was outside the scope of the rulemaking.

Three commenters discussed the conversion factor for bone-in and boneless veal cuts. The commenters agreed with USDA's conversion factor for bone-in veal cuts. However, the commenters disagreed with USDA's conversion factor used for boneless imported veal cuts.

In the proposed rule, AMS used the conversion factor of 1.32 based on Table 7 (Factors used to convert pounds of carcass weight to retail and trimmed, boneless equivalent weights for red meats) of the ''Economic Research Service Agricultural Handbook Number 697, Weights, Measures, and Conversion Factors for Agricultural Commodities and Their Products (June 1992)'' (Handbook). However, the three commenters suggested that AMS should use the conversion factor of 1.46 for veal grading choice and good from Table 10 (Factors for converting pounds of boneless meat to untrimmed bone-in equivalent) of the Handbook because the conversion factor of 1.32 converts the boneless veal back to 0.904 pounds of bone-in veal rather than one pound. The conversion factor of 1.46 (proposed by the commenters) converts 0.685 pounds of boneless veal back to one pound of bone-in veal based on the equation: 0.685(1.46) = 1.0.

AMS believes the comments have merit. Accordingly, the new assessment rates for veal and veal products will be:

$$\underline{\text{Carcass and Bone-in Cuts}}$$

$$\frac{1.00}{154}\ (2.2046\ \text{lbs/kg}) = 0.01431558\ \text{cents/kg}$$

$$\underline{\text{Boneless Cuts}}$$

$$\frac{1.46}{154}\ (2.2046\ \text{lbs/kg}) = 0.02090075\ \text{cents/kg}$$

List of Subjects in 7 CFR Part 1260

Administrative practice and procedure, Advertising, Agricultural research, Imports, Marketing agreement, Meat and meat products, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, AMS amends 7 CFR part 1260 as follows:

PART 1260—BEEF PROMOTION AND RESEARCH

■ 1. The authority citation for 7 CFR part 1260 continues to read as follows:

Authority: 7 U.S.C. 2901–2911 and 7 U.S.C. 7401.

■ 2. Revise § 1260.121 to read as follows:

§ 1260.121 Imported beef or beef products

Imported beef or beef products means products which are imported into the United States which the Secretary

determines contain a substantial amount of beef including those products which have been assigned one or more numbers in the Tariff Schedule of the United States.

■ 3. Amend § 1260.172 by revising paragraph (b)(2) to read as follows:

§ 1260.172 Assessments.

* * * * *

(b) * * *

(2) The assessment rates for imported cattle, beef, beef products, are as follows:

IMPORTED LIVE CATTLE

HTS No.	Assessment rate per head
0102.10.0010	$1.00
0102.10.0020	1.00
0102.10.0030	1.00
0102.10.0050	1.00
0102.90.2011	1.00
0102.90.2012	1.00
0102.90.4024	1.00
0102.90.4028	1.00
0102.90.4034	1.00
0102.90.4038	1.00
0102.90.4054	1.00
0102.90.4058	1.00
0102.90.4062	1.00
0102.90.4064	1.00
0102.90.4066	1.00
0102.90.4068	1.00
0102.90.4072	1.00
0102.90.4074	1.00
0102.90.4082	1.00
0102.90.4084	1.00

IMPORTED BEEF AND BEEF PRODUCTS

HTS No.	Assessment rate per kg
0201.10.0510	.01431558
0201.10.0590	.00379102
0201.10.1010	.01431558
0201.10.1090	.00379102
0201.10.5010	.01431558
0201.10.5090	.00511787
0201.20.0200	.00530743
0201.20.0400	.00511787
0201.20.0600	.00379102
0201.20.1000	.00530743
0201.20.3000	.00511787
0201.20.5000	.00379102
0201.20.5010	.01431558
0201.20.5020	.01431558
0201.20.8090	.00379102
0201.30.0200	.00530743
0201.30.0400	.00511787
0201.30.0600	.00379102
0201.30.1000	.00530743
0201.30.3000	.00511787
0201.30.5000	.00511787
0201.30.5010	.02090075
0201.30.5020	.02090075
0201.30.8090	.00511787
0202.10.0510	.01431558
0202.10.0590	.00379102
0202.10.1010	.01431558
0202.10.1090	.00370102

IMPORTED BEEF AND BEEF PRODUCTS—Continued

HTS No.	Assessment rate per kg
0202.10.5010	.01431558
0202.10.5090	.00379102
0202.20.0200	.00530743
0202.20.0400	.00511787
0202.20.0600	.00379102
0202.20.1000	.00530743
0202.20.3000	.00511787
0202.20.5000	.00379102
0202.20.8000	.00379102
0202.30.0200	.00530743
0202.30.0400	.00511787
0202.30.0600	.00527837
0202.30.1000	.00530743
0202.30.3000	.00511787
0202.30.5000	.00511787
0202.30.5010	.02090075
0202.30.5020	.02090075
0202.30.8000	.00379102
0206.10.0000	.00379102
0206.21.0000	.00379102
0206.22.0000	.00379102
0206.29.0000	.00379102
0210.20.0000	.00615701
1601.00.4010	.00473877
1601.00.4090	.00473877
1601.00.6020	.00473877
1602.50.0900	.00663428
1602.50.1020	.00663428
1602.50.1040	.00663428
1602.50.2020	.00701388
1602.50.2040	.00701388
1602.50.6000	.00720293

* * * * *

Dated: May 23, 2017.

Bruce Summers,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 2017–10986 Filed 5–26–17; 8:45 am]

BILLING CODE 3410–02–P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

[NRC–2016–0254]

RIN 3150–AJ88

List of Approved Spent Fuel Storage Casks: TN Americas, LLC, NUHOMS® EOS Dry Spent Fuel Storage System, Certificate of Compliance No. 1042

AGENCY: Nuclear Regulatory Commission.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is confirming the effective date of June 7, 2017, for the direct final rule that was published in the **Federal Register** on March 24, 2017. The direct final rule amended the NRC's spent fuel storage regulations by revising the ''List of approved spent fuel storage casks'' to add the TN Americas, LLC (TN Americas), NUHOMS® Extended Optimized Storage (EOS) Dry Spent Fuel Storage System as Certificate of Compliance (CoC) No. 1042.

DATES: *Effective Date:* The effective date of June 7, 2017, for the direct final rule published March 24, 2017 (82 FR 14987), is confirmed.

ADDRESSES: Please refer to Docket ID NRC–2016–0254 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2016–0254. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''ADAMS Public Documents'' and then select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in the **SUPPLEMENTARY INFORMATION** section.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Edward Lohr, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–0253; email: *Edward.Lohr@nrc.gov.*

SUPPLEMENTARY INFORMATION: On March 24, 2017 (82 FR 14987), the NRC published a direct final rule amending § 72.214 of title 10 of the *Code of Federal Regulations* by revising the ''List of approved spent fuel storage casks'' to add the TN Americas NUHOMS® EOS Dry Spent Fuel Storage System as CoC No. 1042. The NUHOMS® EOS System provides

horizontal storage of high burnup spent pressurized water reactor (PWR) and boiling water reactor (BWR) fuel assemblies in dry shielded canisters (DSCs). The new PWR and BWR DSCs are the EOS–37PTH DSC and the EOS–89BTH DSC, respectively.

In the direct final rule, the NRC stated that if no significant adverse comments were received, the direct final rule would become effective on June 7, 2017. As described more fully in the direct final rule, a significant adverse comment is a comment where the commenter explains why the rule would be inappropriate, including challenges to the rule's underlying premise or approach, or would be ineffective or unacceptable without a change. Because no significant adverse comments were received, the direct final rule will become effective as scheduled.

The final CoC, technical specifications, and the final Safety Evaluation Report for CoC No. 1042 are available in ADAMS under Package Accession No. ML17116A277.

Dated at Rockville, Maryland, this 24th day of May 2017.

For the Nuclear Regulatory Commission.

Cindy Bladey,

Chief, Rules, Announcements, and Directives Branch, Division of Administrative Services, Office of Administration.

[FR Doc. 2017–11064 Filed 5–26–17; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 29

[Docket No. FAA–2017–0466; Special Conditions No. 29–041–SC]

Special Conditions: Bell Helicopter Textron Inc. (Bell) Model 412EP Helicopter in the 412 EPI Configuration; Search and Rescue (SAR) With Automatic Flight Control System (AFCS) Installation

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions; request for comments.

SUMMARY: These special conditions are issued for the Bell Model 412EP (412EPI configuration) helicopter. This helicopter as modified by Bell will have a novel or unusual design feature associated with a SAR AFCS. The applicable airworthiness standards do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: These special conditions are effective June 29, 2017. We must receive your comments by July 31, 2017.

ADDRESSES: Send comments identified by docket number [FAA–2017–0466] using any of the following methods:

- *Federal eRegulations Portal:* Go to *http://www.regulations.gov* and follow the online instructions for sending your comments electronically.
- *Mail:* Send comments to Docket Operations, M–30, U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE., Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.
- *Hand Delivery of Courier:* Deliver comments to the ''Mail'' address between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* Fax comments to Docket Operations at 202–493–2251.

Privacy: The FAA will post all comments it receives, without change, to *http://regulations.gov,* including any personal information the commenter provides. Using the search function of the docket Web site, anyone can find and read the electronic form of all comments received into any FAA docket, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). DOT's complete Privacy Act Statement can be found in the **Federal Register** published on April 11, 2000 (65 FR 19477–19478), as well as at *http://DocketsInfo.dot.gov.*

Docket: You can read the background documents or comments received at *http://www.regulations.gov.* Follow the online instructions for accessing the docket or go to the Docket Operations in Room @12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m., and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: George Harrum, Flight Analyst, FAA, Rotorcraft Directorate, Regulations and Policy Group, (ASW–111), 10101 Hillwood Parkway, Fort Worth, Texas 76177; telephone (817) 222–4087; email *George.Harrum@faa.gov.*

SUPPLEMENTARY INFORMATION:

Reason for No Prior Notice and Comment Before Adoption

The substance of these special conditions has been subjected to the notice and comment period previously and has been derived without substantive change from those previously issued. It is unlikely that prior public comment would result in a significant change from the substance contained herein. Therefore, the FAA has determined that prior public notice and comment are unnecessary, impracticable, and contrary to the public interest, and finds good cause exists for adopting these special conditions upon issuance. The FAA is requesting comments to allow interested persons to submit views that may not have been submitted in response to the prior opportunities for comment.

Comments Invited

We invite interested people to take part in this rulemaking by sending written comments, data, or views. The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include supporting data.

We will consider all comments we receive by the closing date for comments. We will consider comments filed late if it is possible to do so without incurring additional expense or delay. We may change these special conditions based on the comments we receive.

Background and Discussion

On March 20, 2015, Bell applied for a supplemental type certificate (STC) for installation of an optional SAR AFCS in certain Model 412EP helicopters. The Model 412EP helicopter, approved under Type Certificate No. H4SW, is a 14 CFR part 29 transport category helicopter certificated in both Category A and Category B and for operation under instrument flight rules under the requirements of Appendix B to Part 29. Bell designated certain serial-numbered Model 412EP helicopters for a specific configuration commercially identified as ''412EPI.'' The 412 EPI configuration includes the following changes from the 412EP: Installation of the Pratt & Whitney Canada Model PT6T–9 Twin Power Section Turboshaft Engine with Electronic Engine Control, and cockpit instruments and avionics replacement with the Bell BasiX-Pro® Integrated Avionics System. This rotorcraft has a maximum take-off weight of 12,200 pounds. It carries up to 13 passengers with maximum external load of almost 6,614 lbs. and a range up to 609 miles.

The use of dedicated AFCS upper modes, in which a fully coupled autopilot provides operational SAR profiles, is needed for SAR operations conducted over water in offshore areas clear of obstructions. The SAR modes enable the helicopter pilot to fly fully

coupled maneuvers, to include predefined search patterns during cruise flight, and to transition from cruise flight to a stabilized hover and departure (transition from hover to cruise flight). The SAR AFCS also includes an auxiliary crew control that allows another crewmember (such as a hoist operator) to have limited authority to control the helicopter's longitudinal and lateral position during hover operations.

Flight operations conducted over water at night may have an extremely limited visual horizon with little visual reference to the surface even when conducted under Visual Meteorological Conditions. Consequently, the certification requirements for SAR modes must meet the criteria in Appendix B to Part 29. While Appendix B to Part 29 prescribes airworthiness criteria for instrument flight, it does not consider operations below instrument flight minimum speed (V_{MINI}), whereas the SAR modes allow for coupled operations at low speed, all-azimuth flight to zero airspeed (hover).

The regulations as currently promulgated did not envision instrument flight below the Appendix B envelope, including hover using AFCS modes. This necessitates the development of a special condition to address the gap in 14 CFR part 29 regulations and the lack of adequate airworthiness standards for AFCS SAR mode certification to include flight characteristics, performance, and installed equipment and systems. Also, the requirements of the Bell 412EP Special Conditions No. 29–ASW–5 are not adequate to address the safety objectives for this SAR AFCS design feature. Special Conditions No. 29–ASW–5 only requires provisions for mitigating hazards to required equipment from high intensity radio frequency transmission sources.

The 412EPI configuration SAR operations necessitate safety critical navigation and control functions. These functions allow the rotorcraft to operate under instrument flight rules (IFR) then transition to stabilized visual flight rules hover below required minimum obstacle distances. To safely accomplish this specialized operation, the equipment must possess minimum functional reliability and availability under potentially adverse environmental conditions. The 412EPI configuration SAR equipment operates as an integrated system to accomplish the functions mentioned above.

Type Certification Basis

Under the provisions of 14 CFR 21.101, Bell must show that the 412EP model helicopter in the 412EPI configuration, as changed, continues to meet either the applicable provisions of the regulations incorporated by reference in type certificate (TC) No. H4SW or the applicable regulations in effect on the date of application for the change, depending on the significance of the change as defined by 14 CFR 21.101. The regulations incorporated by reference in the TC are commonly referred to as the ''original type certification basis.'' The regulations incorporated by reference in H4SW are as follows:

(a) 14 CFR part 29, dated February 1, 1965, including Amendments 29–1 through 29–51.

(b) 14 CFR 29.141, 29.143, 29.251, 29.301, 29.303, 29.305, 29.307(a), 29.561(c), 29.601(a), 29.603, 29.605, 29.609(a), 29.625, 29.777, 29.831(b)(c)(d), 29.907, 29.993, 29.1023(a), 29.1049, 29.1093. 29.1203(a)(b)(d), 29.1301, 29.1327, 29.1381, 29.1385, 29.1389, 29.1391, 29.1393, 29.1395, 29.1431, 29.1435, 29.1523(a)(b), 29.1541, 29.1543(b), 29.1547, 29.1551, 29.1553, at Amdt. 29–0.

(c) 14 CFR 29.955(a)(1) at Amdt. 29–2.

(d) 14 CFR 29.773(a), 29.901, 29.1191(a)(c)(d)(e)(f), at Amdt. 29–3.

(e) 14 CFR 29.1397 at Amdt. 29–7.

(f) 14 CFR 29.1387 at Amdt 29–9.

(g) 14 CFR part 29.1401 at Amdt. 29–11.

(h) 14 CFR 29.63, 29.939, 29.1165, 29.1322 at Amdt. 29–12.

(i) 14 CFR 29.1145 at Amdt. 29–13.

(j) 14 CFR 29.1335 at Amdt. 29–14.

(k) 14 CFR 29.29, 29.33(a)(1), 29.1353(a)(b), 29.1501, 29.1527, 29.1581(a)(b)(d) at Amdt. 29–15.

(l) 14 CFR 29.1413(a), at Amdt. 29–16.

(m) 14 CFR 29.1091(a)(b), 29.1545 at Amdt. 29–17.

(n) 14 CFR 29.571, 29.1529, 14 CFR part 29 Appendix A at Amdt. 29–20.

(o) 14 CFR 29.1321, 14 CFR part 29 Appendix B I and IX (a)(b) at Amdt. 29–21.

(p) 14 CFR 29.853(a)(2)(c) at Amdt. 29–23.

(q) 14 CFR 29.21, 29.45(a)(b)(c)(e)(f), 29.151, 29.672(a), 29.771(a)(b)(c), 29.1303, 29.1325, 29.1331, 29.1333, 29.1355, 29.1357(a)(c)(d)(e)(g), 29.1517, 29.1555(a)(b)(c)(d), 29.1559, 29.1583, 29.1585 at Amdt. 29–24.

(r) 14 CFR 29.1011(d), 29.1041, 29.1043, 29.1045, 29.1047, 29.1141(a)(b)(c)(d)(f)(2), 29.1337(a)(b)(1)(2)(c)(d)(e), 29.1557(c)(2) at Amdt. 29–26.

(s) 14 CFR 29.337(a), 29.613(d), at Amdt. 29–30.

(t) 14 CFR 29.783(e), 29.903(a)(b)(c)(3)(d)(e) at Amdt. 29–31

(u) 14CFR 29.1143(a)(b)(c)(e)(f), 29.1549 at Amdt. 29–34.

(v) 14 CFR 29.49(a)(b)(c), 29.51, 29.53, 29.55, 29.60, 29.61, 29.64, 29.65(a), 29.75, 29.79, 29.83(a)(b), 29.87(a), at Amdt. 29–39.

(w) 14 CFR 29.1305(a)(3)(4)(6–19)(21–23)(25)(26)(b)(c), 29.1309(a)(b)(2)(c)(d)(e)(f)(g)(h), 14 CFR part 29 Appendix B VIII (a)(b)(3)(4)(5)(6)(c), at Amdt. 29–40.

(x) 14 CFR 29.1521(a)(b)(1)(3)(4)(5)(6)(7)(ii)(c)(4)(d)(e)(f)(g)(h)(i)(j) at Amdt. 29–41.

(y) 14 CFR 29.1329(f), 29.1351(a)(b)(3)(4)(6)(d), 29.1359 at Amdt. 29–42.

(z) 14 CFR 29.865(c)(6) at Amdt. 29–43.

(aa) 14 CFR 29.59, 29.62, 29.67, 29.77, 29.81, 29.85, 29.1323(a)(b)(c)(d)(e) at Amdt. 29–44.

(bb) 14 CFR 29.1317(a)(b)(c), 14 CFR part 29 Appendix E at Amdt. 29–49.

(cc) 14 CFR 29.1587 at Amdt. 29–51.

(dd) Equivalent Level of Safety Findings:

(1) 14 CFR 29.1305(a)(11–16) and 29.1549(a)(b)(c)(e) for the Power Situation Indicator (documented in ELOS Memo No. ST0025RC–RD/P–1) dated January 16, 2013.

(2) 14 CFR 29.1545(b)(2) for Airspeed Indicator (documented in ELOS Memo No. ST0025RC–RD/F–2) dated September 27, 2012.

(3) 14 CFR 29.1333(a) and 14 CFR part 29 Appendix B VIII(b)(5)(i) and (ii) for Electronically Integrated Flight Instrument Systems (documented in ELOS Memo No. ST0025RC–RD/S–2) dated January 25, 2013.

(4) 14 CFR 29.1555(c)(1) for the Useable Fuel Capacity Marking (documented in ELOS Memo No. ST0025RC–RD/P–2) dated December 18, 2012.

(ee) If BHT Kit 412–706–140, Increased Gross Weight, is installed then compliance has also been shown to 14 CFR 29.25(a)(1)(3)(4) Amend 29–51, 14 CFR part 29 Appendix B III, IV(a)(b)(1)(3)(c)(1)(d)(1)(e)(f), V, VI, VII at Amend 29–21 and 14 CFR 36.1(c) at Amend 36–14.

Regulatory Basis for Special Conditions

If the Administrator finds that the applicable airworthiness regulations (*i.e.,* 14 CFR part 29) do not contain adequate or appropriate safety standards for the Bell Model 412EP helicopter in the 412EPI configuration because of a novel or unusual design feature, special conditions are prescribed under § 21.16.

The FAA issues special conditions, as defined in § 11.19, under § 11.38, and they become part of the type certification basis under § 21.101.

Special conditions are initially applicable to the model for which they are issued. Should the TC for that model be amended later to include any other model that incorporates the same novel or unusual design feature, or should any other model already included on the same TC be modified to incorporate the same novel or unusual design feature, the special conditions would also apply to the other model.

Novel or Unusual Design Features

The Bell Model 412EP helicopter in the 412EPI configuration will incorporate the following novel or unusual design features.

The SAR system is composed of a navigation computer with SAR modes, an AFCS that provides coupled SAR functions, hoist operator control, a hover speed reference system, and two radio altimeters. The AFCS coupled SAR functions include:

(a) Hover hold at selected height above the surface.

(b) Ground speed hold.

(c) Transition down and hover to a waypoint under guidance from the navigation computer.

(d) SAR pattern, transition down, and hover near a target over which the helicopter has flown.

(e) Transition up, climb, and capture a cruise height.

(f) Capture and track SAR search patterns generated by the navigation computer.

(g) Monitor the preselected hover height with automatic increase in collective if the aircraft height drops below the safe minimum height.

These SAR modes are intended to be used over large bodies of water in areas clear of obstructions. Further, use of the modes that transition down from cruise to hover will include operation at airspeeds below V_{MINI}.

The SAR system only entails navigation, flight control, and coupled AFCS operation of the helicopter. The system does not include additional equipment that may be required for over water flight or external loads to meet other operational requirements.

Applicability

These special conditions apply to the Bell Model 412EP helicopter in the 412EPI configuration. Should Bell apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, the special conditions would apply to that model as well under the provisions of § 21.101(d).

Conclusion

This action affects only certain novel or unusual design features on one model of helicopter. It is not a rule of general applicability and affects only the applicant who applied to the FAA for approval of these features on the helicopter.

List of Subjects in 14 CFR Part 29

Aircraft, Aviation safety.

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701–44702, 44704.

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for Bell Helicopter Textron Inc. (Bell) Model 412EP helicopters in the 412EPI configuration when modified by Bell by installing an optional Search and Rescue (SAR) Automatic Flight Control System (AFCS).

In addition to the 14 CFR part 29 certification requirements for Category A and helicopter instrument flight (Appendix B), the following additional requirements must be met for certification of the SAR AFCS:

(a) *SAR Flight Modes.* The coupled SAR flight modes must provide:

(1) Safe and controlled flight in the three axes at all airspeeds (lateral position and speed, longitudinal position and speed, and height and vertical speed) from the previous V_{MINI} to a hover (within the maximum demonstrated wind envelope).

(2) Automatic transition to the helicopter instrument flight (Appendix B) envelope as part of the normal SAR mode sequencing.

(3) A pilot-selectable Go-Around mode that safely interrupts any other coupled mode and automatically transitions the helicopter to the instrument flight (Appendix B) envelope.

(4) A means to prevent unintended flight below a safe minimum height. Pilot-commanded descent below the safe minimum height is acceptable provided the alerting requirements in paragraph (b)(8)(i) of these Special Conditions alert the pilot of this descent below safe minimum height.

(b) *SAR Mode System Architecture.* To support the integrity of the SAR modes, the following system architecture is required:

(1) Ground mapping radar function that presents real-time information to the pilots.

(2) A system for limiting the engine power demanded by the AFCS when any of the automatic piloting modes are engaged, so full authority digital engine control power limitations, such as torque and temperature, are not exceeded.

(3) A system providing the aircraft height above the surface and final pilot-selected height at a location on the instrument panel in a position acceptable to the FAA that will make it plainly visible to and usable by any pilot at their station.

(4) A system providing the aircraft heading and the ability to automatically hold a pilot-selected heading set by either setting the reference to the current heading or adjusting the reference left or right. If the reference setting can change faster than the aircraft ability to follow, a display of reference heading is required at a location on the instrument panel in a position acceptable to the FAA that will make it plainly visible to and usable by any pilot at their station.

(5) A system providing the aircraft longitudinal and lateral hover velocities and the pilot-selected longitudinal and lateral velocities when used by the AFCS in the flight envelope where airspeed indications become unreliable. This information must be presented at a location on the instrument panel in a position acceptable to the FAA that is plainly visible to and usable by any pilot at their station.

(6) A system providing wind speed and wind direction when automatic piloting modes are engaged or transitioning from one mode to another.

(7) A means to monitor for flight guidance deviations and failures with alerting that enables the flight crew take appropriate corrective action.

(8) An alerting system that provides visual or aural alerts, or both, to the flight crew under any of the following conditions:

(i) When the stored or pilot-selected safe minimum height is reached.

(ii) When a SAR mode system malfunction occurs.

(iii) When the AFCS changes modes automatically from one SAR mode to another. For normal transitions from one SAR mode to another, a single visual or aural alert may suffice. For a SAR mode malfunction or a mode having a time-critical component, the flight crew alerting system must activate early enough to allow the flight crew to take timely and appropriate action. The alerting system means must be designed to alert the flight crew in order to minimize crew errors that could create an additional hazard.

(9) The SAR system hoist operator control is considered a flight control with limited authority and must comply with the following:

(i) The hoist operator control must be designed and located to provide for convenient operation and to prevent confusion and inadvertent operation.

(ii) The helicopter must be safely controllable by the hoist operator control throughout the range of that control.

(iii) The hoist operator control may not interfere with the safe operation of the helicopter.

(iv) Pilot and copilot flight controls must be able to smoothly override the control authority of the hoist operator control, without exceptional piloting skill, alertness, or strength, and without the danger of exceeding any other limitation because of the override.

(10) The reliability of the AFCS must be related to the effects of its failure. The occurrence of any failure condition that would prevent continued safe flight and landing must be extremely improbable. For any failure condition of the AFCS which is shown to not be extremely improbable:

(i) The helicopter must be safely controllable and capable of continued safe flight without exceptional piloting skill, alertness, or strength. Additional unrelated probable failures affecting the control system must be evaluated.

(ii) The AFCS must be designed so that it cannot create a hazardous deviation in the flight path or produce hazardous loads on the helicopter during normal operation or in the event of a malfunction or failure, assuming corrective action begins within an appropriate period of time. Where multiple systems are installed, subsequent malfunction conditions must be evaluated in sequence unless their occurrence is shown to be improbable.

(11) A functional hazard assessment and a system safety assessment must address the failure conditions associated with SAR operations:

(i) For SAR catastrophic failure conditions, changes may be required to the following:

(A) System architecture.

(B) Software and complex electronic hardware design assurance levels.

(C) High Intensity Radiated Field (HIRF) test levels.

(D) Instructions for continued airworthiness.

(ii) The assessments must consider all the systems required for SAR operations, including the AFCS, all associated AFCS sensors (for example, radio altimeter), and primary flight displays. Electrical and electronic systems with SAR catastrophic failure conditions for both visual flight rules and IFR must comply with the 14 CFR 29.1317(a)(4) HIRF requirements.

(c) *SAR Mode Performance Requirements.*

(1) The SAR modes must be demonstrated for the requested flight envelope, including the following minimum sea-state and wind conditions:

(i) Sea State: Wave height of 2.5 meters (8.2 feet), considering both short and long swells.

(ii) Wind: 25 knots headwind; 17 knots for all other azimuths.

(2) The selected hover height and hover velocity must be captured (including the transition from one captured mode to another captured mode) accurately and smoothly and not exhibit any significant overshoot or oscillation.

(3) The minimum use height (MUH) for the SAR modes must be no less than the maximum loss of height following any single failure or any combination of failures not shown to be extremely improbable, plus an additional margin of 15 feet above the surface. MUH is the minimum height at which any SAR AFCS mode may be engaged.

(4) The SAR mode system must be usable up to the maximum certified gross weight of the aircraft or to the lower of the following weights:

(i) Maximum emergency flotation weight.

(ii) Maximum hover Out-of-Ground Effect (OGE) weight.

(iii) Maximum demonstrated weight.

(d) *Flight Characteristics.*

(1) For SAR mode coupled flight below V_{MINI}, at the maximum demonstrated winds, the helicopter must be able to maintain any required flight condition and make a smooth transition from any flight condition to any other flight condition without requiring exceptional piloting skill, alertness, or strength, and without exceeding the limit load factor. This requirement also includes aircraft control through the hoist operator's control.

(2) For coupled flight below the previously established V_{MINI}, the following stability requirements replace the stability requirements of paragraph IV, V, and VI of Appendix B to Part 29:

(i) Static Longitudinal Stability: The requirements of Appendix B to part 29, paragraph IV are not applicable.

(ii) Static Lateral-Directional Stability: The requirements of Appendix B to part 29, paragraph V are not applicable.

(iii) Dynamic Stability, paragraph VI:

(A) Any oscillation must be damped and any aperiodic response must not double in amplitude in less than 10 seconds. This requirement must also be met with degraded upper mode(s) of the AFCS.

(B) After any upset, such as a wind gust, the AFCS must return the aircraft to the last commanded flight condition within 10 seconds or less.

(3) With any of the upper modes of the AFCS engaged, the pilot must be able to manually recover the aircraft and transition to the normal (Appendix B) IFR flight profile envelope without exceptional skill, alertness, or strength.

(e) *One-Engine Inoperative (OEI) Performance Information.*

(1) The following performance information must be provided in the Rotorcraft Flight Manual Supplement (RFMS):

(i) OEI performance information and emergency procedures, providing the maximum weight that will provide a minimum clearance of 15 feet above the surface, following failure of the critical engine in a hover. The maximum weight must be presented as a function of the hover height for the temperature and pressure altitude range requested for certification. The effects of wind must be reflected in the hover performance information.

(ii) Hover OGE performance with the critical engine inoperative for OEI continuous and time-limited power ratings for those weights, altitudes, and temperatures for which certification is requested.

(2) These OEI performance requirements do not replace performance requirements that may be needed to comply with the airworthiness or operational standards (14 CFR 29.865 or 14 CFR part 133) for external loads or human external cargo.

(f) *RFMS.*

(1) The RFMS must contain, at a minimum:

(i) Limitations necessary for safe operation of the SAR system, including:

(A) Minimum crew requirements.

(B) Maximum SAR weight.

(C) Engagement criteria for each of the SAR modes to include MUH, as determined in paragraph (c)(3) of these Special Conditions.

(ii) Normal and emergency procedures for operation of the SAR system (including operation of the hoist operator control) with AFCS failure modes, AFCS degraded modes, and engine failures.

(iii) Performance information:

(A) OEI performance and height-loss.

(B) Hover OGE performance information, utilizing OEI continuous and time-limited power ratings.

(C) The maximum wind envelope demonstrated in flight test.

(D) Information and/or advisory information concerning operations in a heavy salt spray environment, including any airframe or power effects as a result of salt encrustation.

(g) *Flight Demonstration.*

(1) Before approval of the SAR system, an acceptable flight demonstration of all coupled SAR modes is required.

(2) The AFCS must provide fail-safe operations during coupled maneuvers. The demonstration of fail-safe operations must include a pilot workload assessment associated with manually flying the aircraft to an altitude greater than 200 feet above the surface and an airspeed of at least the best rate of climb airspeed (V_y).

(3) For any failure condition of the SAR system shown to not be extremely improbable, the pilot must be able to make a smooth transition from one flight mode to another without exceptional piloting skill, alertness, or strength.

(4) Failure conditions that are shown to not be extremely improbable must be demonstrated by analysis, ground testing, or flight testing. For failures demonstrated in flight, the following normal pilot recovery times are acceptable:

(i) Transition modes (Cruise-to-Hover/Hover-to-Cruise) and Hover modes: Normal pilot recognition plus 1 second.

(ii) Cruise modes: Normal pilot recognition plus 3 seconds.

(5) All AFCS malfunctions must include evaluation at the low-speed and high-power flight conditions typical of SAR operations. Additionally, AFCS hard-over, slow-over, and oscillatory malfunctions, particularly in yaw, require evaluation. AFCS malfunction testing must include a single or a combination of failures (such as, erroneous data from and loss of the radio altimeter, attitude, heading, and altitude sensors) that are shown to not be extremely improbable.

(6) The flight demonstration must include the following environmental conditions:

(i) Swell into wind.

(ii) Swell and wind from different directions.

(iii) Cross swell.

(iv) Swell of different lengths (short and long swell).

Issued in Fort Worth, Texas, on May 19, 2017.

Lance T. Gant

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 2017–11073 Filed 5–26–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2017–0501; Directorate Identifier 2017–NM–053–AD; Amendment 39–18908; AD 2017–11–09]

RIN 2120–AA64

Airworthiness Directives; Learjet, Inc., Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: We are superseding Airworthiness Directive (AD) 2017–08–07 for certain Learjet, Inc., Model 60 airplanes. AD 2017–08–07 required a one-time inspection of the fuselage skin for corrosion, and related investigative and corrective actions if necessary. This new AD retains the actions of AD 2017–08–07 and removes certain airplanes from the applicability. This AD was prompted by a determination that only certain airplanes are affected by the unsafe condition. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective May 30, 2017.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of May 22, 2017 (82 FR 18084, April 17, 2017).

We must receive comments on this AD by July 14, 2017.

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 final rule, contact Learjet, Inc., One Learjet Way, Wichita, KS 67209–2942; telephone: 316–946–2000; fax: 316–946–2220; email: *ac.ict@aero.bombardier.com;* Internet: *http://www.bombardier.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–2017–0501.

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–2017–0501; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (phone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Paul Chapman, Aerospace Engineer, Airframe Branch, ACE–118W, FAA, Wichita Aircraft Certification Office (ACO), 1801 Airport Road, Room 100, Dwight D. Eisenhower Airport, Wichita, KS 67209; phone: 316–946–4152; fax: 316–946–4107; email: *Wichita-COS@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

On April 7, 2017, we issued AD 2017–08–07, Amendment 39–18856 (82 FR 18084, April 17, 2017) (''AD 2017–08–07''), for Learjet, Inc., Model 60 airplanes, serial numbers 60–002 through 60–430 inclusive. AD 2017–08–07 required a one-time inspection of the fuselage skin for corrosion, and related investigative and corrective actions if necessary. AD 2017–08–07 resulted from an evaluation by the design approval holder (DAH) indicating that the upper fuselage skin under the aft oxygen line fairing is subject to multi-site damage (MSD). We issued AD 2017–08–07 to detect and correct corrosion of the fuselage skin, which could result in reduced structural integrity of the airplane.

Actions Since AD 2017–08–07 Was Issued

Since we issued AD 2017–08–07, we determined that only certain airplanes identified in the applicability of AD 2017–08–07 are affected by the unsafe condition. For Learjet, Inc., Model 60 airplanes, serial numbers 60–002 through 60–430 inclusive, the unsafe condition affects only airplanes with a dorsal-mounted oxygen bottle and

airplanes that have had the dorsal-mounted oxygen bottle removed but have retained the oxygen line fairing installed on top of the fuselage. These airplanes are identified in the effectivity of Learjet 60 Service Bulletin 60–53–19, Revision 3, dated August 29, 2016, which is the appropriate source of service information for accomplishing the actions required by AD 2017–08–07. Therefore, we have revised paragraph (c) of this AD to identify only those airplanes affected by the unsafe condition.

Related Service Information Under 1 CFR Part 51

We reviewed Learjet 60 Service Bulletin 60–53–19, Revision 3, dated August 29, 2016. The service information describes procedures for inspections of the fuselage crown skin for corrosion, and related investigative and corrective actions if necessary. 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 issuing this AD because we evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

AD Requirements

This AD requires a one-time inspection of the fuselage skin for corrosion, and related investigative and corrective actions if necessary. This AD also requires sending the inspection results to the FAA.

Differences Between This AD and the Service Information

Learjet 60 Service Bulletin 60–53–19, Revision 3, dated August 29, 2016, specifies to contact the manufacturer for instructions on how to repair certain conditions, but this AD requires repairing those conditions 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 a Delegated Engineering Representative (DER) for Learjet Inc., or a Unit Member (UM) of the Learjet Organization Designation Authorization (ODA), whom we have authorized to make those findings.

Interim Action

We consider this AD interim action. Because the cause of the corrosion is not known, the inspection reports will help determine the extent of the corrosion in the affected fleet. Based on the results of these reports, we might determine that further corrective action is warranted. Once further corrective action has been identified, we might consider further rulemaking.

FAA's Justification and Determination of the Effective Date

We determined that unaffected airplanes were inadvertently included in the applicability of AD 2017–08–07, which applied to Learjet, Inc., Model 60 airplanes, serial numbers 60–002 through 60–430 inclusive. However, only airplanes identified in Learjet 60 Service Bulletin 60–53–19, Revision 3, dated August 29, 2016, are subject to the identified unsafe condition. The actions required by this AD are not required to be done on airplanes that are not identified in Learjet 60 Service Bulletin 60–53–19, Revision 3, dated August 29, 2016. Therefore, we are superseding AD 2017–08–07 to correct the applicability. We find that notice and opportunity for prior public comment are unnecessary and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety and was not preceded by notice and an opportunity for public comment. However, we invite you to send any written data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include the docket number FAA–2017–0501 and Directorate Identifier 2017–NM–053–AD at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this AD. We will consider all comments received by the closing date and may amend this AD because of those comments.

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

Costs of Compliance

We estimate that this AD affects 284 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
Inspection (retained action from AD 2017-08–07).	46 work-hours × $85 per hour = $3,910	$265	$4,175	$1,185,700
Reporting (retained action from AD 2017-08–07).	1 work-hour × $85 per hour = $85	0	85	24,140

This AD adds no additional economic burden.

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

According to the manufacturer, some of the costs of this AD may be covered under warranty, thereby reducing the cost impact on affected individuals. We do not control warranty coverage for affected individuals. As a result, we have included all known costs in our cost estimate.

Paperwork Reduction Act

A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB control number. The control number for the collection of information required by this AD is 2120–0056. The paperwork cost associated with this AD has been detailed in the Costs of Compliance section of this document and includes time for reviewing instructions, as well as completing and reviewing the collection of information. Therefore, all reporting associated with this AD is mandatory. Comments concerning the accuracy of this burden

and suggestions for reducing the burden should be directed to the FAA at 800 Independence Ave. SW., Washington, DC 20591. ATTN: Information Collection Clearance Officer, AES–200.

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 removing Airworthiness Directive (AD) 2017–08–07, Amendment 39–18856 (82 FR 18084, April 17, 2017), and adding the following new AD:

2017–11–09 Learjet, Inc.: Amendment 39–18908; Docket No. FAA–2017–0501; Directorate Identifier 2017–NM–053–AD.

(a) Effective Date

This AD is effective May 30, 2017.

(b) Affected ADs

This AD replaces AD 2017–08–07, Amendment 39–18856 (82 FR 18084, April 17, 2017) (''AD 2017–08–07'').

(c) Applicability

This AD applies to Learjet, Inc., Model 60 airplanes, certificated in any category, having serial numbers 60–002 through 60–430 inclusive, and having a configuration identified in paragraph (c)(1) or (c)(2) of this AD.

(1) Airplanes with a dorsal-mounted oxygen bottle.

(2) Airplanes that have had the dorsal-mounted oxygen bottle removed but have retained the oxygen line fairing installed on top of the fuselage.

(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 upper fuselage skin under the aft oxygen line fairing is subject to multi-site damage. We are issuing this AD to detect and correct corrosion of the fuselage skin, 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) Retained Inspection of the Fuselage Skin, and Related Investigative and Corrective Actions, With No Changes

This paragraph restates the requirements of paragraph (g) of AD 2017–08–07, with no changes. At the applicable time specified in paragraph (g)(1), (g)(2), or (g)(3) of this AD: Do a fluorescent dye penetrant inspection of the fuselage skin between stringers (S)-2L and S–2R for corrosion; and do all applicable related investigative and corrective actions; in accordance with the Accomplishment Instructions of Learjet 60 Service Bulletin 60–53–19, Revision 3, dated August 29, 2016, except as required by paragraph (h) of this AD. Do all applicable related investigative and corrective actions before further flight.

(1) For airplanes with more than 12 years since the date of issuance of the original airworthiness certificate or the date of issuance of the original export certificate of airworthiness as of May 22, 2017 (the effective date of AD 2017–08–07): Within 12 months after May 22, 2017.

(2) For airplanes with more than 6 years but equal to or less than 12 years since the date of issuance of the original airworthiness certificate or the date of issuance of the original export certificate of airworthiness as of May 22, 2017 (the effective date of AD 2017–08–07): Within 24 months after May 22, 2017.

(3) For airplanes with 6 years or less since the date of issuance of the original airworthiness certificate or the date of issuance of the original export certificate of airworthiness as of May 22, 2017 (the effective date of AD 2017–08–07): Within 36 months after May 22, 2017.

(h) Retained Service Information Exception, With No Changes

This paragraph restates the requirements of paragraph (h) of AD 2017–08–07, with no changes. Where Learjet 60 Service Bulletin 60–53–19, Revision 3, dated August 29, 2016, specifies contacting Learjet, Inc., for appropriate action: Before further flight, repair using a method approved in accordance with the procedures specified in paragraph (l) of this AD.

(i) Retained Reporting, With No Changes

This paragraph restates the requirements of paragraph (i) of AD 2017–08–07, with no changes. At the applicable time specified in paragraph (i)(1) or (i)(2) of this AD: Submit a report of the findings (both positive and negative) of the inspection required by the introductory text of paragraph (g) of this AD to: *Wichita-COS@faa.gov;* or Ann Johnson, Wichita Aircraft Certification Office (ACO), 1801 Airport Road, Wichita, KS 67209. The report must include the name of the owner, the address of the owner, the name of the organization incorporating Learjet 60 Service Bulletin 60–53–19, the date that inspection was completed, the name of the person submitting the report, the address, telephone number, and email of the person submitting the report, the airplane serial number, the total time (flight hours) on the airplane, the total number of landings on the airplane, whether corrosion was detected, whether corrosion was repaired, the structural repair manual (SRM) chapter and revision used (if repaired), and whether corrosion exceeded the minimum thickness specified in Learjet 60 Service Bulletin 60–53–19 (and specify the SRM chapter and revision, if used as an aid to determine minimum thickness).

(1) If the inspection was done on or after May 22, 2017 (the effective date of AD 2017–08–07): Submit the report within 30 days after the inspection.

(2) If the inspection was done before May 22, 2017 (the effective date of AD 2017–08–07): Submit the report within 30 days after May 22, 2017.

(j) Retained Credit for Previous Actions, With No Changes

This paragraph restates the credit provided in paragraph (j) of AD 2017–08–07, with no

changes. This paragraph provides credit for the actions specified in the introductory text to paragraph (g) of this AD, if those actions were performed before May 22, 2017 (the effective date of AD 2017–08–07), using Learjet 60 Service Bulletin 60–53–19, dated November 23, 2015; Learjet 60 Service Bulletin 60–53–19, Revision 1, dated April 4, 2016; or Learjet 60 Service Bulletin 60–53–19, Revision 2, dated April 18, 2016.

(k) Paperwork Reduction Act Burden Statement

A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB Control Number. The OMB Control Number for this information collection is 2120–0056. Public reporting for this collection of information is estimated to be approximately 5 minutes per response, including the time for reviewing instructions, completing and reviewing the collection of information. All responses to this collection of information are mandatory. Comments concerning the accuracy of this burden and suggestions for reducing the burden should be directed to the FAA at: 800 Independence Ave. SW., Washington, DC 20591, Attn: Information Collection Clearance Officer, AES–200.

(l) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Wichita 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.

(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 a Learjet, Inc., Designated Engineering Representative (DER), or a Unit Member (UM) of the Learjet Organization Designation Authorization (ODA), that has been authorized by the Manager, Wichita ACO, to make those findings. To be approved, the repair, 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 2017–08–07 are approved as AMOCs for the corresponding provisions of this AD.

(m) Related Information

(1) For more information about this AD, contact Paul Chapman, Aerospace Engineer, Airframe Branch, ACE–118W, FAA, Wichita ACO, 1801 Airport Road, Room 100, Dwight D. Eisenhower Airport, Wichita, KS 67209; phone: 316–946–4152; fax: 316–946–4107; email: *Wichita-COS@faa.gov.*

(2) Service information identified in this AD that is not incorporated by reference is available at the addresses specified in paragraphs (n)(4) and (n)(5) 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.

(3) The following service information was approved for IBR on May 22, 2017 (82 FR 18084, April 17, 2017).

(i) Learjet 60 Service Bulletin 60–53–19, Revision 3, dated August 29, 2016.

(ii) Reserved.

(4) For Learjet, Inc., service information identified in this AD, contact Learjet, Inc., One Learjet Way, Wichita, KS 67209–2942; telephone: 316–946–2000; fax: 316–946–2220; email: *ac.ict@aero.bombardier.com;* Internet: *http://www.bombardier.com.*

(5) 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.

(6) 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 May 18, 2017.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2017–10786 Filed 5–26–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2017–0053; Directorate Identifier 2016–CE–037–AD; Amendment 39–18888; AD 2017–10–14]

RIN 2120–AA64

Airworthiness Directives; British Aerospace Regional Aircraft Airplanes

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

ACTION: Final rule.

SUMMARY: We are superseding Airworthiness Directive (AD) 2014–07–07 for British Aerospace Regional Aircraft Model HP 137 Jetstream MK1, Jetstream Series 200, and Jetstream Series 3101 airplanes. This AD results from mandatory continuing airworthiness information (MCAI) issued by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as cracking of the forward main landing gear yoke pintle resulting from corrosion pits leading to stress corrosion cracking. We are issuing this AD to require actions to address the unsafe condition on these products.

DATES: This AD is effective July 5, 2017.

The Director of the Federal Register approved the incorporation by reference of a certain publications listed in the AD as of July 5, 2017.

ADDRESSES: You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0053; or in person at the Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

For service information identified in this AD, BAE Systems (Operations) Ltd, Customer Information Department, Prestwick International Airport, Ayrshire, KA9 2RW, Scotland, United Kingdom; phone: +44 1292 675207; fax: +44 1292 675704; email: *RApublications@baesystems.com;* Internet: *http://www.jetstreamcentral.com.* You may view this referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148. It is also available on the Internet at *http://www.regulations.gov* by searching for Docket No. FAA–2017–0053.

FOR FURTHER INFORMATION CONTACT: Doug Rudolph, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4059; fax: (816) 329–4090; email: *doug.rudolph@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to British Aerospace Regional Aircraft Model HP 137 Jetstream MK1, Jetstream Series 200, and Jetstream Series 3101 airplanes. That NPRM was published in the **Federal Register** on February 17, 2017 (82 FR 10973), and proposed to supersede AD 2014–07–07,

Amendment 39–17821 (79 FR 23897; April 29, 2014) (''2014–07–07'').

The NPRM proposed to correct an unsafe condition for the specified products and was based on mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country. The MCAI states that:

Prompted by occurrences of the main landing gear (MLG) yoke pintle housing cracking, the Civil Aviation Authority (CAA) UK issued AD 003–01–86 to require repetitive inspections to detect cracks in the yoke pintle housing on MLG fitted to Jetstream 3100 aeroplanes in accordance with BAE Systems (Operations) Ltd Service Bulletin (SB) 32–A–JA851226, and, depending on findings, corrective action. After that AD was issued, an occurrence was reported of Jetstream 3100 MLG failure after landing. The subsequent investigation revealed stress corrosion cracking of the MLG yoke pintle housing to have caused this MLG failure. Furthermore, the investigation report recommended a review of the effectiveness of CAA UK AD 003–01–86 in finding cracks in the yoke pintle housing on MLG fitted to Jetstream 3100 aeroplanes.

Degradation of the surface protection by abrasion can occur when the forward face of the yoke pintle rotates against the pintle bearing, which introduces corrosion pits and, consequently, stress corrosion cracking.

This condition, if not detected and corrected, could lead to structural failure of the MLG, possibly resulting in loss of control of the aeroplane during take-off or landing runs.

To provide protection of the affected area of the MLG assembly spigot housing, BAE Systems (Operations) Ltd issued SB 32–JM7862 to provide instructions for installation of a protective washer, fitted at the forward spigot on both left hand and right hand MLG. Consequently, BAE Systems (Operations) Ltd issued SB 32–A–JA851226 Revision 05 to provide additional accomplishment instructions for a Non-destructive testing (NDT) inspection of MLG equipped with the protective washer installed in accordance with BAE Systems (Operations) Ltd SB 32–JM7862.

Consequently, EASA issued AD 2013–0208, retaining the requirements of CAA UK AD 003–01–86, which was superseded, and required implementation of revised inspection requirements, and, depending on findings, accomplishment of applicable corrective action(s). That AD also introduced an optional modification, which constituted terminating action for the inspections required by that AD.

Since that AD was issued, BAE Systems (Operations) Ltd has determined that the existing inspection procedure may not be effective in identifying stress corrosion cracking in the pintle housing. Consequently BAE Systems (Operations) Ltd has published an improved inspection procedure in SB 32–A–JA851226 Revision 07. This improved inspection procedure has the ability to detect smaller corrosion pits and cracks that are proximate in size to those that will initiate stress corrosion.

For the reasons described above, this [EASA] AD retains the requirements of EASA AD 2013–0208, which is superseded, and requires MLG inspections in accordance with the improved procedure.

The MCAI can be found in the AD docket on the Internet at: *https://www.regulations.gov/document?D=FAA-2017-0053-0002*.

Comments

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

Conclusion

We reviewed the relevant data and determined that air safety and the public interest require adopting the AD as proposed except for 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

We reviewed British Aerospace Jetstream Series 3100 & 3200 Service Bulletin 32–A–JA851226, Revision 7, dated May 25, 2015. The service information describes procedures for nondestructive testing (NDT) and visual inspections of the main landing gear spigot housing for cracks and repair if necessary. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section of the final rule.

Costs of Compliance

We estimate that this AD will affect 26 products of U.S. registry. We also estimate that it would take about 14 work-hours per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour.

Based on these figures, we estimate this cost of the AD on U.S. operators to be $30,940, or $1,190 per product.

In addition, we estimate that any necessary follow-on actions would take about 2 work-hours and require parts costing $5,000, for a cost of $5,170 per product. We have no way of determining the number of products that may need these actions.

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 this AD:

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

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

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

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

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0053; 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 the NPRM, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

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 Amendment 39–17821 (82 FR 23897; April 29, 2014), and adding the following new AD:

2017–10–14 British Aerospace Regional Aircraft: Amendment 39–18888; Docket No. FAA–2017–0053; Directorate Identifier 2016–CE–037–AD.

(a) Effective Date

This airworthiness directive (AD) becomes effective July 5, 2017.

(b) Affected ADs

This AD supersedes AD 2014–07–07, Amendment 39–17821 (79 FR 23897, April 29, 2014) (''2014–07–07'').

(c) Applicability

This AD applies to British Aerospace (Operations) Limited Model HP.137 Jetstream Mk.1, Jetstream Series 200, and Jetstream Series 3101 airplanes, all serial numbers, certificated in any category.

(d) Subject

Air Transport Association of America (ATA) Code 32: Landing Gear.

(e) Reason

This AD was prompted by mandatory continuing airworthiness information (MCAI) issued by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as cracking of the forward main landing gear yoke pintle resulting from corrosion pits which can cause stress corrosion cracking resulting in loss of control during take-off or landing. We are issuing this AD to revise the inspection procedure to detect smaller corrosion pits and cracks that could initiate stress corrosion cracking.

(f) Actions and Compliance

Unless already done, do the following actions specified in paragraphs (f)(1) through (11) of this AD:

(1) *For all airplanes:* Before or at the next inspection that would have been required by AD 2014–07–07 or within the next 30 days after July 5, 2017 (the effective date of this AD), whichever occurs later, and repetitively thereafter at intervals not to exceed 12 months or 1,200 main landing gear (MLG) flight cycles (FC), whichever occurs first, do a nondestructive testing (NDT) inspection of each MLG assembly cylinder attachment spigot housing following the accomplishment instructions in Heroux Devtek Service Bulletin (SB) 32–19, Revision 7, dated March 16, 2015, as specified in the accomplishment instructions in paragraph 2.B. Part A of British Aerospace Jetstream Series 3100 & 3200 SB 32–A–JA851226, Revision 7, dated May 25, 2015.

(2) *For all airplanes:* Within 300 landings after a heavy or abnormal landing or within 3 months after a heavy or abnormal landing, whichever occurs first, do an NDT inspection of each MLG assembly cylinder attachment spigot housing following the accomplishment instructions in Heroux Devtek Service Bulletin (SB) 32–19, Revision 7, dated March 16, 2015, as specified in the accomplishment instructions in paragraph 2.B. Part A of British Aerospace Jetstream Series 3100 & 3200 SB 32–A–JA851226, Revision 7, dated May 25, 2015.

(3) *For all airplanes:* Within 3 months after accomplishment of the latest NDT inspection required by paragraph (f)(1) of this AD or 300 MLG FC after accomplishment of the latest NDT inspection required by paragraph (f)(1) of this AD, whichever occurs first, and repetitively thereafter at intervals not to exceed 3 months or within 300 MLG FC, whichever occurs first, do a visual inspection of each MLG following the accomplishment instructions in paragraph 2.B. Part B of British Aerospace Jetstream Series 3100 & 3200 SB 32–A–JA851226, Revision 7, dated May 25, 2015. These inspections start over after every repetitive NDT inspection required by paragraph (f)(1)of this AD.

(4) *For all airplanes with a MLG incorporating a microswitch hole:* Within the next 10,600 MLG FC since new and repetitively thereafter at intervals not to exceed 1,200 MLG flight cycles, do an NDT inspection of each MLG microswitch hole following the accomplishment instructions in paragraph 2.B. Part C of British Aerospace Jetstream Series 3100 & 3200 SB 32–A–JA851226, Revision 7, dated May 25, 2015.

(5) *For all airplanes:* If any discrepancy is found during any NDT inspection required in paragraphs (f)(1), (2), or (4) of this AD, before further flight, take all necessary corrective actions following the instructions in British Aerospace Jetstream Series 3100 & 3200 SB 32–A–JA851226, Revision 7, dated May 25, 2015.

(6) *For all airplanes:* If any discrepancy is found during any visual inspection required in paragraph (f)(3) of this AD, before further flight, take all necessary corrective actions following the instructions in British Aerospace Jetstream Series 3100 & 3200 SB 32–A–JA851226, Revision 7, dated May 25, 2015.

(7) *For all airplanes:* Doing all necessary corrective actions required in paragraphs (f)(5) or (6) of this AD does not constitute terminating action for the inspections required by this AD.

(8) *For all airplanes:* Modification of each MLG cylinder following BAE Systems (Operations) Ltd. SB 32–JA880340 original issue, dated January 6, 1989, constitutes terminating action for the inspections required by this AD for that MLG.

(9) *For all airplanes:* The compliance times in paragraphs (f)(1), (2), (3), and (4) of this AD are presented in flight cycles (landings). If the total flight cycles have not been kept, multiply the total number of airplane hours time-in-service (TIS) by 0.75 to calculate the cycles. For the purposes of this AD:

(i) 100 hours TIS × .75 = 75 cycles; and

(ii) 1,000 hours TIS × .75 = 750 cycles.

(g) Credit for Actions Done in Accordance With Previous Service Information

(1) This AD allows credit for the initial inspection required in paragraph (f)(1) of this AD if done before June 3, 2014 (the effective date retained from AD 2014–07–07) following British Aerospace Jetstream Series 3100 & 3200 Service Bulletin 32–A–JA851226, Revision 5, dated April 30, 2013.

(2) This AD allows credit for the initial inspection required in paragraph (f)(4) of this AD if done before June 3, 2014 (the effective date retained from AD 2014–07–07) following APPH Ltd. Service Bulletin 32–40, at Initial Issue dated June 21, 1989; or APPH Ltd. Service Bulletin 32–40, Revision 1, dated February, 2003.

(h) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Standards Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Doug Rudolph, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4059; fax: (816) 329–4090; email: *doug.rudolph@faa.gov*. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

(2) *Airworthy Product:* For any requirement in this AD to obtain corrective actions from a manufacturer or other source, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they are approved by the State of Design Authority (or their delegated agent). You are required to assure the product is airworthy before it is returned to service.

(3) *Reporting Requirements:* For any reporting requirement in this AD, a federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB Control Number. The OMB Control Number for this information collection is 2120–0056. Public reporting for this collection of information is estimated to be approximately 5 minutes per response, including the time for reviewing instructions, completing and reviewing the collection of information. All responses to this collection of information are mandatory. Comments concerning the accuracy of this burden and suggestions for reducing the burden should be directed to the FAA at: 800 Independence Ave. SW., Washington, DC 20591, Attn: Information Collection Clearance Officer, AES–200.

(i) Related Information

Refer to MCAI European Aviation Safety Agency (EASA) AD No.: 2016–0224, dated November 9, 2016, for related information. The MCAI can be found in the AD docket on the Internet at: *https://www.regulations.gov/document?D=FAA-2017-0053-0002.*

(j) 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) British Aerospace Jetstream Series 3100 & 3200 Service Bulletin 32–A–JA851226, Revision 7, dated May 25, 2015.

(ii) Heroux Devtek Service Bulletin 32–19, Revision 7, dated March 16, 2015.

(3) For British Aerospace Regional Aircraft service information identified in this AD, contact BAE Systems (Operations) Ltd, Customer Information Department, Prestwick International Airport, Ayrshire, KA9 2RW, Scotland, United Kingdom; phone: +44 1292 675207, fax: +44 1292 675704; email: *RApublications@baesystems.com;* Internet: *http://www.jetstreamcentral.com.*

(4) You may review copies of the referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148. In addition, you can access this service information on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0053.

(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 Kansas City, Missouri, on May 10, 2017.

Melvin Johnson,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2017–10408 Filed 5–26–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2016–6667; Directorate Identifier 2015–NM–125–AD; Amendment 39–18882; AD 2017–10–08]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are superseding Airworthiness Directive (AD) 2009–21–01 for certain The Boeing Company Model 737–300 and 737–400 series airplanes. AD 2009–21–01 required repetitive inspections to detect cracking of the aft fuselage skin, and related investigative and corrective actions if necessary. This new AD adds certain inspections, repairs, replacement, related investigative and corrective actions if necessary; and removes certain airplanes from the applicability. This AD was prompted by an evaluation by the design approval holder (DAH) indicating that the aft fuselage skin is subject to widespread fatigue damage (WFD), and by reports of aft fuselage cracking. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective July 5, 2017.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of July 5, 2017.

ADDRESSES: For service information identified in this final rule, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; 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–2016–6667.

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–2016–6667; 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: Jennifer Tsakoumakis, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Los Angeles Aircraft Certification Office (ACO), 3960 Paramount Boulevard, Lakewood, CA 90712–4137; phone: 562–627–5264; fax: 562–627–5210; email: *jennifer.tsakoumakis@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2009–21–01, Amendment 39–16038 (74 FR 52395, October 13, 2009) (''AD 2009–21–01''). AD 2009–21–01 applied to certain the Boeing Company Model 737–300 and 737–400 series airplanes. The NPRM published in the **Federal Register** on May 13, 2016 (81 FR 29802). The NPRM was prompted by an evaluation by the DAH indicating that the aft fuselage skin is subject to WFD, and by reports of aft fuselage cracking. The NPRM proposed to continue to require repetitive inspections to detect cracking of the aft fuselage skin, and related investigative and corrective actions if necessary. The NPRM also proposed to add new aft fuselage skin inspections for cracking, inspections to detect missing or loose fasteners and any disbonding or cracking of bonded doublers, permanent repairs of time-limited repairs, related investigative and corrective actions if necessary, and skin panel replacement. The NPRM also proposed to remove Model 737–400 series airplanes from the applicability. We are issuing this AD to detect and correct cracking in the aft fuselage skin along the longitudinal edges of the chem-milled pockets in the bonded skin doubler, which could result in possible rapid decompression and reduced structural integrity of the airplane.

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.

Request To Revise the Precipitating Event Statement

Boeing requested that we revise the precipitating event statement by including that there have been reports of aft fuselage cracking. Boeing stated that this revision would be consistent with wording of other related rulemaking.

We agree with Boeing's request because it provides additional clarity to the precipitating event statement. We have revised the **SUMMARY** and Discussion sections, and paragraph (e) of this AD accordingly.

Request To Require Reinstalling Lap Joint Modification

Jet2.com Limited (Jet2) requested that we revise the NPRM to require reinstalling the lap joint modification previously installed in accordance with AD 2015–21–06, Amendment 39–18298 (80 FR 69839, November 12, 2015) (''AD 2015–21–06''), which requires the S–14 lap joint to be trimmed out prior to 50,000 total flight cycles. Jet2 stated that Boeing Special Attention Service Bulletin 737–53–1168, Revision 4, dated June 3, 2015 (''SASB 737–53–1168, Revision 4'') specifies reinstalling the lap joint modification.

We do not agree with the commenter's request. The modification required in AD 2015–21–06 consists of trimming out the lap splice, such that if this modification were installed, it would be impossible to install a new skin without reinstalling the lap modification. If the instructions in SASB 737–53–1168, Revision 4, to reinstall the lap splice modification were accidently overlooked, it would become clear to the installer that the reinstallation would be required. We have not changed this AD in this regard.

Request To Address Certain Repairs

Boeing requested that we add a paragraph to the proposed AD to address repairs that are installed on the airplane for reasons other than chem-mill cracking. Boeing submitted suggested language and pointed out that the additional language is similar to that in other rulemaking.

We disagree with Boeing's request. Part 1 of the Accomplishment Instructions of SASB 737–53–1168, Revision 4, does not make a distinction regarding why an existing repair was installed. Therefore, repairs installed for damage other than a chem-mill crack are already addressed. We have not changed this AD in this regard.

Request To Revise Proposed Compliance Time

Boeing requested that we revise paragraph (h)(4) of the proposed AD to do the actions at an initial compliance time obtained through the alternative method of compliance (AMOC) process specified in paragraph (n)(1) of the proposed AD. Boeing stated that the repetitive inspections would still be done at the times specified in the service information. Boeing also requested that we include in the paragraph revision the terminating action of skin panel replacement at the time approved through an AMOC. Boeing stated that its request would provide a reset on the compliance times if the skin panel was replaced prior to 53,000 total airplane cycles. Boeing explained that its authorized representative under the Boeing Commercial Airplanes Organization Designation Authorization (ODA) cannot approve extensions to the compliance times.

We partially agree with Boeing's request. We agree that, for airplanes with skin panels replaced prior to 53,000 total flight cycles, in order to reset the inspection threshold on the replaced skin panels, approval must come from the FAA. Under the provisions of paragraph (n) of this AD, we may consider requests for a reset of the compliance times if the skin panel was replaced prior to 53,000 total airplane cycles if data are submitted to substantiate that such an adjustment would provide an acceptable level of safety. We have not changed this AD in this regard.

Request To Specify the Service Information Accomplishment Instructions Part Numbers

Boeing requested that we add the specific part of the accomplishment instructions in paragraphs (i)(1)(ii), (i)(2)(ii), and (j) of the proposed AD. Boeing stated that paragraph (g) of the proposed AD specifies the specific part number, and that this change would make these paragraphs consistent with the wording in paragraph (g) of the proposed AD.

We agree with Boeing's request. We agree that specifying the specific part of the Accomplishment Instructions of SASB 737–53–1168, Revision 4, will add clarity to the AD. We have revised paragraphs (i)(1)(ii), (i)(2)(ii), and (j) of this AD accordingly.

Request To Revise Flight Cycle Limit for Replacement Kit Skin Panels

Boeing requested that we revise paragraph (l) of the proposed AD to specify that skin panel replacements using the kit identified in SASB 737–53–1168, Revision 4, do not have the lower flight cycle limit restriction that the production skin panel replacements have.

We agree with Boeing's request because the skin panel replacements using the kit identified in SASB 737–53–1168, Revision 4, is an improved design compared to the production skin panels, and therefore, do not need the lower flight cycle limit restriction. We have added paragraph (l)(3) to this AD, which states, in part, that if the skin panel is replaced with a kit skin panel as specified in SASB 737–53–1168, Revision 4, the 53,000 total flight cycle limit does not apply.

Request To Remove Flight-Cycle Restriction for Certain Actions

Boeing requested that we revise paragraphs (m)(2), (m)(3), and (n)(5) of the proposed AD to remove the flight cycle restriction for certain previously accomplished actions using certain service information. Boeing stated that the only skin panel replacements specified in previous revisions of SASB 737–53–1168 are those using the kit panels, and that those panels do not have the flight-cycle limit specified in paragraphs (m)(2), (m)(3), and (n)(5) of the proposed AD.

We agree with the commenter's request because the skin panel replacements using the kit identified in SASB 737–53–1168, Revision 4, are an improved design compared to the production skin panels, and therefore, do not need the lower flight cycle limit restriction. We have revised paragraphs (m)(2), (m)(3), and (n)(5) of this AD accordingly.

Request To Specify Terminating Action

Qantas Airways Limited (Qantas) requested that we revise paragraphs (g) and (l) of the proposed AD to specify terminating action. Qantas pointed out that replacing the skin panels with kit panels instead of production panels, as specified in SASB 737–53–1168, terminates the repetitive inspections identified in paragraphs (g), (i), and (j) of the proposed AD. Additionally, Qantas pointed out that replacement with kit skin panels using any revision of SASB 737–53–1168 before the effective date of the AD should also terminate the repetitive inspections identified in paragraphs (g), (i), and (j) of the proposed AD.

We agree with the commenter's request because the skin panel replacements using the kit identified in SASB 737–53–1168, Revision 4, are an improved design compared to the production skin panels and therefore, should terminate the repetitive inspections. We have revised paragraphs (m)(2), (m)(3), and (n)(5) of this AD accordingly.

Effect of Winglets on Accomplishment of the Proposed Actions

Aviation Partners Boeing stated that accomplishing Supplemental Type Certificate (STC) ST01219SE does not affect the actions specified in the NPRM.

We concur with the commenter. We have redesignated paragraph (c) of the proposed AD as paragraph (c)(1) of this AD and added paragraph (c)(2) to this AD to state that installation of STC ST01219SE does not affect the ability to

accomplish the actions required by this final rule. Therefore, for airplanes on which STC ST01219SE is installed, a ''change in product'' AMOC approval request is not necessary to comply with the requirements of 14 CFR 39.17.

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 SASB 737–53–1168, Revision 4. The service information describes procedures for doing inspections of the fuselage skin, repairs, and skin panel replacement. 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 168 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	Up to 1,791 work-hours × $85 per hour = $152,235.	$0	Up to $152,235	Up to $25,575,480.
Skin replacement	624 work-hours × $85 per hour = $53,040	98,275	$151,315	$25,420,920.

We estimate the following costs to do any necessary repairs that would be required based on the results of the inspections. We have no way of determining the number of aircraft that might need these repairs:

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Time-limited repair	24 work-hours × $85 per hour = $2,040 per repair	(1)	$2,040 per repair.
Permanent repair	Up to 43 work-hours × $85 per hour = $3,655 per repair	(1)	Up to $3,655 per repair.

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

We estimate the following costs to do any necessary post-repair inspections that would be required. We have no way of determining the number of aircraft that might need these inspections:

POST-REPAIR INSPECTION COSTS

Action	Labor cost	Parts cost	Cost per product
Post-repair inspection	Up to 7 work-hours × $85 per hour = $595	$0	Up to $595.

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 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 removing Airworthiness Directive (AD) 2009–21–01, Amendment 39–16038 (74 FR 52395, October 13, 2009), and adding the following new AD:

2017–10–08 The Boeing Company: Amendment 39–18882; Docket No. FAA–2016–6667; Directorate Identifier 2015–NM–125–AD.

(a) Effective Date

This AD is effective July 5, 2017.

(b) Affected ADs

This AD replaces AD 2009–21–01, Amendment 39–16038 (74 FR 52395, October 13, 2009) (''AD 2009–21–01'').

(c) Applicability

(1) This AD applies to The Boeing Company Model 737–300 series airplanes, certificated in any category, as identified in Boeing Special Attention Service Bulletin 737–53–1168, Revision 4, dated June 3, 2015 (''SASB 737–53–1168, Revision 4'').

(2) Installation of Supplemental Type Certificate (STC) ST01219SE (*http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgstc.nsf/0/ebd1cec7b301293e86257cb30045557a/$FILE/ST01219SE.pdf*) 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 (DAH) indicating that the aft fuselage skin is subject to widespread fatigue damage (WFD), and reports of aft fuselage cracking. We are issuing this AD to detect and correct cracking in the aft fuselage skin along the longitudinal edges of the chem-milled pockets in the bonded skin doubler, which could result in possible rapid decompression and reduced structural integrity of the airplane.

(f) Compliance

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

(g) Inspections, Related Investigative and Corrective Actions

At the applicable times specified in tables 1 and 2 of paragraph 1.E., ''Compliance,'' of SASB 737–53–1168, Revision 4, except as required by paragraphs (h)(1) and (h)(2) of this AD: Do the applicable inspections to detect cracks in the aft fuselage skin panels, and do all applicable related investigative and corrective actions, in accordance with the Accomplishment Instructions of SASB 737–53–1168, Revision 4, except as required by paragraphs (h)(3) and (h)(4) of this AD. Do all applicable related investigative and corrective actions before further flight. Repeat the applicable inspections thereafter at the applicable intervals specified in tables 1 and 2 of paragraph 1.E., ''Compliance,'' of SASB 737–53–1168, Revision 4. Accomplishment of a repair in accordance with ''Part 4: Repair'' of the Accomplishment Instructions of SASB 737–53–1168, Revision 4, except as required by paragraph (h)(3) of this AD, is terminating action for the repetitive inspections required by this paragraph at the repaired locations only.

(h) Exceptions to SASB 737–53–1168, Revision 4

(1) Where SASB 737–53–1168, Revision 4, specifies compliance times ''after the Revision 4 date of this service bulletin,'' this AD requires compliance within the specified compliance times after the effective date of this AD.

(2) The Condition column of paragraph 1.E., ''Compliance,'' of SASB 737–53–1168, Revision 4, refers to airplanes in certain configurations as of the ''issue date of Revision 4 of this service bulletin.'' However, this AD applies to airplanes in the specified configurations ''as of the effective date of this AD.''

(3) Where SASB 737–53–1168, Revision 4, specifies contacting Boeing for repair instructions or work instructions, before further flight, repair or perform the work instructions using a method approved in accordance with the procedures specified in paragraph (n) of this AD, except as required by paragraph (h)(4) of this AD.

(4) For airplanes on which an operator has a record that a skin panel was replaced with a production skin panel before 53,000 total flight cycles: At the applicable time for the next inspection as specified in tables 1 and 2 of paragraph 1.E., ''Compliance,'' of SASB 737–53–1168, Revision 4, except as provided by paragraph (h)(1) and (h)(2) of this AD, perform inspections and applicable corrective actions using a method approved in accordance with the procedures specified in paragraph (n) of this AD.

(i) Actions for Airplanes With a Time-Limited Repair Installed

(1) For airplanes with a time-limited repair installed, as specified in Boeing Service Bulletin 737–53–1168, Revision 3, dated November 28, 2006: At the applicable times specified in table 3 of paragraph 1.E., ''Compliance,'' of SASB 737–53–1168, Revision 4, except as provided by paragraphs (h)(1) and (h)(2) of this AD, do the actions specified in paragraphs (i)(1)(i) and (i)(1)(ii) of this AD.

(i) Do the applicable inspections to detect missing or loose fasteners and any disbonding or cracking of bonded doublers, and do all applicable related investigative and corrective actions, in accordance with the Accomplishment Instructions of SASB 737–53–1168, Revision 4, except as required by paragraph (h)(3) of this AD. Do all applicable related investigative and corrective actions before further flight. Repeat the applicable inspections thereafter at the applicable intervals specified in SASB 737–53–1168, Revision 4.

(ii) Make the time-limited repair permanent, and do all applicable related investigative and corrective actions, in accordance with Part 6 of the Accomplishment Instructions of SASB 737–53–1168, Revision 4, except as required by paragraph (h)(3) of this AD. Do all applicable related investigative and corrective actions before further flight. Accomplishing the permanent repair required by this paragraph terminates the inspections required by paragraph (i)(1)(i) of this AD for the permanently repaired area only.

(2) For airplanes with a time-limited repair installed, as specified in SASB 737–53–1168, Revision 4: At the applicable times specified in table 4 of paragraph 1.E., ''Compliance,'' of SASB 737–53–1168, Revision 4, do the actions specified in paragraphs (i)(2)(i) and (i)(2)(ii) of this AD.

(i) Do the applicable inspections to detect missing or loose fasteners and any disbonding or cracking of bonded doublers, and do all applicable related investigative and corrective actions, in accordance with the Accomplishment Instructions of SASB 737–53–1168, Revision 4, except as required by paragraph (h)(3) of this AD. Do all applicable related investigative and corrective actions before further flight. Repeat the applicable inspections thereafter at the applicable intervals specified in table 4 of paragraph 1.E., ''Compliance,'' of SASB 737–53–1168, Revision 4.

(ii) Make the time-limited repair permanent, and do all applicable related investigative and corrective actions, in accordance with Part 6 of the Accomplishment Instructions of SASB 737–53–1168, Revision 4, except as required by paragraph (h)(3) of this AD. Do all applicable related investigative and corrective actions before further flight. Accomplishing the permanent repair required by this paragraph terminates the inspections required by paragraph (i)(2)(i) of this AD for the permanently repaired area only.

(j) Modification of Certain Permanent Repairs

For airplanes with an existing time-limited repair that was made permanent, as specified in Boeing Service Bulletin 737–53–1168, Revision 3, dated November 28, 2006: At the applicable times specified in table 5 of paragraph 1.E., ''Compliance,'' of SASB 737–53–1168, Revision 4, except as provided by paragraphs (h)(1) of this AD, modify the existing permanent repair, and do all applicable related investigative and corrective actions, in accordance with Part 6 of the Accomplishment Instructions of SASB 737–53–1168, Revision 4, except as required

by paragraph (h)(3) of this AD. Do all applicable related investigative and corrective actions before further flight.

(k) Post-Repair Inspections

Table 6 of paragraph 1.E., ''Compliance,'' of SASB 737–53–1168, Revision 4, specifies post-repair airworthiness limitation inspections in compliance with 14 CFR 25.571(a)(3) at the repaired locations, which support compliance with 14 CFR 121.1109(c)(2) or 129.109(b)(2). As airworthiness limitations, these inspections are required by maintenance and operational rules. It is therefore unnecessary to mandate them in this AD. Deviations from these inspections require FAA approval, but do not require an AMOC.

(l) Skin Panel Replacement

At the later of the times specified in paragraphs (l)(1), (1)(2), and (l)(3) of this AD: Replace the applicable skin panels, and do all applicable related investigative and corrective actions, in accordance with the Accomplishment Instructions of SASB 737–53–1168, Revision 4. Do all applicable related investigative and corrective actions before further flight. Doing the skin panel replacement required by this paragraph terminates the inspection requirements of paragraphs (g), (i), and (j) of this AD for that skin panel only, provided the skin panel replacement was done with a production skin panel after 53,000 total flight cycles.

(1) Before 60,000 total flight cycles, but not before 53,000 total flight cycles.

(2) Within 6,000 flight cycles after the effective date of this AD, but not before 53,000 total flight cycles.

(3) If the skin panel is replaced with a production skin panel, not before 53,000 total flight cycles. If the skin panel is replaced with a kit skin panel as specified in SASB 737–53–1168, Revision 4, the 53,000 total flight cycle limit does not apply.

(m) Credit for Previous Actions

(1) This paragraph provides credit for the actions required by paragraph (g) of this AD, if those actions were performed before the effective date of this AD using Boeing Service Bulletin 737–53–1168, Revision 3, dated November 28, 2006, except as required by paragraph (h)(4) of this AD. Boeing Service Bulletin 737–53–1168, Revision 3, dated November 28, 2006, was incorporated by reference in AD 2009–21–01.

(2) This paragraph provides credit for the actions required by paragraph (l) of this AD, if those actions were performed before the effective date of this AD using Boeing Service Bulletin 737–53–1168, Revision 3, dated November 28, 2006, except as required by paragraph (h)(4) of this AD. Boeing Service Bulletin 737–53–1168, Revision 3, dated November 28, 2006, was incorporated by reference in AD 2009–21–01.

(3) This paragraph provides credit for the actions required by paragraph (l) of this AD, if those actions were performed before November 17, 2009 (the effective date of AD 2009–21–01), using any service information specified in paragraphs (m)(3)(i), (m)(3)(ii), and (m)(3)(iii) of this AD, provided the replacement is made with a kit skin panel, except as required by paragraph (h)(4) of this AD. The service information specified in paragraphs (m)(3)(i), (m)(3)(ii), and (m)(3)(iii) of this AD was incorporated by reference in AD 2009–21–01.

(i) Part 3 of the Accomplishment Instructions of Boeing Service Bulletin 737–53–1168, dated March 16, 1995.

(ii) Part 3 of the Accomplishment Instructions of Boeing Service Bulletin 737–53–1168, Revision 1, dated August 17, 1995.

(iii) Part 3 of the Accomplishment Instructions of Boeing Service Bulletin 737–53–1168, Revision 2, dated November 27, 1996.

(n) 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 (o)(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, Seattle 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 repairs required by AD 2009–21–01 are approved as AMOCs for the corresponding provisions of paragraph (g) of this AD.

(5) AMOCs approved previously for modifications done as optional terminating action for AD 2009–21–01 are approved as AMOCs for the skin panel replacement required by paragraph (l) of this AD.

(o) Related Information

(1) For more information about this AD, contact Jennifer Tsakoumakis, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Los Angeles ACO, 3960 Paramount Boulevard, Lakewood, CA 90712–4137; phone: 562–627–5264; fax: 562–627–5210; email: *jennifer.tsakoumakis@faa.gov.*

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

(i) Boeing Special Attention Service Bulletin 737–53–1168, Revision 4, dated June 3, 2015.

(ii) Reserved.

(3) For Boeing service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; 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 May 2, 2017.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2017–10288 Filed 5–26–17; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2017–0156; Directorate Identifier 2017–CE–003–AD; Amendment 39–18877; AD 2017–10–03]

RIN 2120–AA64

Airworthiness Directives; ZLIN AIRCRAFT a.s. Airplanes

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

ACTION: Final rule.

SUMMARY: We are superseding Airworthiness Directive (AD) 2003–11–12 for ZLIN AIRCRAFT a.s. Model Z–242L airplanes (type certificate previously held by MORAVAN a.s.). This AD results from mandatory continuing airworthiness information (MCAI) issued by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as a need to incorporate new revisions into the Limitations section, Chapter 9, of the FAA-approved maintenance program (*e.g.,* maintenance manual) to impose

new or more restrictive life limits on critical components. We are issuing this AD to require actions to address the unsafe condition on these products.

DATES: This AD is effective July 5, 2017.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of July 5, 2017.

The Director of the Federal Register approved the incorporation by reference of a certain other publication as of June 5, 2003 (68 FR 32629, June 2, 2003).

ADDRESSES: You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0156; or in person at the Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

For service information identified in this AD, contact ZLIN AIRCRAFT a.s., Letiště 1887, 765 02 Otrokovice, Czech Republic, telephone: +420 725 266 711; fax: +420 226 013 830; email: *info@zlinaircraft.eu,* Internet: *http://www.zlinaircraft.eu.* You may view this referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148. It is also available on the Internet at *http://www.regulations.gov* by searching for Docket No. FAA–2017–0156.

FOR FURTHER INFORMATION CONTACT: Doug Rudolph, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4059; fax: (816) 329–4090; email: *doug.rudolph@faa.gov*.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to ZLIN AIRCRAFT a.s. Model Z–242L airplanes (type certificate previously held by MORAVAN a.s.). That NPRM was published in the **Federal Register** on March 2, 2017 (82 FR 12305), and proposed to supersede AD 2003–11–12, Amendment 39–13171 (68 FR 32629, June 2, 2003) (''AD 2003–11–12'').

Since we issued AD 2003–11–12, a revision to the airworthiness limitations chapter of the aircraft maintenance manual has been issued, and the State of Design airworthiness authority took AD action, as identified below.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued AD No.: 2017–0005, dated January 10, 2017 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

> The airworthiness limitations for the Zlin Aircraft a.s. Z 242 L aeroplanes, which are approved by EASA, are defined and published in Chapter 9 of Zlin Aircraft a.s. Z 242 L Maintenance Manual (MM)—Volume I Document 003.021.1 (in Czech language) or in Chapter 9 of Z 242 L MM—Volume I Document 003.22.1 (in English language). These instructions have been identified as mandatory for continued airworthiness.
>
> Failure to accomplish these instructions could result in an unsafe condition.
>
> Zlin Aircraft a.s. recently published Revision 22 to Chapter 9, Volume I, of the Z 242 L MM, introducing new and/or more restrictive limitations.
>
> For the reason described above, this [EASA] AD requires accomplishment of the actions specified in the Zlin Aircraft a.s. Z 242 L MM Chapter 9, Volume I, at Revision 22.

The MCAI can be found in the AD docket on the Internet at *https://www.regulations.gov/document?D=FAA-2017-0156-0002.*

Comments

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

Conclusion

We reviewed the relevant data and determined that air safety and the public interest require adopting this AD as proposed except for minor editorial. 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 51

We reviewed Chapter 9, Airworthiness Limitations, Revision No. 22, dated March 15, 2016, of ZLIN AIRCRAFT a.s. Z 242 L DOC. No. 003.22.1 Maintenance Manual-Vol. I., and Moravan-Aeroplanes a.s. Mandatory Service Bulletin Z 142C/17a, Z 242L/37a—Rev. 1, dated October 31, 2000. The revision to the Limitations sections introduces new and/or more restrictive safe life limits for the Model Z 242 airplane. The mandatory service bulletin describes procedures for annotating acrobatic and utility category operational time in the logbook. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section of this AD.

Costs of Compliance

We estimate that this AD will affect 30 products of U.S. registry. We also estimate that it will take about 1 work-hour per product to comply with the requirement to incorporate the new revision into the Limitations section of the FAA-approved maintenance program (*e.g.,* maintenance manual). The average labor rate is $85 per work-hour.

Based on these figures, we estimate the cost of this portion of this AD on U.S. operators to be $2,550, or $85 per product.

The above costs only account for the time to incorporate the document into the Limitations section of the FAA-approved maintenance program. These limitations will impose more restrictive life limits on some parts and provide new life limits for others. While the cost of these replacements could be expensive, they will only be required to operate the airplane past the established times. Ultimately, the estimated cost of replacing all life-limited parts could come close to the cost of the airplane. These life limits are necessary to continue to operate the airplane in an airworthy manner.

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 this AD:

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

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

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

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

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0156; 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 the NPRM, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

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 Amendment 39–13171 (68 FR 32629, June 2, 2003), and adding the following new AD:

2017–10–03 ZLIN AIRCRAFT a.s. (type certificate previously held by MORAVAN a.s.): Amendment 39–18877; Docket No. FAA–2017–0156; Directorate Identifier 2017–CE–003–AD.

(a) Effective Date

This airworthiness directive (AD) becomes effective July 5, 2017.

(b) Affected ADs

This AD replaces AD 2003–11–12, Amendment 39–13171 (68 FR 32629, June 2, 2003) (''AD 2003–11–12'').

(c) Applicability

This AD applies to ZLIN AIRCRAFT a.s. Model Z–242L airplanes, all serial numbers, certificated in any category.

(d) Subject

Air Transport Association of America (ATA) Code 5: Time Limits.

(e) Reason

This AD was prompted by mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as a need to incorporate new revisions into the Limitations section, Chapter 9, of the FAA-approved maintenance program (*e.g.,* maintenance manual). We are issuing this AD to prevent structural failure of the wing due to fatigue cracking. Such failure could result in a wing separating from the airplane with consequent loss of control.

(f) Actions and Compliance

Unless already done, do the following actions:

(1) *For all affected airplanes:* As of March 21, 2003 (the effective date of AD 2003–03–13 (68 FR 4905, January 21, 2003) (''AD 2003–03–13'')), annotate Acrobatic and Utility category operational time in the logbook. If the airplane is utilized in either of these categories at any time during a flight, annotate the total time for that flight in the Utility or Acrobatic category, as appropriate. Do the logbook annotation following the procedures in Moravan-Aeroplanes a.s. Mandatory Service Bulletin Z 142C/17a, Z 242L/37a—Rev. 1, dated October 31, 2000; and Moravan Mandatory Service Bulletin Z 242L/38a—Rev. 1, April 15, 2003. The owner/operator holding at least a private pilot certificate as authorized by section 43.7 may do this action.

(2) *For airplane serial numbers 0001 through 0656 that do not have strengthened wings installed (both left and right side) in accordance with Moravan Mandatory Service Bulletin Z 242L/27a—Rev. 1, dated October 31, 2000, or Rev. 2, dated April 15, 2003:*

(i) On or before 10 days after June 5, 2003 (the effective date of AD 2003–11–12), incorporate aerobatic frequency information into the Limitations section of the airplane flight manual (AFM) as specified in Moravan Mandatory Service Bulletin Z 242L/38a—Rev. 1, April 15, 2003. The owner/operator holding at least a private pilot certificate as authorized by section 43.7 may do this action. Make an entry into the aircraft records showing compliance with these portions of this AD in accordance with section 43.9 of the Federal Aviation Regulations (14 CFR 43.9).

(ii) On or before reaching 190 hours time-in-service in the Acrobatic category and/or Utility category or on or before 90 days after March 21, 2003 (the effective date of AD 2003–03–13), whichever occurs later, insert the following information into the Limitations section of the airplane flight manual (AFM): ''Do not operate in the Acrobatic or Utility category. Operate in the Normal category only.'' The owner/operator holding at least a private pilot certificate as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7) may accomplish this AFM insertion of this AD. Make an entry into the aircraft records showing compliance with these portions of this AD in accordance with section 43.9 of the Federal Aviation Regulations (14 CFR 43.9). This operational restriction is referenced in Moravan-Aeroplanes a.s. Mandatory Service Bulletin Z 142C/17a, Z 242L/37a—Rev. 1, dated October 31, 2000.

(3) *For airplane serial numbers 0657 or higher or one in the range of 0001 through 0656 that has strengthened wings (both left and right side) installed in accordance with Moravan Mandatory Service Bulletin Z 242L/27a—Rev. 1, dated October 31, 2000, or Rev. 2, dated April 15, 2003:* On or before 10 days after June 5, 2003 (the effective date of AD 2003–11–12), incorporate aerobatic frequency information into the Limitations section of the airplane flight manual (AFM) as specified in Moravan Mandatory Service Bulletin Z 242L/38a—Rev.1, April 15, 2003. The owner/operator holding at least a private pilot certificate as authorized by section 43.7 may do this action. Make an entry into the aircraft records showing compliance with these portions of this AD in accordance with section 43.9 of the Federal Aviation Regulations (14 CFR 43.9).

(4) *For all affected airplanes:* Within 10 days after July 5, 2017 (the effective date of this AD), insert Chapter 9, Airworthiness Limitations, Revision No. 22, dated March 15, 2016, of ZLIN AIRCRAFT a.s. Z 242 L, DOC. No. 003.22.1 Maintenance Manual-Vol. I into the Limitations section of the FAA-approved maintenance program (*e.g.,* maintenance manual). The owner/operator holding at least a private pilot certificate as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7) may accomplish this maintenance manual insertion requirement of this AD. Make an entry into the aircraft records showing compliance with these portions of this AD in accordance with section 43.9 of the Federal Aviation Regulations (14 CFR 43.9). If a discrepancy is found during the accomplishment of any of the actions required by the document listed in this paragraph, before further flight after finding such discrepancy, contact ZLIN AIRCRAFT a.s. at the address specified in paragraph (h) of this AD for an FAA-approved repair scheme and incorporate that repair scheme.

(g) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Standards Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Doug Rudolph, Aerospace Engineer,

FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4059; fax: (816) 329–4090; email: *doug.rudolph@faa.gov.* Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

(2) *Airworthy Product:* For any requirement in this AD to obtain corrective actions from a manufacturer or other source, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they are approved by the State of Design Authority (or their delegated agent). You are required to assure the product is airworthy before it is returned to service.

(h) Related Information

Refer to MCAI European Aviation Safety Agency (EASA) AD No.: 2017–0005, dated January 10, 2017, for related information. The MCAI can be found in the AD docket on the Internet at *https://www.regulations.gov/document?D=FAA-2017-0156-0002.*

(i) 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 July 5, 2017 (the effective date of this AD).

(i) Chapter 9, Airworthiness Limitations, Revision No. 22, dated March 15, 2016, of ZLIN AIRCRAFT a.s. Z 242 L DOC. No. 003.22.1 Maintenance Manual—Vol. I.

(ii) Moravan-Aeroplanes a.s. Mandatory Service Bulletin Z 142C/17a, Z 242L/37a—Rev. 1, dated October 31, 2000.

(4) The following service information was approved for IBR on June 5, 2003 (68 FR 32629, June 2, 2003).

(i) Moravan Mandatory Service Bulletin Z 242L/38a—Rev.1, April 15, 2003.

(ii) Reserved.

(5) For service information identified in this AD, contact ZLIN AIRCRAFT a.s., Letiště 1887, 765 02 Otrokovice, Czech Republic, telephone: +420 725 266 711; fax: +420 226 013 830; email: *info@zlinaircraft.eu,* Internet: *http://www.zlinaircraft.eu.*

(6) You may view this service information at FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call 816–329–4148. In addition, you can access this service information on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0156.

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

Issued in Kansas City, Missouri, on May 15, 2017.

Melvin Johnson,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2017–10406 Filed 5–26–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2016–6666; Directorate Identifier 2015–NM–124–AD; Amendment 39–18881; AD 2017–10–07]

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 737–400 series airplanes. This AD was prompted by an evaluation by the design approval holder (DAH), which indicates that the aft fuselage skin is subject to widespread fatigue damage (WFD), and reports of aft fuselage skin cracking. This AD requires repetitive inspections to detect cracking of the aft fuselage skin, inspections to detect missing or loose fasteners and any disbonding or cracking of bonded doublers, permanent repairs of time-limited repairs, related investigative and corrective actions if necessary, and skin panel replacement. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective July 5, 2017.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of July 5, 2017.

ADDRESSES: For service information identified in this final rule, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone: 562–797–1717; 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–2016–6666.

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–2016–6666; 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: Jennifer Tsakoumakis, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Los Angeles Aircraft Certification Office (ACO), 3960 Paramount Boulevard, Lakewood, CA 90712–4137; phone: 562–627–5264; fax: 562–627–5210; email: *jennifer.tsakoumakis@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 Boeing Model 737–400 series airplanes. The NPRM published in the **Federal Register** on May 13, 2016 (81 FR 29809) (''the NPRM''). The NPRM was prompted by an evaluation by the DAH, which indicates that the aft fuselage skin is subject to WFD, and reports of aft fuselage skin cracking. The NPRM proposed to require repetitive inspections to detect cracking of the aft fuselage skin, inspections to detect missing or loose fasteners and any disbonding or cracking of bonded doublers, permanent repairs of time-limited repairs, related investigative and corrective actions if necessary, and skin panel replacement. We are issuing this AD to prevent cracking in the aft fuselage skin along the longitudinal edges of the bonded skin doubler, which could result in possible rapid decompression and reduced structural integrity of the airplane.

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.

Request To Specify Repair Procedures

Boeing requested that we revise the proposed AD to address repairs that are

installed on the airplane for reasons other than chem-mill cracking. Boeing provided suggested language for the AD.

We do not agree with Boeing's request. Paragraph 3.B.1 in the Accomplishment Instructions of Boeing Special Attention Service Bulletin 737–53–1187, Revision 3, dated July 10, 2015 (''SASB 737–53–1187 R3''), which is the referenced source of service information in this AD, already addresses the issue raised by Boeing. SASB 737–53–1187 R3 does not make a distinction between repairs installed for chem-mill cracking and repairs installed for other reasons. Therefore, repairs that are installed for any reason, provided they meet the service information criteria, are already addressed. We have not changed this AD in this regard.

Request To Revise Compliance Time in Paragraph (h)(4) of the Proposed AD

Boeing requested that we revise the compliance time in paragraph (h)(4) of the proposed AD from the time specified in SASB 737–53–1187 R3, to a time approved by the FAA through the alternative method of compliance (AMOC) process.

Boeing provided examples of how replacing skin panels at certain compliance times would require further skin panel replacement before reaching the airplane limit of validity. Boeing explained that the NPRM proposed skin panel replacement at 60,000 total flight cycles; therefore, an FAA approval to adjust the compliance time from total flight cycles to cycles after skin panel replacement would be required.

We partially agree with Boeing's request. Airplanes that have had a skin replacement with a production skin panel, as distinguished from an improved-design kit skin panel, prior to 53,000 total flight cycles may be eligible for an adjustment of the inspection threshold. Currently, such an adjustment of the AD compliance time is not delegated to Boeing's authorized representatives, and the change must be approved by the FAA. However, we consider the number of airplanes affected by this scenario to be quite small. Therefore, we have decided to approve such changes to the compliance times on a case-by-case basis using the procedures specified in paragraph (n)(1) of this AD. Although we agree with the comment, we have not changed this AD in this regard.

Request To Reference Part 6 of the Service Information

Boeing requested that we revise paragraphs (i)(1)(ii), (i)(2)(ii), and (j) of the proposed AD by specifying doing part 6 of the service information. Boeing stated that specifying the service information part reference would make the language consistent with paragraph (g) of the proposed AD, which specifies the service information part reference.

We agree with Boeing's request. These changes will increase the paragraphs' clarity. We have revised paragraphs (i)(1)(ii), (i)(2)(ii), and (j) of this AD accordingly.

Request To Revise Paragraph (l) of the Proposed AD

Boeing requested that we revise the provision of paragraph (l) of the proposed AD, which would provide for terminating action if the skin panel was replaced with a production skin panel. Boeing indicated that terminating action should also apply to airplanes with the skin panel replacement kit (S–20 to S–25 (left and right)) specified in Boeing Service Bulletin 737–53–1187. Boeing stated that the skin panel replacement using the kit specified in Boeing Service Bulletin 737–53–1187 does not have the lower flight cycle limit restriction of the production panel replacement. Boeing explained that once the kit skin panel is replaced, the inspections specified in SASB 737–53–1187 R3, are terminated.

We agree with Boeing's request. The kit skin panels are an improved design compared with the original production skin panels, have different inspection requirements, and provide terminating action. We have revised paragraph (l) of this AD accordingly.

Request To Remove Flight Cycle Restriction in Paragraphs (m)(2), (m)(3), and (n)(5) of the Proposed AD

Boeing requested that we revise paragraphs (m)(2), (m)(3), and (n)(5) of the proposed AD by removing the flight-cycle restriction for credit for the skin panel replacement. Boeing explained that the only skin panel replacement specified in the service information referenced in paragraphs (m)(2) and (m)(3) of the proposed AD is the skin panel replacement kit, which can be accomplished at any time.

Boeing stated that it assumed that only the kit skin panel replacements, and not the original production skin panels, are approved as AMOCs for AD 2009–21–01, Amendment 39–16038 (74 FR 52395, October 13, 2009) (''AD 2009–21–01''). Boeing asserted that, therefore, paragraph (n)(5) of the proposed AD should approve previous modifications done as optional terminating action for AD 2009–21–01 as AMOCs for the modification required by paragraph (l) of this AD without the flight-cycle restriction.

We partially agree with Boeing's request. The kit skin panels are an improved design compared with the original production skin panels and have different inspection requirements. We have revised paragraphs (m)(2) and (m)(3) of this AD by removing the flight-cycle restriction.

However, in order to address airplanes that have had production skin panels replaced through AMOCs for AD 2009–21–01, paragraph (n)(5) of this AD retains the flight-cycle restriction.

We agree to approve AMOCs for AD 2009–21–01 that require using the skin panel kit specified in Boeing Service Bulletin 737–53–1187 as AMOCs for the modification required by paragraph (l) of this AD without the flight-cycle restriction. We have added paragraph (n)(6) to this AD, which states that AMOCs approved for previous modifications done as optional terminating action for AD 2009–21–01 are approved as AMOCs for the modification required by paragraph (l) of this AD provided the skin modification replacement was done using the skin panel kit specified in Boeing Service Bulletin 737–53–1187.

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 SASB 737–53–1187 R3. The service information describes procedures for doing inspections of the fuselage skin, repairs, and skin panel replacement. 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 84 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	Up to 1,568 work-hours × $85 per hour = Up to $133,280.	$0	Up to $133,280	Up to $11,195,520.
Skin replacement	698 work-hours × $85 per hour = $59,330	185,147	$244,477	$20,536,068.

We estimate the following costs to do any necessary repairs that would be required based on the results of the inspections. We have no way of determining the number of aircraft that might need these repairs:

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Time-limited repair	24 work-hours × $85 per hour = $2,040 per repair.	(1)	$2,040 per repair.
Permanent repair	Up to 39 work-hours × $85 per hour = $3,315 per repair.	(1)	Up to $3,315 per repair.

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

We estimate the following costs to do any necessary post-repair inspections that would be required. We have no way of determining the number of aircraft that might need these inspections:

POST-REPAIR INSPECTION COSTS

Action	Labor cost	Parts cost	Cost per product
Post-repair inspection	Up to 7 work-hours × $85 per hour = $595	$0	Up to $595.

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):

2017–10–07 The Boeing Company: Amendment 39–18881; Docket No. FAA–2016–6666; Directorate Identifier 2015–NM–124–AD.

(a) Effective Date

This AD is effective July 5, 2017.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Boeing Model 737–400 series airplanes, certificated in any category, as identified in Boeing Special Attention Service Bulletin 737–53–1187, Revision 3, dated July 10, 2015 (''SASB 737–53–1187 R3'').

(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) which indicates that the aft fuselage skin is subject to widespread fatigue damage (WFD) and reports of aft fuselage skin cracking. We are issuing this AD to detect and correct cracking in the aft fuselage skin along the longitudinal edges of the bonded skin doubler, which could result in possible rapid decompression

and reduced structural integrity of the airplane.

(f) Compliance

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

(g) Inspections, Related Investigative and Corrective Actions

At the applicable times specified in tables 1, 2, and 3 of paragraph 1.E., ''Compliance,'' of SASB 737–53–1187 R3, except as provided by paragraph (h)(1) and (h)(2) of this AD: Do the applicable inspections to detect cracks in the aft fuselage skin panels; and do all applicable related investigative and corrective actions; in accordance with the Accomplishment Instructions of SASB 737–53–1187 R3, except as required by paragraphs (h)(3) and (h)(4) of this AD. Do all applicable related investigative and corrective actions before further flight. Repeat the applicable inspections thereafter at the applicable intervals specified in tables 1, 2, and 3 of paragraph 1.E., ''Compliance,'' of SASB 737–53–1187 R3. Accomplishment of a repair in accordance with ''Part 4: Repair'' of the Accomplishment Instructions of SASB 737–53–1187 R3, except as required by paragraph (h)(3) of this AD, is terminating action for the repetitive inspections required by this paragraph at the repaired locations only.

(h) Exceptions to SASB 737–53–1187 R3

(1) Where SASB 737–53–1187 R3, specifies compliance times ''after the Revision 3 date of this service bulletin,'' this AD requires compliance within the specified compliance times after the effective date of this AD.

(2) The Condition column of Paragraph 1.E., ''Compliance,'' of SASB 737–53–1187 R3, refers to airplanes in certain configurations as of the ''issue date of Revision 3 of this service bulletin.'' However, this AD applies to airplanes in the specified configurations as of the effective date of this AD.

(3) Where SASB 737–53–1187 R3 specifies contacting Boeing for repair instructions or work instructions, before further flight, repair or perform the work instructions using a method approved in accordance with the procedures specified in paragraph (n) of this AD, except as required by paragraph (h)(4) of this AD.

(4) For airplanes on which an operator has a record that a skin panel was replaced with a production skin panel before 53,000 total flight cycles: At the applicable time for the next inspection as specified in tables 1, 2, and 3 of paragraph 1.E., ''Compliance,'' of SASB 737–53–1187 R3, except as provided by paragraph (h)(1) and (h)(2) of this AD: Perform inspections and applicable corrective actions using a method approved in accordance with the procedures specified in paragraph (n) of this AD.

(i) Actions for Airplanes With a Time-Limited Repair Installed

(1) For airplanes with a time-limited repair installed as specified in Boeing Service Bulletin 737–53–1187, Revision 2, dated May 9, 2007: At the applicable times specified in table 4 of paragraph 1.E., ''Compliance,'' of SASB 737–53–1187 R3, except as provided by paragraphs (h)(1) and (h)(2) of this AD: Do the actions specified in paragraphs (i)(1)(i) and (i)(1)(ii) of this AD.

(i) Do the applicable inspections to detect missing or loose fasteners and any disbonding or cracking of bonded doublers; and do all applicable related investigative and corrective actions; in accordance with the Accomplishment Instructions of SASB 737–53–1187 R3, except as required by paragraph (h)(3) of this AD. Do all applicable related investigative and corrective actions before further flight. Repeat the applicable inspections thereafter at the applicable intervals specified in table 4 of paragraph 1.E., ''Compliance,'' of SASB 737–53–1187 R3.

(ii) Make the time-limited repair permanent; and do all applicable related investigative and corrective actions; in accordance with Part 6 of the Accomplishment Instructions of SASB 737–53–1187 R3, except as required by paragraph (h)(3) of this AD. Do all applicable related investigative and corrective actions before further flight. Accomplishing the permanent repair required by this paragraph terminates the inspections required by paragraph (i)(1)(i) of this AD for the permanently repaired area only.

(2) For airplanes with a time-limited repair installed as specified in SASB 737–53–1187 R3: At the applicable times specified in table 5 of paragraph 1.E., ''Compliance,'' of SASB 737–53–1187 R3, except as provided by paragraph (h)(2) of this AD: Do the actions specified in paragraphs (i)(2)(i) and (i)(2)(ii) of this AD.

(i) Do the applicable inspections to detect missing or loose fasteners and any disbonding or cracking of bonded doublers; and do all applicable corrective actions; in accordance with the Accomplishment Instructions of SASB 737–53–1187 R3, except as required by paragraph (h)(3) of this AD. Do all applicable corrective actions before further flight. Repeat the applicable inspections thereafter at the applicable intervals specified in table 5 of paragraph 1.E., ''Compliance,'' of SASB 737–53–1187 R3.

(ii) Make the time-limited repair permanent; and do all applicable related investigative and corrective actions; in accordance with Part 6 of the Accomplishment Instructions of SASB 737–53–1187 R3, except as required by paragraph (h)(3) of this AD. Do all applicable related investigative and corrective actions before further flight. Accomplishing the permanent repair required by this paragraph terminates the inspections required by paragraph (i)(2)(i) of this AD for the permanently repaired area only.

(j) Modification of Certain Permanent Repairs

For airplanes with an existing time-limited repair that was made permanent as specified in Boeing Service Bulletin 737–53–1187, Revision 2, dated May 9, 2007: At the applicable time specified in table 6 of paragraph 1.E., ''Compliance,'' of SASB 737–53–1187 R3, except as provided by paragraph (h)(1) of this AD: Modify the existing permanent repair; and do all applicable related investigative and corrective actions; in accordance with Part 6 of the Accomplishment Instructions of SASB 737–53–1187 R3, except as required by paragraph (h)(3) of this AD. Do all applicable related investigative and corrective actions before further flight.

(k) Post-Repair Inspections

Table 7 of paragraph 1.E., ''Compliance,'' of SASB 737–53–1187 R3, specifies post-repair airworthiness limitation inspections in compliance with 14 CFR 25.571(a)(3) at the repaired locations, which support compliance with 14 CFR 121.1109(c)(2) or 129.109(b)(2). As airworthiness limitations, these inspections are required by maintenance and operational rules. It is therefore unnecessary to mandate them in this AD. Deviations from these inspections require FAA approval, but do not require an alternative method of compliance.

(l) Skin Panel Replacement

At the later of the times specified in paragraphs (l)(1) and (1)(2) of this AD: Replace the applicable skin panels, and do all applicable related investigative and corrective actions, in accordance with the Accomplishment Instructions of SASB 737–53–1187 R3. Do all applicable related investigative and corrective actions before further flight. Doing the skin panel replacement required by this paragraph terminates the inspection requirements of paragraphs (g), (i), and (j) of this AD for that skin panel only, provided the skin panel replacement was done with a production skin panel after 53,000 total flight cycles, or with the skin panel replacement kit (S–20 to S–25 (left and right)) specified in Boeing Service Bulletin 737–53–1187.

(1) Before 60,000 total flight cycles, but not before 53,000 total flight cycles.

(2) Within 6,000 flight cycles after the effective date of this AD, but not before 53,000 total flight cycles.

(m) Credit for Previous Actions

(1) This paragraph provides credit for the actions required by paragraph (g) of this AD, if those actions were performed before the effective date of this AD using Boeing Service Bulletin 737–53–1187, Revision 2, dated May 9, 2007, except as required by paragraph (h)(4) of this AD. Boeing Service Bulletin 737–53–1187, Revision 2, dated May 9, 2007, was incorporated by reference in AD 2009–21–01, Amendment 39–16038 (74 FR 52395, October 13, 2009) (''AD 2009–21–01'').

(2) This paragraph provides credit for the actions required by paragraph (l) of this AD, if those actions were performed before the effective date of this AD using Boeing Service Bulletin 737–53–1187, Revision 2, dated May 9, 2007, except as required by paragraph (h)(4) of this AD. Boeing Service Bulletin 737–53–1187, Revision 2, dated May 9, 2007, was incorporated by reference in AD 2009–21–01.

(3) This paragraph provides credit for the actions required by paragraph (l) of this AD, if those actions were performed before November 17, 2009 (the effective date of AD 2009–21–01) using Part III of the Accomplishment Instructions of Boeing

Service Bulletin 737–53–1187, dated November 2, 1995; or Part III of the Accomplishment Instructions of Boeing Service Bulletin 737–53–1187, Revision 1, dated January 16, 1997, except as required by paragraph (h)(4) of this AD. Boeing Service Bulletin 737–53–1187, dated November 2, 1995; and Boeing Service Bulletin 737–53–1187, Revision 1, dated January 16, 1997; are not incorporated by reference in this AD.

(n) 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 (o)(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 for repairs for AD 2009–21–01 are approved as AMOCs for the corresponding provisions of paragraph (g) of this AD.

(5) Except as specified in paragraph (n)(6) of this AD, AMOCs approved for previous modifications done as optional terminating action for AD 2009–21–01 are approved as AMOCs for the modification required by paragraph (l) of this AD provided the previous modification was done after the airplane had accumulated 53,000 total flight cycles or more.

(6) AMOCs approved for previous modifications done as optional terminating action for AD 2009–21–01 are approved as AMOCs for the modification required by paragraph (l) of this AD provided the skin modification replacement is done using the skin panel kit specified Boeing Service Bulletin 737–53–1187.

(o) Related Information

(1) For more information about this AD, contact Jennifer Tsakoumakis, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Los Angeles ACO, 3960 Paramount Boulevard, Lakewood, CA 90712–4137; phone: 562–627–5264; fax: 562–627–5210; email: *jennifer.tsakoumakis@faa.gov.*

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

(i) Boeing Special Attention Service Bulletin 737–53–1187, Revision 3, dated July 10, 2015.

(ii) Reserved.

(3) For Boeing service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone: 562–797–1717; 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 May 2, 2017.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2017–10286 Filed 5–26–17; 8:45 am]

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COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 1 and 23

RIN 3038–AE36

Recordkeeping

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rule.

SUMMARY: The Commodity Futures Trading Commission (the ''Commission'') is amending the recordkeeping obligations set forth in Commission regulations along with corresponding technical changes to certain provisions regarding retention of oral communications and record retention requirements applicable to swap dealers and major swap participants, respectively. The amendments modernize and make technology neutral the form and manner in which regulatory records must be kept, as well as rationalize the rule text for ease of understanding for those persons required to keep records pursuant to the Commodity Exchange Act (the ''CEA'' or ''Act'') and regulations promulgated by the Commission thereunder. The amendments do not alter any existing requirements regarding the types of regulatory records to be inspected, produced, and maintained set forth in other Commission regulations.

DATES: The effective date for this final rule is August 28, 2017.

FOR FURTHER INFORMATION CONTACT: Eileen T. Flaherty, Director, (202) 418–5326, *eflaherty@cftc.gov;* Frank Fisanich, Chief Counsel, (202) 418–5949, *ffisanich@cftc.gov;* Andrew Chapin, Associate Chief Counsel, (202) 418–5465, *achapin@cftc.gov;* Katherine Driscoll, Associate Chief Counsel, (202) 418–5544, *kdriscoll@cftc.gov;* C. Barry McCarty, Special Counsel, (202) 418–6627, *cmccarty@cftc.gov;* or Jacob Chachkin, Special Counsel, (202) 418–5496, *jchachkin@cftc.gov,* Division of Swap Dealer and Intermediary Oversight, Commodity Futures Trading Commission, 1155 21st Street NW., Washington, DC 20581.

SUPPLEMENTARY INFORMATION:

I. Background

In response to petitions for rulemaking from various industry groups requesting amendments to § 1.31, the Commission published in the **Federal Register** on January 19, 2017 a proposal (''Proposal'') to amend the recordkeeping obligations applicable to all persons required to keep records pursuant to the Act and Commission regulations promulgated thereunder (referred to in the Proposal as ''records entities'').[1] Regulation 1.31 sets forth the form and manner in which all regulatory records must be kept by records entities. Regulation 1.31 does not specify the types of regulatory records that must be kept, rather it specifies the form and manner in which regulatory records required by other Commission regulations are maintained and produced to the Commission. The proposed amendments to § 1.31, and related technical amendments to §§ 1.35 and 23.203, would modernize and make technology neutral the form and manner in which regulatory records must be kept, as well as rationalize the current rule text for ease of understanding. Under the proposed amendments, records entities would have greater flexibility regarding the retention and production of all regulatory records

[1] Recordkeeping, 82 FR 6356 (Jan. 19, 2017).

under a less-prescriptive, principles-based approach.

Among other proposed changes requested in the petitions for rulemaking, the Commission proposed to eliminate the requirement for a records entity to: (1) Keep electronic regulatory records in their native file format (*i.e.,* in the format in which it was originally created); (2) retain any electronic record in a non-rewritable, non-erasable format (*i.e.,* the ''write once, read many'' or ''WORM'' requirement); and (3) engage a third-party technical consultant and for the consultant to file certain representations with the Commission regarding access to the records entity's electronic regulatory records. These proposed changes would be universal to all records entities, including intermediaries registered or required to be registered with the Commission; registered entities such as designated contract markets, swap execution facilities, and derivatives clearing organizations; and any other persons required to produce certain regulatory records as set forth in other Commission regulations.

II. Summary of Comments

The Commission received sixteen comment letters on the Proposal from a wide range of records entities, including registrants, registered entities and other persons subject to the Commission's recordkeeping obligations set forth in § 1.31.[2] All commenters generally supported the Commission's efforts to modernize and make technology neutral the existing recordkeeping obligations. One commenter requested that the Commission limit changes to § 1.31 to the elimination of the native file format, WORM, and third-party technical consultant requirements, and withdraw the remainder of the proposal.[3] As outlined below, several commenters also suggested modifications to the proposed rule text, including the requirement for records entities to establish, maintain, and implement written policies and procedures reasonably designed to ensure that the records entity complies with its recordkeeping obligations. For reasons provided below, the Commission has accepted certain of these recommendations in the amendments being adopted today, but has declined to accept certain other recommendations, including recommendations beyond the scope of the Proposal.

III. Final Rule

The Commission has considered the comments it received in response to the Proposal and is adopting the rule amendments as proposed, with the following exceptions: (1) Revising the definition of ''regulatory records'' in § 1.31(a); (2) deleting proposed § 1.31(b) regarding the requirement for a records entity to establish, maintain, and implement written policies and procedures designed to ensure compliance with all obligations under § 1.31; (3) amending § 1.31(c) to limit the retention period for pre- trade communications required by § 23.202(a)(1) and § 23.202(b)(1)–(3) to five years from the date the communication was created; (4) deleting from § 1.31(d)(2)(i) the requirement that a records entity retain systems that maintain the ''chain of custody elements'' of any electronic regulatory record; and (5) re-lettering § 1.31(c)–(f) to account for the deletion of proposed § 1.31(b). Specific provisions of the final rules are addressed below.

A. Regulation 1.31(a): Definitions

The Commission proposed to define in § 1.31(a) the terms ''electronic regulatory records,'' ''records entity,'' and ''regulatory records'' as used elsewhere in the section.

The Commission received several comments regarding the proposed definition of ''records entity'' to be any person required by the Act or Commission regulations to keep regulatory records. A few commenters requested that the Commission exclude from the definition of ''records entity'' those persons that are neither registrants nor registered entities.[4] One commenter [5] further suggested that compliance with the proposed changes would impose greater costs on records entities that are neither registrants nor registered entities.[6] In light of these comments, the Commission notes that the final rule as adopted by this release does not impose any new recordkeeping requirements on any records entity, including those that are neither registrants nor registered entities, such as commercial end-users. Rather, the final rule merely modernizes and makes technology neutral the form and manner in which regulatory records must be kept. Further, the final rule is clear that it does not override other methods of maintaining records that may be specified elsewhere in the Act or other Commission regulations.[7] Thus, commercial end-users that are records entities, for example, may continue to maintain records in accordance with their current practices if such are permitted by the Act, Commission regulations, or existing relief or guidance.[8] Further, as stated above, the final rule removes several obligations regarding the form and manner in which regulatory records must be kept that should lessen the compliance costs associated with the recordkeeping requirements set forth in § 1.31. Given the foregoing, the Commission has determined not to exclude any persons required to keep regulatory records from the definition of ''records entity.''

Regarding the definition of ''regulatory records,'' the Commission specifically requested comment whether the term ''metadata''—or data about data—should be defined. The Commission recognized in the Proposal that the term metadata may be generally understood by practitioners notwithstanding a lack of universal agreement on an exact definition. A majority of commenters on the issue agreed that metadata need not be defined at this time as that would be inconsistent with the Commission's stated goal to provide for less-prescriptive recordkeeping obligations.[9] Further, one commenter asserted that including metadata within the

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[2] Comment letters were submitted by the following entities: The Securities Industry and Financial Markets Association (''SIFMA''); CME Group Inc. (''CME''); NASDAQ Futures, Inc. (''NASDAQ''); the National Futures Association (''NFA''); SunTrust Bank; the Futures Industry Association (''FIA''); the Edison Electric Institute and National Rural Electric Cooperative (''EEI & NREC''); the Investment Company Institute (''ICI''); Managed Funds Association, Investment Adviser Association, Alternative Investment Management Association, and SIFMA Asset Management Group (''Associations''; the Minneapolis Grain Exchange (''MGEX''); The Depository Trust & Clearing Corporation (''DTCC''); ICE Futures U.S., Inc. (''ICE''); the Commercial Energy Working Group (''Working Group''); the International Swaps and Derivatives Association, Inc. (''ISDA''); the Federal Home Loan Banks (''FHLBanks''); and the International Energy Credit Association (''IECA''). All comment letters are available on the Commission's Web site at *https://comments.cftc.gov/PublicComments/CommentList.aspx?id=1774.*

[3] *See* CME comment letter.

[4] *E.g.,* ISDA, ICI, and Associations comment letters.

[5] *See* ISDA comment letter.

[6] *E.g.,* § 1.35(a) (Unregistered members of a DCM or SEF required to retain records of commodity interests and related cash or forward transactions) and §§ 32.2, 32.3, 45.2, and 45.6 (Non-Swap Dealer/Major Swap Participants (''Non-SD/MSPs'') are subject to trade option requirements including recordkeeping).

[7] *See* text of final rule, § 1.31(b), (c), and (d), each stating, ''[u]nless specified elsewhere in the Act or Commission Regulations. . . .''

[8] *E.g.,* Revised recordkeeping requirements for trade option counterparties that are Non-SD/MSPs, Trade Options, 81 FR 14966, 14970 (Mar. 21, 2016); and Relief for Unregistered Members from retaining text messages and maintaining required records in a particular form and manner, Records of Commodity Interest and Related Cash or Forward Transactions, 80 FR 80247, 80250–51 (Dec. 24, 2015).

[9] *E.g.,* FIA and ICE comment letters.

definition of a ''regulatory record'' would greatly increase the amount and associated costs of data to be stored and potentially subject to production requests.[10] Another commenter stated that records entities would be required to pursue, develop, and purchase additional technological solutions to ensure compliance if metadata were defined.[11]

The Commission notes that it and other federal agencies, including the Securities and Exchange Commission (''SEC''), have been requesting metadata in conjunction with information requests to industry for more than five years through standardized data delivery standards.[12] The Commission believes that the § 1.31(a) definition of ''regulatory record,'' *i.e.,* all data produced and stored electronically describing how and when such books and records were created, formatted, or modified, is sufficient to support its statutory inspection and investigative functions. Thus, the Commission has determined that there is no need to define metadata at this time.

The Commission further noted in the Proposal that the proposed definition of ''regulatory records'' would more clearly state the existing requirement for each records entity to maintain a regulatory record and any subsequent versions of such record. Multiple commenters questioned whether the revised language was, in fact, imposing a new requirement to maintain versions of a regulatory record before it becomes in fact a regulatory record (*i.e.,* drafts of an agreement created during a negotiation but prior to execution).[13] To clarify that the Commission did not intend to require versions of a regulatory record prior to its becoming a regulatory record, the Commission is modifying the definition of ''regulatory records'' to indicate that the term means all books and records required to be kept by the Act or Commission regulations, including any record of any correction or other amendment to such books and records, provided that, with respect to such books and records stored electronically, regulatory records shall also include: (i) Any data necessary to access, search, or display any such books and records; and (ii) all data produced and stored electronically describing how and when such books and records were created, formatted, or modified. The Commission believes the definition as revised makes clear that a records entity only has the obligation to maintain data about a regulatory record after it is created and not about the record before it becomes a regulatory record.

As noted in the Proposal this is the existing standard in § 1.31. Under existing § 1.31(b)(1)(ii)(A) electronic records are required to be preserved exclusively in a non-rewritable, non-erasable format. This provision was designed to ensure the ''trustworthiness of documents that may be relied upon by the Commission in conducting investigations and entered into evidence in administrative and judicial proceedings.'' [14] It therefore follows that each version of an electronic record and all subsequent versions would have to be maintained under the existing rule. This requirement provides for a comprehensive audit trail, which the Commission believes is vital to both the supervision and enforcement of the Act and Commission regulations.

Finally, another commenter also asserted that retaining all versions of a regulatory record is redundant and creates additional opportunities for data theft or loss.[15] The commenter did not provide any detail regarding how maintaining subsequent versions of a regulatory record, which is an existing requirement under § 1.31, raises new concerns about data theft or loss. Thus, the Commission is unable to address any such concern at this time.

B. Regulation 1.31(b): Regulatory Records Policies and Procedures

The Commission proposed to amend § 1.31(b) to require each records entity to establish, maintain, and implement written policies and procedures reasonably designed to ensure that the records entity complies with its obligations under Regulation 1.31. As proposed, the written policies and procedures would provide for, without limitation, appropriate training of officers and personnel of the records entity regarding their responsibility for ensuring compliance with the obligations of the records entity under § 1.31, and regular monitoring of such compliance.

Without an explanation of the differences, several commenters disagreed with the Commission that the proposed requirement for written policies and procedures is consistent with the existing § 1.31(b)(3) requirement for anyone using electronic storage media to develop and maintain written operational procedures and controls (*i.e.,* an ''audit system'') designed to provide accountability over both the initial entry of required records and the entry of each change made to any original or duplicate record.[16] Again without providing any explanation of the differences between the existing ''audit system'' requirement and the proposed requirement for written policies and procedures or any specific cost estimates, commenters also argued that the application of the proposed written policies and procedures requirement would create new regulatory obligations for records entities which are neither registrants nor registered entities, some of whom are commercial end-users.[17] As a result, commenters argued that this additional requirement could deter certain market participants from trading swaps and other derivatives products in order to avoid having to comply with burdensome recordkeeping requirements.[18] A few commenters argued that the specific reference to training is not consistent with the Commission's emphasis on a less-prescriptive, principles-based recordkeeping requirement.[19] Other commenters requested that the Commission provide a phase-in period for establishing, maintaining and implementing written policies and procedures.[20]

Having considered these comments, the Commission has determined not to adopt the written policies and procedures requirement for records entities set forth in proposed § 1.31(b). The final rule, as adopted, sets forth the form and manner in which regulatory records must be kept, the retention period for various types of regulatory records, and the standards for production of regulatory records to the Commission. Given these clearly defined obligations, the Commission agrees with commenters that the requirement for written policies and procedures is unnecessary. As the Commission noted in the Proposal, the obligation to satisfy the requirements

[10] *See* CME comment letter.

[11] *See* Associations comment letter.

[12] The Commission publishes the CFTC Data Delivery Standards on its Web site at: *http://www.cftc.gov/idc/groups/public/@lrenforcementactions/documents/file/enfdatadeliverystandards052716.pdf.* The Commission notes that other federal agencies, such as the SEC (*https://www.sec.gov/divisions/enforce/datadeliverystandards.pdf*), the Department of Justice (*https://www.justice.gov/atr/case-document/file/494686/download*) and the Department of Treasury Office of Foreign Asset Control (*https://www.treasury.gov/resource-center/sanctions/OFAC-Enforcement/Documents/ofac_data_delivery.pdf*) have similar data delivery standards.

[13] *E.g.,* Associations, CME, and ICE comment letters.

[14] *See* 58 FR at 27460.

[15] *See* CME comment letter.

[16] *E.g.,* ISDA comment letter.

[17] *E.g.,* IECA comment letter.

[18] *See* ISDA comment letter.

[19] *E.g.,* Associations comment letter.

[20] *See* MGEX and Working Group comment letters.

regarding § 1.31 is one that a records entity ignores at its peril. It is ultimately the duty and responsibility of records entities to ensure accurate and reliable records. The Commission also notes that registrants are subject to a duty to diligently supervise all activities relating to its business as a Commission registrant, pursuant to § 166.3. The Commission does not consider the withdrawal of a requirement for written policies and procedures to create an explicit or implicit defense against recordkeeping violations or failure to supervise violations.

C. Regulation 1.31(b): Duration of Retention

The Commission proposed to amend § 1.31(c)(re-lettered as § 1.31(b) in the final rule) to re-state and clarify the existing retention period requirements for categories of regulatory records set forth in existing § 1.31(a), including the requirement that certain records associated with a swap be retained for the duration of the swap plus five years. The Commission also proposed to distinguish between electronic regulatory records and those records exclusively created and maintained on paper by requiring a records entity to keep electronic regulatory records readily accessible for the duration of the required record keeping period, and not just for the first two years. The Commission noted that this standard is consistent with the SEC's standard for certain intermediaries.[21] For ease of understanding, the Commission also proposed to amend §§ 1.35(a) and 23.203(b)(1) and (2) to make technical changes regarding regulatory records related to oral communications and swaps-related information maintained by swaps dealers and major swap participants, respectively. The Commission received several comments regarding various aspects of proposed § 1.31(c).

Two commenters[22] requested that the Commission reduce the retention standard for electronic pre-execution communications required by § 23.202 in relation to a swap to five years from the date of creation of the regulatory record rather than the current standard of the duration of the swap plus five years.[23] The commenters stated that the longer retention period ''places an unnecessary retention burden on firms, which exceeds most statutes of limitations or utility with respect to underlying transactions.'' [24] Another commenter stated that increasing retention periods for the storage of sensitive information in electronic form could put records entities, and their third-party service providers, at greater risk in the event of a data breach.[25]

The Commission recognizes the increased burden and risk of a longer retention period as pointed out by commenters, and, having considered such increased burden and risk in light of the nature of the affected regulatory records, has determined to require retention of electronic communications specified in § 23.202(a)(1) and § 23.202(b)(1)–(3) only for a period of five years from the date of creation of the required record. The Commission notes that these are records of pre-execution communications and, as such, are likely to be useful for regulatory oversight purposes for a shorter length of time than records regarding execution of transactions or records of events that effect transactions following execution.

For the avoidance of doubt, the Commission is not changing the retention period for execution trade information under § 23.202(a)(2), post-execution trade information under § 23.202(a)(3), the ledgers required under § 23.202(a)(4), or the daily trading records for related cash and forward transactions in § 23.202(b)(4)–(7). However, as previously stated, the Commission will continue to monitor changes in information technology and consider whether the recordkeeping regulation should be adjusted to reflect technological developments.

Certain commenters requested clarification whether the requirements as adopted apply to existing records.[26] The Commission confirms that the requirements adopted by this release do apply to existing records. However, the Commission notes that existing recordkeeping methods remain valid for compliance with the new rule, and that for many records entities, applying the new regime will reduce regulatory burdens. For example, many records entities will be permitted to maintain existing electronic records in a manner other than in their native file format and will no longer be required to retain a third-party technical consultant with authority to access a records entity's existing electronic records.[27]

D. Regulation 1.31(c): Form and Manner of Retention

The Commission proposed to adopt § 1.31(d) (re-lettered as § 1.31(c) in final rule) to describe recordkeeping requirements regarding the form and manner in which regulatory records are retained by records entities. Consistent with the Commission's emphasis on a less-prescriptive, principles-based approach, proposed § 1.31(d)(1) would rephrase the existing requirements in the form of a general standard for each records entity to retain all regulatory records in a form and manner necessary to ensure the records' and recordkeeping systems' authenticity and reliability. The Commission proposed to adopt § 1.31(d)(2) to set forth additional controls for records entities retaining electronic regulatory records. The Commission emphasized in the Proposal that the proposed regulatory text does not create new requirements, but rather updates the existing requirements so that they are set out in a way that appropriately reflects technological advancements and changes to recordkeeping methods since the prior amendments of § 1.31 in 1999.

Various commenters proposed technical amendments to proposed § 1.31(d)(2). Multiple commenters[28] requested that the Commission delete the ''chain of custody'' provision in proposed § 1.31(d)(2)(i) because it is a legal evidentiary standard which does not translate clearly to the technological requirements for recordkeeping. Another commenter similarly noted that the ''chain of custody'' requirement is redundant and unnecessarily prescriptive given that records entities are required under proposed Regulation 1.31(d)(1) to keep regulatory records in a form and manner that ensures the authenticity and reliability of such records.[29] Moreover, one of the commenters noted that the proposed definition of ''regulatory records'' in proposed § 1.31(a) already includes a chain of custody requirement based on the following language: ''data that describes how, when, and, if relevant, by whom such electronically stored information was collected, created, accessed, modified, or formatted.'' [30] The Commission has considered the comment that the term ''chain of custody'' may cause confusion given that it currently exists as a legal evidentiary standard and, given that the Commission is also persuaded that the concept is adequately covered under the

[21] SEC Rule 17a–4(f).

[22] *See* SIFMA and ISDA comment letters.

[23] *See* § 23.202(a)(1).

[24] *See* SIFMA comment letter.

[25] *See* Associations comment letter.

[26] *See* FIA and Working Group comment letters.

[27] The amendments adopted herein however would not excuse non-compliance with existing § 1.31 prior to the effective date of such amendments.

[28] *See* SIFMA, ISDA, and Associations comment letters.

[29] *See* Working Group comment letter.

[30] *See* SIFMA comment letter.

definition of ''regulatory records'' it has determined to delete the ''chain of custody elements'' from the electronic regulatory records systems requirement in amended § 1.31(c)(2)(i). The Commission notes, however, that the deletion of the term ''chain of custody'' does not change the practical requirement that records entities maintain a comprehensive audit trail for all electronic regulatory records.

One commenter also requested that the Commission amend proposed § 1.31(d)(2)(ii) to incorporate existing business continuity planning regulations in lieu of the proposed language: ''in the event of an emergency or other disruption of the records entity's electronic record retention systems[.]'' [31] The Commission is not making this requested change because records entities are not prohibited by the rule from incorporating their obligations to maintain availability of regulatory records into their existing business continuity planning. The Commission does not believe that the general standard in new § 1.31(c)(2)(ii) creates an obligation that would conflict with a records entity's existing business continuity procedures.

The same commenter also requested that the Commission amend the proposed records inventory requirement in new § 1.31(c)(2)(iii) to not require system descriptions and information necessary for accessing or producing electronic regulatory records because introducing concepts related to access and production of records in this section is potentially confusing.[32] For clarity, the Commission notes that data necessary to access and produce electronic regulatory records is itself a regulatory record under the definition thereof in § 1.31(a). Thus, the requirement in new § 1.31(c)(2)(iii) is simply a requirement that a records entity keep an up-to-date inventory of the systems where such data is maintained.

Another commenter requested that the Commission delete from proposed § 1.31(d)(2)(i) the language ''and to monitor compliance with the Act and Commission regulations in this Chapter'' because such an ''obligation to comply would not normally be embodied in a recordkeeping system.'' [33] The Commission understands this comment to mean that the commenter reads proposed § 1.31(d)(2)(1) (re-lettered as § 1.31(c)(2)(1) in the final rule) as a stand-alone obligation to ''monitor compliance with the Act. . . .'' To clarify, the Commission notes that the requirement is to establish systems that maintain the security, signature, and data regarding electronic regulatory records to ensure that the records entity can monitor compliance with the Act. Thus the requirement is not a stand-alone obligation to ''monitor compliance with the Act and Commission regulations. . . .''

Another commenter objected to the proposed amendments that would impose the requirements of proposed § 1.31(d) (re-lettered as § 1.31(c) in the final rule) on commercial end-users that happen to be records entities, including the requirements that ''each records entity maintaining electronic regulatory records shall establish appropriate systems and controls that ensure the authenticity and reliability of electronic regulatory records[.]'' [34] The commenter stated that commercial end-users should not be subject to the obligation to establish ''systems and controls . . . that ensure the authenticity of the information . . . and . . . monitor compliance with the Act and Commission regulations in this chapter[]'' because the expense and burden of that obligation goes beyond the recordkeeping methods allowed in other Commission regulations allowing commercial end-users to retain and maintain their records in the ordinary or normal course of business.[35] Moreover, the commenter stated that the creation of an ''up-to-date inventory'' appears to impose an entirely new regulatory recordkeeping expense that will require a commercial end-user to produce an inventory of its electronic records, and keep that inventory up to date, with respect to the ''electronic records'' that a commercial end-user is allowed in other Commission regulations to retain and maintain in the ordinary or normal course of business.[36]

The Commission declines to revise the rule in response to this comment because, as noted previously, § 1.31(d) (re-lettered as § 1.31(c) in the final rule) does not impose any new recordkeeping requirements on any records entity, including those that are commercial end-users. Rather, the final rule merely modernizes and makes technology neutral the form and manner in which regulatory records must be kept. Further, the final rule is clear that it does not override other methods of maintaining records that may be specified elsewhere in the Act or other Commission regulations. Thus, commercial end-users that are records entities, for example, may continue to maintain records in accordance with their current practices if such are permitted by the Act, Commission regulations, or existing relief or guidance. Finally, as described above, the final rule removes several obligations regarding the form and manner in which regulatory records must be kept that should lessen the compliance costs associated with the recordkeeping requirements set forth in § 1.31 generally.

In response to a specific question in the Proposal as to whether the Commission should routinely publish guidelines regarding the technical standards for electronic regulatory records, one commenter argued that publication of such standards likely would result in increased cost and devotion of technical resources to ensure compliance with any changing standards.[37] The commenter specifically requested that the Commission avoid publishing guidelines for technical standards of regulatory records and simply monitor records entities to ensure that regulatory records are retained in a ''form and manner necessary to ensure the records' and recordkeeping systems' authenticity and reliability.'' Given that only one commenter responded to the request for comment, and responded negatively, the Commission is persuaded that publishing guidelines regarding the technical standards for electronic regulatory records would not be helpful at this time.

Regarding the form and manner of retention of electronic regulatory records, one commenter requested confirmation that the specific means of electronic storage that the commenter employs is an acceptable means for storing electronic regulatory records.[38] As noted throughout this adopting release the Commission believes that the amendments to § 1.31 are intended to be technology neutral and therefore the Commission is not requiring or endorsing any type of record retention system or technology.

With respect to the effective date of these regulations, a few commenters requested a three- or six-month phase-in period for compliance.[39] Although the Commission has noted throughout this adopting release that it believes that the amendments adopted today are not

[31] *Id.*

[32] *Id.*

[33] *See* Associations comment letter.

[34] *See* IECA comment letter.

[35] *See e.g.,* § 20.6(c) regarding large trader reporting for physical commodity swaps.

[36] *See e.g.,* §§ 32.2, 32.3, 45.2, and 45.6 regarding trade option requirements for Non-SD/MSPs.

[37] *See* MGEX comment letter.

[38] *See* DTCC comment letter.

[39] *See* MGEX and Working Group comment letters.

creating any new compliance obligations for any records entities, it is nevertheless persuaded that a three-month phase-in for compliance is a reasonable request. Thus, the Commission has determined that the effective date for the proposed amendments will be 90 days from the date of publication.

E. Regulation 1.31(d): Inspection and Production of Regulatory Records

The Commission proposed to adopt new § 1.31(e) (re-lettered as § 1.31(d) in the final rule) to re-state and clarify the right of inspection of the Commission and the United States Department of Justice in existing § 1.31(a)(1). One commenter requested that the Commission engage in a dialogue with industry to address challenges presented by the production requirements of § 1.31, including the scope of what is subject to a production request and who may make such a request.[40] In particular, the commenter stated that § 1.31 should recognize the long standing protections of attorney-client privilege and expressly exclude such information from the rule's production requirement.

The Commission believes that the proposed amendment to § 1.31(e) does not alter the existing right of inspection regarding regulatory records and notes that attorney-client protections are addressed elsewhere in federal and state law.[41]

F. Comments Beyond the Scope of the Proposed Rulemaking

Although the Commission stated that the Proposal was limited to amendments to § 1.31 and related technical amendments, the Commission received several comments regarding matters outside the scope of the Proposal, as discussed below.

The petitioners for rulemaking restated their request from their original petition that the Commission adopt amendments to Part 4 of the Commission's regulations regarding certain recordkeeping requirements applicable to commodity pool operators and commodity trading advisors.[42] The Proposal did not address any such amendments and thus such amendments are outside of the scope of this rulemaking.

Another commenter[43] acknowledged that the Regulation AT rulemaking[44] addresses source code issues outside the scope of the Proposal, but nonetheless requested the Commission provide additional guidance regarding any requests for source code information by the Commission subject to § 1.31. In response to this request, the Commission reiterates that production of source code is outside the scope of this rulemaking.

Finally, another commenter[45] recommended that the SEC amend SEC Rule 17a–4 regarding the recordkeeping obligations of broker-dealers, some of whom are also registered as futures commission merchants with the Commission. The Commission does not have jurisdiction with respect to SEC regulations and thus such recommendation is outside of the scope of this rulemaking.

IV. Related Matters

A. Regulatory Flexibility Act

The Regulatory Flexibility Act (''RFA'')[46] requires Federal agencies, in promulgating regulations, to consider whether the rules they propose will have a significant economic impact on a substantial number of small entities and, if so, to provide a regulatory flexibility analysis regarding the economic impact on those entities. In the Proposal, the Commission certified that the Proposal would not have a significant economic impact on a substantial number of small entities. The Commission received no comments with respect to the RFA.

As discussed above, because the final rule relates to most recordkeeping obligations under the Act and the Commission's regulations, it may affect the full spectrum of Commission registrants, all persons required to register but not registered with the Commission, and certain persons that are neither registered nor required to register with the Commission. The Commission has previously determined that certain registrants are not small entities for purposes of the RFA and, therefore, the requirements of the RFA do not apply to those entities.[47] For other registrants, however, the Commission has found it appropriate to consider whether such registrants should be deemed small entities for purposes of the RFA on a case-by-case basis, in the context of the particular Commission regulation at issue.[48] As certain persons affected by the final rule, including Commission registrants, may be small entities for purposes of the RFA, the Commission considered whether this rulemaking would have a significant economic impact on any such persons.

As discussed in the Proposal, the final rule generally updates and simplifies existing Commission regulation 1.31 with new provisions that maintain the ability of the Commission to examine and inspect regulatory records. It accomplishes this by deleting outdated terms and revising provisions to reflect advances in information technology, allowing records entities to benefit from evolving technological developments while maintaining necessary safeguards to ensure the reliability of the recordkeeping process. It also reduces the retention period for certain regulatory records related to swaps and related cash and forward transactions, as discussed above.

The Commission believed that the Proposal would impose only limited additional costs on small entities related to the requirement that they establish written recordkeeping policies and procedures. However, for the reasons discussed above, the Commission has been persuaded to not require such written recordkeeping policies and procedures.

As a result, the final rule is not expected to impose any new burdens on market participants. The Commission

[40] *See* CME comment letter.

[41] *See* Wigmore on Evidence: Evidence in Trials at Common Law—Wigmore, Rule 502. Attorney-Client Privilege and Work Product (online version updated 4/2017), for a comprehensive list of attorney-client protections under federal and state law. Further, in 1999, the Commission addressed the waiver of privilege issue as follows: ''As is currently the case with all Commission required records, recordkeepers may not deny authorized Commission representatives access to any individual storage medium that includes Commission-required records or delay production while the individual storage medium is reviewed for the presence of privileged material. The final rule merely eliminates the regulatory inference that the commingling of Commission-required records with non-Commission-required records necessarily amounts to a waiver of any privilege otherwise covering the latter category of records.'' *See* Recordkeeping, 64 FR 28735, 28740, note 40 (May 27, 1999).

[42] *See* Associations and ICI comment letters.

[43] *See* FIA comment letter.

[44] *See* Regulation Automated Trading, 81 FR 85334 (Nov. 25, 2016).

[45] *See* SIFMA comment letter.

[46] 5 U.S.C. 601 *et seq.*

[47] *See, e.g.,* Policy Statement and Establishment of Definitions of ''Small Entities'' for Purposes of the Regulatory Flexibility Act, 47 FR 18618 (Apr. 30, 1982) (futures commission merchants and commodity pool operators); Leverage Transactions, 54 FR 41068 (Oct. 5, 1989) (leverage transaction merchants); Regulation of Off-Exchange Retail Foreign Exchange Transactions and Intermediaries, 75 FR 55410, 55416 (Sept. 10, 2010) (retail foreign exchange dealers); and Registration of Swap Dealers and Major Swap Participants, 77 FR 2613, 2620 (Jan. 19, 2012) (swap dealers and major swap participants).

[48] *See* 47 FR at 18620 (commodity trading advisors and floor brokers); Registration of Floor Traders; Mandatory Ethics Training for Registrants; Suspension of Registrants Charged With Felonies, 58 FR 19575, 19588 (Apr. 15, 1993) (floor traders); and Introducing Brokers and Associated Persons of Introducing Brokers, Commodity Trading Advisors and Commodity Pool Operators; Registration and Other Regulatory Requirements, 48 FR 35248, 35276 (Aug. 3, 1983) (introducing brokers).

does not, therefore, expect small entities to incur any additional costs as a result of the final rule. In addition, the Commission does not expect the economic value of the benefit to small entities of the final rule to be significant. Consequently, the Commission finds that no significant economic impact on small entities will result from the final rule.

Accordingly, for the reasons stated above, the Commission believes that the final rule will not have a significant economic impact on a substantial number of small entities. Therefore, the Acting Chairman, on behalf of the Commission, hereby certifies, pursuant to 5 U.S.C. 605(b), that the final rule being published today by this **Federal Register** release will not have a significant economic impact on a substantial number of small entities.

B. Paperwork Reduction Act

1. Background

The Paperwork Reduction Act of 1995 (''PRA'')[49] imposes certain requirements on Federal agencies (including the Commission) in connection with their conducting or sponsoring any collection of information as defined by the PRA. The final rule does not impose any new recordkeeping or information collection requirements, or other collections of information that require approval of the Office of Management and Budget (''OMB'') under the PRA.

As discussed above, the Proposal would have replaced the existing audit system requirements in Commission regulation 1.31 with a requirement that records entities establish written recordkeeping policies and procedures. Such changes would have resulted in revisions to ''Adaptation of Regulations to Incorporate Swaps-Records of Transactions, OMB control number 3038–0090''. Because the Commission has been persuaded not to require such written recordkeeping policies and procedures, the Commission will not be modifying this OMB control number to reflect the addition of the proposed recordkeeping policies and procedures requirement. As discussed in the Proposal, however, the Commission will submit to OMB revisions to OMB control number 3038–0090 to reflect the final rule's removal of the audit system requirements in current Commission regulation 1.31.

2. Information Collection Comments

In the Proposal, the Commission invited the public and other Federal agencies to comment on any aspect of the information collection requirements discussed therein, including that the only collection of information within the meaning of the PRA added or modified by the Proposal would be in respect of the proposed, but not adopted, requirement that records entities establish recordkeeping policies and procedures. The Commission did not receive any such comments.

C. Cost-Benefit Considerations

Section 15(a) of the Act[50] requires the Commission to consider the costs and benefits of its actions before issuing a regulation under the Act. Section 15(a) further specifies that the costs and benefits shall be evaluated in light of the following five broad areas of market and public concern: (i) Protection of market participants and the public; (ii) efficiency, competitiveness and financial integrity of futures markets; (iii) price discovery; (iv) sound risk management practices; and (v) other public interest considerations. The Commission considers the costs and benefits resulting from its discretionary determinations with respect to the Section 15(a) considerations.

1. Costs

As discussed above in relation to the RFA, the Proposal generally updates and simplifies existing Commission regulation 1.31 by deleting outdated terms and revising provisions to reflect advances in information technology while safeguarding the reliability of the recordkeeping process. The Commission believes that the final rule does not impose any additional costs on records entities.

2. Benefits

The Commission is committed to reviewing its regulations to ensure they keep pace with technological developments and industry trends, and reduce regulatory burden. The Commission believes that the final rule will allow records entities to benefit from evolving technology while maintaining necessary safeguards to ensure the reliability of the recordkeeping process. By deleting outdated terms and revising provisions to reflect advances in information technology, the final rule will allow records entities to utilize a wider range of currently available technology than previously allowed and remove or modify requirements that the Commission believes are now obsolete (*e.g.,* removing the requirements to have an audit system, to maintain electronic records in limited specified formats, and to retain a Technical Consultant, and reducing the retention period for certain regulatory records of swaps and related cash or forward transactions), allowing records entities to reduce their costs. In addition, the Commission believes that the flexibility provided by the final rule will, without further Commission rulemaking, allow records entities to adopt new technologies as such technologies evolve, allowing such persons to reduce future costs.

Moreover, the Commission expects that the added flexibility provided by the final rule will encourage records entities to utilize electronic storage rather than maintain paper regulatory records. The Commission expects that this conversion will benefit the Commission, the Department of Justice, and the commodity interest industry, generally, by making the universe of regulatory records more accessible and searchable.

3. Section 15(a) Factors

Section 15(a) of the CEA requires the Commission to consider the costs and benefits of its actions before promulgating a regulation under the CEA or issuing certain orders. CEA Section 15(a) further specifies that the costs and benefits shall be evaluated in light of five broad areas of market and public concern: (i) Protection of market participants and the public; (ii) efficiency, competitiveness, and financial integrity of futures markets; (iii) price discovery; (iv) sound risk management practices; and (v) other public interest considerations.

i. Protection of Market Participants and the Public

Because the final rule does not alter any existing requirements regarding the type of regulatory records to be produced and maintained, but, rather, modernizes and makes technology neutral the form and manner in which certain regulatory records must be kept the Commission believes that the final rule will continue to protect the public by maintaining necessary safeguards to ensure the reliability of the recordkeeping process while allowing records entities to benefit from evolving technology.

ii. Efficiency, Competitiveness, and Financial Integrity of Markets

As discussed above, the final rule, by providing additional flexibility to records entities to electronically store their regulatory records, may increase resource allocation efficiency by improving the way in which such records are maintained. Apart from that,

[49] 44 U.S.C. 3501 *et seq.*

[50] 7 U.S.C. 19(a).

the Commission anticipates minimal change to the efficiency, competitiveness, and financial integrity of the markets, because this rulemaking only affects recordkeeping and not how these markets otherwise operate.

iii. Price Discovery

The Commission believes that the final rule may increase confidence and participation in the markets by lowering costs for records entities and by encouraging the electronic storage of regulatory records, allowing such records to be more easily accessed and searched. Nevertheless, the Commission does not anticipate a significant increase in liquidity or a significant improvement in price discovery as a result of the final rule.

iv. Sound Risk Management Practices

The Commission does not believe that the final rule will have any significant impact on sound financial risk management practices because this rulemaking only affects recordkeeping and not how market participants conduct financial risk management. The Commission believes that the final rule may result in minor improvements to operational risk management because, as noted above, it will provide additional flexibility to records entities to electronically store their regulatory records.

v. Other Public Interest Considerations

The Commission has not identified any additional public interest considerations.

4. Comments on Cost-Benefit Considerations

The Commission invited public comment on its cost-benefit considerations in the Proposal, including the Section 15(a) factors described above. Commenters were invited to submit with their comment letters any data or other information that they had that quantified or qualified the costs and benefits of the Proposal. The Commission received a number of comments on the Proposal as described above; however, none of the persons who commented on the Proposal submitted any data or other information that quantified or qualified the costs and benefits of the Proposal. Nevertheless, in response to certain comments on the Proposal, and to reduce the costs of the final rule on records entities, the Commission has been persuaded not to require in the final rule the written recordkeeping policies and procedures that had been proposed in § 1.31(b) because the alternative suggested by commenters achieves all the recordkeeping objectives of the Commission.

List of Subjects

17 CFR Part 1

Commodity futures, Reporting and recordkeeping requirements.

17 CFR Part 23

Authority delegations (Government agencies), Commodity futures, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the Commodity Futures Trading Commission amends 17 CFR chapter I as follows:

PART 1—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT

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

Authority: 7 U.S.C. 1a, 2, 5, 6, 6a, 6b, 6c, 6d, 6e, 6f, 6g, 6h, 6i, 6k, 6l, 6m, 6n, 6o, 6p, 6r, 6s, 7, 7a–1, 7a–2, 7b, 7b–3, 8, 9, 10a, 12, 12a, 12c, 13a, 13a–1, 16, 16a, 19, 21, 23, and 24 (2012).

■ 2. Revise § 1.31 to read as follows:

§ 1.31 Regulatory records; retention and production.

(a) *Definitions.* For purposes of this section:

Electronic regulatory records means all regulatory records other than regulatory records exclusively created and maintained by a records entity on paper.

Records entity means any person required by the Act or Commission regulations in this chapter to keep regulatory records.

Regulatory records means all books and records required to be kept by the Act or Commission regulations in this chapter, including any record of any correction or other amendment to such books and records, provided that, with respect to such books and records stored electronically, regulatory records shall also include:

(i) Any data necessary to access, search, or display any such books and records; and

(ii) All data produced and stored electronically describing how and when such books and records were created, formatted, or modified.

(b) *Duration of retention.* Unless specified elsewhere in the Act or Commission regulations in this chapter:

(1) A records entity shall keep regulatory records of any swap or related cash or forward transaction (as defined in § 23.200(i) of this chapter), other than regulatory records required by § 23.202(a)(1) and (b)(1)–(3) of this chapter, from the date the regulatory record was created until the termination, maturity, expiration, transfer, assignment, or novation date of the transaction and for a period of not less than five years after such date.

(2) A records entity that is required to retain oral communications, shall keep regulatory records of oral communications for a period of not less than one year from the date of such communication.

(3) A records entity shall keep each regulatory record other than the records described in paragraphs (b)(1) or (b)(2) of this section for a period of not less than five years from the date on which the record was created.

(4) A records entity shall keep regulatory records exclusively created and maintained on paper readily accessible for no less than two years. A records entity shall keep electronic regulatory records readily accessible for the duration of the required record keeping period.

(c) *Form and manner of retention.* Unless specified elsewhere in the Act or Commission regulations in this chapter, all regulatory records must be created and retained by a records entity in accordance with the following requirements:

(1) *Generally.* Each records entity shall retain regulatory records in a form and manner that ensures the authenticity and reliability of such regulatory records in accordance with the Act and Commission regulations in this chapter.

(2) *Electronic regulatory records.* Each records entity maintaining electronic regulatory records shall establish appropriate systems and controls that ensure the authenticity and reliability of electronic regulatory records, including, without limitation:

(i) Systems that maintain the security, signature, and data as necessary to ensure the authenticity of the information contained in electronic regulatory records and to monitor compliance with the Act and Commission regulations in this chapter;

(ii) Systems that ensure the records entity is able to produce electronic regulatory records in accordance with this section, and ensure the availability of such regulatory records in the event of an emergency or other disruption of the records entity's electronic record retention systems; and

(iii) The creation and maintenance of an up-to-date inventory that identifies and describes each system that maintains information necessary for accessing or producing electronic regulatory records.

(d) *Inspection and production of regulatory records.* Unless specified elsewhere in the Act or Commission regulations in this chapter, a records entity, at its own expense, must produce or make accessible for inspection all regulatory records in accordance with the following requirements:

(1) *Inspection.* All regulatory records shall be open to inspection by any representative of the Commission or the United States Department of Justice.

(2) *Production of paper regulatory records.* A records entity must produce regulatory records exclusively created and maintained on paper promptly upon request of a Commission representative.

(3) *Production of electronic regulatory records.* (i) A request from a Commission representative for electronic regulatory records will specify a reasonable form and medium in which a records entity must produce such regulatory records.

(ii) A records entity must produce such regulatory records in the form and medium requested promptly, upon request, unless otherwise directed by the Commission representative.

(4) *Production of original regulatory records.* A records entity may provide an original regulatory record for reproduction, which a Commission representative may temporarily remove from such entity's premises for this purpose. Upon request of the records entity, the Commission representative shall issue a receipt for any original regulatory record received. At the request of a Commission representative, a records entity shall, upon the return thereof, issue a receipt for the original regulatory record returned by such representative.

■ 3. In § 1.35, revise paragraph (a)(5) to read as follows:

§ 1.35 Records of commodity interest and related cash or forward transactions.

(a) * * *

(5) *Form and manner.* All records required to be kept pursuant to paragraphs (a)(1), (a)(2), (a)(3), and (a)(4) of this section, other than pre-trade communications, shall be kept in a form and manner that allows for the identification of a particular transaction.

* * * * *

PART 23—SWAP DEALERS AND MAJOR SWAP PARTICIPANTS

■ 4. The authority citation for part 23 continues to read as follows:

Authority: 7 U.S.C. 1a, 2, 6, 6a, 6b, 6b–1, 6c, 6p, 6r, 6s, 6t, 9, 9a, 12, 12a, 13b, 13c, 16a, 18, 19, 21.

Section 23.160 also issued under 7 U.S.C. 2(i); Sec. 721(b), Pub. L. 111–203, 124 Stat. 1641 (2010).

■ 5. In § 23.203, amend paragraph (b) as follows:

■ a. Revise paragraph (b)(1); and

■ b. Remove and reserve paragraph (b)(2).

The revisions to read as follows:

§ 23.203 Records; retention and inspection.

* * * * *

(b) *Record retention.* (1) The records required to be maintained by this chapter shall be maintained in accordance with the provisions of § 1.31 of this chapter, except as provided in paragraph (b)(3) of this section. All such records shall be open to inspection by any representative of the Commission, the United States Department of Justice, or any applicable prudential regulator. Records relating to swaps defined in section 1a(47)(A)(v) shall be open to inspection by any representative of the Commission, the United States Department of Justice, the Securities and Exchange Commission, or any applicable prudential regulator.

(2) [Reserved]

* * * * *

Issued in Washington, DC, on May 23, 2017, by the Commission.

Christopher J. Kirkpatrick,

Secretary of the Commission.

Note: The following appendix will not appear in the Code of Federal Regulations.

Appendix to Recordkeeping—Commission Voting Summary

On this matter, Acting Chairman Giancarlo and Commissioner Bowen voted in the affirmative. No Commissioner voted in the negative.

[FR Doc. 2017–11014 Filed 5–26–17; 8:45 am]

BILLING CODE 6351–01–P

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 165

RIN 3038–AE50

Whistleblower Awards Process

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rule.

SUMMARY: The Commodity Futures Trading Commission (''Commission'') is amending its regulations and forms to enhance the process for reviewing whistleblower claims and to make related changes to clarify staff authority to administer the whistleblower program. The Commission also is making appropriate rule amendments to implement its reinterpretation of the Commission's anti-retaliation authority.

DATES: This final rule is effective July 31, 2017.

FOR FURTHER INFORMATION CONTACT: Anthony Hays, Counsel, (202) 418–5584, *ahays@cftc.gov,* Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581.

SUPPLEMENTARY INFORMATION: The Commission is amending its rules in §§ 165.1 through 165.19 and appendix A, and adopting new rule § 165.20 and appendix B as well as amending Forms TCR (''Tip, Complaint or Referral'') and WB–APP (''Application for Award for Original Information Provided Pursuant to Section 23 of the Commodity Exchange Act'').

I. Background

In 2011, the Commission adopted its part 165 regulations, which implement Section 23 of the Commodity Exchange Act (''CEA''), 7 U.S.C. 26, by establishing a regulatory framework for the whistleblower program.[1] Part 165 provides for the payment of awards, subject to certain limitations and conditions, to whistleblowers who voluntarily provide the Commission with original information about a violation of the CEA that leads to the successful enforcement of an action brought by the Commission that results in monetary sanctions exceeding $1,000,000 (''Covered Action''), or the successful enforcement of a Related Action, as that term is defined in the rules.

The award amount must be between 10 and 30 percent of the amount of monetary sanctions collected in a Covered Action or a Related Action and is paid from the CFTC Customer Protection Fund. The Commission has discretion regarding the amount of an award based on the significance of the information, the degree of assistance provided by the whistleblower, and other criteria.

Since the whistleblower program was established in 2011, the need for certain improvements has become apparent. In order to address that need the Commission proposed amendments to the part 165 rules (''Proposal'').[2] As explained further below, these rules provide for targeted revisions to the claims review process and to the authority of staff to administer the

[1] *See* Whistleblower Incentives and Protection, 76 FR 53172 (Aug. 25, 2011).

[2] Whistleblower Awards Process, 81 FR 59551 (Aug. 30, 2016).

whistleblower program. The Commission also proposed to amend the rules to implement its anti-retaliation authority under Section 23(h)(1) based on a reinterpretation of that authority. Finally, the Commission proposed to amend its rules to permit whistleblowers to receive awards based on both Covered Actions and the successful enforcement of Related Actions, as defined in the rules.

The Commission received seven comment letters in response to the Proposal. Most of the comment letters focused on specific aspects of the proposed rule amendments and made targeted recommendations and suggestions. Three of the comment letters were from private individuals, two were from law firms with whistleblower practices, and two were from whistleblower advocacy groups.[3] Most of the comments received were generally supportive of the Commission's whistleblower program and proposed changes to the rules. One comment letter was critical of the current process for handling whistleblower award claims but did not provide specific comments on the proposed rules.[4] One of the whistleblower advocacy groups incorporated by reference the comment letter previously submitted by the other group.[5]

II. Description of Final Rules

The Commission is adopting the amendments to its part 165 whistleblower rules as set forth in the Proposed Rules with certain changes made in response to public comments. The amendments and the public comments relevant to each amendment are discussed below.[6]

Eligibility Requirements for Consideration of an Award

a. Proposed Rule

The Commission proposed targeted changes to the rules relating to consideration of an award. The Commission proposed to revise Rule 165.5 to make clear that a claimant may receive an award in a Covered Action, in a Related Action, or both. Also in Rule 165.5, the Commission proposed to make clear that a claimant may be eligible for an award by providing the Commission original information without being the original source of the information, and the Commission provided the public with notice that the Commission has discretion to waive its procedural rules based upon a showing of extraordinary circumstances.

In addition, the Commission proposed to revise the definition of ''original source'' in Rule 165.2(l) to extend the timeframe from 120 to 180 days that a whistleblower has to file a Form TCR pursuant to Rule 165.3 after previously providing the same information to Congress, any other federal or state authority, a registered entity, a registered futures association, a self-regulatory organization, or to any of the persons described in Rule 165.2(g)(4) and (5).

b. Comments Received

The Commission received several comments regarding the proposed changes to the requirements for consideration of an award.

Proposed Rule 165.5(b) removed being the original source of information received by the Commission from the eligibility criteria for an award. The Commission received one comment which endorsed this approach.[7]

The Commission received two comments regarding the Commission's proposal to amend Rule 165.5(c) to allow the Commission to waive procedural requirements in extraordinary circumstances. Both commenters supported the proposed change to this rule.[8] One commenter noted that the proposed change to this rule is consistent with the overall policy goals of the whistleblower program and that whistleblowers have varying levels of sophistication and familiarity with the procedural requirements.[9] Another commenter noted that rigid application of the procedural requirements would undermine the spirit of Congress when it created the whistleblower program and that the proposed change would further encourage whistleblowers to provide information even when they may not have followed all of the technical rules to be eligible for an award.[10]

Proposed Rule 165.2(l) extended the deadline from 120 to 180 days that a whistleblower has to make a submission to the Commission and retain status as the original source of information after first submitting the information to Congress, any other federal or state authority, a registered entity, a registered futures association, a self-regulatory organization, or to any of the persons described in paragraphs (g)(4) and (5) of Rule 165.2 to be eligible for an award. The Commission received two comments supporting this proposed change.[11] One commenter stated that many whistleblowers are often at or beyond the 120-day period before considering external reporting because they wait for the outcome of the internal investigation before reporting externally and internal investigations often take some time. This commenter also stated that while 180 days is a substantial improvement, an even longer time frame would help ensure that well-intentioned individuals receive full credit for their information.[12]

The other commenter agreed that the period of eligibility should be lengthened to 180 days but urged the Commission to state that the 180-day period refers only to the whistleblower's ''look back'' eligibility to retain original source status and that whistleblowers will not lose that status or eligibility for an award if they perfect their submission to the Commission after 180 days elapse. This commenter also urged the Commission to revise Rule 165.2(l)(2) to include individuals who first provide information to foreign governments or self-regulatory authorities because of the global nature of the commodities markets and the increasing number of international whistleblowers participating in the Dodd-Frank whistleblower programs. This commenter went on to state that there is no persuasive policy reason for excluding such persons from original source status because some of the Commission's recent enforcement cases were brought with the cooperation of foreign authorities and the proposed rules allow for whistleblower awards based on Related Actions by certain foreign authorities. Hence, this commenter argued that if whistleblowers may receive awards based on Related Actions undertaken by foreign authorities, those whistleblowers should be entitled to original source eligibility in instances where they report to a foreign authority prior to reporting to the Commission.[13]

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[3] *See,* respectively, the following: Letter dated September 12, 2016, from Joseph N. Perlman; Letter dated September 16, 2016, from Chris Barnard; Letter dated September 27, 2016, from Matthew Erpen; Letter dated September 29, 2016, from Robert D.M. Garson, Garson, Segal, Steinmetz, Fladgate LLP (GS2Law); Letter dated September 29, 2016, from Eric L. Young, Esq., and James J. McEldrew, Esq., McEldrew Young (MY); Letter dated September 28, 2016, from Jacklyn N. DeMar, Acting Director of Legal Education, Taxpayers Against Fraud (TAF); and Letter dated September 29, 2016, from Stephen M. Kohn, Executive Director, and David K. Colapinto, General Counsel, National Whistleblower Center (NWC).

[4] *See* Joseph N. Perlman comment letter.

[5] *See* NWC comment letter.

[6] The public comments on the Proposed Rule are available at *https://comments.cftc.gov/PublicComments/CommentList.aspx?id=1733.*

[7] *See* TAF comment letter.

[8] *See* TAF and MY comment letters.

[9] *See* TAF comment letter.

[10] *See* MY comment letter.

[11] *See* TAF and MY comment letters.

[12] *See* MY comment letter.

[13] *See* TAF comment letter.

c. Final Rule

The Commission received no comments regarding the proposed revision in Rule 165.5(a)(3) that makes clear that a claimant may receive an award in a Covered Action, in a Related Action, or both and, accordingly, is adopting the amendment as proposed.

With respect to the proposed revision to Rule 165.5(b), the Commission believes that removing the requirement that the whistleblower be the original source of information received by the Commission is consistent with Section 23(b)(1), and will prevent the potential situation where a claimant reports internally before providing information to the Commission and the employer self-reports the violation of the CEA, thereby foreclosing the claimant's eligibility for an award because the employer is the ''original source'' of the information. The Commission is adopting this amendment as proposed.

The Commission has also decided to adopt as proposed Rule 165.5(c), which clarifies that the Commission may waive any procedural requirements upon a showing of extraordinary circumstances.

After consideration of the comments on Rule 165.2(l), the Commission has decided to adopt the rule with one change, a conforming change and a minor correction. The Commission is adding foreign futures authorities [14] to the authorities and entities to which a claimant may provide information prior to filing a Form TCR and retain original source status. This change is consistent with the list of agencies and authorities in Section 23(h)(2)(C) with which the Commission can share information received from a whistleblower if necessary or appropriate to accomplish the purposes of the Commodity Exchange Act and protect customers. The Commission understands that individuals who are located outside the United States might decide to approach a local authority prior to providing information to the Commission. As a result, and in consideration of the global nature of the futures and swaps markets and the number of the Commission's recent enforcement actions that have been undertaken with the cooperation of foreign governments, the Commission believes it is appropriate to expand the list of entities in Rules 165.2(l)(1)(i) and 165.2(l)(2). In addition, the Commission is adding registered entity and registered futures association to, and removing futures association from the list of authorities in Rule 165.2(i)(2); and adding registered entity and registered futures association to Rule 165.2(l)(1)(i) in order to conform those rules to existing language in Rules 165.4(a)(2) and 165.11 and to Section 23(h)(2)(C)(i). The Commission is correcting a typographical error in Rule 165.2(l)(2) by removing ''of any'' and correcting an omission by inserting ''local'' in the list of authorities in the first sentence.

The Commission also clarifies that the 180-day timeframe in Rule 165.2(l)(2) relates only to the date on which the Commission will consider a whistleblower's original information to have been received. Filing a Form TCR more than 180 days after reporting information to another authority does not strip a whistleblower of original source status or render a whistleblower ineligible for an award. Also, the Commission is amending Rule 165.2(i)(3) to extend the time from 120 to 180 days in order to conform that rule to the extension of the timeframe in Rule 165.2(1)(2).

Award Claims Review Under Rule 165.7

a. Proposed Rules

The Commission proposed several changes to the award claims review process under Rule 165.7 to better define and specify each step in the process. Those steps were spelled out in proposed new paragraphs (f) through (l), along with new provisions regarding withdrawing award applications in proposed paragraph (d) and disposition of claims that do not relate to Notices of Covered Actions (''NCAs'') or final judgments in Related Actions in proposed new paragraph (e). The proposed amendments would establish a review process similar to that established under the SEC's whistleblower rules.[15] Specifically, the Commission proposed to discontinue the Whistleblower Award Determination Panel and replace it with a review process handled by a Claims Review Staff designated by the Director of the Division of Enforcement in consultation with the Executive Director, with the Claims Review Staff being assisted by the Whistleblower Office staff within the Division of Enforcement. The proposed rules also would provide an additional means for the submission of the required Form WB–APP, Application for Award for Original Information Provided Pursuant to Section 23 of the Commodity Exchange Act, in Rule 165.7(b)(1); explain the deadline for filing Form WB–APP under different timing scenarios for final judgments in covered judicial or administrative actions and Related Actions in proposed Rule 165.7(b)(3); and make a conforming change by renumbering prior paragraph (e) in Rule 165.7 as paragraph (l).

Proposed Rule 165.7(d) would permit a claimant to withdraw an award application at any point in the review process by submitting a written request to the Whistleblower Office.

Proposed Rule 165.7(e) addressed the Commission's experience of receiving a number of Form WB–APPs that appear to be unrelated to NCAs or final judgments in Related Actions as well as Form WB–APPs that do not relate to a previously filed Form TCR. In order to reduce the administrative burden on the Commission, the Commission proposed that such facially ineligible claims primarily be handled by the Whistleblower Office. The Whistleblower Office would notify the claimant of the deficiencies in the Form WB–APP and provide an opportunity for the claimant to correct the deficiencies or withdraw the claim before the finalization of the denial of the claim. If the claimant does not correct the deficiencies or withdraw the claim, the Whistleblower Office would notify the Claims Review Staff of the proposed denial, which would be called a Proposed Final Disposition, and any member of the Claims Review Staff would have the opportunity to request review of the proposed denial. If no member of the Claims Review Staff requests review, the Proposed Final Disposition would become the final order of the Commission. If a member of the Claims Review Staff requests review, the Claims Review Staff would review the record for the denial and either remand to the Whistleblower Office for further action or issue a final order of the Commission, which consists of the proposed denial.

In Rule 165.7(f), the Commission proposed that the Claims Review Staff would evaluate all timely award applications submitted on a Form WB–APP in response to the NCA or a final judgment in a Related Action. During the review process, the Whistleblower Office may require that claimants provide additional information, explanation, or assistance as set forth in Rule 165.5(b)(3). For award claims on Related Actions, as proposed in Rule 165.7(f), the Whistleblower Office may request additional information from the claimant to demonstrate that the

[14] Section 1a(26) of the CEA defines foreign futures authority as any foreign government, or any department, agency, governmental body, or regulatory organization empowered by a foreign government to administer or enforce a law, rule, or regulation as it relates to a futures or options matter, or any department or agency of a political subdivision of a foreign government empowered to administer or enforce a law, rule, or regulation as it relates to a futures or options matter.

[15] *See* 17 CFR 240.21F–10(d)–(h) (2014).

claimant voluntarily provided the governmental agency, regulatory authority, or self-regulatory organization the same original information that led to the Commission's successful enforcement action and the successful enforcement of the Related Action. The Whistleblower Office may also seek assistance and confirmation from the other agency in making this determination.

In Rule 165.7(g)(1), the Commission proposed that following the initial evaluation by the Claims Review Staff, the Claims Review Staff would issue a Preliminary Determination setting forth a preliminary assessment as to whether the claim should be granted or denied and, if granted, setting forth the proposed award percentage amount. The Whistleblower Office would send a copy of the Preliminary Determination to the claimant. The proposed amendments would allow a claimant the opportunity to contest the Preliminary Determination.

In Rule 165.7(g)(2), the Commission proposed that the claimant could take any of the following steps in response to a Preliminary Determination:

- Within thirty (30) calendar days of the date of the Preliminary Determination, the claimant may request that the Whistleblower Office make available for the claimant's review the materials that formed the basis of the Claim Review Staff's Preliminary Determination.
- Within sixty (60) calendar days of the date of the Preliminary Determination, or if a request to review materials is made, then within sixty (60) days of the Whistleblower Office making those materials available for the claimant's review, a claimant may submit a written response setting forth the grounds for the claimant's objection to either the denial of an award or the proposed amount of an award. The claimant may also include documentation or other evidentiary support for the grounds advanced in any response, and request a meeting with the Whistleblower Office. However, such meetings would not be required. The Whistleblower Office may in its sole discretion decline the request.

Proposed Rule 165.7(h) provides that if a claimant fails to submit a timely response under new Rule 165.7(g), then a Preliminary Determination denying an award becomes the Final Order of the Commission and constitutes a failure to exhaust the claimant's administrative remedies. Failure to exhaust administrative remedies would prohibit the claimant from pursuing judicial review.

If the claimant fails to contest a Preliminary Determination recommending an award, the Preliminary Determination would be treated as a Proposed Final Determination, which would make it subject to Commission review under proposed Rule 165.7(j).

Proposed Rule 165.7(i) describes the procedure in cases where a claimant submits a timely response under proposed Rule 165.7(g). In such cases, the Claims Review Staff would consider the issues raised in the claimant's response, along with any supporting documentation that the claimant provided, and prepare a Proposed Final Determination.

In Rule 165.7(j), the Commission proposed that when there is a Proposed Final Determination, the Whistleblower Office would notify the Commission of the Proposed Final Determination. Within thirty (30) days of that notification, any Commissioner may request Commission review of the Proposed Final Determination. If no Commissioner makes such a request, the Proposed Final Determination would become the Commission's Final Order. If a Commissioner does request review, the Commission would review the record that the Claims Review Staff relied upon in reaching its determination. On the basis of its review of that record, the Commission would issue its Final Order, which the Office of the Secretariat would then serve on the claimant. In reaching their decisions, the Commission and Claims Review Staff would only consider information in the record.

The Office of General Counsel would review both preliminary and proposed final determinations prior to issuance, and no such determination may be issued without the Office of General Counsel's determination of legal sufficiency.

In Rule 165.15(a)(2), the Commission proposed that the Enforcement Director, in consultation with the Executive Director, would designate a minimum of three and a maximum of five staff from the Division of Enforcement or other Commission Offices or Divisions to serve on the Claims Review Staff, either on a case-by-case basis or for fixed periods. At least one person from outside the Division of Enforcement would be included on the Claims Review Staff at all times. The Claims Review Staff would be composed only of persons who have not had direct involvement with the underlying enforcement action. Due to the Office of General Counsel's role in the review process, the Commission believes it is appropriate to exclude staff from that Office from serving as Claims Review Staff.

b. Comments Received

The Commission received two generally supportive comments regarding the proposed additions and changes to the award review process.[16] One commenter stated that having dedicated staff for award determinations would be beneficial and urged the Commission to publish NCAs for Related Actions that the Commission knows emanated from the information provided by the whistleblower.[17] The other commenter reasoned that the proposed changes in the process allow whistleblowers to better understand the reasons for a particular award or denial and to make informed requests for reconsideration, and that the proposed changes offer greater transparency in the awards process and will likely obviate the need for some appeals.[18]

c. Final Rule

After consideration of the comments received, the Commission has decided to adopt Rule 165.7 as proposed. The Commission anticipates that these revisions will provide the public and claimants with greater transparency in the awards claim review process and enhance the expeditious and fair administration of the program. The Commission declines a commenter's request that the Commission publish NCAs for Related Actions. The Commission believes that doing so would be unworkable and burdensome for the Commission. Publishing NCAs on all criminal and civil actions that may become Related Actions would require staff to track, monitor, and report on many actions that are not Commission actions. Rule 165.7(b)(3) clearly describes how and when actions brought by other agencies become Related Actions and when a claimant must file a Form WB–APP with the Commission to apply for an award in connection with these actions. It is the claimant's responsibility to track the outcome of a Related Action if the claimant has an interest in pursuing an award application based on that Related Action.

In response to the comment on the nature of the Claims Review staff, the Commission notes that the Claims Review Staff will be drawn from the Commission's Divisions and Offices, other than the Office of General Counsel. As detailed in Rule 165.7, the role of Claims Review Staff is primarily

[16] *See* GS2Law and TAF comment letters.

[17] *See* GS2Law comment letter.

[18] *See* TAF comment letter.

to make preliminary decisions on the merits of award applications including, if applicable, award amounts.[19] Service by a Commission employee on the Claims Review Staff will be in addition to the other duties of the employee in their Division or Office. As is the case at the SEC, the Claims Review Staff will be assisted by staff from the Whistleblower Office who will assemble the factual record related to an award claim, provide analysis of an award claimant's eligibility and, if applicable, make a recommendation of a proposed award amount.

Awards for Related Actions

a. Proposed Rules

For award claims on Related Actions, the Commission proposed to amend Rule 165.11 to permit claimants who are eligible to receive an award in a covered judicial or administrative action to also receive an award based on the monetary sanctions that are collected from a final judgment in a Related Action. The exception would be that the Commission would not make an award to a claimant for a Related Action if the claimant has been granted an award by the SEC for the same action under the SEC's whistleblower program. This would prevent a claimant from ''double dipping'' and receiving more than one award for the same action. Similarly, if the SEC has previously denied an award to a claimant in a Related Action, the claimant would be precluded from relitigating any issues before the Commission that the SEC resolved against the claimant as part of the SEC's award denial. The limitations on obtaining an award for both Covered Actions and final judgments in Related Actions are similar to those imposed by the SEC in its whistleblower program.

A Related Action under Rule 165.2(m) is based on the original information voluntarily submitted by a whistleblower to the Commission that led to the successful enforcement of a Commission action, and therefore, an action may only become a Related Action after there is a successful Commission action. The Commission accordingly proposed revisions to clarify timing requirements for filing whistleblower award claims regarding Related Actions. The proposed revisions were intended to clarify that, except in the circumstances described in proposed Rule 165.7(b)(3)(ii), award claims for a Related Action shall be filed within 90 days after an action meets the definition of Related Action if the order in the Related Action was issued prior to the successful enforcement of a Commission action. The proposed revisions also clarify that award claims for a Related Action and in response to a Notice of Covered Action may be submitted on the same Form WB–APP in certain circumstances.

b. Comments Received

The Commission received one comment regarding Proposed Rule 165.11. The commenter expressed some confusion as to whether the information provided by a whistleblower must be presented to the Commission prior to presenting the information to another authority in order for a whistleblower to be eligible for an award in a Related Action.[20] The commenter stated that the Commission should clarify that whistleblowers who first take their information to another authority and later provide their information to the Commission are eligible for an award.

c. Final Rule

The Commission has decided to adopt Rule 165.11 as proposed. The Commission also takes this opportunity to clarify that a whistleblower retains eligibility under Rule 165.11, Rule 165.5, and Rule 165.2(l) for an award based on information provided by the whistleblower to another authority prior to the time that the whistleblower provided the information to the Commission.

Contents of Record for Award Determinations

a. Proposed Rules

The Commission proposed to amend Rule 165.10(a) to identify additional items that may be included in the contents of record for award claims as a result of the Commission's proposal to amend Rule 165.11 to permit claimants who are eligible to receive an award in a covered judicial or administrative action to also receive an award based on the monetary sanctions that are collected from a final judgment in a Related Action. For Related Actions, any documents or materials, including sworn declarations from third parties, that are received or obtained by the Whistleblower Office to assist the Commission in resolving the claimant's award application, including information relating to the claimant's eligibility, may be included in the record. In addition, any information provided to the Commission by the entity bringing the Related Action that has been authorized by the entity for sharing with the claimant may be part of the record. Neither of these types of information may be relied upon by the Commission or the Claims Review Staff in making a decision on a whistleblower award claim or included in the contents of the record if the entity did not authorize the Commission to share the information with the claimant.

The Commission also proposed revisions to Rules 165.10(b) and 165.13(b) to clarify that the record on appeal shall not include any pre-decisional or internal deliberative process materials that are prepared to assist the Commission or Claims Review Staff in deciding a claim.

b. Comments Received

The Commission received one comment regarding the record for award determinations and appeals. This commenter strongly urged the Commission to further revise Proposed Rules 165.10 and 165.13 to not categorically exclude from the record pre-decisional and internal deliberative process materials prepared to assist the Commission in award determinations, and suggested that the Commission would be denying whistleblowers a meaningful right to appeal by defining by rule what constitutes the record.[21]

c. Final Rule

Following consideration of the comments received, the Commission has decided to adopt the revisions to Rules 165.10(a) and (b) and 165.13(b) as proposed. The Commission disagrees with the comment that the Commission defining by rule what constitutes the record denies a claimant a meaningful right to appeal award determinations.[22] Under Rules 165.10 and 165.13, all factual materials relied on by Claims Review Staff or the Commission in making an award determination will be available to the claimant and reviewing court. The Commission believes that pre-decisional or internal deliberative process materials that are prepared to assist the Commission or Claims Review Staff from the record are protected by attorney-client privilege as well as attorney work product under well

[19] The Commission will have an opportunity to review preliminary denial decisions that are contested by the claimant and all award recommendations. *See* Rule 165.7(j).

[20] *See* TAF comment letter.

[21] *See* TAF comment letter.

[22] As an example, the commenter referred to appeals of IRS whistleblower cases (*Insinga* v. *Commissioner*, Tax Court Docket No. 9011–13W (July 27, 2016) and *Whistleblower One 10683–13W et al.* v. *Commissioner*, 145 T.C. No. 8 (September 16, 2015)) in which the whistleblower sought factual information in the underlying enforcement cases to determine whether the information the whistleblower provided the IRS contributed to the success of the enforcement action. The Commission believes its practice is distinguishable in that all of the facts that underlie the Commission's decision are included in the record under Rules 165.10 and 165.13.

settled law. Similarly, the exclusion of any documents or materials provided by a third-party that have not been authorized for release by the third-party does not deny the claimant due process because these materials will not be considered by the Commission or Claims Review Staff in reaching a decision on the award claim.

Authority To Administer the Program

a. Proposed Rule

The Commission proposed to directly assign responsibilities for administering the program by rule rather than by delegation in Rule 165.15 in light of the proposed changes to the claims review process. Since 2013, the Whistleblower Office has been located within the Division of Enforcement. The Commission believes that it is appropriate to assign overall responsibility for administering the whistleblower program to the Director of the Division of Enforcement. The Commission notes that this approach is consistent with the SEC's practice.

The Commission also proposed to directly assign responsibility to Claims Review Staff for the issuance of Preliminary Determinations and Proposed Final Determinations, and issuance of Proposed Final Dispositions to the WBO. In this connection, the Commission proposed, again consistent with the SEC's practice, that no member of the Claims Review Staff can have had any direct involvement in the underlying enforcement case.

b. Comments Received

The Commission received no comments regarding the proposed changes to the authority to administer the whistleblower program.

c. Final Rule

The Commission has decided to adopt the revisions to the authority to administer the program as proposed.

Whistleblower Identifying Information

a. Proposed Rule

Rule 165.4 implements the confidentiality protections for whistleblower identifying information contained in Section 23(h)(2). In proposed Rule 165.15(a)(3), the Commission proposed to authorize the Director of the Division of Enforcement to act on its behalf to disclose whistleblower identifying information as permitted by Section 23(h)(2)(C) and Rule 165.4(a)(2) and (3). The Commission stated in the Proposal that it expects the Director of Enforcement to exercise this discretion to release such sensitive information in a manner consistent with, and when deemed necessary or appropriate to accomplish, the customer protection and law enforcement goals of the whistleblower program. The Commission said in the Proposal that it believes that this delegation of authority will increase investor protection by facilitating administration of the whistleblower program as well as investigations and actions by those agencies and authorities that are eligible to receive whistleblower identifying information under Section 23(h)(2)(C) and Rule 165.4. Any agency or authority that receives whistleblower identifying information is bound by the same confidentiality requirements as those applicable to the Commission under Section 23(h)(2)(A) and such sharing of information does not change the confidential nature of the information. Certain information provided to other agencies or authorities is also protected from disclosure under Section 8 of the CEA. The Commission also proposed to revise a question in the Form TCR, question E.8, seeking consent from whistleblowers to share their information with other authorities.

b. Comments Received

The Commission received one comment opposing the proposed changes to Rule 165.4 and Form TCR. The commenter viewed the proposed changes as a ''loosening'' of the confidentiality of a whistleblower's identity. In addition, the commenter suggested that: (1) A whistleblower should be entitled to know the other agencies with which identifying information is shared; (2) the scope of the proposal on sharing the whistleblower's identifying information is too broad; and, (3) the Commission does not have the ability to monitor or enforce confidential treatment of the whistleblower's identifying information once it has been shared with other agencies. The commenter also suggested that the whistleblower should be consulted by the Commission prior to any sharing of the whistleblower's identifying information with other agencies and provided the opportunity to prevent such sharing because the whistleblower may have reported to the Commission rather than to another authority as the result of previous encounters with personnel at other agencies that left the whistleblower with less trust or confidence in those agencies. Finally, the commenter argued that the sharing of information with self-regulatory organizations is too broad because the term ''self-regulatory organization'' is not properly defined in the rules.[23]

c. Final Rule

After consideration of the comment received, the Commission is adopting Rule 165.4(a)(2) as proposed, with a minor change. Section 23(h)(2)(C) provides the Commission with the authority to share all information provided by the whistleblower with the authorities listed in that section without the consent or consultation of the whistleblower, subject to the limitation that providing the whistleblower's identifying information is necessary or appropriate to accomplish the purposes of the CEA and protect customers. Reassigning the authority to make the decision to disclose whistleblower identifying information in a manner permitted by Section 23(h)(2)(C) from the Director of the Whistleblower Office to a more senior Commission official, the Director of the Division of Enforcement, is not a loosening of whistleblower identity protections. The Commission believes that this delegation of authority will increase investor protection by facilitating administration of the whistleblower program as well as investigations and actions by those agencies and authorities that are eligible to receive whistleblower identifying information under Section 23(h)(2)(C) and Rule 165.4. Section 23(h)(2)(C)(i), Rule 165.4(a)(2), and the Privacy Act Notice on Form TCR identify for whistleblowers the entities with which whistleblower identifying information may be shared. If a potential whistleblower is not comfortable with the possibility that confidential information about them may be shared with one or more of these entities, the potential whistleblower can decide not to file a Form TCR.

The Commission does not believe that Commission monitoring of the treatment of confidential whistleblower information by a receiving authority is necessary. As the commenter pointed out, receiving authorities are bound by the same confidentiality provisions as the Commission. The Commission makes sure that a receiving authority understands these limitations when it shares confidential whistleblower information with them. Further, all of the entities with which the Commission may share confidential information are experienced in handling and protecting confidential information such as whistleblower identifying information.

The Commission does not agree with the commenter's assertion that ''self-

[23] *See* GS2Law comment letter.

regulatory organization'' is not defined. Section 23(h)(2)(C)(i)(III) limits the self-regulatory organizations with which confidential whistleblower information can be shared to those self-regulatory organizations that fit within the definition in section 3(a) of the Securities Exchange Act of 1934.[24] This is the meaning of ''self-regulatory organization'' throughout Section 23 of the CEA and the part 165 Rules. To eliminate any confusion in this regard, the Commission is making conforming amendments throughout the Part 165 Rules to clarify that a self-regulatory organization is a self-regulatory organization as defined by section 3(a) of the Securities Exchange Act of 1934.

Finally, in light of the comments, the Commission also has determined to remove Question E.8 on Form TCR. The wording of this question was not consistent with the authority granted to the Commission to share whistleblower identifying information in Section 23(h)(C)(i) and the language of Rule 165.4(a)(2). The Privacy Act Notice in Form TCR puts potential whistleblowers on notice that the information that they provide to the Commission may be shared with other authorities.

Retaliation Against Whistleblowers

a. Proposed Rule

In the Proposal, the Commission proposed several substantial changes to its anti-retaliation authority. The Commission proposed revisions to Rule 165.19 and appendix A, and the addition of new Rule 165.20. The Commission proposed to amend Rule 165.19 to prohibit a person from taking any action to impede an individual from communicating directly with the Commission's staff about a possible violation of the CEA, including by enforcing, or threatening to enforce, a confidentiality agreement or predispute arbitration agreement with respect to such communications. The Commission also proposed to revise its 2011 interpretation that it lacked statutory authority to bring an enforcement action against an employer that retaliated against a whistleblower. The Commission proposed that Sections 6(c), 6(d), 6b, 6c, and 23(i) of the CEA allow the Commission to pursue such violations of the Act through an enforcement action. The Commission proposed Rule 165.20 to make clear that Section 23(h)(1)(A) of the CEA, including the rules in part 165 promulgated thereunder, is enforceable in an action or proceeding brought by the Commission. Proposed Rule 165.20(c) provides that the anti-retaliation protections apply irrespective of whether a whistleblower qualifies for an award. The Commission also proposed changes to appendix A to reflect the Commission's ability to bring enforcement actions to prosecute violations of the anti-retaliation prohibition of Section 23(h)(1)(A).

b. Comments Received

The Commission received several comments regarding the proposed revisions to the anti-retaliation provisions. The Commission received one comment letter that addressed the proposed revisions to Rules 165.19(b), 165.20(b) and 165.20(c)[25] and another comment letter focused on proposed Rule 165.20(c).[26]

The comment on Rule 165.19(b) supported the proposal and noted that this change will more closely align the Commission with the SEC with respect to combating the chilling of whistleblowing by employers who require waivers of rewards in severance packages for whistleblowing.

This commenter was similarly supportive of the proposed expansion of Commission enforcement authority to address retaliation against whistleblowers. This commenter noted that more substantial penalties or a government enforcement action would be more apt to deter retaliation against whistleblowers than only a private right of action.

Both commenters asked the Commission to clarify its position on proposed Rule 165.20(c) with regard to taking enforcement action against employers that retaliate against whistleblowers prior to the whistleblower filing a Form TCR with the Commission. One commenter reiterated the point that many whistleblowers await the outcome of any internal investigation before providing the Commission any information.[27] In the commenter's view, it would not be fair or in the public interest to leave such a whistleblower unprotected during this interim period between reporting internally and filing a Form TCR with the Commission. This commenter further explained that the Commission taking enforcement action when companies or individuals retaliate against whistleblowing activity prior to the filing of a Form TCR will create additional incentives for employees to report internally before providing information to the Commission.

c. Final Rule

Having considered the fully supportive comment on Rules 165.19(b) and 165.20(b), the Commission is adopting these rules as proposed. The Commission is also re-organizing and making minor changes to proposed Appendix A to better reflect the fact that either the Commission or a private litigant can bring an action for a violation of Section 23(h)(1)(A).

By adopting proposed Rule 165.20(b), the Commission is confirming its decision to revise its 2011 interpretation that it lacks the statutory authority to bring an enforcement case against an employer that violates the anti-retaliation prohibition in Section 23(h)(1). The 2011 interpretation failed to fully consider the statutory context of Section 23 and other CEA provisions. The 2011 interpretation does not comport with Section 23(h)(1)(A)'s prohibition against retaliation; the Commission's broad rulemaking authority under Section 23(i); and, the Commission's general authority to prosecute violations of any CEA provision (including Section 23(h)(1)(A)) as well as violations of the Commission's rules and orders under CEA sections 6(c), 6(d), 6b and 6c. Sections 6(c), 6(d), 6b and 6c of the Act empower the Commission to take actions for the violation of ''any'' CEA provision or rule or regulation thereunder. Although Section 23(h)(1)(B) provides a private right of action, nothing in that sub-section purports to limit the Commission's general enforcement authority or suggests that the private right of action is exclusive.

With regard to Rule 165.20(c), the Commission has decided, after considering the comments received, to adopt it with some modification. The Commission believes these revisions will further encourage whistleblowers to report internally[28] as well as deter retaliatory practices against whistleblowers.

It would be inconsistent for the Commission to encourage internal reporting by whistleblowers and not extend to them anti-retaliation

[24] 15 U.S.C. 78c(a).

[25] *See* MY comment letter.

[26] *See* MY and TAF comment letters.

[27] *See* MY comment letter.

[28] The part 165 Rules encourage whistleblowers to report internally prior to reporting to the Commission. Rule 165.2(l)(2), discussed above, allows a whistleblower to retain original source status after reporting internally. Additionally, Rule 165.9(b)(4) includes in the factors that may increase the amount of an award whether and the extent to which a whistleblower reported the possible violations through internal whistleblower, legal, or compliance procedures before or at the same time as reporting those violations to the Commission, and whether and the extent to which a whistleblower assisted any internal investigation or inquiry concerning the reported violations.

protections to the extent the CEA permits. To do so would place whistleblowers who report internally in a worse position than whistleblowers who do not report internally prior to reporting to the Commission, forcing whistleblowers to choose between reporting internally first in the hopes of increasing any award or foregoing reporting internally in order to preserve anti-retaliation protections.

However, the anti-retaliation protections in the CEA do not extend to all whistleblowers who report internally. Section 23(h) and Rule 165.20(a) provide that the whistleblower in a private action or the Commission in an enforcement action must be able to show that retaliation occurred because of any lawful act done by the whistleblower in providing information to the Commission in accordance with the part 165 rules, or assisting in any investigation or judicial or administrative action of the Commission based upon or related to such information. The ability to make this showing will depend on the facts and circumstances of a particular case. Actions that an employer took after a whistleblower reported internally but before providing information to the Commission may be relevant to whether retaliation that is prohibited under Section 23(h)(1) occurred. For this reason, the Commission is adding language to Rule 165.20(b) to explicitly recognize this possibility.

Payment of Awards

a. Comment Received

The Commission proposed no revisions to Rule 165.14 on the payment of awards. However, the Commission received one comment regarding the payment of awards.[29] This commenter noted that the current part 165 Rules do not make available the payment of the minimum amount of an award (10%) until the whistleblower's time to appeal has expired, and suggested that the rules be amended to provide for payment of the minimum amount of an award at the time the order of award is issued. This commenter argued that once an award has been ordered by the Commission, the Commission has admitted that there is an entitlement to an award and the Commission is estopped from later removing an award during the appeal process. In addition, this commenter stated that often the elapsed time between the whistleblower's original tip and any award is measured in years, not weeks or months, and that waiting on the resolution of any appeals would only lengthen that timeframe.

b. Final Rule

The Commission declines the request to amend Rule 165.14 to permit payment of any portion of an award prior to the completion of the appeals process for all whistleblower award claims arising from a NCA or Related Action.

Section 23(f)(2) provides that the Commission's determination to whom to pay an award and the amount of any award is appealable to the appropriate U.S. Court of Appeals. In response to an appeal from a whistleblower who received no award from the Commission or who disagreed with the amount of a Commission award, a Court of Appeals could set aside the Commission's decision to make an award to another whistleblower under the same NCA or Related Action if that award decision does not meet the applicable standard of review.[30] This possibility makes it prudent for the Commission to refrain from paying any portion of an award until the completion of the appeals process for all whistleblower award claims arising from an NCA or a Related Action as provided in Rule 165.14(b)(2). As a result, the Commission is not making any changes to Rule 165.14 in response to the comment.

Office of Consumer Outreach

a. Amendment

The office formerly known as the Office of Consumer Outreach has changed its name to the Office of Customer Education and Outreach. The Commission is renaming the Office in Rule 165.12. Because Rule 165.12 is a rule of the Commission's ''organization, procedure or practice'' the Commission need not present this revision for notice and comment.[31]

Conforming and Technical Amendments

a. Proposed Amendments

To conform to the proposed changes to Rules 165.7 and 165.15, the Commission proposed to strike the reference to ''or its delegate'' in Rule 165.11 in the undesignated material before paragraph (a).

The Commission proposed to amend Rule 165.2(i)(2) concerning the definition of information that led to a successful enforcement action because it contains an erroneous cross-reference. The reference is intended to be to 165.2(l) regarding the definition of original source. The rule currently refers to paragraph (i) of this section.

The Commission proposed to make a minor change to the wording of Rule 165.3 concerning the procedures for submitting original information because it contains an erroneous reference to a two-step process. This change makes the language conform to the process previously adopted.[32]

The Commission proposed to amend Rule 165.13(b) concerning appeals because it contains an erroneous cross-reference. The reference intended is to Rule 165.10 regarding contents of the record, rather than Rule 165.9 regarding criteria for determining award amounts.

The Commission proposed to move and include updated Form TCR and Form WB–APP in a new appendix B to part 165. The updated Form TCR and Form WB–APP include revisions that previously received information collection requirement approval by the Office of Management and Budget.[33] The Commission also proposed revisions to the submission instructions portions of the forms to conform to the proposed revisions in the part 165 Rules.

Finally, the Commission proposed to make a minor change in the wording of current § 165.7(e), in addition to designating current paragraph (e) as new paragraph (l).

b. Comments Received

The Commission received no comments regarding the proposed conforming and technical amendments.

c. Final Rules

The Commission has decided to adopt the conforming and technical amendments as proposed.

III. Related Matters

A. Regulatory Flexibility Certification

The Regulatory Flexibility Act[34] requires that agencies consider whether the rules they propose will have a significant economic impact on a substantial number of small entities and, if so, provide a regulatory flexibility analysis respecting the impact.[35] In the Commission's Proposing Release, the Chairman, on behalf of the Commission, certified that

[29] *See* GS2Law comment letter.

[30] 7 U.S.C. 26(f)(3) states that the court shall review the determination made by the Commission in accordance with section 706 of title 5.

[31] *See* 5 U.S.C. 553.

[32] *Whistleblower Incentives and Protection,* 76 FR at 53183 (Aug. 25, 2011) (explaining that the rule was adopted with a more streamlined process and one less form than the original proposal).

[33] The Form TCR and Form WB–APP OMB Control Number is 3038–0082. Both forms last received OMB approval on April 8, 2015, with an expiration date of April 30, 2018.

[34] 5 U.S.C. 601, *et seq.*

[35] *Id.*

a regulatory flexibility analysis is not required because the persons that would be subject to the rules—individuals—are not ''small entities'' for purposes of the Regulatory Flexibility Act and the rules therefore would not have a significant economic impact on a substantial number of small entities. The Commission received no comments regarding this conclusion.

B. Paperwork Reduction Act

The Paperwork Reduction Act (PRA), 44 U.S.C. 3501–3521, imposes certain requirements on federal agencies (including the Commission) in connection with their conducting or sponsoring any collection of information as defined by the PRA. The Commission believes that the amendments will not impose new recordkeeping or information collection requirements that require approval by the Office of Management and Budget under the PRA.

C. Cost-Benefit Considerations

CEA Section 15(a) requires the Commission to consider the costs and benefits of its actions before promulgating a regulation under the CEA or issuing certain orders.[36] Section 15(a) further specifies that the costs and benefits shall be evaluated in light of the following five factors: (1) Protection of market participants and the public; (2) efficiency, competitiveness, and financial integrity of futures markets; (3) price discovery; (4) sound risk management practices; and (5) other public interest considerations. The Commission considers the costs and benefits resulting from its discretionary determinations with respect to the Section 15(a) factors. The Commission may in its discretion give greater weight to any one of the five enumerated areas and could in its discretion determine that, notwithstanding its costs, a particular rule is necessary or appropriate to protect the public interest or to effectuate any of the provisions or accomplish any of the purposes of the CEA.

Since the basic framework of part 165 remains substantially unchanged, the Commission believes that the costs and benefits of the rule amendments and the status quo baseline (the current rule), to which the rules' costs and benefits are compared, are similar, but with certain additional benefits attendant to these amendments.[37] The Rule 165.7 amendments will add transparency to the Commission's process of deciding whistleblower award claims and will harmonize the Commission's rules with those of the SEC. The amendments clarify each step of the process that a whistleblower must follow when making an award claim. The Commission believes that such transparency and harmonization will increase the benefits of the part 165 Rules relative to the benefits of the current rules because potential whistleblowers will have greater clarity about the claims and awards process and greater assurance that retaliation will not be tolerated. The Commission believes this clarity and protection will encourage whistleblowers to step forward. Thus, the rules should enhance protection of market participants and the public as well as market integrity without materially adding to the costs attendant to the current regime.

The Rule 165.4 and 165.15 amendments assign to the Director of the Division of Enforcement the authority to administer the whistleblower program and release whistleblower identifying information. Since these amendments relate solely to the Commission's allocation of authority among its staff, the Commission believes that these changes will impose no material costs on market participants or the public. At the same time, the Commission believes the protection of market participants and the public will be enhanced through a more effective and efficient deployment of staff resources.

The Rule 165.19 and 165.20 amendments clarify the anti-retaliation protections available under the Commission's whistleblower program in light of the Commission's reconsideration of its authority under Section 23(h)(1) in conjunction with Sections 6(c), 6(d), 6b, 6c, and 23(i) of the CEA. These changes remove any gap in enforcement authority between the Commission and the SEC with regard to whistleblower protections against retaliation. The Commission believes that these changes will impose no material costs on market participants or the public. The rules do not impose any new regulatory burden.[38] To comply with the rules, market participants must refrain from engaging in conduct that is already subject to private rights of action, or including certain provisions waiving rights and remedies or requiring arbitration of disputes in employment agreements. The Commission further believes that the rules will have a positive effect on efficiency, competitiveness, and financial integrity of the markets that the Commission regulates through improving detection and remediation of potential violations of the CEA and Commission regulations. For instance, market participants may be further deterred from engaging in violations of the CEA and Commission rules because the likelihood of being caught has increased due to improvements to the whistleblower program that encourage more whistleblowers to provide information to the Commission.

The Commission believes that price discovery and sound risk management practices will not be materially affected by the amendments. Also, the Commission has not identified any other relevant public interest considerations.

The Commission invited public comment on its cost-benefit considerations, including the Section 15(a) factors described above. Commenters were invited to submit any data or other information that they had that quantified or qualified the costs and benefits of the Proposal. None of the commenters submitted any data or other information that quantified or qualified the costs and benefits of the proposed rules, nor did they otherwise comment on the cost-benefit considerations as stated in the proposed rules.

Alternatives Suggested by Commenters

The Commission adopts several alternatives and makes certain clarifications as suggested by commenters to the proposal:

- After consideration of the comments on Rule 165.2(l), the Commission adopts the rule with one change and a correction. The Commission is adding foreign futures authorities to the authorities and entities to which a claimant may provide information prior to filing a Form TCR and retain original source status.
- The Commission clarifies that the 180-day timeframe in Rule 165.2(l)(2) relates only to the date on which the Commission will consider a whistleblower's original information to have been received. Filing a Form TCR more than 180 days after reporting information to another authority does not strip a whistleblower of original source status or render a whistleblower ineligible for an award.
- The Commission is adopting Rule 165.4(a)(2) as proposed, with a minor change. Section 23(h)(2)(C)(i), Rule 165.4(a)(2), and the Privacy Act Notice on Form TCR identify for

[36] 7 U.S.C. 19(a).

[37] The Commission believes that there is not likely to be any material difference between the amendments and the status quo baseline in terms of cost.

[38] The Commission believes that the new rule provision regarding Commission enforcement does not significantly affect any reliance interests because the provision relates to conduct that is already prohibited by Section 23 of the CEA.

whistleblowers the entities with which whistleblower identifying information may be shared.

• Section 23(h)(2)(C)(i)(III) limits the self-regulatory organizations with which confidential whistleblower information can be shared to those self-regulatory organizations that fit within the definition in section 3(a) of the Securities Exchange Act of 1934.[39] The Commission is making conforming amendments throughout the part 165 Rules to clarify that a self-regulatory organization is a self-regulatory organization as defined by section 3(a) of the Securities Exchange Act of 1934.

• The Commission has determined to remove Question E.8 on Form TCR. The wording of this question was not consistent with the authority granted to the Commission to share whistleblower identifying information in Section 23(h)(C)(i) and the language of Rule 165.4(a)(2). The Privacy Act Notice in Form TCR puts potential whistleblowers on notice that the information that they provide to the Commission may be shared with other authorities.

• The Commission has decided to adopt Rule 165.20(c) with some modification. The anti-retaliation protections in the CEA do not extend to all whistleblowers who report internally. Actions that an employer took after a whistleblower reported internally but before providing information to the Commission may be relevant to whether retaliation that is prohibited under Section 23(h)(1) occurred. For this reason, the Commission is adding language to Rule 165.20(b) to explicitly recognize this possibility.

The Commission also received alternatives to the final rule from commenters that it chooses not to adopt:

• The Commission does not elect to extend the deadline beyond 180 days under 165.2(l) to retain status as the original source of information after first submitting the information to Congress, any federal or state authority, a registered entity, a registered futures association, a self-regulatory organization, or to any persons described in paragraphs (g)(4) and (5) of Rule 165.2 to be eligible for an award. The Commission believes that 180 days provides ample time for a whistleblower to provide information to the Commission after submitting the information to any of the aforementioned entities or authorities.

• The Commission declines a commenter's request that the Commission publish NCAs for Related Actions. The Commission believes that doing so would be unworkable and burdensome for the Commission. Publishing NCAs on all criminal and civil actions that may become related actions would require staff to track, monitor, and report on many actions that are not Commission actions.

• The Commission has chosen not to further revise Proposed Rules 165.10 and 165.13 to not categorically exclude from the record pre-decisional and internal deliberative process materials prepared to assist the Commission in award determinations. Under Rules 165.10 and 165.13, all factual materials relied on by Claims Review Staff or the Commission in making an award determination will be available to the claimant and reviewing court. The Commission believes that pre-decisional or internal deliberative process materials that are prepared to assist the Commission or Claims Review Staff are protected by attorney-client privilege as well as attorney work product under well settled law. Similarly, the exclusion of any documents or materials provided by a third-party that have not been authorized for release by the third-party does not deny the claimant due process because these materials will not be considered by the Commission or Claims Review Staff in reaching a decision on the award claim.

• The Commission declines the request to amend Rule 165.14 to permit payment of any portion of an award prior to the completion of the appeals process for all whistleblower award claims arising from a NCA or related action. Section 23(f)(2) provides that the Commission's determination to whom to pay an award and the amount of any award is appealable to the appropriate U.S. Court of Appeals. In response to an appeal from a whistleblower who received no award from the Commission or who disagreed with the amount of a Commission award, a Court of Appeals could set aside the Commission's decision to make an award to another whistleblower under the same NCA or Related Action if that award decision does not meet the applicable standard of review.[40] This possibility makes it prudent for the Commission to refrain from paying any portion of an award until the completion of the appeals process for all whistleblower award claims arising from an NCA or a related action as provided in Rule 165.14(b)(2).

• The Commission does not believe that Commission monitoring of the treatment of confidential whistleblower information by a receiving authority is necessary. Receiving authorities are bound by the same confidentiality provisions as the Commission. The Commission makes sure that a receiving authority understands these limitations when it shares confidential whistleblower information with them.

D. Antitrust Considerations

Section 15(b) of the CEA requires the Commission to consider the public interests protected by the antitrust laws and to take actions involving the least anti-competitive means of achieving the objectives of the CEA. The Commission believes that the rules may have a positive effect on competition through improving detection, deterrence, and remediation of potential violations of the CEA and Commission regulations.

The Commission did not receive any comments on any antitrust considerations arising from the proposed amendments.

E. Small Business Regulatory Enforcement Fairness Act

Under the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Pub. L. 104–121 (March 29, 1996), as amended by Pub. L. 110–28 (May 25, 2007), the Commission solicits data to determine whether a proposed rule constitutes a ''major'' rule. Under SBREFA, a rule is considered ''major'' where, if adopted, it results or is likely to result in:

• An annual effect on the economy of $100 million or more (either in the form of an increase or a decrease);

• A major increase in costs or prices for consumers or individual industries; or

• Significant adverse effects on competition, investment or innovation.

If a rule is ''major,'' its effectiveness will generally be delayed for 60 days pending Congressional review.

The Commission received no comments or data on: The potential annual effect on the economy; any increase in costs or prices for consumers or individual industries; and any potential effect on competition, investment or innovation and the Chairman certifies that these amendments do not constitute a ''major rule''.

List of Subjects in 17 CFR Part 165

Whistleblowing.

For the reasons set forth in the preamble, the Commodity Futures Trading Commission amends 17 CFR part 165 as follows:

PART 165—WHISTLEBLOWER RULES

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

Authority: 7 U.S.C. 2, 5, 9, 12a(5), 13a, 13a–1, 13b, and 26.

[39] *Infra,* footnote 24.

[40] *Infra,* footnote 30.

■ 2. In § 165.2, revise paragraphs (i)(2) and (3), (l)(1)(i), (l)(2), and (o) to read as follows:

§ 165.2 Definitions.

* * * * *

(i) * * *

(2) The whistleblower gave the Commission original information about conduct that was already under examination or investigation by the Commission, the Congress, any other authority of the federal government, a state Attorney General or securities regulatory authority, any registered entity, registered futures association, or self-regulatory organization (as defined in section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)), foreign futures authority, or the Public Company Accounting Oversight Board (except in cases where the whistleblower was an original source of this information as defined in paragraph (l) of this section), and the whistleblower's submission significantly contributed to the success of the action.

(3) The whistleblower reported original information through an entity's internal whistleblower, legal, or compliance procedures for reporting allegations of possible violations of law before or at the same time the whistleblower reported them to the Commission; the entity later provided the whistleblower's information to the Commission, or provided results of an audit or investigation initiated in whole or in part in response to information the whistleblower reported to the entity; and the information the entity provided to the Commission satisfies either paragraph (i)(1) or (2) of this section. Under this paragraph (i)(3), the whistleblower must also submit the same information to the Commission in accordance with the procedures set forth in § 165.3 within 180 days of providing it to the entity.

* * * * *

(l) * * *

(1) * * *

(i) In order to be considered an original source of information that the Commission receives from Congress, any other federal, state or local authority, a foreign futures authority, any registered entity, registered futures association, or any self-regulatory organization (as defined in section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)), the whistleblower must have voluntarily given such authorities the information within the meaning of this part. In determining whether the whistleblower is the original source of information, the Commission may seek assistance and confirmation from one of the other entities or authorities described in this paragraph (l)(1)(i).

* * * * *

(2) *Information first provided to another authority or person.* If the whistleblower provides information to Congress, any other federal, state, or local authority, a foreign futures authority, a registered entity, a registered futures association, a self-regulatory organization (as defined in section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)), or to any of the persons described in paragraphs (g)(4) and (5) of this section, and the whistleblower, within 180 days, makes a submission to the Commission pursuant to § 165.3, as the whistleblower must do in order for the whistleblower to be eligible to be considered for an award, then, for purposes of evaluating the whistleblower's claim to an award under § 165.7, the Commission will consider that the whistleblower provided original information as of the date of the whistleblower's original disclosure, report, or submission to one of these other authorities or persons. The whistleblower must establish the whistleblower's status as the original source of such information, as well as the effective date of any prior disclosure, report, or submission, to the Commission's satisfaction. The Commission may seek assistance and confirmation from the other authority or person in making this determination.

* * * * *

(o) *Voluntary submission or voluntarily submitted.* (1) The phrase ''voluntary submission'' or ''voluntarily submitted'' within the context of submission of original information to the Commission under this part, shall mean the provision of information made prior to any request from the Commission, Congress, any other federal or state authority, the Department of Justice, a registered entity, a registered futures association, or a self-regulatory organization (as defined in section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)) to the whistleblower or anyone representing the whistleblower (such as an attorney) about a matter to which the information in the whistleblower's submission is relevant. If the Commission or any of these other authorities makes a request, inquiry, or demand to the whistleblower or the whistleblower's representative first, the whistleblower's submission will not be considered voluntary, and the whistleblower will not be eligible for an award, even if the whistleblower's response is not compelled by subpoena or other applicable law. For purposes of this paragraph (o), the whistleblower will be considered to have received a request, inquiry or demand if documents or information from the whistleblower is within the scope of a request, inquiry, or demand that the whistleblower's employer receives, unless, after receiving the documents or information from the whistleblower, the whistleblower's employer fails to provide the whistleblower's documents or information to the requesting authority in a timely manner.

(2) In addition, the whistleblower's submission will not be considered voluntary if the whistleblower is under a pre-existing legal or contractual duty to report the violations that are the subject of the whistleblower's original information to the Commission, Congress, any other federal or state authority, the Department of Justice, a registered entity, a registered futures association, or a self-regulatory organization (as defined in section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)), or a duty that arises out of a judicial or administrative order.

* * * * *

■ 3. Amend § 165.3 as follows:

■ a. Remove the introductory text; and

■ b. Revise paragraphs (a) introductory text and (a)(1).

The revisions read as follows:

§ 165.3 Procedures for submitting original information.

(a) A whistleblower will need to submit the whistleblower's information to the Commission. A whistleblower may submit the whistleblower's information:

(1) By completing and submitting a Form TCR online and submitting it electronically through the Commission's Web site at *http://www.cftc.gov,* or the Commission's Whistleblower Program Web site at *www.whistleblower.gov;* or

* * * * *

■ 4. In § 165.4, revise paragraphs (a) introductory text and (a)(1) and (2) to read as follows:

§ 165.4 Confidentiality.

(a) *In general.* Section 23(h)(2) of the Commodity Exchange Act requires that the Commission not disclose information that could reasonably be expected to reveal the identity of a whistleblower, except that the Commission may disclose such information in the following circumstances, in accordance with the Privacy Act of 1974 (5 U.S.C. 552a):

(1) When disclosure is required to a defendant or respondent in connection

with a public proceeding that the Commission institutes or in another public proceeding that is filed by an authority to which the Commission provides the information, as described in paragraph (a)(2) of this section; or

(2) When the Commission determines that it is necessary to accomplish the purposes of the Commodity Exchange Act and to protect customers, it may provide whistleblower information, without the loss of its status as confidential whistleblower information in the hands of the Commission, to: The Department of Justice; an appropriate department or agency of the Federal Government, acting within the scope of its jurisdiction; a registered entity, registered futures association, or a self-regulatory organization (as defined in section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)); a State attorney general in connection with a criminal investigation; any appropriate State department or agency, acting within the scope of its jurisdiction; or a foreign futures authority; and, as set forth in section 23(h)(2)(C) of the Commodity Exchange Act, each such entity is required to maintain the information as confidential in accordance with the requirements of section 23(h)(2)(A) of the Commodity Exchange Act.

* * * * *

■ 5. Revise § 165.5 to read as follows:

§ 165.5 Requirements for consideration of an award.

(a) Subject to the eligibility requirements described in this part, the Commission will pay an award to one or more whistleblowers who:

(1) Provide a voluntary submission to the Commission;

(2) That contains original information; and

(3) That leads to the successful resolution of a covered judicial or administrative action or successful enforcement of a Related Action or both; and

(b) In order to be eligible, the whistleblower must:

(1) Have voluntarily provided the Commission original information in the form and manner that the Commission requires in § 165.3;

(2) Have submitted a claim in response to a Notice of Covered Action or a final judgment in a Related Action or both;

(3) Provide the Commission, upon its staff's request, certain additional information, including:

(i) Explanations and other assistance, in the manner and form that staff may request, in order that the staff may evaluate the use of the information submitted related to the whistleblower's application for an award;

(ii) All additional information in the whistleblower's possession that is related to the subject matter of the whistleblower's submission related to the whistleblower's application for an award; and

(iii) Testimony or other evidence acceptable to the staff relating to the whistleblower's eligibility for an award; and

(4) If requested by the Whistleblower Office, enter into a confidentiality agreement in a form acceptable to the Whistleblower Office, including a provision that a violation of the confidentiality agreement may lead to the whistleblower's ineligibility to receive an award.

(c) The Commission may, in its sole discretion, waive any procedural requirements based upon a showing of extraordinary circumstances.

■ 6. In § 165.6, revise paragraph (a)(1) to read as follows:

§ 165.6 Whistleblowers ineligible for an award.

(a) * * *

(1) To any whistleblower who is, or was at the time the whistleblower acquired the original information submitted to the Commission, a member, officer, or employee of: the Commission; the Board of Governors of the Federal Reserve System; the Office of the Comptroller of the Currency; the Board of Directors of the Federal Deposit Insurance Corporation; the Director of the Office of Thrift Supervision; the National Credit Union Administration Board; the Securities and Exchange Commission; the Department of Justice; a registered entity; a registered futures association; a self-regulatory organization (as defined in section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)); or a law enforcement organization;

* * * * *

■ 7. Amend § 165.7 as follows:

■ a. Revise the section heading;

■ b. Revise paragraphs (b), (d), and (e); and

■ c. Add paragraphs (f) through (l).

The revisions and additions read as follows:

§ 165.7 Procedures for award applications in Commission actions and related actions, and Commission award determinations.

* * * * *

(b)(1) To file a claim for a whistleblower award, the whistleblower must file Form WB–APP, Application for Award for Original Information Provided Pursuant to Section 23 of the Commodity Exchange Act. The whistleblower must sign this form as the claimant and submit it to the Commission by mail or fax to Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581, Fax (202) 418–5975, or by completing and submitting the Form WB–APP online and submitting it electronically through the Commission's Web site at *https://www.cftc.gov* or the Commission's Whistleblower Program Web site at *https://www.whistleblower.gov*.

(2) The Form WB–APP, including any attachments, must be received by the Commission within 90 calendar days of the date of the Notice of Covered Action or 90 calendar days following the date of a final judgment in a Related Action (or if the final judgment in a Related Action was issued prior to the action meeting the definition of Related Action, within 90 calendar days following the date the action satisfied the definition of Related Action, except in the circumstances described in paragraph (b)(3)(ii) of this section). One Form WB–APP may be filed in response to both a Notice of Covered Action and final judgment in a Related Action if the relevant time periods are applicable.

(3) If a covered judicial or administrative action and Related Action have different final judgment dates or if there is no covered judicial or administrative action connected to a Related Action, a claimant, who wishes to file a claim for an award in both a covered judicial or administrative action and a Related Action, or in a Related Action that does not have a connected covered judicial or administrative action, must follow one of the following procedures depending on that claimant's particular situation.

(i) If a final judgment imposing monetary sanctions in a Related Action has not been entered at the time the claimant submits a claim for an award in connection with a covered judicial or administrative action, the claimant must submit the claim for the Related Action on Form WB–APP within ninety (90) calendar days following the date of issuance of a final judgment in the Related Action.

(ii) If a final judgment in a Related Action has been entered and a Notice of Covered Action for a related covered judicial or administrative action has not been published, a claimant for an award in both the covered judicial or administrative action and Related Action may submit the claims for both the Related Action and the covered judicial or administrative action within ninety (90) days of the date of the Notice

of Covered Action. The claims may be submitted on the same Form WB–APP.

(iii) If there is a final judgment in a Related Action that relates to a judicial or administrative action brought by the Commission under the Commodity Exchange Act that is not a covered judicial or administrative action, and therefore there is no Notice of Covered Action, a claimant for an award in connection with the Related Action must submit the claim in connection with the Related Action on Form WB–APP within ninety (90) calendar days following either:

(A) The date of issuance of a final judgment in the Related Action, if that date is after the date of issuance of the final judgment in the related Commission judicial or administrative action; or

(B) The date of issuance of the final judgment in the related Commission judicial or administrative action, *i.e.,* the date the Related Action becomes a Related Action, if the date of issuance of the final judgment in the Related Action precedes the final judgment in the related Commission judicial or administrative action.

* * * * *

(d) A claimant may withdraw a Form WB–APP by submitting a written request to the Whistleblower Office at any time during the review process.

(e)(1) The Whistleblower Office may issue a Proposed Final Disposition for award applications that do not relate to a Notice of Covered Action, a final judgment in a Related Action, or a previously filed Form TCR without presentation of the award claim to the staff designated by the Director of the Division of Enforcement under § 165.15(a)(2) (''Claims Review Staff''). In such instances, the Whistleblower Office will inform the award claimant in writing that the claim does not relate to a Notice of Covered Action, a final judgment in a Related Action, or a previously filed Form TCR and will be rejected unless the claimant provides additional information. The claimant will have 30 days from the date of the written notice to respond and to correct the identified deficiencies. If the claimant does not respond in 30 days or if the response does not include information showing that the WB–APP relates to a Notice of Covered Action, a final judgment in a Related Action, or a previously filed Form TCR the Whistleblower Office will issue a Proposed Final Disposition. The claimant's failure to submit a timely response to the written notice from the Whistleblower Office will constitute a failure to exhaust administrative remedies, and the claimant will be prohibited from pursuing an appeal under § 165.13.

(2) The Whistleblower Office will notify the Claims Review Staff of any Proposed Final Disposition under this paragraph (e). Within thirty (30) calendar days thereafter, any member of the Claims Review Staff may request that the Proposed Final Disposition be reviewed by the Claims Review Staff. If no member of the Claims Review Staff requests such a review within the 30-day period, then the Proposed Final Disposition will become the Final Order of the Commission. In the event that a member of the Claims Review Staff requests a review, the Claims Review Staff will review the record that the Whistleblower Office relied upon in making its determination and either remand to the Whistleblower Office for further action or issue a Final Order of the Commission, which could consist of the Proposed Final Disposition.

(f)(1) In connection with each individual covered judicial or administrative action or final judgment in a Related Action, for which an award application is submitted, once the time for filing any appeals of the covered judicial or administrative action or the final judgment in the Related Action has expired (or, where an appeal is filed of the covered judicial or administrative action, or the final judgment in a Related Action, as applicable, and concluded), the Claims Review Staff designated under § 165.15(a)(2) will evaluate all timely whistleblower award claims submitted on Form WB–APP in response to a Notice of Covered Action, referenced in paragraph (a) of this section, or final judgment in a Related Action in accordance with the criteria set forth in this part.

(2) The Whistleblower Office may require that the claimant provide additional information relating to the claimant's eligibility for an award or satisfaction of any of the conditions for an award, as set forth in § 165.5(b)(2). The Whistleblower Office may also request additional information from the claimant in connection with the claim for an award in a Related Action to demonstrate that the claimant directly (or through the Commission) voluntarily provided the governmental agency, regulatory authority or self-regulatory organization the original information that led to the Commission's successful covered action, and that the information provided by the claimant led to the successful enforcement of the Related Action. The Whistleblower Office may also, in its discretion, seek assistance and confirmation from the other agency in making this determination.

(g)(1) Following Claims Review Staff evaluation, the Claims Review Staff will issue a Preliminary Determination setting forth a preliminary assessment as to whether the claim should be granted or denied and, if granted, setting forth the proposed award percentage amount. The Whistleblower Office will send a copy of the Preliminary Determination to the claimant.

(2) The claimant may contest the Preliminary Determination made by the Claims Review Staff by submitting a written response to the Whistleblower Office setting forth the grounds for the claimant's objection to either the denial of an award or the proposed amount of an award. The response must be in the form and manner that the Whistleblower Office shall require. The claimant may also include documentation or other evidentiary support for the grounds advanced in the claimant's response. The claimant may also request a meeting with the Whistleblower Office within the timeframes provided in this paragraph (g), however such meetings are not required, and the Whistleblower Office may in its sole discretion deny the request.

(i) Before determining whether to contest a Preliminary Determination, the claimant may, within thirty (30) days of the date of the Preliminary Determination, request that the Whistleblower Office make available for the claimant's review the materials from among those set forth in § 165.10 that formed the basis of the Claims Review Staff's Preliminary Determination.

(ii) If the claimant decides to contest the Preliminary Determination, the claimant must submit the claimant's written response and supporting materials setting forth the grounds for the claimant's objection to either the denial of an award or the proposed amount of an award within sixty (60) calendar days of the date of the Preliminary Determination, or if a request to review materials used to make a Preliminary Determination is made pursuant to paragraph (g)(2)(i) of this section, then within sixty (60) calendar days of the Whistleblower Office making those materials available for the claimant's review. The claimant also may request a meeting with the Whistleblower Office within those same sixty (60) calendar days. However, such meetings are not required and the Whistleblower Office may in its sole discretion decline the request.

(h) If the claimant fails to submit a timely response pursuant to paragraph (g) of this section, then the Preliminary Determination will become the Final Order of the Commission (except where

the Preliminary Determination recommended an award, in which case the Preliminary Determination will be deemed a Proposed Final Determination for purposes of paragraph (j) of this section). The claimant's failure to submit a timely response contesting a Preliminary Determination will constitute a failure to exhaust administrative remedies, and the claimant will be prohibited from pursuing an appeal under § 165.13.

(i) If the claimant submits a timely response under paragraph (g) of this section, then the Claims Review Staff will consider the issues and grounds advanced in the claimant's response, along with any supporting documentation the claimant provided, and will make its Proposed Final Determination.

(j) The Whistleblower Office will notify the Commission of each Proposed Final Determination. Within thirty (30) calendar days thereafter, any Commissioner may request that the Proposed Final Determination be reviewed by the Commission. If no Commissioner requests such a review within the 30-day period, then the Proposed Final Determination will become the Final Order of the Commission. In the event a Commissioner requests a review, the Commission will review the record that the staff relied upon in making its determinations, including the claimant's submissions to the Whistleblower Office, and issue its Final Order.

(k) A Preliminary Determination, Proposed Final Disposition, or a Proposed Final Determination may be issued only after a review for legal sufficiency by the Office of the General Counsel.

(l) The Office of the Secretariat will serve the claimant with the Final Order of the Commission.

■ 8. In § 165.9, revise the introductory text to read as follows:

§ 165.9 Criteria for determining amount of award.

The determination of the amount of an award shall be in the discretion of the Commission. This discretion shall be exercised as prescribed by § 165.7.

* * * * *

■ 9. Amend § 165.10 as follows:
■ a. Revise the section heading;
■ b. Remove the word ''and'' at the end of paragraph (a)(6);
■ c. Remove the period at the end of paragraph (a)(7) and add a semicolon in its place;
■ d. Add paragraphs (a)(8) and (9); and
■ e. Revise paragraph (b).

The revisions and additions read as follows:

§ 165.10 Contents of record for award determination.

(a) * * *

(8) With respect to an award claim involving a Related Action, any statements or other information that an entity provides or identifies in connection with an award determination, provided the entity has authorized the Commission to share the information with the claimant. (Neither the Commission nor the Claims Review Staff may rely upon information that the entity has not authorized the Commission to share with the applicant); and

(9) Any other documents or materials including sworn declarations from third-parties that are received or obtained by the Whistleblower Office to assist the Commission resolve the applicant's award application, including information related to the claimant's eligibility. (Neither the Commission nor the Claims Review Staff may rely upon information that a third party has not authorized the Commission to share with the claimant).

(b) The rules in this part do not entitle a claimant to obtain from the Commission any materials (including any pre-decisional or internal deliberative process materials that are prepared to assist the Commission or Claims Review Staff in deciding the claim) other than those listed in paragraph (a) of this section. The Whistleblower Office may make redactions as necessary to comply with any statutory restrictions, to protect the Commission's law enforcement and regulatory functions, and to comply with requests for confidential treatment from other law enforcement and regulatory authorities.

■ 10. Revise § 165.11 to read as follows:

§ 165.11 Awards based upon related actions.

(a) Provided that a whistleblower or whistleblowers comply with the requirements in §§ 165.3, 165.5 and 165.7, and pursuant to § 165.8, the Commission may grant an award based on the amount of monetary sanctions collected in a ''Related Action'' or ''Related Actions'', where:

(1) A ''Related Action'' is a judicial or administrative action that is brought by:

(i) The Department of Justice;

(ii) An appropriate department or agency of the Federal Government, acting within the scope of its jurisdiction;

(iii) A registered entity, registered futures association, or self-regulatory organization (as defined in section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a));

(iv) A State criminal or appropriate civil agency, acting within the scope of its jurisdiction; or

(v) A foreign futures authority; and

(2) The ''Related Action'' is based on the original information that the whistleblower voluntarily submitted to the Commission and led to a successful resolution of the Commission judicial or administrative action.

(b) The Commission will not make an award to a claimant for a final judgment in a Related Action if the claimant has already been granted an award by the Securities and Exchange Commission (SEC) for that same action pursuant to its whistleblower award program under section 21F of the Securities Exchange Act (15 U.S.C. 78a *et seq.*). If the SEC has previously denied an award to the claimant for a judgment in a Related Action, the whistleblower will be precluded from relitigating any issues before the Commission that the SEC resolved against the claimant as part of the award denial.

■ 11. In § 165.12, revise paragraph (c) to read as follows:

§ 165.12 Payment of awards from the Fund, financing of customer education initiatives, and deposits and credits to the Fund.

* * * * *

(c) *Office of Customer Education and Outreach.* The Commission shall undertake and maintain customer education initiatives through its Office of Customer Education and Outreach. The initiatives shall be designed to help customers protect themselves against fraud or other violations of the Commodity Exchange Act, or the rules or regulations thereunder. The Commission shall fund the initiatives and may utilize funds deposited into the Fund during any fiscal year in which the beginning (October 1) balance of the Fund is greater than $10,000,000. The Commission shall budget, on an annual basis, the amount used to finance customer education initiatives, taking into consideration the balance of the Fund.

■ 12. Revise § 165.13 to read as follows:

§ 165.13 Appeals.

(a) Any Final Order of the Commission relating to a whistleblower award determination, including whether, to whom, or in what amount to make whistleblower awards, may be appealed to the appropriate court of appeals of the United States not more than 30 days after the Final Order of the Commission is issued, provided that administrative remedies have been exhausted.

(b) The record on appeal shall consist of:

(1) The Contents of Record for Award Determinations, as set forth in § 165.10. The record on appeal shall not include any pre-decisional or internal deliberative process materials that are prepared to assist the Commission or the Claims Review Staff in deciding the claim (including staff's draft Preliminary Determination or any Proposed Final Determination or staff's draft final determination); and

(2) The Preliminary Determination and the Final Order of the Commission, as set forth in § 165.7.

■ 13. Revise § 165.15 to read as follows:

§ 165.15 Administering the whistleblower program.

(a) *Specific authorities*—(1) *Payments, deposits, and credits.* The Executive Director is authorized to deposit into or credit collected monetary sanctions to the Fund, and to make payment of awards therefrom, with the concurrence of the General Counsel and the Director of the Division of Enforcement, or of their respective designees.

(2) *Designation of claims review staff.* The Claims Review Staff referenced in § 165.7 shall be composed of no fewer than three and no more than five staff members from any of the Commission's Offices or Divisions (except the Office of General Counsel) who have not had direct involvement in the underlying enforcement action, as designated by the Director of the Division of Enforcement in consultation with the Executive Director. The Claims Review Staff will always include at least one staff member who does not work in the Division of Enforcement.

(3) *Disclosure of whistleblower identifying information.* The Director of the Division of Enforcement is authorized on behalf of the Commission to exercise its discretion to disclose whistleblower identifying information under § 165.4(a).

(b) *General authority to administer the program.* The Director of the Division of Enforcement shall have general authority to administer the whistleblower program except as otherwise provided under this part.

■ 14. Revise § 165.19 to read as follows:

§ 165.19 Nonenforceability of certain provisions waiving rights and remedies or requiring arbitration of disputes.

(a) *Non-waiver.* The rights and remedies provided for in this part may not be waived by any agreement, policy, form, or condition of employment, including by a predispute arbitration agreement. No predispute arbitration agreement shall be valid or enforceable if the agreement requires arbitration of a dispute arising under this part.

(b) *Protected communications.* No person may take any action to impede an individual from communicating directly with the Commission's staff about a possible violation of the Commodity Exchange Act, including by enforcing, or threatening to enforce, a confidentiality agreement or predispute arbitration agreement with respect to such communications.

■ 15. Add § 165.20 to read as follows:

§ 165.20 Whistleblower anti-retaliation protections.

(a) *In general.* No employer may discharge, demote, suspend, directly or indirectly threaten or harass, or in any other manner discriminate against, a whistleblower in the terms and conditions of employment because of any lawful act done by the whistleblower—

(1) In providing information to the Commission in accordance with this part; or

(2) In assisting in any investigation or judicial or administrative action of the Commission based upon or related to such information.

(b) *Anti-retaliation enforcement.* Section 23(h)(1)(A) of the Commodity Exchange Act (7 U.S.C. 26(h)(1)), including the rules in this part promulgated thereunder, shall be enforceable in an action or proceeding brought by the Commission including where retaliation is in response to a whistleblower providing information to the Commission after reporting the information through internal whistleblower, legal or compliance procedures.

(c) *Protections apply regardless of non-qualification.* The anti-retaliation protections apply whether or not the whistleblower satisfies the requirements, procedures, and conditions to qualify for an award.

■ 16. Revise appendix A to part 165 to read as follows:

Appendix A to Part 165—Guidance With Respect to the Protection of Whistleblowers Against Retaliation

(a) *In general.* Section 23(h)(1) of Commodity Exchange Act prohibits employers from engaging in retaliation against whistleblowers. A violation of this provision could be addressed by a Commission enforcement action, or a lawsuit by an individual. Section 23(h)(1)(B) provides for a federal cause of action brought by the whistleblower against the employer, which must be filed in the appropriate district court of the United States within two (2) years of the employer's retaliatory act, and potential relief for prevailing whistleblowers, including reinstatement, back pay, and compensation for other expenses, including reasonable attorney's fees.

(b) *Enforcement*—(1) *Private cause of action.* (i) An individual who alleges discharge, demotion, suspension, direct or indirect threats or harassment, or any other manner of discrimination in violation of section 23(h)(1)(A) of the Commodity Exchange Act may bring an action under section 23(h)(1)(B) of the Commodity Exchange Act in the appropriate district court of the United States for the relief provided in section 23(h)(1)(C) of the Commodity Exchange Act, unless the individual who is alleging discharge or other discrimination in violation of section 23(h)(1)(A) of the Commodity Exchange Act is an employee of the Federal Government, in which case the individual shall only bring an action under section 1221 of title 5, United States Code.

(ii) *Subpoenas.* A subpoena requiring the attendance of a witness at a trial or hearing conducted under section 23(h)(1)(B)(ii) of the Commodity Exchange Act may be served at any place in the United States.

(iii) *Statute of limitations.* A private cause of action under section 23(h)(1)(B) of the Commodity Exchange Act may not be brought more than 2 years after the date on which the violation reported in section 23(h)(1)(A) of the Commodity Exchange Act is committed.

(iv) *Relief.* Relief for an individual prevailing in an action brought under section 23(h)(1)(B) of the Commodity Exchange Act shall include—

(A) Reinstatement with the same seniority status that the individual would have had, but for the discrimination;

(B) The amount of back pay otherwise owed to the individual, with interest; and

(C) Compensation for any special damages sustained as a result of the discharge or discrimination, including litigation costs, expert witness fees, and reasonable attorney's fees.

(2) *Commission authority to bring action.* The Commission may bring an enforcement action against an employer that retaliates against a whistleblower by discharge, demotion, suspension, direct or indirect threats or harassment, or any other manner of discrimination.

■ 17. Add appendix B to part 165 to read as follows:

Appendix B to Part 165—Form TCR and Form WP–APP

UNITED STATES
COMMODITY FUTURES TRADING COMMISSION
Washington, DC 20581

FORM TCR
TIP, COMPLAINT OR REFERRAL

See attached Submission Procedures and Completion Instructions Below.

A. TELL US ABOUT YOURSELF			
COMPLAINANT 1:			
1. Last Name	2. First Name		3. M.I.
4. Street Address			5. Apartment/Unit #
6. City	7. State/Province	8. ZIP/Postal Code	9. Country
10. Telephone	11. Alt. Phone	12. E-mail Address	13. Preferred Method of Communication
14. Occupation			
COMPLAINANT 2:			
1. Last Name	2. First Name		3. M.I.
4. Street Address			5. Apartment/Unit #
6. City	7. State/Province	8. ZIP/Postal Code	9. Country
10. Telephone	11. Alt. Phone	12. E-mail Address	13. Preferred Method of Communication
14. Occupation			

Please be advised that pursuant to 5 CFR 1320.5(b)(2)(i), you are not required to respond to this collection of information unless it displays a currently valid OMB control number.

B. YOUR ATTORNEY'S INFORMATION (If Applicable – See Instructions)			
1. Attorney's Name			
2. Firm Name			
3. Street Address			
4. City	5. State/Province	6. ZIP/Postal Code	7. Country
8. Telephone	9. Fax	10. E-mail Address	

C. TELL US WHO YOU ARE COMPLAINING ABOUT			
INDIVIDUAL / ENTITY 1:			
1. Type: ☐ Individual ☐ Entity	2. If an individual, specify profession. If an entity, specify type.		
3. Name			
4. Street Address			5. Apartment/Unit #
6. City	7. State/Province	8. ZIP/Postal Code	9. Country
10. Telephone	11. E-mail Address	12. Internet Address	
13. If you are complaining about a firm or individual that has custody or control of your investments, have you had difficulty contacting that entity or individual? [] Yes [] No [] Unknown			
14. Are you, or were you, associated with the individual or firm when the alleged conduct occurred? [] Yes [] No [] Unknown If yes, describe how you are, or were, associated with the individual or firm you are complaining about.			
15. What was the initial form of contact between you and the person against whom you are filing this complaint? [] Telephone [] TV Advertisement [] Radio Advertisement [] Internet Advertisement [] E-Mail [] U.S. Postal Service [] Event (seminar, free lunch, ext.) [] Other If other, please describe:			

INDIVIDUAL / ENTITY 2:			
1. Type: ☐ Individual ☐ Entity	2. If an individual, specify profession. If an entity, specify type.		
3. Name			
4. Street Address			5. Apartment/Unit #
6. City	7. State/Province	8. ZIP/Postal Code	9. Country
10. Telephone	11. E-mail Address	12. Internet Address	

13. If you are complaining about a firm or individual that has custody or control of your investments, have you had difficulty contacting that entity or individual? [] Yes [] No [] Unknown

14. Are you, or were you, associated with the individual or firm when the alleged conduct occurred? [] Yes [] No [] Unknown

If yes, describe how you are, or were, associated with the individual or firm you are complaining about.

15. What was the initial form of contact between you and the person against whom you are filing this complaint?
[] Telephone [] TV Advertisement [] Radio Advertisement [] Internet Advertisement [] E-Mail
[] U.S. Postal Service [] Event (seminar, free lunch, ext.) [] Other

If other, please describe:

D. TELL US ABOUT YOUR COMPLAINT

1. Occurrence Date (mm/dd//yyyy):	2. Is the conduct on-going? [] Yes [] No [] Don't Know

3. Please select the option(s) that best describes your complaint.

[] Fraudulent representations that persuaded you to trade futures, options, swaps, forex, retail commodity, or leveraged transactions

[] Some type of cheating or fraud that occurred after you had deposited funds to trade futures, options, swaps, forex, retail commodity, or leveraged transactions (for example, if someone used the funds you deposited to pay off someone else or you have asked for the return of your funds and have been refused).

[] Someone or some firm that should be registered under the Commodity Exchange Act, but is not.

[] Disruptive or manipulative trading activity in the futures, options or swaps markets.

[] The trading of futures options, or swaps based upon confidential information by someone not allowed to use such information.

[] If your complaint does not fit into any of the above-described categories please describe below.

4. Select the type of product/instrument:

[] A futures contract, including a single stock futures contract, a narrow based or broad based security future contract.

[] An option on a futures contract, an option on a commodity, BUT NOT an option on a security or a basket of securities.

[] A swap, including a mixed swap BUT NOT a swap based on a single security or based on a narrow (i.e., nine or less) index of securities.

[] A cash (or physical) contract traded in interstate commerce.

[] A foreign currency transaction.

- If a foreign currency transaction:
  - Are you an individual that trades or invests more than $10,000,000 on a discretionary basis?
    [] Yes [] No
  - Are you an individual that trades or invests more than $5,000,000 and enters into the foreign currency agreement to manage the risk associated with some other asset or liability?
    [] Yes [] No

[] A commodity transaction entered into or offered on a leveraged or margined basis, or financed by the offeror, the counterparty, or someone acting in concert with the offeror or counterparty.

- If yes:
    - Are you an individual that trades or invests more than $10,000,000 on a discretionary basis?
      [] Yes [] No
    - Are you an individual that trades or invests more than $5,000,000 and enters into the foreign currency agreement to manage the risk associated with some other asset or liability?
      [] Yes [] No

[] Other

If other, please describe:

5. If applicable, what is the name of product/investment?

6. Have you suffered a monetary loss? [] Yes [] No

If yes, describe how much.

7. Has the individual or firm who engaged in the conduct acknowledged their fault? [] Yes [] No

8. Have you or anyone else taken any action against the firm or person who engaged in the alleged conduct? [] Yes [] No

If yes, select the appropriate category:

[] Prior complaint to the CFTC.
[] Complaint to another regulator.
[] A state or federal criminal law enforcement entity.
[] A legal action filed against the person or firm in a court of law.
[] Additional comments based on above selection (e.g., Who, When, Contact, To whom made, Case Number, Court).

9. State in detail all facts pertinent to the alleged violation. Explain why you believe the facts described constitute a violation of the Commodity Exchange Act. If necessary, please use additional sheets.

10. Describe all supporting materials in your possession and the availability and location of any additional supporting materials not in your possession. If necessary, please use additional sheets.

E. WHISTLEBLOWER PROGRAM

1. Describe how and from whom you obtained the information that supports your allegations. If any information was obtained from an attorney or in a communication where an attorney was present, identify such information with as much particularity as possible. In addition, if any information was obtained from a public source, identify the source with as much particularity as possible. Use additional sheets, if necessary.

2. Identify with particularity any documents or other information in your submission that you believe could reasonably be expected to reveal your identity and explain the basis for your belief that your identity would be revealed if the documents or information were disclosed to a third party.

3. Have you or your attorney had any prior communication(s) with the CFTC concerning this matter? [] Yes [] No

If "Yes," please identify the CFTC staff member(s) with whom you or your attorney communicated:

4. Have you or your attorney provided the information to any other agency or organization, or has any other agency or organization requested the information or related information from you? [] Yes [] No

If "Yes," please provide details. Use additional sheets, if necessary.

If "Yes," please provide the name and contact information of the point of contact at the other agency or organization, if known.

5. Does this complaint relate to an entity of which you are or were an officer, director, counsel, employee, consultant or contractor? [] Yes [] No

If "Yes," have you reported this violation to your supervisor, compliance office, whistleblower hotline, ombudsman, or any other available mechanism at the entity for reporting violations? [] Yes [] No

If "Yes," please provide details including the date you took the action(s). Use additional sheets, if necessary.

6. Have you taken any other action regarding your complaint? [] Yes [] No

If "Yes," please provide details. Use additional sheets, if necessary.

7. Provide any additional information that you think may be relevant.

F. WHISTLEBLOWER ELIGIBILITY REQUIREMENTS AND OTHER INFORMATION

1. Are you currently, or were you at the time that you acquired the original information that you are submitting to the CFTC, a member, officer or employee of: the CFTC; the Board of Governors of the Federal Reserve System; the Office of the Comptroller of the Currency; the Board of Directors of the Federal Deposit Insurance Corporation; the Director of the Office of Thrift Supervision; the National Credit Union Administration Board; the Securities and Exchange Commission; the Department of Justice; a registered entity; a registered futures association; a self-regulatory organization (as defined in 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)); a law enforcement organization; or a foreign regulatory authority or law enforcement organization?

[] Yes [] No

2. Are you providing this information pursuant to a cooperation agreement with the CFTC or another agency or organization?

[] Yes [] No

3. Before you provided this information, did you (or anyone representing you) receive any request, inquiry or demand that relates to the subject matter of this submission (i) from the CFTC, (ii) in connection with an investigation, inspection or examination by any registered entity, registered futures association or self-regulatory organization (as defined in 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)); or (iii) in connection with an investigation by the Congress, or any other federal or state authority?

[] Yes [] No

4. Are you currently a subject or target of a criminal investigation, or have you been convicted of a criminal violation, in connection with the information that you are submitting to the CFTC?

[] Yes [] No

5. Did you acquire the information being provided to the CFTC from any person described in Questions 1 through 4 above?

[] Yes [] No

6. If you answered "Yes" to any of Questions 1 through 5 above, please provide details. Use additional sheets, if necessary.

G. PRIVACY NOTICE AND WHISTLEBLOWER'S DECLARATION

The solicitation of this information is authorized under the Commodity Exchange Act, 7 U.S.C. 1 et seq. This form may be used by anyone wishing to provide the CFTC with information concerning a violation of the Commodity Exchange Act or the CFTC's regulations. This form and related information will be processed in the United States of America, the location of the CFTC. If an individual is submitting this information for the CFTC's whistleblower award program pursuant to Section 23 of the Commodity Exchange Act, the information provided will be used to enable the CFTC to determine the individual's eligibility for payment of an award. This information will be used to investigate and prosecute violations of the Commodity Exchange Act and the CFTC's regulations. The CFTC may disclose this information when required to be disclosed to a defendant or respondent in connection with a public proceeding instituted by the Commission. In addition, if the Commission determines such disclosure is necessary or appropriate to accomplish the purposes of the CEA and to protect customers, the Commission may provide such information to the Department of Justice; an appropriate department or agency of the Federal Government; a state attorney general; any appropriate department or agency of a state; a registered entity, registered futures association, or self-regulatory organization (as defined in Section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)); or a foreign futures authority. Those entities are subject to the same confidentiality requirements as the Commission. The Commission also may disclose such information in accordance with Privacy Act of 1974 System of Records Notices CFTC-49, "Whistleblower Records" (exempted), CFTC-10, "Investigatory Records" (exempted), and CFTC-16, "Enforcement Case Files," (available on the CFTC Privacy Program web page, www.cftc.gov/Transparency/PrivacyOffice) exercised in accordance with the confidentiality provisions in the CEA and 17 CFR 165.4. Furnishing information on or through this form is voluntary. However, if an individual is providing information for the whistleblower award program, not providing required information may result in the individual not being eligible for award consideration. Also, you may choose to submit this form anonymously, but in order to receive a whistleblower award, you would need to be identified to select CFTC staff for a final eligibility determination, and in unusual circumstances, you may need to be identified publicly for trial. [See instructions for further information.] By signing this Declaration, I am agreeing to the collection, processing, use, and disclosure of my personally identifiable information as stated herein.

I declare under penalty of perjury under the laws of the United States that the information contained herein is true, correct and complete to the best of my knowledge, information and belief. I fully understand that I may be subject to prosecution and ineligible for a whistleblower award if, in my submission of information, my other dealings with the Commodity Futures Trading Commission, or my dealings with another authority in connection with a related action, I knowingly and willfully make any false, fictitious or fraudulent statements or representations, or use any false writing or document knowing that the writing or document contains any false, fictitious or fraudulent statement or entry.

Print Name	
Signature	Date

H. COUNSEL CERTIFICATION	
I certify that I have reviewed this form for completeness and accuracy and that the information contained herein is true, correct and complete to the best of my knowledge, information and belief. I further certify that I have verified the identity of the whistleblower on whose behalf this form is being submitted by viewing the whistleblower's valid, unexpired government issued identification (*e.g.*, driver's license, passport) and will retain an original, signed copy of this form, with Section G signed by the whistleblower, in my records. I further certify that I have obtained the whistleblower's non-waivable consent to provide the Commodity Futures Trading Commission with his or her original signed Form TCR upon request in the event that the Commodity Futures Trading Commission requests it due to concerns that the whistleblower may have knowingly and willfully made false, fictitious or fraudulent statements or representations, or used any false writing or document knowing that the writing or document contains any false, fictitious or fraudulent statement or entry; and that I consent to be legally obligated to do so within seven (7) calendar days of receiving such a request from the Commodity Futures Trading Commission.	
Print Name of Attorney and Law Firm, if Applicable	
Signature	Date

Submission Procedures

Questions concerning this form may be directed to Commodity Futures Trading Commission, Whistleblower Office, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581.

- If you are submitting information for the CFTC's whistleblower award program, you *must* submit your information using this Form TCR.
- You may submit this form electronically, through the Web portal found on the CFTC's Web site at *http://www.whistleblower.gov.* You may also print this form and submit it by mail to Commodity Futures Trading Commission, Whistleblower Office, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581, or by facsimile to (202) 418–5975.
- You have the right to submit information anonymously. If you do not submit anonymously, please note that the CFTC is required by law to maintain the confidentiality of any information which could reasonably identify you, and will only reveal such information in limited and specifically-defined circumstances. See 7 U.S.C. 26(h)(2); 17 CFR 165.4. However, in order to receive a whistleblower award, you will need to be identified to select CFTC staff for a final eligibility determination, and in unusual circumstances, you may need to be identified publicly for trial. You should therefore provide some means for the CFTC's staff to contact you, such as a telephone number or an email address.

Instructions for Completing Form TCR

General

All references to ''you'' and ''your'' are intended to mean the complainant.

Section A: Tell Us About Yourself

Questions 1–14: Please provide the following information about yourself:

☐ last name, first name and middle initial;
☐ complete address, including city, state and zip code;
☐ telephone number and, if available, an alternate number where you can be reached;
☐ your email address (to facilitate communications, we strongly encourage you to provide an email address, especially if you are filing anonymously);
☐ your preferred method of communication; and
☐ your occupation.

Section B: Your Attorney's Information

Complete this section only if you are represented by an attorney in this matter.

Questions 1–10: Provide the following information about your attorney:

☐ attorney's name;
☐ firm name;
☐ complete address, including city, state and zip code;
☐ telephone number and fax number; and
☐ email address.

Section C: Tell Us Who You Are Complaining About

Question 1–2: Choose one of the following that best describes the individual's profession or the type of entity to which your complaint relates:

For Individuals: accountant, analyst, associated person, attorney, auditor, broker, commodity trading advisor, commodity pool operator, compliance officer, employee, executing broker, executive officer or director, financial planner, floor broker, floor trader, trader, unknown or other (specify).

For Entities: bank, commodity pool, commodity pool operator, commodity trading advisor, futures commission merchant, hedge fund, introducing broker, major swap participant, retail foreign exchange dealer, swap dealer, unknown or other (specify).

Questions 3–12: For each individual and/or entity, provide the following information, if known:

☐ full name;
☐ complete address, including city, state and zip code;
☐ telephone number;
☐ email address; and
☐ internet address, if applicable.

Questions 13: If the firm or individual you are complaining about has custody or control of your investment, identify whether you have had difficulty contacting that firm or individual.

Question 14: Identify if you are, or were, associated with the individual or firm you are complaining about. If yes, describe how you are, or were, associated with the individual or firm you are complaining about.

Question 15: Identify the initial form of contact between you and the person against whom you are filing this complaint.

Section D: Tell Us About Your Complaint

Question 1: State the date (mm/dd/yyyy) that the alleged conduct occurred or began.

Question 2: Identify if the conduct is on-going.

Question 3: Choose the option that you believe best describes the nature of your complaint. If you are alleging more

than one violation, please list all that you believe may apply.

Question 4: Select the type of product or instrument you are complaining about.

Question 5: If applicable, please name the product or instrument. If yes, please describe.

Question 6: Identify whether you have suffered a monetary loss. If yes, please describe.

Question 7: Identify if the individual or firm you are complaining about acknowledged their fault.

Question 8: Indicate whether you have taken any other action regarding your complaint, including whether you complained to the CFTC, another regulator, a law enforcement agency, or any other agency or organization, or initiated legal action, mediation, arbitration or any other action.

If you answered yes, provide details, including the date on which you took the action(s) described, the name of the person or entity to whom you directed any report or complaint, and contact information for the person or entity, if known, and the complete case name, case number and forum of any legal action you have taken.

Question 9: State in detail all facts pertinent to the alleged violation. Explain why you believe the facts described constitute a violation of the Commodity Exchange Act.

Question 10: Describe all supporting materials in your possession and the availability and location of any additional supporting materials not in your possession.

Section E: Whistleblower Program

Question 1: Describe how you obtained the information that supports your allegations. If any information was obtained from an attorney or in a communication where an attorney was present, identify such information with as much particularity as possible. In addition, if any information was obtained from a public source, identify the source with as much particularity as possible.

Question 2: Identify any documents or other information in your submission on this Form TCR that you believe could reasonably be expected to reveal your identity. Explain the basis for your belief that your identity would be revealed if the documents or information were disclosed to a third party.

Question 3: State whether you or your attorney have had any prior communication(s) with the CFTC concerning this matter.

If you answered ''yes'', identify the CFTC staff member(s) with whom you or your attorney communicated.

Question 4: Indicate whether you or your attorney have provided the information you are providing to the CFTC to any other agency or organization, or whether any other agency or organization has requested the information or related information from you.

If you answered ''yes'', provide details and the name and contact information of the point of contact at the other agency or organization, if known.

Question 5: Indicate whether your complaint relates to an entity of which you are, or were in the past, an officer, director, counsel, employee, consultant or contractor.

If you answered ''yes'', state whether you have reported this violation to your supervisor, compliance office, whistleblower hotline, ombudsman, or any other available mechanism at the entity for reporting violations. Please provide details, including the date on which you took the action.

Question 6: Indicate whether you have taken any other action regarding your complaint, including whether you complained to the CFTC, another regulator, a law enforcement agency, or any other agency or organization, or initiated legal action, mediation, arbitration or any other action.

If you answered ''yes'', provide details, including the date on which you took the action(s) described, the name of the person or entity to whom you directed any report or complaint, and contact information for the person or entity, if known, and the complete case name, case number and forum of any legal action you have taken.

Question 7: Provide any additional information you think may be relevant.

Section F: Whistleblower Eligibility Requirements and Other Information

Question 1: State whether you are currently, or were at the time that you acquired the original information that you are submitting to the CFTC, a member, officer or employee of: The CFTC; the Board of Governors of the Federal Reserve System; the Office of the Comptroller of the Currency; the Board of Directors of the Federal Deposit Insurance Corporation; the Director of the Office of Thrift Supervision; the National Credit Union Administration Board; the Securities and Exchange Commission; the Department of Justice; a registered entity; a registered futures association; a self-regulatory organization (as defined in 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)); a law enforcement organization; or a foreign regulatory authority or law enforcement organization.

Question 2: State whether you are providing the information pursuant to a cooperation agreement with the CFTC or with another agency or organization.

Question 3: State whether you are providing this information before you (or anyone representing you) received any request, inquiry or demand that relates to the subject matter of this submission (i) from the CFTC, (ii) in connection with an investigation, inspection or examination by any registered entity, registered futures association or self-regulatory organization (as defined in 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)), or (iii) in connection with an investigation by the Congress, or any other federal or state authority.

Question 4: State whether you are currently a subject or target of a criminal investigation, or whether you have been convicted of a criminal violation, in connection with the information you are submitting to the CFTC.

Question 5: State whether you acquired the information you are providing to the CFTC from any individual described in Questions 1 through 4 of this section.

Question 6: If you answered yes to any of Questions 1 through 5, please provide details.

Section G: Privacy Notice and Whistleblower's Declaration

You must sign this Declaration if you are submitting this information pursuant to the CFTC whistleblower program and wish to be considered for an award. If you are submitting your information using the electronic version of Form TCR through the CFTC's web portal, you must check the box to agree with the declaration. If you are submitting your information anonymously, you must still sign this Declaration (using the term ''anonymous'') or check the box as appropriate, and, if you are represented by an attorney, you must provide your attorney with the original of this signed form, or maintain a copy for your own records.

Section H: Counsel Certification

If you are submitting this information pursuant to the CFTC whistleblower program and you are doing so anonymously through an attorney, your attorney must sign the Counsel Certification Section. If your attorney is submitting your information using the electronic version of Form TCR through the CFTC's web portal, he/she must check the box to agree with the

certification. If you are represented in this matter but you are not submitting your information pursuant to the CFTC whistleblower program, your attorney does not need to sign this Certification or check the box.

UNITED STATES
COMMODITY FUTURES TRADING COMMISSION
Washington, DC 20581

FORM WB-APP
APPLICATION FOR AWARD FOR ORIGINAL INFORMATION PROVIDED PURSUANT TO SECTION 23 OF THE COMMODITY EXCHANGE ACT

A. TELL US ABOUT YOURSELF (Required for All Submissions)

1. Last Name	First Name	M.I.	SSN Last Four Digits

2. Street Address	Apartment/Unit #

City	State/Province	ZIP/Postal Code	Country

3. Telephone	Alt. Phone	E-mail Address

B. YOUR ATTORNEY'S INFORMATION (If Applicable – See Instructions)

1. Attorney's Name

2. Firm Name

3. Street Address

City	State/Province	Zip/Postal Code	Country

4. Telephone	Fax	E-mail Address

Please be advised that pursuant to 5 CFR 1320.5(b)(2)(i), you are not required to respond to this collection of information unless it displays a currently valid OMB control number.

C. TELL US ABOUT YOUR TIP OR COMPLAINT	
1a. How did you submit original information to the CFTC? Website ☐ Mail ☐ Fax ☐ Other ☐	1b. Date that you submitted the information (mm/dd/yyyy)
2a. Did you file a CFTC Form TCR? YES ☐ NO ☐	
2b. Form TCR Number	2c. Date that you filed your Form TCR (mm/dd/yyyy)
3. Name(s) of the individual(s) and/or entity(s) to which your tip or complaint relates	

D. NOTICE OF COVERED ACTION	
1. Date of relevant Notice of Covered Action (mm/dd/yyyy)	2. Notice Number
3a. Case Name	3b. Case Number

E. CLAIMS PERTAINING TO RELATED ACTIONS	
1. Name of other agency or organization to which you provided your information	
2. Name and contact information for point of contact at the agency or organization, if known	
3a. Date that you provided the information (mm/dd/yyyy)	3b. Date of action by the agency or organization (mm/dd/yyyy)
4a. Case Name	4b. Case Number

F. ELIGIBILITY REQUIREMENTS AND OTHER INFORMATION

1. Are you currently, or were you at the time that you acquired the original information that you submitted to the CFTC, a member, officer or employee of: the CFTC; the Board of Governors of the Federal Reserve System; the Office of the Comptroller of the Currency; the Board of Directors of the Federal Deposit Insurance Corporation; the Director of the Office of Thrift Supervision; the National Credit Union Administration Board; the Securities and Exchange Commission; the Department of Justice; a registered entity; a registered futures association; a self-regulatory organization; a law enforcement organization; or a foreign regulatory authority or law enforcement organization?

YES ☐ NO ☐

2. Did you provide the information identified in Section C above pursuant to a cooperation agreement with the CFTC or another agency or organization?

YES ☐ NO ☐

3. Before you provided the information identified in Section C above, did you (or anyone representing you) receive any request, inquiry or demand that relates to the subject matter of your submission (i) from the CFTC, (ii) in connection with an investigation, inspection or examination by any registered entity, registered futures association or self-regulatory organization, or (iii) in connection with an investigation by the Congress, or any other federal or state authority?

YES ☐ NO ☐

4. Are you currently a subject or target of a criminal investigation, or have you been convicted of a criminal violation, in connection with the information identified in Section C above and upon which your application for an award is based?

YES ☐ NO ☐

5. Did you acquire the information that you provided to the CFTC from any person described in Questions 1 through 4 above?

YES ☐ NO ☐

6. If you answered "Yes" to any of Questions 1 through 5 above, please provide details. Use additional sheets, if necessary.

G. ENTITLEMENT TO AWARD

Explain the basis for your belief that you are entitled to an award in connection with your submission of information to the CFTC, or to another agency or organization in a related action. Provide any additional information that you think may be relevant in light of the criteria for determining the amount of an award set forth in Section 23 of the Commodity Exchange Act and Part 165 of the CFTC's regulations. Include any supporting documents in your possession or control, and use additional sheets, if necessary.

H. CLAIMANT'S DECLARATION	
I declare under penalty of perjury under the laws of the United States that the information contained herein is true, correct and complete to the best of my knowledge, information and belief. I fully understand that I may be subject to prosecution and ineligible for a whistleblower award if, in my submission of information, my other dealings with the Commodity Futures Trading Commission, or my dealings with another agency or organization in connection with a related action, I knowingly and willfully make any false, fictitious or fraudulent statements or representations, or use any false writing or document knowing that the writing or document contains any false, fictitious or fraudulent statement or entry.	
Print Name	
Signature	Date

I. COUNSEL CERTIFICATION	
I certify that I have reviewed this form for completeness and accuracy and that the information contained herein is true, correct and complete to the best of my knowledge, information and belief. I further certify that I have verified the identity of the whistleblower award claimant on whose behalf this form is being submitted by viewing the claimant's valid, unexpired government issued identification (*e.g.*, driver's license, passport) and will retain an original, signed copy of this form, with Section H signed by the claimant, in my records. I further certify that I have obtained the claimant's non-waivable consent to provide the Commodity Futures Trading Commission with his or her original signed Form WB-APP upon request, and that I consent to be legally obligated to do so within seven (7) calendar days of receiving such a request from the Commodity Futures Trading Commission.	
Print Name of Attorney and Law Firm, if Applicable	
Signature	Date

Privacy Act Statement

This notice is given under the Privacy Act of 1974. The Privacy Act requires that the Commodity Futures Trading Commission (CFTC) inform individuals of the following when asking for information. The solicitation of this information is authorized under the Commodity Exchange Act, 7 U.S.C. 1 *et seq.* The information provided will enable the CFTC to determine the whistleblower award claimant's eligibility for payment of an award pursuant to Section 23 of the Commodity Exchange Act and Part 165 of the CFTC's regulations. This information will be used to investigate and prosecute violations of the Commodity Exchange Act and the CFTC's regulations. This information may be disclosed to federal, state, local or foreign agencies or other authorities responsible for investigating, prosecuting, enforcing or implementing laws, rules or regulations implicated by the information consistent with the confidentiality requirements set forth in Section 23 of the Commodity Exchange Act and Part 165 of the CFTC's regulations. The information will be maintained and additional disclosures may be made in accordance with System of Records Notices CFTC–49, ''Whistleblower Records'' (exempted), CFTC–10, ''Investigatory Records'' (exempted), and CFTC–16, ''Enforcement Case Files.'' The CFTC requests the last four digits of the claimant's Social Security Number for use as an individual identifier to administer and manage the whistleblower award program. Executive Order 9397 (November 22, 1943) allows federal agencies to use the Social Security Number as an individual identifier. Furnishing the information is voluntary. However, if an individual is providing information for the whistleblower award program, not providing required information may result in the individual not being eligible for award consideration.

Questions concerning this form may be directed to Commodity Futures Trading Commission, Whistleblower Office, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581.

Submission Procedures

- This form *must* be used by persons making a claim for a whistleblower award in connection with information provided to the CFTC, or to another agency or organization in a related action. In order to be deemed eligible for an award, you must meet all the requirements set forth in Section 23 of the Commodity Exchange Act and Part 165 of the CFTC's regulations.
- You must sign the Form WB–APP as the claimant. If you wish to submit the Form WB–APP anonymously, you must do so through an attorney, your attorney must sign the Counsel Certification Section of the Form WB–APP that is submitted to the CFTC, and you must give your attorney your original signed Form WB–APP so that it can be produced to the CFTC upon request.
- During the whistleblower award claim process, your identity must be verified in a form and manner that is acceptable to the CFTC prior to the payment of any award.
  - If you are filing your claim in connection with information that you provided to the CFTC, then your Form WB–APP, and any attachments thereto, must be received by the CFTC within ninety (90) days of the date of the Notice of Covered Action, or the date of a final

judgment in a related action to which the claim relates.

○ If you are filing your claim in connection with information that you provided to another agency or organization in a related action, then your Form WB–APP, and any attachments thereto, must be received by the CFTC as follows:

• If a final order imposing monetary sanctions has been entered in a related action at the time that you submit your claim for an award in connection with a CFTC action, you may submit your claim for an award in that related action on the same Form WB–APP that you use for the CFTC action.

• If a final order imposing monetary sanctions in a related action has not been entered at the time that you submit your claim for an award in connection with a CFTC action, you must submit your claim on Form WB–APP within ninety (90) days of the issuance of a final order imposing sanctions in the related action.

• If a final order imposing monetary sanctions in a related action relates to a judicial or administrative action brought by the Commission under the Commodity Exchange Act that is not a covered judicial or administrative action, and therefore there would not be a Notice of Covered Action, you must submit your claim on Form WB–APP for an award in connection with the related action within ninety (90) calendar days following either (1) the date of issuance of a final order in the related action, if that date is after the date of issuance of the final judgment in the related Commission judicial or administrative action; or (2) the date of issuance of the final judgment in the related Commission judicial or administrative action, *i.e.,* the date the related action becomes a related action, if the date of issuance of the final order in the related action precedes the final judgment in the related Commission judicial or administrative action.

• To submit your Form WB–APP, you may print it and either submit it by mail to Commodity Futures Trading Commission, Whistleblower Office, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581, or by facsimile to (202) 418–5975. You also may submit this form electronically, through the web portal found on the CFTC's Web site at *http://www.cftc.gov,* which is also accessible from the CFTC Whistleblower Program Web site at *www.whistleblower.gov.*

Instructions for Completing Form WB–APP

General

All references to ''you'' and ''your'' are intended to mean the whistleblower award claimant.

Section A: Tell Us About Yourself

Questions 1–3: Please provide the following information about yourself:
- last name, first name, middle initial and the last four digits of your Social Security Number;
- complete address, including city, state and zip code;
- telephone number and, if available, an alternate number where you can be reached; and
- your email address (to facilitate communications, we strongly encourage you to provide an email address, especially if you are making your claim anonymously).

Section B: Your Attorney's Information

Complete this section only if you are represented by an attorney in this matter. Questions 1–4: Provide the following information about your attorney:
- attorney's name;
- firm name;
- complete address, including city, state and zip code;
- telephone number and fax number; and
- email address.

Section C: Tell Us About Your Tip or Complaint

Question 1a: Indicate the manner in which you submitted your original information to the CFTC.

Question 1b: Provide the date on which you submitted your original information to the CFTC.

Question 2a: State whether you filed a CFTC Form TCR.

Question 2b: If you filed a CFTC Form TCR, provide the Form's number.

Question 2c: If you filed a CFTC Form TCR, provide the date on which you filed the Form.

Question 3: Provide the name(s) of the individual(s) and/or entity(s) to which your tip or complaint relates.

Section D: Notice of Covered Action

The process for making a claim for a whistleblower award for a CFTC action begins with the publication of a ''Notice of Covered Action'' on the CFTC's Web site. This Notice is published whenever a judicial or administrative action brought by the CFTC results in the imposition of monetary sanctions exceeding $1,000,000. The Notice is published on the CFTC's Web site subsequent to the entry of a final judgment or order in the action that by itself, or collectively with other judgments or orders previously entered in the action, exceeds the $1,000,000 threshold required for a whistleblower to be potentially eligible for an award. The CFTC will not contact whistleblower claimants directly as to Notices of Covered Actions; prospective claimants should monitor the CFTC Web site for such Notices.

Question 1: Provide the date of the Notice of Covered Action to which this claim relates.

Question 2: Provide the notice number of the Notice of Covered Action.

Question 3a: Provide the case name referenced in the Notice of Covered Action.

Question 3b: Provide the case number referenced in the Notice of Covered Action.

Section E: Claims Pertaining to Related Actions

Question 1: Provide the name of the agency or organization to which you provided your information.

Question 2: Provide the name and contact information for your point of contact at the agency or organization, if known.

Question 3a: Provide the date on which you provided your information to the agency or organization referenced in Question 1 of this section.

Question 3b: Provide the date on which the agency or organization referenced in Question 1 of this section filed the related action that was based upon the information that you provided.

Question 4a: Provide the case name of the related action.

Question 4b: Provide the case number of the related action.

Section F: Eligibility Requirements and Other Information

Question 1: State whether you are currently, or were at the time that you acquired the original information that you submitted to the CFTC, a member, officer or employee of: The CFTC; the Board of Governors of the Federal Reserve System; the Office of the Comptroller of the Currency; the Board of Directors of the Federal Deposit Insurance Corporation; the Director of the Office of Thrift Supervision; the National Credit Union Administration Board; the Securities and Exchange Commission; the Department of Justice; a registered entity; a registered futures association; a self-regulatory organization; a law enforcement organization; or a foreign regulatory authority or law enforcement organization.

Question 2: State whether you provided the information that you submitted to the CFTC pursuant to a cooperation agreement with the CFTC, or with any other agency or organization.

Question 3: State whether you provided this information before you (or anyone representing you) received any request, inquiry or demand that relates to the subject matter of your submission (i) from the CFTC, (ii) in connection with an investigation, inspection or examination by any registered entity, registered futures association or self-regulatory organization, or (iii) in connection with an investigation by the Congress, or any other federal or state authority.

Question 4: State whether you are currently a subject or target of a criminal investigation, or whether you have been convicted of a criminal violation, in connection with the information that you submitted to the CFTC and upon which your application for an award is based.

Question 5: State whether you acquired the information that you provided to the CFTC from any individual described in Questions 1 through 4 of this section.

Question 6: If you answered yes to any of Questions 1 through 5 of this section, please provide details.

Section G: Entitlement to Award

This section is optional. Use this section to explain the basis for your belief that you are entitled to an award in connection with your submission of information to the CFTC, or to another agency in connection with a related action. Specifically, address why you believe that you voluntarily provided the CFTC with original information that led to the successful enforcement of a judicial or administrative action filed by the CFTC, or a related action. Refer to § 165.9 of the CFTC's regulations for further information concerning the relevant award criteria.

Section 23(c)(1)(B) of the Commodity Exchange Act and § 165.9(a) of the CFTC's regulations require the CFTC to consider the following factors in determining the amount of an award: (1) The significance of the information provided by a whistleblower to the success of the CFTC action or related action; (2) the degree of assistance provided by the whistleblower and any legal representative of the whistleblower in the CFTC action or related action; (3) the programmatic interest of the CFTC in deterring violations of the Commodity Exchange Act (including regulations under the Act) by making awards to whistleblowers who provide information that leads to the successful enforcement of such laws; (4) whether the award otherwise enhances the CFTC's ability to enforce the Commodity Exchange Act, protect customers, and encourage the submission of high quality information from whistleblowers; and (5) potential adverse incentives from oversize awards. Address these factors in your response as well.

Section H: Claimant's Declaration

You must sign this Declaration if you are submitting this claim pursuant to the CFTC whistleblower program and wish to be considered for an award. If you are submitting your claim anonymously, you must do so through an attorney, and you must provide your attorney with your original signed Form WB–APP.

Section I: Counsel Certification

If you are submitting this claim pursuant to the CFTC whistleblower program anonymously, you must do so through an attorney, and your attorney must sign the Counsel Certification Section.

Issued in Washington, DC, on May 22, 2017, by the Commission.

Christopher J. Kirkpatrick,

Secretary of the Commission.

Note: The following appendix will not appear in the Code of Federal Regulations.

Appendix to Whistleblower Awards Process—Commission Voting Summary

On this matter, Acting Chairman Giancarlo and Commissioner Bowen voted in the affirmative. No Commissioner voted in the negative.

[FR Doc. 2017–10801 Filed 5–26–17; 8:45 am]

BILLING CODE 6351–01–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Parts 28, 30, 87, 180, and 3282

[Docket No. FR–5942–F–02]

RIN 2501–AD79

Inflation Catch-Up Adjustment of Civil Monetary Penalty Amounts Final Rule and Adjustment of Civil Monetary Penalty Amounts for 2017

AGENCY: Office of the General Counsel, HUD.

ACTION: Final rule.

SUMMARY: This rule makes final the interim final rule, published on June 15, 2016, to amend HUD's civil monetary penalty (CMP) regulations. The interim final rule applied a new methodology to calculate civil money penalties as mandated by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, starting with a ''catch up'' adjustment to correct previous inaccuracies; removed three obsolete civil monetary penalty provisions; and made a technical change to the existing codified regulation implementing the Program Fraud Civil Remedies Act. The changes from the interim final rule made final by this final rule continue to be effective as of August 16, 2016.

In addition, this rule provides for 2017 inflation adjustments of civil monetary penalty amounts required by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, and makes three technical amendments and a conforming statutory change.

DATES: *Effective date:* June 29, 2017.

Applicability date: The applicability date for catch-up adjustment was August 16, 2016.

FOR FURTHER INFORMATION CONTACT: Dane Narode, Associate General Counsel, Office of Program Enforcement, Department of Housing and Urban Development, 1250 Maryland Avenue SW., Suite 200, Washington, DC 20024; telephone number 202–245–4141 (this is not a toll-free number). Hearing- or speech-impaired individuals may access this number via TTY by calling the Federal Information Relay Service, toll-free, at 800–877–8339.

SUPPLEMENTARY INFORMATION:

I. Background

A. The June 15, 2016, Interim Rule

The Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (2015 Act) (Pub. L. 114–74) amended the Federal Civil Penalties Inflation Adjustment Act of 1990 (28 U.S.C. 2461 note) requiring all Federal agencies to issue an interim final rule implementing changes to their civil money penalties. On June 15, 2016, pursuant to the requirements of the 2015 Act, HUD published an interim final rule for public comment, entitled ''Inflation Catch-Up Adjustment of Civil Monetary Penalty Amounts'' (81 FR 38931). The 2015 Act required agencies to make an initial catch-up adjustment by interim final rule, using a new methodology designed to correct inaccuracies in the previous method of computing inflation adjustments. In order to address these inaccuracies, the 2015 Act excluded adjustments made under the law prior to its amendment, and it provided that the initial catch-up adjustment was the percentage by which

the Consumer Price Index (CPI) for the month of October 2015 exceeded that of the month of October of the calendar year during which the amount of the CMP was originally established or otherwise adjusted under a provision of law other than the Federal Civil Money Penalties Inflation Adjustment Act of 1990. Increases in the initial catch-up adjustment were capped at 150 percent of the amount of the CMP in effect as of the date of enactment of the 2015 Act.

The interim final rule established the new adjusted penalty amount for each provision under which HUD is authorized to assess a CMP (81 FR 38935–38936); removed the obsolete CMP provisions that were codified at 24 CFR 30.30, 30.55, and 30.69 (81 FR 38935); and made a correction to 24 CFR 28.10 to include liability for causing a false claim or statement to be made, in addition to liability for making a false claim or statement (81 FR 38935).

The public comment period for the interim final rule closed on August 15, 2016. The interim final rule became effective on August 16, 2016. The August 16, 2016, effective date for the amendments made by the interim final rule is unchanged. HUD received one comment in response to the interim final rule, but it was not actually relevant to any issue in the interim final rule.[1]

B. This 2017 Inflation Adjustment

After the catch-up adjustment, the 2015 Act requires agencies to make subsequent annual adjustments for inflation ''notwithstanding section 553 of title 5, United States Code.'' Section 553 refers to the Administrative Procedure Act, which might otherwise require a delay for advance notice and opportunity for public comment on future annual inflation adjustments. The first of these subsequent adjustments is for 2017.

The annual adjustment is based on the percent change between the U.S. Department of Labor's Consumer Price Index for All Urban Consumers (''CPI–U'') for the month of October preceding the date of the adjustment, and the CPI–U for October of the prior year (28 U.S.C. 2461 note, section (5)(b)(1)). Based on that formula, the cost-of-living adjustment multiplier for 2017 is 1.01636.[2] Pursuant to the 2015 Act, adjustments are rounded to the nearest dollar.[3]

II. This Final Rule

This rule makes final the June 15, 2016, interim rule. In addition, this rule makes the required 2017 inflation adjustment. Since HUD is not applying these adjustments retroactively, the 2016 increases being finalized apply to violations occurring prior to the effective date of this final rule (and on and after the effective date of the 2016 interim rule) and the 2017 increases apply to violations occurring on or after this rule's effective date.

Along with the 2017 inflation adjustment in this final rule, HUD also makes conforming and technical amendments to §§ 30.5, 30.10, 30.35, 30.36, and 30.80. Specifically, references to the former mortgage assignment procedures (in § 30.35), Urban Homesteading program (in §§ 30.5 and 30.80), and the Loan Correspondent program (in § 30.36) are removed, as those programs have been ended and are no longer active. In addition, the Helping Families Save Their Homes Act of 2009 (Pub. L. 111–22) amended the HUD Reform Act of 1989 (12 U.S.C. 1735f–14(a)(2)) definition for ''knowing or knowingly'' as it applies to civil money penalties against mortgagees, lenders, and other participants in FHA programs. This rule amends the definition for ''knowing or knowingly'' in § 30.10 to include the 2009 statutory definition.

For each component, HUD provides a table showing how the penalties are being adjusted for 2017 pursuant to the 2015 Act. In the first column, HUD provides a description of the penalty. In the second column (''Statutory Citation,'') HUD provides the United States Code statutory citation providing for the penalty. In the third column (''Regulatory citation''), HUD provides the Code of Federal Regulations citation under title 24 for the penalty. In the fourth column (''Previous Amount''), HUD provides the amount of the penalty pursuant to the interim rule implementing the ''catch-up'' adjustment (81 FR 38931, June 15, 2016). In the fifth column, (''2017 Adjusted Amount'') HUD lists the penalty after applying the 2017 inflation adjustment.

Description	Statutory citation	Regulatory citation (24 CFR)	Previous amount	2017 Adjusted amount
False Claims & Statements.	Omnibus Budget Reconciliation Act of 1986 (31 U.S.C. 3802(a)(1)).	§ 28.10	$10,781	$10,957
Advance Disclosure of Funding.	Department of Housing and Urban Development Act (42 U.S.C. 3537a(c)).	§ 30.20	$18,936	$19,246
Disclosure of Subsidy Layering.	Department of Housing and Urban Development Act (42 U.S.C. 3545(f)).	§ 30.25	$18,936	$19,246
FHA Mortgagees and Lenders Violations.	HUD Reform Act of 1989 (12 U.S.C. 1735f–14(a)(2)).	§ 30.35	Per Violation: $9,468 Per Year: $1,893,610.	Per Violation: $9,623 Per Year: $1,924,589
Other FHA Participants Violations.	HUD Reform Act of 1989 (12 U.S.C. 1735f–14(a)(2)).	§ 30.36	Per Violation: $9,468 Per Year: $1,893,610.	Per Violation: $9,623 Per Year: $1,924,589
Indian Loan Mortgagees Violations.	Housing Community Development Act of 1992 (12 U.S.C. 1715z–13a(g)(2)).	§ 30.40	Per Violation: $9,468 Per Year: $1,893,610.	Per Violation: $9,623 Per Year: $1,924,589
Multifamily & Section 202 or 811 Owners Violations.	HUD Reform Act of 1989 (12 U.S.C. 1735f–15(c)(2)).	§ 30.45	$47,340	$48,114
Ginnie Mae Issuers & Custodians Violations.	HUD Reform Act of 1989 (12 U.S.C. 1723i(b))	§ 30.50	Per Violation: $9,468 Per Year: $1,893,610.	Per Violation: $9,623 Per Year: $1,924,589
Title I Broker & Dealers Violations.	HUD Reform Act of 1989 (12 U.S.C. 1703)	§ 30.60	Per Violation: $9,468 Per Year: $1,893,610.	Per Violation: $9,623 Per Year: $1,924,589

[1] The comment is available for public inspection at: *https://www.regulations.gov/docket?D=HUD-2016-0062.*

[2] Office of Management and Budget, M–17–11, Memorandum for the Heads of Executive Departments and Agencies, Implementation of the 2017 annual adjustment pursuant to the Federal Civil Penalties Inflation Adjustment Act. (*https://obamawhitehouse.archives.gov/sites/default/files/omb/memoranda/2017/m-17-11_0.pdf*). (October 2016 CPI–U (241.729) − October 2015 CPI–U (237.838) = 1.01636.)

[3] 28 U.S.C. 2461 note.

Description	Statutory citation	Regulatory citation (24 CFR)	Previous amount	2017 Adjusted amount
Lead Disclosure Violation.	Title X—Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4852d(b)(1)).	§ 30.65	$16,773	$17,047
Section 8 Owners Violations.	Multifamily Assisted Housing Reform and Affordability Act of 1997 (42 U.S.C. 1437z–1(b)(2)).	§ 30.68	$36,794	$37,396
Lobbying Violation	The Lobbying Disclosure Act of 1995 (31 U.S.C. 1352).	§ 87.400	Min: $18,936 Max: $189,361.	Min: $19,246 Max: $192,459
Fair Housing Act Civil Penalties.	Fair Housing Amendments Act of 1988 (42 U.S.C. 3612(g)(3)).	§ 180.671(a)	No Priors: $19,787 One Prior: $49,467 Two or More Priors: $98,935.	No Priors: $20,111 One Prior: $50,276 Two or More Priors: $100,554
Manufactured Housing Regulations Violation.	Housing Community Development Act of 1974 (42 U.S.C. 5410).	§ 3282.10	Per Violation: $2,750 Per Year: $3,437,500.	Per Violation: $2,795 Per Year: $3,493,738

III. Justification for Final Rulemaking for the 2017 Adjustments

HUD generally publishes regulations for public comment before issuing a rule for effect, in accordance with its own regulations on rulemaking in 24 CFR part 10. However, part 10 provides for exceptions to the general rule if the agency finds good cause to omit advanced notice and public participation. The good cause requirement is satisfied when prior public procedure is ''impractical, unnecessary, or contrary to the public interest'' (see 24 CFR 10.1). As discussed, this final rule adopts without change the amendments offered for public comment in the June 15, 2106, interim final rule. In addition, this rule makes the required 2017 inflation adjustment, which HUD does not have discretion to change. Moreover, the 2015 Act specifies that a delay in the effective date under the Administrative Procedure Act is not required for subsequent annual adjustments under the 2015 Act. HUD has determined, therefore, that it is unnecessary to delay the effectiveness of the 2017 inflation adjustments to solicit prior public comments.

As discussed in the preamble to the June 15, 2016, interim final rule, section 7(o) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(o)) requires that any HUD regulation implementing any provision of the Department of Housing and Urban Development Reform Act of 1989 that authorizes the imposition of a civil money penalty may not become effective until after the expiration of a public comment period of not less than 60 days. HUD met this separate 60-day delay requirement for implementing civil money penalties when HUD implemented the new 2015 Act penalty calculation in its June 16, 2016, interim final rule.

Moreover, and as noted above, the 2017 inflation adjustments are made in accordance with a statutorily prescribed formula that does not provide for agency discretion. Accordingly, a delay in the effectiveness of the 2017 inflation adjustments in order to provide the public with an opportunity to comment is unnecessary because the 2015 Act exempts the adjustments from the need for delay and, in any event, HUD would not have the discretion to make changes as a result of any comments.

IV. Findings and Certifications

Regulatory Review—Executive Orders 12866 and 13563

Under Executive Order 12866 (Regulatory Planning and Review), a determination must be made whether a regulatory action is significant and, therefore, subject to review by the Office of Management and Budget (OMB) in accordance with the requirements of the order. Executive Order 13563 (Improving Regulations and Regulatory Review) directs executive agencies to analyze regulations that are ''outmoded, ineffective, insufficient, or excessively burdensome, and to modify, streamline, expand, or repeal them in accordance with what has been learned. Executive Order 13563 also directs that, where relevant, feasible, and consistent with regulatory objectives, and to the extent permitted by law, agencies are to identify and consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public. As discussed above in this preamble, this final rule adjusts existing civil monetary penalties for inflation by a statutorily required amount.

As a result of this review, OMB determined that this rule was not significant under Executive Order 12866 and Executive Order 13563.

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Because HUD has determined that good cause exists to issue this rule without prior public comment, this rule is not subject to the requirement to publish an initial or final regulatory flexibility analysis under the RFA as part of such action.

Unfunded Mandates Reform

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) [4] requires that an agency prepare a budgetary impact statement before promulgating a rule that includes a Federal mandate that may result in 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. If a budgetary impact statement is required, section 205 of UMRA also requires an agency to identity and consider a reasonable number of regulatory alternatives before promulgating a rule.[5] However, the UMRA applies only to rules for which an agency publishes a general notice of proposed rulemaking. As discussed above, HUD has determined, for good cause, that prior notice and public comment is not required on this rule and, therefore, the UMRA does not apply to this final rule.

Executive Order 13132, Federalism

Executive Order 13132 (entitled ''Federalism'') prohibits an agency from publishing any rule that has federalism implications if the rule either imposes

[4] 2 U.S.C. 1532.

[5] 2 U.S.C. 1534.

substantial direct compliance costs on State and local governments and is not required by statute, or the rule preempts State law, unless the agency meets the consultation and funding requirements of section 6 of the Executive Order. This rule will not have federalism implications and would not impose substantial direct compliance costs on State and local governments or preempt State law within the meaning of the Executive order.

Environmental Review

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

List of Subjects

24 CFR Part 28

Administrative practice and procedure, Claims, Fraud, Penalties.

24 CFR Part 30

Administrative practice and procedure, Grant programs—housing and community development, Loan programs—housing and community development, Mortgage insurance, Penalties.

24 CFR Part 87

Government contracts, Grant programs, Loan programs, Lobbying, Penalties, Reporting and recordkeeping requirements.

24 CFR Part 180

Administrative practice and procedure, Aged, Civil rights, Fair housing, Individuals with disabilities, Investigations, Mortgages, Penalties, Reporting and recordkeeping requirements.

24 CFR Part 3282

Administrative practice and procedure, Consumer protection, Intergovernmental relations, Manufactured homes, Reporting and recordkeeping requirements.

Accordingly, for the reasons described in the preamble, HUD adopts as final the interim final rule published on June 15, 2016, at 81 FR 38931, and further amends 24 CFR parts 28, 30, 87, 180, and 3282 as follows:

PART 28—IMPLEMENTATION OF THE PROGRAM FRAUD CIVIL REMEDIES ACT OF 1986

■ 1. The authority citation for part 28 continues to read as follows:

Authority: 28 U.S.C. 2461 note; 31 U.S.C. 3801–3812; 42 U.S.C. 3535(d).

■ 2. In § 28.10, revise the introductory text of paragraphs (a)(1) and (b)(1), to read as follows:

§ 28.10 Basis for civil penalties and assessments.

(a) * * *

(1) A civil penalty of not more than $10,957 may be imposed upon any person who makes, presents, or submits, or causes to be made, presented, or submitted, a claim that the person knows or has reason to know:

* * * * *

(b) * * *

(1) A civil penalty of not more than $10,957 may be imposed upon any person who makes, presents, or submits, or causes to be made, presented, or submitted, a written statement that:

* * * * *

PART 30—CIVIL MONEY PENALTIES: CERTAIN PROHIBITED CONDUCT

■ 3. The authority citation for part 30 continues to read as follows:

Authority: 12 U.S.C. 1701q–1, 1703, 1723i, 1735f–14, and 1735f–15; 15 U.S.C. 1717a; 28 U.S.C. 1 note and 2461 note; 42 U.S.C. 1437z–1 and 3535(d).

§ 30.5 [Amended]

■ 4. In § 30.5, remove paragraph (c) and redesignate paragraphs (d), (e), and (f) as paragraphs (c), (d), and (e), respectively.

§ 30.10 [Amended]

■ 5. In § 30.10, add at the end of the definition of ''Knowing or Knowingly'' the sentence ''For purposes of §§ 30.35 and 30.36, *knowing* or *knowingly* is defined at 12 U.S.C. 1735f–14(g).''

■ 6. In § 30.20, revise paragraph (b) to read as follows:

§ 30.20 Ethical violations by HUD employees.

* * * * *

(b) *Maximum penalty.* The maximum penalty is $19,246 for each violation.

■ 7. In § 30.25, revise paragraph (b) to read as follows:

§ 30.25 Violations by applicants for assistance.

* * * * *

(b) *Maximum penalty.* The maximum penalty is $19,246 for each violation.

■ 8. In § 30.35, remove the words ''§§ 203.650 through 203.664'' in paragraph (a)(7) and add in their place ''§ 203.664''; and revise the first sentence in paragraph (c)(1) to read as follows:

§ 30.35 Mortgagees and lenders.

* * * * *

(c)(1) *Amount of penalty.* The maximum penalty is $9,623 for each violation, up to a limit of $1,924,589 for all violations committed during any one-year period. * * *

* * * * *

■ 9. In § 30.36, remove the words ''or correspondent'' in paragraph (b)(3) and revise the first sentence in paragraph (c) to read as follows:

§ 30.36 Other participants in FHA programs.

* * * * *

(c) *Amount of penalty.* The maximum penalty is $9,623 for each violation, up to a limit of $1,924,589 for all violations committed during any one-year period. * * *

■ 10. In § 30.40, revise the first sentence in paragraph (c) to read as follows:

§ 30.40 Loan guarantees for Indian housing.

* * * * *

(c) *Amount of penalty.* The maximum penalty is $9,623 for each violation, up to a limit of $1,924,589 for all violations committed during any one-year period. * * *

■ 11. In § 30.45, revise paragraph (g) to read as follows:

§ 30.45 Multifamily and section 202 or 811 mortgagors.

* * * * *

(g) *Maximum penalty.* The maximum penalty for each violation under paragraphs (c) and (f) of this section is $48,114.

* * * * *

■ 12. In § 30.50, revise the first sentence in paragraph (c) to read as follows:

§ 30.50 GNMA issuers and custodians.

* * * * *

(c) *Amount of penalty.* The maximum penalty is $9,623 for each violation, up to a limit of $1,924,589 during any one-year period. * * *

■ 13. In § 30.60, revise paragraph (c) to read as follows:

§ 30.60 Dealers or sponsored third-party originators.

* * * * *

(c) *Amount of penalty.* The maximum penalty is $9,623 for each violation, up to a limit for any particular person of $1,924,589 during any one-year period.

■ 14. In § 30.65, revise paragraph (b) to read as follows:

§ 30.65 Failure to disclose lead-based paint hazards.

* * * * *

(b) *Amount of penalty.* The maximum penalty is $17,047 for each violation.

■ 15. In § 30.68, revise paragraph (c) to read as follows:

§ 30.68 Section 8 owners.

* * * * *

(c) *Maximum penalty.* The maximum penalty for each violation under this section is $37,396.

* * * * *

§ 30.80 [Amended]

■ 16. In § 30.80, add the word ''and'' after paragraph (h); remove paragraph (i); and redesignate paragraphs (j), (k), and (l) as paragraphs (i), (j), and (k), respectively.

PART 87—NEW RESTRICTIONS ON LOBBYING

■ 17. The authority citation for part 87 continues to read as follows:

Authority: 28 U.S.C. 1 note; 31 U.S.C. 1352; 42 U.S.C. 3535(d).

■ 18. In § 87.400, revise paragraphs (a), (b), and (e) to read as follows:

§ 87.400 Penalties.

(a) Any person who makes an expenditure prohibited herein shall be subject to a civil penalty of not less than $19,246 and not more than $192,459 for each such expenditure.

(b) Any person who fails to file or amend the disclosure form (see appendix B) to be filed or amended if required herein, shall be subject to a civil penalty of not less than $19,246 and not more than $192,459 for each such failure.

* * * * *

(e) First offenders under paragraphs (a) or (b) of this section shall be subject to a civil penalty of $19,246, absent aggravating circumstances. Second and subsequent offenses by persons shall be subject to an appropriate civil penalty between $19,246 and $192,459, as determined by the agency head or his or her designee.

* * * * *

PART 180—CONSOLIDATED HUD HEARING PROCEDURES FOR CIVIL RIGHTS MATTERS

■ 19. The authority citation for part 180 continues to read as follows:

Authority: 28 U.S.C. 1 note; 29 U.S.C. 794; 42 U.S.C. 2000d–1, 3535(d), 3601–3619, 5301–5320, and 6103.

■ 20. In § 180.671, revise paragraphs (a)(1), (2), and (3) to read as follows:

§ 180.671 Assessing civil penalties for Fair Housing Act cases.

(a) * * *

(1) $20,111, if the respondent has not been adjudged in any administrative hearing or civil action permitted under the Fair Housing Act or any state or local fair housing law, or in any licensing or regulatory proceeding conducted by a federal, state, or local governmental agency, to have committed any prior discriminatory housing practice.

(2) $50,276, if the respondent has been adjudged in any administrative hearing or civil action permitted under the Fair Housing Act, or under any state or local fair housing law, or in any licensing or regulatory proceeding conducted by a federal, state, or local government agency, to have committed one other discriminatory housing practice and the adjudication was made during the 5-year period preceding the date of filing of the charge.

(3) $100,554, if the respondent has been adjudged in any administrative hearings or civil actions permitted under the Fair Housing Act, or under any state or local fair housing law, or in any licensing or regulatory proceeding conducted by a federal, state, or local government agency, to have committed two or more discriminatory housing practices and the adjudications were made during the 7-year period preceding the date of filing of the charge.

* * * * *

PART 3282—MANUFACTURED HOME PROCEDURAL AND ENFORCEMENT REGULATIONS

■ 21. The authority citation for part 3282 continues to read as follows:

Authority: 28 U.S.C. 1 note; 28 U.S.C. 2461 note; 42 U.S.C. 3535(d) and 5424.

■ 22. Revise § 3282.10 to read as follows:

§ 3282.10 Civil and criminal penalties.

Failure to comply with these regulations may subject the party in question to the civil and criminal penalties provided for in section 611 of the Act, 42 U.S.C. 5410. The maximum amount of penalties imposed under section 611 of the Act shall be $2,795 for each violation, up to a maximum of $3,493,738 for any related series of violations occurring within one year from the date of the first violation.

Dated: May 22, 2017.

Bethany A. Zorc,

Principal Deputy General Counsel.

[FR Doc. 2017–11056 Filed 5–26–17; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2017–0408]

RIN 1625–AA00

Safety Zone; Buffalo Carnival; Buffalo Outer Harbor, Buffalo, NY

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on Lake Erie, Buffalo Outer Harbor, Buffalo, NY. This safety zone is intended to restrict vessels from a portion of the Outer Harbor during the May 28, 2017 fireworks display. This temporary safety zone is necessary to protect mariners and vessels from the navigational hazards associated with a fireworks display.

DATES: This rule is effective from 8:45 p.m. until 9:45 p.m. on May 28, 2017.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type USCG–2017–0408 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 LT Michael Collet, Chief of Waterways Management, U.S. Coast Guard Sector Buffalo; telephone 716–843–9322, email *SectorBuffaloMarineSafety@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

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

good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because doing so would be impracticable. The final details of this event were not known to the Coast Guard until there was insufficient time remaining before the event to publish an NPRM. Thus, delaying the effective date of this rule to wait for a comment period to run would be impracticable because it would inhibit the Coast Guard's ability to protect mariners and vessels from the hazards associated with a maritime fireworks display. Therefore, under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this temporary rule effective less than 30 days after publication in the **Federal Register**.

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 Buffalo (COTP) has determined that a maritime fireworks show presents significant risks to public safety and property. Such hazards include premature and accidental detonations, dangerous projectiles, and falling or burning debris. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone while the fireworks show is taking place.

IV. Discussion of the Rule

This rule establishes a safety zone on May 28, 2017 from 8:45 p.m. until 9:45 p.m. The safety zone will encompass all waters of the Buffalo Outer Harbor contained within a 280-foot radius of position 42°52′10.75″ N. and 078°52′56.01″ W. (NAD 83).

Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Buffalo or his designated on-scene representative. The Captain of the Port or his designated on-scene representative may be contacted via VHF Channel 16.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive order 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. Executive Order 13771 (''Reducing Regulation and Controlling Regulatory Costs''), directs agencies to reduce regulation and control regulatory costs and provides that ''for every one new regulation issued, at least two prior regulations be identified for elimination, and that the cost of planned regulations be prudently managed and controlled through a budgeting process.''

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 this rule is not a significant regulatory action, this rule is exempt from the requirements of Executive Order 13771. See OMB's Memorandum titled ''Interim Guidance Implementing Section 2 of the Executive Order of January 30, 2017 titled 'Reducing Regulation and Controlling Regulatory Costs' '' (February 2, 2017).

We conclude that this rule is not a significant regulatory action because we anticipate that it will have minimal impact on the economy, will not interfere with other agencies, will not adversely alter the budget of any grant or loan recipients, and will not raise any novel legal or policy issues. The safety zone created by this rule will be relatively small and enforced for a relatively short time. Also, the safety zone is designed to minimize its impact on navigable waters. Furthermore, the safety zone has been designed to allow vessels to transit around it. Thus, restrictions on vessel movement within that particular area are expected to be minimal. Under certain conditions, moreover, vessels may still transit through the safety zone when permitted by the Captain of the Port.

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 certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: This safety zone would be effective, and thus subject to enforcement for only one hour late in the evening. Traffic may be allowed to pass through the zone with the permission of the Captain of the Port. The Captain of the Port can be reached via VHF channel 16. Before the enforcement of the zone, we would issue local Broadcast Notice to Mariners.

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 above.

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 it is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule creates a temporary safety zone and is categorically excluded under section 2.B.2, figure 2–1, paragraph 34(g) of the Instruction, which pertains to establisnment of safety zones. A Record of Environmental Consideration (REC) supporting this determination is available in the docket where indicated in the **ADDRESSES** section of this preamble.

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, 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.T09–0408 to read as follows:

§ 165.T09–0408 Safety Zone; Buffalo Carnival, Buffalo Outer Harbor; Buffalo, NY.

(a) *Location.* This zone will encompass all waters of Buffalo Outer Harbor, Buffalo, NY contained within a 280-foot radius of position 42°52″10.76″ N. and 078°52′56.01″ W. (NAD 83).

(b) *Enforcement period.* This rule is effective on May 28, 2017 from 8:45 p.m. until 9:45 p.m.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry into, transiting, or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port Buffalo or his designated on-scene representative.

(2) This safety zone is closed to all vessel traffic, except as may be permitted by the Captain of the Port Buffalo or his designated on-scene representative.

(3) The ''on-scene representative'' of the Captain of the Port Buffalo is any Coast Guard commissioned, warrant or petty officer who has been designated by the Captain of the Port Buffalo to act on his behalf.

(4) Vessel operators desiring to enter or operate within the safety zone must contact the Captain of the Port Buffalo or his on-scene representative to obtain permission to do so. The Captain of the Port Buffalo or his on-scene representative may be contacted via VHF Channel 16. Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the Captain of the Port Buffalo, or his on-scene representative.

Dated: May 23, 2017.

J.S. Dufresne,

Captain, U.S. Coast Guard, Captain of the Port Buffalo.

[FR Doc. 2017–11026 Filed 5–26–17; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2016–0772; FRL–9962–82–Region 9]

Determination of Attainment and Approval of Base Year Emissions Inventories for the Imperial County, California Fine Particulate Matter Nonattainment Area; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correcting amendment.

SUMMARY: On March 13, 2017, the Environmental Protection Agency (EPA) published a direct final rule in the **Federal Register** determining that the Imperial County, California Moderate nonattainment area (''the Imperial County NA'') attained the 2006 24-hour fine particulate matter ($PM_{2.5}$) national ambient air quality standard. In the same action, the EPA approved a revision to California's state implementation plan (SIP) consisting of the 2008 emissions inventory for the Imperial County NA submitted by the California Air Resources Board (CARB or ''State'') on January 9, 2015. The EPA's description in regulatory text of the SIP element that was approved inadvertently included information unrelated to the 2008 emissions inventory. This document corrects the regulatory text to clarify the provisions of the SIP that are approved.

DATES: This correcting amendment is effective on May 30, 2017.

FOR FURTHER INFORMATION CONTACT: Ginger Vagenas, EPA Region IX, (415) 972–3964, *Vagenas.Ginger@epa.gov.*

SUPPLEMENTARY INFORMATION: This action corrects an inadvertent error in a rulemaking related to the EPA's approval of the 2008 emissions inventory for the Imperial County NA. On March 13, 2017, the EPA published a direct final rule approving a revision of the California SIP—specifically, we approved the portion of Chapter 3 of CARB's January 9, 2015 submittal that contains the 2008 emissions inventory for the Imperial County NA. This action contained amendatory instructions that added paragraph (484) to 40 CFR 52.220(c). However, in the amendatory instructions the EPA inadvertently failed to exclude Section 3.4.2 (''Determination of Significant Sources of $PM_{2.5}$'') from the portions of the SIP we intended to approve. This document corrects that error.

Correction

In the direct final rule published in the **Federal Register** on March 13, 2017 (82 FR 13392), on page 13397, third column, in amendatory instruction 2, § 52.220(c)(484)(ii)(A)(*1*) should have listed Section 3.4.2 (''Determination of Significant Sources of $PM_{2.5}$'') among the portions of Chapter 3 that the EPA was excluding from its approval.

The EPA has determined that this action falls under the ''good cause'' exemption in section 553(b)(B) of the Administrative Procedure Act (APA) which, upon finding ''good cause,'' authorizes agencies to dispense with public participation where public notice and comment procedures are impracticable, unnecessary, or contrary to the public interest. Public notice and comment for this action are unnecessary because the underlying rule for which this correcting amendment has been prepared was already subject to a 30-day comment period. No comments were received. Further, this action, which corrects an inadvertent regulatory text error that was included in the EPA's March 13, 2017 direct final rule, is consistent with the substantive revision to the California SIP as described in the preamble of said action concerning the approval of the 2008 emissions inventory for the Imperial County NA. Because this correction action does not change the EPA's analysis or overall action related to the approval of the 2008 emissions inventory, no purpose would be served by additional public notice and comment. Consequently, additional public notice and comment are unnecessary.

The EPA also finds that there is good cause under APA section 553(d)(3) for the correction in the amendatory instructions and related paragraph designation to become effective on the date of publication. Section 553(d)(3) of the APA allows an effective date less than 30 days after publication ''as otherwise provided by the agency for good cause found and published with the rule.'' 5 U.S.C. 553(d)(3). This rule does not create any new regulatory requirements such that affected parties would need time to prepare before the rule takes effect. This action merely corrects an inadvertent error in the regulatory text of the EPA's prior rulemaking for the California SIP. For these reasons, the EPA finds good cause under APA section 553(d)(3) for the correction to § 52.220(c)(484)(ii)(A)(*1*) to become effective on the date of publication of this final rule.

Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). Because the agency has made a ''good cause'' finding that this action is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statute as indicated in the **SUPPLEMENTARY INFORMATION** section, above, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) or to sections 202 and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4). In addition, this action does not significantly or uniquely affect small governments or impose a significant intergovernmental mandate, as described in sections 203 and 204 of UMRA. This rule also 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, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it 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, as specified by Executive Order 13132 (64 FR 43255, August 10, 1999). This rule also is not subject to Executive Order 13045, ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant. In addition, this rule does not involve technical standards, thus the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule also does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 808 allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary or contrary to the public interest. This determination must be supported by a brief statement. 5 U.S.C. 808(2). As stated previously, the EPA has made such a good cause finding, including the reasons therefore, and established an effective date of May 30, 2017. The 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**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 52

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

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

Dated: May 4, 2017.

Alexis Strauss,

Acting Regional Administrator, Region IX.

Accordingly, 40 CFR part 52 is corrected by making the following correcting amendment:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart F—California

■ 2. Section 52.220 is amended by revising paragraph (c)(484)(ii)(A)(*1*) to read as follows:

§ 52.220 Identification of plan—in part.

* * * * *

(c) * * *

(484) * * *

(ii) * * *

(A) * * *

(*1*) ''Imperial County 2013 State Implementation Plan for the 2006 24-Hour $PM_{2.5}$ Moderate Nonattainment Area,'' adopted December 2, 2014, Chapter 3 (''Emissions Inventory'') excluding: Section 3.4.1

(''Determination of Significant Sources of $PM_{2.5}$ Precursors''); Section 3.4.2 (''Determination of Significant Sources of $PM_{2.5}$''); the 2011 and 2012 winter and annual average inventories in Table 3.1 (''$PM_{2.5}$ Emissions Inventory by Major Source Category 2008, 2011 and 2012 Winter and Annual Planning Emissions Inventories''); the 2011 and 2012 winter and annual average inventories in Table 3.7 (''NO_X Emissions Inventory by Major Source Category 2008, 2011 and 2012 Winter and Annual Planning Emissions Inventories''); the 2011 and 2012 winter and annual average inventories in Table 3.8 (''VOCs Emissions Inventory by Major Source Category 2008, 2011 and 2012 Winter and Annual Planning Emissions Inventories''); the 2011 and 2012 winter and annual average inventories in Table 3.9 (''SO_X Emissions Inventory by Major Source Category 2008, 2011 and 2012 Winter and Annual Planning Emissions Inventories''); and the 2011 and 2012 winter and annual average inventories in Table 3.10 (''Ammonia Emissions Inventory by Major Source Category 2008, 2011 and 2012 Winter and Annual Planning Emissions Inventories'').

[FR Doc. 2017–10931 Filed 5–26–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[DE104–1104; FRL–9961–26–Region 3]

Approval and Promulgation of Air Quality Implementation Plans; Delaware; Update to Materials Incorporated by Reference

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; administrative change.

SUMMARY: The Environmental Protection Agency (EPA) is updating the materials that are incorporated by reference (IBR) into the Delaware state implementation plan (SIP). The regulations affected by this update have been previously submitted by the Delaware Department of Natural Resources and Environmental Control (DNREC) and approved by EPA. This update affects the SIP materials that are available for public inspection at the National Archives and Records Administration (NARA) and the EPA Regional Office.

DATES: This action is effective May 30, 2017.

ADDRESSES: SIP materials which are incorporated by reference into 40 CFR part 52 are available for inspection at the following locations: Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; or NARA. For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

FOR FURTHER INFORMATION CONTACT: Gavin Huang, (215) 814–2042 or by email at *huang.gavin@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The SIP is a living document which a state revises as necessary to address its unique air pollution problems. Therefore, EPA, from time to time, must take action on SIP revisions containing new and/or revised regulations as being part of the SIP. On May 22, 1997 (62 FR 27968), EPA revised the procedures for incorporating by reference federally-approved SIPs, as a result of consultations between EPA and the Office of the Federal Register (OFR). The description of the revised SIP document, IBR procedures and ''Identification of plan'' format are discussed in further detail in the May 22, 1997 **Federal Register** document. On December 7, 1998 (63 FR 67407), EPA published a document in the **Federal Register** beginning the new IBR procedure for Delaware. On June 21, 2004 (69 FR 34285), April 3, 2007 (72 FR 15839), April 17, 2009 (74 FR 17771), and May 2, 2011 (76 FR 24372), September 24, 2013 (78 FR 58465), EPA published updates to the IBR material for Delaware. Since the publication of the last IBR update, EPA has approved regulatory changes to the following Delaware revised regulations:

1. 7 DNREC regulation 1103 (Ambient Air Quality Standards), sections 1.0 (General Provisions), 4.0 (Sulfur Dioxide), 6.0 (Ozone), 8.0 (Nitrogen Dioxide), 10.0 (Lead), and 11.0 (PM_{10} and $PM_{2.5}$ Particulates).

2. 7 DNREC regulation 1140 (Delaware Low Emission Vehicle Program), sections 1.0 (Purpose), 2.0 (Applicability), 3.0 (Definitions), 4.0 (Emission Certification Standards), 5.0 (New Vehicle Emission Requirements), 6.0 (Manufacturer Fleet Requirements), 7.0 (Warranty), 8.0 (Reporting and Record-Keeping Requirements), 9.0 (Enforcement), 10.0 (Incorporation by Reference), 11.0 (Document Availability), and 12.0 (Severability).

II. EPA Action

In this action, EPA is announcing the update to the IBR material as of July 1, 2016 and revising the text within 40 CFR 52.420(b). EPA is revising our 40 CFR part 52 ''Identification of Plan'' for the State of Delaware regarding incorporation by reference, section 52.420(b). EPA is revising section 52.420(b)(1) to clarify that all SIP revisions listed in paragraphs (c) and (d), regardless of inclusion in the most recent ''update to the SIP compilation,'' are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking in which EPA approved the SIP revision, consistent with following our ''Approval and Promulgations of Air Quality Implementation Plans; Revised Format of 40 CFR part 52 for Materials Being Incorporated by Reference,'' effective May 22, 1997 (62 FR 27968). EPA is revising section 52.420(b)(2) to clarify references to other portions of paragraph (b) with subparagraph (b)(2). EPA is revising section (b)(3) to update address and contact information.

III. Good Cause Exemption

EPA has determined that this rule falls under the ''good cause'' exemption in section 553(b)(3)(B) of the Administrative Procedures Act (APA) which, upon finding ''good cause,'' authorizes agencies to dispense with public participation and section 553(d)(3) which allows an agency to make a rule effective immediately (thereby avoiding the 30-day delayed effective date otherwise provided for in the APA). This rule simply codifies provisions which are already in effect as a matter of law in federal and approved state programs. Under section 553 of the APA, an agency may find good cause where procedures are ''impractical, unnecessary, or contrary to the public interest.'' Public comment is ''unnecessary'' and ''contrary to the public interest'' since the codification only reflects existing law. Immediate notice in the CFR benefits the public by removing outdated citations and incorrect table entries.

IV. Incorporation by Reference

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of previously EPA approved regulations promulgated by the State of Delaware and federally effective prior to July 1, 2016. Therefore, these materials have been approved by EPA for inclusion in the SIP, have been

incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference by the Director of the Federal Register in the next update to the SIP compilation.[1] EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* and/or at the EPA Region III Office (please contact the person identified in the ''For Further Information Contact'' section of this preamble for more information).

V. Statutory and Executive Order Reviews

A. General Requirements

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

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

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this 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 rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

C. Petitions for Judicial Review

EPA has also determined that the provisions of section 307(b)(1) of the CAA pertaining to petitions for judicial review are not applicable to this action. Prior EPA rulemaking actions for each individual component of the Delaware SIP compilations had previously afforded interested parties the opportunity to file a petition for judicial review in the United States Court of Appeals for the appropriate circuit within 60 days of such rulemaking action. Thus, EPA sees no need in this action to reopen the 60-day period for filing such petitions for judicial review for this ''Identification of Plan'' update action for Delaware.

List of Subjects in 40 CFR Part 52

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

Dated: March 23, 2017.

Cecil Rodrigues,

Acting 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. Section 52.420 is amended by revising paragraph (b) to read as follows:

§ 52.420 Identification of plan.

* * * * *

(b) *Incorporation by reference.* (1) Material listed in in paragraphs (c) and (d) of this section with an EPA approval date prior to July 1, 2016, was approved for incorporation by reference by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Entries in paragraphs (c) and (d) of this section with the EPA approval dates after July 1, 2016 for the State of Delaware have been approved by EPA for the inclusion in the SIP and for incorporation by reference into the plan as it is contained in this section, and will be considered by the Director of the Federal Register for approval in the next update to the SIP compilation.

(2) EPA Region III certifies that the materials provided by EPA at the addresses in paragraph (b)(3) of this section are an exact duplicate of the officially promulgated state rules/regulations which have been approved as part of the SIP as of the dates referenced in paragraph (b)(1). No additional revisions were made to paragraph (d) between the last incorporation by reference date of July 1, 2013 and July 1, 2016.

(3) Copies of the materials incorporated by reference into the state implementation plan may be inspected at the Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. To obtain the material, please call the Regional Office at (215) 814–3376. You may also inspect the material with an EPA approval date prior to July 1, 2016 for the State of Delaware at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, go

[1] 62 FR 27968 (May 22, 1997).

to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

* * * * *

[FR Doc. 2017–10911 Filed 5–26–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R10–OAR–2016–0785; FRL–9963–12–Region 10]

Air Plan Approval; Washington: General Regulations for Air Pollution Sources, Energy Facility Site Evaluation Council

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving updates to the Energy Facility Site Evaluation Council (EFSEC) air quality regulations in the Washington State Implementation Plan (SIP). The EFSEC regulations primarily adopt by reference the Washington Department of Ecology (Ecology) general air quality regulations, which the EPA approved in the fall of 2014 and spring of 2015. Consistent with our approval of the Ecology general air quality regulations, we are also approving revisions to EFSEC's air quality regulations to implement the preconstruction permitting regulations for large industrial (major source) energy facilities in attainment and unclassifiable areas, called the Prevention of Significant Deterioration (PSD) program. The PSD program for major energy facilities under EFSEC's jurisdiction has historically been operated under a Federal Implementation Plan (FIP), in cooperation with the EPA and Ecology. This final approval of the EFSEC PSD program transfers the authority for issuing PSD permits from EPA to EFSEC for all of the categories of energy facilities for which EFSEC has jurisdiction. This narrows the current FIP to cover only those energy facilities for which EFSEC does not have jurisdiction or authority. The EPA is also approving EFSEC's visibility protection permitting program which overlaps significantly with the PSD program in most cases.

DATES: This final rule is effective June 29, 2017.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–R10–OAR–2016–0785. All documents in the docket are listed on the *http://www.regulations.gov* Web site. Although listed in the index, some information may not be publicly available, *i.e.,* Confidential Business Information or other information the disclosure of which is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and is publicly available only in hard copy form. Publicly available docket materials are available at *http://www.regulations.gov* or at EPA Region 10, Office of Air and Waste, 1200 Sixth Avenue, Seattle, Washington 98101. The EPA requests that you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Jeff Hunt, Air Planning Unit, Office of Air and Waste (OAW–150), Environmental Protection Agency, Region 10, 1200 Sixth Ave. Suite 900, Seattle, WA 98101; telephone number: (206) 553–0256; email address: *hunt.jeff@epa.gov.*

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Background Information

On March 22, 2017, the EPA proposed to approve revisions to EFSEC's general air quality regulations in the SIP (82 FR 14648). An explanation of the Clean Air Act (CAA) requirements, a detailed analysis of the revisions, and the EPA's reasons for proposing approval were provided in the notice of proposed rulemaking, and will not be restated here. The public comment period for this proposed rule ended on April 21, 2017. The EPA received one comment on the proposal.

II. Response to Comments

Comment: ''We need to protect clean air. The regulations that decrease air pollution should be fully funded and enforced.''

Response: The SIP revision package submitted jointly by Ecology and EFSEC discussed the personnel, funding, and authority provided by both agencies in operating the air quality program for sources under EFSEC's jurisdiction. As discussed in our proposal, the EPA has worked cooperatively with Ecology and EFSEC for over twenty years in issuing PSD and visibility permits, as well as meeting other air quality requirements. Therefore, consistent with our proposal, we have determined that EFSEC has adequate personnel, funding, and authority to implement the PSD and visibility protection programs and that the revised EFSEC regulations meet the criteria for approval under CAA section 110.

III. Final Action

A. Regulations Approved and Incorporated by Reference Into the SIP

The EPA is approving, and incorporating by reference, the submitted revisions to Chapter 463–78 Washington Administrative Code (WAC) set forth below as amendments to 40 CFR part 52.

B. Approved But Not Incorporated by Reference Regulations

In addition to the regulations approved and incorporated by reference, the EPA reviews and approves state submissions to ensure they provide adequate enforcement authority and other general authority to implement and enforce the SIP. However, regulations describing state enforcement and other general authorities are generally not incorporated by reference, so as to avoid potential conflict with the EPA's independent authorities. The EPA has reviewed and is approving WAC 463–78–135 *Criminal Penalties,* WAC 463–78–140 *Appeals Procedure* (except subsections 3 and 4 which deal with permits outside the scope of CAA section 110), WAC 463–78–170 *Conflict of Interest,* and WAC 463–78–230 *Regulatory Actions,* as providing EFSEC with adequate enforcement and other general authority for purposes of implementing and enforcing its SIP, but is not incorporating these sections by reference into the SIP codified in 40 CFR 52.2470(c). Instead, the EPA is including these sections in 40 CFR 52.2470(e), *EPA Approved Nonregulatory Provisions and Quasi-Regulatory Measures,* as approved but not incorporated by reference regulatory provisions.

C. Regulations To Remove From the SIP

As discussed in our July 10, 2014 proposed approval of revisions to Chapter 173–400 WAC, Ecology formerly relied on the registration program under WAC 173–400–100 for determining the applicability of the new source review (NSR) permitting program (see 79 FR 39351 at page 39354). By statutory directive, this means of determining NSR applicability was replaced by revisions to WAC 173–400–110 which set inconsequential unit, activity, and emissions thresholds. In our October 3, 2014 final action, we

approved WAC 173–400–110 as the means of determining NSR applicability, and at Ecology's request, removed WAC 173–400–100 from the SIP (79 FR 59653). Consistent with our proposed and final approval of revisions to Chapter 173–400 WAC, we are now removing, at EFSEC's request, WAC 463–39–100 *Registration* (recodified to WAC 463–78–100) from the SIP because it is no longer used as the means of determining NSR applicability.

As discussed in the proposal for this action, EFSEC adopted by reference most of the provisions in Chapter 173–400 WAC, but excluded certain provisions pertaining to authorities or source categories outside EFSEC's jurisdiction. WAC 173–400–151 *Retrofit Requirements for Visibility Protection* is one such provision. The EPA's May 23, 1996 approval of EFSEC's regulations included the incorporation by reference of WAC 173–400–151 (61 FR 25791). These regulations establish Best Available Retrofit Technology (BART) as part of the visibility protection program for an ''existing stationary facility.'' Under WAC 173–400–151 an ''existing stationary facility'' is defined, among other factors, as a facility not in operation prior to August 7, 1962, and also in existence on August 7, 1977. EFSEC advised the EPA that there are no sources under EFSEC's jurisdiction that meet the definition of BART-eligible sources. The EPA is therefore granting EFSEC's request to remove the incorporation by reference of WAC 173–400–151 from the SIP.

D. Transfer of Existing EPA-Issued PSD Permits

As part of the SIP revision package, EFSEC requested approval to exercise its authority to fully administer the PSD program with respect to those sources under EFSEC's permitting jurisdiction that have existing PSD permits issued by the EPA. This includes authority to conduct general administration of these existing permits, authority to process and issue any and all subsequent PSD permit actions relating to such permits (*e.g.,* modifications, amendments, or revisions of any nature), and authority to enforce such permits. Since 1993, EFSEC has had partial delegation of the PSD permitting program under the FIP and the EPA permits subject to transfer were also issued under state authority. EFSEC, in coordination with Ecology, has demonstrated adequate authority to enforce and modify these permits. Concurrent with our final approval of EFSEC's PSD program into the Washington SIP, we are transferring the EPA-issued permits to EFSEC for the Chehalis Generation Facility and Grays Harbor Energy Center facilities.

E. Scope of Final Action

The EFSEC PSD and visibility permitting programs primarily incorporate Chapter 173–400 by reference and the December 20, 2016 SIP revision package requested that the EPA approve the updated EFSEC regulations consistent with our prior approval of the Ecology regulations. As discussed in our April 29, 2015 approval of Ecology's regulations under Chapter 173–400 WAC, Washington State does not regulate certain carbon dioxide emissions from industrial combustion of biomass under its PSD program. See 80 FR 23721, at page 23722. We are therefore revising the PSD FIP at 40 CFR 52.2497 and the visibility protection FIP at 40 CFR 52.2498 to reflect the approval of EFSEC's PSD and visibility permitting programs, consistent with our prior approval of Chapter 173–400 WAC.

Also as discussed in our prior approval of Ecology's updated Chapter 173–400 WAC regulations, the EPA is excluding from the scope of this approval of EFSEC's PSD and visibility permitting programs all Indian reservations in the State, except for nontrust land within the exterior boundaries of the Puyallup Indian Reservation (also known as the 1873 Survey Area), and any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. See 80 FR 23721, at page 23726. Under the Puyallup Tribe of Indians Settlement Act of 1989, 25 U.S.C. 1773, Congress explicitly provided state and local air agencies in Washington authority over activities on non-trust lands within the 1873 Survey Area and the EPA is therefore approving EFESEC's PSD and visibility permitting programs into the SIP with respect to such lands.

IV. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference as described in the amendments to 40 CFR part 52 set forth below. These materials have been approved by the EPA for inclusion in the SIP, have been incorporated by reference by the EPA into that plan, are fully federally-enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of the EPA's approval, and will be incorporated by reference by the Director of the Federal Register in the next update to the SIP compilation.[1] The EPA has made, and will continue to make, these materials generally available through *http://www.regulations.gov* and/or at the EPA Region 10 Office (please contact the person identified in the ''For Further Information Contact'' section of this preamble for more information).

V. Statutory and Executive Orders Review

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

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

[1] 62 FR 27968 (May 22, 1997).

practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because it will not impose substantial direct costs on tribal governments or preempt tribal law. The SIP is not approved to apply in Indian country located in the state, except for non-trust land within the exterior boundaries of the Puyallup Indian Reservation (also known as the 1873 Survey Area), or any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. Consistent with EPA policy, the EPA provided a consultation opportunity to the Puyallup Tribe in a letter dated July 1, 2016. The EPA did not receive a request for consultation.

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 31, 2017. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

List of Subjects in 40 CFR Part 52

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

Dated: May 17, 2017.

Michelle L. Pirzadeh,

Acting Regional Administrator, Region 10.

For the reasons set forth in the preamble, 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 WW—Washington

■ 2. Amend § 52.2470 by revising Table 3 of paragraph (c) and Table 1 of paragraph (e), to read as follows:

§ 52.2470 Identification of plan.

* * * * *

(c) * * *

TABLE 3—ADDITIONAL REGULATIONS APPROVED FOR THE ENERGY FACILITIES SITE EVALUATION COUNCIL (EFSEC) JURISDICTION

[See the SIP-approved provisions of WAC 463–78–020 for jurisdictional applicability]

State citation	Title/subject	State effective date	EPA approval date	Explanations
Washington Administrative Code, Chapter 463–78—General and Operating Permit Regulations for Air Pollution Sources				
78–005	Adoption by Reference	8/27/15	5/30/17, [Insert Federal Register citation].	Except: (2), (3), (4), and (5). See below for revised Chapter 173–400 WAC provisions incorporated by reference.
78–010	Purpose	8/27/15	5/30/17, [Insert Federal Register citation].	
78–020	Applicability	11/11/04	5/30/17, [Insert Federal Register citation].	
78–030	Additional Definitions	8/27/15	5/30/17, [Insert Federal Register citation].	Except references to 173–401–200 and 173–406–101.
78–095	Permit Issuance	8/27/15	5/30/17, [Insert Federal Register citation].	
78–120	Monitoring and Special Report.	11/11/04	5/30/17, [Insert Federal Register citation].	
Washington Administrative Code, Chapter 173–400 Regulations Incorporated by Reference in WAC 463–78–005				
173–400–030	Definitions	12/29/12	5/30/17, [Insert Federal Register citation].	Except: 173–400–030(91).
173–400–036	Relocation of Portable Sources.	12/29/12	5/30/17, [Insert Federal Register citation]..	
173–400–040	General Standards for Maximum Emissions.	4/1/11	5/30/17, [Insert Federal Register citation].	Except: 173–400–040(2)(c); 173–400–040(2)(d); 173–400–040(3); 173–400–040(5); 173–400–040(7), second paragraph.

TABLE 3—ADDITIONAL REGULATIONS APPROVED FOR THE ENERGY FACILITIES SITE EVALUATION COUNCIL (EFSEC) JURISDICTION—Continued

[See the SIP-approved provisions of WAC 463–78–020 for jurisdictional applicability]

State citation	Title/subject	State effective date	EPA approval date	Explanations
173–400–050	Emission Standards for Combustion and Incineration Units.	12/29/12	5/30/17, [Insert Federal Register citation].	Except: 173–400–050(2); 173–400–050(4); 173–400–050(5).
173–400–060	Emission Standards for General Process Units.	2/10/05		
173–400–070	Emission Standards for Certain Source Categories.	12/29/12	5/30/17, [Insert Federal Register citation].	Except: 173–400–070(1); 173–400–070(2); 173–400–070(3); 173–400–070(4); 173–400–070(6); 173–400–070(7); 173–400–070(8).
173–400–081	Startup and Shutdown	4/1/11	5/30/17, [Insert Federal Register citation].	
173–400–091	Voluntary Limits on Emissions	4/1/11	5/30/17, [Insert Federal Register citation].	
173–400–105	Records, Monitoring, and Reporting.	12/29/12	5/30/17, [Insert Federal Register citation].	
173–400–107	Excess Emissions	9/20/93	6/2/95, 60 FR 28726.	
173–400–110	New Source Review (NSR) for Sources and Portable Sources.	12/29/12	5/30/17, [Insert Federal Register citation].	Except: 173–400–110(1)(c)(ii)(C); 173–400–110(1)(e); 173–400–110(2)(d); The part of WAC 173–400–110(4)(b)(vi) that says, ''not for use with materials containing toxic air pollutants, as listed in chapter 173–460 WAC,'';. The part of 400–110 (4)(e)(iii) that says, ''where toxic air pollutants as defined in chapter 173–460 WAC are not emitted'';. The part of 400–110(4)(f)(i) that says, ''that are not toxic air pollutants listed in chapter 173–460 WAC'';. The part of 400–110 (4)(h)(xviii) that says, '', to the extent that toxic air pollutant gases as defined in chapter 173–460 WAC are not emitted''; The part of 400–110 (4)(h)(xxxiii) that says, ''where no toxic air pollutants as listed under chapter 173–460 WAC are emitted'';. The part of 400–110(4)(h)(xxxiv) that says, '', or ≤ 1% (by weight) toxic air pollutants as listed in chapter 173–460 WAC'';. The part of 400–110(4)(h)(xxxv) that says, ''or ≤ 1% (by weight) toxic air pollutants''; The part of 400–110(4)(h)(xxxvi) that says, ''or ≤ 1% (by weight) toxic air pollutants as listed in chapter 173–460 WAC'';. 400–110(4)(h)(xl) , second sentence; The last row of the table in 173–400–110(5)(b) regarding exemption levels for Toxic Air Pollutants.

TABLE 3—ADDITIONAL REGULATIONS APPROVED FOR THE ENERGY FACILITIES SITE EVALUATION COUNCIL (EFSEC) JURISDICTION—Continued

[See the SIP-approved provisions of WAC 463–78–020 for jurisdictional applicability]

State citation	Title/subject	State effective date	EPA approval date	Explanations
173–400–111	Processing Notice of Construction Applications for Sources, Stationary Sources and Portable Sources.	12/29/12	5/30/17, [Insert Federal Register citation].	Except: 173–400–111(3)(h); 173–400–111(5)(a) (last six words); 173–400–111(6); The part of 173–400–111(8)(a)(v) that says, ''and 173–460–040,''; 173–400–111(9).
173–400–112	Requirements for New Sources in Nonattainment Areas—Review for Compliance with Regulations.	12/29/12	5/30/17, [Insert Federal Register citation].	
173–400–113	New Sources in Attainment or Unclassifiable Areas—Review for Compliance with Regulations.	12/29/12	5/30/17, [Insert Federal Register citation].	Except: 173–400–113(3), second sentence.
173–400–116	Increment Protection	9/10/11	5/30/17, [Insert Federal Register citation].	
173–400–117	Special Protection Requirements for Federal Class I Areas.	12/29/12	5/30/17, [Insert Federal Register citation].	
173–400–131	Issuance of Emission Reduction Credits.	4/1/11	5/30/17, [Insert Federal Register citation].	
173–400–136	Use of Emission Reduction Credits (ERC).	4/1/11	5/30/17, [Insert Federal Register citation].	
173–400–161	Compliance Schedules	3/22/91	6/2/95, 60 FR 28726	
173–400–171	Public Notice and Opportunity for Public Comment.	12/29/12	5/30/17, [Insert Federal Register citation].	Except: The part of 173–400–171(3)(b) that says, ''or any increase in emissions of a toxic air pollutant above the acceptable source impact level for that toxic air pollutant as regulated under chapter 173–460 WAC''; 173–400–171(12).
173–400–175	Public Information	2/10/05	5/30/17, [Insert Federal Register citation].	
173–400–190	Requirements for Nonattainment Areas.	3/22/91	6/2/95, 60 FR 28726	
173–400–200	Creditable Stack Height and Dispersion Techniques.	2/10/05	5/30/17, [Insert Federal Register citation].	
173–400–205	Adjustment for Atmospheric Conditions.	3/22/91	6/2/95, 60 FR 28726	
173–400–700	Review of Major Stationary Sources of Air Pollution.	4/1/11	5/30/17, [Insert Federal Register citation].	
173–400–710	Definitions	12/29/12	5/30/17, [Insert Federal Register citation].	
173–400–720	Prevention of Significant Deterioration (PSD).	12/29/12	5/30/17, [Insert Federal Register citation].	Except: 173–400–720(4)(a)(i through iv); 173–400–720(4)(b)(iii)(C); and 173–400–720(4)(a)(vi) with respect to the incorporation by reference of the text in 40 CFR 52.21(b)(49)(v). * For the purpose of EFSEC's incorporation by reference of 40 CFR 52.21, the date in WAC 173–400–720 (4)(a)(vi) is May 1, 2015.
173–400–730	Prevention of Significant Deterioration Application Processing Procedures.	12/29/12	5/30/17, [Insert Federal Register citation].	Except 173–400–730(4).
173–400–740	PSD Permitting Public Involvement Requirements.	12/29/12	5/30/17, [Insert Federal Register citation].	
173–400–750	Revisions to PSD Permits	12/29/12	5/30/17, [Insert Federal Register citation].	Except: 173–400–750(2) second sentence.
173–400–800	Major Stationary Source and Major Modification in a Nonattainment Area.	4/1/11	5/30/17, [Insert Federal Register citation].	

TABLE 3—ADDITIONAL REGULATIONS APPROVED FOR THE ENERGY FACILITIES SITE EVALUATION COUNCIL (EFSEC) JURISDICTION—Continued

[See the SIP-approved provisions of WAC 463–78–020 for jurisdictional applicability]

State citation	Title/subject	State effective date	EPA approval date	Explanations
173–400–810	Major Stationary Source and Major Modification Definitions.	12/29/12	5/30/17, [Insert Federal Register citation].	
173–400–820	Determining if a New Stationary Source or Modification to a Stationary Source is Subject to these Requirements.	12/29/12	5/30/17, [Insert Federal Register citation].	
173–400–830	Permitting Requirements	12/29/12	5/30/17, [Insert Federal Register citation].	
173–400–840	Emission Offset Requirements.	12/29/12	5/30/17, [Insert Federal Register citation].	
173–400–850	Actual Emissions Plantwide Applicability Limitation (PAL).	12/29/12	5/30/17, [Insert Federal Register citation].	
173–400–860	Public Involvement Procedures.	4/1/11	5/30/17, [Insert Federal Register citation].	

* * * * * (e) * * *

TABLE 1—APPROVED BUT NOT INCORPORATED BY REFERENCE REGULATIONS

State/local citation	Title/subject	State/local effective date	EPA approval date	Explanations
Washington Department of Ecology Regulations				
173–400–220	Requirements for Board Members.	3/22/91	6/2/95, 60 FR 28726	
173–400–230	Regulatory Actions	3/20/93	6/2/95, 60 FR 28726	
173–400–240	Criminal Penalties	3/22/91	6/2/95, 60 FR 28726	
173–400–250	Appeals	9/20/93	6/2/95, 60 FR 28726	
173–400–260	Conflict of Interest	07/01/16	10/6/16, 81 FR 69385	
173–433–200	Regulatory Actions and Penalties.	10/18/90	1/15/93, 58 FR 4578	
Energy Facility Site Evaluation Council Regulations				
463–78–135	Criminal Penalties	11/11/04	5/30/17, [Insert FEDERAL REGISTER citation].	
463–78–140	Appeals Procedure	3/26/06	5/30/17, [Insert FEDERAL REGISTER citation].	Except (3) and (4).
463–78–170	Conflict of Interest	11/11/04	5/30/17, [Insert FEDERAL REGISTER citation].	
463–78–230	Regulatory Actions	11/11/04	5/30/17, [Insert FEDERAL REGISTER citation].	
Benton Clean Air Agency Regulations				
2.01	Powers and Duties of the Benton Clean Air Agency (BCAA).	12/11/14	11/17/15, 80 FR 71695	
2.02	Requirements for Board of Directors Members.	12/11/14	11/17/15, 80 FR 71695	
2.03	Powers and Duties of the Board of Directors.	12/11/14	11/17/15, 80 FR 71695	
2.04	Powers and Duties of the Control Officer.	12/11/14	11/17/15, 80 FR 71695	
2.05	Severability	12/11/14	11/17/15, 80 FR 71695	
2.06	Confidentiality of Records and Information.	12/11/14	11/17/15, 80 FR 71695	
Olympic Region Clean Air Agency Regulations				
8.1.6	Penalties	5/22/10	10/3/13, 78 FR 61188	

TABLE 1—APPROVED BUT NOT INCORPORATED BY REFERENCE REGULATIONS—Continued

State/local citation	Title/subject	State/local effective date	EPA approval date	Explanations
Southwest Clean Air Agency Regulations				
400–220	Requirements for Board Members.	3/18/01	04/10/17, 82 FR 17136	
400–230	Regulatory Actions and Civil Penalties.	10/9/16	04/10/17, 82 FR 17136	
400–240	Criminal Penalties	3/18/01	04/10/17, 82 FR 17136	
400–250	Appeals	11/9/03	04/10/17, 82 FR 17136	
400–260	Conflict of Interest	3/18/01	04/10/17, 82 FR 17136	
400–270	Confidentiality of Records and Information.	11/9/03	04/10/17, 82 FR 17136	
400–280	Powers of Agency	3/18/01	04/10/17, 82 FR 17136	
Spokane Regional Clean Air Agency Regulations				
8.11	Regulatory Actions and Penalties.	09/02/14	09/28/15, 80 FR 58216	

* * * * *

■ 3. Amend § 52.2497 by revising paragraph (a) to read as follows:

§ 52.2497 Significant deterioration of air quality.

(a) The requirements of sections 160 through 165 of the Clean Air Act are not fully met because the plan does not include approvable procedures for preventing the significant deterioration of air quality from:

(1) Facilities with carbon dioxide (CO_2) emissions from the industrial combustion of biomass in the following circumstances:

(i) Where a new major stationary source or major modification would be subject to Prevention of Significant Deterioration (PSD) requirements for greenhouse gases (GHGs) under 40 CFR 52.21 but would not be subject to PSD under the state implementation plan (SIP) because CO_2 emissions from the industrial combustion of biomass are excluded from consideration as GHGs as a matter of state law under RCW 70.235.020(3); or

(ii) Where a new major stationary source or major modification is subject to PSD for GHGs under both the Washington SIP and the FIP, but CO_2 emissions from the industrial combustion of biomass are excluded from consideration in the Ecology PSD permitting process because of the exclusion in RCW 70.235.020(3);

(2) Indian reservations in Washington, except for non-trust land within the exterior boundaries of the Puyallup Indian Reservation (also known as the 1873 Survey Area) as provided in the Puyallup Tribe of Indians Settlement Act of 1989, 25 U.S.C. 1773, and any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction.

(3) Sources subject to PSD permits issued by the EPA prior to August 7, 1977, but only with respect to the general administration of any such permits still in effect (*e.g.,* modifications, amendments, or revisions of any nature).

* * * * *

■ 4. Amend § 52.2498 by revising paragraph (a) to read as follows:

§ 52.2498 Visibility protection.

(a) The requirements of section 169A of the Clean Air Act are not fully met because the plan does not include approvable procedures for visibility new source review for:

(1) Sources subject to the jurisdiction of local air authorities (except Benton Clean Air Agency and Southwest Clean Air Agency);

(2) Indian reservations in Washington except for non-trust land within the exterior boundaries of the Puyallup Indian Reservation (also known as the 1873 Survey Area) as provided in the Puyallup Tribe of Indians Settlement Act of 1989, 25 U.S.C. 1773, and any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction.

* * * * *

[FR Doc. 2017–10908 Filed 5–26–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[VA203–5204; FRL–9957–86–Region 3]

Air Plan Approval; Virginia; Update to Materials Incorporated by Reference

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; administrative change.

SUMMARY: The Environmental Protection Agency (EPA) is updating the materials that are incorporated by reference (IBR) into the Virginia state implementation plan (SIP). The regulations affected by this update have been previously submitted by the Virginia Department of Environmental Quality (VADEQ) and approved by EPA. This update affects the SIP materials that are available for public inspection at the National Archives and Records Administration (NARA) and the EPA Regional Office.

DATES: This action is effective May 30, 2017, except that amendatory instruction 2.d amending 40 CFR 52.2420(e) is effective June 9, 2017.

ADDRESSES: SIP materials which are incorporated by reference into 40 CFR part 52 are available for inspection at the following locations: Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; or NARA. For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

FOR FURTHER INFORMATION CONTACT: Sharon McCauley, (215) 814–3376 or by email at *mccauley.sharon@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The SIP is a living document which a state revises as necessary to address its unique air pollution problems. Therefore, EPA, from time to time, must take action on SIP revisions containing new and/or revised regulations as being part of the SIP. On May 22, 1997 (62 FR 27968), EPA revised the procedures for incorporating by reference federally-approved SIPs, as a result of consultations between EPA and the Office of the Federal Register (OFR). The description of the revised SIP document, IBR procedures and ''Identification of plan'' format are discussed in further detail in the May 22, 1997 **Federal Register** document. On April 21, 2000 (65 FR 21315), EPA published a document in the **Federal Register** beginning the new IBR procedure for Virginia. On September 8, 2004 (69 FR 54216), November 3, 2005 (70 FR 66769), July 16, 2007 (72 FR 38920), July 13, 2009 (74 FR 33332) as corrected on December 18, 2009 (74 FR 67077), and November 21, 2011 (76 FR 71881), EPA published updates to the IBR material for Virginia.

Since the publication of the last IBR update, EPA has approved the following regulatory changes to the following regulations and sections for Virginia.

A. Added 9VAC5 Regulations and Source Specific Requirements

1. Chapter 30 (Ambient Air Quality Standards), section 5–30–67.

2. Chapter 40 (Existing Stationary Sources), part II (Emission Standards), article 48 (Emission Standards for Mobile Equipment Repair and Refinishing), section 5–40–6975.

3. Chapter 45 (Consumer and Commercial Products) (entire chapter; part I (Special Provisions are added); 7 articles in part II (Emission Standards) are added:

a. Part I—Special Provisions
b. Part II—Article 1—Emission Standards for Portable Fuel Containers and Spouts Manufactured Before August 1, 2010
c. Part II—Article 2—Emission Standards for Portable Fuel Containers and Spouts Manufactured on or After August 1, 2010
d. Part II—Article 3—Emission Standards for Consumer Products Manufactured Before August 1, 2010
e. Part II—Article 4—Emission Standards for Consumer Products Manufactured on or After August 1, 2010
f. Part II—Article 5—Emission Standards for Architectural and Industrial Maintenance Coatings
g. Part II—Article 6—Emission Standards for Adhesives and Sealants
h. Part II—Article 7—Emission Standards for Asphalt Paving Operations

4. Chapter 80 (Permits for Stationary Sources), Article 8 (Permits—Major Stationary Sources and Major Modifications Located in Nonattainment Areas or the Ozone Transport Region)), section 5–80–1915.

5. Chapter 80 (Permits for Stationary Sources), Article 9 (Permits—Major Stationary Sources and Major Modifications Located in Nonattainment Areas or the Ozone Transport Region), section 5–80–2195.

6. Chapter 85 (Permits for Stationary Sources of Pollutants Subject to Regulation), part III (Prevention of Significant Deterioration Permit Actions), section 5–85–55.

7. Chapter 160 (Regulation for General Conformity), part III (Criteria and Procedures for Making Conformity Determinations), sections 5–160–181 through 5–160–185 inclusive.

8. Chapter 170 (Regulations for General Administration), part IX, Conflict of Interest, section 5–170–210.

9. Code of Virginia, section 10–1–1302 (Qualifications of members of Boards).

10. The addition of an operating permit under Source Specific Requirements for GP Big Island, LLC (Registration Number 20232).

11. The addition of an operating permit under Source Specific Requirements for Mead Westvaco Corporation (Registration Number 20328).

12. The addition of an operating permit under Source Specific Requirements for O–N Minerals Facility (Registration Number 80252).

13. The addition of an operating permit under Source Specific Requirements for Mondelez Global LLC, Inc.—Richmond Bakery (Registration Number 50703).

B. Revised 9VAC5 Regulations

1. Chapter 10 (General Definitions), section 5–10–20 (Terms Defined) and section 5–10–30 (Abbreviations).

2. Chapter 20 (General Provisions), part II, sections 5–20–203 (Air Quality Maintenance Areas) and 5–20–204 (Nonattainment Areas).

3. Chapter 30 (Ambient Air Quality Standards), sections 5–30–15, 5–30–30, and 5–30–55.

4. Chapter 40 (Existing Stationary Sources), part II (Emission Standards), article 4, section name changed to General Process Operations.

5. Chapter 40 (Existing Stationary Sources), part II (Emission Standards), article 43 (Municipal Solid Waste Landfills), sections 5–40–5810, 5–40–5820, 5–40–5850, 5–40–5880, and 5–40–5920.

6. Chapter 40 (Existing Stationary Sources), part II (Emission Standards), article 48 (Emission Standards for Mobile Equipment Repair and Refinishing), sections 5–40–6970 and 5–40–7050.

7. Chapter 45 (Consumer and Commercial Products (applicable to the Northern Virginia and Fredericksburg VOC Emissions Control Areas)), part II (Emission Standards), article 1 (Emission Standards for Portable Fuel Containers and Spouts Manufactured Before August 1, 2010), sections 5–45–70 and 5–45–90.

8. Chapter 45 (Consumer and Commercial Products (applicable to the Northern Virginia and Fredericksburg VOC Emissions Control Areas)), part II (Emission Standards), article 2 (Emission Standards for Portable Fuel Containers and Spouts Manufactured On or After August 1, 2010), sections 5–45–160, 5–45–170 and 5–45–240.

9. Chapter 45 (Consumer and Commercial Products (applicable to the Northern Virginia and Fredericksburg VOC Emissions Control Areas)), part II (Emission Standards), article 3 (Emission Standards for Consumer Products Manufactured Before August 1, 2010), section 5–45–310.

10. Chapter 45 (Consumer and Commercial Products (applicable to the Northern Virginia and Fredericksburg VOC Emissions Control Areas)), part II (Emission Standards), article 4 (Emission Standards for Consumer Products Manufactured On or After August 1, 2010), sections 5–45–400, 5–45–420, 5–45–430 and 5–45–480.

11. Chapter 45 (Consumer and Commercial Products (applicable to the Northern Virginia and Fredericksburg VOC Emissions Control Areas)), part II (Emission Standards), article 5 (Emission Standards for Architectural and Industrial Maintenance Coatings), sections 5–45–520, 5–45–530 and 5–45–580.

12. Chapter 45 (Consumer and Commercial Products (applicable to the Northern Virginia and Fredericksburg VOC Emissions Control Areas)), part II (Emission Standards), article 6 (Emission Standards for Adhesives and Sealants), sections 5–45–620, 5–45–630, 5–45–650 and 5–45–700.

13. In Chapter 80:

a. Article 8 (Permits-Major Stationary Sources and Major Modifications

Located in Prevention of Significant Deterioration Areas), sections 5–80–1615, 5–80–1625, 5–80–1635, 5–80–1695, 5–80–1715, 5–80–1765, and 5–80–1925 through 5–80–1965 inclusive.

b. Article 9, sections 5–80–2010, 5–80–2020, 5–80–2120, 5–80–2140, and 5–80–2200 through 5–80–2240 inclusive.

14. Chapter 85 (Permits for Stationary Sources of Pollutants Subject to Regulation), part III (Prevention of Significant Deterioration Permit Actions), section 5–85–50.

15. Chapter 130 (Regulations for Open Burning), part I (General Provisions), sections 5–130–20 and 5–130–40.

16. Chapter 140 (Regulations for Emissions Trading Programs), part I (NOx Budget Trading Program), article 10 (State Trading Program Budget and Compliance Pool), sections 5–140–900, 5–140–920, and 5–140–930.

17. Chapter 151 (Transportation Conformity), part III (Criteria and Procedures for Making Conformity Determinations), sections 5–151–40 and 5–151–70.

18. In Chapter 160:

a. Part I (General Definitions), section 5–160–20.

b. Part II (General Provisions), section 5–160–30.

c. Part III, sections 5–160–110 through 5–160–180 inclusive.

19. Chapter 170 (Regulation for General Administration), part 1 (Definitions), section 5–170–20.

C. Removed 9 VAC5 Regulations and Source-Specific Requirements

1. The following articles in 9VAC5 Chapter 40 (Existing Stationary Sources), part II (Emission Standards) are removed:

a. Article 39 (Emission Standards for Asphalt Paving Operations)
b. Article 42 (Emissions Standards for Portable Fuel Container Spillage)
c. Article 49 (Emission Standards for Architectural and Maintenance Coatings)
d. Article 50 (Emission Standards for Consumer Products)

2. Chapter 91 (Regulations for the Control of Motor Vehicle Emissions in the Northern Virginia Area), part II (General Provisions), sections 5–91–40, 5–91–60, 5–91–80, and 5–91–110.

3. Chapter 160 (Regulation for General Conformity), part III (Criteria and Procedures for Making Conformity Determinations), section 5–160–200.

4. Chapter 200 (National Low Emission Vehicle Program), in its entirety.

5. The operating permit for Transcontinental Pipeline Station 175 (Registration No. 40789) in the Source Specific Requirements.

II. EPA Action

In this action, EPA is announcing the update to the IBR material as of July 1, 2016 and revising the text within 40 CFR 52.2420(b).

EPA is revising our 40 CFR part 52 ''Identification of Plan'' for the Commonwealth of Virginia regarding incorporation by reference, section 52.2420(b). EPA is revising section 52.2420(b)(1) to clarify that all SIP revisions listed in paragraphs (c) and (d), regardless of inclusion in the most recent ''update to the SIP compilation,'' are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking in which EPA approved the SIP revision, consistent with following our ''Approval and Promulgations of Air Quality Implementation Plans; Revised Format of 40 CFR part 52 for Materials Being Incorporated by Reference,'' effective May 22, 1997 (62 FR 27968). EPA is revising section 52.2420(b)(2) to clarify references to other portions of paragraph (b) with subparagraph (b)(2). EPA is revising section (b)(3) to update address and contact information. In the table for paragraph 40 CFR 52.2420(c), EPA is:

1. Reorganizing the entries for section 5–10–20 (Definitions- Terms Defined).

2. Revising the CFR to include previously approved sections for 5–30–80 (Lead) and 5–160–10 (General).

3. Revising the entries for sections 5–40–7410, 5–130–10, 5–170–210 and 5–220–60.

4. Correcting a typographical error in the title of Article 48, Emission Standards for Mobile Equipment Repair and Refinishing (Rule 4–48).

5. Removing duplicate and/or additional outdated entries for sections 5–80–2020 and 5–85–50.

In the table for paragraph 52.2420(d), EPA is correcting incorrect **Federal Register** page citations in the ''EPA approval date'' column for the following entries: Philip Morris, Inc.—Blended Leaf Facility; Philip Morris, Inc.—Park 500 Facility; Philip Morris, Inc.—Richmond Manufacturing Center; Virginia Electric and Power Co.—Innsbrook Technical Center Hercules, Inc.—Aqualon Division; City of Hopewell—Regional Wastewater Treatment Facility; Allied Signal, Inc.—Hopewell Plant; Allied Signal, Inc.—Chesterfield Plant; Bear Island Paper Co. L.P.; Stone Container Corp.—Hopewell Mill; E.I. Dupont de Nemours and Co.—Spruance Plant; and ICI Americas Inc.—Films Division—Hopewell Site. EPA is also reinserting a previously approved entry for Kraft Foods Global Inc., April 15, 2008 (73 FR 20175) to this paragraph.

EPA is also splitting the existing § 52.2420(e) table (EPA-approved non-regulatory and quasi-regulatory material) into two tables designated as § 52.2420(e)(1) (Non-regulatory material) and § 52.2420(e)(2) (Documents incorporated by reference in regulation 9VAC5–20–21). While there are format changes in the column titles due to this table organization, the substantive text of the existing entries and any additional entries which have been approved since the last VA IBR update do not change.

III. Good Cause Exemption

EPA has determined that this rule falls under the ''good cause'' exemption in section 553(b)(3)(B) of the Administrative Procedures Act (APA) which, upon finding ''good cause,'' authorizes agencies to dispense with public participation and section 553(d)(3) which allows an agency to make a rule effective immediately (thereby avoiding the 30-day delayed effective date otherwise provided for in the APA). This rule simply codifies provisions which are already in effect as a matter of law in federal and approved state programs. Under section 553 of the APA, an agency may find good cause where procedures are ''impractical, unnecessary, or contrary to the public interest.'' Public comment is ''unnecessary'' and ''contrary to the public interest'' since the codification only reflects existing law. Immediate notice in the CFR benefits the public by removing outdated citations and incorrect table entries.

IV. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of previously EPA approved regulations promulgated by the Commonwealth of Virginia and federally effective prior to July 1, 2016. Therefore, these materials have been approved by EPA for inclusion in the SIP, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference by the Director of the Federal Register in the next update to the SIP compilation.[1] The EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* and/or at the EPA Region III Office

[1] 62 FR 27968 (May 22, 1997).

(please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

V. Statutory and Executive Order Reviews

A. General Requirements

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

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

In addition, the SIP is not approved to apply on any Indian reservation land as defined in 18 U.S.C. 1151 or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this 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 rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

C. Petitions for Judicial Review

EPA has also determined that the provisions of section 307(b)(1) of the CAA pertaining to petitions for judicial review are not applicable to this action. Prior EPA rulemaking actions for each individual component of the Virginia SIP compilations had previously afforded interested parties the opportunity to file a petition for judicial review in the United States Court of Appeals for the appropriate circuit within 60 days of such rulemaking action. Thus, EPA sees no need in this action to reopen the 60-day period for filing such petitions for judicial review for this ''Identification of plan'' update action for Virginia.

List of Subjects in 40 CFR Part 52

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

Dated: April 1, 2017.

Cecil Rodrigues,

Acting 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 VV—Virginia

■ 2. Section 52.2420 is amended by:
■ a. Revising paragraph (b).
■ b. In paragraph (c):
■ i. Removing the first five entries for section 5–10–20;
■ ii. Adding in numerical order an entry for section 5–30–80;
■ iii. Revising the heading for Article 48;
■ iv. Revising the entry for 5–40–7410;
■ v. Removing the second entry for section 5–80–2020;
■ vi. Removing the entry for section 5–85–50 that follows the entry for section 5–85–55.
■ vii. Revising the entry for 5–130–10;
■ viii. Adding in numerical order an entry for section 5–160–10;
■ ix. Revising the entries for 5–170–210 and 5–220–60.
■ c. In paragraph (d):
■ i. Revising the entries for Philip Morris, Inc.—Blended Leaf Facility; Philip Morris, Inc.—Park 500 Facility; Philip Morris, Inc.—Richmond Manufacturing Center; Virginia Electric and Power Co.—Innsbrook Technical Center; Hercules, Inc.—Aqualon Division; City of Hopewell—Regional Wastewater Treatment Facility; Allied Signal, Inc.—Hopewell Plant; Allied Signal, Inc.—Chesterfield Plant; Bear Island Paper Co. L.P.; Stone Container Corp.—Hopewell Mill; E.I. Dupont de Nemours and Co.—Spruance Plant; and ICI Americas Inc.—Films Division—Hopewell Site.
■ ii. Adding an entry for Kraft Foods Global Inc. after the entry for Global Stone Chemstone Corporation.
■ d. Effective June 9, 2017, revising paragraph (e).

The amendments read as follows:

§ 52.2420 Identification of plan.

* * * * *

(b) *Incorporation by reference.* (1) Material listed in paragraphs (c) and (d) of this section with an EPA approval date prior to July 1, 2016, were approved for incorporation by reference by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Entries in paragraphs (c) and (d) of this section with the EPA approval dates after July 1, 2016 for the Commonwealth of Virginia, have been approved by EPA for inclusion in the State implementation plan and for

incorporation by reference into the plan as it is contained in this section, and will be considered by the Director of the Federal Register for approval in the next update to the SIP compilation.

(2) EPA Region III certifies that the materials provided by EPA at the addresses in paragraph (b)(3) of this section are an exact duplicate of the officially promulgated Commonwealth rules/regulations which have been approved as part of the state implementation plan as of the dates referenced in paragraph (b)(1).

(3) Copies of the materials incorporated by reference into the state implementation plan may be inspected at the Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. To obtain the material, please call the Regional Office at (215) 814–3376. You may also inspect the material with an EPA approval date prior to July 1, 2016 for the Commonwealth of Virginia at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

(c) * * *

EPA-APPROVED VIRGINIA REGULATIONS AND STATUTES

State citation	Title/subject	State effective date	EPA approval date	Explanation (former SIP citation)
*	*	*	*	*
9VAC5 Chapter 30—Ambient Air Quality Standards [Part III]				
*	*	*	*	*
5–30–80	Lead	6/24/09	4/25/11, 76 FR 22814	Revised section.
9VAC5 Chapter 40—Existing Stationary Sources [Part IV]				
*	*	*	*	*
Part II—Emission Standards				
*	*	*	*	*
Article 48—Emission Standards for Mobile Equipment Repairs and Refinishing (Rule 4–48)				
*	*	*	*	*
Article 51—Stationary Sources Subject to Case-by-Case Control Technology Determinations (Rule 4–51)				
*	*	*	*	*
5–40–7410	Standard for nitrogen oxides (1-hour ozone standard).	12/15/06	1/19/11, 76 FR 3023	Added Regulation.
*	*	*	*	*
9VAC5 Chapter 130—Regulations for Open Burning [Formerly 9VAC5 Chapter 40, Part II, Article 40]				
Part I—General Provisions				
5–130–10	Applicability	3/18/09	3/14/11, 76 FR 13511	Formerly 5–40–5600. Provisions of this Chapter expanded to new localities in the emissions control areas.
*	*	*	*	*
9VAC5 Chapter 160, Part I—General Definitions—General Conformity				
*	*	*	*	*
5–160–10	General	1/1/98	1/7/03, 68 FR 663.	
*	*	*	*	*
9VAC5 Chapter 170, Part IX—Conflict of Interest—Regulation for General Administration				
*	*	*	*	*
5–170–210	General	11/19/14	4/25/15, 80 FR 17695	Docket #2015–0040. Does not include subsection B.

EPA-APPROVED VIRGINIA REGULATIONS AND STATUTES—Continued

State citation	Title/subject	State effective date	EPA approval date	Explanation (former SIP citation)
*	*	*	*	*
9VAC5 Chapter 220—Opacity Variance for Rocket Testing Operations Atlantic Research Corporation's Orange County Facility				
*	*	*	*	*
5–220–60	Applicability of future regulation amendments.	12/1/02	9/4/09, 74 FR 45766.	
*	*	*	*	*

(d) * * *

EPA-APPROVED SOURCE SPECIFIC REQUIREMENTS

Source name	Permit/order or registration No.	State effective date	EPA approval date	40 CFR part 52 citation
*	*	*	*	*
Philip Morris, Inc.—Blended Leaf Facility	50080	2/27/86	10/14/97, 62 FR 53242 ..	52.2465(c)(120).
Philip Morris, Inc.—Park 500 Facility	50722	3/26/97	10/14/97, 62 FR 53242 ..	52.2465(c)(120).
Philip Morris, Inc.—Richmond Manufacturing Center.	50076	7/13/96	10/14/97, 62 FR 53242 ..	52.2465(c)(120).
Virginia Electric and Power Co.—Innsbrook Technical Center.	50396	5/30/96	10/14/97, 62 FR 53242 ..	52.2465(c)(120).
Hercules, Inc.—Aqualon Division	V–0163–96	7/12/96	10/14/97, 62 FR 53242 ..	52.2465(c)(120).
City of Hopewell—Regional Wastewater Treatment Facility.	50735	5/30/96	10/14/97, 62 FR 53242 ..	52.2465(c)(120).
Allied Signal, Inc.—Hopewell Plant	50232	3/26/97	10/14/97, 62 FR 53242 ..	52.2465(c)(121).
Allied Signal, Inc.—Chesterfield Plant	V–0114–96	5/20/96	10/14/97, 62 FR 53242 ..	52.2465(c)(121).
Bear Island Paper Co. L.P	V–0135–96	7/12/96	10/14/97, 62 FR 53242 ..	52.2465(c)(121).
Stone Container Corp.—Hopewell Mill	50370	5/30/96	10/14/97, 62 FR 53242 ..	52.2465(c)(121).
E.I. Dupont de Nemours and Co.—Spruance Plant	V–0117–96	5/30/96	10/14/97, 62 FR 53242 ..	52.2465(c)(121).
ICI Americas Inc.—Films Division—Hopewell Site	50418	5/30/96	10/14/97, 62 FR 53242 ..	52.2465(c)(121).
*	*	*	*	*
Kraft Foods Global, Inc.—Richmond Bakery	Registration No. 50703 ..	9/19/07	4/15/08, 73 FR 20175	52.2420(d)(8).
*	*	*	*	*

(e) *EPA-approved non-regulatory and quasi-regulatory material.*

(1) *Non-regulatory material.*

Name of non-regulatory SIP revision	Applicable geographic area	State submittal date	EPA approval date	Additional explanation
Commitment Letter-Clean fuel fleet or alternative substitute program.	Northern Virginia Ozone non-attainment Area.	1/25/93	9/23/93, 58 FR 50846	52.2423(j).
Motor vehicle emissions budgets.	Hampton Roads Ozone Maintenance Area.	8/29/96	6/26/97, 62 FR 34408	52.2424(a).
Motor vehicle emissions budgets.	Richmond Ozone Maintenance Area.	7/30/96	11/17/97, 62 FR 61237	52.2424(b).
1990 Base Year Emissions Inventory-Carbon Monoxide (CO).	Metropolitan Washington Area	11/1/93, 4/3/95, 10/12/95	1/30/96, 61 FR 2931	52.2425(a).
1990 Base Year Emissions Inventory-Carbon Monoxide (CO), oxides of nitrogen (NO_X), & volatile organic compounds (VOC).	Richmond-Petersburg, Norfolk-Virginia Beach, and Smyth County Ozone Areas.	11/11/92, 11/18/92, 11/1/93, 12/15/94.	9/16/96, 61 FR 48657	52.2425(b).
1990 Base Year Emissions Inventory-Carbon Monoxide (CO), oxides of nitrogen (NO_X), & volatile organic compounds (VOC).	Northern Virginia (Metropolitan Washington) Ozone Non-attainment Area.	11/30/92, 11/1/93, 4/3/95	9/16/96, 61 FR 54656	52.2425(c).

Name of non-regulatory SIP revision	Applicable geographic area	State submittal date	EPA approval date	Additional explanation
1990 Base Year Emissions Inventory-oxides of nitrogen (NO_X), & volatile organic compounds (VOC).	Northern Virginia (Metropolitan Washington) Ozone Nonattainment Area.	12/17/97	7/8/98, 63 FR 36854.	
Photochemical Assessment Monitoring Stations (PAMS) Program.	Northern Virginia (Metropolitan Washington) Ozone Nonattainment Area.	11/15/94	9/11/95, 60 FR 47081	52.2426.
Attainment determination of the ozone NAAQS.	Richmond Ozone Nonattainment Area.	7/26/96	10/6/97, 62 FR 52029	52.2428(a).
15% rate of progress plan	Northern Virginia (Metropolitan Washington) Ozone Nonattainment Area.	4/14/98	10/6/00, 65 FR 59727	52.2428(b).
Small business stationary source technical and environmental assistance program.	Statewide	11/10/92	2/14/94, 59 FR 5327	52.2460.
Establishment of Air Quality Monitoring Network.	Statewide	3/24/80	12/5/80, 45 FR 86530	52.2465(c)(38).
Lead (Pb) SIP	Statewide	12/31/80	3/21/82, 45 FR 8566	52.2465(c)(61).
Carbon Monoxide Maintenance Plan.	Arlington County & Alexandria City.	3/22/04	4/4/05, 70 FR 16958	Revised Carbon Monoxide Maintenance Plan Base Year Emissions Inventory using MOBILE6.
Ozone Maintenance Plan, emissions inventory & contingency measures.	Hampton Roads Area	8/27/96	6/26/97, 62 FR 34408	52.2465(c)(117).
Ozone Maintenance Plan, emissions inventory & contingency measures.	Richmond Area	7/26/96	11/17/97, 62 FR 61237	52.2465(c)(119).
Non-Regulatory Voluntary Emission Reduction Program.	Washington, DC severe 1-hour ozone nonattainment area.	2/25/04	5/12/05, 70 FR 24987	The nonregulatory measures found in section 7.6 and Appendix J of the plan.
1996–1999 Rate-of-Progress Plan SIP and the Transportation Control Measures (TCMs) in Appendix H.	Washington 1-hour ozone nonattainment area.	12/29/03, 5/25/99	5/16/05, 70 FR 25688	Only the TCMs in Appendix H of the 5/25/1999 revision, 1999 motor vehicle emissions budgets of 128.5 tons per day (tpy) of VOC and 196.4 tpy of NO_X.
1990 Base Year Inventory Revisions.	Washington 1-hour ozone nonattainment area.	8/19/03, 2/25/04	5/16/05, 70 FR 25688.	
1999–2005 Rate-of-Progress Plan SIP Revision and the Transportation Control Measures (TCMs) in Appendix J.	Washington 1-hour ozone nonattainment area.	8/19/03, 2/25/04	5/16/05, 70 FR 25688	Only the TCMs in Appendix J of the 2/25/2004 revision, 2002 motor vehicle emissions budgets (MVEBs) of 125.2 tons per day (tpy) for VOC and 290.3 tpy of NO_X, and, 2005 MVEBs of 97.4 tpy for VOC and 234.7 tpy of NO_X.
VMT Offset SIP Revision	Washington 1-hour ozone nonattainment area.	8/19/03, 2/25/04	5/16/05, 70 FR 25688.	
Contingency Measure Plan	Washington 1-hour ozone nonattainment area.	8/19/03, 2/25/04	5/16/05, 70 FR 25688.	
1-hour Ozone Modeled Demonstration of Attainment and Attainment Plan.	Washington 1-hour ozone nonattainment area.	8/19/03, 2/25/04	5/16/05, 70 FR 25688	2005 motor vehicle emissions budgets of 97.4 tons per day (tpy) for VOC and 234.7 tpy of NO_X.
		3/18/14	5/26/15, 80 FR 29963	Removal of Stage II vapor recovery program. See section 52.2428.
Attainment Demonstration and Early Action Plan for the Roanoke MSA Ozone Early Action Compact Area.	Botetourt County, Roanoke City, Roanoke County, and Salem City.	12/21/04, 2/15/05	8/17/05, 70 FR 43277.	
Attainment Demonstration and Early Action Plan for the Northern Shenandoah Valley Ozone Early Action Compact Area.	City of Winchester and Frederick County.	12/20/04, 2/15/05	8/17/05, 70 FR 43280.	
8-Hour Ozone Maintenance Plan for the Fredericksburg VA Area.	City of Fredericksburg, Spotsylvania County, and Stafford County.	5/4/05	12/23/05, 70 FR 76165.	
		3/18/14	5/26/15, 80 FR 29963	Revised 2009 and 2015 motor vehicle emission budgets for NO_X.
8-Hour Ozone Maintenance Plan for the Madison & Page Cos. (Shenandoah NP), VA Area.	Madison County (part) and Page County (part).	9/23/05	1/3/05, 71 FR 24.	
8-Hour Ozone Maintenance Plan and 2002 Base Year Emissions Inventory.	Norfolk-Virginia Beach-Newport News (Hampton Roads), VA Area.	10/12/06, 10/16/06, 10/18/06, 11/20/06, 2/13/07.	6/1/07, 72 FR 30490	The SIP effective date is 6/1/07.

Name of non-regulatory SIP revision	Applicable geographic area	State submittal date	EPA approval date	Additional explanation
8-Hour Ozone Maintenance Plan and 2002 Base Year Emissions Inventory.	Richmond-Petersburg VA Area	9/18/06, 9/20/06, 9/25/06, 11/17/06, 2/13/07.	6/1/07, 72 FR 30485	The SIP effective date is 6/18/07.
Ozone Maintenance Plan	White Top Mountain, Smyth County, VA 1-hour Ozone Nonattainment Area.	8/6/07	4/29/08, 73 FR 23103.	
RACT under the 8-Hour NAAQS.	Stafford County	4/21/08	12/22/08, 73 FR 78192.	
RACT under the 8-Hour NAAQS.	Virginia portion of the DC-MD-VA area.	10/23/06	6/16/09, 74 FR 28444.	
Reasonable Further Progress Plan (RFP), Reasonably Available Control Measures, and Contingency Measures.	Washington DC-MD-VA 1997 8-hour ozone moderate nonattainment area.	6/12/07	9/20/11, 76 FR 58206.	
2002 Base Year Inventory for VOC, NO_X, and CO.	Washington DC-MD-VA 1997 8-hour ozone moderate nonattainment area.	6/12/07	9/20/11, 76 FR 58206.	
2008 RFP Transportation Conformity Budgets.	Washington DC-MD-VA 1997 8-hour ozone moderate nonattainment area.	6/12/07	9/20/11, 76 FR 58206.	
Section 110(a)(2) Infrastructure Requirements for the 1997 Ozone NAAQS Statewide.	Statewide	7/10/08, 9/2/08, 6/8/10, 6/9/10	10/11/11, 76 FR 62635	This action addresses the following CAA elements or portions thereof: 110(a)(2)(A), (B), (C), (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M).
		11/13/07, 12/13/07, 8/25/11	2/25/14, 79 FR 10377	This action addresses the PSD related elements of the following CAA requirements: 110(a)(2)(D)(i)(II).
Section 110(a)(2) Infrastructure Requirements for the 1997 $PM_{2.5}$ NAAQS.	Statewide	7/10/08, 9/2/08, 6/8/10, 6/9/10, 4/1/08.	10/11/11, 76 FR 62635	This action addresses the following CAA elements or portions thereof: 110(a)(2)(A), (B), (C), (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M).
		11/13/07, 7/10/08, 9/2/08, 8/25/11.	2/25/14, 79 FR 10377	This action addresses the PSD related elements of the following CAA requirements: 110(a)(2)(C), (D)(i)(II), and (J).
Section 110(a)(2) Infrastructure Requirements for the 2006 $PM_{2.5}$ NAAQS.	Statewide	8/30/10, 4/1/11	10/11/11, 76 FR 62635	This action addresses the following CAA elements or portions thereof: 110(a)(2)(A), (B), (C), (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M).
		4/1/11, 8/25/11	2/25/14, 79 FR 10377	This action addresses the PSD related elements of the following CAA requirements: 110(a)(2)(C), (D)(i)(II), and (J).
Section 110(a)(2) Infrastructure Requirements for the 2008 Lead NAAQS.	Statewide	3/9/12	9/24/13, 78 FR 58462	This action addresses the following CAA elements or portions thereof: 110(a)(2)(A), (B), (C) (for enforcement and regulation of minor sources), (D)(i)(I), (D)(i)(II) (for the visibility protection portion), (D)(ii), (E)(i), (E)(iii), (F), (G), (H), (J), (K), (L), and (M).
		3/9/12	2/25/14, 79 FR 10377	This action addresses the PSD related elements of the following CAA requirements: 110(a)(2)(C), (D)(i)(II), and (J).
		12/22/14	4/2/15, 80 FR 17695	Docket #2015–0040. Addresses CAA element 110(a)(2)(E)(ii).
Regional Haze Plan	Statewide	10/4/10	6/13/12, 77 FR 35287	§ 52.2452(d); Limited Approval.
Regional Haze Plan Supplements and BART determinations:	Statewide		6/13/12, 77 FR 35287	§ 52.2452(d); Limited Approval.
1. Georgia Pacific Corporation;		7/17/08.		
2a. MeadWestvaco Corporation;		5/6/11.		
b. MeadWestvaco Corporation;		3/6/09.		
3. O–N Minerals Facility;		1/14/10.		
4. Revision to the O–N Minerals Facility permit		11/19/10.		

Name of non-regulatory SIP revision	Applicable geographic area	State submittal date	EPA approval date	Additional explanation
2002 Base Year Emissions Inventory for the 1997 fine particulate matter ($PM_{2.5}$) standard.	Virginia portion of the Washington DC-MD-VA 1997 $PM_{2.5}$ nonattainment area.	4/4/08	10/4/12, 77 FR 60626	§ 52.2425(f).
Section 110(a)(2) Infrastructure Requirements for the 2010 Nitrogen Dioxide NAAQS.	Statewide	5/30/13	3/18/14, 79 FR 15012	Docket #2013–0510. This action addresses the following CAA elements, or portions thereof: 110(a)(2)(A), (B), (C), (D)(i)(II), (D)(ii), (E)(i), (E)(iii), (F), (G), (H), (J), (K), (L), and (M) with the exception of PSD elements.
		5/30/13	9/30/14, 79 FR 58686	Docket #2013–0510. This action addresses the following CAA elements, or portions thereof: 110(a)(2)(C), (D)(i)(II), and (J) with respect to the PSD elements.
		12/22/14	4/2/15, 80 FR 17695	Docket #2015–0040. Addresses CAA element 110(a)(2)(E)(ii).
Section 110(a)(2) Infrastructure Requirements for the 2008 Ozone NAAQS.	Statewide	7/23/12	3/27/14, 79 FR 17043	Docket #2013–0211. This action addresses the following CAA elements, or portions thereof: 110(a)(2)(A), (B), (C), (D)(i)(II), (D)(ii), (E)(i), (E)(iii), (F), (G), (H), (J), (K), (L), and (M) with the exception of PSD elements.
		7/23/12	9/30/14, 79 FR 58686	Docket #2013–0211. This action addresses the following CAA elements, or portions thereof: 110(a)(2)(C), (D)(i)(II), and (J) with respect to the PSD elements.
		12/22/14	4/2/15, 80 FR 17695	Docket #2015–0040. Addresses CAA element 110(a)(2)(E)(ii).
Regional Haze Five-Year Progress Report.	Statewide	11/8/13	5/2/14, 79 FR 25019.	
Maintenance plan for the Virginia Portion of the Washington, DC-MD-VA Nonattainment Area for the 1997 Annual $PM_{2.5}$ National Ambient Air Quality Standard.	Statewide	06/03/13, 07/17/13	10/6/14,79 FR 60081	See § 52.2429(b).
Section 110(a)(2) Infrastructure Requirements for the 2010 Sulfur Dioxide NAAQS.	Statewide	6/18/14	3/4/15, 80 FR 11557	Docket #2014–0522. This action addresses the following CAA elements, or portions thereof: 110(a)(2) (A), (B), (C), (D)(i)(II) (PSD), (D)(ii), (E)(i), (E)(iii), (F), (G), (H), (J) (consultation, notification, and PSD), (K), (L), and (M).
		12/22/14	4/2/15, 80 FR 17695	Docket #2015–0040. Addresses CAA element 110(a)(2)(E)(ii).
Attainment Demonstration Contingency Measure Plan.	Washington, DC-MD-VA 1997 8-Hour Ozone Nonattainment Area.	June 12, 2007	4/10/15, 80 FR 19219	2010 motor vehicle emissions budgets of 144.3 tons per day (tpd) NO_X.
8-hour Ozone Modeled Demonstration of Attainment and Attainment Plan for the 1997 Ozone National Ambient Air Quality Standards.	Washington, DC-MD-VA 1997 8-Hour Ozone Nonattainment Area.	6/12/07	4/10/15, 80 FR 19206	2009 motor vehicle emissions budgets of 66.5 tons per day (tpd) for VOC and 146.1 tpd of NO_X.
		3/18/14	5/26/15, 80 FR 29963	Removal of Stage II vapor recovery program. See section 52.2428.
2011 Base Year Emissions Inventory for the 2008 8-hour ozone standard.	Virginia portion of the Washington, DC-MD-VA 2008 ozone nonattainment area.	7/17/14	5/13/15, 80 FR 27258	§ 52.2425(g).
Section 110(a)(2) Infrastructure Requirements for the 2012 Particulate Matter NAAQS.	Statewide	7/16/15	6/16/16, 81 FR 39210	Docket #2015–0838. This action addresses the following CAA elements, or portions thereof: 110(a)(2)(A), (B), (C), (D)(i)(II) (PSD), (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M).

(2) *Documents incorporated by reference in regulation 9VAC5–20–21.*

Revised paragraph in regulation 5–20–21	Applicable geographic area	State submittal date	EPA approval date	Additional explanation
9VAC5–60–100 (adopts 40 CFR 63.460 through 63.469 by reference).	Statewide	10/9/98	11/3/99, 64 FR 59648	52.2423(q).
9VAC5–20–21, paragraphs E.1 through E.5 and E.7.	Statewide	4/12/89	8/23/95, 60 FR 43714	52.2423(m); Originally Appendix M, Sections II.A. through II.E. and II.G.
9VAC5–20–21, paragraphs E.1 and E.2.	Statewide	2/12/93	8/23/95, 60 FR 43714	52.2423(n); Originally Appendix M, Sections II.A. and II.B.
9VAC5–20–21, Section E	Statewide	6/22/99	1/7/03, 68 FR 663	52.2423(r).
9VAC5–20–21, paragraph E.12	Statewide	2/23/04	6/8/04, 69 FR 31893	52.2423(s).
9VAC5–20–21, Section E	Northern Virginia VOC Emissions Control Area designated in 9VAC5–20–206.	3/24/04	5/12/05, 70 FR 24970	9VAC5–20–21, Sections E.1.a.(7)., E.4.a.(12) through a.(17), E.10., E.11., E.13.a.(1), and E.13.a.(2).
9VAC5–20–21, Sections D and E.	Statewide	8/25/05	3/3/06, 71 FR 10838	Sections D., E. (introductory sentence), E.2 (all paragraphs), E.3.b, E.4.a.(1) and (2), E.4.b. , E.5. (all paragraphs), and E.7. (all paragraphs) State effective date is 2/1/00.
9VAC5–20–21, Section B	Statewide	10/25/05	3/3/06, 71 FR 10838	State effective date is 3/9/05; approval is for those provisions of the CFR which implement control programs for air pollutants related to the national ambient air quality standards (NAAQS) and regional haze.
9VAC5–20–21, Section E	Northern Virginia VOC Emissions Control Area designated in 9VAC5–20–206.	10/25/05	1/30/07, 72FR 4207	9VAC5–20–21, Sections .1.a.(16)., E.4.a.(18) through a.(20), E.6.a, E.11.a.(3), E.12.a.(5) through a.(8), E.14.a. and E.14.b. State effective date is 3/9/05.
9VAC5–20–21, Paragraphs E.4.a. (21) and (22).	Fredericksburg VOC Emissions Control Area Designated in 9VAC5–20–206.	5/14/07	12/5/07, 72 FR 68511	State effective date is 10/4/06.
9VAC5–20–21, Sections B. and E.1.	Statewide	6/24/09	1/18/11, 76 FR 2829	Revised sections.
9VAC5–20–21, Sections E.1.a.(1)(q) and E.1.a.(1)(r).	Statewide	9/27/10	4/25/11, 76 FR 22814	Revised sections.
9VAC5–20–21, Section E.1.a.(1)(s).	Statewide	8/18/10	6/22/11, 76 FR 36326	Added Section.
9VAC5–20–21, Sections E.1.a.(2), (16)–(19), E.2.a.(3), E.2.b., E.4.a.(23)–(27), E.11.a.(4)–(6), E.12.a.(3), (5) and (9)–(11).	Northern Virginia and Fredericksburg VOC Emissions Control Areas.	3/17/10	1/26/12, 77 FR 3928	Added section.
9VAC5–20–21 Section E.1.a(1) Documents Incorporated by Reference.	Statewide	5/25/11	2/3/12, 77 FR 5400	Addition of paragraph (1)(a) and (1) (u). The citations of all other paragraphs are revised.
Documents incorporated by reference.	Northern Virginia VOC emissions control area.	02/01/16	10/21/16, 81 FR 72711	Section 15 added.

[FR Doc. 2017–10909 Filed 5–26–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2016–0238; FRL–9962–73–Region 3]

Approval and Promulgation of Air Quality Implementation Plans; Maryland; Control of Nitrogen Oxide Emissions From Coal-Fired Electric Generating Units

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a state implementation plan (SIP) revision submitted by the State of Maryland. The revision consists of a Maryland regulation that regulates nitrogen oxides (NO_X) emissions from coal-fired electric generating units (EGUs) in the State. EPA is approving this revision in accordance with the requirements of the Clean Air Act (CAA).

DATES: This final rule is effective on June 29, 2017.

ADDRESSES: EPA has established a docket for this action under Docket ID

Number EPA–R03–OAR–2016–0238. All documents in the docket are listed on the *https://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 *https://www.regulations.gov,* or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Marilyn Powers, (215) 814–2308, or by email at *powers.marilyn@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On January 11, 2017 (82 FR 3233), EPA published a notice of proposed rulemaking (NPR) for the State of Maryland. In the NPR, EPA proposed approval of a Maryland regulation to control emissions of NO_X from coal fired EGUs. The formal SIP revision (#15–06) was submitted by the Maryland Department of the Environment (MDE) on November 20, 2015. On September 8, 2016, MDE provided a letter to EPA to clarify that the November 20, 2015 submission was submitted as a SIP strengthening measure and not as a submission to address reasonably available control technology (RACT) requirements for coal-fired EGUs.

As noted in the NPR, this action pertains only to the changes to COMAR 26.11.38 that were submitted by MDE on November 20, 2015 with a State effective date of August 31, 2015, namely COMAR 26.11.38.01-.05. Subsequent revisions and amendments to this regulation have been made by MDE, but have not yet been submitted to EPA for incorporation into the Maryland SIP.

II. Summary of SIP Revision

The revision consists of Maryland regulation COMAR 26.11.38—Control of NO_X Emissions from Coal-Fired Electric Generating Units (effective August 31, 2015). The regulation establishes NO_X emissions standards for 14 EGUs at 7 coal-fired power plants, and requires an affected EGU to minimize NO_X emissions by operating and optimizing the use of all installed pollution controls and combustion controls during all times that the unit is in operation while burning coal. Additional monitoring and recordkeeping are required to demonstrate compliance with these requirements, and the owner or operator is required to submit a plan to MDE and to EPA for approval, which summarizes the data to be collected and make a showing that each affected EGU is operating its installed controls. Other specific requirements of COMAR 26.11.38 and the rationale supporting EPA's proposed rulemaking action are explained in the NPR and Technical Support Document (TSD) supporting EPA's analysis for approval of Maryland's regulation into the SIP and will not be restated here. The NPR and TSD are available in the docket for this rulemaking at *https://www.regulations.gov,* Docket ID Number EPA–R03–OAR–2016–0238.

III. Public Comments and EPA's Responses

EPA received two anonymous comments on the January 11, 2017 proposed approval of COMAR 26.11.38 for the Maryland SIP.

Comment 1: One commenter expressed support for strengthening the NO_X emissions limits in Maryland.

Response 1: EPA thanks the commenter for the submitted statement.

Comment 2: Another commenter expressed support for the proposed rulemaking as a SIP strengthening measure needed to reduce pollution and to meet the requirements of the national ambient air quality standards (NAAQS) ''to keep the air clean.'' However, the commenter also stated, ''This regulation was submitted as a SIP strengthening measure which seems to be necessary because of how it does not include nitrogen oxides (NO_X) emissions from seven coal-fired electric generating units which is a great amount.'' The commenter also stated it is an important measure to regulate clean air in ''already polluted skies'' and acknowledged this regulation was SIP strengthening and was not submitted to meet RACT requirements.

Response 2: EPA thanks the commenter for supporting our approval of the Maryland regulation into the State's SIP. EPA notes that the commenter is incorrect in stating that COMAR 26.11.38, entitled ''Control of Nitrogen Oxides Emissions from Coal Fired Electric Generating Units,'' does not apply to NO_X emissions from seven coal-fired EGUs. The language of COMAR 26.11.38 specifically contains NO_X limitations for these EGUs as well as other control measures related to NO_X emissions ass discussed in the NPR and TSD. As EPA discussed in the NPR, because NO_X is a precursor to ozone formation, the NO_X limitations and measures for these EGUs identified in COMAR 26.11.38 will reduce NO_X emissions and ozone formation in Maryland which should assist Maryland with attaining and maintaining the ozone NAAQS. Finally, the commenter correctly acknowledged that Maryland had not submitted COMAR 26.11.38 for SIP inclusion to address any RACT requirements which Maryland confirmed with its September 8, 2016 letter to EPA. The September 8, 2016 letter is available in the docket for this rulemaking. EPA expects subsequent rulemaking action on Maryland's obligations for RACT under the 2008 ozone NAAQS.

III. Final Action

EPA is approving Maryland regulation COMAR 26.11.38, submitted in the November 20, 2015 SIP submission, which has a state effective date of August 31, 2015, as a revision to the Maryland SIP as a SIP strengthening measure in accordance with section 110 of the CAA. COMAR 26.11.38.01–.05 imposes NO_X emissions limits on coal fired EGUs subject to the regulation, and EPA expects the regulation will lower NO_X emissions within the State which should reduce ozone formation. The NO_X emissions limits plus the operation and optimization of the existing NO_X controls whenever the units are in operation strengthens the Maryland SIP and will help the State's attainment and maintenance of the ozone NAAQS.

IV. Incorporation by Reference

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of Maryland regulation COMAR 26.11.38.01–.05 described in the amendments to 40 CFR part 52 set forth below. Therefore, these materials have been approved by EPA for inclusion in the SIP, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference by the Director of the Federal Register in the next update to the SIP compilation.[1] EPA has made, and will continue to make, these materials generally available through *http://www.regulations.gov* and/or at the EPA Region III Office (please contact the person identified in the ''For Further

[1] 62 FR 27968 (May 22, 1997).

Information Contact'' section of this preamble for more information).

V. Statutory and Executive Order Reviews

A. General Requirements

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

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

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

B. Submission to Congress and the Comptroller General

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

C. 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 July 31, 2017. 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 approving Maryland regulation COMAR 26.11.38 into the Maryland SIP 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, Reporting and recordkeeping requirement.

Dated: May 5, 2017.

Cecil Rodrigues,

Acting 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 V—Maryland

■ 2. In § 52.1070, the table in paragraph (c) is amended by adding the heading ''26.11.38 Control of Nitrogen Oxide Emissions from Coal-Fired Electric Generating Units'' and the entries ''26.11.38.01 through 26.11.38.05'' in numerical order to read as follows:

§ 52.1070 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED REGULATIONS, TECHNICAL MEMORANDA, AND STATUTES IN THE MARYLAND SIP

Code of Maryland Administrative Regulations (COMAR) citation	Title/subject	State effective date	EPA approval date	Additional explanation/ citation at 40 CFR 52.1100
*	*	*	*	*
26.11.38 Control of Nitrogen Oxide Emissions From Coal-Fired Electric Generating Units				
26.11.38.01	Definitions	8/31/2015	5/30/2017 [Insert **Federal Register** citation].	
26.11.38.02	Applicability	8/31/2015	5/30/2017 [Insert **Federal Register** citation].	
26.11.38.03	2015 NO_X Emission Control Requirements	8/31/2015	5/30/2017 [Insert **Federal Register** citation].	

EPA-APPROVED REGULATIONS, TECHNICAL MEMORANDA, AND STATUTES IN THE MARYLAND SIP—Continued

Code of Maryland Administrative Regulations (COMAR) citation	Title/subject	State effective date	EPA approval date	Additional explanation/ citation at 40 CFR 52.1100
26.11.38.04	Compliance Demonstration Requirements ...	8/31/2015	5/30/2017 [Insert **Federal Register** citation].	
26.11.38.05	Reporting Requirements	8/31/2015	5/30/2017 [Insert **Federal Register** citation].	
*	*	*	*	* * *

* * * * *

[FR Doc. 2017–10912 Filed 5–26–17; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MD 204–3120; FRL–9959–24–Region 3]

Air Plan Approval; Maryland; Update to Materials Incorporated by Reference

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; administrative change.

SUMMARY: The Environmental Protection Agency (EPA) is updating the materials that are incorporated by reference (IBR) into the Maryland state implementation plan (SIP). The regulations affected by this update have been previously submitted by the Maryland Department of the Environment (MDE) and approved by EPA. This update affects the SIP materials that are available for public inspection at the National Archives and Records Administration (NARA) and the EPA Regional Office.

DATES: This action is effective May 30, 2017.

ADDRESSES: SIP materials which are incorporated by reference into 40 CFR part 52 are available for inspection at the following locations: Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; or NARA. For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

FOR FURTHER INFORMATION CONTACT: Sharon McCauley, (215) 814–3376, or by email at *mccauley.sharon@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The SIP is a living document which a state revises as necessary to address its unique air pollution problems. Therefore, EPA, from time to time, must take action on SIP revisions containing new and/or revised regulations as being part of the SIP. On May 22, 1997 (62 FR 27968), EPA revised the procedures for incorporating by reference federally-approved SIPs, as a result of consultations between EPA and the Office of the Federal Register (OFR). The description of the revised SIP document, IBR procedures and ''Identification of plan'' format are discussed in further detail in the May 22, 1997 **Federal Register** document. On November 29, 2004 (69 FR 69304), EPA published a document in the **Federal Register** beginning the new IBR procedure for Maryland. On February 2, 2006 (71 FR 5607), May 18, 2007 (72 FR 27957), March 11, 2008 (73 FR 12895), March 19, 2009 (74 FR 11647), and August 22, 2011 (76 FR 52278), EPA published updates to the IBR material for Maryland.

Since the publication of the last IBR update, EPA has approved the following regulatory changes to the following regulations, statutes, and source-specific actions for Maryland:

A. Added

1. COMAR 26.11.09.10 (Requirements to Burn Used Oil and Waste Combustible Fluid as Fuel).
2. COMAR 26.11.09.12 (Standards for Biomass Fuel-Burning Equipment Equal to or Greater Than 350,000 Btu/hr).
3. COMAR 26.11.17.06 through .09 (Requirements for New Sources and Modifications).
4. COMAR 26.11.19.07–2 (Plastic Parts and Business Machines Coating).
5. COMAR 26.11.19.27–1 (Control of Volatile Organic Compounds from Pleasure Craft Coating Operations).
6. COMAR 26.11.26.01, 26.11.26.04 through .09 (Conformity).
7. COMAR 26.11.34.01 through .14 (Low Emissions Vehicle Program).
8. COMAR 26.11.35.01 through .07 (Volatile Organic Compounds from Adhesives and Sealants).
9. COMAR 20.79.01.01 (part), .02 (part), and .06 (Applications Concerning the Construction or Modification of Generating Stations and Overhead Transmission Lines—General).
10. COMAR 20.79.02.01 through 20.79.02.03 (Applications Concerning the Construction or Modification of Generating Stations and Overhead Transmission Lines—Administrative Provisions).
11. COMAR 20.79.03.01 and 20.79.03.02 (part) (Applications Concerning the Construction or Modification of Generating Stations and Overhead Transmission Lines—Details of Filing Requirements—Generating Stations).
12. Public Utility Companies Article of the Annotated Code of Maryland, sections 7–205, 7–207 (part), 7–207.1 (part), and 7–208.
13. Annotated Code of Maryland, title 15 (Public Ethics) which was also removed and replaced (see section C of this rulemaking).
14. Annotated Code of Maryland, section 5–101 (a),(e),(f), (g)(1) and (2), (h), (i), (j), (m), (n), (p), (s), (t), (bb), (ff), (gg), (ll) (Definitions), section 5–103(a) through (c) (Designation of Individuals as Public Officials, section 5–208(a) (Determination of Public Official in Executive agency), section 5–501(a) and (c) (Restrictions on Participation), section 5–601(a) (Individuals Required to File Statement), section 5–602(a) (Financial Disclosure Statement—Filing Requirements), section 5–606(a) (Public Records), section 5–607(a) through (j) (Content of statements), and section 5–608(a) through (c) (Interests Attributable to Individual Filing Statement).
15. In 40 CFR 52.1070(d), a source specific requirement was added for the GenOn Chalk Point Generating Station—2011 Consent Decree for Chalk Point.

B. Revised

1. COMAR 26.11.01.01 (Definitions).
2. COMAR 26.11.01.04 (Testing and Monitoring).
3. COMAR 26.11.02.01 (Definitions), .09 (Sources Subject to Permits to Construct), .10 (Sources Exempt from Permits to Construct and Approvals),

and .12 (Procedures for Obtaining Approvals of PSD Sources and NSR Sources, Permits to Construct, Permit to Construct MACT Determinations On a Case-by-Case Basis in Accordance with 40 CFR part 63, subpart B, and Certain 100-Ton Sources).

4. COMAR 26.11.04.02 (Ambient Air Quality Standards, Definitions, Reference Conditions, and Methods of Measurement).

5. COMAR 26.11.06.14 (Control of PSD Sources).

6. COMAR 26.11.09.01 (Definitions), .04 (Prohibition of Certain New Fuel Burning Equipment), .06 (Control of Particulate Matter), .07 (Control of Sulfur Oxides from Fuel Burning Equipment), and .09 (Tables and Diagrams).

7. COMAR 26.11.10.03 (Visible Emissions).

8. COMAR 26.11.13.04 (Loading Operations) and .05 (Gasoline Leaks from Tank Trucks).

9. COMAR 26.11.17.01 (Definitions), .02 (Applicability), .03 (General Conditions), .04 (Creating Emission Reduction Credits (ERCs)), .05 (Information on Emission Reductions and Certification).

10. The following regulations in COMAR 26.11.19 (Volatile Organic Compounds from Specific Processes):

a. COMAR 26.11.19.02 (Applicability, Determining Compliance, Reporting, and General Requirements).

b. COMAR 26.11.19.07 (Paper, Fabric, Film, and Foil Coating).

c. COMAR 26.11.19.08 (Metal Parts and Products Coating).

d. COMAR 26.11.19.11 (Lithographic and Letterpress Printing).

e. COMAR 26.11.19.13 (Drum and Pail Coating).

f. COMAR 26.11.19.15 (Paint, Resin, and Adhesive Manufacturing and Adhesive and Sealant Applications).

g. COMAR 26.11.19.23 (Control of VOC Emissions from Vehicle Refinishing).

h. COMAR 26.11.19.30 (Control of Volatile Organic Compounds from Chemical Production and Flouropolymer Material Installations).

11. COMAR 26.11.26.01 (Purpose), .02 (Definitions) and .03 (Transportation Conformity).

12. COMAR 26.11.34.01 (Purpose), .02 (Incorporation by Reference), .03 (Applicability and Exemptions, .04 (Definitions), .05 (Emission Requirements), .06 (Fleet Average NMOG Credit Account Balances), .07 (Initial NMOG Credit Account Balances), .08 (Fleet Average Greenhouse Gas Requirements), .09 (Zero Emission Vehicle (ZEV) Requirements), .10 (Initial ZEV Credit Account Balances), .11 (Vehicle Testing), .12 (Warranty), .13 (Manufacturer Compliance Demonstration), and .14 (Enforcement).

C. Removed

1. COMAR 26.11.04.03 through .09 (State Ambient Air Quality Standards).

2. Annotated Code of Maryland, title 15 (Public Ethics).

3. Consent orders and/or consent decrees for Potomac Electric Power Company (PEPCO)—Chalk Point Units #1 and #2, Beall Junior/Senior High School, Mt. Saint Mary's College, and Maryland Slag Co.

II. EPA Action

In this action, EPA is announcing the update to the IBR material as of July 1, 2016 and revising the text within 40 CFR 52.1070(b).

EPA is revising our 40 CFR part 52 ''Identification of Plan'' for the State of Maryland regarding incorporation by reference, § 52.1070(b). EPA is revising § 52.1070(b)(1) to clarify that all SIP revisions listed in paragraphs (c) and (d), regardless of inclusion in the most recent ''update to the SIP compilation,'' are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking in which EPA approved the SIP revision, consistent with following our ''Approval and Promulgations of Air Quality Implementation Plans; Revised Format of 40 CFR part 52 for Materials Being Incorporated by Reference,'' effective May 22, 1997 (62 FR 27968). EPA is revising § 52.1070(b)(2) to clarify references to other portions of paragraph (b) with paragraph (b)(2). EPA is revising paragraph (b)(3) to update address and contact information.

In the table for 40 CFR 52.1070(c):

1. Revising the **Federal Register** date for COMAR 26.11.10.03.

2. Adding a **Federal Register** entry for COMAR 26.11.19.09–1 which is currently not shown in the Code of Federal Regulations but was previously approved by EPA on February 22, 2011 at 76 FR 9656.

3. Revising the title of the State Government Article of the Annotated Code of Maryland to read, ''General Provisions Article of the Annotated Code of Maryland (formerly cited at Section 15 of State Government Article).''

In the table for 40 CFR 52.1070(d):

1. Restoring an entry for PEPCO—Dickerson which was inadvertently removed from the table during a prior final rulemaking action.

2. Revising an incorrect **Federal Register** page citation in the ''EPA approval date'' column for the Northeast Maryland Waste Disposal Authority and Wheelabrator-Frye, Inc. and the Mayor and City Council of Baltimore and BEDCO Development Corp.

3. Reorganizing the table so that the entries appear in the order which EPA's approval actions occurred.

III. Good Cause Exemption

EPA has determined that this rule falls under the ''good cause'' exemption in section 553(b)(3)(B) of the Administrative Procedures Act (APA) which, upon finding ''good cause,'' authorizes agencies to dispense with public participation and section 553(d)(3) which allows an agency to make a rule effective immediately (thereby avoiding the 30-day delayed effective date otherwise provided for in the APA). This rule simply codifies provisions which are already in effect as a matter of law in federal and approved state programs. Under section 553 of the APA, an agency may find good cause where procedures are ''impractical, unnecessary, or contrary to the public interest.'' Public comment is ''unnecessary'' and ''contrary to the public interest'' since the codification only reflects existing law. Immediate notice in the CFR benefits the public by removing outdated citations and incorrect table entries.

IV. Incorporation by Reference

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of previously EPA approved regulations promulgated by the State of Maryland and federally effective prior to July 1, 2016. Therefore, these materials have been approved by EPA for inclusion in the SIP, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference by the Director of the Federal Register in the next update to the SIP compilation.[1] EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* and/or at the EPA Region III Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

[1] 62 FR 27968 (May 22, 1997).

V. Statutory and Executive Order Reviews

A. General Requirements

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

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

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this 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 rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

C. Petitions for Judicial Review

EPA has also determined that the provisions of section 307(b)(1) of the CAA pertaining to petitions for judicial review are not applicable to this action. Prior EPA rulemaking actions for each individual component of the Maryland SIP compilations had previously afforded interested parties the opportunity to file a petition for judicial review in the United States Court of Appeals for the appropriate circuit within 60 days of such rulemaking action. Thus, EPA sees no need in this action to reopen the 60-day period for filing such petitions for judicial review for this ''Identification of plan'' update action for Maryland.

List of Subjects in 40 CFR Part 52

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

Dated: January 18, 2017.

Cecil Rodrigues,

Acting 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 V—Maryland

■ 2. Section 52.1070 is amended by:
■ a. Revising paragraph (b).
■ b. In paragraph (c):
■ i. Revising the entry for COMAR 26.11.10.03;
■ ii. Adding an entry in numerical order for COMAR 26.11.19.09–1; and
■ iii. Removing the heading ''State Government Article of the Annotated Code of Maryland'' and adding in its place the heading ''General Provisions Article of the Annotated Code of Maryland (formerly cited at Section 15 of State Government Article)''.
■ c. In paragraph (d):
■ i. Adding an entry for Potomac Electric Power Company (PEPCO)—Dickerson as the first entry of the table;
■ ii. Revising the entry for the Northeast Maryland Waste Disposal Authority and Wheelabrator-Frye, Inc. and the Mayor and City Council of Baltimore and BEDCO Development Corp; and
■ iii. Removing the entry for GenOn Chalk Point Generating Station from the beginning of the table and adding an entry for GenOn Chalk Point Generating Station to the end of the table.

The revisions and additions read as follows:

§ 52.1070 Identification of plan.

* * * * *

(b) *Incorporation by reference.* (1) Material listed in paragraphs (c) and (d) of this section with an EPA approval date prior to July 1, 2016, was approved for incorporation by reference by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Entries in paragraphs (c) and (d) of this section with the EPA approval dates after July 1, 2016 for the State of Maryland, have been approved by EPA for inclusion in the state implementation plan and for incorporation by reference into the plan as it is contained in this section, and will be considered by the Director of the Federal Register for approval in the next update to the SIP compilation.

(2) EPA Region III certifies that the following materials provided by EPA at the addresses in paragraph (b)(3) of this section are an exact duplicate of the officially promulgated state rules/regulations which have been approved as part of the state implementation plan as of the dates referenced in paragraph (b)(1) of this section.

(3) Copies of the materials incorporated by reference into the state implementation plan may be inspected at the Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. To obtain the material, please call the Regional Office at (215) 814–3376. You may also inspect the material with an EPA approval date prior to July 1, 2016 for the State of Maryland at the National

Archives and Records Administration (NARA). For information on the availability of this material at NARA, go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

(c) * * *

EPA-APPROVED REGULATIONS, TECHNICAL MEMORANDA, AND STATUTES IN THE MARYLAND SIP

Code of Maryland Administrative Regulations (COMAR) citation	Title/subject	State effective date	EPA approval date	Additional explanation/citation at 40 CFR 52.1100
* *	*	*	*	* *
26.11.10 Control of Iron and Steel Production Installations				
* *	*	*	*	* *
26.11.10.03	Visible Emissions	6/29/09	7/27/12, 77 FR 44146	Revised paragraphs A. and D. of 26.11.10.03 for Sintering Plants.
* *	*	*	*	* *
26.11.19 Volatile Organic Compounds From Specific Processes				
* *	*	*	*	* *
26.11.19.09–1	Control of VOC Emissions from Industrial Solvent Cleaning Operations Other Than Cold and Vapor Degreasing..	4/19/10	2/22/11, 76 FR 9656	New Regulation.
* *	*	*	*	* *

(d) * * *

Name of source	Permit number/type	State effective date	EPA approval date	Additional explanation
Potomac Electric Power Company (PEPCO)—Dickerson.	#49352 Amended Consent Order.	7/26/78	12/6/79, 44 FR 70141	52.1100(c)(25).
* *	*	*	*	* *
Northeast Maryland Waste Disposal Authority and Wheelabrator-Frye, Inc. and the Mayor and City Council of Baltimore and BEDCO Development Corp.	Secretarial Order	2/25/83	8/24/83, 48 FR 38465	52.1100(c)(70) (Shutdown of landfill for offsets).
* *	*	*	*	* *
GenOn Chalk Point Generating Station.	The 2011 Consent Decree for Chalk Point.	3/10/11	5/4/12, 77 FR 26438	Docket No. 52.1070(d). The SIP approval includes specific provisions of the 2011 Consent Decree for which the State of Maryland requested approval on October 12, 2011.

* * * * *

[FR Doc. 2017–10915 Filed 5–26–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA–R05–OAR–2016–0137; FRL–9962–70–Region 5]

Air Plan Approval; Indiana; Redesignation of the Muncie Area to Attainment of the 2008 Lead Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving the April 14, 2016, request from the Indiana Department of Environmental Management (Indiana) to redesignate the Muncie nonattainment area to attainment for the 2008 national ambient air quality standards (NAAQS or standards) for lead. EPA is also approving the state's plan for maintaining the 2008 lead NAAQS through 2030 for the area and the 2013 attainment year emissions inventory for the area. EPA is approving these actions in accordance with the Clean Air Act (CAA) and EPA's implementation regulations regarding the 2008 lead NAAQS.

DATES: This direct final rule will be effective July 31, 2017, unless EPA receives adverse comments by June 29, 2017. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R05–OAR–2016–0137 at *http://www.regulations.gov* or via email to *blakley.pamela@epa.gov.* For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Anthony Maietta, Environmental Protection Specialist, Control Strategies Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–8777, *maietta.anthony@epa.gov.*

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

I. Why is EPA concerned about lead?

Lead is a metal found naturally in the environment as well as in manufactured products. However, lead has serious public health effects and depending on the level of exposure can adversely affect the nervous system, kidney function, immune system, reproductive and developmental systems and the cardiovascular system. Today, the highest levels of lead in the air are usually found near lead smelters. In the Muncie area the only source of lead emissions is Exide Technologies, whose facility houses a lead smelter that processes used batteries and other metal waste products.

II. What is the background for these actions?

On November 12, 2008 (73 FR 66964), EPA revised the primary and secondary lead NAAQS from 1.5 micrograms per cubic meter (μg/m^3) to 0.15 μg/m^3 based on a maximum arithmetic three-month mean concentration for a three-year period. *See* 40 CFR 50.16. On November 22, 2010 (75 FR 71033), EPA published air quality designations and classifications for the 2008 lead NAAQS based upon air quality monitoring data for calendar years 2007–2009. These designations became effective on December 31, 2010. The Muncie area was designated nonattainment for the 2008 lead NAAQS. *See* 40 CFR 81.336. IDEM submitted their redesignation request on April 14, 2016.

III. What are the criteria for redesignation to attainment?

The CAA sets forth the requirements for redesignating a nonattainment area to attainment. Specifically, section 107(d)(3)(E) of the CAA authorizes EPA to redesignate an area provided that: (1) The Administrator determines that the area has attained the applicable NAAQS based on current air quality data; (2) the Administrator has fully approved an applicable state implementation plan (SIP) for the area under section 110(k) of the CAA; (3) the Administrator determines that the improvement in air quality is due to permanent and enforceable emission reductions resulting from implementation of the applicable SIP, Federal air pollution control regulations, or other permanent and enforceable emission reductions; (4) the Administrator has fully approved a maintenance plan for the area meeting the requirements of section 175A of the CAA; and (5) the state containing the area has met all requirements applicable to the area for purposes of redesignation under section 110 and part D of the CAA.

IV. What is EPA's analysis of the state's request?

EPA is approving the redesignation of the Muncie area to attainment of the 2008 lead NAAQS, as well as Indiana's maintenance plan and emissions inventory for the area. The bases for these actions follow.

(A) Attainment Determination and Redesignation

1. The Area Has Attained the 2008 Lead NAAQS (Section 107(d)(3)(E)(i))

In accordance with section 107(d)(3)(E)(i) of the CAA, 42 U.S.C. 7407, EPA is determining that the Muncie, Indiana area has attained the 2008 lead NAAQS. EPA has reviewed the ambient air monitoring data for the Muncie area in accordance with the provisions of 40 CFR part 50, appendix R. All data considered are complete, quality-assured, certified, and recorded in EPA's Air Quality System database. This review addresses air quality data collected in the 2013–2015 period, which are the most recent quality-assured data available. Our determination that the Muncie area has attained the 2008 lead NAAQS is based upon data for the 2013–2015 monitoring

period that show this area has monitored attainment of the lead NAAQS.

Under EPA regulations at 40 CFR 50.16, the 2008 primary and secondary lead standards are met when the maximum arithmetic three-month mean concentration for a three-year period, as determined in accordance with 40 CFR part 50, appendix R, is less than or equal to 0.15 μg/m^3 at all relevant monitoring sites in the subject area. As shown in Table 1, Indiana provided EPA with three years of monitoring data showing that the three-month rolling average design values for the Muncie lead monitor were all below the 2008 lead standard.

TABLE 1—THREE-MONTH ROLLING AVERAGE DESIGN VALUES FOR THE MUNCIE LEAD NONATTAINMENT AREA

Location	3-month period	2013	2014	2015
Muncie—Mt. Pleasant Boulevard	Nov–Jan [1]	0.05 μg/m^3	0.03 μg/m^3	0.03 μg/m^3
	Dec–Feb	0.06 μg/m^3	0.04 μg/m^3	0.03 μg/m^3
	Jan–Mar	0.04 μg/m^3	0.04 μg/m^3	0.04 μg/m^3
	Feb–Apr	0.03 μg/m^3	0.04 μg/m^3	0.05 μg/m^3
	Mar–May	0.03 μg/m^3	0.04 μg/m^3	0.06 μg/m^3
	Apr–Jun	0.03 μg/m^3	0.05 μg/m^3	0.06 μg/m^3
	May–July	0.03 μg/m^3	0.05 μg/m^3	0.06 μg/m^3
	Jun–Aug	0.04 μg/m^3	0.06 μg/m^3	0.05 μg/m^3
	July–Sept	0.04 μg/m^3	0.03 μg/m^3	0.03 μg/m^3
	Aug–Oct	0.05 μg/m^3	0.03 μg/m^3	0.04 μg/m^3
	Sept–Nov	0.04 μg/m^3	0.03 μg/m^3	0.04 μg/m^3
	Oct–Dec	0.04 μg/m^3	0.03 μg/m^3	0.11 μg/m^3

[1] When calculating a three-month rolling average, the first two data points, November through January for 2013 and December through February of 2013, would additionally use data from November and December of 2012.

The data from 2013–2015 are still the most recent quality-assured and certified data for the Muncie area. Indiana indicated that it will continue to use and maintain the Muncie lead monitor to determine whether the area continues to attain the standard. The 2013–2015 data show that the maximum value for the three-year period was 0.11 μg/m^3, with monitored lead values generally at or below 0.05 μg/m^3. EPA's review of these data indicates that the Muncie area has attained and continues to attain the 2008 lead NAAQS, with a design value of 0.11 μg/m^3 for the period of 2013–2015.

2. The Area Has Met All Applicable Requirements Under Section 110 and Part D and Has a Fully Approved SIP Under Section 110(k) (Section 107(d)(3)(E)(ii) and (v))

We have determined that Indiana has met all currently applicable SIP requirements for purposes of redesignation for the Muncie area under section 110 of the CAA (general SIP requirements). In addition, with the exception of the emissions inventory under section 172(c)(3), all applicable planning requirements of the Indiana SIP for purposes of redesignation have either been approved or have been suspended by either a clean data determination or determination of attainment. As discussed below, in this action, EPA is approving Indiana's 2013 emissions inventory as meeting the section 172(c)(3) comprehensive emissions inventory requirement. Thus, we are determining that the Indiana submittal meets all SIP requirements currently applicable for purposes of redesignation under part D of title I of the CAA, in accordance with sections 107(d)(3)(E)(ii) and 107(d)(3)(E)(v).

In making these determinations, we have ascertained which SIP requirements are applicable for purposes of redesignation, and concluded that the Indiana SIP includes measures meeting those requirements and that they are fully approved under section 110(k) of the CAA.

a. Indiana Has Met All Applicable Requirements for Purposes of Redesignation of the Muncie Area Under Section 110 and Part D of the CAA

i. Section 110 General SIP Requirements

Section 110(a) of title I of the CAA contains the general requirements for a SIP. Section 110(a)(2) provides that the implementation plan submitted by a state must have been adopted by the state after reasonable public notice and hearing, and, among other things, must include enforceable emission limitations and other control measures, means or techniques necessary to meet the requirements of the CAA; provide for establishment and operation of appropriate devices, methods, systems, and procedures necessary to monitor ambient air quality; provide for implementation of a source permit program to regulate the modification and construction of any stationary source within the areas covered by the plan; include provisions for the implementation of part C, Prevention of Significant Deterioration (PSD) and part D, New Source Review (NSR) permit programs; include criteria for stationary source emission control measures, monitoring, and reporting; include provisions for air quality modeling; and provide for public and local agency participation in planning and emission control rule development. Section 110(a)(2)(D) of the CAA requires that SIPs contain measures to prevent sources in a state from significantly contributing to air quality problems in another state.

EPA interprets the ''applicable'' requirements for an area's redesignation to be those requirements linked with a particular area's nonattainment designation. Therefore, we believe that the section 110 elements described above that are not connected with nonattainment plan submissions and not linked with an area's attainment status, such as the ''infrastructure SIP'' elements of section 110(a)(2), are not applicable requirements for purposes of redesignation. A state remains subject to these requirements after an area is redesignated to attainment, and thus EPA does not interpret such requirements to be relevant applicable requirements to evaluate in a redesignation. For example, the requirement to submit state plans addressing interstate transport obligations under section 110(a)(2)(D)(i)(I) continue to apply to a state regardless of the designation of any one particular area in the state, and thus are not applicable requirements to be evaluated in the redesignation context.

EPA has applied this interpretation consistently in many redesignations for decades. See *e.g.,* 81 FR 44210 (July 7, 2016) (final redesignation for the Sullivan County, Tennessee area); 79 FR

43655 (July 28, 2014) (final redesignation for Bellefontaine, Ohio lead nonattainment area); 61 FR 53174–53176 (October 10, 1996) and 62 FR 24826 (May 7, 1997) (proposed and final redesignation for Reading, Pennsylvania ozone nonattainment area); 61 FR 20458 (May 7, 1996) (final redesignation for Cleveland-Akron-Lorain, Ohio ozone nonattainment area); and 60 FR 62748 (December 7, 1995) (final redesignation of Tampa, Florida ozone nonattainment area). See also 65 FR 37879, 37890 (June 19, 2000) (discussing this issue in final redesignation of Cincinnati, Ohio 1-hour ozone nonattainment area); 66 FR 50399 (October 19, 2001) (final redesignation of Pittsburgh, Pennsylvania 1-hour ozone nonattainment area).

We have reviewed the Indiana SIP and determined that it meets the general SIP requirements under section 110 of the CAA to the extent they are applicable for purposes of redesignation. EPA has previously approved provisions of Indiana's SIP addressing section 110 requirements (including provisions addressing lead), at 40 CFR 52.770.

On December 12, 2011, Indiana submitted a request for EPA to approve ''infrastructure SIP'' elements for the lead NAAQS required under CAA section 110(a)(2). EPA approved the Indiana lead infrastructure SIP on April 29, 2015 (80 FR 23713).

ii. Part D Requirements

EPA has determined that upon approval of the base year emissions inventory discussed in this rulemaking, the Indiana SIP will meet the requirements applicable for purposes of redesignation under part D of the CAA for the Muncie lead nonattainment area. Subpart 1 of part D sets forth the general nonattainment requirements applicable to all nonattainment areas.

(1) Section 172 Requirements

Section 172(c) sets out general nonattainment plan requirements. A thorough discussion of these requirements can be found in the General Preamble for Implementation of Title I (57 FR 13498, April 16, 1992) (''General Preamble''). EPA's longstanding interpretation of the nonattainment planning requirements of section 172 is that once an area is attaining the NAAQS, those requirements are not ''applicable'' for purposes of CAA section 107(d)(3)(E)(ii) and therefore need not be approved into the SIP before EPA can redesignate the area. In the General Preamble, EPA set forth its interpretation of applicable requirements for purposes of evaluating redesignation requests when an area is attaining a standard. *See* 57 FR at 13564. EPA noted that the requirements for reasonable further progress and other measures designed to provide for an area's attainment do not apply in evaluating redesignation requests because those nonattainment planning requirements ''have no meaning'' for an area that has already attained the standard. *Id.* This interpretation was also set forth in the Calcagni Memorandum.[1]

EPA's understanding of section 172 also forms the basis of its Clean Data Policy. Under the Clean Data Policy, EPA promulgates a determination of attainment, published in the **Federal Register** and subject to notice-and-comment rulemaking, and this determination formally suspends a state's obligation to submit most of the attainment planning requirements that would otherwise apply, including an attainment demonstration and planning SIPs to provide for reasonable further progress (RFP), reasonably available control technology and reasonably available control measures (RACT–RACM), and contingency measures. The Clean Data Policy has been codified in regulations regarding the implementation of the ozone and fine particulate matter NAAQS. See *e.g.,* 70 FR 71612 (November 29, 2005) and 72 FR 20586 (April 25, 2007). The Clean Data Policy has also been specifically applied in a number of lead nonattainment areas where EPA has determined that the area is attaining the lead NAAQS. See, *e.g.,* 79 FR 46212 (August 7, 2014) (proposed determination of attainment of Lyons, Pennsylvania lead nonattainment area); 80 FR 51127 (determination of attainment of Eagan, Minnesota lead nonattainment area). EPA's long-standing interpretation regarding the applicability of section 172(c)'s attainment planning requirements for an area that is attaining a NAAQS applies in this redesignation of the Muncie lead nonattainment area as well. Because we are determining that the Muncie area has reached attainment, Indiana will not need to address these additional measures to provide for attainment, and section 172(c)(1) requirements are no longer considered to be applicable as long as the area continues to attain the standard until redesignation. (40 CFR 51.918). Therefore, Indiana has met its requirements under CAA section 172(c)(1) and section 107(d)(3)(E)(v).

As noted above, additional section 172(c) attainment planning requirements are not applicable for purposes of evaluating the state's redesignation request. The reasonable further progress (RFP) requirement under section 172(c)(2), which is defined as progress that must be made toward attainment, the requirement to submit section 172(c)(9) contingency measures, which are measures to be taken if the area fails to make reasonable further progress to attainment, and section 172(c)(6)'s requirement that the SIP contain control measures necessary to provide for attainment of the standard, are not applicable requirements that Indiana must meet here because the Muncie area has monitored attainment of the 2008 lead NAAQS.

Section 172(c)(3) requires submission and approval of a comprehensive, accurate and current inventory of actual emissions. Indiana submitted a 2013 base year emissions inventory along with their redesignation request on April 14, 2016, and requested that the 2013 inventory be used as the most accurate and current inventory. As discussed below in section III(C), EPA is approving the 2013 attainment year inventory as meeting the section 172(c)(3) emissions inventory requirement for the Muncie area.

Section 172(c)(4) requires the identification and quantification of allowable emissions for major new and modified stationary sources in an area, and section 172(c)(5) requires source permits for the construction and operation of new and modified major stationary sources anywhere in the nonattainment area. EPA approved Indiana's current NSR program on October 7, 1994 (59 FR 51114). In addition, the state's maintenance plan does not rely on nonattainment NSR, therefore having a fully approved NSR program is not an applicable requirement, but that, nonetheless, we have approved the state's program.[1]

Section 172(c)(7) requires the SIP to meet the applicable provisions of section 110(a)(2). As noted above, we find that the Indiana SIP meets the section 110(a)(2) applicable requirements for purposes of redesignation.

[1] September 4, 1992, Memorandum from John Calcagni, Director, Air Quality Management Division (EPA), entitled, ''Procedures for Processing Requests to Redesignate Areas to Attainment.''

[1] A detailed rationale for this view is described in a memorandum from Mary Nichols, Assistant Administrator for Air and Radiation, dated October 14, 1994, entitled, ''Part D New Source Review Requirements for Areas Requesting Redesignation to Attainment.''

(2) Section 176 Conformity Requirements

Section 176(c) of the CAA requires states to establish criteria and procedures to ensure that Federally-supported or funded activities, including highway and transit projects, conform to the air quality planning goals in the applicable SIPs. The requirement to determine conformity applies to transportation plans, programs and projects developed, funded or approved under title 23 of the U.S. Code and the Federal Transit Act (transportation conformity) as well as to all other Federally-supported or funded projects (general conformity). In light of the elimination of lead additives in gasoline, transportation conformity does not apply to the lead NAAQS. See *73 FR 66964, 67043 n.120.* EPA approved Indiana's general conformity SIP on January 14, 1998 (63 FR 2146).

b. Indiana Has a Fully Approved Applicable SIP Under Section 110(k) of the CAA

Upon final approval of Indiana's comprehensive 2013 emissions inventories for the Muncie lead area, EPA will have fully approved the Indiana SIP for the Muncie area under section 110(k) of the CAA for all requirements applicable for purposes of redesignation, in accordance with section 107(d)(3)(E)(ii). EPA may rely on prior SIP approvals in approving a redesignation request. See Calcagni Memorandum at (3); *Southwestern Pennsylvania Growth Alliance* v. *Browner,* 144 F.3d 984, 989–990 (6th Cir. 1998); *Wall* v. *EPA,* 265 F.3d 426 (6th Cir. 2001). EPA also relies on measures approved in conjunction with a redesignation action. See, *e.g.,* 68 FR 25413 (May 12, 2003) (approving I/M program for St. Louis) and 68 FR 25426 (May 12, 2003) (approving redesignation relying in part on I/M program approval). As discussed in the prior section, Indiana has adopted and submitted, and EPA has fully approved, a number of required SIP provisions addressing the 2008 lead standards. As part of its redesignation request and maintenance plan submittal, Indiana submitted a demonstration to EPA that the Muncie nonattainment area has attained the 2008 lead NAAQS. Pursuant to 40 CFR 51.1004(c), EPA's determination that the area has attained the 2008 lead standards will suspend the requirement to submit certain planning SIPs related to attainment, including attainment demonstration requirements, the RACT–RACM requirement of section 172(c)(1) of the CAA, the RFP and attainment demonstration requirements of sections 172(c)(2) and (6) and 182(b)(1) of the CAA, and the requirement for contingency measures of section 172(c)(9) of the CAA. As noted above, the area has continued to attain the standard. Of the CAA requirements applicable to this redesignation request, only the emissions inventory requirement of section 172(c)(3) remains.

In today's action, EPA is approving Indiana's 2013 emissions inventories for the Muncie area as meeting the requirement of section 172(c)(3) of the CAA. No Muncie area SIP provisions are currently disapproved, conditionally approved, or partially approved. Therefore, the Administrator has fully approved the applicable requirements for the Muncie area under section 110(k) in accordance with section 107(d)(3)(E)(ii).

3. The Improvement in Air Quality Is Due to Permanent and Enforceable Reductions in Emissions Resulting From Implementation of the SIPs and Applicable Federal Air Pollution Control Regulations and Other Permanent and Enforceable Reductions (Section 107(d)(3)(E)(iii))

EPA believes that Indiana has demonstrated that the observed air quality improvement in the Muncie area is due to permanent and enforceable reductions in emissions. The only stationary source of lead in the Muncie area is the Exide Technologies facility. According to Indiana this source complies with EPA's January 5, 2012 National Emissions Standards for Hazardous Air Pollutants (NESHAP) for secondary lead smelting at 40 CFR part 63, subpart X. According to Indiana, Exide Technologies complied with this NESHAP through the installation of control technologies and adoption of recordkeeping and reporting requirements that are also located in Title 326, Articles 15 and 20 of the Indiana Administrative Code (80 FR 42393).

(B) Indiana Has a Fully Approved Maintenance Plan Pursuant to Section 175A of the CAA (Section 107(d)(3)(E)(iv))

In conjunction with Indiana's request to redesignate the Muncie nonattainment area to attainment status, Indiana has submitted a SIP revision to provide for maintenance of the 2008 lead NAAQS in the area through 2030.

1. What is required in a maintenance plan?

Section 175A of the CAA sets forth the required elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. Under section 175A, the plan must demonstrate continued attainment of the applicable NAAQS for at least 10 years after EPA approves a redesignation to attainment. Eight years after redesignation, the state must submit a revised maintenance plan which demonstrates that attainment will continue to be maintained for 10 years following the initial ten-year maintenance period. To address the possibility of future NAAQS violations, the maintenance plan must contain contingency measures with a schedule for implementation as EPA deems necessary to assure prompt correction of any future lead violations.

The September 4, 1992, Calcagni memorandum provides additional guidance on the content of a maintenance plan. The memorandum states that a maintenance plan should address the following items: The attainment emissions inventory, a maintenance demonstration showing maintenance for the 10 years of the maintenance period, a commitment to maintain the existing monitoring network, factors and procedures to be used for verification of continued attainment of the NAAQS, and a contingency plan to prevent or correct future violations of the NAAQS.

Section 175A of the CAA requires a state seeking redesignation to attainment to submit a SIP revision to provide for the maintenance of the NAAQS in the area ''for at least 10 years after the redesignation.'' EPA has interpreted this as a showing of maintenance ''for a period of 10 years following redesignation.'' Calcagni memorandum at 9. Where the emissions inventory method of showing maintenance is used, its purpose is to show that emissions during the maintenance period will not increase over the attainment year inventory. Calcagni memorandum at 9–10.

As discussed in detail in the section below, the state's maintenance plan submission expressly documents that the area's emissions inventories will remain below the attainment year inventories through 2030, more than 10 years after redesignation.

2. Attainment Inventory

Indiana developed an emissions inventory for lead for 2013, one of the years in the period during which the Muncie area monitored attainment of the 2008 lead standard. The attainment level of emissions is summarized in Table 2 below along with future maintenance projections.

3. Demonstration of Maintenance

Along with the redesignation request, Indiana submitted a revision to its lead SIP to include a maintenance plan for the Muncie area, as required by section 175A of the CAA. Indiana's plan demonstrates maintenance of the 2008 lead standard through 2030 by showing that current and future emissions of lead in the area remain at or below attainment year emission levels. Section 175A requires a state seeking redesignation to attainment to submit a SIP revision to provide for the maintenance of the NAAQS in the area ''for at least 10 years after the redesignation.'' EPA has interpreted this as a showing of maintenance ''for a period of 10 years following redesignation.'' Calcagni memorandum at 9. Where the emissions inventory method of showing maintenance is used, its purpose is to show that emissions during the maintenance period will not increase over the attainment year inventory. Calcagni memorandum at 9–10.

Indiana's plan demonstrates maintenance of the 2008 lead NAAQS through 2030 by showing that current and future emissions of lead for the area will not cause an exceedance of the standard. For the baseline and attainment year inventories, Indiana used Exide Technologies' actual emissions instead of allowable emissions under Indiana Administrative Code. As shown in Table 2, Indiana's submittal indicates that the 2010 and 2013 inventories are based on actual emissions from the Exide Technologies facility (which were 0.82 tons per year (tpy) in 2010 and 0.63 tpy in 2013), and not the allowable emissions set forth in Exide Technologies' operating permit (which were 3.48 tpy in 2010 and 1.73 tpy in 2013). Indiana submitted computer-modeled data indicating that the 2030 maintenance inventory, which is based on the facility's allowable emissions with controls implemented to meet the NESHAP for secondary lead smelting, will ensure that the Muncie area continues to maintain the standard through 2030. To meet the NESHAP for secondary lead smelters, Exide Technologies facility's main building serves as a total enclosure that maintains negative air pressure at all times and is vented to control devices designed to capture lead particulate emissions. This ensures fugitive dust generated inside the facility is not released outside the enclosure and into the ambient air. Since these controls have been installed at the facility, the monitored design value concentrations at the site have been and should remain below the 2008 lead NAAQS. Indiana expects that these permanent and enforceable controls installed at Exide Technologies will ensure that there will be no exceedances of the lead NAAQS in the future. With no other significant sources of lead, the Muncie area is predicted to stay below the standard.

TABLE 2—COMPARISON OF 2010, 2013, AND 2030 LEAD TOTALS (tpy) FOR THE MUNCIE AREA *

2010 (Baseline)	2013 (Attainment)	2030 (Maintenance)
0.82	0.63	1.73

*2010 Baseline and 2013 attainment inventories reflect actual lead emissions in the Muncie area, while the 2030 maintenance inventory reflects modeled allowable emissions in Exide Technologies' operating permit.

4. Monitoring Network

Indiana's maintenance plan includes a commitment to continue to operate its EPA-approved monitoring network, as necessary to demonstrate ongoing compliance with the NAAQS. Indiana currently operates one lead monitor in the Muncie, Indiana area.

5. Verification of Continued Attainment

Indiana remains obligated to continue to quality-assure monitoring data and enter all data into the Air Quality System (AQS) in accordance with Federal guidelines. Indiana will use these data, supplemented with additional information as necessary, to assure that the area continues to attain the standard. Indiana will also continue to develop and submit periodic emission inventories as required by the Federal Consolidated Emissions Reporting Rule (67 FR 39602, June 10, 2002) to track future levels of emissions. Both of these actions will help to verify continued attainment in accordance with 40 CFR part 58.

6. Contingency Plan

The contingency plan provisions are designed to promptly correct or prevent a violation of the NAAQS that might occur after redesignation of an area to attainment. Section 175A of the CAA requires that a maintenance plan include such contingency measures as EPA deems necessary to assure that the state will promptly correct a violation of the NAAQS that occurs after redesignation. The maintenance plan should identify the contingency measures to be adopted, a schedule and procedure for adoption and implementation of the contingency measures, and a time limit for action by the state. The state should also identify specific indicators to be used to determine when the contingency measures need to be adopted and implemented. The maintenance plan must include a requirement that the state will implement all pollution control measures that were contained in the SIP before redesignation of the area to attainment. *See* section 175A(d) of the CAA.

Indiana's contingency plan defines a warning level and action level response. The warning level response will trigger when a lead monitor three-month rolling average exceeds 0.143 $\mu g/m^3$ in the maintenance area. If a warning level response is triggered, Indiana will conduct a study to determine whether the lead values indicate a trend toward exceeding the standard and what control measure would be necessary to reverse the trend within twelve months of the conclusion of the calendar year. The action level response will be prompted by the determination of the warning level study that a reverse of the trend is needed, or by the three-month rolling average exceeding 0.15 $\mu g/m^3$. The action level response will require Indiana to work with the culpable entity to evaluate and implement the needed control measures to bring the area into attainment within 18 months of the conclusion of the calendar year that triggered the response.

Currently, no new sources of lead are projected for the Muncie area, so all control measures would be determined after an analysis of the situation but could include further controls on fugitive lead emissions, reduction of operating hours, or improved housekeeping and maintenance. Indiana commits to continue implementing SIP requirements upon and after redesignation.

EPA believes that Indiana's contingency measures, as well as the commitment to continue implementing any SIP requirements, satisfy the pertinent requirements of section 175A(d).

As required by section 175A(b) of the CAA, Indiana commits to submit to the EPA an updated lead maintenance plan eight years after redesignation of the Muncie area to cover an additional 10-year period beyond the initial 10-year maintenance period.

For all of the reasons set forth above, EPA is approving Indiana's 2008 lead maintenance plan for the Muncie area as meeting the requirements of CAA section 175A.

(C) Comprehensive Emissions Inventory

As discussed above, section 172(c)(3) of the CAA requires areas to submit a comprehensive emissions inventory including all lead sources in the nonattainment area. In its April 14, 2016

submittal, Indiana submitted comprehensive emissions inventories for its 2010 base year, 2013 attainment year, and 2030 maintenance year.

EPA believes that the 2010, 2013, and 2030 emissions inventories are complete and accurate, and meet the requirement of CAA section 172(c)(3). The inventories are shown in Table 3.

TABLE 3—2010, 2013, AND 2030 LEAD TOTALS (tpy) FOR THE MUNCIE AREA *

2010 (Baseline)	2013 (Attainment)	2030 (Maintenance)
0.82	0.63	1.73

*2010 Baseline and 2013 attainment inventories reflect actual lead emissions in the Muncie area, while the 2030 maintenance inventory reflects modeled allowable emissions in Exide Technologies' operating permit.

V. What action is EPA taking?

EPA is taking several actions related to the redesignation of the Muncie area to attainment for the 2008 lead NAAQS. First, EPA is finding that Indiana meets the requirements for redesignation under section 107(d)(3)(E) of the CAA for the Muncie area to attainment of the 2008 lead NAAQS. EPA is thus approving Indiana's request to change the designation of the Muncie area from nonattainment to attainment for the 2008 lead NAAQS.

In addition, EPA is approving Indiana's lead maintenance plan for the Muncie area as a revision to the Indiana SIP. Finally, EPA is approving the 2013 lead attainment year emission inventory which satisfies the requirement in section 172(c)(3) for a current, accurate and comprehensive emission inventory.

We are publishing these actions without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comments. However, in the proposed rules section of this **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the state plan if relevant adverse written comments are filed. This rule will be effective July 31, 2017 without further notice unless we receive relevant adverse written comments by June 29, 2017. If we receive such comments, we will withdraw this action before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on the proposed action. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment. If we do not receive any comments, this action will be effective July 31, 2017.

VI. Statutory and Executive Order Reviews

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

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

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

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 31, 2017. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects

40 CFR Part 52

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

40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: May 4, 2017.

Robert A. Kaplan,

Acting Regional Administrator, Region 5.

40 CFR parts 52 and 81 are amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

■ 2. In § 52.770 the table in paragraph (e) is amended by adding new entries in alphabetical order for ''Muncie 2008 lead emissions inventory'' and ''Muncie 2008 lead maintenance plan'' to read as follows:

§ 52.770 Identification of plan.

* * * * *

(e) * * *

EPA-APPROVED INDIANA NONREGULATORY AND QUASI-REGULATORY PROVISIONS

Title	Indiana date	EPA approval	Explanation
* *	*	* *	* *
Muncie 2008 lead emissions inventory ...	4/14/2016	5/30/2017 [insert **Federal Register** citation].	
Muncie 2008 lead maintenance plan	4/14/2016	5/30/2017 [insert **Federal Register** citation].	
* *	*	* *	* *

■ 3. Section 52.797 is amended by adding paragraphs (f) and (g) to read as follows:

§ 52.797 Control strategy: Lead.

* * * * *

(f) Approval—Indiana's 2008 lead emissions inventory for the Muncie area, as submitted on April 14, 2016, satisfying the emission inventory requirements of section 172(c)(3) of the Clean Air Act for the Muncie area.

(g) Approval—The 2008 lead maintenance plan for the Muncie, Indiana nonattainment area has been approved as submitted on April 14, 2016.

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

■ 4. The authority citation for part 81 continues to read as follows:

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

■ 5. Section 81.315 is amended by revising the entry for Muncie, IN in the table entitled ''Indiana—2008 Lead NAAQS'' to read as follows:

§ 81.315 Indiana.

* * * * *

INDIANA—2008 LEAD NAAQS

Designated area	Designation for the 2008 NAAQS [a]	
	Date [1]	Type
Muncie, IN		
Delaware County (part)	5/30/2017	Attainment.
A portion of the City of Muncie, Indiana bounded to the North by West 26th Street/Hines Road, to the east by Cowan Road, to the south by West Fuson Road, and to the west by a line running south from the eastern edge of Victory Temple's driveway to South Hoyt Avenue and then along South Hoyt Avenue..		
* * * * *	*	*

[a] Includes Indian Country located in each county or area, except as otherwise specified.
[1] December 31, 2011 unless otherwise noted.

* * * * *

[FR Doc. 2017–10906 Filed 5–26–17; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[MD Docket No. 17–123; FCC 17–53]

Procedures for Paper Filings and Collecting Application and Regulatory Fees

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Commission commences the process of migrating away from using P.O. Boxes (''Lockboxes'') to collect application and regulatory fees, as well as paper filings. As the Commission gravitates toward an all-electronic payment and filing system, the P.O. Boxes once established to collect filings and fees via check or money order will be gradually closed, and the Commission's rules changed accordingly. In this, the first step of this process, the Commission amends its rules to close P.O. Box 979092, used to collect petitions filed under of the Communications Assistance for Law Enforcement Act (CALEA), as well as associated fee payments. Permittees wishing to file future petitions will need to do so electronically through the Commission's electronic filing system and pay the pertinent fees through the Fee Filer Online System, or through another electronic payment mechanism designated by the Commission.

DATES: Effective June 29, 2017.

FOR FURTHER INFORMATION CONTACT: Warren Firschein, Office of Managing Director at (202) 418–0844.

SUPPLEMENTARY INFORMATION:

1. In this *Order,* we reduce Commission expenditures and modernize our procedures by amending section 1.1109 [1] of our rules, which sets forth the application fee for petitions filed with the Federal Communications Commission (Commission) under section 109(b) of the Communications Assistance for Law Enforcement Act (CALEA).[2]

2. Enacted in 1994, CALEA was designed to respond to advances in technology and eliminate obstacles faced by law enforcement personnel in conducting electronic surveillance.[3] CALEA imposed certain technical requirements on telecommunications carriers and provided carriers with certain rights to petition the Commission for relief from these requirements.[4] CALEA also amended the Commission's fee schedule under section 8 of the Communications Act [5] to require payment of an application fee for one type of CALEA filing—petitions filed under section 109(b) of CALEA.[6] Such section 109(b) petitions allowed telecommunications carriers to petition the Commission for an order declaring the petitioning carrier's obligation to comply with CALEA's section 103 capability requirements ''not reasonably achievable.'' [7] The section 109(b) fee requirement was codified in section 1.1109 of the Commission's rules [8] providing for payment of the fee to P.O. Box 979092 at U.S. Bank in St. Louis, Missouri.[9] The only current use of section 1.1109 and P.O. Box 979092 is to collect fees for section 109(b) petitions. The FCC has not received a section 109(b) petition since 2002.

3. The Commission has started to migrate away from using P.O. Boxes [10] and toward using an all-electronic payment system for all application and regulatory fees.[11] This change is based on U.S. Treasury guidance and is being implemented to the extent practicable and otherwise permitted by law.[12] Utilizing an all-electronic payment system will increase the agency's financial efficiency by reducing expenditures, including the annual fee for utilizing the bank's services as well as the cost to manually process each transaction, and will have no measurable impact on telecommunications carriers.

4. As part of this effort, we are closing P.O. Box 979092. With this *Order,* we amend our rules to reflect this change as indicated in the Final Rules section of this *Order.* Future payments for any section 109(b) petition filed with the Commission will be made in accordance with the procedures set forth on the Commission's Web site, *https://www.fcc.gov/licensing-databases/fees.* For now, such payments will be made through the Fee Filer Online System, accessible at *https://www.fcc.gov/licensing-databases/fees/fee-filer,* but as we assess and implement U.S. Treasury guidance on an all-electronic payment system, we may transition to other secure payment systems with appropriate public notice and guidance. We make this change without notice and comment because it is a rule of agency organization, procedure, or practice exempt from the general notice-and-comment requirements of the Administrative Procedure Act.[13] To file section 109(b) petitions electronically, parties should utilize the Commission's ECFS filing system, which can be found at *http://apps.fcc.gov/ecfs/upload/display.* Petitions filed in hard copy format should be submitted according to the procedures set forth on the Web page of the FCC's Office of the Secretary, *https://www.fcc.gov/secretary.*

5. This document does not contain new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. In addition, therefore, it does not contain any new or modified information collection burden for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4).

6. *Accordingly, it is ordered,* that pursuant to sections 4(i), 4(j), 201(b), and 229(a) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), 201(b), 229(a), 47 CFR part 1 *is amended* as set forth below.

7. *It is further ordered,* that the Commission *shall send* a copy of this *Order* to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

[1] 47 CFR 1.1109.

[2] 47 U.S.C. 1008(b).

[3] *See generally Communications Assistance for Law Enforcement Act,* Second Report and Order, 15 FCC Rcd 7105 (1999).

[4] *Id.* at 7121–33, paras. 30–46; *see also Communications Assistance for Law Enforcement Act and Broadband Access and Services,* ET Docket No. 04–295, Second Report and Order and Memorandum Opinion and Order, 21 FCC Rcd 5360 (2006).

[5] 47 U.S.C. 158.

[6] Communications Assistance for Law Enforcement Act, Public Law 103–414, 302, 108 Stat. 4279, 4294 (1994). Section 302 of CALEA provided for modification of the Commission's schedule of application fees. In 1994, when CALEA was enacted, that fee was established at $5,000, which was subsequently adjusted for inflation.

[7] 47 U.S.C. 1008(b)(1).

[8] 47 CFR 1.1109.

[9] *Id.*

[10] The FCC collects fees using a series of P.O. Boxes located at U.S. Bank in St. Louis, Missouri. 47 CFR 1.1101–1.1109 (setting forth the fee schedule for each type of application remittable to the Commission along with the correct lockbox).

[11] In 2015, the Commission revised its payment rules to encourage electronic payment of application fees and require electronic payment of regulatory fees. 47 CFR 1.1112 (application fees) and 1.1158 (regulatory fees). These rules became effective November 30, 2015. 80 FR 66816 (Oct. 30, 2015).

[12] Treasury Financial Manual, Bulletin Number 2014–08, ''Agency No-Cash or No-Check Policies,'' released on August 5, 2014 (Explaining the circumstances under which agencies may decide not to accept payments made in cash or by check and also noting that the U.S. Treasury's move to an all-electronic Treasury as well as the purposes of Federal cash-management statutes.) Available at *https://tfm.fiscal.treasury.gov/v1/bull/14-08.pdf* (last visited March 10, 2017); *see also https://obamawhitehouse.archives.gov/the-press-office/2011/06/13/executive-order-13576-delivering-efficient-effective-and-accountable-gov.*

[13] 5 U.S.C. 553(b)(A).

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

Final Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 1 as follows:

PART 1—PRACTICE AND PROCEDURE

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

Authority: 47 U.S.C. 151, 154(i), 154(j), 155, 157, 160, 201, 225, 227, 303, 309, 332, 1403, 1404, 1451, 1452, and 1455.

■ 2. Revise § 1.1109 to read as follows:

§ 1.1109 Schedule of charges for applications and other filings for the Homeland services.

Remit filings and/or payment for these services electronically using the Commission's electronic filing and payment system, in accordance with the procedures set forth on the Commission's Web site, *https://www.fcc.gov/licensing-databases/fees.*

Service	FCC Form No.	Fee amount	Payment type code
1. Communication Assistance for Law Enforcement (CALEA) Petitions ..	Correspondence & 159	$6,695.00	CLEA

[FR Doc. 2017–11034 Filed 5–26–17; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 259

[Docket No. 080410551–7410–02]

RIN 0648–AW57

Capital Construction Fund; Fishing Vessel Capital Construction Fund Procedures

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

ACTION: Final rule.

SUMMARY: NMFS hereby amends the Capital Construction Fund (CCF) regulations to eliminate provisions that no longer meet the needs of CCF participants, and to simplify and clarify the regulations to better implement the purposes of the underlying statute. These amendments eliminate the minimum cost for reconstruction projects, requirements for minimum annual deposits and the requirement that any vessel acquired with CCF funds must be reconstructed, regardless of vessel condition. The new regulations also prohibit withdrawals of funds under the CCF program (program) for projects that increase harvesting capacity, unless the project is subject to a limited access system in which the fisheries management authority establishes harvesting limits.

DATES: Effective June 29, 2017.

ADDRESSES: Copies of the Environmental Assessment/Regulatory Impact Review/Final Regulatory Flexibility Analysis (EA/RIR/FRFA) prepared for this action may be obtained from Paul Marx, Chief, Financial Services Division, NMFS, Attn: Capital Construction Fund Rulemaking, 1315 East-West Highway, Silver Spring, MD 20910 or by calling Richard VanGorder (see **FOR FURTHER INFORMATION CONTACT**) or on the Capital Construction Fund Web site at *http://www.nmfs.noaa.gov/mb/financial_services/ccf.htm.*

Send comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this final rule to Richard VanGorder at the address specified above and also to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20503 (Attention: NOAA Desk Officer) or email to *OIRA_Submission@omb.eop.gov,* or fax to (202) 395–7825.

FOR FURTHER INFORMATION CONTACT: Richard VanGorder at 301–427–8784 or via email at *Richard.VanGorder@noaa.gov.*

SUPPLEMENTARY INFORMATION:

Background

This final rule revises and replaces the CCF regulations found at 50 CFR part 259.

The program was established by the Merchant Marine Act of 1936 (MMA), ch. 858, title VI, sec. 607(a), 49 Stat. 2005 (1936) (current version at 46 U.S.C. 53503 (2007) and is administered pursuant to 50 CFR part 259.

The purpose of the program is to assist owners and operators of United States flagged vessels in accumulating the large amount of capital necessary for the modernization of the U.S. merchant marine fleet. The extensive vessel reconstruction requirements in the current regulations no longer make sense given the improved status of the merchant marine fleet.

The program encourages construction, reconstruction, or acquisition of vessels through deferment of Federal income taxes. Owners and operators of vessels deposit income from fishing into CCF accounts prior to paying income taxes. All deferred taxes are eventually recovered upon the sale of the vessel because the cost basis of the vessel is reduced by the dollar amount of CCF funds used for its purchase or improvements.

To participate in the program, a vessel owner submits an application to the Financial Services Division of the National Marine Fisheries Service in advance of the relevant Federal tax filing due date. The application identifies the income earning vessel(s), the type of project(s) anticipated, and the financial institution that will hold the CCF deposits. Once the Secretary of Commerce deems an application compliant with the CCF statute and regulations, a CCF Agreement is executed between the United States and the vessel owner or operator.

Currently, there are 1,394 CCF Agreements with a total of approximately $270M on deposit. Many of these CCF Agreements were established years ago and identify scheduled projects that are no longer viable. Consequently, CCF participants are faced with either having funds languish on deposit for nonviable scheduled projects or making a non-qualified withdrawal of funds and paying deferred taxes at the highest marginal rate.

The authority to make regulatory changes to the program is granted under 46 U.S.C. 53502(a), which permits the Secretary of Commerce to prescribe regulations (except for the determination of tax liability) to carry out the program. The program regulations were last amended in 1997 to permit reconstruction projects for safety improvements.

The changes to the CCF regulations are intended to ease the current restrictions on the allowable uses of CCF funds while remaining consistent with current agency priorities of maintaining sustainable fisheries. For example, currently, reconstruction is required when using CCF funds to

acquire a used vessel. Reconstruction is mandated regardless of the condition of the vessel. Consequently, the CCF participant must often invest money in unnecessary capital improvements. If this requirement is eliminated and the definition of a ''qualified reconstruction'' is changed, a large portion of the funds that are currently on deposit could be used for projects that are actually needed, rather than required by now-outdated regulations. Additionally, these changes would allow the Government to recapture deferred taxes.

Summary of Comments and Reponses

The proposed rule (79 FR 57496, September 25, 2014) solicited public comments through November 10, 2014. During the comment period, NMFS received comments from eight individuals and twenty-six entities. The twenty-six entities include companies that currently participate in the CCF program, CCF representatives, trade associations and environmental groups. Most individuals and entities made multiple comments in one document. Comments were generally in favor of the changes made in the proposed rule but many expressed concerns over certain provisions. The specific comments and our responses are as follows.

Comment 1: Four individuals and twenty-four entities are opposed to adding harvesting capacity restrictions to acquisition, construction and reconstruction projects.

Response: NMFS agrees that a purpose of the rule is to prohibit any project activity from increasing harvesting in a fishery, as opposed to affecting harvesting capacity Therefore, the language is modified to prohibit CCF funds from being used for vessel acquisition, construction, or reconstruction that increases harvesting capacity other than in a limited access system in which the fisheries management authority establishes harvesting limits. In a limited access system in which the fisheries management authority establishes harvesting limits, increased capacity will not lead to increased harvesting above the limit set at the fishery level.

Comment 2: One entity believes that the proposed harvesting capacity restrictions are not restrictive enough.

Response: As indicated in the response to Comment 1, NMFS believes that prohibiting CCF funds from being used in a manner that increases harvesting capacity is only necessary for fisheries where there is not an established limited access system under a management system which provides adequate safeguards to ensure the goal of maintaining sustainable fisheries is met.

Comment 3: Five individuals and nineteen entities are opposed to reducing the timeframe to complete construction and reconstruction from eighteen months to twelve months. In addition, one individual and four entities proposed increasing the allowable timeframe up to thirty six months.

Response: NMFS agrees that reducing the allowable timeframe to complete construction and reconstruction projects may cause an unintended burden on CCF program users. NMFS realizes that building new, safer and more fuel efficient vessels may take more than the proposed twelve month period. Thus, the final rule maintains the current eighteen month timeframe in accordance with existing regulations. NMFS believes that the majority of CCF projects will be completed in eighteen months. NMFS has the authority to grant extensions for projects which may require more time to complete.

Comment 4: One individual and six entities stated that the definition of an eligible and qualified vessel includes only vessels fewer than five net tons and excludes Coast Guard documented vessels.

Response: In response to public comments, NMFS has revised the rule to include vessels which are five net tons or greater and Coast Guard documented vessels as eligible and qualified. NMFS agrees that the exclusion of these vessels was unintended and erroneous.

Comment 5: Eight entities stated that the proposed changes were contrary to the original statutory intent of the CCF program to modernize the US fishing fleet and support domestic shipyards.

Response: The original statutory intent for the CCF program was to assist owners and operators of United States flagged vessels in accumulating the large amount of capital necessary for the modernization of the U.S. merchant marine fleet. The extensive vessel reconstruction requirements in the current regulations no longer make sense given the improved status of the merchant marine fleet. The changes made in this final rule eliminate provisions that no longer meet the needs of CCF participants and simplify the regulations to better implement the purposes of the underlying statute. These amendments eliminate the minimum cost for reconstruction projects, requirements for minimum annual deposits and the requirement that any vessel acquired with CCF funds must be reconstructed, regardless of vessel condition. NMFS feels that this final rule is consistent with the original purpose and intent of the statute.

Comment 6: Two individuals and seven entities opined that the stated rationale for the proposed changes were not justified and that the proposed changes impose unnecessary restrictions and less flexibility.

Response: NMFS disagrees and maintains that certain provisions of the current regulations no longer make sense given the status of the merchant marine fleet. These changes impose no additional burdens on program users. The changes reduce the burdens imposed by simplifying the regulations to eliminate the minimum cost for reconstruction projects, requirements for minimum annual deposits and the requirement that any vessel acquired with CCF funds must be reconstructed, regardless of vessel condition. These changes should bring the program into greater alignment with the current needs of program users and retain flexibility when undertaking CCF projects.

Comment 7: One individual and one entity stated that the elimination of the minimum deposit requirement will interfere with the goals of the CCF program and may result in termination of CCF agreements.

Response: The intent of the changes is to prevent forcing participants to deposit funds that are not necessary to complete qualified projects. These changes are consistent with the goals of the CCF program to set aside funds for specific projects to be completed in a timely manner. CCF Agreements will only be terminated if they are deemed inactive. While CCF Agreements may be terminated for inactivity, participants may apply again in the future for a new Agreement if desired.

Comment 8: One individual has requested that NMFS keep small businesses in mind when constructing the final regulations.

Response: The final rule has been constructed with the intent to eliminate provisions that no longer meet the needs of CCF participants, and to simplify and clarify the regulations to better implement the purposes of the underlying statute. These changes are intended to benefit all CCF program users including small businesses.

Comment 9: Two individuals and eight entities stated that harvesting capacity is not defined in the proposed rule.

Response: NMFS agrees that harvesting capacity is not specifically defined. However, Agreements involving projects that occur within a limited access system in which fisheries management authority establishes

harvesting limits will not be affected by any limitations on harvesting capacity.

Comment 10: One individual stated that the CCF program should be shut down.

Response: The individual did not provide reasoning as to why the program should be eliminated. Congress has identified a need to modernize and expand the US fishing industry. The CCF program is designed to meet this need.

Comment 11: One entity requested that former 50 CFR 259.36(c)(3), which was removed in the proposed rule, be added back to the final rule.

Response: Former 50 CFR 259.36(c)(3) allowed for non-cash deposits or investments as approved depositories. The commenter stated that he had used this provision in the former regulation to include installment sales contracts as CCF assets when the required cash deposit from a vessel sale was not available in the year of sale. NMFS believes that this commenter's use of this provision is erroneous. 46 U.S.C. 53506 specifies that ''Amounts in a capital construction fund shall be kept in the depository specified in the agreement and shall be subject to trustee and other fiduciary requirements prescribed by the Secretary. Except as provided in subsection (b) [stock investments], amounts in the fund may be invested only in interest-bearing securities approved by the Secretary.'' An installment sales contract does not meet the definition of an allowable CCF investment as specified in the statute.

Comment 12: One entity stated that the operation of charter vessels that allow customers to harvest fish for their own use does not appear to meet the proposed definition for a commercial fishing vessel and, therefore, would make them ineligible for CCF participation.

Response: NMFS has revised the definitions for eligible and qualified vessels to specifically allow for charter vessels.

Comment 13: One entity stated that the termination of inactive and zero balance accounts under 50 CFR 259.6 is contrary to Internal Revenue Code (IRC) section 7518(g)(5). The assertion was that such termination was contrary to this section because it provides that funds are only treated as non-qualified if they have been on deposit for more than twenty five years.

Response: The commenter is confusing two separate authorities that govern the CCF program relating to time constraints. The IRC section 7518(g)(5) allows for the Secretary to treat funds that have been on deposit for more than twenty five years as non-qualified in years twenty six through thirty at specified percentages and taxed accordingly. Section 259.6 of this final rule separately allows for the Secretary to terminate CCF Agreements that have not undertaken a qualified project in the last ten years. The purpose of this section is to terminate inactive accounts. These two sections are not related and, therefore, do not contradict each other.

Comment 14: One entity stated that the ten year period to complete a project should commence as of the last amendment date and not the start date of the Agreement.

Response: NMFS disagrees that the ten year period to begin a project should start as of the last amendment date. The requirement to do at least one project every ten years existed in the prior CCF regulation. The final rule does not change this requirement. The CCF program was created to modernize the US fishing fleet and support domestic shipyards. NMFS believes that requiring CCF program users to utilize their CCF funds for a qualified project at least once every ten years is reasonable. Extending the project start date by amendment could lead to continual extensions without ever undertaking a project which would not be consistent with the underlying intent of the statute to modernize the US fishing fleet.

Comment 15: One entity believes that the rule prohibits electronically signed documents.

Response: NMFS agrees that it would be advantageous to permit electronic submission of documents that require an original signature. At this time, we do not have the capabilities to accept electronic signatures. NMFS is optimistic that the option to file using an electronic signature will be available to program users in the future.

Comment 16: One entity stated that there is no ''grandfather'' clause in the new regulations.

Response: The applicability of the final rule to all past, present and future Agreements can be found in 50 CFR 259.10(d) and (e).

Comment 17: One entity has requested that NMFS add a restriction to the rule that no project be allowed which does not reduce ocean noise pollution.

Response: NMFS is in support of projects that reduce ocean noise pollution. However, NMFS believes the more appropriate forum for limiting noise pollution is through the Magnuson-Stevens Fishery Conservation and Management Act Fisheries Management Plans.

Comment 18: Two entities believe that the Environmental Assessment prepared by NMFS lacked the detail required by the National Environmental Policy Act (NEPA) specifically in regards to the potential impacts of adding the harvesting capacity restrictions and twelve month timeframe constraints.

Response: NMFS believes that the changes made in this final rule are largely administrative in nature and the implementation of this final action should have a nominal, if any, impact on the physical, biological, social and economic environments. Agreements involving projects that occur within a limited access system in which the fisheries management authority establishes harvesting limits will not be affected by any limitations on harvesting capacity. In addition, the final rule maintains the current eighteen month timeframe in accordance with existing regulations, rather than reducing the timeframe to twelve months as had been proposed.

Summary of Revisions in the Final Rule

1. Revises § 259.31(a) (redesignated § 259.3(a)) to eliminate the requirement that the Agreement holder reconstruct a used vessel acquired with CCF funds. This permits the acquisition of a used vessel without requiring that it be reconstructed;

2. Revises § 259.31(b) (redesignated § 259.3(c)) to eliminate the requirement that the minimum cost of a reconstruction project be the lesser of $100,000 or 20% of the reconstructed vessel's acquisition cost. This provision eliminates making excessive capital improvements to vessels based upon an arbitrary amount. Instead, program participants will use the CCF to spend what is needed to improve the vessel. It also removes § 259.31(b)(2) because it was tied to the now eliminated minimum cost requirement;

3. Revises § 259.31(b)(1) (redesignated § 259.4(a)) to add material increases in safety, reliability, or energy efficiency to the list of qualified reconstruction items.

4. Eliminates the requirement in § 259.34(a) that the Agreement holder annually make a minimum deposit of 2% of the anticipated cost of the scheduled Agreement objectives. The Final rule also eliminates the minimum cost requirement in paragraphs (a)(1) and (2) of § 259.34. This change is consistent with our attempt to reduce the amount of CCF funds on deposit by not requiring excess deposits to meet an annual deposit requirement;

5. Removes § 259.32 pertaining to ''Conditional Fisheries.'' ''Conditional Fisheries'' regulations were part of the Financial Aid Program Procedures

contained in 50 CFR part 251 and were eliminated on April 3, 1996, under the authority of 16 U.S.C. 742.

Sections are redesignated as necessary due to these changes.

In addition to the changes easing restrictions on CCF projects, program regulations are amended as follows for purposes of simplicity, clarity, and brevity:

1. A Definitions section is added (new § 259.1);

2. Existing § 259.1 is removed because it deals only with deposits for taxable years beginning after December 31, 1969, and before January 1, 1972, and no such deposits remain;

3. Section 259.30 is redesignated as § 259.2. Section 259.2(b)(1) adds the requirement that the application for an Agreement include the name and Tax Identification Number of the applicant, pursuant to the Debt Collection Improvement Act of 1996 (31 U.S.C. 3701, *et seq.*);

4. Section 259.3(a) simplifies ''Acquisition'' requirements by removing the existing requirements when acquiring a used vessel;

5. Section 259.3(b) is a new section pertaining specifically to ''Construction,'' which had been omitted as a separate section in the previous regulations;

6. Section 259.3(c) replaces old § 259.31(b), and simplifies the requirements related to ''Reconstruction'' by incorporating the relevant language regarding energy and safety improvements from the deleted Sections 259.31(d) and (e);

7. Section 259.33 is redesignated as § 259.4;

8. Section 259.34 is redesignated as § 259.5 and eliminates the minimum deposit requirement;

9. Section 259.6 is added to provide for termination of inactive accounts and accounts with zero balances on deposit, and to detail the notification procedures and time limit for resolving Agreement deficiencies to avoid termination;

10. Section 259.35 is redesignated as § 259.7, and the requirement to submit a preliminary deposit and withdrawal report at the end of each calendar year is removed, because the preliminary report no longer serves a useful purpose and is not required by the Internal Revenue Service;

11. Section 259.36 is redesignated § 259.8, and provisions relating to non-cash deposits or investments are dropped because they have never occurred;

12. Section 259.37 is redesignated as § 259.9; and

13. Section 259.38 is redesignated as § 259.10.

Classification

This final rule is published under the authority of, and is consistent with, Chapter 535 of the MMA. The NMFS Assistant Administrator has determined that this final rule is consistent with the Magnuson-Stevens Fishery Conservation and Management Act, as amended, and other applicable law.

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

In compliance with the National Environmental Policy Act, NMFS prepared an environmental assessment (EA) for this final rule. The assessment discusses the impact of this final rule on the natural and human environment and integrates a Regulatory Impact Review (RIR) and a Final Regulatory Flexibility Analysis (FRFA). NMFS will send the assessment, the review and analysis to anyone who requests a copy (see **ADDRESSES**).

NMFS prepared a FRFA, under section 604 of the Regulatory Flexibility Act (RFA), to describe the economic impacts this final rule has on small entities. The analysis aided us in considering regulatory alternatives that could minimize the economic consequences on affected small entities. The final rule does not duplicate or conflict with other Federal regulations.

Summary of FRFA

The RFA defines a ''small business'' as having the same meaning as a ''small business concern'' which is defined under Section 3 of the Small Business Act (SBA). 5 U.S.C. 601(3). Additionally, ''small governmental jurisdictions'' are defined as governments of cities, counties, towns, townships, villages, school districts, or special districts with populations of fewer than 50,000. 5 U.S.C. 601(5). As defined in the RFA, the small entities that this rule may affect include vessel owners, vessel operators, fish dealers, individual fishermen, small corporations, others engaged in commercial and recreational activities regulated by NOAA and native Alaskan governmental jurisdictions. In addition, the rule affects some larger businesses.

Because the CCF is a voluntary program that provides tax deferred benefits to qualified applicants, we assume that newly participating entities large or small will not be negatively impacted by this rule. For current participants, the changes allow more flexibility in the use of the funds and, therefore, will only positively affect those entities.

Description of the Number of Small Entities

The small business size standard for businesses, including their affiliates, whose primary industry is commercial fishing is $11 million in annual gross receipts (see 50 CFR part 200.2(a)). Most of the 1,394 participants in the program, all of who are fishers, have annual gross revenues of less than $11 million, and are thus considered to be small entities. However, analysts cannot quantify the exact number of small entities that may choose to participate in the program and be directly regulated by this action, the net effects are expected to be positive relative to the status quo.

Because the new regulations merely simplify existing CCF regulations and policies, this action does not create new reporting requirements for small entities participating in the CCF. Although the CCF requires certain supporting documentation during the life of the Agreement, the CCF's requirements do not impose unusual burdens. Those supporting documents are usually within the normal business records already maintained by small business entities, and include income tax returns, tax basis schedules, vessel ownership documents, etc. Depending on circumstances, the CCF may require other supporting documents that can be acquired at reasonable cost if they are not already available. We estimate it will take small entities fewer than 3.5 hours per application to meet these requirements.

Because participation is voluntary and requires an average of 3.5 hours to prepare an application, all CCF applicants are assumed to have made a determination that they will incur a benefit by participating in the program. Consequently, it is assumed that the CCF's tax deferrals provide a positive economic impact. Importantly, the CCF does not regulate or manage the affairs of its program users, and the regulations impose no additional compliance obligations, operating costs or any other costs on small entities that did not exist in the original regulations.

Because these regulations impose no significant costs on any small entities, but rather provide small and large entities with benefits, negative economic impacts on small entities, if any, are expected to be minimal at worst. The impact is likely to be positive. Accordingly, we have determined this rule does not substantially impact a significant number of small businesses.

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group

of related rules for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as ''small entity compliance guides.'' Even though a FRFA was not required, one was prepared. Copies of the FRFA are available upon request (see **ADDRESSES**). The information in this FRFA supports a determination that this rule will have beneficial effects on affected small entities. Therefore, NMFS has determined that this final rule will not have a substantial adverse economic impact on a substantial number of small entities. Since a FRFA was not required, ''small entity compliance guides'' will not be prepared.

Paperwork Reduction Act

Notwithstanding any other provisions of law, no person is required to respond to or be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act (PRA) unless that collection of information displays a currently valid Office of Management and Budget (OMB) control number. This final rule contains no new collection of information requirements subject to the PRA. Existing collections have been approved by OMB under OMB Control No. 0648–0041. This collection includes the Deposit/Withdrawal Report, the Interim Capital Construction Fund Agreement and Certificate. The estimate of the annual total program public reporting burden for the Deposit/Withdrawal report is 1,200 hours. This equates to an average of less than 1 hour of annual reporting burden per program user. The estimates of the annual total program public reporting burden for the Interim Capital Construction Fund Agreement and Certificate is 2,250 hours. This equates to an average of 1 hour of annual reporting burden per existing program user and 3.5 hours of reporting burden for new applicants to the CCF program. The response time estimates above include the time needed for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and revising the collection of information.

Send comments regarding the burden hour estimates, or any other aspect of this data collection, including suggestions for reducing the burden, to both NMFS and OMB (see **ADDRESSES**).

The Assistant Administrator for Fisheries, NMFS, determined that this final rule does not affect the coastal zone of any state.

The Assistant Administrator for Fisheries, NMFS, determined that this final rule does not affect endangered or threatened species, marine mammals, or critical habitat.

This final rule does not contain policies with federalism implications under E.O. 13132.

List of Subjects in 50 CFR Part 259

Fisheries, Fishing vessels, Income taxes, Reporting and recordkeeping requirements.

Dated: May 24, 2017.

Alan D. Risenhoover,

Acting Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, NMFS amends 50 CFR Chapter II by revising part 259 to read as follows:

PART 259—CAPITAL CONSTRUCTION FUND TAX REGULATIONS

Sec.

Authority: 46 U.S.C. 53501, formerly 46 U.S.C. App. 1177 and 1177–1.

§ 259.1 Definitions.

As used in this part:

Act means Chapter 535 of Title 46 of the U.S. Code (46 U.S.C. 53501–53517), as may be amended from time to time.

Agreement means the contract to participate in the program between the approved CCF applicant (party) and the Secretary.

Agreement vessel means any eligible vessel or qualified vessel which is subject to an Agreement.

Citizen of the United States means any person who is a United States citizen and any corporation or partnership organized under the laws of any state which meets the requirements for documenting vessels in the U.S. coastwise trade.

Commercial fishing means fishing in which the fish harvested, either in whole or in part, are intended to enter commerce or enter commerce through sale, barter or trade.

Depository means the bank or brokerage account(s) listed in the Agreement where the CCF funds will be physically held.

Eligible vessel means—

(1) A vessel—

(i) Constructed in the United States (and, if reconstructed, reconstructed in the United States), constructed outside of the United States but documented under the laws of the United States on April 15, 1970, or constructed outside the United States for use in the United States foreign trade pursuant to a contract made before April 15, 1970;

(ii) Documented under the laws of the United States if 5 net tons or greater; and

(iii) Operated in the foreign or domestic commerce of the United States or in the fisheries of the United States; and

(2) A commercial fishing vessel or vessel which will carry fishing parties for hire—

(i) Constructed in the United States and, if reconstructed, reconstructed in the United States;

(ii) State registered if at least 2 net tons but fewer than 5 net tons or Documented under the laws of the United States if 5 net tons or greater;

(iii) Owned by a citizen of the United States;

(iv) Having its home port in the United States; and

(v) Operated in the commercial fisheries of the United States.

Extension period means the first day following the end of the Filing period and ending on the last day of the party's last filing extension.

Filing period means the first day following the end of the Tax Year and ending on the party's last day to file their tax return absent a filing extension.

Limited Access System means a system that limits participation in a fishery to those satisfying certain eligibility criteria or requirements contained in a fishery management plan or associated regulation.

Qualified vessel means—

(1) A vessel—

(i) Constructed in the United States (and, if reconstructed, reconstructed in the United States), constructed outside of the United States but documented under the laws of the United States on April 15, 1970, or constructed outside the United States for use in the United States foreign trade pursuant to a contract made before April 15, 1970;

(ii) Documented under the laws of the United States if 5 net tons or greater; and

(iii) Agreed, between the Secretary and the person maintaining the capital construction fund established under 46 U.S.C. 53503, to be operated in the fisheries of the United States; and

(2) A commercial fishing vessel or vessel which will carry fishing parties for hire—

(i) Constructed in the United States and, if reconstructed, reconstructed in the United States;

(ii) State registered if at least 2 net tons but fewer than 5 net tons or Documented under the laws of the United States if 5 net tons or greater;

(iii) Owned by a citizen of the United States;

(iv) Having its home port in the United States; and

(v) Operated in the commercial fisheries of the United States; and

(3) Gear which is permanently fixed to the vessel. The expenditure for gear and certain nets which are not fixed to the vessel (pots, traps, longline, seine nets, gill set nets and gill drift nets) is excluded from the amount eligible for qualified withdrawals of CCF funds.

Schedule A means the section of the Agreement that designates the income producing vessel from which deposits are made to a designated account.

Schedule B means the section of the Agreement that designates the qualified project for which the CCF funds are to be expended.

Secretary means the Secretary of Commerce with respect to eligible or qualified vessels operated or to be operated in the fisheries of the United States.

Tax due date means the date the party's Federal tax return must be filed, including extensions, with the Internal Revenue Service.

Tax year means the period between January 1 and December 31 for Calendar year filers or the designated fiscal year for fiscal year filers.

United States means the United States of America and, for citizenship purposes, includes the Commonwealth of Puerto Rico, American Samoa, Guam, the U.S. Virgin Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, the Commonwealth of the Northern Mariana Islands, and any other commonwealth, territory, or possession of the United States, or any political subdivision of any of them.

§ 259.2 Applying for a Capital Construction Fund Agreement ("Agreement").

(a) *General qualifications.* To be eligible to enter into an Agreement an applicant must:

(1) Be a citizen of the United States (citizenship requirements are those necessary for documenting vessels in the coastwise trade within the meaning of section 2 of the Shipping Act, 1916, as amended);

(2) Own or lease one or more eligible vessels (as defined at 46 U.S.C. 53501) operating in the foreign or domestic commerce of the United States;

(3) Have an acceptable plan to acquire, construct, or reconstruct one or more qualified vessels (as defined at 46 U.S.C. 53501). The plan must be a firm representation of the applicant's actual intentions. Qualified vessels must be for commercial operation in the fisheries of the United States. If the vessel is 5 net tons or over, it must be documented with a fishery trade endorsement. Dual documentation in both the fisheries and the coastwise trade of the United States is permissible. Any vessel which will carry fishing parties for hire must be inspected and certified (under 46 CFR part 176) by the U.S. Coast Guard as qualified to carry more than six passengers. If the vessel weighs fewer than 5 net tons the party must demonstrate to the Secretary's satisfaction that the carrying of fishing parties for hire will constitute its primary activity.

(b) *Content of application.* Applicants seeking an Agreement must submit a formal application providing the following information:

(1) Name and Tax Identification Number (TIN) of applicant;

(2) Proof of U.S. citizenship;

(3) The first taxable year for which the Agreement is to apply (see § 259.4 for the latest time at which applications for an Agreement relating to the previous taxable year may be received);

(4) The following information regarding each *eligible vessel* which is to be incorporated in Schedule A of the Agreement:

(i) Name of vessel,

(ii) Official number or, in the case of vessels weighing under 5 net tons, the State registration number, where required,

(iii) Type of vessel (*i.e.,* catching vessel, processing vessel, transporting vessel, charter vessel, barge, passenger carrying fishing vessel, etc.),

(iv) General characteristics (*i.e.,* net tonnage, fish-carrying capacity, age, length, type of fishing gear, number of passengers carried or in the case of vessels operating in the foreign or domestic commerce the various uses of the vessel, etc.),

(v) Whether it is owned or leased and, if leased, the name of the owner, and a copy of the lease,

(vi) Date and place of construction,

(vii) If reconstructed, date of redelivery and place of reconstruction,

(viii) Trade (or trades) in which the vessel is documented and date last documented,

(ix) The fishery of operation (which in this section means each species or group of species). Each species must be specifically identified by the acceptable common names of fish, shellfish, or other living marine resources which each vessel catches, processes, or transports or will catch, process, or transport for commercial purposes such as marketing or processing the catch),

(x) The area of operation (which for fishing vessels means the general geographic areas in which each vessel will catch, process, or transport, or charter for each species or group of species of fish, shellfish, or other living marine resources),

(5) The specific objectives to be achieved by the accumulation of assets in a Capital Construction Fund (to be incorporated in Schedule B of the Agreement) including:

(i) Number of vessels,

(ii) Type of vessel (*i.e.,* catching, processing, transporting, or passenger carrying fishing vessels),

(iii) General characteristics (*i.e.,* net tonnage, fish-carrying capacity, age, length, type of fishing gear, number of passengers carried),

(iv) Cost of projects,

(v) Amount of indebtedness to be paid for vessels to be constructed, acquired, or reconstructed (all notes, mortgages, or other evidence of indebtedness must be submitted as soon as available, together with sufficient additional evidence to establish that full proceeds of the indebtedness to be paid from a CCF account under an Agreement, were used solely for the purpose of the construction, acquisition, or reconstruction of Schedule B vessels),

(vi) Date of construction, acquisition, or reconstruction,

(vii) Fishery of operation (which in this section means each species or group of species must be specifically identified by acceptable common name of fish, shellfish, or other living marine resources), and

(viii) Area of operation (which in this section means the general geographic areas in which each vessel will operate for each species or group of species of fish, shellfish, or other living marine resources),

(c) *Filing.* The application must be signed and submitted to the Financial Services Division of the National Marine Fisheries Service. As a general rule, the Agreement must be executed and entered into by the taxpayer on or prior to the due date for the filing of the Federal tax return in order to be effective for the tax year to which that

return relates. It is in the Applicant's best interest to file at least 45 days in advance of such date.

§ 259.3 Acquisition, construction, or reconstruction.

CCF funds cannot be used for any vessel acquisition, construction, or reconstruction that increases harvesting capacity in a fishery or fisheries, other than in a limited access system in which the fisheries management authority establishes harvesting limits.

(a) *Acquisition.* CCF funds can be used to acquire any used qualified vessel that will fish in a limited access system in which the fisheries management authority establishes harvesting limits. If the fishery or fisheries is not a limited access system, CCF funds can only be used to replace an existing, recently sunken, or scrapped vessel and its existing harvesting capacity. The replaced vessel must lose its fisheries trade endorsement and the vessel owner must notify the Coast Guard Documentation Center of that fact.

(b) *Construction.* CCF funds can be used to construct a new qualified vessel that will fish in a limited access system in which the fisheries management authority establishes harvesting limits. If the fishery or fisheries is not a limited access system, CCF funds can only be used to replace an existing, recently sunken, or scrapped vessel and its existing harvesting capacity. The replaced vessel must lose its fisheries trade endorsement and the vessel owner must notify the Coast Guard Documentation Center of that fact.

(c) *Reconstruction.* Reconstruction may include rebuilding, replacing, reconditioning, refurbishing, repairing, converting and/or improving any portion of a vessel. A reconstruction project must, however, either substantially prolong the useful life of the reconstructed vessel, increase its value, materially increase its safety, reliability, or energy efficiency, or adapt it to a different commercial use in the fishing trade or industry. No vessel more than 25 years old at the time of withdrawal shall be a qualified vessel for the purpose of reconstruction unless a special showing is made, to the Secretary's discretionary satisfaction, that the type and degree of reconstruction intended will result in an efficient and productive vessel with an economically useful life of at least 10 years beyond the date reconstruction is completed.

(d) *Time permitted for construction or reconstruction.* Construction or reconstruction must be completed within 18 months from the date construction or reconstruction first commences, unless otherwise consented to by the Secretary.

§ 259.4 Constructive deposits and withdrawals; ratification of withdrawals (as qualified) made without first having obtained Secretary's consent; first tax year for which an Agreement is effective.

(a) *Constructive deposits and withdrawals (before Agreement executed date*). Constructive deposits and withdrawals are deemed to have been deposited to and withdrawn from a designated CCF account even though the funds were not physically deposited. Constructive deposits and withdrawals shall be permissible only during the ''Tax Year'' for which a written application for an Agreement is submitted to the Secretary. Once the Secretary executes the Agreement, the constructive deposit and withdrawal period ends. All deposits must be physically deposited into a designated CCF account.

(1) All qualified deposits and expenditures occurring within the period specified directly above, that are within the eligible ceilings specified at 46 U.S.C. 53505, may be consented to by the Secretary as constructive deposits and withdrawals. In order for the Secretary to provide his or her consent for constructive deposit and withdrawal treatment, the applicant must include a written request with the application and provide sufficient supporting data to enable the Secretary to evaluate the request. This written request must be submitted no later than the ''Extension Period'' for that party's initial tax year.

(2) [Reserved]

(b) *Constructive deposits and withdrawals (after the Agreement effective date*). The Secretary shall not permit constructive deposits or withdrawals after the effective date of an Agreement. Deposits made after the effective date of an Agreement must be physically deposited into a dedicated CCF account.

(c) *First tax year for which an Agreement is effective.* In order for an Agreement to be effective for any applicant's ''Tax Year,'' the written application must be submitted to the Secretary before the end of the ''Filing Period'' or ''Extension Period'' for that tax year, whichever applies. If the written application is received by the Secretary, after the end of the ''Filing Period'' or ''Extension Period,'' whichever applies, then the Agreement will be first effective for the next succeeding ''Tax Year.''

(1) It is in the applicant's best interest to submit his or her written application at least 45 days in advance of the end of his or her tax due date. If the written application is submitted too close to the tax due date, and the Secretary is not ultimately able to execute the Agreement, the applicant must bear the burden of negotiating with the Internal Revenue Service for relief. The Secretary shall regard any penalties related to this denied application as due to the applicant's failure to apply for an Agreement in a timely manner.

(2) [Reserved]

(d) *Ratification of withdrawals, as qualified, made without first having obtained Secretary's prior consent.* Any withdrawals made after the effective date of an Agreement without the Secretary's consent are automatically non-qualified withdrawals, unless the Secretary subsequently consents to them by ratification.

(1) The Secretary may ratify, as qualified, any withdrawal made without the Secretary's prior consent, provided the withdrawal would have resulted in the Secretary's consent had it been requested before withdrawal.

(2) The Secretary may issue his or her retroactive consent, if appropriate, as work priorities permit. However, if the Secretary is unable to issue retroactive consent for withdrawals made without his or her consent, then those withdrawals, and any associated penalties, will be deemed due to the party's failure to apply in a timely manner.

(3) It is recommended that a party submit his or her request for withdrawal at least 45 days in advance of the expected date of withdrawal. Withdrawals made without the Secretary's consent, in reliance on obtaining the Secretary's consent, are made purely at a party's own risk. Should any withdrawal made without the Secretary's consent prove, for any reason, to be one which the Secretary will not or cannot consent to ratify, then the result will be an unqualified withdrawal and/or an involuntary termination of the Agreement.

(4) Should a party withdraw CCF funds for a project not previously deemed an eligible Schedule B objective without having first obtained the Secretary's consent, the Secretary may entertain an application to amend the Agreement's Schedule B objectives as the prerequisite to consenting by ratification to the withdrawal.

(5) Redeposit of any withdrawals made without the Secretary's consent, and for which such consent is not subsequently given (either by ratification or otherwise), shall not be permitted. If the non-qualified withdrawal adversely affects the

Agreement's general status the Secretary may terminate the Agreement.

§ 259.5 Maximum deposit amounts and time to deposit.

(a) Other than the maximum annual ceilings established by the Act, the Secretary shall not establish an annual ceiling. However, deposits can no longer be made once a party has deposited 100 percent of the anticipated cost of all Schedule B objectives unless the Agreement is then amended to establish additional Schedule B objectives.

(b) Ordinarily, the Secretary shall permit deposits to accumulate prior to commencement of any given Schedule B objective for a maximum of ten years. However, at the Secretary's sole discretion and based on good and sufficient cause shown, the time period may be extended.

§ 259.6 Termination of inactive and zero balance accounts.

(a) If a Schedule B objective has not commenced within 10 years from the date the Agreement was established, and has not been extended by written approval of the Secretary, the Agreement is considered inactive and subject to termination.

(b) If the account balance of all depositories of an Agreement is zero dollars 10 years after the date it was established, and has not been extended through amendment, the Agreement is considered inactive and subject to termination unless its Schedule B objective has commenced.

(c) A certified letter will be sent to holders of Agreements identified for termination informing them that the agreement will terminate 60 days after the date of the letter unless the deficiencies identified in the letter are addressed.

§ 259.7 Annual deposit and withdrawal reports required.

(a) The Secretary will require from each party an annual deposit and withdrawal report for each CCF depository. Failure to submit such reports may be cause for involuntary termination of the party's Agreement.

(1) A final deposit and withdrawal report at the end of the tax year, which shall be submitted not later than 30 days after expiration of the due date, for filing the party's Federal income tax return. The report must be made on a form prescribed by the Secretary using a separate form for each CCF depository.

(2) Each report must bear a certification that the deposit and withdrawal information given includes all annual deposit and withdrawal activity for each CCF depository. Negative reports must be submitted in those cases where there is no deposit and/or withdrawal activity.

(b) The Secretary, at his or her discretion, may, after due notice, disqualify withdrawals and/or involuntarily terminate the Agreement for the participant's failure to submit the required annual deposit and withdrawal reports.

(c) Additionally, each party shall submit, not later than 30 days after expiration of the party's tax due date, a copy of the party's Federal Income Tax Return filed with IRS for the preceding tax year. Failure to submit the Federal Income Tax Return shall, after due notice, be cause for the same adverse action specified in paragraph (b) of this section.

§ 259.8 CCF accounts.

(a) *General.* Each CCF account in a scheduled depository shall have an account number, which must be reflected on the reports required by § 259.7. All CCF accounts shall be reserved only for CCF transactions. There shall be no intermingling of CCF and non-CCF transactions and there shall be no pooling of 2 or more CCF accounts without the prior consent of the Secretary. Safe deposit boxes, safes, or the like shall not be eligible CCF depositories without the Secretary's consent, which shall be granted solely at his or her discretion.

(b) *Assignment.* The use of funds held in a CCF depository for transactions in the nature of a countervailing balance, compensating balance, pledge, assignment, or similar security arrangement shall constitute a material breach of the Agreement unless prior written consent of the Secretary is obtained.

(c) *Depositories.* Section 53506(a) of the Act provides that amounts in a CCF account must be kept in a depository or depositories specified in the Agreements and be subject to such trustee or other fiduciary requirements as the Secretary may require. Unless otherwise specified in the Agreement, the party may select the type or types of accounts in which the assets of the Fund may be deposited.

§ 259.9 Conditional consents to withdrawal qualification.

The Secretary may conditionally consent to the qualification of a withdrawal. This consent is conditioned upon the timely submission, to the Secretary, of the items requested by the Secretary in the withdrawal approval letter. Failure to provide these items in a timely manner, and after due notice, will result in nonqualification of the withdrawal and/or involuntary termination of the Agreement.

§ 259.10 Miscellaneous.

(a) Wherever the Secretary prescribes time constraints, the postmark date shall control if mailed. If a private delivery service is used, including Federal Express or United Parcel Service, the date listed on the label shall control. Submission of CCF transactions by email or facsimile is only allowable when an original signature is not required.

(b) All CCF information received by the Secretary shall be held strictly confidential to the extent permitted by law, except that it may be published or disclosed in statistical form provided such publication does not disclose, directly or indirectly, the identity of the fund holder.

(c) While recognizing that precise regulations are necessary in order to treat similarly situated parties similarly, the Secretary also realizes that precision in regulations can sometimes cause inequitable effects to result from unavoidable, unintended, or minor discrepancies between the regulations and the circumstances they attempt to govern. The Secretary will, consequently, at his or her discretion, as a matter of privilege and not as a matter of right, attempt to afford relief to parties where literal application of the purely procedural, as opposed to substantive, aspects of these regulations would otherwise work an inequitable hardship. This privilege will be sparingly granted and no party should act in reliance on its being granted.

(d) These §§ 259.1 through 259.10 are applicable to all Agreements first entered into (or amended) on or after the date these sections are adopted.

(e) These §§ 259.1 through 259.10 are specifically incorporated in all Agreements existing prior to the date these sections are adopted.

[FR Doc. 2017–11083 Filed 5–26–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 151211999–6343–02]

RIN 0648–XF467

Fisheries of the Northeastern United States; Northeast Multispecies Fishery; American Plaice Trimester Total Allowable Catch Area Closure for the Common Pool Fishery

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

ACTION: Temporary rule; area closure.

SUMMARY: This action closes the American Plaice Trimester Total Allowable Catch Area to Northeast multispecies common pool vessels fishing with trawl gear for the remainder of Trimester 1, through August 31, 2017. The closure is required by regulation because the common pool fishery has caught 90 percent of its Trimester 1 quota for American plaice. This closure is intended to prevent an overage of the common pool's quota for this stock.

DATES: This action is effective May 24, 2017, through August 31, 2017.

FOR FURTHER INFORMATION CONTACT: Reid Lichwell, Fishery Management Specialist, (978) 281–9112.

SUPPLEMENTARY INFORMATION: Federal regulations at § 648.82(n)(2)(ii) require the Regional Administrator to close a common pool Trimester Total Allowable Catch (TAC) Area for a stock when 90 percent of the Trimester TAC is projected to be caught. The closure applies to all common pool vessels fishing with gear capable of catching that stock for the remainder of the trimester.

As of May 21, 2017, the common pool fishery caught approximately 90 percent of the Trimester 1 TAC (5.2 mt) for American plaice. Effective May 24, 2017, the American plaice Trimester TAC Area is closed for the remainder of Trimester 1, through August 31, 2017, to all common pool vessels on a Northeast multispecies day-at-sea fishing with trawl gear. The American Plaice Trimester TAC Area consists of statistical areas 512, 513, 514, 515, 521, 522, and 525. The area reopens at the beginning of Trimester 2 on September 1, 2017.

If a vessel declared its trip through the Vessel Monitoring System (VMS) or the interactive voice response system, and crossed the VMS demarcation line prior to May 24, 2017, it may complete its trip within the Trimester TAC Area.

Any overage of the Trimester 1 or 2 TACs must be deducted from the Trimester 3 TAC. If the common pool fishery exceeds its total quota for a stock in the 2017 fishing year, the overage must be deducted from the common pool's quota for that stock for fishing year 2018. Any uncaught portion of the Trimester 1 and Trimester 2 TACs is carried over into the next trimester. However, any uncaught portion of the common pool's total annual quota may not be carried over into the following fishing year.

Weekly quota monitoring reports for the common pool fishery are on our Web site at: *http://www.greateratlantic.fisheries.noaa.gov/ro/fso/MultiMonReports.htm.* We will continue to monitor common pool catch through vessel trip reports, dealer-reported landings, VMS catch reports, and other available information and, if necessary, we will make additional adjustments to common pool management measures.

Classification

This action is required by 50 CFR part 648 and is exempt from review under Executive Order 12866.

The Assistant Administrator for Fisheries, NOAA, finds good cause pursuant to 5 U.S.C. 553(b)(B) and 5 U.S.C. 553(d)(3) to waive prior notice and the opportunity for public comment and the 30-day delayed effectiveness period because it would be impracticable and contrary to the public interest.

The regulations require the Regional Administrator to close a trimester TAC area to the common pool fishery when 90 percent of the Trimester TAC for a stock has been caught. Updated catch information only recently became available indicating that the common pool fishery has caught 90 percent of its Trimester 1 TAC for American plaice as of May 21, 2017, and 100 percent of the TAC will likely be caught by May 23. The time necessary to provide for prior notice and comment, and a 30-day delay in effectiveness, would prevent the immediate closure of the American Plaice Trimester 1 TAC Area. This increases the likelihood that the common pool fishery will exceed its annual quota of American plaice to the detriment of this stock, which could undermine management objectives of the Northeast Multispecies Fishery Management Plan. Additionally, an overage of the trimester or annual common pool quotas could cause negative economic impacts to the common pool fishery as a result of overage paybacks deducted from a future trimester or fishing year.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: May 24, 2017.

Margo B. Schulze-Haugen,

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

[FR Doc. 2017–11058 Filed 5–24–17; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 82, No. 102
Tuesday, May 30, 2017

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.

NATIONAL CAPITAL PLANNING COMMISSION

1 CFR Chapter VI

National Environmental Policy Act Regulations.

AGENCY: National Capital Planning Commission

ACTION: Proposed rule; public meetings.

SUMMARY: The National Capital Planning Commission (NCPC or Commission) proposes to adopt new regulations governing NCPC's implementation of the National Environmental Policy Act (NEPA) and regulations promulgated by the Council on Environmental Quality (CEQ). Federal agencies and NCPC on behalf of non-federal agencies must comply with the requirements of NEPA and CEQ regulations for projects submitted to the Commission for review and approval.

DATES: Submit comments on or before July 14, 2017. Public meetings to discuss the proposed Policies and Procedures will be held on Tuesday, June 13, 2017 from 6:00 p.m.–7:30 p.m. and Thursday, June 15, 2017 from 9:30 a.m.–11:00 a.m. Both meetings will be held at the National Capital Planning Commission, 401 9th Street NW., Suite 500, Washington, DC 20004.

ADDRESSES: You may submit written comments on the proposed Policies and Procedures by either of the methods listed below.

1. *U.S. mail, courier, or hand delivery:* Anne R. Schuyler, General Counsel/ National Capital Planning Commission, 401 9th Street NW., Suite 500, Washington, DC 20004.

2. *Electronically: nepa@ncpc.gov.*

FOR FURTHER INFORMATION CONTACT: Anne R. Schuyler, General Counsel at 202–482–7223 or *nepa@ncpc.gov.*

SUPPLEMENTARY INFORMATION: The current regulation are published on the NCPC Web site at the following location: *https://www.ncpc.gov/ncpc/Main(T2)/ProjectReview(Tr2)/ProjectReview(Tr3)/SubmissionGuidelines.html?sgpage=3*. These regulations lay out the process federal agencies and NCPC on behalf of non-federal agencies must follow to ensure NEPA compliance. While the subject regulations are critical to the Commission's ability to carry out its review authorities, they have not been updated since 2004. As such, NCPC proposes revisions to its Environmental Policies and Procedures to simplify the regulations and streamline the agency's NEPA process. In this proposal, NCPC is also proposing to establish a new chapter (chapter VI) in title 1 of the Code of Federal Regulations (CFR) to promote orderly codification. As the NCPC updates its regulations currently found in 1 CFR parts 455, 456 and 457 it will move them to its new chapter VI in title 1.

Key Changes Incorporated Into NCPC's Proposed Environmental Policies and Procedures

NCPC's current NEPA procedures were adopted in 2004 and generally remain appropriate and effective. However certain portions of the existing policies and procedures require revision to simplify, streamline, and improve the effectiveness of NCPC's process for complying with NEPA.

One of the most significant changes incorporated into the proposed Environmental Policies and Procedures (Policies and Procedures) is the elimination of procedures for complying with Section 106 of the National Historic Preservation Act (NHPA). In 2004, when it adopted its current regulations, NCPC opted to issue combined NEPA and the NHPA regulations to ensure coordinated implementation of both procedures. However, regulations promulgated by the ACHP do not require agencies to adopt agency specific processes and procedures. Instead ACHP regulations establish the processes and procedures all federal agencies must follow. This resulted in the inclusion of duplicative information in NCPC's current policies and procedures. While this information proved helpful, it diverted attention away from NCPC's agency specific NEPA policies and procedures mandated by CEQ. Accordingly, the proposed Policies and Procedures delete detailed references to Section 106 consultation procedures. They do retain references to coordination between NEPA and NHPA and consideration of historic resources in the NEPA process.

To clarify roles and responsibilities, the proposed Policies and Procedures distinguish between federal agency applicants and non-federal agency applicants. Federal agency applicants include cabinet level departments and executive agencies such as the U.S. General Services Administration (GSA). Non-federal agency applicants include, without limitation, the Smithsonian Institution, the John F. Kennedy Center for the Performing Arts, the National Gallery of Art, the US Institute of Peace, the Government of the District of Columbia, the Maryland National Capital Park and Planning Commission (MNCPPC) and private parties implementing projects on federal land. NCPC's jurisdiction extends to non-federal agency applicants when they undertake projects on federally-owned land. Under the proposed Policies and Procedures, NCPC serves as lead agency when the applicant is a non-federal agency. While this deviates from current practice, the proposal ensures NCPC a prominent role in the NEPA process and the ability to ensure consideration of its views.

The proposed Policies and Procedures also alter the timing and sequencing of an applicant's submission of NEPA documentation for applications governed by the National Capital Planning Act and the Commemorative Works Act. Under the current regulations, an applicant must complete the NEPA process at the time of preliminary review. Under the proposed regulations, an applicant must complete its NEPA process at the time of final review. This revised approach allows the Commission an opportunity to provide input on a project when it is still in the developmental phase. It also provides a NEPA sequencing consistent with federal agency project development schedules. This eliminates the pressure on federal agency applicants to expedite its NEPA process to meet NCPC's current sequencing policies.

NCPC also proposes several changes to its list of projects eligible for application of a CATEX. NCPC proposes to eliminate three existing CATEXs because they are based on old, antiquated authorities which have little to no relationship to NCPC's present day review roles. NCPC proposes to add four

new CATEXs and to increase the number of extraordinary circumstances with the potential to negate application of CATEXs. The new CATEXs and extraordinary circumstances reflect matters addressed in federal, state and local laws and regulations and Executive Orders applicable to projects that come before NCPC.

Section by Section Analysis of NCPC's Proposed Environmental Policies and Procedures

Subpart A—General. This subpart contains three subsections addressing purpose, policy and definitions.

§ 601.1 Purpose. This section presents a clear, succinct statement of purpose.

§ 601.2 Policies. This section states NCPC's policies implementing NEPA. The content is similar to that of the existing policies and procedures, but the proposed Policies and Procedures consolidate all policies into one section. The existing Policies and Procedures disperse NCPC's NEPA policies throughout multiple sections.

§ 601.3 Definitions. This section defines terms frequently used in the document. It deletes definitions from the existing regulations that are infrequently or no longer used in the proposed regulations.

Subpart B—Lead and Cooperating Agencies. This subpart assigns lead and cooperating agency status and states the obligations required of an applicant depending on their assigned status.

§ 601.4 Designation of Lead Agency. This section confers lead agency status on federal agency applicants and upon NCPC when the applicant is a non-federal agency. By definition, a federal agency means the executive agencies defined in 5 U.S.C. 105. A non-federal agency applicant means those applicants outside the statutory definition of federal agency that undertake projects on federal land and include, without limitation, the Smithsonian Institution, the John F. Kennedy Center for the Performing Arts, the National Gallery of Art, the U.S. Institute of Peace, the Government of the District of Columbia, MNCPPC, and private parties undertaking development on federal land.

§ 601.5 Lead Agency obligations. This section lists the general obligations of a lead agency.

§ 601.6 Resolving disputes over Lead Agency status. The section includes a dispute resolution provision for circumstances when there is a disagreement over which agency serves as the lead.

§ 601.7 Cooperating Agencies. This section lists the obligations of NCPC when it serves as a cooperating agency and requires non-federal agencies to comply with the same obligations when NCPC serves as lead agency.

Subpart C—NEPA Submission Schedules. This subpart establishes the NEPA submission schedule for applications reviewed by the Commission pursuant to the Planning Act and the Commemorative Works Act.

§ 601.8 NEPA Submission schedule for applications governed by the National Capital Planning Act. This section establishes a revised NEPA submission schedule as follows: Initiation of scoping at the time of concept review; issuance of a draft environmental document (EA or EIS) at the time of preliminary review; and issuance of a final environmental document and final determination (FONSI or ROD) at the time of final review. The section also addresses the NEPA process to be undertaken by NCPC as the lead agency when emergency circumstances exist and application of a CATEX is not possible.

§ 601.9 NEPA submission schedule for applications governed by the Commemorative Works Act. This section establishes a new NEPA submission schedule as follows: Commencement of the NEPA process at the time of concept site and concept design review; issuance of a draft environmental document for public review at the time of preliminary approval of a site and design; and issuance of a final environmental document and a final determination (FONSI or ROD) at the time of final site and design review.

Subpart D—Initiating the NEPA Process. This subpart describes the characteristics of Commission actions eligible for a CATX, lists the extraordinary circumstances that may negate the application of a CATEX, and lists NCPC's CATEXs.

§ 601.10 Characteristics of Commission actions eligible for a Categorical Exclusion. This section lists four types of actions the generally qualify for application of a CATEX:

§ 601.11 Extraordinary Circumstances. This section list ten extraordinary circumstances that may negate NCPC's application of a CATEX. Current regulations specify only five extraordinary circumstances.

§ 601.12 National Capital Planning Commission Categorical Exclusions. This section lists ten categorical exclusions available for use by NCPC. It includes a few new, but minor types of projects eligible for categorical exclusion and removes some existing CATEX based on old, antiquated authorities.

Subpart E—Environmental Assessments. This subpart identifies the characteristics of Commission actions eligible for an EA; the specific types of Commission actions eligible for an EA; the contents, process for preparing, and process for adopting an EA; the process for closing out the EA process; and the requirements for determining when a supplemental EA should be prepared.

§ 601.13 Characteristics of Commission actions eligible for and Environmental Assessment. This section lists four characteristics that generally render a Commission action eligible for an EA.

§ 601.14 Commission actions generally eligible for an Environmental Assessment. This section lists five specific actions of the Commission which comply with the criteria listed in § 601.13 above and, therefore, qualify for preparation of an EA.

§ 601.15 Preparing an Environmental Assessment. This section provides general guidance on the contents of an EA and the entities to be involved in the preparation of the document. The section also authorizes NCPC's Executive Director to undertake a public scoping process for an EA if he/she determines it to be appropriate, outlines the public scoping process, and authorizes NCPC in its discretion to solicit public comment on a draft EA.

§ 601.16 Finding of No Significant Impact. This section directs NCPC as the lead agency to prepare a FONSI, if warranted, at the conclusion of the EA process. It also provides NCPC the option of either co-signing the lead agency's FONSI or preparing its own FONSI when NCPC serves as a cooperating agency. The section also specifies remedies the Commission can pursue when a lead agency's EA fails to support a FONSI.

§ 601.17 Supplemental Environmental Assessments. This section establishes when a supplemental EA may be warranted.

Subpart F—Environmental Impact Statements. This subpart establishes the requirement for and timing of an EIS; links the requirement for an EIS to the context and intensity of impacts; requires use of techniques that minimize the length of an EIS; authorizes use of programmatic EISs and tiering; lists the contents of an EIS; sets forth the process for preparing an EIS; addresses preparation and issuance of a Final EIS; and addresses the preparation, and issuance of a ROD.

§ 601.18 Requirement and timing of an Environmental Impact Statement. This section requires NCPC preparation of an EIS on behalf on non-federal agency applicants, prior to the

Commission's approval of a major federal action that has the potential to significantly affect the quality of the human environment.

§ 601.19 Context, intensity and significance of impacts. This section requires the determination on whether an EIS is necessary and whether an impact is significant based on the context and intensity of a project's impacts. The section discusses the meaning of context and intensity and lists the characteristics that render projects significant.

§ 601.20 Streamlining Environmental Impact Statements. This section requires NCPC to minimize the length of an EIS when NCPC serves as the lead agency and lists techniques that can achieve this result.

§ 601.21 Programmatic Environmental Impact Statements and tiering. This section authorizes use of a PEA and PEIS to assess the impacts of proposed plans and projects when there is uncertainty regarding the timing, the location, and the environmental impacts of subsequent implementing actions. When NCPC proceeds with a specific action, it authorizes the use of tiering or working from where the PEA or PEIS left off to define specific issues associated with the proposed action.

§ 601.22 Contents of an Environmental Impact Statement. This section enumerates the specific sections and contents that must be included in an EIS when NCPC is lead agency.

§ 601.23 The Environmental Impact Statement process. This section specifies the parties that must be included in the draft EIS preparation process, the process to follow for determining the scope of an EIS, and the process for obtaining public comment when NCPC is lead agency.

§ 601.24 Final Environmental Impact Statement. This section provides for the preparation of a final EIS responsive to public comments and provides for a forty five-day Commission-sponsored review period of the final EIS before the Commission takes action when NCPC is lead agency.

§ 601.25 Record of Decision. This section requires the preparation of a ROD stating the Commission's decision and any conservation or mitigation measures required by the Commission when NCPC is lead agency. It also lists the required contents of a ROD. This section enables NCPC to co-sign the ROD of the lead agency if NCPC serves as a cooperating agency and concurs with the applicant's ROD.

§ 601.26 Supplemental Environmental Impact Statement. This section specifies a supplemental EIS may be warranted if the original document is more than five years old and changed project specifications or new circumstances or information exist.

§ 601.27 Legislative Environmental Impact Statement. This sections requires NCPC to prepare an EIS when initiating the submission of draft legislation to Congress.

Subpart G—Dispute Resolution. This subpart sets forth a mechanism for dispute resolution.

§ 601.28 Dispute resolution. Unless a specific dispute resolution is invoked elsewhere in the Policies and Procedures, this section requires disputes arising under the Policies and Procedures to be resolved through interagency negotiations starting at the working levels and rising to the level necessary to resolve the dispute. If disputes cannot besettled through interagency negotiations, the parties are required to engage in mediation.

Compliance With Laws and Executive Orders

1. Executive Orders 12866 and 13563

By Memorandum dated October 12, 1993 from Sally Katzen, Administrator, Office of Information and Regulatory Affairs (OIRA) to Heads of Executive Departments and Agencies, and Independent Agencies, OMB rendered the NCPC exempt from the requirements of Executive Order 12866 (See, Appendix A of cited Memorandum). Nonetheless, NCPC endeavors to adhere to the provisions of Executive Orders and developed this proposed rule in a manner consistent with the requirements of Executive Order 13563. NCPC worked closely with CEQ on the derivation of the proposed Policies and Procedures and intends to work with the land-holding agencies and certain non-federal agencies impacted by these during the public comment period.

2. Executive Order 13771

By virtue of its exemption from the requirements of EO 12866, NCPC is exemption from this executive order. NCPC confirmed this fact with OIRA.

3. Regulatory Flexibility Act

As required by the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the NCPC certifies that the proposed rule will not have a significant economic effect on a substantialnumber of small entities.

4. Small Business Regulatory Enforcement Fairness Act

This is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. It does not have an annual effect on the economy of $100 million or more; will not cause a major increase in costs for individuals, various levels of governments or various regions; and does not have a significant adverse effect on completion, employment, investment, productivity, innovation or the competitiveness of US enterprises with foreign enterprises.

5. Unfunded Mandates Reform Act (2 U.S.C. 1531 et seq.)

A statement regarding the Unfunded Mandates Reform Act is not required. The proposed rule neither imposes an unfunded mandate of more than $100 million per year nor imposes a significant or unique effect on State, local or tribal governments or the private sector.

6. Federalism (Executive Order 13132)

In accordance with Executive Order 13132, the proposed rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. The proposed rule does not substantially and directly affect the relationship between the Federal and state governments.

7. Civil Justice Reform (Executive Order 12988)

The General Counsel of NCPC has determined that the proposed rule does not unduly burden the judicial system and meets the requirements of Executive Order 12988 3(a) and 3(b)(2).

8. Paperwork Reduction Act

The proposed rule does not contain information collection requirements, and it does not require a submission to the Office of Management and Budget under the Paperwork Reduction Act.

9. National Environmental Policy Act

The proposed rule is of an administrative nature, and its adoption does not constitute a major federal action significantly affecting the quality of the human environment. NCPC's adoption of the proposed rule will have minimal or no effect on the environment; impose no significant change to existing environmental conditions; and will have no cumulative environmental impacts.

10. Clarity of the Regulation

Executive Order 12866, Executive Order 12988, and the Presidential Memorandum of June 1, 1998 requires the NCPC to write all rules in plain language. NCPC maintains the proposed rule meets this requirement. Those individuals reviewing the proposed rule who believe otherwise should submit specific comments to the addresses noted above recommending revised language for those provision or portions

thereof where they believe compliance is lacking.

11. Public Availability of Comments

Be advised that personal information such as name, address, phone number electronic address, or other identifying personal information contained in a comment may be made publically available. Individuals may ask NCPC to withhold the personal information in their comment, but there is no guarantee the agency can do so.

List of Subjects in 1 CFR Part 601

Environmental Policies and Procedures.

For the reasons stated in the preamble, the National Capital Planning Commission proposes to establish 1 CFR chapter VI, consisting of part 601, to read as follows:

CHAPTER VI—NATIONAL CAPITAL PLANNING COMMISSION

PART 601—ENVIRONMENTAL POLICIES AND PROCEDURES

Subpart A—General

Subpart B—Lead and Cooperating Agencies

Subpart C—NEPA Submission Schedules

Subpart D—Initiating the NEPA Process

Subpart E—Environmental Assessments

Subpart F—Environmental Impact Statements

Subpart G—Dispute Resolution

Authority: 40 CFR 1507.3.

Subpart A—General

§ 601.1 Purpose.

This part establishes rules that supplement the Council on Environmental Quality's (CEQ) National Environmental Policy Act (NEPA) regulations that the National Capital Planning Commission (NCPC or Commission) and its applicants shall follow to ensure:

(a) Compliance with NEPA, as amended (42 U.S.C. 4321 *et seq.*) and CEQ regulations for implementing the procedural provisions of NEPA (40 CFR parts 1501through 1508).

(b) Compliance with other laws, regulations, and Executive Orders identified by NCPC as applicable to a particular application.

§ 601.2 Policies.

Consistent with 40 CFR 1500.1 and 1500.2, it shall be the policy of the NCPC to:

(a) Comply with the procedures and policies of NEPA and other related laws, regulations, and orders applicable to Commission actions.

(b) Provide applicants sufficient guidance to ensure plans and projects comply with the rules of this part and other laws, regulations, and orders applicable to Commission actions.

(c) Integrate NEPA into its decision-making process at the earliest possible stage.

(d) Integrate the requirements of NEPA and other planning and environmental reviews required by law including, without limitation, the National Historic Preservation Act, 54U.S.C. 306108 (NHPA), to ensure all such procedures run concurrently.

(e) Use the NEPA process to identify and assess the reasonable alternatives to proposed actions that will avoid or minimize adverse effects on the quality of the human environment in the National Capital Region.

(f) Use all practicable means to protect, restore, and enhance the quality of the human environment including built and socioeconomic environments and historic properties within the National Capital Region.

(g) Streamline the NEPA process and Environmental Impact Statements (EIS) to the maximum extent possible.

(h) Use the NEPA process to foster meaningful public involvement in NCPC decisions.

§ 601.3 Definitions.

For purposes of this part, the following definitions shall apply:

Administrative Record means a compilation of all materials (written and electronic) that were before the agency at the time it made its final decision. An Administrative Record documents an agency's decision-making process and the basis for the decision.

Categorical Exclusion or *CATEX* means, as defined by 40 CFR 1508.4, a category of actions which do not individually or cumulatively have a significant effect on the human environment and which have been found to have no such effect in procedures adopted by a federal agency (NCPC) in implementation of CEQ's regulations and for which, therefore, neither an Environmental Assessment (EA) nor an EIS is required.

Central Area means the geographic area in the District of Columbia comprised of the Shaw School and Downtown Urban Renewal Areas or such other area as the Districtof Columbia and NCPC shall subsequently jointly determine.

Chairman means the Chairman of the National Capital Planning Commission appointed by the President, pursuant to 40 U.S.C. 8711(c).

Commemorative Works Act or CWA means the federal law codified at 40 U.S.C. 8901 *et seq.* that sets forth the requirements for the location and development of new memorials and monuments on land under the jurisdiction of the National Park Service (NPS) or the General Services Administration (GSA) in the District of Columbia and its environs.

Commission means the National Capital Planning Commission created by 40 U.S.C. 8711.

Comprehensive Plan means The Comprehensive Plan for the National Capital: Federal Elements prepared and

adopted by the Commission pursuant to 40 U.S.C. 8721(a).

Cooperating Agency means, as defined in 40 CFR 1508.5, any Federal Agency other than a Lead Agency and a Non-federal Agency that has jurisdiction by law or special expertise with respect to a proposal (or reasonable alternative) for legislation or other major action significantly affecting the quality of the human environment; a state or local agency of similar qualifications; or when the effects are on a reservation, an Indian Tribe when agreed to by the Lead Agency.

Cumulative Impact means, as defined in 40 CFR 1508.7, the impact on the environment that results from the incremental impact of an action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (federal or non-federal) or person undertakes such other actions. Cumulative impacts can result from individually minor, but collectively significant, actions taking place over a period of time.

Emergency Circumstances means an unexpected, serious occurrence or situation requiring immediate attention to protect the lives and safety of the public and protect property and ecological resources and functions from imminent harm.

Environmental Assessment or *EA* means, as defined in 40 CFR 1508.9, a concise document for which a federal agency is responsible that serves to briefly provide sufficient evidence and analysis for determining whether to prepare an EIS or FONSI; aid an agency's compliance with NEPA when no EIS is necessary; facilitate preparation of an EIS when one is necessary; and includes a brief discussion of the need for the proposal, alternatives as required by section 102(2)(E) of NEPA, the environmental impacts of the proposed action and alternatives, and a listing of agencies and persons consulted.

Environmental Impact Statement or *EIS* means, as defined in 40 CFR 1508.11, a detailed written statement as required by 42 U.S.C. 4332(2)(C).

Environs means the territory surrounding the District of Columbia included in the National Capital Region pursuant to 40 U.S.C. 8702(a)(1).

Executive Director means the Executive Director employed by the National Capital Planning Commission pursuant to 40 U.S.C. 8711(d).

Executive Director's Recommendation or *EDR* means a concise written report and recommendation prepared by NCPC staff under the direction of NCPC's Executive Director regarding a proposed action and transmitted to the Commission for its consideration.

Extraordinary Circumstances means special circumstances that when present may negate an agency's ability to categorically exclude a project and may require an agency to undertake further NEPA review.

Federal Agency means the executive agencies of the federal government as defined in 5 U.S.C. 105.

Finding of No Significant Impact or *FONSI* means, as defined at 40 CFR 1508.13, a document prepared by NCPC or a Federal Agency applicant that briefly presents the reasons why an action, not otherwise excluded (40 CFR 1508.4), will not have a significant effect on the human environment and for which an EIS will not be prepared. It shall include the EA or a summary of it and shall note any other EAs or EISs related to it (40 CFR 1501.7(a)(5)). If the EA is included in the FONSI, the FONSI need not repeat any of the discussion in the EA but may be incorporated by reference.

Lead Agency means, as defined in 40 CFR 1508.16, the agency or agencies preparing or having primary responsibility for preparing an EA or an EIS.

Memorandum of Understanding or *MOU* means for purposes of implementing NEPA, a written agreement entered into between a Lead, Co-lead and a Cooperating Agency to facilitate implementation of NEPA and preparation of the requisite environmental documentation. A MOU can be written at a programmatic level to apply to all projects involving NCPC and a Federal or Non-Federal Agency applicant or on a project-by-project basis. A MOU as defined here shall be in addition to and not preclude MOUs prepared by NCPC and Federal agencies for other purposes.

Mitigation means, as defined in 40 CFR 1508.20, avoiding an impact altogether by not taking a certain action or parts of an action; minimizing impacts by limiting the degree or magnitude of the action and its implementation; rectifying the impact by repairing, rehabilitating, or restoring the affected environment; reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action; and compensating for the impact by replacing or providing substitute resources or environments.

Monumental Core means the general area encompassed by the Capitol grounds, the Mall, the Washington Monument grounds, the White House grounds, the Ellipse, West Potomac Park, East Potomac Park, the Southwest Federal Center, the Federal Triangle area, President's Park, the Northwest Rectangle, Arlington Cemetery and the Pentagon area, and Joint Base Myer-Henderson Hall.

National Capital Planning Act means the July 1952 legislative enactment, codified at 40 U.S.C. 8701 *et seq.,* that created the present day National Capital Planning Commission and conferred authority upon it to serve as the planning and zoning authority for the federal government.

National Capital Region means, as defined in 40 U.S.C. 8702(2), the District of Columbia; Montgomery and Prince Georges Counties in Maryland; Arlington, Fairfax, Loudon, and Prince William Counties in Virginia; and all cities in Maryland or Virginia in the geographic area bounded by the outer boundaries of the combined area of the counties listed.

NEPA Document or *Document* means a Categorical Exclusion determination, an EA, or an EIS.

Non-federal Agency means those applicants outside the definition of Federal Agency that prepare plans for or undertake projects on federal land and include, without limitation, the Smithsonian Institution, the John F. Kennedy Center for the Performing Arts, the National Gallery of Art, the United States Institute of Peace, the Government of the District of Columbia, the Maryland National Capital Parks and Planning Commission; and private parties undertaking development on federal land.

Notice of Availability or *NOA* means a public notice or other means of public communication that announces the availability of an EA or an EIS for public review.

Notice of Intent or *NOI* means, as defined in 40 CFR 1508.22, a notice published in the **Federal Register** that an EIS will be prepared and considered. The notice shall briefly describe the proposed action and possible alternatives; describe the agency's proposed Public Scoping process including whether, when, and where any Public Scoping meeting will be held; and state the name and address of a person within the agency who can answer questions about the proposed action and the EIS. For purposes of NCPC implementation of NEPA, NCPC may determine, at its sole discretion, to publish an NOI that an EA will be prepared and considered.

Programmatic NEPA Review means a broad or high level NEPA review that assesses the environmental impacts of proposed policies, plans or programs, or projects for which subsequent project or site-specific NEPA analysis will be

conducted. A Programmatic NEPA Review utilizes a tiering approach.

Record of Decision or *ROD* means a concise public record of an agency's decision in cases requiring an EIS that is prepared in accordance with 40 CFR 1505.2.

Scope means, as defined in 40 U.S.C. 1508.25, the range of actions (connected, cumulative and similar); alternatives (no action, other reasonable courses of action; and mitigation measures not included in the proposed action); and impacts (direct, indirect and cumulative) considered in an EIS or an EA. The process of defining and determining the scope of issues to be addressed in an EIS or EA with public involvement shall be referred to as Public Scoping. Internal scoping activities shall be referred to by the word scoping without capitalization.

Submission Guidelines means the formally-adopted document which describes the application process and application requirements for projects requiring review by the Commission.

Tiering means, as defined in 40 CFR 1508.28, an approach where Federal Agency applicants, NCPC on behalf of Non-federal Agency applicants, or NCPC for its own projects initially consider the broad, general impacts of a proposed program, plan, policy, or large scale project—or at the early stage of a phased proposal—and then conduct subsequent narrower, decision focused reviews.

Subpart B—Lead and Cooperating Agencies

§ 601.4 Designation of Lead Agency.

(a) A Federal Agency applicant shall serve as the Lead Agency and prepare an EA or an EIS for:

(1) An application that requires Commission approval; and

(2) An application submitted for action on a master plan that includes future projects that require Commission approval; provided that:

(i) The applicant intends to submit individual projects covered by the master plan to the Commission within five years of the date of Commission action on the master plan; and

(ii) The applicant intends to use the master plan EA or EIS to satisfy its NEPA obligation for specific projects referenced in the master plan.

(b) At the sole discretion of the Executive Director, and unless determined otherwise, NCPC shall serve as Lead Agency and prepare and EA or and EIS for:

(1) An application submitted by a Non-federal Agency that requires Commission approval;

(2) An application submitted by a Non-federal Agency for action on a master plan that includes future projects that require Commission approval; provided that:

(i) The Non-federal Agency applicant intends to submit individual projects covered by the master plan to the Commission within five years of the date of Commission action on the master plan; and

(ii) The Non-federal Agency applicant intends to use the master plan EA or EIS to satisfy its NEPA obligation for a specific project referenced in the master plan; and

(3) An application for approval of land acquisitions undertaken pursuant to 40 U.S.C. 8731–8732.

§ 601.5 Lead Agency obligations.

(a) The obligations of a Federal Agency applicant designated as the Lead Agency in accordance with § 601.4(a) shall include, without limitation, the following:

(1) Act as Lead Agency as defined in 40 CFR 1501.5 for the NEPA process.

(2) Designate NCPC to participate as a Co-lead or Cooperating Agency and consult with Commission staff as early as possible in the planning process to obtain guidance with respect to the goals, objectives, standards, purpose, need, and alternatives for the NEPA analysis.

(3) Invite affected federal, state, regional and local agencies, and other potentially interested parties to participate as a Cooperating Agency in the NEPA process.

(4) Consult with the affected agencies and entities as early as possible in the planning process to obtain guidance on the goals, objectives, standards, purpose, need, and alternatives for the NEPA analysis.

(5) Work with Cooperating Agencies and stakeholders, *e.g.,* those with a direct stake in the outcome, in the following manner:

(i) Keep them informed on the project schedule and substantive matters; and

(ii) Allow them an opportunity to review and comment within reasonable time frames on, without limitation, Public Scoping notices; technical reports; public materials (including responses to comments received from the public); potential mitigation measures; the draft EA or EIS; and the draft FONSI or ROD.

(6) Prepare the appropriate NEPA Document consistent with the applicant's NEPA regulations, the requirements of this part, and CEQ regulations.

(7) Determine in its NEPA Document whether an action will have an adverse environmental impact or would limit the choice of reasonable alternatives under 40 CFR 1505.1(e) and take appropriate action to ensure that the objectives and procedures of NEPA are achieved.

(8) Prepare, make available for public review, and issue a FONSI or ROD.

(9) Ensure that the draft and final EIS comply with the requirements of 40 CFR 1506.5(c) and include a disclosure statement executed by any contractor (or subcontractor) under contract to prepare the EIS document and that the disclosure appears as an appendix to the EIS.

(10) Compile, maintain, and produce the Administrative Record.

(11) Provide periodic reports on implementation of Mitigation measures to NCPC and other Cooperating Parties consistent with a schedule established in the NEPA Document.

(12) Re-evaluate and update NEPA documents that are five or more years old as measured from the time of their adoption when either or both of the following criteria apply:

(i) There are substantial changes to the proposed action that are relevant to environmental concerns; and

(ii) There are significant new circumstances or information that are relevant to environmental concerns and have a bearing on the proposed action or its impacts.

(13) Consult with NCPC on the outcome of the re-evaluation of its NEPA Document; provided that the NCPC reserves the right to make the final determination as to whether a Lead Agency's NEPA document requires updating.

(b) When NCPC serves as Lead Agency in accordance with § 601.4(b), in addition to the obligations listed in paragraphs (a)(1) through (12) of this section, NCPC may:

(1) Ask applicants, at its sole discretion, to enter into a MOU. The MOU may be prepared as a programmatic MOU that addresses a uniform approach for the treatment of all applications from a particular applicant or address a specific application. The request to enter into a project specific MOU shall be made after a determination is made as to theinability to utilize a CATEX. A MOU shall specify, without limitation, project information; roles and responsibilities; project timelines and schedules; principal contacts and contact information; and a mechanism for resolving disputes.

(2) Request assistance from a Non-federal Agency applicant with the preparation of a NEPA Document. If requested by NCPC, the assistance shall

include the provision of funding for a contractor retained by NCPC to prepare the requisite NEPA document. When Non-federal Agency financial assistance is requested, NCPC shall invite the Non-federal Agency applicant to participate in the procurement process to select the contractor.

(3) Require Non-federal Agency applicants to submit periodic reports on implementation of Mitigation measures to NCPC consistent with a schedule established in the NEPA Document.

§ 601.6 Resolving disputes over Lead Agency status.

(a) In the event of a dispute with a Federal Agency applicant or a Non-federal Agency applicant over Lead Agency status, the parties shall use their best efforts to cooperatively resolve disputes at the working levels of their respective agencies and, if necessary, by escalating such disputes within their respective agencies.

(b) If internal resolution at higher agency levels proves unsuccessful, at NCPC's sole discretion, one of the following actions shall be pursued: the parties shall request CEQ's determination on which agency shall serve as Lead, NCPC shall prepare its own NEPA Document, or NCPC shall decline to take action on the underlying application.

(c) Disputes other than those relating to the designation of Lead Agency status or Cooperating Status as described in § 601.7(b), shall be governed by the requirements of subpart G of this part.

§ 601.7 Cooperating Agencies.

(a) When a Federal Agency applicant serves as the Lead Agency, NCPC shall act as a Cooperating Agency. As a Cooperating Agency, NCPC shall, without limitation, undertake the following:

(1) Act as a Cooperating Agency as described in 40 CFR 1501.6.

(2) Assist in the preparation of and sign a MOU if requested by the Lead Agency. At the lead agency's discretion, the MOU may be prepared as a programmatic MOU that addresses a uniform approach for the treatment of all applications where NCPC serves as a cooperating agency or address a specific application. The request to enter into a project specific MOU shall be made after a determination is made as to the inability to utilize a CATEX.

(3) Participate in the NEPA process by providing comprehensive, timely reviews of and comments on key NEPA materials including, without limitation, Public Scoping notices; technical reports; documents (including responses to comments received from the public); the draft and final EA or EIS; and the FONSI or ROD.

(4) Supply available data, assessments, and other information that may be helpful in the preparation of the NEPA Document or the Administrative Record in a timely manner.

(5) Make an independent evaluation of the Federal Agency applicant's NEPA Document and take responsibility for the scope and contents of the EIS or EA when it is sufficient as required by 40 CFR 1506.5.

(6) Prepare and sign a ROD or FONSI or, if NCPC concurs with the contents of the document, co-sign the Federal Agency's ROD or FONSI.

(7) Provide documentation as requested and as needed by the Lead Agency for the Administrative Record.

(b) In the event a Federal Agency applicant fails to allow NCPC to participate in a meaningful manner as a Cooperating Agency, the parties shall agree to use their best efforts to cooperatively resolve the issue at the working levels of their respective agencies, and, if necessary, by escalating the issue within their respective agencies. If internal resolution at higher agency levels is unsuccessful, NCPC at its sole discretion shall either require the parties to seek mediation, prepare its own NEPA Document either as a stand-alone document or a supplement to the Federal Agency applicant's NEPA Document, or take no action on the underlying application.

(c) When NCPC serves as Lead Agency on behalf of Non-federal Agency applicant, the Non-federal Agency applicant shall serve as a Cooperating Agency and comply with the requirements of paragraphs (a)(1) through (4) and (7) of this section. Non-federal Agency applicants shall extend all assistance necessary to facilitate NCPC's compliance with NEPA including the provision of funding for consultant services if requested.

Subpart C—NEPA Submission Schedules

§ 601.8 NEPA submission schedule for applications governed by the National Capital Planning Act.

(a) Federal Agency and Non-federal Agency applicants shall comply with NEPA for the following types of projects:

(1) Projects requiring Commission approval; and

(2) Master plans requiring Commission action with future projects requiring subsequent Commission approval; provided that:

(i) The applicant intends to submit individual projects depicted in the master plan to the Commission within five years of the date of Commission action on the master plan; and

(ii) The applicant intends to use the master plan EA or EIS to satisfy its NEPA obligation for specific projects referenced in the master plan.

(b) When Federal Agency and Non-federal Agency applicants submit projects of the type described in paragraph (a) of this section, the applicant shall submit the NEPA documentation timed to coincide with the Commission's review stages as set forth in paragraphs (c) through (f) of this section.

(c) *Concept review.* If NCPC's Submission Guidelines require review at the concept stage, the NEPA Public Scoping process shall have been initiated before the applicant submits an application for concept review. Available NEPA documentation, including a CATEX determination, shall be included in the application to facilitate effective Commission concept review.

(d) *Preliminary review.* An applicant shall have issued or published its Draft NEPA Document before the applicant submits an application for preliminary review. The NEPA information shall be provided to the Commission to facilitate the Commission's preliminary review and the provision of meaningful Commission comments and direction.

(e) *Final review.* The responsible Lead Agency shall complete and sign the final determination ROD or a FONSI) resulting from the NEPA Document before the applicant submits an application for final review. If NCPC is not the Lead Agency for NEPA, it shall at the time of final review undertake the steps outlined in § 601.7(a)(5) and (6). If applicable, the Section 106 consultation process required by the NHPA shall also be complete at this stage.

(f) *Deviations from the submission schedule for emergency circumstances.* (1) This paragraph (f) applies when the following three conditions exist:

(i) NCPC is the Lead Agency;

(ii) Emergency Circumstances exist; and

(iii) An Extraordinary Circumstance as set forth in § 601.11 is present that precludes use of a CATEX.

(2) When the three conditions described in paragraphs (f)(1)(i) through (iii) of this section exist, the Executive Director shall make a determination as to whether the CATEX can or cannot be applied as soon as practicable. If the Executive Director determines a CATEX may not be applied, he/she shall take one of the steps indicated in paragraph (f)(2)(i) or (ii) of this section.

(i) When Emergency Circumstances render it necessary to take an action that requires an EA before the EA can be competed, the Executive Director shall develop alternative arrangements focused on minimizing environmental impacts of the proposed action. These steps shall follow those normally undertaken for an EA, to include, to the maximum extent practicable, preparation of a document with appropriate content, interagency coordination, and public notification and involvement. The Commission shall grant approval for the alternative arrangement. At the earliest opportunity, the Executive Director shall advise CEQ of the alternative arrangement.

(ii) Where Emergency Circumstances make it necessary for the Commission to take an action with significant environmental impacts without observing the rules of this part and CEQ's regulations, the Executive Director shall advise the Commission of the situation. Thereafter, as soon as practicable, the Executive director shall consult with CEQ regarding alternative arrangements for complying with NEPA.

§ 601.9 NEPA submission schedule for applications governed by the Commemorative Works Act.

(a) When, pursuant to the Commemorative Works Act, NPS or GSA submits an application to the Commission for approval of a site and design for a commemorative work, the applicant shall be required to comply with NEPA and submit the NEPA documentation timed to coincide with the Commission's review stages as set forth in paragraphs (b) through (e) of this section.

(b) *Concept site review.* (1) If NCPC's Submission Guidelines require concept site review, the NEPA Scoping Process shall have been initiated before NPS or GSA submits an application to the Commission for concept site review. Available NEPA documentation for all concept sites shall be included in the application to facilitate effective Commission concept review.

(2) The Commission shall provide comments to NPS or GSA on the multiple sites to assist the applicant in selecting a preferred site.

(c) *Concept design review for preferred sites.* (1) If NCPC's Submission Guidelines require concept design review, the NEPA Public Scoping Process shall have been initiated before NPS or GSA submits an application to the Commission for a concept design review. Available NEPA documentation shall be included in the application to facilitate effective Commission concept review.

(2) The Commission shall provide comments to NPS or GSA on the preferred site(s) and the concept designs for each site to facilitate selection of a preferred site and refinement of the memorial design for that site. The Commission may impose conditions on or establish guidelines for the applicant to follow in preparing its preliminary and final commemorative work design to avoid, minimize or mitigate environmental impacts including adverse effects on historic properties.

(d) *Preliminary site and design review.* (1) NPS or GSA shall have issued or published its Draft NEPA Document for the site selection process and the memorial design and shall have initiated the requisite public comment period before the applicant submits an application for preliminary site and design approval. The NEPA information shall be provided to the Commission to facilitate the Commission's preliminary review and the provision of meaningful Commission comments and directions.

(2) The Commission shall take an appropriate action on the preferred site and preliminary design and provide comments to the applicant on the preliminary design to assist the applicant's preparation of a final design.

(e) *Final site and design review.* The final environmental determination (ROD or FONSI) applicable to both the site selection and memorial design shall be completed and signed by NPS or GSA before the applicant submits an application for final review. NCPC shall have either co-signed the NPS or GSA ROD or FONSI or prepared and signed its own independent document. If applicable, the Section 106 consultation process required by the NHPA shall also be complete at this stage.

Subpart D—Initiating the NEPA Process

§ 601.10 Characteristics of Commission actions eligible for a Categorical Exclusion.

(a) A categorical exclusion is a type of action that does not individually or cumulatively have a significant effect on the human environment and which has been found to have no such effect by NCPC.

(b) Actions that generally qualify for application of a categorical exclusion and do not require either an EA or an EIS exhibit the following characteristics:

(1) Minimal or no effect on the human environment;

(2) No significant change to existing environmental conditions;

(3) No significant cumulative environmental impacts; and

(4) Similarity to actions previously assessed in an EA concluding in a FONSI and monitored to confirm the FONSI.

§ 601.11 Extraordinary Circumstances.

(a) Before applying a CATEX listed in § 601.12, the Executive Director shall consider whether a project or plan requires additional environmental review or analysis due to the existence of Extraordinary Circumstances. If any of the Extraordinary Circumstances listed in paragraphs (b)(1) through (10) of this section are present, the Executive Director shall direct staff to undertake a preliminary analysis to determine if the presence of the Extraordinary Circumstances negates the application of a CATEX. If the preliminary analysis determines application of a CATEX is not appropriate, the Executive Director shall see that the proper NEPA Document is prepared and made available to the Commission before the Commission takes action on the matter. If the Extraordinary Circumstance does not negate application of a CATEX, the appropriate CATEX shall be applied and its application documented for the record.

(b) Extraordinary Circumstances that may negate the application of a CATEX include:

(1) A reasonable likelihood of significant impact on public health or safety.

(2) A reasonable likelihood of significant environmental impacts on sensitive resources unless the impact has been resolved through another processes to include, without limitation, Section 106 of the NHPA. Environmentally sensitive resources include without limitation:

(i) Proposed federally listed, threatened or endangered species or their designated critical habitats.

(ii) Properties listed or eligible for listing on the National Register of Historic Places.

(iii) Areas having special designation or recognition based on federal law or an Executive Order, to include without limitation, National Historic Landmarks, floodplains, wetlands, and National Parks.

(iv) Cultural, scientific or historic resources.

(3) A reasonable likelihood of effects on the environment that are risky, highly uncertain, or unique.

(4) A reasonable likelihood of violating an Executive Order, or federal, state or local law or requirements imposed for the protection of the environment.

(5) A reasonable likelihood of causing a significant increase in surface

transportation congestion, disruption of mass transit, and interference with pedestrian and bicycle movements.

(6) A reasonable likelihood of significantly degrading air quality or violating air quality control standards under the Clean Air Act (42 U.S.C. 7401–7671q).

(7) A reasonable likelihood of significantly impacting water quality, public water supply systems, or state or local water quality control standards under the Clean Water Act (33 U.S.C. 1251 *et seq.*) and the Safe Drinking Act (42 U.S.C. 300f).

(8) A reasonable likelihood of a disproportional high and adverse effect on low income and minority populations.

(9) A reasonable likelihood of degrading existing unsatisfactory environmental conditions.

(10) A reasonable likelihood of establishing a precedent for future action or making a decision in principle about future actions with potentially significant environmental effects.

(c) The Executive Director shall include in his EDR, or the documentation of a Delegated Action, his/her decision to apply or not apply a Categorical Exclusion because of Extraordinary Circumstances and the rationale for this decision.

§ 601.12 National Capital Planning Commission Categorical Exclusions.

Commission actions that may be categorically excluded and normally do not require either an EA or an EIS include:

(a) Approval of the installation or restoration of onsite primary or secondary electrical distribution systems including minor solar panel arrays.

(b) Approval of the installation or restoration of minor site elements, such as but not limited to identification signs, sidewalks, patios, fences, curbs, retaining walls, landscaping, and trail or stream improvements. Additional features include water distribution lines and sewer lines which involve work that is essentially replacement in kind.

(c) Approval of the installation or restoration of minor building elements, such as, but not limited to windows, doors, roofs, building signs, and rooftop equipment and green roofs.

(d) Adoption of a Federal Element of the Comprehensive Plan or amendment thereto or broad based policy or feasibility plans prepared and adopted by the Commission in response to the Comprehensive Plan.

(e) Approval of an action proposed by a District of Columbia agency which the agency has determined is not a major action significantly affecting the quality of the human environment or is designated an exclusion in accordance with the requirements and procedures of DC Code. 8–109.06 and any regulations adopted to implement the referenced statutory provision.

(f) Approval of changes to highway plans for portions of the District of Columbia prepared by the Mayor, pursuant to D.C Code. 9–103.02, subject to documentation by the District that such plans involve no major traffic volume increase, have minimal or no effect on the environment, result in no significant change to existing environmental conditions, and impose no significant cumulative environmental impact associated with the action associated with the action as demonstrated in accordance with the requirements and procedures of DC Code. 8–109.01 *et seq.* and any regulations adopted to implement the referenced statutory provisions.

(g) Approval of the sale by the Secretary of the Interior of parcels of real estate held by the United States in the District of Columbia under the jurisdiction of NPS that are no longer needed for public purposes pursuant to 40 U.S.C. 8735. Such an action shall be accompanied by a NPS NEPA determination that demonstrates minimal or no effect on the environment, no significant change to existing environmental conditions, and no significant cumulative environmental impact associated with the action.

(h) Approval of the exchange of parcels of District-owned land, or part thereof, for an abutting lot or parcel of land, or part thereof pursuant to DC Code. 10–901, when such plans involve minimal or no effect on the environment, no significant change to existing environmental conditions, and no significant cumulative environmental impact associated with the action as demonstrated in accordance with the requirements and procedures of DC Code 8–109.01 *et seq.* and any regulations adopted to implement the referenced statutory provisions.

(i) Approval of the installation of communication antennae on federal buildings and co-location of communication antennae on federal property consistent with GSA Bulletin FMR D–242, Placement of Commercial Antennas on Federal Property.

(j) Approval of new construction, building expansion, or improvements to existing facilities, when:

(1) The new structure and proposed use are in compliance with local planning and zoning and any applicable District of Columbia, state, or federal requirements.

(2) The site and the scale of construction are consistent with those of existing adjacent or nearby buildings.

(3) The proposed use will not substantially increase the number of motor vehicles at the Facility.

(4) There is no evidence of community controversy or other environmental issues.

(k) Approval of transfers of jurisdiction pursuant to 40 U.S.C. 8421(a) that will not lead to anticipated changes in the use of land and that have no potential for environmental impact.

(l) Approval of a minor modification to a General Development Plan applicable to lands acquired pursuant to the Capper-Cramton Act, 46 Stat. 482 (1930), as amended, when no or minimal environmental impacts are anticipated.

(m) Approval of an action proposed by a Federal Agency applicant when such applicant has determined a categorical exclusion set forth in its NEPA-implementing procedures applies to the proposed action; provided the Executive Director shall review the determination as to both the applicability of the exclusion and the absence of any extraordinary circumstances.

(n) Reorganization of NCPC.

(o) Personnel actions, including, but not limited to, investigations; performance reviews; award of personal service contracts, promotions, and awards; reductions in force, reassignments and relocations; and employee supervision and training.

(p) Legal activities including, but not limited to, legal advice and opinions; litigation or other methods of dispute resolution; and procurement of outside legal services.

(q) Procurement of goods and services, transactions, and other types of activities related to the routine and continuing administration, management, maintenance and operations of the Commission or its facilities.

(r) Adoption and issuance of rules, directives, official policies, guidelines, and publications or recommendations of an educational, financial, informational, legal, technical or procedural nature.

Subpart E—Environmental Assessments

§ 601.13 Characteristics of Commission actions eligible for an Environmental Assessment.

(a) An EA is a concise document with sufficient information and analysis to enable the Executive Director to

determine whether to issue a FONSI or prepare an EIS.

(b) Commission actions that generally require an EA exhibit the following characteristics:

(1) Minor but likely insignificant degradation of environmental quality;

(2) Minor but likely insignificant cumulative impact on environmental quality; and

(3) Minor but likely insignificant impact on protected resources.

§ 601.14 Commission actions generally eligible for an Environmental Assessment.

Commission actions that typically require preparation of an EA include without limitation:

(a) Approval of final plans for Federal public buildings in the District of Columbia, and the provisions for open space in and around the same, pursuant to 40 U.S.C. 8722(d) and DC Code 2–1004(c), unless such plans meet the criteria of § 601.12(j).

(b) Approval of final plans for District of Columbia public buildings and the open space around them within the Central Area pursuant to 40 U.S.C. 8722(e) and DC Code 2–1004(d) unless such plans meet the criteria of § 601.12(e) or (j).

(c) Recommendations to a Federal or District of Columbia agency on any master plan or master plan modification submitted to the Commission that include proposed future projects that require Commission approval pursuant to 40 U.S.C. 8722(d)–(e) and DC Code 2–1004(c)–(d) within a five-year timeframe.

(d) Approval of a final site and design for a commemorative work authorized under the Commemorative Works Act pursuant to 40 U.S.C. 8905.

(e) Approval of transfers of jurisdiction over properties within the District of Columbia owned by the United States or the District among or between federal and District authorities, pursuant to 40 U.S.C. 8124(a), unless such transfers met the criteria of § 601.12(k).

§ 601.15 Process for preparing an Environmental Assessment.

An EA prepared by NCPC as the Lead Agency for a project requiring Commission approval shall comply with the following requirements:

(a) The EA shall include, without limitation, a brief discussion of the proposed action; the need for the proposed action; the environmental impacts of the proposed action; the environmental impacts of the alternatives considered; Mitigation measures, if necessary; and a list of agencies and persons consulted in preparation of the assessment.

(b) The NCPC shall involve, as appropriate, applicants; Federal and District of Columbia agencies; the public; and stakeholders (those with an economic, cultural, social, or environmental ''stake'' in the action) in the preparation of an EA.

(c) The NCPC, at the sole discretion of the Executive Director, may undertake Public Scoping for an action requiring an EA. The Public Scoping shall commence thirty calendar days after issuance of a public notice of NCPC's intent to prepare an EA. The notice shall include the date, time and location of the Public Scoping meeting.

(d) The NCPC may solicit public review and comment of a Draft EA. The public comment period shall be a minimum of thirty calendar days. The public comment period shall begin when the Executive Director announces the availability of the Draft EA on the NCPC Web site (*www.ncpc.gov*). The NCPC, at its sole discretion, may decline to circulate a draft EA for non-controversial projects.

§ 601.16 Finding of No Significant Impact.

(a) If NCPC is the Lead Agency and the final EA supports a FONSI, NCPC shall prepare and execute a FONSI. The FONSI shall be prepared following closure of the discretionary public comment period on a Draft EA, or if no circulation is deemed necessary, at the conclusion of the preparation of an EA. The FONSI shall briefly state the reasons why the proposed action will not have a significant effect on the environment and include the EA or a summary thereof, any Mitigation commitments, and a schedule for implementing the Mitigation commitments.

(b) If NCPC is not the Lead Agency, it shall evaluate the adequacy of the Lead Agency's FONSI, and if determined adequate, NCPC may co-sign the Lead Agency's FONSI. Alternatively, NCPC may prepare and execute its own FONSI consistent with the requirements of paragraph (a) of this section.

(c) A FONSI prepared by NCPC shall be available for public review seven calendar days before the Commission takes action on the underlying application.

(d) If the Commission determines a Lead Agency's EA does not support a FONSI, either the Lead Agency shall prepare an EIS, or the Commission shall not approve or consider further the underlying application.

§ 601.17 Supplemental Environmental Assessments.

(a) The NCPC shall prepare a supplemental EA if five or more years have elapsed since adoption of the EA and:

(1) There are substantial changes to the proposed action that are relevant to environmental concerns; and

(2) There are significant new circumstances or information that are relevant to environmental concerns and have a bearing on the proposed action or its impacts.

(b) The NCPC may supplement a Draft or Final EA at any time to further the purposes of NEPA.

(c) The NCPC shall prepare, circulate, and file a supplement to a Draft or Final EA, and adopt a FONSI in accordance with the requirements of §§ 601.15 and 601.16. If NCPC is not the Lead Agency, it shall proceed as outlined in § 601.16(b) and (c).

Subpart F—Environmental Impact Statements

§ 601.18 Requirement for and timing of an Environmental Impact Statement.

Prior to the Commission's approval of a major federal action significantly affecting the quality of the human environment, the Executive Director shall prepare an EIS on behalf of a Non-federal Agency applicant.

§ 601.19 Context, intensity, and significance of impacts.

(a) As required by 40 CFR 1508.27(a) and (b), the determination of whether an EIS is required and whether impacts are significant shall be made with consideration to the context and intensity of the impacts associated with a proposed action.

(b) The significance of an action is determined in the context of its effects on society as a whole, the National Capital Region and its environs, the particular interests affected, and the specific locality or area within which the proposed action is located. The context will vary from project to project and will be based on the type, attributes, and characteristics of a particular proposal.

(c) The significance of an action is also determined based on the severity of impacts imposed by the proposal. Severity shall be determined based on an evaluation of a proposal in the manner outlined in 40 CFR1508.27(b)(1) through (10). The evaluation shall also be informed by the relevant policies of ''The Comprehensive Plan for the National Capital: Federal Elements'' and other applicable Commission plans and programs. Proposed actions that conflict

with or delay achievement of the goals and objectives of Commission plans and programs are generally more likely to be found to have significant impacts than proposals that are consistent with Commission plans and programs.

(d) Proposed actions shall also be deemed significant and require and EIS if they exhibit the following characteristics:

(1) The proposed action results in extensive change to the Monumental Core.

(2) The proposed action causes substantial alteration to the important historical, cultural, and natural features of the National Capital and its Environs.

(3) The proposed action is likely to be controversial because of its impacts on the human environment.

§ 601.20 Streamlining Environmental Impact Statements.

The NCPC as Lead Agency shall use all available techniques to minimize the length of an EIS. Such techniques include, without limitation, drafting an EIS in clear, concise language; preparing an analytic vs. encyclopedic EIS; reducing emphasis on background information; using the scoping process to emphasize significant issues and de-emphasize non-significant issues; incorporating relevant information by reference; using a programmatic EIS and tiering to eliminate duplication in subsequent EISs; and following the format guidelines of § 601.22.

§ 601.21 Programmatic Environmental Impact Statements and tiering.

(a) The NCPC shall prepare a programmatic NEPA Document (Programmatic EA or PEA or Programmatic EIS or PEIS) to assess the impacts of proposed projects and plans when there is uncertainty regarding the timing, location and environmental impacts of subsequent implementing actions. At the time NCPC undertakes a site or project specific action within the parameters of the PEA or PEIS, NCPC shall tier its NEPA Document by summarizing information in the PEIS or PEA, as applicable, and concentrate on the issues applicable to the specific action.

(b) A PEIS or PEA prepared by NCPC shall be governed by the CEQ regulations and the rules of this part.

§ 601.22 Contents of an Environmental Impact Statement.

When NCPC serves as Lead Agency for an EIS, the following information shall be included in the EIS:

(a) A cover sheet. The cover sheet shall be one-page and include a list of responsible and Cooperating Agencies; the title of the proposed action that is the subject of the EIS; the name, address, and telephone number of the NCPC point of contact; the designation as to whether the statement is draft, final, or draft or final supplement; a one paragraph abstract of the EIS; and the date by which comments must be received.

(b) A summary. The summary shall accurately summarize the information presented in the EIS. The summary shall focus on the main conclusions, areas of controversy, and the issues to be resolved. The summary shall not exceed fifteen pages.

(c) A table of contents. The table of contents shall allow a reader to quickly locate subject matter in the EIS—either by topic area and/or alternatives analyzed.

(d) The purpose and need. A statement of the purpose of and need for the action briefly stating the underlying purpose and need to which the agency is responding.

(e) The identification of alternatives including the proposed action. This section shall provide a brief description and supporting documentation for all alternatives including the proposed action; the no action alternative; all reasonable alternatives including those not within the jurisdiction of the agency; alternatives considered but eliminated and the reason for their elimination; the agency's preferred alternative, if one exists; the environmentally preferred alternative; and Mitigation measures not already included in the proposed action.

(f) The identification of the affected environment. This section shall provide a succinct description of the environment to be affected by the proposed action and the alternatives considered. This section shall include, if applicable, other activities in the area affected by or related to the proposed action.

(g) The identification of environmental consequences. This section shall focus on the environmental impacts of the alternatives including the proposed action, any adverse environmental effects which cannot be avoided should the proposal be implemented, the relationship between short-term uses of the environment and the maintenance and enhancement of long-term productivity, and any irreversible commitments of resources which would be involved if the proposal is implemented. The impacts shall be discussed in terms of direct, indirect and cumulative effects and their significance, as well as any appropriate means to mitigate adverse impacts. The discussion shall also include issues and impact topics considered but dismissed to reveal non-impacted resources. Resource areas and issues requiring consideration shall include those identified in the scoping process, and, without limitation, the following:

(1) Possible conflicts between the proposed action and the land use plans, policies, or controls (local, state, or Indian tribe) for the area concerned.

(2) Natural and biological resources including topography, hydrology, soils, flora, fauna, floodplains, wetlands, and endangered species.

(3) Air quality.

(4) Noise.

(5) Water resources including wastewater treatment and storm water management.

(6) Utilities including energy requirements and conservation.

(7) Solid waste and hazardous waste generation/removal.

(8) Community facilities.

(9) Housing.

(10) Transportation network.

(11) Socio-cultural and economic environments.

(12) Environmental Justice and the requirements of Executive Order 12898 (Federal Actions to Address Environmental Justice in Minority Populations).

(13) Urban quality and design of the built environment including visual resources and aesthetics.

(14) Historic and cultural resources to include documentation of the results of the Section 106 Consultation process.

(15) Public health and safety.

(h) A list of preparers. This list shall include all pertinent organizations, agencies, individuals, and government representatives primarily responsible for the preparation of the EIS and their qualifications.

(i) An index. The index shall be structured to reasonably assist the reader of the Draft or Final EIS in identifying and locating major topic areas or elements of the EIS information. The level of detail of the index shall provide sufficient focus on areas of interest to any reader not just the most important topics.

(j) An appendix. The appendix shall consist of material prepared in connection with an EIS (as distinct from material which is incorporated by reference) and material which substantiates any analysis fundamental to the EIS. The material in the appendix shall be analytical and relevant to the decision to be made. The appendix shall be circulated with the EIS or be readily available upon request.

§ 601.23 The Environmental Impact Statement process.

(a) The NCPC shall involve the applicant, Federal and District of Columbia agencies, members of the public and stakeholders in the preparation of an EIS. Public participation shall be required as part of Public Scoping process and review of the Draft EIS. The NCPC shall also consult with agencies having jurisdiction by law or expertise. Agencies with ''jurisdiction by law'' are those with ultimate jurisdiction over a project and whose assistance may be required on certain issues and those with other kinds of regulatory or advisory authority with respect to the action or its effects on particular environmental resources.

(b) To determine the scope of an EIS through a Public Scoping process, NCPC shall proceed as follows:

(1) Disseminate a NOI in accordance with 40 CFR 1506.6.

(2) Publish a NOI in the **Federal Register** which shall begin the Public Scoping process.

(3) Include the date, time, and location of a Public Scoping meeting in the NOI. The public meeting shall be announced at least thirty calendar days in advance of its scheduled date.

(4) Hold Public Scoping meeting(s) in facilities that are accessible to the disabled; include Translators requested in advance; include signers or interpreters for the hearing impaired if requested in advance; and allow special arrangements for consultation with affected Indian tribes or other Native American groups who have environmental concerns that cannot be shared in a public forum.

(5) Consider all comments received during the announced comment period regarding the analysis of alternatives, the affected environment, and identification of potential impacts.

(6) Apply the provisions of this section to a Supplemental EIS if the Executive Director of NCPC, in his/her sole discretion, determines a Public Scoping process is required for a Supplemental EIS.

(c) A Draft EIS shall be available to the public for their review and comment, for a period of not less than forty-five calendar days. The public comment period shall begin when EPA publishes a NOA of the document in the **Federal Register**. The NCPC shall hold at least one public meeting during the public comment period on a Draft EIS. The public meeting shall be announced at least thirty calendar days in advance of its scheduled occurrence. The announcement shall identify the subject of the Draft EIS and include the public meeting date, time, and location.

§ 601.24 Final Environmental Impact Statement.

(a) The NCPC shall prepare a Final EIS following the public comment period and the public meeting(s) on the Draft EIS. The Final EIS shall respond to oral and written comments received during the Draft EIS public comment period.

(b) The Commission shall take final action on an application following a thirty-day Commission-sponsored review period of the Final EIS. The thirty-day period shall start when the EPA publishes a NOA for the Final EIS in the **Federal Register**.

§ 601.25 Record of Decision.

(a) If NCPC as the Lead Agency decides to recommend approval of a proposed action covered by an EIS, it shall prepare and sign a ROD stating the Commission's decision and any conservation or Mitigation measures required by the Commission. The ROD shall include among others:

(1) A statement of the decision.

(2) The identification of alternatives considered in reaching a decision specifying the alternatives that were considered to be environmentally preferable. The ROD shall discuss preferences among alternatives based on relevant factors including economic and technical planning considerations and the Commission's statutory mission. The ROD s shall identify those factors balanced to reach a decision and the influence of various factors on the decision.

(3) A statement as to whether all practicable means to avoid or minimize environmental harm from the alternative selected has been adopted, and if not, why they are not.

(4) A monitoring and enforcement program that summarizes Mitigation measures.

(5) Date of issuance.

(6) Signature of the Chairman.

(b) The contents of the ROD proposed for Commission adoption shall be summarized in the EDR and a full version of the document shall be included as an Appendix to the EDR. The proposed ROD, independently of the EDR, shall be made available to the public for review fourteen calendar days prior to the Commission's consideration of the proposed action for which the EIS was prepared.

(c) The Commission shall arrive at its decision about the proposed action and it's environmental effects in a public meeting of record as identified by the Commission's monthly agenda.

(d) If NCPC is not the Lead Agency, it shall either co-sign the Lead Agency's ROD if it agrees with its contents and conclusions or it shall prepare and sign its own ROD consistent with the requirements of paragraph (a) of this section.

(e) If the Commission determines a Lead Agency's EIS fails to support a ROD, the Lead Agency shall revise its EIS, or, alternatively, the Commission shall not approve or give any further consideration to the underlying application.

§ 601.26 Supplemental Environmental Impact Statement.

(a) The NCPC shall prepare a supplemental EIS if five or more years has elapsed since adoption of the EIS and:

(1) There are substantial changes to the proposed action that are relevant to environmental concerns; and

(2) There are significant new circumstances or information that are relevant to environmental concerns and have a bearing on the proposed action or its impacts.

(b) The NCPC may supplement a Draft or Final EIS at any time, to further the purposes of NEPA.

(c) The NCPC shall prepare, circulate, and file a supplement to a Draft or Final EIS in accordance with the requirements of §§ 601.22 through 601.24 of this part except that Public Scoping is optional for a supplemental EIS.

(d) The NCPC shall prepare a ROD for a Supplemental EIS. The ROD's contents, the procedure for public review, and the manner in which it shall be adopted shall be as set forth in § 601.25.

§ 601.27 Legislative Environmental Impact Statement.

(a) Consistent with 40 CFR 1506.8, the Executive Director shall prepare an EIS for draft legislation initiated by NCPC for submission to Congress. The EIS for the proposed legislation shall be included as part of the formal transmittal of NCPC's legislative proposal to Congress.

(b) The requirements of this section shall not apply to legislation Congress directs NCPC to prepare.

Subpart G—Dispute Resolution

§ 601.28 Dispute resolution.

Any disputes arising under this part, shall be resolved, unless otherwise stated, by the parties through interagency, good faith negotiations starting at the working levels of each agency, and if necessary, by escalating such disputes within the respective agencies. If resolution at higher levels is

unsuccessful, the parties shall resort to mediation.

§ 601.29 [Reserved]

Dated: May 23, 2017.

Anne R. Schuyler,

General Counsel.

[FR Doc. 2017–10940 Filed 5–26–17; 8:45 am]

BILLING CODE P

DEPARTMENT OF ENERGY

2 CFR Chapter IX

5 CFR Chapter XXIII

10 CFR Chapters II, III and X

41 CFR Chapter 109

48 CFR Chapter 9

Reducing Regulation and Controlling Regulatory Costs

AGENCY: Office of the Secretary, Department of Energy.

ACTION: Request for information (RFI).

SUMMARY: As part of its implementation of Executive Order 13771, ''Reducing Regulation and Controlling Regulatory Costs,'' issued by the President on January 30, 2017, the Department of Energy (DOE) is seeking comments and information from interested parties to assist DOE in identifying existing regulations, paperwork requirements and other regulatory obligations that can be modified or repealed, consistent with law, to achieve meaningful burden reduction while continuing to achieve the Department's statutory obligations.

DATES: Written comments and information are requested on or before July 14, 2017.

ADDRESSES: Interested persons are encouraged to submit comments, identified by ''Regulatory Burden Reduction RFI,'' by any of the following methods:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.

Email: Regulatory.Review@hq.doe.gov. Include ''Regulatory Burden RFI'' in the subject line of the message.

Mail: U.S. Department of Energy, Office of the General Counsel, 1000 Independence Avenue SW., Room 6A245, Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: Daniel Cohen, U.S. Department of Energy, Office of the General Counsel, 1000 Independence Avenue SW., Washington, DC 20585. Telephone: (202) 586–5000. Email: *Regulatory.Review@hq.doe.gov.*

SUPPLEMENTARY INFORMATION: On January 30, 2017, the President issued Executive Order 13771, ''Reducing Regulation and Controlling Regulatory Costs.'' That Order stated the policy of the executive branch is to be prudent and financially responsible in the expenditure of funds, from both public and private sources. The Order stated it is essential to manage the costs associated with the governmental imposition of private expenditures required to comply with Federal regulations. Toward that end, for fiscal year 2017, E.O. 13771 requires:

(1) ''Unless prohibited by law, whenever an executive department or agency . . . publicly proposes for notice and comment or otherwise promulgates a new regulation, it shall identify at least two existing regulations to be repealed.'' Sec. 2(a).

(2) ''For fiscal year 2017, . . . the heads of all agencies are directed that the total incremental cost of all new regulations, including repealed regulations, to be finalized this year shall be no greater than zero, unless otherwise required by law or consistent with advice provided in writing by the Director of the Office of Management and Budget . . . .'' Sec. 2(b).

(3) ''In furtherance of the requirement of subsection (a) of this section, any new incremental costs associated with new regulations shall, to the extent permitted by law, be offset by the elimination of existing costs associated with at least two prior regulations.'' Sec. 2(c).

Further, the Executive Order requires that for fiscal year 2018, and for each fiscal year thereafter, the head of each agency shall identify, for each regulation that increases incremental cost, offsetting regulations, and provide the agency's best approximation of the total costs or savings associated with each new regulation or repealed regulation. During the Presidential budget process beginning in fiscal year 2018 and for each year thereafter, the Director of the Office of Management and Budget (Director) will identify to each agency a total amount of incremental costs that will be allowed for such agency in issuing new regulations and repealing regulations for the next fiscal year. No regulations exceeding the agency's total incremental cost allowance will be permitted in that fiscal year, unless required by law or approved in writing by the Director. The total incremental cost allowance may allow an increase or require a reduction in total regulatory cost.

Additionally, on February 24, 2017, the President issued Executive Order 13777, ''Enforcing the Regulatory Reform Agenda.'' The Order required the head of each agency designate an agency official as its Regulatory Reform Officer (RRO). Each RRO shall oversee the implementation of regulatory reform initiatives and policies to ensure that agencies effectively carry out regulatory reforms, consistent with applicable law. Further, E.O. 13777 requires the establishment of a regulatory task force at each agency. The regulatory task force will make recommendations to the agency head regarding the repeal, replacement, or modification of existing regulations, consistent with applicable law. At a minimum, each regulatory reform task force shall attempt to identify regulations that:

(i) Eliminate jobs, or inhibit job creation;

(ii) Are outdated, unnecessary, or ineffective;

(iii) Impose costs that exceed benefits;

(iv) Create a serious inconsistency or otherwise interfere with regulatory reform initiatives and policies;

(v) Are inconsistent with the requirements of Information Quality Act, or the guidance issued pursuant to that Act, in particular those regulations that rely in whole or in part on data, information, or methods that are not publicly available or that are insufficiently transparent to meet the standard for reproducibility; or

(vi) Derive from or implement Executive Orders or other Presidential directives that have been subsequently rescinded or substantially modified.

Finally, on March 28, 2017, the President signed Executive Order 13783, entitled ''Promoting Energy Independence and Economic Growth. Among other things, E.O. 13783 requires the heads of agencies to review all existing regulations, orders, guidance documents, policies, and any other similar agency actions (collectively, agency actions) that potentially burden the development or use of domestically produced energy resources, with particular attention to oil, natural gas, coal, and nuclear energy resources. Such review does not include agency actions that are mandated by law, necessary for the public interest, and consistent with the policy set forth elsewhere in that order.

Executive Order 13783 defined burden for purposes of the review of existing regulations to mean to unnecessarily obstruct, delay, curtail, or otherwise impose significant costs on the siting, permitting, production, utilization, transmission, or delivery of energy resources.

To implement these Executive Orders, the Department is taking two immediate steps. *First,* as described further below,

the Department is issuing this Request for Information (RFI) seeking public comment on how best to achieve meaningful burden reduction while continuing to achieve the Department's regulatory objectives. *Second,* the Department has created an email in-box at *Regulatory.Review@hq.doe.gov,* which interested parties can use to identify to DOE—on a continuing basis—existing regulations, paperwork requirements and other regulatory obligations that can be modified or repealed, consistent with law. Together, these steps will help the Department ensure it acts in a prudent and financially responsible manner in the expenditure of funds, from both public and private sources, and manages appropriately the costs associated with private expenditures required for compliance with DOE regulations.

Request for Information

Pursuant to the Executive Orders, the Department is, through this request for information, seeking input and other assistance, as permitted by law, from entities significantly affected by regulations of the Department of Energy, including State, local, and tribal governments, small businesses, consumers, non-governmental organizations, and manufacturers and their trade associations. The Department's goal is to create a systematic method for identifying those existing DOE rules that are obsolete, unnecessary, unjustified, or simply no longer make sense.

Consistent with the Department's commitment to public participation in the rulemaking process, the Department is beginning this process by soliciting views from the public on how best to conduct its analysis of existing DOE rules. It is also seeking views from the public on specific rules or Department imposed obligations that should be altered or eliminated. While the Department promulgates rules in accordance with the law and to the best of its analytic capability, it is difficult to be certain of the consequences of a rule, including its costs and benefits, until it has been tested. Because knowledge about the full effects of a rule is widely dispersed in society, members of the public are likely to have useful information and perspectives on the benefits and burdens of existing requirements and how regulatory obligations may be updated, streamlined, revised, or repealed to better achieve regulatory objectives, while minimizing regulatory burdens, consistent with applicable law. Interested parties may also be well-positioned to identify those rules that are most in need of reform, and, thus, assist the Department in prioritizing and properly tailoring its review process. In short, engaging the public in an open, transparent process is a crucial first step in DOE's review of its existing regulations.

List of Questions for Commenters

To allow DOE to more effectively evaluate suggestions, the Department is requesting comments include:

- Supporting data or other information such as cost information
- Specific suggestions regarding repeal, replacement, or modification.

The following list of questions represents a preliminary attempt by DOE to identify rules/obligations on which it should immediately focus. This non-exhaustive list is meant to assist in the formulation of comments and is not intended to restrict the issues that may be addressed. In addressing these questions or others, DOE requests that commenters identify with specificity the regulation or reporting requirement at issue, providing legal citation where available. The Department also requests that the submitter provide, in as much detail as possible, an explanation why a regulation or reporting requirement should be modified, streamlined, or repealed, as well as specific suggestions of ways the Department can do so while achieving its regulatory objectives.

(1) How can DOE best promote meaningful regulatory cost reduction while achieving its regulatory objectives, and how can it best identify those rules that might be modified, streamlined, or repealed?

(2) What factors should DOE consider in selecting and prioritizing rules and reporting requirements for reform?

(3) How can DOE best obtain and consider accurate, objective information and data about the costs, burdens, and benefits of existing regulations? Are there existing sources of data DOE can use to evaluate the post-promulgation effects of regulations over time? We invite interested parties to provide data that may be in their possession that documents the costs, burdens, and benefits of existing requirements.

(4) Are there regulations that simply make no sense or have become unnecessary, ineffective, or ill-advised and if so what are they? Are there rules that can simply be repealed without impairing DOE's statutory obligations and, if so, what are they?

(5) Are there rules or reporting requirements that have become outdated and, if so, how can they be modernized to better accomplish their objective?

(6) Are there rules that are still necessary, but have not operated as well as expected such that a modified, or slightly different approach at lower cost is justified?

(7) Are there rules of the Department that unnecessarily obstruct, delay, curtail, or otherwise impose significant costs on the siting, permitting, production, utilization, transmission, or delivery of energy resources?

(8) Does DOE currently collect information that it does not need or use effectively?

(9) Are there regulations, reporting requirements, or regulatory processes that are unnecessarily complicated or could be streamlined to achieve statutory obligations in more efficient ways?

(10) Are there rules or reporting requirements that have been overtaken by technological developments? Can new technologies be leveraged to modify, streamline, or do away with existing regulatory or reporting requirements?

(11) Does the methodology and data used in analyses supporting DOE's regulations meet the requirements of the Information Quality Act?

The Department notes that this RFI is issued solely for information and program-planning purposes. While responses to this RFI do not bind DOE to any further actions related to the response, all submissions will be made publicly available on *www.regulations.gov.*

Issued in Washington, DC, on May 19, 2017.

Daniel R. Simmons,

Chair, Department of Energy Regulatory Reform Task Force.

[FR Doc. 2017–10866 Filed 5–26–17; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1217

[Document Number AMS–SC–16–0066]

Softwood Lumber Research, Promotion, Consumer Education and Industry Information Order; De Minimis Quantity Exemption Threshold

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This action proposes to establish a de minimis quantity exemption threshold under the Softwood Lumber Research, Promotion, Consumer Education and Industry Information Order (Order). The Order is

administered by the Softwood Lumber Board (Board) with oversight by the U.S. Department of Agriculture (USDA). In response to a 2016 federal district court decision, USDA conducted a new analysis to determine a reasonable and appropriate de minimis threshold. Based on that analysis contained herein, this proposal would establish the de minimis quantity threshold at 15 million board feet (mmbf) and entities manufacturing (and domestically shipping) or importing less than 15 mmbf per year would be exempt from paying assessments under the Order.

DATES: Comments must be received by July 31, 2017.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposal. Comments may be submitted on the Internet at: *http://www.regulations.gov* or to the Promotion and Economics Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW., Room 1406–S, Stop 0244, Washington, DC 20250–0244; facsimile: (202) 205–2800. All comments should reference the document number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection, including name and address, if provided, in the above office during regular business hours or it can be viewed at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Maureen T. Pello, Marketing Specialist, Promotion and Economics Division, Specialty Crops Program, AMS, USDA, P.O. Box 831, Beavercreek, Oregon, 97004; telephone: (503) 632–8848; facsimile (503) 632–8852; or electronic mail: *Maureen.Pello@ams.usda.gov.*

SUPPLEMENTARY INFORMATION: This proposal is issued under the Order (7 CFR part 1217). The Order is authorized under the Commodity Promotion, Research and Information Act of 1996 (1996 Act) (7 U.S.C. 7411–7425).

Executive Order 12866 and Executive Order 13563

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules and promoting flexibility. This action falls within a category of regulatory actions that the Office of Management and Budget (OMB) exempted from Executive Order 12866 review. Additionally, because this rule does not meet the definition of a significant regulatory action it does not trigger the requirements contained in Executive Order 13771. *See* OMB's Memorandum titled ''Interim Guidance Implementing Section 2 of the Executive Order of January 30, 2017 titled 'Reducing Regulation and Controlling Regulatory Costs' '' (February 2, 2017).

Executive Order 13175

This action has been reviewed in accordance with the requirements of Executive Order 13175, Consultation and Coordination with Indian Tribal Governments. The review reveals that this proposal would not have substantial and direct effects on Tribal governments and would not have significant Tribal implications.

Executive Order 12988

This proposal has been reviewed under Executive Order 12988, Civil Justice Reform. It is not intended to have retroactive effect. Section 524 of the 1996 Act (7 U.S.C. 7423) provides that it shall not affect or preempt any other Federal or State law authorizing promotion or research relating to an agricultural commodity.

Under section 519 of the 1996 Act (7 U.S.C. 7418), a person subject to an order may file a written petition with USDA stating that an order, any provision of an order, or any obligation imposed in connection with an order, is not established in accordance with the law, and request a modification of an order or an exemption from an order. Any petition filed challenging an order, any provision of an order, or any obligation imposed in connection with an order, shall be filed within two years after the effective date of an order, provision, or obligation subject to challenge in the petition. The petitioner will have the opportunity for a hearing on the petition. Thereafter, USDA will issue a ruling on the petition. The 1996 Act provides that the district court of the United States for any district in which the petitioner resides or conducts business shall have the jurisdiction to review a final ruling on the petition, if the petitioner files a complaint for that purpose not later than 20 days after the date of the entry of USDA's final ruling.

Background

This proposed rule would establish a de minimis quantity exemption threshold under the Order. The Order, codified at 7 CFR part 1217, is administered by the Board with oversight by USDA's Agricultural Marketing Service (AMS). In *Resolute Forest Products Inc.,* v. *USDA, et al.* (*Resolute*), the court found that, on the basis of the estimates and information submitted by the government to the court for review, the selection of 15 mmbf as the de minimis quantity (to be exempted) under the Order was arbitrary and capricious and that the Order was therefore promulgated unlawfully. The court did not vacate (or terminate) the Order; the court remanded the matter to USDA and program requirements remain in effect.

To address the court's decision, USDA conducted a new analysis to determine a reasonable and appropriate de minimis quantity exemption. USDA analyzed various thresholds of exemption: 10, 15, 20, 25, and 30 mmbf. USDA also considered proposing no de minimis exemption. USDA's analysis of the data resulted in a determination that a de minimis level of 15 mmbf is reasonable and appropriate. Therefore, this proposal would establish the de minimis quantity threshold under the Order at 15 mmbf.

Authority in the 1996 Act

The 1996 Act authorizes USDA to establish agricultural commodity research and promotion orders which may include a combination of promotion, research, industry information, and consumer information activities funded by mandatory assessments. These programs are designed to maintain and expand markets and uses for agricultural commodities. As defined under section 513(1)(D) of the 1996 Act, agricultural commodities include the products of forestry, which includes softwood lumber.

The 1996 Act provides for a number of optional provisions that allow the tailoring of orders for different commodities. Section 516 of the 1996 Act provides permissive terms for orders. Section 516 states that an order may include an exemption of de minimis quantities of an agricultural commodity. Further, section 516(g) of the 1996 Act provides authority for other action that is consistent with the purpose of the statute and necessary to administer a program.

Overview of the Softwood Lumber Program

The softwood lumber program took effect in August 2011 (76 FR 46185) and assessment collection began in January 2012. Under the Order, assessments are collected from domestic (U.S.) manufacturers and importers and are used by the Board for projects that promote market growth for softwood

lumber products used in single and multi-family dwellings as well as commercial construction. The Board is composed of 19 industry members (domestic manufacturers and importers) who are appointed by the Secretary of Agriculture. The purpose of the program is to strengthen the position of softwood lumber in the marketplace, maintain and expand markets for softwood lumber, and develop new uses for softwood lumber within the United States.

Relevant Order Provisions

Domestic Manufacturers

The term 'domestic manufacturer' is defined in section 1217.8 of the Order to mean any person who is a first handler engaged in the manufacturing, sale and shipment of softwood lumber in the United States during a fiscal period and who owns, or shares in the ownership and risk of loss of manufacturing of softwood lumber or a person who is engaged in the business of manufacturing, or causes to be manufactured, sold and shipped such softwood lumber in the United States beyond personal use. The term does not include persons who re-manufacture softwood lumber that has already been subject to assessment. The term 'manufacture' is defined in section 1217.13 of the Order to mean the process of transforming (or turning) softwood logs into softwood lumber.

Domestic manufacturers are essentially sawmills that turn softwood logs into lumber. A domestic manufacturer may be a company that is a single sawmill, or it may be a company that is composed of multiple sawmills.

Importers

The term 'importer' is defined in section 1217.11 of the Order to mean any person who imports softwood lumber from outside the United States for sale in the United States as a principal or as an agent, broker, or consignee of any person who manufactures softwood lumber outside the United States for sale in the United States, and who is listed in the import records as the importer of record for such softwood lumber. Import records are maintained by the U.S. Customs and Border Protection (Customs or CBP). Both domestic manufacturers and importers may be referred to in this rulemaking as ''entities.''

Expenses and Assessments

Pursuant to section 1217.50 of the Order, the Board is authorized to incur expenses for research and promotion projects as well as administration. The Board's expenses are paid by assessments upon domestic manufacturers and importers. Pursuant to section 1217.52(b), and subject to the exemptions specified in section 1217.53 of the Order, each domestic manufacturer and importer must pay an assessment to the Board at the rate of $0.35 per thousand board feet of softwood lumber, except that no entity has to pay an assessment on the first 15 mmbf of softwood lumber otherwise subject to assessment in a fiscal year. Domestic manufacturers pay assessments based on the volume of softwood lumber shipped within the United States and importers pay assessments based on the volume of softwood lumber imported to the United States. Pursuant to paragraphs (d) and (j) in section 1217.52, respectively, domestic manufacturers and importers who pay their assessments to the Board must do so no later than the 30th calendar day of the month following the end of the quarter in which the softwood lumber was shipped or imported.

Exemptions

Section 1217.53 of the Order prescribes exemptions from assessment. Pursuant to paragraph (a) of that section, the original de minimis quantity exemption threshold under the Order was 15 mmbf. Thus, U.S. manufacturers and importers that domestically ship and/or import less than 15 mmbf feet annually have been exempt from paying assessments. Domestic manufacturers and importers that ship or import less than the de minimis quantity of softwood lumber must apply to the Board each year for a certificate of exemption and provide documentation as appropriate to support their request.

Pursuant to paragraph (b) of section 1217.53 of the Order, domestic manufacturers and importers that ship or import 15 mmbf or more annually do not pay assessments on their first 15 mmbf domestically shipped or imported. This *exemption* is intended for the purpose of creating an equality amongst those within the industry with regard to the program's assessment. Just as those that manufacture or import under 15 mmbf do not have to pay assessments, those at or above this level may reduce their assessable volume by 15 mmbf.[1] For example, an entity that ships or imports 20 mmbf annually only has to pay assessments on 5 mmbf of softwood lumber. This *exemption* creates fairness; it levels the playing field because all entities, regardless of size, do not have to pay assessments on their first 15 mmbf shipped or imported. For purposes of this document, this exemption is referred to as the ''equity exemption.'' Pursuant to paragraphs (c) and (d) of section 1217.53, respectively, exports of softwood lumber from the United States and organic softwood lumber are also exempt from assessment.

Reports and Records

Pursuant to section 1217.70 of the Order, domestic manufacturers and importers who pay their assessments directly to the Board must submit with their payment a report that specifies the quantity of softwood lumber domestically shipped or imported. Pursuant to section 1217.71 of the Order, all domestic manufacturers and importers must maintain books and records necessary to verify reports for a period of 2 years beyond the fiscal year to which they apply, including those exempt. These records must be made available during normal business hours for inspection by Board staff or USDA.

Other Relevant Order Provisions

The original 15 mmbf quantity exemption threshold is referenced in other Order provisions. Section 1217.40 specifies that the Board is composed of domestic manufacturers and importers who domestically ship or import 15 mmbf or more of softwood lumber annually. Section 1217.41 of the Order specifies that persons interested in serving on the Board must also domestically ship or import 15 mmbf or more softwood lumber annually. Finally, section 1217.101 of the Order regarding referendum procedures specifies that eligible domestic manufacturers and importers that can vote in referenda must domestically ship or import 15 mmbf or more of softwood lumber annually.

Initial Referendum and Summary of Board Activities

The softwood lumber program was implemented after notice and comment rulemaking and a May 2011 referendum demonstrating strong support for the program. Pursuant to section 1217.81(a) of the Order, the program had to pass by a majority of those voting in the referendum who also represented a majority of the volume voted. Sixty-seven percent of the entities who voted, who together represented 80 percent of the volume, in the referendum favored implementation of the program. Entities that domestically shipped or imported

[1] USDA notes that the de minimis level and the equity exemption are purposefully aligned and any change in the de minimis would result in a corresponding modification to the equity exemption.

15 mmbf or more of softwood lumber annually were eligible to vote in the referendum. As previously mentioned, the program took effect in August 2011 and assessment collection began in January 2012.

The softwood lumber program has continued to operate at the 15 mmbf exemption threshold since its inception. During these years, the Board has funded a variety of activities designed to increase the demand for softwood lumber. The Board funded a U.S. Tall Wood Building Prize Competition that is helping to showcase the benefits of building tall structures with wood. The Board also funds research on wood standards; a communications program, which includes continuing education courses for architects and engineers; and a construction and design program that provides technical support to architects and structural engineers about using wood.

Analysis of the De Minimis Quantity Under the Softwood Lumber Program

The Secretary has authority under section 516 of the 1996 Act to exempt any de minimis quantity of an agricultural commodity otherwise covered by an order: ''An order issued under this subchapter may contain . . . authority for the Secretary to exempt from the order any de minimis quantity of an agricultural commodity otherwise covered by the order . . . .'' 7 U.S.C. 7415(a). A de minimis quantity exemption allows an industry to exempt from assessment small entities that could be unduly burdened from an order's requirements (*i.e.,* assessment and quarterly reporting obligations). Because the 1996 Act does not prescribe the methodology or formula for computing a de minimis quantity, the Secretary has discretion to determine a reasonable and appropriate quantity and establish this level through notice and comment rulemaking. Pursuant to section 525 of the 1996 Act, 7 U.S.C. 7424, the Secretary may issue such regulations as may be necessary to carry out an order.

In evaluating the merits of a de minimis quantity for the softwood lumber program, USDA considered several factors. These factors include: An estimate of the total quantity of softwood lumber covered under the Order (quantity assessed and quantity exempted); available funding to support a viable program; free rider implications; and the impact of program requirements on entities (above and below a de minimis threshold). USDA reviewed such factors in light of all available data and information to determine whether a de minimis quantity is reasonable. USDA balances the multiple factors to assess whether one exemption threshold would work better than another when the factors are considered collectively. The analysis contained herein is based on the current assessment rate of $0.35 per thousand board feet.[2]

Estimate of Total Quantity of Commodity Covered Under the Order

The first factor considered to determine a de minimis quantity that would be reasonable for the softwood lumber program was an examination of how much of the product covered by the program would be assessed versus how much of the product would be exempted. Issues of fairness and potential issues related to free riders may also be of concern. The lower the de minimis threshold, the greater the number of entities that would be subject to assessment under the program. At some point, a de minimis threshold can be ''too low'' whereby the assessment revenue that would be collected from very small entities is not worth the administration and compliance costs of including them under the order. Conversely, a higher de minimis quantity results in fewer entities being subject to assessment under the order. This means that a greater number of entities would benefit from the activities of the program without paying assessment as the de minimis level increases. USDA's goal is to identify a level that reasonably balances these competing issues.

To evaluate the first factor, USDA estimated the quantity of softwood lumber that would be assessed versus the quantity that would be exempt under a program with de minimis exemptions at different levels: 10, 15, 20, 25, and 30 mmbf. USDA also estimated the quantity of softwood lumber assessed if there were no de minimis exemption. To accomplish this, USDA first estimated the volume of softwood lumber domestically shipped by domestic manufacturers and the volume imported by importers.

Volume of Domestic Softwood Lumber

To estimate the volume of domestic softwood lumber, USDA utilized data from Forest Economic Advisors, LLC (FEA), which publishes data on aggregate softwood lumber shipments in the U.S. (for the industry as a whole) and operating capacity by individual sawmill. A sawmill is a business operation that converts raw forest products into lumber. A domestic manufacturer can be composed of one sawmill or multiple sawmills. A sawmill's operating capacity is the total amount of softwood lumber that it could manufacture (or produce) if it fully utilized all of its resources (such as labor and equipment).

FEA is a U.S.-based company that studies market trends in the forest products industry in North America.[3] In the absence of a government data source, USDA identified FEA as a reputable source in the softwood lumber industry with data depicting a reliable and accurate representation of U.S. sawmills and domestic manufacturers.[4] Among the credentials of FEA are reviews of U.S. Forest Service publications, and citations in trade journals such as *Canadian Journal of Forest Research; Biomass and Bioenergy; Forest Policy and Economics;* and *Forest Products Journal.*

To USDA's knowledge, there is no one, complete source of individual shipment data for domestic manufacturers of softwood lumber. While the Board has shipment data for domestic manufacturers that pay assessments (ship 15 mmbf or more annually), it does not have shipment data for exempt manufacturers. Thus, USDA used FEA data to estimate individual shipments for each manufacturer. USDA requests comments specifically on whether there are other reliable sources that the agency should consider in its analysis of domestic manufacturing. All data in this analysis is for the year 2015, which is the most recent year for which complete data is available.

Using FEA data to estimate shipments of softwood lumber by domestic manufacturers, USDA found that domestic shipments totaled 28.754 billion board feet (bbf) in 2015.[5] According to FEA, the total number of domestic manufacturers was 343, which encompassed 509 total sawmills in the U.S. Estimated shipments by domestic manufacturer were calculated by applying an operating rate of 76 percent to the capacities of each sawmill listed in FEA data. The domestic manufacturers that owned each sawmill were also identified in the FEA data. This allowed USDA to assign the estimated shipments of each sawmill to

[2] If the assessment rate changes significantly, USDA could revisit the de minimis threshold.

[3] *http://www.bloomberg.com/research/stocks/private/snapshot.asp?privcapid=106682714.*

[4] The final rule (76 FR 46185; August 2, 2011) utilized data from the USDA-Forest Service document ''Profile 2009: Softwood Sawmills in the United States and Canada.'' There have been no recent updates to this publication; therefore, USDA has instead utilized data from FEA to conduct this analysis.

[5] *https://www.getfea.com/data-center.*

the domestic manufacturer that owned the sawmill.

To calculate the sawmill operating rate, USDA divided total shipments in the U.S.[6] by total capacity of U.S. sawmills, according to data published by FEA (see Equation 1 below).

$$\text{Equation 1. Sawmill Operating Rate} = \frac{\text{Softwood Lumber Shipments}}{\text{Softwood Lumber Capacity}} = \frac{31.702 \text{ bbf}}{41.720 \text{ bbf}} = 76\%$$

USDA recognizes that some sawmills may operate at a lower or higher rate than 76 percent; this rate is meant to serve as a midpoint to estimate the individual shipments of domestic manufacturers.

Total U.S. softwood lumber shipments in Equation 1 above differs from the total estimated shipments noted previously and shown later in Table 1. The reason for this is that the figure for total U.S. shipments in Equation 1 represents *aggregate* shipments for all sawmills in the U.S. in 2015. The figure shown in Table 1 is the sum of *estimated* shipments using the 76 percent sawmill operating rate. In order to estimate shipments by domestic manufacturer, USDA applied the sawmill operating rate, as determined in Equation 1, to the capacities of each sawmill listed in FEA data. The sum of these estimated shipments is 28.754 bbf. The difference between estimated total shipments (28.754 bbf) and actual total shipments (31.702 bbf) of softwood lumber in 2015 is about 9 percent. This difference represents the actual capacities of some sawmills being larger than the estimated sawmill operating rate of 76 percent.

Volume of Imported Softwood Lumber

Pursuant to section 1217.52(g) of the Order, imports of softwood lumber are subject to the same assessment as domestic product. Section 1217.52(h) of the Order specifies the categories of softwood lumber that are assessed under the program as identified via the Harmonized Tariff Schedule (HTS) code. Imported commodities are assigned codes via the HTS with the first numbers denoting the heading, which is a broad description of the commodity, and the subsequent numbers denoting the subheadings, which specify the commodity in greater detail. A list of softwood lumber products subject to assessment and their HTS headings and subheadings are listed below.[7]

HTS Code		HTS Description
Heading	Subheading	
4407		Wood sawn or chipped lengthwise, sliced or peeled, whether or not planed, sanded or end-jointed, of a thickness exceeding 6 mm (.236 inch) (lumber)
	10.01	Coniferous
4409		Wood (including strips and friezes for parquet flooring, not assembled) continuously shaped (tongued, grooved, rebated, chamfered, V-jointed, beaded, molded, rounded or the like) along any of its edges, ends or faces, whether or not planed, sanded or end-jointed
	10.05	Coniferous: Wood continuously shaped along any of its ends, whether or not also continuously shaped along any of its edges or faces, all the foregoing whether or not planed, sanded or end-jointed
	10.10	Coniferous: Other: Wood siding
	10.20	Coniferous: Other: Wood flooring
	10.90	Coniferous: Other: Other
4418		Builders' joinery and carpentry of wood, including cellular wood panels and assembled flooring panels; shingles and shakes
	90.25	Other: Drilled or notched lumber studs

To estimate imports of softwood lumber into the U.S. for 2015, USDA utilized data collected by CBP via the agency's Automated Commercial Environment (ACE) database. CBP disseminates the statistical trade data that it collects to the U.S. Census Bureau (Census), which then aggregates the data and supplies it to USDA's Foreign Agricultural Service (FAS) for publication on FAS' Global Agricultural Trade System (GATS).[8] The data collected by CBP is extensive but may be subject to nonsampling error.[9]

[6] Total shipments in the U.S. includes domestic production for export markets.

[7] Harmonized Tariff Schedule of the United States (2015): Chapter 44: Wood and Articles of Wood; Wood Charcoal.

[8] *https://apps.fas.usda.gov/gats/.*

[9] The source for this citation is *http://www.census.gov/foreign-trade/guide/*

Continued

For the purpose of this analysis, USDA excluded from the CBP data imports with country of origin listed as the U.S. because such information would already be represented in the domestic shipment data previously discussed. USDA also summed import volumes for entities listed as separate companies, but which are one and the same. In addition, USDA excluded the Customs entries for which the computed price (the quotient of value and quantity) of the commodity was less than the lowest reported monthly price for the year 2015, according to FEA data.[10] The lowest monthly price for a softwood lumber product recorded by FEA was $203 per thousand board feet in December of 2015. USDA excluded any Customs entry with a computed price of less than $203 per thousand board feet to help eliminate potential data issues associated with misplaced decimal points.[11] This resulted in a reduction of 17,026 entries and 3.417 bbf in volume from the original data set that had a total of 247,049 entries and total volume of 15.912 bbf.

Using this modified CBP data, USDA estimated the total volume of softwood lumber imports for 2015 at 12.495 bbf, which aligns more closely to import figures published on FAS' GATS (13.809 bbf) and used by FEA (13.963 bbf) for 2015. Using the 12.495 bbf figure, USDA's estimate of assessment revenue for 2015 at the 15 mmbf exemption threshold was within 3 percent of what the Board recorded for assessment revenue in 2015. (This is explained in detail later in this document.) If USDA used the 15.912 bbf figure instead, USDA's estimates for 2015 assessment revenue and the number of assessed entities would be inflated. Thus, USDA used the modified CBP figure of 12.495 bbf in its analysis as a reasonable estimate of 2015 softwood lumber imports.

The import statistics that result from aggregation by Census cover ''goods valued at more than $2,000 per commodity shipped by individuals and organizations (including importers and customs brokers) into the U.S. from other countries.'' [12] For this reason, the total import volume of softwood lumber that results from using the ACE portal through CBP differs from that of using GATS through FAS and Census.

Similar to the import statistics described above, the aggregated export statistics cover ''goods valued at more than $2,500 per commodity shipped by individuals and organizations (including exporters, freight forwarders, and carriers) from the U.S. to other countries.'' [13] In conducting this analysis, USDA relied on aggregate U.S. export data published by FAS via GATS.[14] Pursuant to section 1217.53(c) of the Order, U.S. exports of softwood lumber are not subject to assessment. While it is possible to subtract exports in aggregate from total U.S. supply in order to find U.S. utilization and total volume assessed under no de minimis threshold, USDA cannot deduct export volume by entity because the data is not publically available. This means that estimates of assessed volume may be slightly inflated; however, the impact would not be significant as total exports of softwood lumber products in 2015 amounted to 1.562 bbf, which is less than 4 percent of total U.S. supply.

Quantity Assessed and Quantity Exempt

Table 1 shows total U.S. supply of softwood lumber, which is the sum of domestic shipments and imports in 2015. As mentioned previously, shipments per entity were estimated using the sawmill operating rate shown in Equation 1. Total shipments in Table 1 represent the sum of shipments by entity. Imports in Table 1 are the sum of the imported commodities assigned the formerly described HTS codes. Summing domestic shipments and imported products of softwood lumber results in a U.S. total supply of 41.249 bbf.

Table 1: Supply of Softwood Lumber in the U.S. (MMBF)

Shipments[1]	Imports[2]	Supply[3]
28,754	12,495	41,249

[1]FEA; [2]CBP; [3]The sum of U.S. Shipments and Imports.

Using 2015 FEA sawmill capacity data and the estimated operating rate of 76 percent, Figure 1 below shows the number of softwood lumber manufacturers in the U.S. in 2015 by estimated shipments. As stated previously, USDA calculated estimated shipments by applying the estimated industry-wide 76 percent operating rate to the sawmill capacity of each manufacturer.

sec2.html#source. Census states the following on its Web site: ''Import and export data are a complete enumeration of documents collected by U.S. Customs and Border Protection and are not subject to sampling errors. However, while quality assurance procedures are performed at every stage of collection, processing, and tabulation, the data are still subject to several types of nonsampling errors. The most significant of these include reporting errors, undocumented shipments, timeliness, data capture errors, transiting goods, and underestimation of low-valued transactions.''

[10] Customs data includes quantity of the imported product and its total value. By dividing value by quantity, USDA finds a price per thousand board feet of every import entry, referred to above as a ''computed price.'' Finding the price for every entry allows USDA a way to find entries whose quantities may have been entered incorrectly.

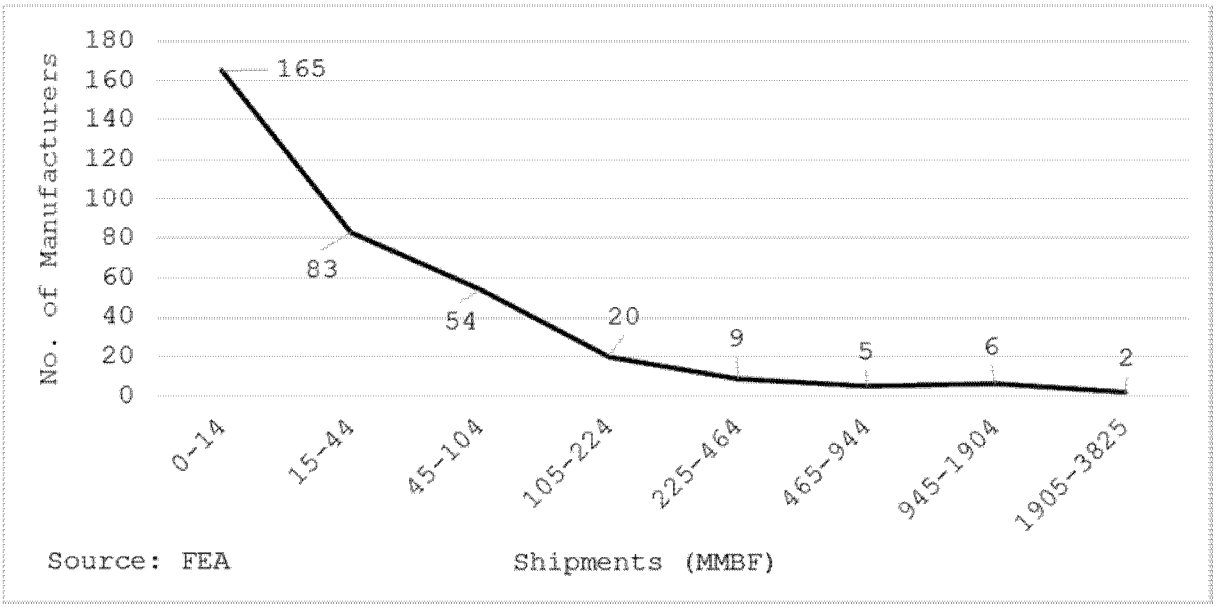
[11] A misplaced decimal point in the quantity imported could cause the quantity of an import to be much larger than its associated value would warrant. A larger quantity relative to its value would result in a price that is much lower than expected, given other prices in the data. This low price would indicate that the quantity figure may have been entered incorrectly. For this reason, USDA found the minimum per thousand board foot price according to FEA data and removed the entries whose computed price was lower.

[12] *http://www.census.gov/foreign-trade/about/index.html#importstatistics.*

[13] *http://www.census.gov/foreign-trade/about/index.html#exportstatistics.*

[14] USDA does not currently have access to CBP U.S. export data with volume and value detailed by exporting entity.

Figure 1. Frequency Distribution of U.S. Manufacturers by Estimated Shipments, 2015



As the graph shows, there were 165 manufacturers with estimated shipments of less than 15 mmbf in the U.S. in 2015, almost half of the 344 total U.S. manufacturers. Of these, 150 manufacturers had shipments of less than 10 mmbf according to USDA's analysis of FEA data.[15] The scale on the x-axis of the graph begins with a range of 15 mmbf. The ranges then double each time, with the next covering a range of 30 mmbf, then 60, 120, 240, 480, 960, and 1,920 mmbf for the last six ranges. There were a large number of manufacturers with relatively small estimated shipments. For example, as the data in Figure 1 show, there were 248 U.S. manufacturers that shipped of less than 45 mmbf in 2015, which is more than 72 percent of the total number of U.S. manufacturers. Furthermore, of these, almost 67 percent shipped less than 15 mmbf of softwood lumber.

USDA considered the impacts of five different de minimis thresholds on the softwood lumber industry and program operations, as well as the impact of having no de minimis exemption. An analysis of these different de minimis exemption levels follows in Tables 2 and 3 in this section, and in Table 4 in the section of this document titled Free Rider Implications.

Table 2: Assessable Volume and Assessment Revenue at Exemption Levels (MMBF)[1]

Volume Equal to or Greater Than	De Minimis Exemption Only	De Minimis and Equity Exemptions	Assessment Revenue ($)[2]
30	37,965	32,805	11,481,698
25	38,319	33,694	11,792,941
20	38,990	34,690	12,141,349
15	39,679	35,854	12,548,792
10	40,013	37,183	13,014,059
No exemptions	41,249	41,249	14,437,099

[1]2015 data from FEA and CBP were used to construct this table; [2]The product of total assessable volume, accounting for both de minimis and equity exemptions, and the assessment rate of $0.35 per thousand board feet.

Table 2 shows assessable volume and revenue at exemption levels of 30, 25, 20, 15 and 10 mmbf, as well as with no exemptions. The table accounts for both the de minimis and equity exemptions under the Order, and an assessment rate of $0.35 per thousand board feet.

With de minimis and equity exemptions of 30 mmbf, total assessable volume would be 32.805 bbf which would provide $11.482 million in assessment revenue. At exemptions of 25 mmbf, total assessable volume would increase by 0.889 bbf, providing an additional $311,243 in assessment

[15] *https://www.getfea.com/data-center.*

revenue. At exemptions of 20 mmbf, total assessable volume would increase by 0.996 bbf, providing an additional $348,408 in assessment revenue. At exemptions of 15 mmbf, total assessable volume would increase by 1.164 bbf, providing an additional $407,444 in assessment revenue. At exemptions of 10 mmbf, total assessable volume would increase by 1.329 bbf, providing an additional $465,267 in assessment revenue.

Thus, for all exemption levels considered, assessable volume ranged between almost 33 bbf and a little more than 37 bbf. Assessment revenue ranged between nearly $11.5 million and about $13 million. From its inception in 2012, the softwood lumber program has operated with assessment revenue ranging from $10.638 million in 2012 [16] to $12.905 million in 2015.[17] These revenue figures represent the total assessments collected from domestic entities and importers with the 15 mmbf de minimis exemption and the 15 mmbf equity exemption in place. The range of actual assessment revenue received by the Board from 2012 to 2015 at de minimis and equity exemptions of 15 mmbf is similar to the estimates of assessment revenue collected at de minimis and equity exemptions of 30, 25, 20, 15, and 10 shown in Table 2. This is discussed further in the section titled Funding for a Viable Program. With no exemptions, total assessable volume would increase to 41.249 bbf, providing an additional $1.423 million in assessment income ($14.437 million total).

Table 3 below is the inverse of Table 2 in that it shows exempt volume at de minimis and equity exemptions of 30, 25, 20, 15 and 10 mmbf.

Table 3: Exempt Volume at Exemption Levels (MMBF)[1]

Volume Less Than	De Minimis Exemption Only		De Minimis and Equity Exemptions	
	Volume	% Exempt[2]	Volume	% Exempt[2]
30	3,284	8%	8,444	20%
25	2,930	7%	7,555	18%
20	2,259	5%	6,559	16%
15	1,570	4%	5,395	13%
10	1,236	3%	4,066	10%

[1]2015 data from FEA and CBP were used to construct this table; [2]The quotient of total exempt volume and total 2015 U.S. supply (the sum of U.S. shipments and U.S. imports) of 41,246 MMBF.

At an exemption level of 30 mmbf, 8 percent of the softwood lumber volume would be exempt as de minimis and 20 percent would be exempt in total (de minimis and equity exemptions); at an exemption of 25 mmbf, 7 percent would be exempt as de minimis and 18 percent would be exempt in total; at an exemption of 20 mmbf, 5 percent would be exempt as de minimis and 16 percent would be exempt in total; at an exemption of 15 mmbf, 4 percent would be exempt as de minimis and 13 percent would be exempt in total; and at an exemption of 10 mmbf, 3 percent would be exempt as de minimis and 10 percent would be exempt in total. Thus, the differences in the percent of softwood lumber exempt as de minimis at these different exemption thresholds ranges from 3 to 8 percent, and the percent exempt in total ranges from 10 to 20 percent. The percent of volume assessed, taking into account the de minimis and equity exemptions, ranges from 80 to 90 percent at the different exemption thresholds.

In its analysis, USDA reviewed other programs with de minimis exemptions operating under the 1996 Act. There are ten programs, including softwood lumber, that are authorized under the 1996 Act. Eight of these ten programs exempt a de minimis quantity from assessment, with half currently exempting between 3 and 11 percent of total quantity covered by the program as de minimis. Thus, there is a demonstrated history of de minimis exemptions working in other industries. In reviewing the total volume exempt under the softwood lumber program (taking into account both the de minimis and equity exemptions), the exemption threshold of 10 mmbf would exempt 10 percent of total volume, which is comparable to other programs and the exemption threshold of 15 mmbf would exempt 13 percent which is not much higher than other programs. The higher exemption thresholds of 20 to 30 mmbf exempt a higher total volume when compared with other programs.[18]

Funding for a Viable Program

The second factor used in evaluating a de minimis threshold for the softwood lumber program is the available funding to support a viable program. As shown in Table 2, assessment revenue would range from $11.482 million at an exemption threshold of 30 mmbf to $14.437 million with no exemption (a total difference of about $3 million). Lowering the exemption threshold creates more revenue for program activities because a greater volume of softwood lumber is subject to assessment. As stated previously, assessment revenue under the current softwood lumber program has ranged from about $10.638 million in 2012 to $12.905 million in 2015. At this level of revenue, the current program has seen success, funding various programs to increase the use of softwood lumber in the built environment. The revenues estimated in Table 2 are comparable to these levels or higher. Thus, all of the exemption thresholds analyzed would generate sufficient revenue for a viable program.

[16] Softwood Lumber Board, Financial Statements and Supplementary Information for the Year Ending December 31, 2012; Councilor Buchanan Mitchell, CPAs and Business Advisors; May 30, 2013; p. 12.

[17] Letter from E. Albert Weber, CPA, Partner, RSM US LLC, dated February 22, 2017.

[18] USDA's review of other programs with a de minimis exemption was done only for the purpose of comparison, and not to imply that a de minimis exemption must be within a certain range. The 1996 Act specifies no methodology or formula for computing a de minimis threshold. A de minimis threshold must be appropriate for a respective industry.

Free Rider Implications

Another factor used by USDA in determining a reasonable de minimis quantity for the softwood lumber program is consideration of free rider implications. Under a national research and promotion program, free riders are entities that benefit from the research and promotion activities of the program without paying assessments. Under this definition, free riders are the entities whose shipment or import volume is below the de minimis level and are exempt from paying assessments into the program.

Table 4 below shows the number of entities (domestic manufacturers and importers) that would be assessed and exempt at the exemption thresholds of 30, 25, 20, 15 and 10 mmbf.

Table 4: Assessed and Exempt Entities at Exemption Levels[1]

Volume	Assessed		Exempt	
(MMBF)	No. of Entities	% Assessed[2]	No. of Entities	% Exempt[2]
30	172	16%	882	84%
25	185	18%	869	82%
20	215	20%	839	80%
15	255	24%	799	76%
10	283	27%	771	73%
None	1,054	100%	-	0%

[1]2015 data from FEA and CBP were used to construct this table; [2]The quotient of No. of Entities and total domestic manufacturers and importers recorded in the industry (1,054) in 2015.

At an exemption level of 30 mmbf, 16 percent of domestic manufacturers and importers would pay assessments while 84 percent would be exempt; at 25 mmbf, 18 percent of entities would pay assessments while 82 percent would be exempt; at 20 mmbf, 20 percent would pay assessments while 80 percent would be exempt; at 15 mmbf, 24 percent would pay assessments, while 76 percent would be exempt; at 10 mmbf, 27 percent would be pay assessments while 73 percent would be exempt. With no exemption, all 1,054 entities, regardless of size, would pay assessments.

This analysis shows that a small portion of softwood lumber manufacturers and importers ship or import the majority of the volume of softwood lumber in the industry. Most domestic manufacturers and importers ship or import relatively small volumes of product.

The key to assessing the free rider implications of a de minimis quantity is not the number of entities exempt under a program (as shown in Table 4), but rather the *volume* of product exempt (as shown in Table 3). This is because the statute authorizes the exemption of a quantity of a commodity, not a number of entities. Assessments are based on volume shipped or imported and not on the number of entities; assessments are not paid by entities on a pro rata basis. At the 30 mmbf exemption level, 84 percent of the number of entities would be exempt, but only 8 percent of the volume would be exempt as de minimis. At the 25 mmbf exemption level, 82 percent of the number of entities would be exempt, but only 7 percent of the volume would be exempt as de minimis. At the 20 mmbf exemption level, 80 percent of the number of entities would be exempt, but only 5 percent of the volume would be exempt as de minimis. At the 15 mmbf exemption level, 76 percent of the number of entities would be exempt, but only 4 percent of the volume would be exempt as de minimis. At the 10 mmbf exemption level, 73 percent of the number of entities would be exempt, but only 3 percent of the volume would be exempt as de minimis. With no de minimis, all 1,054 entities would pay assessment on all 41.249 bbf volume of softwood lumber.

The equity exemption would reduce the impact of free riders on the program because it reduces the assessment burden on assessment payers. Without this exemption, assessment payers would pay more, thereby increasing the free rider impact. For example, if the thresholds for de minimis and equity exemptions were 10 mmbf, Company A that ships 8 mmbf annually would pay no assessments, and Company B that ships 30 mmbf annually would have to pay assessments on 20 mmbf of softwood lumber. At an assessment rate of $0.35 per thousand board feet, this would compute to $7,000 in assessments. Without the equity exemption, Company A would still pay no assessments but Company B would have to pay assessments on 30 mmbf. This would compute to $10,500 in assessments, which is an additional burden of $3,500. Thus, the equity exemption reduces the burden of free riders on entities funding the program. It creates fairness because it exempts from assessment an equal volume from all entities, regardless of their size.

Thus, based upon this analysis of free rider implications, any of the exemption thresholds reviewed would be reasonable because they would exempt from 3 to 8 percent of the volume of softwood lumber as de minimis. The equity exemption helps to reduce the free rider impact on the program by reducing the assessment burden equally on assessment payers.

Further, generic promotion, research and information activities for agricultural commodities play a unique role in advancing the demand for such commodities, since such activities increase the total market for a product to the benefit of consumers and all producers. These generic activities can be of particular benefit to small producers who lack the resources or market power to advertise on their own. As contemplated by the 1996 Act, generic activities increase the general market demand for an agricultural commodity. For small manufacturers and importers, the benefit of increased market demand for softwood lumber would only be as great as their production capacities. Therefore, while generic promotion activities are of

particular benefit to small manufacturers and importers, increased demand will also disproportionately benefit large manufacturers and importers as they will have greater resources (production capacity) to take full advantage of that increased demand.

Impact of Program Requirements

The fourth factor analyzed by USDA in determining a reasonable de minimis quantity for this program is consideration of the impact of program requirements on entities covered under a research and promotion program. As previously mentioned, the softwood lumber Order prescribes assessment and reporting obligations for domestic manufacturers and importers of softwood lumber. Entities that domestically ship or import at or above the de minimis threshold must pay assessments to the Board. The current assessment rate is $0.35 per thousand board feet; it can be increased to a maximum rate of $0.50 per thousand board feet by notice and comment rulemaking.

To calculate the impact of the assessment rate on the revenue of an assessment payer, the assessment rate is divided by an average price. Using an average 2015 price of $330 per thousand board feet,[19] the assessment rate as a percentage of price could range from 0.106 percent at the current assessment rate to 0.151 percent at the maximum assessment rate. This analysis helps identify the impact of the assessment rate on the revenues of assessment payers. At the current assessment rate of $0.35 per thousand board feet to the maximum assessment rate of $0.50 per thousand board feet, assessment payers would owe between 0.106 percent and 0.151 percent of their revenues, respectively.

Entities that pay assessments must also submit a report to the Board each quarter of the volume of softwood lumber shipped or imported for the respective quarter. Further, entities that ship or import less than the de minimis threshold must apply to the Board each year for a certificate of exemption and provide documentation as appropriate to support their request. The reporting and record keeping burdens are detailed later in this document in the section titled Paperwork Reduction Act.

Additionally, the Board has implemented a process under the Order to help ensure compliance with Order provisions. Board staff reviews and analyzes Customs data provided by USDA to verify import assessments.[20] For domestic manufacturers, the Board conducts periodic mail audits whereby manufacturers must submit documents to Board staff to verify assessments paid. Entities that ship or import less softwood lumber than the de minimis threshold and have received a certificate of exemption from the Board are relieved of this audit burden.

As shown in Table 4, at an exemption threshold of 30 mmbf, 172 entities would pay assessments and 882 would be exempt; at 25 mmbf, 13 additional entities would pay assessments and the number of exempt entities would be reduced by 13; at 20 mmbf, 30 additional entities would pay assessments and the number of exempt entities would be reduced by 30; at 15 mmbf, an additional 40 entities would pay assessments and the number of exempt entities would be reduced by 40; at 10 mmbf, an additional 28 entities would pay assessments and the number of exempt entities would be reduced by 28. Thus, as the exemption threshold is reduced, more entities would be subject to the Order's assessment and quarterly reporting obligation, and the Board's mail audit program. Conversely, as the exemption threshold increases, fewer entities would have to pay assessments, submit quarterly reports, and participate in the Board's audit program.

Further, a de minimis quantity exemption helps to reduce compliance costs under a research and promotion program. Compliance costs are an administrative cost to the Board, and section 1217.50(h) of the softwood lumber Order limits the Board's administrative expenses to 8 percent of the assessment and other income received by and available to the Board for a fiscal year. According to the Board, for 2015, compliance costs totaled $226,240 which computes to less than 2 percent of the Board's assessment revenue. These compliance costs are routine and include the amount of time the Board spends tracking and verifying assessments paid as well as educating industry members on program obligations. The costs of pursuing a compliance case against an entity that owes assessments to the Board varies depending upon the complexity of the case.

Under the softwood lumber program, the de minimis threshold exempts the small manufacturer that, according to FEA, typically sells into markets that are specialized or very local. Based on its knowledge of other research and promotion programs, USDA estimates the current cost of an on-site audit of a single entity at $5,000 or more, depending upon travel and time involved. Thus, the cost to pursue a compliance case against an entity that shipped less than 10 mmbf, 9 mmbf for example, would outweigh the revenue that would be collected from that entity of $3,150.[21] The point at which the assessment revenue that would be collected from an entity outweighs the estimated cost of $5,000 to pursue a compliance case is an entity with volume equal to or greater than 14.3 mmbf.[22] This level is close to 15 mmbf. As can be determined from the data in Table 2, the total additional revenue that would be collected from exempt entities that ship or import less than the 15 mmbf de minimis would be $1.888 million. The compliance costs to pursue these additional payments, however, would be more than double the sum of additional assessment revenue that would be collected.

USDA's Proposed 15 MMBF De Minimis Exemption Threshold

Because no de minimis quantity is specified in the 1996 Act, it is within the Secretary's discretion to determine an appropriate level for each program. There is no formula or economic framework that points to a single de minimis threshold. Thus, USDA considers a range of quantities that could be de minimis. Table 3, for example, shows a range of volumes from 10 to 30 mmbf that could be considered de minimis under the softwood lumber Order because they only exempt 3 to 8 percent of the total volume, respectively, as de minimis. USDA evaluated these volumes using four factors—an estimate of the quantity assessed versus the quantity exempted; funding to support a viable program; free rider implications; and the impact of program requirements. USDA's goal is to identify a de minimis quantity that reasonably balances these factors, and to assess whether one exemption threshold would work better than another when the factors are considered collectively.

Based on the analysis contained herein, USDA has determined the following. Exemption thresholds of 10 to 15 mmbf would exempt 10 to 13

[19] Random Lengths Publications, Inc.; *www.randomlengths.com.*

[20] Pursuant to a Memorandum of Understanding between USDA and Customs, USDA provides Board staff raw, unmodified Customs data. Board staff identifies the data for each importing entity that should pay assessments, makes modifications as appropriate, and compares that volume with the volume for which the importer paid assessments.

[21] This figure is computed by multiplying the assessment rate of $0.35 per thousand board feet by 9 mmbf.

[22] This figure is computed by dividing the estimated cost to pursue a compliance case against an entity of $5,000 by the assessment rate of $0.35 per thousand board feet.

percent of the total volume of softwood lumber (taking into account both the de minimis and equity exemptions). This is close to the range exempt under other research and promotion programs. While all of the exemption thresholds analyzed would generate sufficient revenue for a viable program, the additional revenue that could be collected if the de minimis level were reduced much lower than 15 mmbf would likely not be worth the additional costs. At this threshold, free rider implications would be minimal because only 4 percent of the volume of softwood lumber would be exempted as de minimis. Applying both the de minimis and equity exemptions at 15 mmbf would allow the program to assess almost 90 percent of the total volume of softwood lumber.

Further, the program functioned successfully in 2015 with assessment revenue of $12.905 million with de minimis and equity exemptions of 15 mmbf. The Board has conducted activities at this level of funding that have helped build demand for softwood lumber, including a prize competition for tall wood buildings, research on wood standards, and an education program for architects and engineers on building with wood. An independent evaluation completed in 2016 concluded that activities of the Board increased sales of softwood lumber between 2011 and 2015 by 1.683 bbf or $596 million. This equates to a return on investment of $15.55 of additional sales for every $1 spent on promotion by the Board.[23]

Therefore, when considering all of the factors collectively, USDA has determined that a de minimis quantity of 15 mmbf would work better than the other thresholds reviewed. USDA concludes that 15 mmbf is a reasonable de minimis quantity under the softwood lumber Order. Accordingly, this proposed rule would establish the de minimis quantity threshold under the Order at 15 mmbf. Thus, USDA is not proposing any amendment to part 1217.

Initial Regulatory Flexibility Act Analysis

In accordance with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), AMS is required to examine the impact of this proposed rule on small entities as defined by the Small Business Administration (SBA). The classification of a business as small, as defined by the SBA, varies by industry. If a business is defined as ''small'' by SBA size standards, then it is ''eligible for government programs and preferences reserved for 'small business' concerns.'' [24] Accordingly, AMS has considered the economic impact of this action on such entities.

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions so that small businesses will not be disproportionately burdened. The SBA defines, in 13 CFR part 121, small agricultural producers as those having annual receipts of no more than $750,000 and small agricultural service firms (domestic manufacturers and importers) as those having annual receipts of no more than $7.5 million.[25]

Using an average price of $330 per thousand board feet, a domestic manufacturer or importer who ships less than about 23 mmbf per year would be considered a small entity for purposes of the RFA. As shown in Table 4, there were 1,054 domestic manufacturers and importers of softwood lumber based on 2015 data. Of these, 864 entities shipped or imported less than 23 mmbf and would be considered to be small entities under the SBA definition. Thus, based on the $7.5 million threshold, the majority of domestic manufacturers and importers of softwood lumber would be considered small entities for purposes of the RFA.

This action proposes to establish a de minimis quantity exemption threshold under the Order. The Order is administered by the Board with oversight by USDA. In response to a federal district court decision in *Resolute,* USDA conducted a new analysis to determine a reasonable and appropriate de minimis threshold. Based on this analysis, this proposal would establish the de minimis quantity threshold at 15 mmbf and entities manufacturing (and domestically shipping) or importing less than 15 mmbf per year would be exempt from paying assessments under the Order. Authority for this action is provided in sections 516(a)(2), 516(g) and 525 of the 1996 Act.

Regarding the economic impact of the de minimis exemption, the exemption allows the Board to exempt from assessment small entities that would be unduly burdened from the program's obligations. At the proposed exemption threshold, small manufacturers and importers that domestically ship or import less than 15 mmbf of softwood lumber would not have to pay assessments under the program.

Additionally, larger manufacturers and importers would not have to pay assessments on the first 15 mmbf of softwood lumber domestically shipped or imported each year. This exemption is intended for the purpose of equity, whereby all entities who must pay assessments may reduce their assessable volume by 15 mmbf. This exemption benefits smaller manufacturers and importers whose annual shipments or imports are above the de minimis threshold of 15 mmbf. With this exemption, an entity that ships or imports a quantity of softwood lumber equal to the RFA-small business definition of 23 mmbf, for example, would only pay assessments on no more than 8 mmbf of softwood lumber.

As previously stated, to calculate the impact of the assessment rate on the revenue of an assessment payer, the assessment rate is divided by an average price. Using an average 2015 price of $330 per thousand board feet, the assessment rate as a percentage of price could range from 0.106 percent at the current assessment rate to 0.151 percent at the maximum assessment rate. This analysis helps identify the impact of the assessment rate on the revenues of assessment payers. At the current assessment rate of $0.35 per thousand board feet to the maximum assessment rate of $0.50 per thousand board feet, assessment payers would owe between 0.106 percent and 0.151 percent of their revenues, respectively.

In its analysis of alternatives, USDA evaluated five different exemption thresholds—30, 25, 20, 15 and 10 mmbf using 2015 data—accounting for both the de minimis and equity exemptions, as well as having no exemptions under the program. USDA evaluated these alternatives based on the following factors: An estimate of quantity of softwood lumber covered under the program (quantity assessed and quantity exempted); available funding to support a viable program; free rider implications; and the impact of program requirements on entities (above and below a de minimis threshold). USDA conducted a balancing test among these factors to assess whether one exemption threshold works better than another when the factors are considered collectively.

[23] Prime Consulting, Softwood Lumber Board, Comprehensive Program ROI, 2012–2015, February 2016.

[24] *https://www.sba.gov/contracting/getting-started-contractor/make-sure-you-meet-sba-size-standards/small-business-size-regulations.*

[25] SBA does have a small business size standard for ''Sawmills'' of 500 employees (see *https://www.sba.gov/sites/default/files/files/Size_Standards_Table.pdf*). Based on USDA's understanding of the lumber industry, using this criteria would be impractical as sawmills often use contractors rather than employees to operate and, therefore, many mills would fall under this criteria while being, in reality, a large business. Therefore, USDA used agricultural service firm as a more appropriate criteria for this analysis.

In reviewing the quantity of assessable versus exempt softwood lumber at the alternative exemption thresholds, USDA found that at an exemption threshold of 30 mmbf, a total of 32.805 bbf would be assessed with 3.284 bbf, or 8 percent, exempt as de minimis, plus an additional 5.16 bbf exempt as equity for 20 percent of total volume exempt; at 25 mmbf, a total of 33.694 bbf would be assessed with 2.93 bbf, or 7 percent, exempt as de minimis, plus an additional 4.625 bbf exempt as equity for 18 percent total volume exempt; at a threshold of 20 mmbf, a total of 34.69 bbf would be assessed with 2.259 bbf, or 5 percent, exempt as de minimis, plus an additional 4.3 bbf exempt as equity for 16 percent total volume exempt; at a threshold of 15 mmbf, a total of 35.854 bbf would be assessed with 1.57 bbf, or 4 percent, exempt as de minimis, plus an additional 3.825 bbf exempt as equity for 13 percent total volume exempt; at a threshold of 10 mmbf, a total of 37.183 bbf would be assessed, with 1.236 bbf, or 3 percent, exempt as de minimis, plus an additional 2.83 bbf exempt as equity for 10 percent total volume exempt; and with no exemptions, a total of 41.249 bbf would be assessed. In reviewing the total volume exempt under the softwood lumber program (taking into account both the de minimis and equity exemptions), thresholds of 10 to 15 mmbf exempt between 10 and 13 percent of the volume, which is close to the range exempt under other programs.

In reviewing available funding to support a viable program at the alternative exemption thresholds, at an exemption threshold of 30 mmbf, estimated assessment revenue is $11.482 million; at 25 mmbf, estimated assessment revenue is $11.793 million (an additional $311,243); at a threshold of 20 mmbf, estimated assessment revenue is $12.141 million (an additional $348,408); at a threshold of 15 mmbf, estimated assessment revenue is $12.549 million (an additional $407,444); at a threshold of 10 mmbf, estimated assessment revenue is $13.014 million (an additional $465,267); and with no exemptions, estimated assessment revenue is $14.437 million (an additional $1.423 million).

Assessment revenue under the current softwood lumber program has ranged from about $10.638 million in 2012 to $12.905 million in 2015. At this level of revenue, the current program has seen success. The revenues reviewed at the different exemption thresholds are comparable to these levels or higher. Thus, all of the exemption thresholds analyzed would generate sufficient revenue for a viable program.

Regarding free riders, USDA notes that the key to assessing the free rider implications of a de minimis quantity is not the number of entities exempt under a program but rather the *volume* of product exempt. This is because assessments are based on volume shipped or imported and not on the number of entities; assessments are not paid by entities on a pro rata basis. In evaluating free rider implications at the alternative exemption thresholds, at an exemption threshold of 30 mmbf, 84 percent of the number of entities (or 882) would be exempt but only 8 percent of the volume would be exempt as de minimis; at a threshold of 25 mmbf, 82 percent of the number of entities (or 869) would be exempt, but only 7 percent of the volume would be exempt as de minimis; at a threshold of 20 mmbf, 80 percent of the number of entities (or 839) would be exempt, but only 5 percent of the volume would be exempt as de minimis; at a threshold of 15 mmbf, 76 percent of the number of entities (or 799) would be exempt, but only 4 percent of the volume would be exempt as de minimis; and at a threshold of 10 mmbf, 73 percent of the number of entities (or 771) would be exempt, but only 3 percent of the volume would be exempt as de minimis.

In evaluating the impact of the program's requirements at the alternative exemption thresholds, entities that ship or import at or above the de minimis threshold must pay assessments to the Board. Assessment payers must also submit a report to the Board each quarter of the volume of softwood lumber shipped or imported for the respective quarter. Entities that ship or import below the de minimis threshold must apply to the Board each year for a certificate of exemption and provide documentation as appropriate to support their request. The reporting and recordkeeping requirements are detailed in the section below titled Paperwork Reduction Act.

At an exemption threshold of 30 mmbf, 172 entities would pay assessments and 882 would be exempt; at 25 mmbf, 185 entities would pay assessments and 869 would be exempt; at 20 mmbf, 215 entities would pay assessments and 839 would be exempt; at 15 mmbf, 255 entities would pay assessments and 799 would be exempt; at 10 mmbf, 283 entities would pay assessments and 771 would be exempt. Thus, as the exemption threshold is reduced, more entities would be subject to the Order's assessment and quarterly reporting obligation.

Further, in considering program compliance costs, USDA estimates the cost of an on-site audit of a single entity at $5,000 or more. Thus, the cost to pursue a compliance case against an entity that shipped less than 10 mmbf, 9 mmbf for example, would outweigh the revenue that would be collected from that entity of $3,150. Similarly, the assessment revenue that would be collected from an entity that shipped less than 15 mmbf, 12 mmbf for example, would amount to $4,200. The benefit of assessing smaller manufacturers, $3,150 at 9 mmbf and $4,200 at 12 mmbf, does not outweigh the cost of pursuing compliance cases against them at $5,000 per entity. The point at which the assessment revenue that would be collected from an entity outweighs the estimated cost of $5,000 to pursue a compliance case is an entity with volume equal to or greater than 14.3 mmbf.[26] This level is close to 15 mmbf. By this analysis, the selection of 15 mmbf as the de minimis quantity is reasonable.

Analysis of the 23 mmbf-RFA small business threshold as a reasonable option for de minimis shows that 190 entities would be subject to assessment and 864 entities would be exempt. In terms of volume, 38.44 bbf would be assessed, or 93 percent of total volume, and 2.809 bbf would be exempt, or 7 percent of total volume.

Based upon the analysis contained herein, any of the exemption threshold reviewed would be reasonable because they would exempt from 3 to 8 percent of the volume of softwood lumber as de minimis. However, when the total volume exempt under the softwood lumber program is considered (taking into account both the de minimis and equity exemptions), thresholds of 10 to 15 mmbf exempt between 10 and 13 percent of the volume, which is close to the range exempt under other programs. While all of the exemption thresholds would generate sufficient revenue for a viable program, the additional revenue that could be collected if the de minimis level were reduced much lower than 15 mmbf would likely not be worth the additional costs. The softwood lumber program operated successfully since its inception at an exemption threshold of 15 mmbf.[27]

[26] This figure is computed by dividing the estimated cost to pursue a compliance case against an entity of $5,000 by the assessment rate of $0.35 per thousand board feet.

[27] An independent evaluation of the softwood lumber program showed that the activities of the Board increased sales of softwood lumber between 2011 and 2015 by 1.683 bbf or $596 million. This equates to a return on investment of $15.55 of additional sales for every $1 spent on promotion by

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the information collection and recordkeeping requirements imposed by the Order have been approved previously under OMB control number 0581–0093. This proposal imposes no additional reporting and recordkeeping burden on domestic manufacturer and importers of softwood lumber. The reporting requirements pertaining to this proposed rule are described in the following paragraphs.

As previously mentioned, pursuant to section 1217.53(a) of the Order, domestic manufacturers and importers who domestically ship or import less than the de minimis threshold must apply to the Board each year for a certificate of exemption and provide documentation as appropriate to support their request. The reporting burden for this collection of information is estimated to average 0.25 hours per domestic manufacturer or importer per report, or 0.25 hours per year (1 request per year per exempt entity). This computes to a total annual burden of 199.75 hours (0.25 hours times 799 exempt entities at the 15 mmbf de minimis exemption threshold from Table 4).

Further, pursuant to section 1217.70 of the Order, domestic manufacturers and importers that ship or import at or over the de minimis exemption level and pay their assessments directly to the Board must submit a shipment/import report for each quarter when assessments are due. The reporting burden for this collection of information is estimated to average 0.5 hours per domestic manufacturer or importer per report, or 2 hours per year (4 reports per year times 0.5 hours per report). This computes to a total annual burden of 510 hours (255 assessed entities (from Table 4—No. of Assessed Entities at 15 mmbf) at 2 hours each equals 510 hours).

All domestic manufacturers and importers must also maintain records sufficient to verify their reports. The recordkeeping burden for keeping this information is estimated to average 0.5 hours per record keeper maintaining such records, or 527 hours (1,054 total entities assessed (from Table 4—No. of Assessed Entities at no exemption) times 0.5 hours).

As with all Federal promotion programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies. Finally, USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this proposed rule.

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

Regarding outreach efforts, USDA initiated this action in response to a May 2016 federal court decision in *Resolute.* USDA proposes to establish the de minimis quantity exemption under the softwood lumber Order as contained herein.

We have performed this initial RFA analysis regarding the impact of the proposed action on small entities and we invite comments concerning the potential effects of this action.

USDA has determined that this proposed rule is consistent with and would effectuate the purposes of the 1996 Act.

A 60-day comment period is provided to allow interested persons to respond to this proposed rule. All written comments received in response to this proposed rule by the date specified will be considered.

List of Subjects in 7 CFR Part 1217

Administrative practice and procedure, Advertising, Consumer information, Marketing agreements, Promotion, Reporting and recordkeeping requirements, Softwood lumber.

The authority citation for 7 CFR part 1217 continues to read as follows:

Authority: 7 U.S.C. 7411–7425; 7 U.S.C. 7401.

Dated: May 23, 2017.

Bruce Summers,

Acting Administrator.

[FR Doc. 2017–10997 Filed 5–26–17; 8:45 am]

BILLING CODE 3410–02–P

the Board. By this metric, the Order to-date has been effective. USDA therefore finds that 15 mmbf is a reasonable exemption level for de minimis.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2017–0499; Directorate Identifier 2016–NM–205–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 adopt a new airworthiness directive (AD) for certain The Boeing Company Model 747–400, 747–400F, and 747–8F series airplanes. This proposed AD was prompted by reports of failure of the fastener assemblies on the crew access ladder handrails. This proposed AD would require replacing the fastener assemblies. We are proposing this AD to address the unsafe condition on these products.

DATES: We must receive comments on this proposed AD by July 14, 2017.

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: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; 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–2017–0499.

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–2017–0499; 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: Susan L. Monroe, Aerospace Engineer, Cabin Safety and Environmental Systems Branch, ANM–150S, FAA, Seattle Aircraft Certification Office (ACO), 1601 Lind Avenue SW., Renton, WA; phone: 425–917–6457; fax: 425–917–6590; email: *susan.l.monroe@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–2017–0499; Directorate Identifier 2016–NM–205–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

We have received reports of failure of the fastener assemblies on the crew access ladder handrails. Bolts on existing fastener assemblies for the crew ladder handrail are too short to ensure self-locking nut elements are fully engaged. This condition, if not corrected, could result in the fastener assemblies on the crew access ladder handrails coming loose, which could result in serious or fatal injury to personnel.

Related Service Information Under 1 CFR Part 51

We reviewed Boeing Special Attention Service Bulletin 747–25–3693, dated November 10, 2016. The service information describes procedures for replacing the existing fastener assemblies with new assemblies on the crew access ladder handrails. 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 the same type design.

Proposed AD Requirements

This proposed AD would 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, see this service information at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0499.

Differences Between This Proposed AD and the Service Information

Boeing Special Attention Service Bulletin, 747–25–3693, dated November 10, 2016, applies to certain The Boeing Company Model 747–400, 747–400F, and 747–8F series airplanes. This proposed AD would apply to those airplanes and all Model 747–8F airplanes with an original certificate of airworthiness, or an original export certificate of airworthiness, issued after November 10, 2016. Because the affected parts are rotable parts, we have determined that these parts could later be installed on airplanes that were initially delivered with acceptable parts, thereby subjecting those airplanes to the unsafe condition. We have coordinated this difference with Boeing.

Costs of Compliance

We estimate that this proposed AD affects 84 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
Replacement	3 work-hours × $85 per hour = $255	$2,418	$2,673	$224,532

According to the manufacturer, some of the costs of this proposed AD may be covered under warranty, thereby reducing the cost impact on affected individuals. We do not control warranty coverage for affected individuals. As a result, we have included all costs in our cost estimate.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. Subtitle VII: Aviation Programs, describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: ''General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

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

For the reasons discussed above, I certify this proposed regulation:

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

The Boeing Company: Docket No. FAA–2017–0499; Directorate Identifier 2016–NM–205–AD.

(a) Comments Due Date

We must receive comments by July 14, 2017.

(b) Affected ADs

None.

(c) Applicability

This AD applies to The Boeing Company airplanes identified in paragraphs (c)(1), (c)(2), and (c)(3) of this AD, certificated in any category.

(1) Model 747–400, 747–400F, and 747–8F series airplanes, as identified in Boeing Special Attention Service Bulletin 747–25–3693, dated November 10, 2016.

(2) Model 747–8F series airplanes with an original certificate of airworthiness, or an original export certificate of airworthiness, issued after November 10, 2016, and before the effective date of this AD.

(3) Model 747–8F series airplanes with an original certificate of airworthiness, or an original export certificate of airworthiness, issued on or after the effective date of this AD.

(d) Subject

Air Transport Association (ATA) of America Code 25; Equipment/furnishings.

(e) Unsafe Condition

This AD was prompted by reports of failure of the fastener assemblies on the crew access ladder handrails. We are issuing this AD to prevent the fastener assemblies from coming loose on the crew access ladder handrails, which could result in serious or fatal injury to personnel.

(f) Compliance

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

(g) Replacement

For airplanes identified in paragraph (c)(1) of this AD: Within 36 months after the effective date of this AD, replace the fastener assemblies in the crew access ladder handrails with new fastener assemblies, in accordance with the Accomplishment Instructions of Boeing Special Attention Service Bulletin 747–25–3693, dated November 10, 2016.

(h) Inspection and Replacement

(1) For airplanes identified in paragraph (c)(2) of this AD: Within 36 months after the effective date of this AD, do a general visual inspection of the crew access ladder handrails for the discrepant fastener assembly hardware identified in the Accomplishment Instructions of Boeing Special Attention Service Bulletin 747–25–3693, dated November 10, 2016. A review of airplane maintenance records is acceptable in lieu of this inspection, if the part number(s) of the fastener assembly hardware can be conclusively determined from that review.

(2) If any discrepant fastener assembly hardware is found, within 36 months after the effective date of this AD, replace the discrepant fastener assemblies in the crew access ladder handrails with new fastener assemblies, in accordance with the Accomplishment Instructions of Boeing Special Attention Service Bulletin 747–25–3693, dated November 10, 2016.

(i) Parts Installation Limitation

For airplanes identified in paragraphs (c)(1), (c)(2), and (c)(3) of this AD: As of the effective date of this AD, no person may install the discrepant fastener hardware identified in the Accomplishment Instructions of Boeing Special Attention Service Bulletin 747–25–3693, dated November 10, 2016, on a crew access ladder on any airplane.

(j) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Seattle 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 (k)(1) of this AD. Information may be emailed to: *9-ANM-Seattle-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, Seattle 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) For service information that contains steps that are labeled as Required for Compliance (RC), the provisions of paragraphs (j)(4)(i) and (j)(4)(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 substep is labeled ''RC Exempt,'' then the RC requirement is removed from that step or substep. 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.

(k) Related Information

(1) For more information about this AD, contact Susan L. Monroe, Aerospace Engineer, Cabin Safety and Environmental Systems Branch, ANM–150S, FAA, Seattle ACO, 1601 Lind Avenue SW., Renton, WA; phone: 425–917–6457; fax: 425–917–6590; email: *susan.l.monroe@faa.gov.*

(2) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; 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 May 17, 2017.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2017–10606 Filed 5–26–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2017–0500; Directorate Identifier 2017–NM–009–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 adopt a new airworthiness directive (AD) for certain The Boeing Company Model MD–11 and MD–11F airplanes. This proposed AD was prompted by fuel system

reviews conducted by the manufacturer. This proposed AD would require a one-time inspection of the wire assemblies of the tail fuel tank transfer pumps to determine if metallic transitions are installed at the wire harness breakouts, and corrective actions if necessary. We are proposing this AD to address the unsafe condition on these products.

DATES: We must receive comments on this proposed AD by July 14, 2017.

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: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740; telephone 562–797–1717; 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–2017–0500.

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–2017–0500; 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: Sérj Harutunian, Aerospace Engineer, Propulsion Branch, ANM–140L, FAA, Los Angeles Aircraft Certification Office (ACO), 3960 Paramount Boulevard, Lakewood, California 90712–4137; phone: 562–627–5254; fax: 562–627–5210; email: *serj.harutunian@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–2017–0500; Directorate Identifier 2017–NM–009–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

The FAA has examined the underlying safety issues involved in fuel tank explosions on several large transport airplanes, including the adequacy of existing regulations, the service history of airplanes subject to those regulations, and existing maintenance practices for fuel tank systems. As a result of those findings, we issued a final rule titled ''Transport Airplane Fuel Tank System Design Review, Flammability Reduction, and Maintenance and Inspection Requirements'' (66 FR 23086, May 7, 2001). In addition to new airworthiness standards for transport airplanes and new maintenance requirements that rule included Amendment 21–78, which established Special Federal Aviation Regulation No. 88 (''SFAR 88'') at 14 CFR part 21. Subsequently, SFAR 88 was amended by: Amendment 21–82 (67 FR 57490, September 10, 2002; corrected at 67 FR 70809, November 26, 2002) and Amendment 21–83 (67 FR 72830, December 9, 2002; corrected at 68 FR 37735, June 25, 2003, to change ''21–82'' to ''21–83'').

Among other actions, SFAR 88 requires certain type design (*i.e.,* type certificate (TC) and supplemental type certificate (STC)) holders to substantiate that their fuel tank systems can prevent ignition sources in the fuel tanks. This requirement applies to type design holders for large turbine-powered transport airplanes and for subsequent modifications to those airplanes. It requires them to perform design reviews and to develop design changes and maintenance procedures if their designs do not meet the new fuel tank safety standards. As explained in the preamble to the rule, we intended to adopt airworthiness directives to mandate any changes found necessary to address unsafe conditions identified as a result of these reviews.

In evaluating these design reviews, we have established four criteria intended to define the unsafe conditions associated with fuel tank systems that require corrective actions. The percentage of operating time during which fuel tanks are exposed to flammable conditions is one of these criteria. The other three criteria address the failure types under evaluation: Single failures, combination of failures, and unacceptable (failure) experience. For all three failure criteria, the evaluations included consideration of previous actions taken that may mitigate the need for further action.

This proposed AD was prompted by fuel system reviews conducted by the manufacturer. In addition, during one event on a Model MD–11 airplane that occurred during flight, a level 1 message ''TAIL L PUMP OFF'' was annunciated; investigation of the wire bundles in the horizontal stabilizer next to the tail fuel tank revealed burned and broken wires, which showed severe signs of overheating and arcing. This is considered a quality control issue because the type design harnesses were not installed properly during the required SFAR 88 modifications.

We are proposing this AD to detect and correct potential ignition sources inside the tail fuel tank, which, in combination with flammable vapors, could result in a fuel tank fire or explosion, and consequent loss of the airplane.

Related Service Information Under 1 CFR Part 51

We reviewed Boeing Alert Service Bulletin MD11–28A150, dated October 6, 2016. The service information describes procedures for a one-time detailed inspection of the wire assemblies of the tail fuel tank transfer pumps to determine if metallic transitions are installed at the wire harness breakouts, and corrective actions that include repair and replacement of the wire assembly. 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.

Related Rulemaking

On May 14, 2010, we issued AD 2010–11–12, Amendment 39–16317 (75 FR 30274, June 1, 2010) (''AD 2010–11–12''), for certain Model MD–11 and MD–11F airplanes. AD 2010–11–12 requires a one-time inspection to determine if metallic transitions are installed on wire harnesses of the tail fuel tank transfer pumps, and to inspect for and repair damaged wires. AD 2010–11–12 also requires repetitive inspections of repaired areas; and a permanent modification of the wire harnesses if metallic transitions are not installed, which would terminate the repetitive inspections. AD 2010–11–12 also requires modifying the case grounding for the alternate fuel pump of the tail fuel tank, the leak detection thermal switch grounding for the number 2 engine, and wire braid grounding in the empennage and number 2 engine inlet. We issued AD 2010–11–12 to prevent insufficient grounding of the fuel pump, which, in combination with an electrical failure within the fuel pump and a compromised electrical bond, could cause a fuel tank ignition, resulting in consequent fire or explosion.

On January 3, 2011, we issued AD 2011–02–01, Amendment 39–16574 (76 FR 1983, January 12, 2011) (''AD 2011–02–01''), for certain Model MD–11 and MD–11F airplanes. AD 2011–02–01 requires a one-time inspection to detect damage of the wire assemblies of the tail fuel tank fuel system, a wiring change, and corrective actions if necessary. AD 2011–02–01 also requires, for certain airplanes, a general visual inspection for correct installation of the self-adhering high-temperature electrical insulation tape; installation of a wire assembly support bracket and routing wire assembly; changing of certain wire supports; and installation of a wire protection bracket. We issued AD 2011–02–01 to detect and correct a potential of ignition sources inside fuel tanks, which, in combination with flammable vapors, could result in a fuel tank fire or explosion, and consequent loss of the airplane.

This proposed AD would not supersede or terminate the actions required by AD 2010–11–12 and AD 2011–02–01. Certain airplanes identified in the related rulemaking may not have the correct wire harness with metallic transitions installed; therefore this proposed AD would address the unsafe condition on those airplanes.

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 the same type design.

Proposed AD Requirements

This proposed AD would require accomplishing the actions specified in the service information described previously.

The phrase ''corrective actions'' is used in this proposed AD. ''Corrective actions'' are actions that correct or address any condition found. Corrective actions in an AD could include, for example, repairs.

Costs of Compliance

We estimate that this proposed AD affects 110 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
Inspection	4 work-hours × $85 per hour = $340	$0	$340	$37,400

We estimate the following costs to do any necessary repairs/replacements that would be required based on the results of the proposed inspection. We have no way of determining the number of aircraft that might need these repairs/replacements:

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Repair	9 work-hours × $85 per hour = $765	$0	$765
Replacement	16 work-hours × $85 per hour = $1,360	57,526	58,886

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. Subtitle VII: Aviation Programs, describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: ''General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

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

For the reasons discussed above, I certify this proposed regulation:

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

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

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

(4) Will not have a significant economic impact, positive or negative, on a substantial number of small entities

under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

The Boeing Company: Docket No. FAA–2017–0500; Directorate Identifier 2017–NM–009–AD.

(a) Comments Due Date

We must receive comments by July 14, 2017.

(b) Affected ADs

None.

(c) Applicability

This AD applies to the Boeing Company Model MD–11 and MD–11F airplanes, certificated in any category, as identified in Boeing Alert Service Bulletin MD11–28A150, dated October 6, 2016.

(d) Subject

Air Transport Association (ATA) of America Code 28; Fuel.

(e) Unsafe Condition

This AD was prompted by fuel system reviews conducted by the manufacturer. We are issuing this AD to detect and correct potential ignition sources inside the tail fuel tank, which, in combination with flammable vapors, could result in a fuel tank fire or explosion, and consequent loss of the airplane.

(f) Compliance

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

(g) One-Time Inspection and Corrective Actions

Within 27 months after the effective date of this AD: Do a one-time detailed inspection of the wire assemblies of the tail fuel tank transfer pumps to determine if metallic transitions are installed at the wire harness breakouts, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin MD11–28A150, dated October 6, 2016. If metallic transitions are installed, no further action is required by this paragraph. If metallic transitions are not installed, do the corrective actions required by paragraphs (g)(1) and (g)(2) of this AD, as applicable, except as required by paragraphs (h)(1), (h)(2), and (h)(3) of this AD.

(1) Repair any affected wire assembly before further flight, in accordance with Part 2 of the Accomplishment Instructions of Boeing Alert Service Bulletin MD11–28A150, dated October 6, 2016, or replace any affected wire assembly with a new assembly before further flight, in accordance with Part 3 of the Accomplishment Instructions of Boeing Alert Service Bulletin MD11–28A150, dated October 6, 2016. If the replacement is done, no further action is required for that wire assembly only.

(2) Within 24 months after accomplishment of the repair required by paragraph (g)(1) of this AD: Replace any repaired wire assembly with a new assembly, in accordance with Part 3 of the Accomplishment Instructions of Boeing Alert Service Bulletin MD11–28A150, dated October 6, 2016.

(h) Service Information Exceptions

(1) Where Part 4.1.f. of the Accomplishment Instructions of Boeing Alert Service Bulletin MD11–28A150, dated October 6, 2016, specifies ''CONTROLLER FUEL SYSTEM—ADJUSTMENT/TEST refer to MD–11, AMM (Airplane Maintenance Manual) 28–28–01 as an accepted procedure'': Adjust and test the controller fuel system. If the test fails do corrective actions, repeat the test, and do applicable corrective actions until the system passes the test.

(2) Where Part 4.1.g. of the Accomplishment Instructions of Boeing Alert Service Bulletin MD11–28A150, dated October 6, 2016, specifies ''OPERATIONAL TEST OF THE FILL SHUTOFF VALVE CONTROLLER refer to MD–11 AMM 26–21—02, as an accepted procedure'': Do the operational test of the part. If the part fails the test, do corrective actions, repeat the test, and do applicable corrective actions until the part passes the test.

(3) Where Part 4.1.h. of the Accomplishment Instructions of Boeing Alert Service Bulletin MD11–28A150, dated October 6, 2016, specifies ''SWITCH, PUMP LOW PRESSURE—ADJUSTMENT/TEST, refer to MD–11 AMM 28–44–01, as an accepted procedure'': Do the operational test of the part. If the part fails the test, do corrective actions, repeat the test, and do applicable corrective actions until the part passes the test.

(i) 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 (j)(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) For service information that contains steps that are labeled as Required for Compliance (RC), the provisions of paragraphs (i)(4)(i) and (i)(4)(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 substep is labeled ''RC Exempt,'' then the RC requirement is removed from that step or substep. 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.

(j) Related Information

(1) For more information about this AD, contact Sérj Harutunian, Aerospace Engineer, Propulsion Branch, ANM–140L, FAA, Los Angeles ACO, 3960 Paramount Boulevard, Lakewood, California 90712–4137; phone: 562–627–5254; fax: 562–627–5210; email: *serj.harutunian@faa.gov.*

(2) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740; telephone 562–797–1717; 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 May 17, 2017.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2017–10604 Filed 5–26–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2017–0497; Directorate Identifier 2016–NM–209–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for all Airbus Model A300 series airplanes. This proposed AD was prompted by a report of reduction of the de-icing performance of the pitot probe over time that could remain hidden to the flight crew. This proposed AD would require repetitive detailed inspections of the pitot probe heater insulation resistance, and replacement of the pitot probe heater if necessary. We are proposing this AD to address the unsafe condition on these products.

DATES: We must receive comments on this proposed AD by July 14, 2017.

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

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0497; 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: Dan Rodina, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone: 425–227–2125; fax: 425–227–1149.

SUPPLEMENTARY INFORMATION:

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–2017–0497; Directorate Identifier 2016–NM–209–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

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

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2016–0248, dated December 15, 2016 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for all Airbus Model A300 series airplanes. The MCAI states:

> An operator reported a reduction of the de-icing performance of the pitot probe over the time. Pitot probes are heated to prevent ice accretion. De-icing performances of the Pitot probe might be reduced if Pitot probe heater degrades over time. Investigation results highlighted that the magnitude of de-icing performance reduction depended on how much the [pitot probe] heater is degraded. This degradation could remain hidden to the crew.
>
> Pitot probes heater degradation, if not detected and corrected, could lead to unreliable airspeed indications, possibly resulting in reduced control of the aeroplane.
>
> To ensure nominal de-icing performances of the Pitot probe, Airbus developed an inspection process to check the pitot [probe] heater performance, and published Service Bulletin (SB) A300–34–0185 to provide the necessary instructions to operators.
>
> For the reasons described above, this [EASA] AD requires repetitive detailed inspections (DET) of the pitot [probe] heater, and, depending on findings, replacement with a serviceable one.

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–2017–0497.

Related Service Information Under 1 CFR Part 51

We reviewed Airbus Service Bulletin A300–34–0185, Revision 00, dated August 29, 2016. The service information describes procedures for repetitive detailed inspections of the pitot probe heater insulation resistance and replacement of the pitot probe heater. 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 the same type design.

Costs of Compliance

We estimate that this proposed AD affects 5 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
Repetitive inspection	5 work-hours × $85 per hour = $425 per inspection cycle..	$0	$425 per inspection cycle	$2,125 per inspection cycle.
Reporting	1 work hour × $85 per hour = $85.	0	$85	$425 per inspection cycle.

We estimate the following costs to do any necessary replacements that would be required based on the results of the proposed inspection. We have no way of determining the number of aircraft that might need this replacement:

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Replacement	3 work-hours × $85 per hour = $255	$9,015	$9,270

Paperwork Reduction Act

A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB control number. The control number for the collection of information required by this proposed AD is 2120–0056. The paperwork cost associated with this proposed AD has been detailed in the Costs of Compliance section of this document and includes time for reviewing instructions, as well as completing and reviewing the collection of information. Therefore, all reporting associated with this proposed AD is mandatory. Comments concerning the accuracy of this burden and suggestions for reducing the burden should be directed to the FAA at 800 Independence Ave. SW., Washington, DC 20591, ATTN: Information Collection Clearance Officer, AES–200.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. ''Subtitle VII: Aviation Programs,'' describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in ''Subtitle VII, Part A, Subpart III, Section 44701: General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

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

For the reasons discussed above, I certify this proposed regulation:

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

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

3. Will not affect intrastate aviation in Alaska; and

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Airbus: Docket No. FAA–2017–0497; Directorate Identifier 2016–NM–209–AD.

(a) Comments Due Date

We must receive comments by July 14, 2017.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Airbus Model A300 B2–1A, B2–1C, B2K–3C, B2–203, B4–2C, B4–103, and B4–203 airplanes, certificated in any category, all manufacturer serial numbers.

(d) Subject

Air Transport Association (ATA) of America Code 34, Navigation.

(e) Reason

This AD was prompted by a report of reduction of the de-icing performance of the pitot probe over time that could remain hidden to the flight crew. We are issuing this AD to ensure nominal de-icing performance of the pitot probe in order to prevent unreliable airspeed indications, which could result in reduced control of the airplane.

(f) Compliance

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

(g) Definition of Pitot Probes

For the purpose of this AD, affected pitot probes are the First Officer's Pitot Probe 40DA, Captain's Pitot Probe 41DA, and Standby Pitot Probe 42DA.

(h) Repetitive Inspections

At the time specified in paragraph (h)(1) or (h)(2) of this AD, whichever occurs later, do a detailed inspection of the pitot probe heater insulation resistance on each affected pitot probe, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A300–34–0185, Revision 00, dated August 29, 2016. Repeat the inspection thereafter at intervals not to exceed 24 months.

(1) Within 24 months since the last detailed inspection of the pitot probe heater insulation resistance, as specified in Airbus A300 Aircraft Maintenance Manual (AMM), Task 30–31–00.

(2) Within 6 months after the effective date of this AD.

(i) Corrective Action

If, during any detailed inspection as required by paragraph (h) of this AD, any pitot probe fails the test, as specified in the Accomplishment Instructions of Airbus Service Bulletin A300–34–0185, Revision 00, dated August 29, 2016, before further flight, replace the affected pitot probe with a serviceable (new or inspected as required by this AD) pitot probe, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A300–34–0185, Revision 00, dated August 29, 2016. Replacement of pitot probes, as required by paragraph (i) of this AD, does not constitute terminating action for the repetitive inspections required by paragraph (h) of this AD.

(j) Reporting

At the applicable times required by paragraphs (j)(1) or (j)(2) of this AD: Submit a report of the findings (both positive and negative) of each inspection required by paragraph (h) of this AD, as specified in the Accomplishment Instructions of Airbus Service Bulletin A300–34–0185, Revision 00, dated August 29, 2016, to Airbus Service Bulletin Reporting Online Application on Airbus World (*https://w3.airbus.com/*).

(1) For inspections done before the effective date of this AD: Within 30 days after the effective date of this AD.

(2) For inspections done on or after the effective date of this AD: Within 30 days after accomplishing each inspection required by paragraph (h) of this AD.

(k) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the International Branch, send it to the attention of the person identified in paragraph (l)(2) of this AD. 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.

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

(3) *Reporting Requirements:* A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB Control Number. The OMB Control Number for this information collection is 2120–0056. Public reporting for this collection of information is estimated to be approximately 5 minutes per response, including the time for reviewing instructions, completing and reviewing the collection of information. All responses to this collection of information are mandatory. Comments concerning the accuracy of this burden and suggestions for reducing the burden should be directed to the FAA at: 800 Independence Ave. SW., Washington, DC 20591, Attn: Information Collection Clearance Officer, AES–200.

(4) *Required for Compliance (RC):* Except as required by paragraph (j) 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.

(l) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA AD 2016–0248, dated December 15, 2016, 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–2017–0497.

(2) For more information about this AD, contact Dan Rodina, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone: 425–227–2125; fax: 425–227–1149.

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

Issued in Renton, Washington, on May 15, 2017.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2017–10542 Filed 5–26–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2017–0496; Directorate Identifier 2016–NM–103–AD]

RIN 2120–AA64

Airworthiness Directives; Dassault Aviation Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain Dassault Aviation Model FALCON 7X airplanes. This proposed AD was prompted by a report indicating that, under certain operational takeoff conditions, the available thrust in relation with the N1 indication is less than a certified value, which could affect the safety margins with an engine failure during takeoff. This proposed AD would require modifying each engine by updating the electronic engine control (EEC) software and adjusting the engine N1 trim value, and revising the airplane flight manual. We are proposing this AD to address the unsafe condition on these products.

DATES: We must receive comments on this proposed AD by July 14, 2017.

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 Dassault service information identified in this NPRM, contact Dassault Falcon Jet Corporation, Teterboro Airport, P.O. Box 2000, South Hackensack, NJ 07606; telephone 201–440–6700; Internet *http://www.dassaultfalcon.com.* For Pratt & Whitney Canada service information identified in this NPRM, contact Pratt & Whitney Canada Corp., 1000 Marie-Victorin, Longueuil, Quebec, Canada, J4G 1A1; telephone 800–268–8000; fax 450–647–2888; Internet *http://www.pwc.ca.* 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–2017–0496; 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: Tom Rodriguez, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1137; 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–2017–0496; Directorate Identifier 2016–NM–103–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

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

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA Airworthiness Directive 2016–0063, dated March 31, 2016 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Dassault Aviation FALCON 7X airplanes. The MCAI states:

> A review of the Pratt & Whitney Canada (PWC) 307A engine data files has disclosed that, under certain operational take-off conditions (high altitude runway and low temperature), the available thrust in relation with N1 indication is less than certified and described in the Aircraft Flight Manual (AFM).
>
> This condition, if not corrected, affects the safety margins with an engine failure during take-off, possibly resulting in reduced control of the aeroplane.
>
> To address this potential unsafe condition, PWC developed an interim correction [*i.e.,* modifying each engine installed on the airplane], to be embodied in service with PWC Service Bulletin (SB) 47202, which allows augmenting the thrust through a general N1-detrimming. Subsequently, PWC developed a new Engine Electronic Control (EEC) software version, which provides a definitive correction of the thrust rating deficiency. PWC published SB 47216 that provides instructions for in service installation of EEC software version 307A0514.
>
> Concurrently with these developments, Dassault Aviation published SB 7X–287 to provide aeroplane modification instructions and also revised the performance charts relevant to the new thrust rating, available with AFM Revision 21 (incorporating Temporary Revision CP098).
>
> For the reasons described above, this [EASA] AD requires modification of each engine, installation of the new software version, and amendment of the applicable AFM.

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–2017–0496.

Related Service Information Under 1 CFR Part 51

We reviewed Dassault Falcon 7X AFM, Revision 21, dated November 20, 2015, which incorporates AFM CP098 (provides performance charts relevant to the new thrust rating).

We reviewed Dassault Service Bulletin 7X–287, also referred to as 287, dated January 4, 2016. This service information describes procedures for modifying each engine installed on the airplane by updating the EEC, which includes performing tests after removal and installation of the EEC.

We reviewed Pratt & Whitney Canada Service Bulletin PW300–72–47202, Revision 3, also referred to as 47202R3, dated March 10, 2016. This service information describes procedures for modifying an engine by adjusting the engine N1 trim value for PW307A engines.

We reviewed Pratt & Whitney Canada Service Bulletin PW300–72–47216, also referred to as 47216, dated January 13, 2016. This service information describes procedures for modifying each engine installed on the airplane by updating the EEC, which includes installing software EEC version 307A0514.

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 the same type design.

Differences Between This Proposed AD and the MCAI

The MCAI specifies modifying each engine installed on the airplane by adjusting the engine N1 trim value within 30 days. In this proposed AD, the engine N1 trim adjustment is required prior to or concurrently with the engine modification to update the EEC software, which is required within 12 months. We have determined that this compliance time adequately addresses the identified unsafe condition and provides an acceptable level of safety.

Costs of Compliance

We estimate that this proposed AD affects 62 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
Modification and AFM Revision	6 work-hours × $85 per hour = $510	$19,002	$19,512	$1,209,744

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. ''Subtitle VII: Aviation Programs,'' describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in ''Subtitle VII, Part A, Subpart III, Section 44701: General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

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

For the reasons discussed above, I certify this proposed regulation:

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

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

3. Will not affect intrastate aviation in Alaska; and

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Dassault Aviation: Docket No. FAA–2017–0496; Directorate Identifier 2016–NM–103–AD.

(a) Comments Due Date

We must receive comments by July 14, 2017.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Dassault Aviation Model FALCON 7X airplanes, certificated in any category, all serial numbers, except airplanes modified with Dassault Aviation modification (Mod) M1389.

(d) Subject

Air Transport Association (ATA) of America Code 76, Engine Controls.

(e) Reason

This AD was prompted by a report indicating that, under certain operational takeoff conditions, the available thrust in relation with the N1 indication is less than a certified value, which could affect the safety margins with an engine failure during takeoff. We are issuing this AD to prevent a reduction in available engine thrust during certain operational takeoff conditions, which could affect the safety margins with an engine failure during takeoff and could result in reduced control of the airplane.

(f) Compliance

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

(g) Modification—Software Update

Within 12 months after the effective date of this AD, modify each engine installed on the airplane by updating the electronic engine control (EEC) (installation of software EEC version 307A0514), in accordance with the Accomplishment Instructions of Dassault Service Bulletin 7X–287, also referred to as 287, dated January 4, 2016; and Pratt & Whitney Canada Service Bulletin PW300–72–47216, also referred to as 47216, dated January 13, 2016.

(h) Airplane Flight Manual (AFM) Revision

Concurrently with the modification of an airplane required by paragraph (g) of this AD, revise the applicable AFM of that airplane by inserting a copy of Dassault Falcon 7X AFM, Revision 21, dated November 20, 2015 (incorporating AFM CP098).

(i) Modification—N1 Detrim

Prior to or concurrently with the modification of an airplane required by paragraph (g) of this AD, modify each engine installed on the airplane by adjusting the engine N1 trim value, in accordance with the Accomplishment Instructions of Pratt & Whitney Canada Service Bulletin PW300–72–47202, Revision 3, also referred to as 47202R3, dated March 10, 2016.

(j) Replacement Limitation

After modification of an airplane as required by paragraph (g) of this AD, installation of a replacement engine on that airplane is allowed, provided that, prior to installation, it is positively established that the engine embodies software EEC version 307A0514. Modification of a pre-mod engine to embody this software can be accomplished in accordance with the Accomplishment Instructions of Pratt & Whitney Canada Service Bulletin PW300–72–47216, also referred to as 47216, dated January 13, 2016.

(k) Alternative Replacements

Installation of a replacement engine or replacement EEC unit on an airplane after the effective date of this AD, which embodies a later software EEC version, is acceptable for compliance with paragraph (g) of this AD, provided the conditions specified in paragraphs (k)(1) and (k)(2) of this AD are met.

(1) The software EEC version must be approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the European Aviation Safety Agency (EASA); or Dassault Aviation's EASA Design Organization Approval (DOA).

(2) The installation must be accomplished in accordance with airplane modification instructions approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or EASA; or Dassault Aviation's EASA DOA.

(l) Credit for Previous Actions

This paragraph provides credit for actions required by paragraph (i) of this AD, if those actions were performed before the effective date of this AD using service information in paragraph (l)(1), (l)(2), or (l)(3) of this AD.

(1) Pratt & Whitney Canada Service Bulletin PW300–72–47202, also referred to as 47202, dated June 17, 2014.

(2) Pratt & Whitney Canada Service Bulletin PW300–72–47202, Revision 1, also referred to as 47202R1, dated November 18, 2014.

(3) Pratt & Whitney Canada Service Bulletin PW300–72–47202, Revision 2, also referred to as 47202R2, dated January 5, 2016.

(m) 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 manager of the International Branch, send it to the attention of the person identified in paragraph (n)(2) of this AD. 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.

(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 Dassault Aviation's EASA DOA. If approved by the DOA, the approval must include the DOA-authorized signature.

(n) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA Airworthiness Directive 2016–0063, dated March 31, 2016, 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–2017–0496.

(2) For more information about this AD, contact Tom Rodriguez, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1137; fax 425–227–1149.

(3) For Dassault service information identified in this AD, contact Dassault Falcon Jet Corporation, Teterboro Airport, P.O. Box 2000, South Hackensack, NJ 07606; telephone 201–440–6700; Internet *http://www.dassaultfalcon.com.* For Pratt & Whitney Canada service information identified in this AD, contact Pratt & Whitney Canada Corp., 1000 Marie-Victorin, Longueuil, Quebec, Canada, J4G 1A1; telephone 800–268–8000; fax 450–647–2888; Internet *http://www.pwc.ca.* 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 May 15, 2017.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2017–10543 Filed 5–26–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2017–0494; Directorate Identifier 2016–NM–126–AD]

RIN 2120–AA64

Airworthiness Directives; Dassault Aviation Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to supersede Airworthiness Directive (AD) 2016–17–02 for certain Dassault Aviation Model FALCON 900EX and FALCON 2000EX airplanes. AD 2016–17–02 currently requires revising the airplane flight manual (AFM) to include procedures to follow when an airplane is operating in icing conditions. AD 2016–17–02 also provides optional actions after which the AFM revision may be removed from the AFM. Since we issued AD 2016–17–02, we have determined additional actions are necessary to address the identified unsafe condition. This proposed AD would retain the requirement of AD 2016–17–02 and, in addition, require a detailed inspection of the wing anti-ice system ducting (anti-ice pipes) for the presence of a diaphragm, and replacement of ducting or re-identification of the ducting part marking. We are proposing this AD to address the unsafe condition on these products.

DATES: We must receive comments on this proposed AD by July 14, 2017.

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

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

For service information identified in this NPRM, contact Dassault Falcon Jet Corporation, Teterboro Airport, P.O. Box 2000, South Hackensack, NJ 07606; telephone 201–440–6700; Internet *http://www.dassaultfalcon.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0494; 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: Tom Rodriguez, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1137; 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–2017–0494; Directorate Identifier 2016–NM–126–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 August 5, 2016, we issued AD 2016–17–02, Amendment 39–18615 (81 FR 55366, August 19, 2016) (''AD 2016–17–02''), for certain Dassault Aviation Model FALCON 900EX and FALCON 2000EX airplanes. AD 2016–17–02 was prompted by a design review of in-production airplanes that identified a deficiency in certain wing anti-ice system ducting. A deficiency in the wing anti-ice system ducting could lead to undetected, reduced performance of the wing anti-ice system, with potential ice accretion and ingestion, possibly resulting in degraded engine power and degraded handling characteristics of the airplane. AD 2016–17–02 requires revising the AFM to include procedures to follow when an airplane is operating in icing conditions. AD 2016–17–02 also provides optional actions after which the AFM revision may be removed from the AFM. We issued AD–2016–17–02 to ensure the flight crew has procedures for operating an airplane in icing conditions.

When we issued AD 2016–17–02, we stated that it was an interim action and we were considering additional rulemaking to require a detailed inspection of the wing anti-icing system ducting for the presence of a diaphragm and, as applicable, re-identification or replacement of the wing anti-icing system ducting (these actions are required by the MCAI). We have determined that requiring those additional actions are necessary to address the identified unsafe condition.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA Emergency Airworthiness Directive 2016–0130–E, dated July 5, 2016 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Dassault Aviation Model FALCON 900EX and FALCON 2000EX airplanes. The MCAI states:

> A design review of in production aeroplanes identified a manufacturing deficiency of some wing anti-ice system ducting.
>
> This condition, if not detected and corrected, could lead to an undetected reduced performance of the wing anti-ice system, with potential ice accretion and ingestion, possibly resulting in degraded engine power and degraded handling characteristics.
>
> The Falcon 900EX EASY and Falcon . . . [2000EX] Aircraft Flight Manuals (AFM) contain a normal procedure 4–200–05A, ''Operations in Icing Conditions'', addressing minimum fan speed rotation (N1) during combined operation of wing anti-ice and engine anti-ice systems. The subsequent investigation demonstrated that the wing anti-ice system performance for aeroplanes equipped with ducting affected by the manufacturing deficiency can be restored increasing N1 value. In addition, Dassault Aviation published Service Bulletin (SB) F900EX–464 (for Falcon 900EX aeroplanes) and SB F2000EX–393 (for Falcon 2000EX aeroplanes), providing instructions for wing anti-ice system ducting inspection.
>
> For the reasons described above, this [EASA] AD requires an AFM amendment and a one-time [detailed] inspection of the wing anti-ice system ducting [and, as applicable, a check of the part number,] and, depending on findings, re-identification or replacement of the wing anti-ice system ducting.

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–2017–0494.

Related Service Information Under 1 CFR Part 51

Dassault has issued Service Bulletin F900EX–464, dated June 20, 2016; and Service Bulletin F2000EX–393, dated June 20, 2016. The service information describes procedures for an inspection of the wing anti-ice system ducting and re-identification or replacement of the wing anti-ice system ducting. These documents are distinct since they apply to different airplane models. 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 52 airplanes of U.S. registry.

The action required by AD 2016–17–02, and retained in this proposed AD takes about 1 work-hour per product, at an average labor rate of $85 per work-hour. Based on these figures, the estimated cost of the action that is required by AD 2016–17–02 is $85 per product.

We also estimate that it would take about 4 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 $17,680, or $340 per product.

In addition, we estimate that any necessary follow-on actions would take about 19 work-hours and require parts costing $24,000, for a cost of $25,615 per product. We have no way of determining the number of aircraft that might need these actions.

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) 2016–17–02, Amendment 39–18615 (81 FR 55366, August 19, 2016), and adding the following new AD:

Dassault Aviation: Docket No. FAA–2017–0494; Directorate Identifier 2016–NM–126–AD.

(a) Comments Due Date

We must receive comments by July 14, 2017.

(b) Affected ADs

This AD replaces AD 2016–17–02, Amendment 39–18615 (81 FR 55366, August 19, 2016) (''AD 2016–17–02'').

(c) Applicability

This AD applies to the Dassault Aviation airplanes identified in paragraphs (c)(1) and (c)(2) of this AD, certificated in any category.

(1) Model Falcon 900EX airplanes, serial numbers (S/Ns) 270 through 291 inclusive and 294.

(2) Model FALCON 2000EX airplanes, S/Ns 263 through 305 inclusive, 307 through 313 inclusive, 315, 320, and 701 through 734 inclusive.

(d) Subject

Air Transport Association (ATA) of America Code 30, Ice and Rain Protection.

(e) Reason

This AD was prompted by a design review of in-production airplanes that identified a deficiency in certain wing anti-ice system ducting. We are issuing this AD to detect and correct a deficiency in the wing anti-ice system ducting, which could result in reduced performance of the wing anti-ice system with potential ice accretion and ingestion, and could result in degraded engine power and degraded handling characteristics.

(f) Compliance

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

(g) Retained Revision to the Airplane Flight Manual (AFM), With No Changes

This paragraph restates the requirements of paragraph (g) of AD 2016–17–02, with no changes.

(1) For Model Falcon 900EX airplanes on which the actions specified in Dassault Service Bulletin F900EX–464 have not been accomplished: Within 10 flight cycles after September 6, 2016 (the effective date of AD 2016–17–02), revise Section 4–200–05A, ''OPERATION IN ICING CONDITIONS,'' of the Model Falcon 900EX AFM to include the information in figure 1 to paragraph (g)(1) of this AD, and thereafter operate the airplane accordingly. The AFM revision may be done by inserting a copy of this AD into the AFM.

BILLING CODE 4910–13–P

Figure 1 to Paragraph (g)(1) of this AD – *Operation in Icing Conditions*

Wings Anti-Ice System Operation

During in-flight operation of a wings anti-ice system (WINGS ANTI-ICE) maintain the N1 of all engines equal to or more than the values defined in Table 1, as applicable to atmospheric condition.

Table 1

New Minimum N1 values required during in-flight operation of a wings anti-ice system

Three operative engines:

TAT	– 30 to – 20 °C	– 20 to – 10 °C	– 10 to 0 °C	0 to + 10 °C
Above 20,000 ft	79%	75%	71%	66%
From 20,000 ft to 10,000 ft	76%	73%	66%	59%
Below 10,000 ft	68%	66%	61%	58%

These new values include 3% increase compared to former values (4-200-05A page 1/2).

Two operative engines:

TAT	– 30 to – 20 °C	– 20 to – 10 °C	– 10 to 0 °C	0 to + 10 °C
Above 20,000 ft	86%	82%	78%	73%
From 20,000 ft to 10,000 ft	83%	80%	73%	66%
Below 10,000 ft	75%	73%	68%	65%

These new values include 3% increase compared to former values (4-200-05A page 1/2).

TAT – Total Air Temperature

Note 1: Maintaining the N1 above the minimum anti-ice N1 on all engines may lead to exceedance of approach speed. Early approach or landing configuration of an airplane and/or application of airbrakes may be used to control the airspeed. In approach and landing and for a limited duration up to three minutes, selection of N1 speeds below the minimum anti-ice N1 speed is authorized. In this case it is necessary to disengage the autothrottle.

Effectivity: F900EX (LX variant) S/N 270 to 291, 294 without Dassault Aviation SB F900EX-464.

BILLING CODE 4910–13–C

(2) For Model Falcon 2000EX airplanes on which the actions specified in Dassault Service Bulletin F2000EX–393 have not been accomplished: Within 10 flight cycles after September 6, 2016 (the effective date of AD 2016–17–02), revise Section 4–200–05A, ''OPERATION IN ICING CONDITIONS,'' of the Model Falcon 2000EX AFM to include the information in figure 2 to paragraph (g)(2) of this AD, and thereafter operate the airplane accordingly. The AFM revision may be done by inserting a copy of this AD into the AFM.

BILLING CODE 4910–13–P

Figure 2 to Paragraph (g)(2) of this AD – *Operation in Icing Conditions*

Wing Anti Ice System Operation

During in-flight operation of a wing anti-ice system (WING ANTI-ICE) maintain the N1 of both engines equal to or more than the values defined in Table 1, as applicable to atmospheric condition.

Table 1
New Minimum N1 values required during in-flight operation of a wing anti-ice system

Two engines operative minimum N1:

TAT / Z	-30 °C	-15 °C	0 °C	+10 °C
31,000 ft	74.6	67.6	52.8	52.8
22,000 ft	72.4	63.7	52.8	52.1
3,000 ft	57.3	54.9	49.4	48.8
0 ft	54.9	54.9	49.4	48.8

These new values include 2% increase compared to former values (4-200-05A page 1/2).

One engine operative or one bleed inoperative minimum N1:

TAT / Z	-30 °C	-15 °C	0 °C	+10 °C
31,000 ft	82.4	77.0	64.0	58.0
22,000 ft	79.2	72.0	59.8	56.6
3,000 ft	71.2	66.4	59.8	49.3
0 ft	64.2	63.7	59.8	49.3

These new values include 2% increase compared to former values (4-200-05A page 1/2).

TAT – Total Air Temperature
Z - Altitude

Note 1: Maintaining the N1 above the minimum anti-ice N1 on all engines may lead to exceedance of approach speed. Early approach or landing configuration of an aeroplane and/or application of airbrakes may be used to control the airspeed. In approach and landing and for a limited duration up to three minutes, selection of N1 speeds below the minimum anti-ice N1 speed is authorized. In this case it is necessary to disengage the autothrottle.

Effectivity: F2000EX (LX/S variants) S/N 263 to 305, 307 to 313, 315, 320, 701 to 734 without Dassault Aviation SB F2000EX-393.

BILLING CODE 4910–13–C

(h) New Actions: Inspection, Part Replacement, Part Re-identification

Within 9 months after the effective date of this AD: Do a detailed inspection of the wing anti-ice system ducting (anti-ice pipes) for the presence of a diaphragm, and do all applicable actions specified in paragraph (h)(1) or (h)(2) of this AD, in accordance with the Accomplishment Instructions of Dassault Service Bulletin F900EX–464, dated June 20, 2016; or Service Bulletin F2000EX–393, dated June 20, 2016; as applicable. After the applicable actions specified in paragraph (h)(1) or (h)(2) of this AD have been completed, the AFM revision required by

paragraph (g) of this AD may be removed from the AFM for that airplane.

(1) If during the inspection required by paragraph (h) of this AD it is determined that a diaphragm is present: Before further flight, replace the wing anti-ice system ducting.

(2) If during the inspection required by paragraph (h) of this AD it is determined that a diaphragm is not present: Before further flight, do a check of the anti-ice pipe part number and re-identify the wing anti-ice system ducting.

(i) 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 the attention of the person identified in paragraph (j)(2) of this AD. 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.

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

(j) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) Emergency Airworthiness Directive 2016–0130–E, dated July 5, 2016, 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–2017–0494.

(2) For more information about this AD, contact Tom Rodriguez, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1137; fax 425–227–1149.

(3) For service information identified in this AD, contact Dassault Falcon Jet Corporation, Teterboro Airport, P.O. Box 2000, South Hackensack, NJ 07606; telephone 201–440–6700; Internet *http://www.dassaultfalcon.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 May 15, 2017.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2017–10545 Filed 5–26–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 573

[Docket No. FDA–2017–F–2130]

BASF Corp.; Filing of Food Additive Petition (Animal Use)

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of petition.

SUMMARY: The Food and Drug Administration (FDA) is announcing that BASF Corp. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of formic acid as a feed acidifying agent in complete poultry feeds.

DATES: The food additive petition was filed on February 10, 2017.

FOR FURTHER INFORMATION CONTACT: Chelsea Trull, Center for Veterinary Medicine, Food and Drug Administration, 7519 Standish Pl., Rockville, MD 20855, 240–402–6729, *Chelsea.trull@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (section 409(b)(5) (21 U.S.C. 348(b)(5)), notice is given that a food additive petition (FAP 2301) has been filed by BASF Corp., 100 Park Ave., Florham Park, NJ 07932. The petition proposes to amend Title 21 of the Code of Federal Regulations (CFR) in part 573 (21 CFR part 573) *Food Additives Permitted in Feed and Drinking Water of Animals* to provide for the safe use of formic acid as a feed acidifying agent in complete poultry feeds.

The petitioner has claimed that this action is categorically excluded under 21 CFR 25.32(r) because it is of a type that does not individually or cumulatively have a significant effect on the human environment. In addition, the petitioner has stated that to their knowledge, no extraordinary circumstances exist. If FDA determines a categorical exclusion applies, neither an environmental assessment nor an environmental impact statement is required. If FDA determines a categorical exclusion does not apply, we will request an environmental assessment and make it available for public inspection.

Dated: May 23, 2017.

Anna K. Abram,

Deputy Commissioner for Policy, Planning, Legislation, and Analysis.

[FR Doc. 2017–11010 Filed 5–26–17; 8:45 am]

BILLING CODE 4164–01–P

LIBRARY OF CONGRESS

Copyright Royalty Board

37 CFR Part 387

[Docket No. 15–CRB–0010–CA–S]

Adjustment of Cable Statutory License Royalty Rates

AGENCY: Copyright Royalty Board, Library of Congress.

ACTION: Notice of settlement and proposed rule.

SUMMARY: The Copyright Royalty Judges (Judges) publish for comment proposed regulations to require covered cable systems to pay a separate per-telecast royalty (a Sports Surcharge) in addition to the other royalties that that cable system must pay under Section 111 of the Copyright Act.

DATES: Comments are due no later than June 20, 2017.

ADDRESSES: Submit electronic comments via email to *crb@loc.gov* or online at *http://www.regulations.gov.* Those who choose not to submit comments electronically should see How to Submit Comments in the Supplementary Information section below for physical addresses and further instructions. The proposed rule is also posted on the agency's Web site (*www.loc.gov/crb*).

FOR FURTHER INFORMATION CONTACT: Anita Brown-Blaine, Program Specialist, by telephone at (202) 707–7658, or by email at *crb@loc.gov.*

SUPPLEMENTARY INFORMATION:

Background

On January 11, 2017, the Copyright Royalty Judges (Judges) received a motion from the Joint Sports Claimants (JSC),[1] the NCTA-The Internet and Television Association, and the American Cable Association, which represent that they are the only parties to this proceeding, notifying the Judges

[1] The Joint Sports Claimants are the Office of the Commissioner of Baseball, the National Football League, the National Basketball Association, the Women's National Basketball Association, the National Hockey League, and the National Collegiate Athletic Association.

that they reached a complete settlement of the proceeding. *Joint Motion of the Participating Parties to Suspend Procedural Schedule and to Adopt Settlement* at 1. The moving parties requested that the Judges terminate the proceeding by adopting the proposed rule set forth in Exhibit A of the joint motion. The moving parties further requested that the Judges suspend, pending resolution of the joint motion, the procedural schedule set forth in the *Order of Bifurcation, Second Order of Further Proceedings, Notice of Participants, and Scheduling Order,* Docket No. 15–CRB–0010–CA–S (June 22, 2016).

On February 7, 2017, the Judges issued an order in which they suspended the procedural schedule they established by order dated June 22, 2016, pending the Judges' review of the moving parties' settlement agreement and publication of the agreement for public comment. The Judges stated that they would defer decision on adoption of the settlement agreement and termination of the proceeding until after they consider comments, if any, filed in response to publication of the settlement notice. This notice is further to the Judges' February 7, 2017 Order.

A. Background

Section 111(d)(1)(B) of the Copyright Act, 17 U.S.C. 111(d)(1)(B), sets forth the royalty rates that ''Form 3'' cable systems must pay to retransmit broadcast signals pursuant to the Section 111(c) statutory license. Form 3 systems are those with semi-annual ''gross receipts'' greater than $527,600. *See id.* §§ 111(d)(1)(B), (E) & (F); 37 CFR 201.17(d). Section 801(b)(2)(C) of the Act provides:

> In the event of any change in the rules and regulations of the Federal Communications Commission [''FCC''] with respect to syndicated and sports program exclusivity after April 15, 1976, the rates established by section 111(d)(1)(B) may be adjusted to assure that such rates are reasonable in light of the changes to such rules and regulations, but any such adjustment shall apply only to the affected television broadcast signals carried on those systems affected by the change.

17 U.S.C. 801(b)(2)(C).

Section 804(b)(1)(B) of the Copyright Act states that, in ''order to initiate proceedings under section [801(b)(2)(C)],'' an interested party must file a petition with the Judges requesting a rate change within twelve months of the FCC's action. 17 U.S.C. 804(b)(1)(B); *see* H.R. Rep. No. 94–1476 at 178 (1976) (right to seek review ''exercisable for a 12 month period following the date such changes are finally effective''). The FCC adopted sports exclusivity rules for cable systems in 1975. *See Report and Order in Doc. No. 19417,* 54 F.C.C.2d 265 (1975) (''Sports Rules''). The FCC repealed the Sports Rules effective November 24, 2014. *See Sports Blackout Rules,* 79 FR 63547 (Oct. 24, 2014). At the time of the Sports Rules' repeal, they were codified at 47 CFR 76.111 (2014).

On November 23, 2015, JSC filed a rate adjustment petition pursuant to Section 801(b)(2)(C) of the Copyright Act. In their June 22 Order, the Judges established a procedural schedule for ruling on the JSC petition. While the moving parties were unable to settle this matter during the voluntary negotiation period established by the June 22 Order, they continued those negotiations and now agree that this proceeding should be terminated with the adoption of the proposed rule set forth in Exhibit A to the joint motion.

B. Scope of the Proposed Rule

The proposed rule would require covered cable systems to pay a separate per-telecast royalty (a Sports Surcharge) in addition to the other royalties that that cable system must pay under Section 111 of the Copyright Act. Joint Motion at 3. The Sports Surcharge would amount to 0.025 percent of the cable system's ''gross receipts'' during the relevant semi-annual accounting period for the secondary transmission of each affected broadcast of a sports event, provided that all of the conditions of the proposed rule are satisfied. Thus, if a covered cable system made a secondary transmission of one affected broadcast, it would pay 0.025 percent of ''gross receipts'' during the relevant semi-annual accounting period for that transmission; if it made secondary transmissions of two affected broadcasts, it would pay 0.025 percent of ''gross receipts'' during the relevant semi-annual accounting period for each of those transmissions (or a total of 0.050 percent of its ''gross receipts''). *Id.*

Section 801(b)(2)(C) of the Act states that any rate adopted in this proceeding ''shall apply only to the affected television broadcast signals carried on those systems affected by the change.'' Furthermore, moving parties note that Section 801(b)(2)(C) authorizes the Judges to adjust only the royalty rates set forth in Section 111(d)(1)(B) of the Act. The moving parties also note that Section 111(d)(3)(A) of the Act permits the distribution of royalties only to copyright owners of distant signal ''non-network television programs.'' Joint Motion at 3–4.

The moving parties note that, consistent with the statutory mandates discussed above, the proposed rule, summarized below, limits the circumstances under which cable systems must pay the Sports Surcharge. Under the proposal:

Covered Cable System. Only a ''covered cable system,'' as defined in the proposed rule, would be subject to the Sports Surcharge. That definition tracks the language of the former FCC Sports Rules, which applied only to a ''community unit'' located in whole or in part within a defined geographic area (''specified zone'') associated with a community in which a sports event occurs. *See* 47 CFR 76.111(a) (2014). The FCC has defined a ''community unit'' as: ''A cable television system, or portion of a cable television system, that operates or will operate within a separate and distinct community or municipal entity (including unincorporated communities within unincorporated areas and including single, discrete unincorporated areas).'' 47 CFR 76.5(dd) (2014). And it has defined ''specified zone'' as an area extending 35 miles from certain ''reference points'' in the FCC rules. 47 CFR 76.5(e) (2014). Consistent with Section 801(b)(2)(C) of the Act, only a covered cable system that, for purposes of the compulsory license is a ''Form 3'' system, *i.e.,* one whose royalties are specified by Section 111(d)(1)(B), would be subject to the Sports Surcharge.

Non-Network Programs. Only copyright owners of certain ''non-network programs'' may receive Section 111 royalties. 17 U.S.C. 111(d)(3)(A). Accordingly, a covered cable system must pay a Sports Surcharge only for the secondary transmission of distant signal ''non-network programs'' within the meaning of 17 U.S.C. 111(d)(3)(A).

Sports Events. The Sports Surcharge would apply only to the carriage of eligible professional sports events and eligible collegiate sports events involving teams that are members of JSC and, in the case of eligible collegiate sports events, would be subject to a cap on the number of events involving a particular team that would be subject to the surcharge during any accounting period.

Gross Receipts. The covered cable system would calculate the Sports Surcharge as a percentage of its ''gross receipts'' during the six-month accounting period in which the affected telecast or telecasts were carried. The term ''gross receipts'' has the same meaning as in 17 U.S.C. 111(d)(1)(B). Because Section 111 royalties are distributed only to copyright owners of certain distant signal programming (17 U.S.C. 111(d)(3)(A)), the covered cable system need not include in its gross receipts any revenues from subscribers who reside in the ''local service area'' of a broadcast station whose sports programming would otherwise have been subject to deletion under the former FCC Sports Rules. The term ''local service area'' is defined in 17 U.S.C. 111(f)(4). The Sports Rules also exempted from their scope community units (a) with fewer than 1,000 subscribers (47 CFR 76.111(f) (2014)); (b) located outside the ''specified zone'' of that community unit's local broadcast stations (*id.* § 76.111(a)); and (c) in which the affected signal was carried prior to March 31, 1972 (*id.* § 76.111(e)).

Accordingly, revenues derived from subscribers in the communities served by these community units also would be excluded in determining the amount of any Sports Surcharge.

Notification. The former FCC Sports Rules required the deletion of certain distant signal sports programming only when the cable system received timely advance notice from the holder of the local broadcast rights. *See* 47 CFR 76.111(b) & (c) (2014). Accordingly, a covered cable system will be required to pay the Sports Surcharge only if it receives timely notice as required by those rules. An example of a notice that the moving parties believe contained the requisite information is attached as Exhibit B to the Joint Motion. Finally, in the case of advance notices pertaining to eligible collegiate sports events, such notice must be accompanied by evidence confirming that the event is one to which the Sports Surcharge applies.

Effective Date. The moving parties agree that to facilitate a smooth transition, the surcharge will take effect as of January 1, 2018.

According to the moving parties, the royalty rate reflected in the proposed rule represents a negotiated compromise based upon current market and regulatory conditions as well as various other factors and does not represent the fair market value of any secondary transmission of a sports event. None of the moving parties believes that the proposed rule should be considered precedential in any way for any purpose. The moving parties recognize that the proposed rule, if adopted, may be reconsidered in 2020 and every five years thereafter. *See* 17 U.S.C. 804(b)(1)(B). The moving parties continue that if, for any reason, the Judges do not adopt the proposed rule, each of the moving parties reserves the right to demonstrate that the Judges should adopt a different rate adjustment to account for the FCC's repeal of its Sports Rules.

C. The Judges' Authority To Adopt the Proposed Rule

According to the moving parties, a key Congressional objective underlying the Judges' rate-setting authority is the promotion of voluntary settlements rather than litigation. Joint Motion at 5, citing H.R. Rep. No. 108–408 at 24 (2004) (referring to the legislative policy of ''facilitating and encouraging settlement agreements for determining royalty rates''); *id.* at 30 (same). Consistent with that objective, Section 801(b)(7)(A) of the Copyright Act authorizes the Judges to accept a settlement reached by ''some or all of the participants'' in a rate proceeding ''at any time during the proceeding.'' 17 U.S.C. 801(b)(7)(A). The moving parties note that the Judges need not conduct a ''full-fledged ratesetting'' before adopting a negotiated rate. Joint Motion at 5–6, citing H.R. Rep. No. 108–408 at 24 (2004). As the Judges have concluded:

> Section 801(b)(7)(A) of the Act is clear that the Judges have the authority to adopt settlements between some or all of the participants to a proceeding *at any time* during a proceeding so long as those that would be bound by those rates and terms are given an opportunity to comment. Requiring that the adoption of all proposed settlements wait until the conclusion of the proceeding would undercut the policy in Section 801(b)(7)(A) to promote negotiated settlements.

Digital Performance Right in Sound Recordings and Ephemeral Recordings, Docket No. 2014–CRB–0001–WR (2016–2020), 80 FR 58201, 58203 (Sept. 28, 2015) (emphasis in original); *accord, Digital Performance Right in Sound Recordings and Ephemeral Recordings,* Docket No. 2014–CRB–0001–WR (2016–2020), 80 FR 59588, 59589 (Oct. 2, 2015).

The Act requires that the Judges afford those who ''would be bound by the terms, rates or other determination'' in a settlement agreement ''an opportunity to comment on the agreement.'' 17 U.S.C. 801(b)(7)(A)(i). The moving parties note that the Copyright Royalty Board rules also contemplate that the Judges will ''publish the settlement in the **Federal Register** for notice and comment from those bound by the terms, rates, or other determination set by the agreement.'' 37 CFR 351.2(b)(2). The moving parties aver that the Judges must assess the ''reasonable[ness]'' of a voluntarily-negotiated rate only if *participants* to a proceeding who would be bound by the rate *objected* to it. Joint Motion at 6. The moving parties represent that they are the only parties participating in this proceeding, and they are urging the Judges to adopt the proposed Sports Surcharge. *Id.*

Interested parties may comment and object to any or all of the proposed regulations contained in this notice. Such comments and objections must be submitted no later than June 20, 2017.

How To Submit Comments

Interested members of the public must submit comments to only one of the following addresses. If not commenting by email or online, commenters must submit an original of their comments, five paper copies, and an electronic version on a CD.

Email: crb@loc.gov; or

Online: http://www.regulations.gov; or

U.S. mail: Copyright Royalty Board, P.O. Box 70977, Washington, DC 20024–0977; or

Overnight service (only USPS Express Mail is acceptable): Copyright Royalty Board, P.O. Box 70977, Washington, DC 20024–0977; or

Commercial courier: Address package to: Copyright Royalty Board, Library of Congress, James Madison Memorial Building, LM–403, 101 Independence Avenue SE., Washington, DC 20559–6000. Deliver to: Congressional Courier Acceptance Site, 2nd Street NE. and D Street NE., Washington, DC; or

Hand delivery: Library of Congress, James Madison Memorial Building, LM–401, 101 Independence Avenue SE., Washington, DC 20559–6000.

List of Subjects in 37 CFR Part 387

Copyright, Cable television, Royalties.

Proposed Regulations

For the reasons set forth in the preamble, and under the authority of chapter 8, title 17, United States Code, the Copyright Royalty Judges propose to amend 37 CFR chapter III as follows:

PART 387—ADJUSTMENT OF ROYALTY FEE FOR CABLE COMPULSORY LICENSE

■ 1. The authority citation for part 387 continues to read as follows:

Authority: 17 U.S.C. 801(b)(2), 803(b)(6).

■ 2. Amend § 387.2 by:

■ a. Redesignating paragraph (e) as paragraph (f) and

■ b. Adding a new paragraph (e), to read as follows:

§ 387.2 Royalty fee for compulsory license for secondary transmission by cable systems.

* * * * *

(e) *Sports programming surcharge.* Commencing with the first semiannual accounting period of 2018 and for each semiannual accounting period thereafter, in the case of a covered cable system filing Form SA3 as referenced in 37 CFR 201.17(d)(2)(ii) (2014), the royalty rate shall be, in addition to the amounts specified in paragraphs (a), (c) and (d) of this section, a surcharge of 0.025 percent of the covered cable system's gross receipts for the secondary transmission to subscribers of each live television broadcast of an eligible professional sports event or eligible collegiate sports event where the secondary transmission of such broadcast would have been subject to deletion under the FCC Sports Blackout Rule (47 CFR 76.111). For purposes of this paragraph:

(1) The term ''cable system'' shall have the same meaning as in 17 U.S.C. 111(f)(3);

(2) A ''covered cable system'':

(i) Is a ''community unit,'' as the comparable term is defined or interpreted in accordance with § 76.5(dd) of the rules and regulations of the Federal Communications Commission in effect as of November 23, 2014, 47 CFR 76.5(dd) (2014);

(ii) That is located in whole or in part within the 35-mile specified zone of a television broadcast station licensed to a community in which a sports event is taking place, provided that if there is no television broadcast station licensed to the community in which a sports event is taking place, the applicable specified zone shall be that of the television broadcast station licensed to the community with which the sports event or team is identified, or, if the event or local team is not identified with any particular community, the nearest community to which a television station is licensed; and

(iii) Whose royalty fee is specified by 17 U.S.C. 111(d)(1)(B);

(3) A ''television broadcast'' of a sports event must qualify as a ''non-network television program'' within the meaning of 17 U.S.C. 111(d)(3)(A);

(4) An ''eligible professional sports event'' is a game involving teams that are members of the National Football League, Major League Baseball, the National Hockey League, the National Basketball Association, or the Women's National Basketball Association;

(5) An ''eligible collegiate sports event'' is a game involving a football or men's basketball team that is a member of Division I of the National Collegiate Athletic Association on whose behalf the FCC Sports Blackout Rule (47 CFR 76.111) was invoked during the period from January 1, 2012 to November 23, 2014;

(6) The term ''specified zone'' shall be defined as the comparable term is defined or interpreted in accordance with Section § 76.5(e) of the rules and regulations of the Federal Communications Commission in effect as of November 23, 2014, 47 CFR 76.5(e) (2014);

(7) The term ''gross receipts'' shall have the same meaning as in 17 U.S.C. 111(d)(1)(B) and shall include all gross receipts of the covered cable system during the semiannual accounting period except those from the covered cable system's subscribers who reside in:

(i) The local service area of the primary transmitter, as defined in 17 U.S.C. 111(f)(4);

(ii) Any community where the cable system has fewer than 1000 subscribers;

(iii) Any community located wholly outside the specified zone referenced in paragraph (e)(1) above; and

(iv) Any community where the primary transmitter was lawfully carried prior to March 31, 1972;

(8) The term ''FCC Sports Blackout Rule'' refers to § 76.111 of the rules and regulations of the Federal Communications Commission in effect as of November 23, 2014, 47 CFR76.111 (2014);

(9) Subject to paragraph (e)(10) of this section, the surcharge will apply to the secondary transmission of the primary transmission of a live television broadcast of a sports event only where the holder of the broadcast rights to the sports event or its agent has given the covered cable system advance written notice regarding such secondary transmission as required by the former § 76.111(b) of the rules and regulations of the Federal Communications Commission in effect as of November 23, 2014, 47 CFR 76.111(b) & (c) (2014); and

(10) In the case of collegiate sports events:

(i) The holder of the broadcast rights or its agent also must attest that the specific team on whose behalf the surcharge notice is given meets the eligibility condition specified in paragraph (e)(5) of this section and provide documentary evidence in support thereof; and

(ii) The number of events involving a specific team as to which a covered cable system must pay the surcharge will be no greater than the largest number of events as to which the Sports Blackout Rule (47 CFR 76.111) was invoked in a particular geographic area by such team during any one of the accounting periods occurring between January 1, 2012 and November 23, 2014.

* * * * *

Dated: May 23, 2017.

Suzanne M. Barnett,

Chief Copyright Royalty Judge.

[FR Doc. 2017–10970 Filed 5–26–17; 8:45 am]

BILLING CODE 1410–72–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2016–0783; FRL–9961–03–Region 3]

Approval and Promulgation of Air Quality Implementation Plans; Maryland; Regional Haze Best Available Retrofit Technology Measure for Verso Luke Paper Mill

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a state implementation plan (SIP) revision submitted by the State of Maryland. This revision pertains to a best available retrofit technology (BART) alternative measure for the Verso Luke Paper Mill (the Mill) submitted by the State of Maryland. Maryland requests new emissions limits for sulfur dioxide (SO_2) and nitrogen oxides (NO_X) for power boiler 24 at the Mill and a SO_2 cap on tons emitted per year for power boiler 25, while also requesting removal of the specific BART emission limits for SO_2 and NO_X from power boiler 25. The alternative BART measure will provide greater reasonable progress for SO_2 and NO_X for regional haze by resulting in additional emission reductions of 2,055 tons per year (tpy) of SO_2 and an additional 804 tpy of NO_X than would occur through the previously approved BART measure for power boiler 25, a BART subject source. This action is being taken under the Clean Air Act (CAA).

DATES: Written comments must be received on or before June 29, 2017.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R03–OAR–2016–0783 at *http://www.regulations.gov,* or via email to *rehn.brian@epa.gov.* For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the Web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Irene Shandruk, (215) 814–2166, or by email at *shandruk.irene@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Regional haze is impairment of visual range or colorization caused by air pollution, principally by fine particulate matter ($PM_{2.5}$), produced by numerous sources and activities, located across a broad regional area. The sources include, but are not limited to, major and minor stationary sources, mobile sources, and area sources including non-anthropogenic sources. These sources and activities may emit $PM_{2.5}$ (*e.g.*, sulfates, nitrates, organic carbon, elemental carbon, and soil dust), and their precursors (*e.g.*, SO_2, NO_X, and in some cases, ammonia and volatile organic compounds). Fine particulate matter can also cause serious health effects and mortality in humans, and contributes to environmental effects such as acid deposition and eutrophication.

In the CAA Amendments of 1977, Congress established a program to protect and improve visibility in the Nation's national parks and wilderness areas. *See* CAA section 169A. Congress amended the visibility provisions in the CAA in 1990 to focus attention on the problem of regional haze. *See* CAA section 169B. EPA promulgated regional haze regulations (RHR) in 1999 to implement sections 169A and 169B of the CAA. These regulations require states to develop and implement plans to ensure reasonable progress towards improving visibility in mandatory Class I Federal areas.[1] *See* 64 FR 35714 (July 1, 1999); *see* also 70 FR 39104 (July 6, 2005) and 71 FR 60612 (October 13, 2006).

The RHR requires each state's regional haze implementation plan to contain emission limitations representing best available retrofit technology (BART) and schedules for compliance with BART for each source subject to BART, unless the state demonstrates that an emissions trading program or other alternative measure will achieve greater reasonable progress toward natural visibility conditions. The requirements for alternative measures are established at 40 CFR 51.308(e)(2).

In addition to demonstrating greater reasonable progress towards improving visibility, among other things, the RHR also requires that all necessary emission reductions from a BART alternative take place during the period of the first long-term strategy for regional haze (*i.e.,* 2008–2018) and requires a demonstration that the emission reductions from the alternative measure will be surplus to the reductions from measures adopted to meet CAA requirements as of the baseline date of the SIP. 40 CFR 51.308(e)(2). The baseline date for regional haze SIPs is 2002. *See* Memorandum from Lydia Wegman and Peter Tsirigotis, 2002 Base Year Emission Inventory SIP Planning: 8-hr Ozone, $PM_{2.5,}$ and Regional Haze Programs, November 8, 2002. *http://www.epa.gov/ttn/oarpg/t1/memoranda/2002bye-gm.pdf. See* 79 FR 56322, 56328–29 (September 19, 2014) (proposing approval of alternative BART for Arizona SIP).

Maryland's regional haze SIP was submitted by the Maryland Department of the Environment (MDE) on February 13, 2012 and approved by EPA in June 2012. *See* 77 FR 39938 (June 13, 2012). This regional haze SIP included, among other measures, BART emission limits for power boiler 25 at the Verso Luke Paper Mill because power boiler 25 was a BART subject source. The BART emission limits which EPA had approved in June 2012 for power boiler 25 were 0.44 pounds per million British thermal units (lb/MMBtu) for SO_2, a 30-day rolling limit of 0.40 lb/MMBtu for NO_X, and 0.07 lb/MMBtu for particulate matter (PM).[2]

II. Summary of SIP Revision and EPA's Analysis

On November 28, 2016, the State of Maryland through the MDE submitted to EPA a revision to the Maryland regional haze SIP consisting of a BART alternative measure for Verso Luke Paper Mill. The SIP revision seeks to revise the BART strategy for the Verso Luke Paper Mill, including specifically the emission limits for power boiler 25 for SO_2 and NO_X.

MDE states that Verso Luke Paper Mill is eliminating the use of coal as a source of fuel used in power boiler 24 and replacing it with natural gas. MDE's SIP revision submittal seeks alternative BART emission limits for SO_2 and NO_X for power boiler 24, and seeks to remove the previously approved BART requirements for SO_2 and NO_X from power boiler 25 and replace them with new, alternative emission requirements. Specifically, for power boiler 24 at the Mill, Maryland's SIP revision seeks to establish (1) a new BART emission limit of 0.28 lb/MMBtu, measured as an hourly average for SO_2; (2) a new BART emission limit of 0.4 lb/MMBtu, measured on a 30-day rolling average for NO_X; and (3) associated monitoring, recordkeeping and reporting requirements. For power boiler 25, this SIP revision seeks to: (1) Remove the SO_2 BART emission limit approved by EPA in June 2012 and seeks to establish an annual SO_2 cap of 9,876 tons measured on a 12-month rolling average; (2) remove the NO_X BART emission limit but retain existing requirements under COMAR 26.11.14.07 applicable to the power boiler; and (3) impose associated monitoring, recordkeeping, and reporting requirements. The BART requirements for PM approved by EPA in June 2012 on power boiler 25 would remain unchanged on power boiler 25.

MDE's analysis demonstrates that the alternative SO_2 BART measure (*i.e.* new SO_2 emission limit on power boiler 24; removal of approved SO_2 BART limit and new annual SO_2 cap on power boiler 25) would provide an additional 2,055 tpy in SO_2 emissions reductions (or 20% more emission reductions) than the tons per year to be reduced by the currently approved BART requirements on power boiler 25. MDE's analysis also shows that the alternative NO_X BART measure on power boiler 24 (with removed BART limit on power boiler 25) would provide an additional 804 tpy in NO_X emission reductions than the currently approved BART requirements on power boiler 25. Finally, MDE's analysis shows that the alternative NO_X BART measure on power boiler 24 would provide a 227 tons per ozone season NO_X benefit than would the currently approved BART requirements on power boiler 25.

Thus, with the additional SO_2 and NO_X emission reductions per year, EPA finds that the alternative SO_2 and NO_X BART emission limits on power boiler 24 (with the SO_2 tpy cap on power boiler 25) will provide for greater reasonable progress toward achieving natural visibility conditions than would be achieved through the currently approved BART emission limits on power boiler 25. EPA also finds the emission reductions from the new limits on power boiler 24 (and SO_2 tpy cap on power boiler 25) have been implemented before the end of the first regional haze planning period (*i.e.*, 2018). In addition, the emission reductions from the proposed BART emission limits for power boiler 24 for

[1] While Maryland has no Class I areas within its borders, there are several Class I areas nearby including Dolly Sods Wilderness Area and Otter Creek Wilderness Area in West Virginia; Brigantine Wilderness in New Jersey; Great Smoky Mountains National Park in North Carolina and Tennessee; James River Face and Shenandoah National Park in Virginia; Linville Gorge in North Carolina; and Mammoth Cave National Park in Kentucky.

[2] While EPA's approval of Maryland's regional haze SIP in 2012 included a PM limit for power boiler 25 of 0.07 lb/MMBtu, Maryland is not seeking to revise that PM limit for BART on power boiler 25 and thus the PM limit of 0.07 lb/MMBtu remains on power boiler 25. *See* 77 FR 39938. This rulemaking action pertains to adjusting the BART limits for SO_2 and NO_X for power boiler 25.

SO_2 and NO_X are surplus to reductions resulting from CAA requirements as of the baseline date of the SIP or 2002. More information on Maryland's SIP submittal and on EPA's analysis of emission reductions from the alternative BART measure (including discussion of the reductions as implemented and surplus) is provided in the Technical Support Document (TSD) which is available online at *www.regulations.gov* for this rulemaking. Therefore, EPA finds Maryland's SIP revision for the alternative BART emission limits for SO_2 and NO_X for power boiler 24 (and SO_2 cap on power boiler 25) meet the requirements for an alternative BART measure in accordance with CAA section 169A and as established at 40 CFR 51.308(e)(2) in the RHR.

In addition, EPA finds that this SIP revision, which seeks to remove BART SO_2 and NO_X emission limits for power boiler 25 from the approved Maryland regional haze SIP, meets the requirements of CAA section 110(l) and will not interfere with attainment and maintenance of any NAAQS, reasonable further progress or any other applicable CAA requirement. EPA finds that Maryland has demonstrated that additional SO_2 and NO_X emission reductions will be achieved each year with the alternative BART emission limits on power boiler 24 and SO_2 tpy cap on power boiler 25, and as such, no interference with reasonable further progress or any NAAQS is expected. As discussed previously, the alternative BART emission limits on power boiler 24 meet other CAA requirements in section 169A and 40 CFR 51.308(e)(2). More information on Maryland's SIP submittal and demonstration of greater reasonable progress from the alternative BART measure is provided in the TSD under Docket ID No. EPA–R03–OAR–2016–0783 which is available online at *www.regulations.gov* for this rulemaking. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

III. Proposed Action

EPA has reviewed Maryland's SIP revision seeking an alternative BART measure and emission limits for power boiler 24 (and SO_2 tpy cap on power boiler 25) compared to EPA's previously federally enforceable BART limits for SO_2 and NO_X on power boiler 25. EPA finds that the alternative BART measure for Verso Luke Paper Mill with SO_2 and NO_X limits as alternative BART on power boiler 24 will result in greater emission reductions in SO_2 and NO_X from the facility and provide greater reasonable progress and greater visibility improvement than the currently approved BART measure which applies solely to power boiler 25. Specifically, the conversion of power boiler 24 from a coal-burning boiler to a natural gas power boiler with new emission limits contained within a federally enforceable permit is expected to result in fewer SO_2 and NO_X emissions from the Mill. MDE's analysis shows that in comparison to the currently approved BART requirements on power boiler 25, the alternative BART measure on power boiler 24 of 0.28 lb/MMBtu, measured as an hourly average for SO_2 and 0.4 lb/MMBtu, measured on a 30-day rolling average for NO_X with the 9,876 SO_2 cap on power boiler 25, would provide (1) an additional 2,055 tpy in SO_2 emissions reductions; (2) an additional 804 tpy in NO_X emission reductions; and (3) a 227 tons per ozone season NO_X benefit. In addition, EPA finds that the alternative BART emission limits will result in reductions surplus to CAA requirements as of 2002 and will be implemented prior to the end of 2018. EPA proposes to approve the November 28, 2016 SIP submittal as it meets the requirements in CAA section 169A and in 40 CFR 51.308(e)(2). EPA also proposes to incorporate by reference the permit requirements for power boilers 24 and 25 issued August 17, 2016 for the Mill, which include alternative emission requirements, as well as monitoring, recordkeeping and reporting requirements.

EPA also finds that this SIP revision meets the requirements of CAA section 110(l) and will not interfere with attainment and maintenance of any NAAQS, reasonable further progress or any other applicable CAA requirement. Therefore, EPA proposes to approve Maryland's November 28, 2016 SIP revision submittal as it meets CAA requirements.

IV. Incorporation by Reference

In this proposed rule, EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is proposing to incorporate by reference the permit requirements for power boilers 24 and 25 issued August 17, 2016 for Verso Luke Paper Mill, which include alternative emission requirements, as well as monitoring, recordkeeping and reporting requirements for power boilers 24 and 25 as discussed in section II of this notice of proposed rulemaking and the TSD. EPA has made, and will continue to make, these materials generally available through *http://www.regulations.gov* and/or at the EPA Region III Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

V. Statutory and Executive Order Reviews

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

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

In addition, this proposed rule, pertaining to alternative BART emission limits for Verso Luke Paper Mill, does

not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

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

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

Dated: March 6, 2017.

Cecil Rodrigues,

Acting Regional Administrator, Region III.

[FR Doc. 2017–10913 Filed 5–26–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2016–0267; FRL–9962–74–Region 3]

Approval and Promulgation of Air Quality Implementation Plans; District of Columbia; Regional Haze Five-Year Progress Report State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing approval of a revision to the District of Columbia State Implementation Plan (SIP) submitted by the District of Columbia (the District) through the District of Columbia Department of Energy and Environment (DOEE). The District's SIP revision addresses requirements of the Clean Air Act (CAA) and EPA's rules that require states to submit periodic reports describing progress towards reasonable progress goals (RPGs) established for regional haze and a determination of the adequacy of the state's existing SIP addressing regional haze (regional haze SIP). EPA is proposing approval of the District's SIP revision because EPA has determined that it satisfactorily addresses the progress report and adequacy determination requirements for the first implementation period for regional haze. This action is being taken under the CAA.

DATES: Written comments must be received on or before June 29, 2017.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R03–OAR–2016–0267 at *https://www.regulations.gov,* or via email to *rehn.brian@epa.gov.* For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Sara Calcinore, (215) 814–2043, or by email at *calcinore.sara@epa.gov.*

SUPPLEMENTARY INFORMATION: On March 2, 2016, the District submitted, as a SIP revision (progress report SIP), a report on progress made for visibility improvement in the first implementation period. This progress report SIP included a determination that the existing regional haze SIP requires no substantive revision to achieve the established regional haze visibility improvement and emissions reduction goals.

I. Background

States are required to submit, in the form of a SIP revision, a progress report that evaluates progress towards the RPGs for each mandatory Class I federal area within the state and in each mandatory Class I federal area outside the state which may be affected by emissions from within the state. *See* 40 CFR 51.308(g). States are also required to submit, at the same time as the progress report, a determination of the adequacy of the state's existing regional haze SIP. *See* 40 CFR 51.308(h). The progress report SIP is due five years after submittal of the initial regional haze SIP. On October 27, 2011, DOEE submitted its first regional haze SIP in accordance with the requirements of 40 CFR 51.308. On February 2, 2012 (77 FR 5191), EPA approved the District's first regional haze SIP. The District submitted its first progress report SIP on March 2, 2016 prior to the October 27, 2016 due date.

II. Requirements for the Regional Haze Progress Report SIPs and Adequacy Determinations

Under 40 CFR 51.308(g), states must submit a regional haze progress report as a SIP revision that addresses, at a minimum, the seven elements found in 40 CFR 51.308(g). As described in further detail in section III of this rulemaking action, to meet the progress report requirement, 40 CFR 51.308(g) requires: (1) A description of the status of measures in the approved regional haze SIP; (2) a summary of emissions reductions achieved; (3) an assessment of visibility conditions for each Class I area in the state; (4) an analysis of changes in emissions from sources and activities within the state; (5) an assessment of any significant changes in anthropogenic emissions within or outside the state that have limited or impeded progress in Class I areas impacted by the state's sources; (6) an assessment of the sufficiency of the approved regional haze SIP; and (7) a review of the state's visibility monitoring strategy.

Under 40 CFR 51.308(h), states are required to submit, at the same time as the progress report SIP, a determination of the adequacy of their existing regional haze SIP and to take one of four possible actions based on information in the progress report. As described in further detail in section III of this rulemaking action, to meet the adequacy determination requirement, 40 CFR 51.308(h) requires states to either: (1) Submit a negative declaration to EPA that no further substantive revision to the state's existing regional haze SIP is needed; (2) provide notification to EPA (and other state(s) that participated in the regional planning process) if the state determines that its existing regional haze SIP is or may be inadequate to ensure reasonable progress at one or more Class I areas due to emissions from sources in other state(s) that participated in the regional planning process, and collaborate with these other state(s) to develop additional strategies to address deficiencies; (3) provide notification with supporting information to EPA if the state determines that its existing regional haze SIP is or may be inadequate to ensure reasonable progress at one or

more Class I areas due to emissions from sources in another country; or (4) revise its regional haze SIP to address deficiencies within one year if the state determines that its existing regional haze SIP is or may be inadequate to ensure reasonable progress in one or more Class I areas due to emissions from sources within the state.

III. The District's Regional Haze Progress Report and Adequacy Determination and EPA's Analysis

A. Regional Haze Progress Report SIPs

This section summarizes each of the seven elements that must be addressed by the progress report under the provisions of 40 CFR 51.308(g); how the District's progress report SIP addressed each element; and EPA's analysis and proposed determination as to whether the District satisfied each element.

The provisions under 40 CFR 51.308(g)(1) require a description of the status of implementation of all measures included in the regional haze SIP for achieving RPGs for Class I areas both within and outside the state. The District evaluated the status of all measures included in its 2011 regional haze SIP in accordance with the requirements under 40 CFR 51.308(g)(1). The measures included applicable federal programs (*e.g.,* mobile source rules, maximum achievable control technology (MACT) standards, and federal and state control strategies for electric generating units (EGUs) such as the Clean Air Interstate Rule (CAIR), Cross State Air Pollution Rule (CSAPR), and state regulations for EGUs). The District's summary includes a discussion of the benefits associated with each measure and quantifies those benefits wherever possible. The progress report SIP also discusses the status and implementation of the best available retrofit technology (BART) determinations. The District's 2011 regional haze SIP submittal addressed its two BART eligible units at one facility through a permit condition requiring the shut down of each unit by December 17, 2012. The District's progress report SIP confirms that these units have been shutdown.[1] Finally, the District's progress report SIP discusses implementation of additional regulations and requirements developed after the original regional haze SIP was prepared. Some of these regulations and requirements include the District's low sulfur fuel oil regulations and additional air toxics and hazardous air pollution regulations which became applicable after the District's regional haze SIP was submitted.

EPA proposes to find that the District's analysis adequately addresses the provisions under 40 CFR 51.308(g)(1). In the regional haze SIP, the District documents the implementation status of measures from its regional haze SIP and describes additional measures that came into effect since the District's regional haze SIP was completed, including new regulations and various federal measures. EPA proposes to conclude that the District has adequately addressed the status of control measures in its regional haze SIP, as required by the provisions under 40 CFR 51.308(g)(1), by discussing the status of key measures that were relied upon in the first implementation period.

The provisions under 40 CFR 51.308(g)(2) require the state to provide a summary of the emissions reductions achieved in the state through the measures subject to the requirements under 40 CFR 51.308(g)(1). The district provided an assessment of the following visibility impairing pollutants: sulfur dioxide (SO_2), nitrogen oxides (NO_X), fine particulate matter ($PM_{2.5}$), coarse particulate matter (PM_{10}), volatile organic compounds (VOC), and ammonia (NH_3). The Mid-Atlantic/Northeast Visibility Union (MANE–VU), the regional planning organization (RPO) of which the District is a member, had determined for the initial round of regional haze SIPs that the largest contributor to visibility impairment in the Mid-Atlantic and Northeastern states is SO_2. Therefore, the District provided additional information on SO_2 emissions from stationary sources. Overall, the District states that emissions of visibility impairing pollutants have decreased significantly. Emissions for all of the analyzed visibility impairing pollutants provided for year 2011 (the last year for which a comprehensive national emissions inventory (NEI) is available) demonstrate large decreases from the District's baseline emissions in 2002. In addition to the 2002 and 2011 emissions data which is presented in Table 1, stationary source SO_2 emissions are also presented in Table 2 for the same years. Overall, the District demonstrated emissions reductions in visibility impairing pollutants from the 2002 baseline emissions to the 2011 NEI emissions for the same pollutants (*see* Table 1 below); the District also demonstrated emissions reductions of SO_2 emissions from stationary sources (*see* Table 2 below); therefore, EPA proposes to conclude that the District has adequately addressed the requirements under 40 CFR 51.308(g)(2) with its summary of large emissions reductions of visibility imparing pollutants.

TABLE 1—POLLUTANT EMISSIONS

[Tons per year]

	2002 emissions	2011 emissions
SO_2	2,946	1,829
PM_{10}	6,986	3,410
$PM_{2.5}$	1,613	1,361
NO_X	14,897	9,418
VOC	13,469	9,195
NH_3	418	330

[1] In summary, the District had no BART subject sources because its only BART eligible units received a permit to shut down and subsequently did in fact permanently retire.

TABLE 2—POINT SOURCE SO_2 EMISSIONS

[Tons per year]

2002 emissions	2011 emissions
963	788

The provisions under 40 CFR 51.308(g)(3) require that states with Class I areas provide the following information for the most impaired and least impaired days for each area, with values expressed in terms of five-year averages of these annual values: [2] (1) Current visibility conditions; (2) the difference between current visibility conditions and baseline visibility conditions; and (3) the change in visibility impairment over the past five years. The District does not have any Class I areas; therefore, no visibility data is required to be analyzed for this element.

The provisions under 40 CFR 51.308(g)(4) require an analysis tracking emissions changes of visibility-impairing pollutants from the state's sources by type or category over the past five years based on the most recent updated emissions inventory. In its progress report SIP, the District presents emissions inventories for 2002, 2008, and 2011, as well as projected inventories for 2018, in accordance with the requirements of 40 CFR 51.308(g)(4). The pollutants inventoried include VOCs, NO_X, $PM_{2.5}$, PM_{10}, NH_3, and SO_2. The emissions inventories include the following source classifications: Stationary point and area sources, off-road and on-road mobile sources. The inventories that are compared for the five year span are 2008 to 2011. Although this time period does not encompass five years, the 2008 and 2011 inventories were the only comprehensive inventories available at the time the District prepared its progress report SIP revision. Table 3 presents the 2008, 2011, and projected 2018 emissions data. Comparison of 2008 and 2011 data shows decreases in all of the visiblitity imparing pollutants except for SO_2. But comparison of 2008, 2011, and projected 2018 data shows that there is an overall downward trend in SO_2 emissions. Additionally, the SO_2 emisions from point sources within the District have decreased since the 2002 base year. Table 4 presents the point source SO_2 emissions showing an overall downward trend in emissions since 2002.

TABLE 3—POLLUTANT EMISSIONS

[Tons per year]

	2008 emissions	2011 emissions	2018 emissions
SO_2	1,273	1,829	769
PM_{10}	5,211	3,410	1,999
$PM_{2.5}$	1,694	1,361	508
NO_X	13,205	9,418	6,491
VOC	11,815	9,195	8,247
NH_3	354	330	475

TABLE 4—POINT SOURCE SO_2 EMISSIONS

[Tons per year]

2002 emissions	2008 emissions	2011 emissions	2018 emissions
963	343	788	564

EPA proposes to conclude that the District has adequately addressed the requirements under 40 CFR 51.308(g)(4). While, ideally, the five-year period to be analyzed for emissions inventory changes is the five-year time period between submittal of the current regional haze SIP and the progress report, availability of quality-assured data may not always correspond with this period. Therefore, EPA believes that there is some flexibility in the five-year time period states can select for tracking emissions changes to meet this requirement where more recent data is not available. EPA believes that the District presented an adequate analysis tracking emissions trends for the key visibility impairing pollutant, SO_2, since 2008 to reflect trends over an approximate five year period (from when initial regional haze SIPs were due to EPA under the CAA in 2007) using the emissions data available to the District. Even though there is an increase in SO_2 emissions between 2008 and 2011 within the District, these emissions are largely due to an increased combustion of fuel oil in the District. However, the SO_2 emissions are projected to decrease even further by 2018 as compared to the baseline 2002 emissions, as the District has implemented regulations to lower the sulfur content of fuel oil combusted in the District.[3] EPA notes that with the closure of the District's only EGUs at Pepco's Benning Road, the District did not have access to further SO_2 or NO_X emissions data from EPA's Clean Air Markets Division which could have supplemented inventory analysis. EPA proposes to find that the District provided sufficient information to support the representativeness of the five-year period it evaluated. EPA proposes to find that the District has adequately addressed the provisions under 40 CFR 51.308(g)(4) tracking emissions changes of visibility-impairing pollutants from the state's sources by type or category over five years.

The provisions under 40 CFR 51.308(g)(5) require an assessment of any significant changes in anthropogenic emissions within or outside the state that have occurred over the past five years that have limited or impeded progress in reducing pollutant

[2] The ''most impaired days'' and ''least impaired days'' in the regional haze rule refers to the average visibility impairment (measured in deciviews) for the twenty percent of monitored days in a calendar year with the highest and lowest amount of visibility impairment, respectively, averaged over a five-year period. 40 CFR 51.301.

[3] The District submitted its lower sulfur fuel oil regulations to EPA as a SIP revision on January 20, 2016. Because these regulations are already effective within the District, EPA expects SO_2 emissions from combustion of fuel oil to decrease by 2018.

emissions and improving visibility in Class I areas impacted by the state's sources. The District's sources do not impact any Class I areas as was stated in the District's first regional haze SIP revision, which EPA approved on February 2, 2012 (77 FR 5191).[4] In addition, the District does not have any Class I areas. Emissions reductions are discussed in EPA's analysis of the District's submittal to meet the provisions of 40 CFR 51.308(g)(4). Because the District demonstrated that there are no significant changes in emissions of visibility impairing pollutants that would impede visibility improvement in Class I areas and demonstrated emissions decreases in key visibility impairing polltuants by 2018 and because no Class I areas are impacted by emissions from within the District, EPA proposes to find that the District has adequately addressed the provisions under 40 CFR 51.308(g)(5).

The provisions under 40 CFR 51.308(g)(6) require an assessment of whether the current regional haze SIP is sufficient to enable the state, or other states, to meet the RPGs for Class I areas affected by emissions from the state. The District does not contain any Class I areas, and emissions from the District were found to not impact any Class I areas.[5] As discussed previously, emissions of all visibility impairing pollutants have decreased since 2002. As discussed in the District's progress report SIP, further reductions in visibility impairing pollutants, including SO_2 which is the primary contributor to visbility impairment in the Mid-Atlantic and Northeast states, are expected by the District from implementation of further pollution reducing measures affecting mobile sources and stationary sources including MACT standards and mobile source regulations. Although there are slight increases in NH_3, there is an overall downward trend when looking at all visibility impairing pollutants, especially SO_2, which was determined to be the primary contributor to visibility impairment in the District's first regional haze SIP. Therefore, EPA proposes to conclude that the District has addressed 40 CFR 51.308(g)(6) because its current regional haze SIP is sufficient to enable other nearby states to meet their RPGs, particularly as the District was not identified as contributing to any impairment in such Class I areas.

The provisions under 40 CFR 51.308(g)(7) require a review of a state's visibility monitoring strategy for visibility impairing pollutants and an assessment of whether any modifications to the monitoring strategy are necessary. The District does not contain any Class I areas. In its progress report SIP, the District states that there are no Class I areas within its boundaries, and therefore it is not required to fulfill this provision. EPA proposes to conclude that the District is exempt from addressing the requirements of 40 CFR 51.308(g)(7), as that requirement is solely for states with Class I areas in their borders.

B. Determination of Adequacy of Existing Regional Haze Plan

Under 40 CFR 51.308(h), states are required to take one of four possible actions based on the information gathered and conclusions made in the progress report SIP. The following section summarizes: The action taken by the District under 40 CFR 51.308(h); the District's rationale for the selected action; and EPA's analysis and proposed determination regarding the District's action.

In its progress report SIP, the District submitted a negative declaration that it had determined that the existing regional haze SIP requires no further substantive revision to achieve the RPGs for Class I areas (as the District does not have any Class I areas nor does it impact any Class I areas). The basis for the District's negative declaration is the findings from the progress report (as discussed in section III of this rulemaking action), including the findings that: SO_2 emissions from sources within the District have decreased; SO_2 emissions have been identified as the primary contributor to visbility impairment in the Mid-Atlantic and Northeast states; emissions of other visibility impairing pollutants (including NO_X, VOC, PM_{10}, $PM_{2.5}$) demonstrate a decreasing trend; and additional control measures not relied upon in the District's regional haze SIP, which are expected to yield further reduction in emissions of visibility impairing pollutants, have been and are being implemented.[6]

Thus, EPA proposes to conclude that the District adequately addressed the requirements of 40 CFR 51.308(h), because decreasing emissions of visibility impairing pollutants, lack of Class I area impact from pollution sources within the District, and progress of regional Class I areas near the District towards RPGs for 2018 indicate that no further revisions to the District's SIP are necessary for this first regional haze implementation period. EPA solicits comments on this proposal.

IV. EPA's Proposed Action

EPA is proposing to approve the District's regional haze five-year progress report SIP revision, submitted on March 2, 2016, as meeting the applicable regional haze requirements set forth in 40 CFR 51.308(g) and 51.308(h).

V. Incorporation by Reference

In this proposed rulemaking, EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is proposing to incorporate by reference the District of Columbia's progress report SIP. EPA has made, and will continue to make, these materials generally available through *http://www.regulations.gov* and/or at the EPA Region III Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

VI. Statutory and Executive Order Reviews

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

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- does not impose an information collection burden under the provisions

[4] EPA notes that no state identified sources within the District as contributing to visibility impairment in Class I areas within their borders. *See* 77 FR 5191.

[5] The District's progress report SIP did provide data for the Brigantine federal Class I area in New Jersey which showed Brigantine is on track to meet or exceed its RPGs by 2018. However, emissions from the District were not identified as contributing to visibility impairment in Brigantine and such information from the District was provided for illustrative purposes.

[6] EPA notes that in reviewing progress report SIP submissions from other states, including Delaware, West Virginia and Virginia, the Agency has found that Class I areas in the Mid-Atlantic and Northeast region are on track to reach RPGs for the first implementation period, which ends in 2018. *See* 79 FR 25506 (May 5, 2014) (approval of Delaware's progress report SIP); 79 FR 25019 (May 2, 2014) (approval of Virginia's progress report SIP); and 80 FR 32019 (June 5, 2015) (approval of West Virginia's progress report SIP).

of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

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

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

• does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

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

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

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

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

In addition, this proposed rule, which proposes approval of the District's progress report SIP, does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

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

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

Dated: May 5, 2017.

Cecil Rodrigues,

Regional Administrator, Region III.

[FR Doc. 2017–10910 Filed 5–26–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R10–OAR–2015–0333; FRL–9962–50–Region 10]

Approval and Promulgation of Implementation Plans; Oregon: Permitting and General Rule Revisions; Reopening of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; reopening of comment period.

SUMMARY: The Environmental Protection Agency (EPA) is reopening the public comment period on the proposed rule ''Approval and Promulgation of Implementation Plans; Oregon: Permitting and General Rule Revisions'' published March 22, 2017. A commenter requested more time to review the proposal and prepare comments. In response, the EPA is providing an additional 30 days for public comment.

DATES: For the proposed rule published March 22, 2017 (82 FR 14654), comments must be received on or before June 29, 2017.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R10–OAR–2015–0333, at *https://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *regulations.gov.* The EPA may publish any comment received to its public docket. Do not electronically submit Confidential Business Information (CBI) or other information that is restricted from disclosure by statute. Please note that multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Kristin Hall, Air Planning Unit, Office of Air and Waste (OAW–150), Environmental Protection Agency—Region 10, 1200 Sixth Ave. Seattle, WA 98101; telephone number: (206) 553–6357; email address: *hall.kristin@epa.gov.*

SUPPLEMENTARY INFORMATION: On March 22, 2017, the EPA published a proposed rule to approve changes to the Oregon State Implementation Plan (82 FR 14654). The changes, submitted by the State of Oregon on April 22, 2015, account for new federal requirements for fine particulate matter, update the major and minor source pre-construction permitting programs, and add state level air quality designations. The changes also address public notice procedures for informational meetings, and tighten emission standards for dust and smoke. A commenter requested more time to review the proposal and prepare comments. In response to this request, the EPA is reopening the public comment period.

Dated: April 26, 2017.

Michelle L. Pirzadeh,

Acting Regional Administrator, Region 10.

[FR Doc. 2017–10935 Filed 5–26–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA–R04–OAR–2017–0086; FRL– 9962–24–Region 4]

Air Plan Approval and Air Quality Designation; TN; Redesignation of the Knoxville 2006 24-Hour $PM_{2.5}$ Nonattainment Area to Attainment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: On December 20, 2016, Tennessee, through the Tennessee Department of Environment and Conservation (TDEC), submitted a request for the Environmental Protection Agency (EPA) to redesignate the Knoxville-Sevierville-La Follette, TN fine particulate matter ($PM_{2.5}$) nonattainment area (hereinafter referred to as the ''Knoxville Area'' or ''Area'') to attainment for the 2006 24-hour $PM_{2.5}$ national ambient air quality standards (NAAQS) and to approve a state implementation plan (SIP) revision containing a maintenance plan and a reasonably available control measures (RACM) determination for the Area. EPA is proposing to approve Tennessee's RACM determination for the Knoxville Area and incorporate it into the SIP; to approve Tennessee's plan for maintaining the 2006 24-hour

$PM_{2.5}$ NAAQS for the Knoxville Area (maintenance plan), including the associated motor vehicle emission budgets (MVEBs) for nitrogen oxides (NOx) and $PM_{2.5}$ for the years 2014 and 2028, and incorporate it into the SIP; and to redesignate the Knoxville Area to attainment for the 2006 24-hour $PM_{2.5}$ NAAQS.

DATES: Comments must be received on or before June 29, 2017.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–OAR–2017–0086 at *http://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Sean Lakeman of the Air Regulatory Management Section, in the Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. Sean Lakeman may be reached by phone at (404) 562–9043, or via electronic mail at *lakeman.sean@epa.gov.*

SUPPLEMENTARY INFORMATION:

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I. What are the actions EPA is proposing to take?

EPA is proposing to take the following separate but related actions: (1) To approve Tennessee's RACM determination for the Knoxville Area pursuant to Clean Air Act (CAA or Act) sections 172(c)(1) and 189(a)(1)(C) and incorporate it into the SIP; (2) to approve Tennessee's plan for maintaining the 2006 24-hour $PM_{2.5}$ NAAQS (maintenance plan), including the associated MVEBs for the Knoxville Area, and incorporate it into the SIP; and (3) to redesignate the Knoxville Area to attainment for the 2006 24-hour $PM_{2.5}$ NAAQS. EPA has already made its determination on the adequacy of the 2014 and 2028 MVEBs for the Knoxville Area for transportation conformity purposes and notified the public of that determination through publication of the Notice of Adequacy on March 10, 2017. *See* 82 FR 13347. These MVEBs were effective on March 27, 2017.[1] The Knoxville Area consists of Anderson, Blount, Knox, and Loudon Counties in their entirety and a portion of Roane County (the area described by U.S. Census 2000 block group identifier 47–145–0307–2). These proposed actions are summarized below and described in greater detail throughout this notice of proposed rulemaking.

EPA's 2006 24-hour $PM_{2.5}$ nonattainment designation for the Area triggered an obligation for Tennessee to develop a nonattainment SIP revision addressing certain CAA requirements under title I, part D, subpart 1 (hereinafter ''Subpart 1'') and title I, part D, subpart 4 (hereinafter ''Subpart 4''). Subpart 1 contains the general requirements for nonattainment areas for criteria pollutants, including requirements to develop a SIP that provides for the implementation of RACM (under section 172(c)(1)), requires reasonable further progress (RFP), includes base-year and attainment-year emissions inventories, and provides for the implementation of contingency measures. As discussed in greater detail later in this notice, Subpart 4 contains specific planning and scheduling requirements for coarse particulate matter (PM_{10}) nonattainment areas, including requirements for new source review, RACM (under section 189(a)(1)(C)), and RFP. In the General Preamble, EPA's longstanding general guidance interpreting the 1990 amendments to the CAA, EPA discussed the relationship of Subpart 1 and Subpart 4 SIP requirements and pointed out that Subpart 1 requirements were to an extent ''subsumed by, or integrally related to, the more specific PM–10 requirements.'' *See* 57 FR 13538 (April 16, 1992). Under the United States Court of Appeals for the District of Columbia Circuit's (D.C. Circuit's) January 4, 2013, decision in *Natural Resources Defense Council* v. *EPA,* 706 F.3d 428 (D.C. Cir. 2013), Subpart 4 requirements apply to $PM_{2.5}$ nonattainment areas.[2]

On June 2, 2014, EPA published a rule entitled ''Identification of Nonattainment Classification and Deadlines for Submission of State Implementation Plan (SIP) Provisions for the 1997 Fine Particle ($PM_{2.5}$) National Ambient Air Quality Standard (NAAQS) and 2006 $PM_{2.5}$ NAAQS'' (''Classification and Deadlines Rule''). *See* 79 FR 31566. In that rule, the Agency responded to the D.C. Circuit's January 2013 decision by identifying all $PM_{2.5}$ nonattainment areas for the 1997 and 2006 $PM_{2.5}$ NAAQS as ''moderate'' nonattainment areas under Subpart 4, and by establishing a new SIP submission date of December 31, 2014, for moderate area attainment plans and for any additional attainment-related or nonattainment new source review plans necessary for areas to comply with the requirements applicable under subpart 4. *Id.* at 31567–70.

Based on its moderate nonattainment area classification, Tennessee was required to submit a SIP revision addressing RACM pursuant to CAA section 172(c)(1) and section 189(a)(1)(C) for the Area. Although EPA does not believe that section 172(c)(1) and section 189(a)(1)(C) RACM must be approved into a SIP prior to redesignation of an area to attainment once that area is attaining the NAAQS, EPA is proposing to approve Tennessee's RACM determination and incorporate it into its SIP pursuant to a recent decision by the United States Court of Appeals for the Sixth Circuit (Sixth Circuit) in *Sierra Club* v. *EPA,* 793 F.3d 656 (6th Cir. 2015), as discussed in Section V.A, below.[3]

[1] EPA issued a letter to the state on February 15, 2017, finding the MVEBs adequate for transportation conformity purposes.

[2] In explaining its decision, the Court reasoned that the plain meaning of the CAA requires implementation of the 1997 $PM_{2.5}$ NAAQS under Subpart 4 because $PM_{2.5}$ particles fall within the statutory definition of PM_{10} and are thus subject to the same statutory requirements. EPA finalized its interpretation of Subpart 4 requirements as applied to the $PM_{2.5}$ NAAQS in its final rule entitled ''Air Quality State Implementation Plans; Approvals and Promulgations: Fine Particulate Matter National Ambient Air Quality Standards'' (81 FR 58010, August 24, 2016).

[3] On August 2, 2012, EPA published a final determination that the Area had attained the 2006 $PM_{2.5}$ NAAQS based on ambient air monitoring data for the 2009–2011 time period. *See* 77 FR 45954. In that determination and in accordance with EPA's clean data policy, EPA suspended the requirements

EPA also proposes to approve Tennessee's maintenance plan for the Knoxville Area as meeting the requirements of section 175A (such approval being one of the CAA criteria for redesignation to attainment status) and incorporate it into the SIP. The maintenance plan is designed to help keep the Knoxville Area in attainment for the 2006 24-hour $PM_{2.5}$ NAAQS through 2028. The maintenance plan includes 2014 and 2028 MVEBs for NO_X and direct $PM_{2.5}$ for the Knoxville Area. EPA is proposing to approve these MVEBs and incorporate them into the Tennessee SIP.

EPA also proposes to determine that the Knoxville Area has met the requirements for redesignation under section 107(d)(3)(E) of the CAA. Accordingly, in this action, EPA is proposing to approve a request to change the legal designation of Anderson, Blount, Knox, and Loudon Counties and the portion of Roane County within the Knoxville-Sevierville-La Follette Area, as found at 40 CFR part 81, from nonattainment to attainment for the 2006 24-hour $PM_{2.5}$ NAAQS.

In summary, this proposed rulemaking is in response to Tennessee's December 20, 2016, redesignation request and associated SIP submission that address the specific issues summarized above and the necessary elements for redesignation described in section 107(d)(3)(E) of the CAA for the redesignation of the Knoxville Area to attainment for the 2006 24-hour $PM_{2.5}$ NAAQS.

II. What is the background for EPA's proposed actions?

Fine particle pollution can be emitted directly or formed secondarily in the atmosphere.[4] The main precursors of secondary $PM_{2.5}$ are sulfur dioxide (SO_2), NO_X, ammonia, and volatile organic compounds (VOCs). *See, e.g.,* 81 FR 58010, 58014 (August 24, 2016). Sulfates are a type of secondary particle formed from SO_2 emissions from power plants and industrial facilities. Nitrates, another common type of secondary particle, are formed from NO_X emissions from power plants, automobiles, and other combustion sources.

On July 18, 1997, EPA promulgated the first air quality standards for $PM_{2.5}$. EPA promulgated an annual standard at a level of 15.0 micrograms per cubic meter ($\mu g/m^3$), based on a 3-year average of annual mean $PM_{2.5}$ concentrations. In the same rulemaking, EPA promulgated a 24-hour standard of 65 $\mu g/m^3$, based on a 3-year average of the 98th percentile of 24-hour concentrations. On October 17, 2006 (71 FR 61144), EPA retained the annual average NAAQS at 15.0 $\mu g/m^3$ but revised the 24-hour NAAQS to 35 $\mu g/m^3$, based again on the 3-year average of the 98th percentile of 24-hour concentrations.[5] Under EPA regulations at 40 CFR part 50, the primary and secondary 2006 24-hour $PM_{2.5}$ NAAQS are attained when the annual arithmetic mean concentration, as determined in accordance with 40 CFR part 50, Appendix N, is less than or equal to 35 $\mu g/m^3$ at all relevant monitoring sites in the subject area averaged over a 3-year period.

On November 13, 2009, at 74 FR 58688, EPA designated the Knoxville Area as nonattainment for the 2006 24-hour $PM_{2.5}$ NAAQS. All 2006 $PM_{2.5}$ NAAQS areas were designated under Subpart 1. Subpart 1 contains the general requirements for nonattainment areas for any pollutant governed by a NAAQS and is less prescriptive than the other subparts of title I, part D. On April 25, 2007 (72 FR 20586), EPA promulgated its Clean Air Fine Particle Implementation Rule, codified at 40 CFR part 51, subpart Z, in which the Agency provided guidance for state and tribal plans to implement the $PM_{2.5}$ NAAQS. The D.C. Circuit remanded the Clean Air Fine Particle Implementation Rule and the final rule entitled ''Implementation of the New Source Review (NSR) Program for Particulate Matter Less than 2.5 Micrometers ($PM_{2.5}$)'' (73 FR 28321, May 16, 2008) (collectively, ''1997 $PM_{2.5}$ Implementation Rules'') to EPA on January 4, 2013, in *Natural Resources Defense Council* v. *EPA,* 706 F.3d 428 (D.C. Cir. 2013). The Court found that EPA erred in implementing the 1997 $PM_{2.5}$ NAAQS pursuant to the general implementation provisions of Subpart 1, rather than the particulate matter-specific provisions of Subpart 4.

On July 29, 2016, EPA issued a rule entitled, ''Fine Particulate Matter National Ambient Air Quality Standards: State Implementation Plan Requirements'' ($PM_{2.5}$ SIP Requirements Rule) that clarifies how states should meet the statutory SIP requirements that apply to areas designated nonattainment for any $PM_{2.5}$ NAAQS under Subparts 1 and 4. *See* 81 FR 58010 (August 24, 2016). It does so by establishing regulatory requirements and providing guidance that is applicable to areas that are currently designated nonattainment for existing $PM_{2.5}$ NAAQS and areas that are designated nonattainment for any $PM_{2.5}$ NAAQS in the future. In addition, the rule responds to the D.C. Circuit's remand of the 1997 $PM_{2.5}$ Implementation Rules. As a result, the requirements of the rule also govern future actions associated with states' ongoing implementation efforts for the 1997 and 2006 $PM_{2.5}$ NAAQS.

III. What are the criteria for redesignation?

The CAA provides the requirements for redesignating a nonattainment area to attainment. Specifically, section 107(d)(3)(E) of the CAA allows for redesignation provided the following criteria are met: (1) The Administrator determines that the area has attained the applicable NAAQS; (2) the Administrator has fully approved the applicable implementation plan for the area under section 110(k); (3) the Administrator determines that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the applicable SIP and applicable federal air pollutant control regulations, and other permanent and enforceable reductions; (4) the Administrator has fully approved a maintenance plan for the area as meeting the requirements of section 175A; and (5) the state containing such area has met all requirements applicable to the area under section 110 and part D of title I of the CAA.

On April 16, 1992, EPA provided guidance on redesignation in the General Preamble for the Implementation of title I of the CAA Amendments of 1990 (57 FR 13498), and the Agency supplemented this guidance on April 28, 1992 (57 FR

for the Area to submit a SIP revision addressing RACM, RFP plans, contingency measures, and certain other attainment planning requirements so long as the Area continues to attain the 2006 24-hour $PM_{2.5}$ NAAQS. EPA notes, however, that in 2013 it issued results of a technical systems audit on the $PM_{2.5}$ laboratory in Tennessee that invalidated all 2010–2012 $PM_{2.5}$ monitoring data for the Area. After the monitoring audit issues were addressed, Tennessee submitted valid data for all sites, resulting in complete and valid design values using 2013–2015 data.

[4] Fine particulate matter ($PM_{2.5}$) refers to airborne particles less than or equal to 2.5 micrometers in diameter. Although treated as a single pollutant, fine particles come from many different sources and are composed of many different compounds. In the Knoxville Area, one of the sources of $PM_{2.5}$ is fuel burning sources (such as coal-burning power plants, motor vehicles and combustion operations). VOCs, also precursors for PM, are emitted from a variety of sources, including motor vehicles, chemical plants, refineries, factories, consumer and commercial products, and other industrial sources. VOCs are also emitted by natural sources such as vegetation.

[5] In response to legal challenges of the annual standard promulgated in 2006, the D.C. Circuit remanded that NAAQS to EPA for further consideration. *See American Farm Bureau Federation and National Pork Producers Council, et al.* v. *EPA,* 559 F.3d 512 (D.C. Cir. 2009). However, given that the 1997 and 2006 Annual NAAQS are essentially identical, attainment of the 1997 Annual NAAQS would also indicate attainment of the remanded 2006 Annual NAAQS.

18070). EPA has provided further guidance on processing redesignation requests in the following documents:

1. ''Procedures for Processing Requests to Redesignate Areas to Attainment,'' Memorandum from John Calcagni, Director, Air Quality Management Division, September 4, 1992 (hereinafter referred to as the ''Calcagni Memorandum'');

2. ''State Implementation Plan (SIP) Actions Submitted in Response to Clean Air Act (CAA) Deadlines,'' Memorandum from John Calcagni, Director, Air Quality Management Division, October 28, 1992; and

3. ''Part D New Source Review (Part D NSR) Requirements for Areas Requesting Redesignation to Attainment,'' Memorandum from Mary D. Nichols, Assistant Administrator for Air and Radiation, October 14, 1994 (hereinafter referred to as the ''Nichols Memorandum'').

IV. Why is EPA proposing these actions?

On December 20, 2016, Tennessee requested that EPA redesignate the Knoxville Area to attainment for the 2006 24-hour $PM_{2.5}$ NAAQS and submitted an associated SIP revision containing a maintenance plan and a RACM determination. EPA's evaluation indicates that the RACM determination meets the relevant requirements of the CAA and that the Knoxville Area meets the requirements for redesignation set forth in section 107(d)(3)(E), including the maintenance plan requirements under section 175A of the CAA. As a result of these proposed findings, EPA is proposing to take the three separate but related actions summarized in section I of this notice.

V. What is EPA's analysis of the request?

As stated above, in accordance with the CAA, EPA proposes to: (1) Approve Tennessee's RACM determination for the Knoxville Area and incorporate it into the Tennessee SIP; (2) approve the 2006 $PM_{2.5}$ NAAQS maintenance plan, including the associated MVEBs, for the Knoxville Area and incorporate it into the Tennessee SIP; and (3) redesignate the Knoxville Area to attainment for the 2006 24-hour $PM_{2.5}$ NAAQS.

A. RACM Determination

1. Relationship Between RACM and Redesignation Criteria

As noted above, there are a number of planning requirements in the CAA that are designed to help areas achieve attainment or demonstrate progress toward attainment. Where those areas are already attaining the NAAQS in question, EPA has long interpreted these requirements as not applicable for purposes of evaluating whether an area has a fully approved SIP pursuant to CAA section 107(d)(3)(E)(ii). *See, e.g.,* 57 FR 13498, 13564 (April 16, 1992); Calcagni Memorandum. Included in this category of suspended or inapplicable planning requirements are the provisions in Subparts 1 and 4 requiring areas to submit plans providing for implementation of RACM, including reasonably available control technology (RACT). However, in *Sierra Club* v. *EPA,* the Sixth Circuit vacated EPA's redesignation of the Indiana and Ohio portions of the Cincinnati-Hamilton nonattainment area to attainment for the 1997 $PM_{2.5}$ NAAQS because EPA had not yet approved Subpart 1 RACM for the Cincinnati Area into the Indiana and Ohio SIPs. The Court concluded that ''a State seeking redesignation 'shall provide for the implementation' of RACM/RACT, even if those measures are not strictly necessary to demonstrate attainment with the $PM_{2.5}$ NAAQS. . . . If the State has not done so, EPA cannot 'fully approve' the area's SIP, and redesignation to attainment status is improper.'' *Sierra Club,* 793 F.3d at 670.

EPA is bound by the Sixth Circuit's decision in *Sierra Club* v. *EPA* within the Court's jurisdiction.[6] Therefore, EPA is proposing to approve Tennessee's RACM determination into the SIP in conjunction with its proposal to approve the State's redesignation request for the Area pursuant to the Court's decision.[7]

2. Proposed Approval of Tennessee's RACM Determination

Subpart 1 requires that each attainment plan ''provide for the implementation of all reasonably available control measures as expeditiously as practicable (including such reductions in emission from the existing sources in the area as may be obtained through the adoption, at a minimum, of reasonably available control technology), and shall provide for attainment of the national primary ambient air quality standards.'' *See* CAA section 172(c)(1). The attainment planning requirements in Subpart 4 that are specific to PM_{10} (including $PM_{2.5}$) likewise impose upon states an obligation to develop attainment plans that require RACM for sources of direct $PM_{2.5}$ and $PM_{2.5}$ precursors within a moderate nonattainment area. CAA section 189(a)(1)(C) requires that states with a moderate $PM_{2.5}$ nonattainment area have attainment plan provisions to assure that RACM is implemented by no later than four years after designation of the area.[8]

EPA reads CAA sections 172(c)(1) and 189(a)(1)(C), and EPA's implementing regulations, together to require that attainment plans for moderate nonattainment areas must provide for the implementation of RACM for existing sources of $PM_{2.5}$ and $PM_{2.5}$ precursors in the nonattainment area as expeditiously as practicable but no later than four years after designation.[9] As set forth in 40 CFR 51.1009(a)(4), states are required to adopt and implement all technologically and economically feasible control measures for PM and its precursors that are necessary to bring a moderate nonattainment area into attainment by its attainment date or that would advance attainment by one year. If a state demonstrates that a control measure would not be necessary for attaining the standard as expeditiously as practicable or would not advance the attainment date, the state is not required to adopt such measure into its SIP. 40 CFR 51.1009(a)(4)(i)(A) further specifies that those measures that are identified for adoption and implementation constitute RACM for the area. Therefore, any measure that is not necessary for the area to achieve attainment or does not advance attainment by one year does not constitute RACM.[10]

In this action, EPA proposes to approve Tennessee's December 20, 2016 RACM submission. In that submission, Tennessee did not identify any measures necessary to bring the Area into attainment, nor any measures that would advance attainment of the Area, because the Area is already attaining the 2006 24-hour $PM_{2.5}$ NAAQS. Because only those measures that are necessary

[6] The states of Kentucky, Michigan, Ohio, and Tennessee are located within the Sixth Circuit's jurisdiction.

[7] The EPA Region 4 Regional Administrator signed a memorandum on July 20, 2015, seeking concurrence from the Director of EPA's Air Quality Policy Division (AQPD) in the Office of Air Quality Planning and Standards to act inconsistent with EPA's interpretation of CAA sections 107(d)(3)(E) and 172(c)(1) when taking action on pending and future redesignation requests in Kentucky and Tennessee because the Region is bound by the Sixth Circuit's decision in *Sierra Club* v. *EPA.* The AQPD Director issued her concurrence on July 22, 2015. This memorandum is not required to satisfy EPA's regional consistency regulations. *See* 40 CFR 56.5(b)(1); 81 FR 51102 (August 3, 2016).

[8] States with areas later reclassified as ''serious'' nonattainment areas under Subpart 4 must also develop and submit later plans to meet additional requirements for serious areas. *See* 40 CFR 51.1003(b).

[9] This interpretation is consistent with guidance described in the General Preamble. *See* 57 FR 13498, 13540 (April 16, 1992). For further discussion, see 81 FR 58010, 58035 (August 24, 2016).

[10] Reviewing courts have upheld EPA's interpretation of RACM as encompassing only those measures necessary to advance attainment. *See Sierra Club* v. *EPA,* 314 F.3d 735, 743–745 (5th Cir. 2002); *Sierra Club* v. *EPA,* 294 F.3d 155, 162–163 (D.C. Cir. 2002); *NRDC* v. *EPA,* 571 F.3d 1245, 1252 (D.C. Cir. 2009).

to attain by the attainment date or would advance attainment by one year constitute RACM under CAA sections 172(c)(1), 189(a)(1), and EPA's implementing regulations, EPA proposes to approve Tennessee's determination that no additional measures are necessary to meet the State's obligations to have fully adopted RACM under the CAA and under the Sixth Circuit's decision in *Sierra Club.*

B. Redesignation Request and Maintenance Demonstration

The five redesignation criteria provided under CAA section 107(d)(3)(E) are discussed in greater detail for the Area in the following paragraphs of this section.

Criteria (1)—The Knoxville Area has Attained the 2006 24-hour $PM_{2.5}$ NAAQS

For redesignating a nonattainment area to attainment, the CAA requires EPA to determine that the area has attained the applicable NAAQS (CAA section 107(d)(3)(E)(i)). For $PM_{2.5}$, an area may be considered to be attaining the 2006 24-hour $PM_{2.5}$ NAAQS if it meets the standards, as determined in accordance with 40 CFR 50.13 and Appendix N of part 50, based on three complete, consecutive calendar years of quality-assured air quality monitoring data. To attain the 2006 24-hour $PM_{2.5}$ NAAQS, the 3-year average of the annual arithmetic mean concentration, as determined in accordance with 40 CFR part 50, Appendix N, must be less than or equal to 35 $\mu g/m^3$ at all relevant monitoring sites in the subject area over a 3-year period. The relevant data must be collected and quality-assured in accordance with 40 CFR part 58 and recorded in the EPA Air Quality System (AQS) database. The monitors generally should have remained at the same location for the duration of the monitoring period required for demonstrating attainment.

EPA has evaluated complete, quality-assured data for the Area from 2013–2015, and as mentioned above, has made a preliminary determination that the Area has attained the 2006 24-hour $PM_{2.5}$ NAAQS by the applicable attainment date of December 31, 2015, based on this 2013–2015 data.[11] *See* 81 FR 91088 (December 16, 2016). The current 2013–2015 $PM_{2.5}$ design values are summarized in Table 1, below.

TABLE 1—KNOXVILLE AREA 2013–2015 DESIGN VALUES FOR THE 2006 24-HOUR $PM_{2.5}$ NAAQS

Monitor site	Site ID	2013–2015 design value ($\mu g/m^3$)
Sequoyah Ave, Maryville	470090011	18
Bearden Middle School	470930028	19
Davanna Street, Air Lab	470931013	19
Rule High School	470931017	20
Spring Hill Elementary School	470931020	18
Loudon Pope site	471050108	18
Harriman High School	471450004	18

As shown in Table 1, above, the Knoxville Area has a 2013–2015 design value of 20 $\mu g/m^3$, which is below the 2006 24-hour $PM_{2.5}$ NAAQS. For this proposed action, EPA has also reviewed 2016 preliminary monitoring data for the Area and proposes to find that the preliminary data does not indicate a violation of the NAAQS.[12] EPA will not take final action to approve the redesignation if the 3-year design value exceeds the NAAQS prior to EPA finalizing the redesignation. As discussed in more detail below, Tennessee has committed to continue monitoring in the Knoxville Area in accordance with 40 CFR part 58.

Criteria (2)—Tennessee Has a Fully Approved SIP Under Section 110(k) for the Knoxville Area and Criteria (5)—Tennessee Has Met All Applicable Requirements Under Section 110 and Part D of the CAA

For redesignating a nonattainment area to attainment, the CAA requires EPA to determine that the state has met all applicable requirements under section 110 and part D of title I of the CAA (CAA section 107(d)(3)(E)(v)) and that the state has a fully approved SIP under section 110(k) for the area (CAA section 107(d)(3)(E)(ii)). EPA proposes to find that Tennessee has met all applicable SIP requirements for the Knoxville Area under section 110 of the CAA (general SIP requirements) for purposes of redesignation. Additionally, EPA proposes to find that Tennessee has met all applicable SIP requirements for purposes of redesignation under part D of title I of the CAA in accordance with section 107(d)(3)(E)(v). Further, EPA proposes to determine that the SIP is fully approved with respect to all requirements applicable for purposes of redesignation in accordance with section 107(d)(3)(E)(ii) if EPA takes final action to incorporate Tennessee's RACM determination into the SIP pursuant to the Sixth Circuit's decision in *Sierra Club* v. *EPA.* In making these determinations, EPA ascertained which requirements are applicable to the Area and, if applicable, that they are fully approved under section 110(k). SIPs must be fully approved only with respect to requirements that were applicable prior to submittal of the complete redesignation request.

a. Tennessee has met all applicable requirements under section 110 and part D of the CAA.

General SIP requirements. General SIP elements and requirements are delineated in section 110(a)(2) of title I, part A of the CAA. These requirements include, but are not limited to, the following: submittal of a SIP that has been adopted by the state after reasonable public notice and hearing; provisions for establishment and operation of appropriate procedures needed to monitor ambient air quality; implementation of a source permit program; provisions for the implementation of part C requirements (Prevention of Significant Deterioration (PSD)) and provisions for the implementation of part D requirements (NNSR permit programs); provisions for air pollution modeling; and provisions for public and local agency participation in planning and emission control rule development.

Section 110(a)(2)(D) requires that SIPs contain certain measures to prevent

[11] EPA has not taken final action on the December 16, 2016, proposal.

[12] This preliminary data is available at EPA's air data Web site: *http://aqsdr1.epa.gov/aqsweb/aqstmp/airdata/download_files.html#Daily.*

sources in a state from significantly contributing to air quality problems in another state. To implement this provision, EPA has required certain states to establish programs to address the interstate transport of air pollutants. The section 110(a)(2)(D) requirements for a state are not linked with a particular nonattainment area's designation and classification in that state. EPA believes that the requirements linked with a particular nonattainment area's designation and classifications are the relevant measures to evaluate in reviewing a redesignation request. The transport SIP submittal requirements, where applicable, continue to apply to a state regardless of the designation of any one particular area in the state. Thus, EPA does not believe that the CAA's interstate transport requirements should be construed to be applicable requirements for purposes of redesignation.

In addition, EPA believes that other section 110 elements that are neither connected with nonattainment plan submissions nor linked with an area's attainment status are not applicable requirements for purposes of redesignation. The area will still be subject to these requirements after the area is redesignated. The section 110 and part D requirements which are linked with a particular area's designation and classification are the relevant measures to evaluate in reviewing a redesignation request. This approach is consistent with EPA's existing policy on applicability (*i.e.,* for redesignations) of conformity and oxygenated fuels requirements, as well as with section 184 ozone transport requirements. *See* Reading, Pennsylvania, proposed and final rulemakings (61 FR 53174–53176, October 10, 1996), (62 FR 24826, May 7, 1997); Cleveland-Akron-Loraine, Ohio, final rulemaking (61 FR 20458, May 7, 1996); and Tampa, Florida, final rulemaking at (60 FR 62748, December 7, 1995). *See also* the discussion on this issue in the Cincinnati, Ohio, redesignation (65 FR 37879, June 19, 2000), and in the Pittsburgh, Pennsylvania, redesignation (66 FR 53094, October 19, 2001).

EPA has reviewed Tennessee's SIP and has preliminarily concluded that it meets the general SIP requirements under section 110(a)(2) of the CAA to the extent they are applicable for purposes of redesignation. EPA has previously approved provisions of Tennessee's SIP addressing CAA section 110(a)(2) requirements including provisions addressing the 2006 24-hour $PM_{2.5}$ NAAQS. *See* 77 FR 45958 (August 2, 2012), 78 FR 18241 (March 26, 2013), and 79 FR 26143 (May 7, 2014). These requirements are, however, statewide requirements that are not linked to the $PM_{2.5}$ nonattainment status of the Area. Therefore, EPA believes these SIP elements are not applicable for purposes of this redesignation.

Title I, part D, applicable SIP requirements. EPA proposes to determine that Tennessee meets the applicable SIP requirements for the Knoxville Area for purposes of redesignation under part D of the CAA. Subpart 1 of part D, comprised of sections 172–179B of the CAA, sets forth the basic nonattainment requirements applicable to all nonattainment areas. For purposes of evaluating this redesignation request, the applicable Subpart 1 SIP requirements are contained in section 172(c) and in section 176. A thorough discussion of the requirements contained in sections 172 and 176 can be found in the General Preamble for Implementation of Title I. *See* 57 FR 13498 (April 16, 1992). Subpart 4, found in section 189, sets forth additional nonattainment requirements for particulate matter nonattainment areas.

Subpart 1, section 172 Requirements. Section 172(c) sets out general nonattainment plan requirements. A thorough discussion of these requirements can be found in the General Preamble. EPA's longstanding interpretation of the nonattainment planning requirements of section 172 is that once an area is attaining the NAAQS, those requirements are not ''applicable'' for purposes of CAA section 107(d)(3)(E)(ii) and therefore need not be approved into the SIP before EPA can redesignate the area. In the General Preamble, EPA set forth its interpretation of applicable requirements for purposes of evaluating redesignation requests when an area is attaining a standard. *See* 57 FR at 13564. EPA noted that the requirements for RFP and other measures designed to provide for an area's attainment do not apply in evaluating redesignation requests because those nonattainment planning requirements ''have no meaning'' for an area that has already attained the standard. *Id.* This interpretation is also set forth in the Calcagni Memorandum.

EPA's understanding of section 172 also forms the basis of its Clean Data Policy. Under the Clean Data Policy, EPA promulgates a determination of attainment, published in the **Federal Register** and subject to notice-and-comment rulemaking, and this determination formally suspends a state's obligation to submit most of the attainment planning requirements that would otherwise apply, including an attainment demonstration and planning SIPs to provide for RFP, RACM, and contingency measures under section 172(c)(9). The Clean Data Policy has been codified in regulations regarding the implementation of the ozone and $PM_{2.5}$ NAAQS. *See e.g.,* 70 FR 71612 (November 29, 2005) and 72 FR 20586 (April 25, 2007).

EPA's long-standing interpretation regarding the applicability of the section 172(c) attainment planning requirements for an area that is attaining a NAAQS applies in this proposed redesignation of the Area as well, with the exception of the applicability of the requirement to implement RACM under section 172(c)(1). As discussed above, the Sixth Circuit ruled in *Sierra Club* that, in order to meet the requirement of section 107(d)(3)(E)(ii), states are required to submit plans addressing RACM under section 172(c)(1) and EPA is required to approve those plans prior to redesignating an area, regardless of whether the area is attaining the standard. Because Tennessee is within the Sixth Circuit's jurisdiction, EPA is acting in accordance with the *Sierra Club* decision by proposing to approve Tennessee's RACM determination for the Area in parallel with this proposed redesignation action.

Section 172(c)(1) requires the plans for all nonattainment areas to provide for the implementation of RACM as expeditiously as practicable and to provide for attainment of the primary NAAQS. Under this requirement, a state must consider all available control measures, including reductions that are available from adopting reasonably available control technology on existing sources, for a nonattainment area and adopt and implement such measures as are reasonably available in the area as components of the area's attainment demonstration. As discussed above, EPA is proposing to approve Tennessee's RACM determination and incorporate it into the SIP.

As noted above, the remaining section 172(c) attainment planning requirements are not applicable for purposes of evaluating the State's redesignation request. Specifically, the RFP requirement under section 172(c)(2), which is defined as progress that must be made toward attainment, the requirement to submit section 172(c)(9) contingency measures, which are measures to be taken if the area fails to make reasonable further progress to attainment, and the section 172(c)(6) requirement that the SIP contain control measures necessary to provide for attainment of the standard, are not applicable requirements that Tennessee

must meet here because the Area has monitored attainment of the 2006 24-hour $PM_{2.5}$ NAAQS.

Section 172(c)(3) requires submission and approval of a comprehensive, accurate, and current inventory of actual emissions. On June 10, 2014 (79 FR 33097), EPA approved Tennessee's 2008 base-year emissions inventory for the Knoxville Area.

Section 172(c)(4) requires the identification and quantification of allowable emissions for major new and modified stationary sources to be allowed in an area, and section 172(c)(5) requires source permits for the construction and operation of new and modified major stationary sources anywhere in the nonattainment area. EPA has determined that, since PSD requirements will apply after redesignation, areas being redesignated need not comply with the requirement that a NNSR program be approved prior to redesignation, provided that the area demonstrates maintenance of the NAAQS without NNSR. A more detailed rationale for this view is described in the Nichols Memorandum. *See also* rulemakings for the Illinois portion of the St. Louis Area (77 FR 34819, 34826, June 12, 2012); Louisville, Kentucky (66 FR 53665, 53669, October 23, 2001); Grand Rapids, Michigan (61 FR 31831, 31834–31837, June 21, 1996); Cleveland-Akron-Lorain, Ohio (61 FR 20458, 20469–20470, May 7, 1996); Detroit, Michigan (60 FR 12459, 12467–12468, March 7, 1995). Tennessee has demonstrated that the Knoxville Area will be able to maintain the NAAQS without NNSR in effect, and therefore Tennessee need not have fully approved NNSR programs prior to approval of the redesignation request. Tennessee's PSD program will become effective in the Knoxville Area upon redesignation to attainment.

Section 172(c)(7) requires the SIP to meet the applicable provisions of section 110(a)(2). As noted above, EPA believes that the Tennessee SIP meets the requirements of section 110(a)(2) applicable for purposes of redesignation.

Subpart 1, section 176 Conformity Requirements. Section 176(c) of the CAA requires states to establish criteria and procedures to ensure that federally-supported or funded projects conform to the air quality planning goals in the applicable SIP. The requirement to determine conformity applies to transportation plans, programs and projects that are developed, funded or approved under title 23 of the United States Code (U.S.C.) and the Federal Transit Act (transportation conformity) as well as to all other federally-supported or funded projects (general conformity). State transportation conformity SIP revisions must be consistent with federal conformity regulations relating to consultation, enforcement and enforceability that EPA promulgated pursuant to its authority under the CAA.

EPA believes that it is reasonable to interpret the conformity SIP requirements [13] as not applying for purposes of evaluating the redesignation request under section 107(d) because state conformity rules are still required after redesignation and federal conformity rules apply where state rules have not been approved. *See Wall* v. *EPA,* 265 F.3d 426 (6th Cir. 2001) (upholding this interpretation); 60 FR 62748 (December 7, 1995). Nonetheless, Tennessee has an approved conformity SIP. *See* 78 FR 29027 (May 17, 2013).

Subpart 4 Requirements. As discussed above, in *NRDC* v. *EPA,* the D.C. Circuit held that EPA should have implemented the 1997 $PM_{2.5}$ NAAQS pursuant to the particulate matter-specific provisions of Subpart 4. On remand, EPA identified all areas designated nonattainment for either the 1997 or the 2006 $PM_{2.5}$ NAAQS, including the Knoxville Area, as moderate nonattainment areas for purposes of Subpart 4 in the Classification and Deadlines Rule. Moderate nonattainment areas are subject to the requirements of sections 189(a), (c), and (e), including: (1) An approved permit program for construction of new and modified major stationary sources (section 189(a)(1)(A)); (2) an attainment demonstration (section 189(a)(1)(B)); (3) provisions for RACM (section 189(a)(1)(C)); (4) quantitative milestones demonstrating RFP toward attainment by the applicable attainment date (section 189(c)); and (5) precursor control (section 189(e)).[14]

With respect to the specific attainment planning requirements under Subpart 4,[15] EPA applies the same interpretation that it applies to attainment planning requirements under Subpart 1 or any of the other pollutant-specific subparts. That is, under its long-standing interpretation of the CAA, where an area is already attaining the standard, EPA does not consider those attainment planning requirements to be applicable for purposes of evaluating a request for redesignation, that is, CAA section 107(d)(3)(E)(ii) or (v), because requirements that are designed to help an area achieve attainment no longer have meaning where an area is already meeting the standard. EPA has proposed to determine that the Area has attained the 2006 24-hour $PM_{2.5}$ standard. Therefore, under its longstanding interpretation, EPA is proposing to determine that the requirements to submit an attainment demonstration under section 189(a)(1)(B) and a RFP demonstration under section 189(c)(1) are not applicable for purposes of evaluating Tennessee's redesignation request. As discussed in greater detail above, the Sixth Circuit's decision in *Sierra Club* requires EPA to approve RACM under Subpart 1 prior to redesignation, and EPA is bound by the Sixth Circuit's decision within its jurisdiction. EPA therefore proposes to approve Tennessee's RACM submittal for the Knoxville Area. Such approval, if finalized, would also satisfy any similar obligation regarding Subpart 4 RACM.

The permit requirements of Subpart 4, contained in section 189(a)(1)(A), refer to and apply the Subpart 1 permit provisions requirements of sections 172 and 173 to PM_{10}, without adding to them. Consequently, EPA believes that section 189(a)(1)(A) does not itself impose for redesignation purposes any additional requirements for moderate areas beyond those contained in Subpart 1.[16] As discussed above, EPA has long relied on the interpretation that a fully approved nonattainment new source review program is not considered an applicable requirement for redesignation, provided the area can maintain the standard with a PSD program after redesignation. A detailed rationale for this view is described in the Nichols Memorandum. *See also* rulemakings for the Illinois portion of the St. Louis Area (77 FR 34819, 34826, June 12, 2012); Louisville, Kentucky (66 FR 53665, 53669, October 23, 2001); Grand Rapids, Michigan (61 FR 31831, 31834–31837, June 21, 1996); Cleveland-Akron-Lorain, Ohio (61 FR 20458, 20469–20470, May 7, 1996); Detroit, Michigan (60 FR 12459, 12467–12468, March 7, 1995).

Subpart 4 and the Control of $PM_{2.5}$ Precursors. CAA section 189(e) provides that control requirements for major

[13] CAA section 176(c)(4)(E) requires states to submit revisions to their SIPs to reflect certain Federal criteria and procedures for determining transportation conformity. Transportation conformity SIPs are different from the MVEBs that are established in control strategy SIPs and maintenance plans.

[14] EPA's final implementation rule (81 FR 58010, August 24, 2016)) includes, among other things, the Agency's interpretation of these moderate area requirements for purposes of $PM_{2.5}$ NAAQS implementation.

[15] These planning requirements include the attainment demonstration, quantitative milestone requirements, and RACM analysis.

[16] The potential effect of section 189(e) on section 189(a)(1)(A) for purposes of evaluating this redesignation is discussed below.

stationary sources of direct PM_{10} (including $PM_{2.5}$) shall also apply to PM precursors from those sources, except where EPA determines that major stationary sources of such precursors ''do not contribute significantly to PM_{10} levels which exceed the standard in the area.'' The CAA does not explicitly address whether it would be appropriate to include a potential exemption from precursor controls for all source categories under certain circumstances. In implementing Subpart 4 with regard to controlling $PM_{10,}$ EPA permitted states to determine that a precursor was ''insignificant'' where the state could show in its attainment plan that it would expeditiously attain without adoption of emission reduction measures aimed at that precursor. This approach was upheld in *Association of Irritated Residents* v. *EPA,* 423 F.3d 989 (9th Cir. 2005) and extended to $PM_{2.5}$ implementation in the PM Implementation Rule. A state may develop its attainment plan and adopt reasonably available control measures that target only those precursors that are necessary to control for purposes of timely attainment. *See* 81 FR 58020. In the rule, EPA also finalized application of 189(e) to the NNSR permitting program, requiring states to determine whether a new major source of a precursor might have a significant contribution to air quality before allowing exemption of controls of a precursor from a new major stationary source or major modification in the context of that program. *See* 81 FR 58026.

Therefore, because the requirement of section 189(e) is primarily actionable in the context of addressing precursors in an attainment plan and in NNSR permitting, a precursor exemption analysis under section 189(e) and EPA's implementing regulations is not an applicable requirement that needs be fully approved in the context of a redesignation under CAA section 107(d)(3)(E)(ii). As discussed above, for areas that are attaining the standard, EPA does not interpret attainment planning requirements of Subparts 1 and 4 to be applicable requirements for the purposes of redesignating an area to attainment nor does it interpret NNSR to be an applicable requirement if the area can maintain the NAAQS with a PSD program after redesignation. However, to the extent that Tennessee is required to conduct a precursor exemption analysis in order to satisfy 189(e) in the context of its RACM determination for the Knoxville Area, which is required pursuant to the Sixth Circuit's decision in *Sierra Club,* EPA proposes to find that the requirements of section 189(e), as interpreted by EPA's regulations, are met in this case. The Area has expeditiously attained the 2006 24-hour $PM_{2.5}$ NAAQS, and therefore, no additional controls of any pollutant, including any $PM_{2.5}$ precursor, are necessary to bring the Area into attainment.[17]

For these reasons, EPA proposes to find that Tennessee has satisfied all applicable requirements for purposes of redesignation of the Knoxville Area under section 110 and part D of the CAA.

b. Tennessee has a fully-approved applicable SIP under section 110(k) of the CAA.

EPA has fully approved the applicable Tennessee SIP for the Knoxville Area under section 110(k) of the CAA for all requirements applicable for purposes of redesignation with the exception of the RACM requirements. In today's proposed action, EPA is proposing to approve the RACM determination for the Area and incorporate it into the Kentucky SIP. EPA may rely on prior SIP approvals in approving a redesignation request (*see* Calcagni Memorandum at p. 3; *Southwestern Pennsylvania Growth Alliance* v. *Browner,* 144 F.3d 984 (6th Cir. 1998; *Wall,* 265 F.3d 426) plus any additional measures it may approve in conjunction with a redesignation action. *See* 68 FR 25426 (May 12, 2003) and citations therein. Following passage of the CAA of 1970, Tennessee has adopted and submitted, and EPA has fully approved at various times, provisions addressing the various SIP elements applicable for the 2006 24-hour $PM_{2.5}$ NAAQS in the Knoxville Area (*e.g.,* 77 FR 45958, August 2, 2012).

As indicated above, EPA believes that the section 110 elements not connected with nonattainment plan submissions and not linked to an area's nonattainment status are not applicable requirements for purposes of redesignation. If EPA finalizes approval of the RACM determination, EPA has approved all part D requirements applicable under the 2006 24-hour $PM_{2.5}$ NAAQS, as identified above, for purposes of this proposed redesignation pursuant to the Sixth Circuit's decision.

Criteria (3)—The Air Quality Improvement in the Knoxville Area Is Due to Permanent and Enforceable Reductions in Emissions Resulting From Implementation of the SIP and Applicable Federal Air Pollution Control Regulations and Other Permanent and Enforceable Reductions

For redesignating a nonattainment area to attainment, the CAA requires EPA to determine that the air quality improvement in the area is due to permanent and enforceable reductions in emissions resulting from implementation of the SIP and applicable federal air pollution control regulations and other permanent and enforceable reductions (CAA section 107(d)(3)(E)(iii)). EPA has preliminarily determined that Tennessee has demonstrated that the observed air quality improvement in the Knoxville Area is due to permanent and enforceable reductions in emissions resulting from federal measures and a 2011 consent decree between Tennessee and the Tennessee Valley Authority (TVA).[18]

Federal measures enacted in recent years have resulted in permanent emission reductions in particulate matter and its precursors. The federal measures that have been implemented include:

Tier 2 vehicle standards and low-sulfur gasoline. On February 10, 2000 (65 FR 6698), EPA promulgated Tier 2 motor vehicle emission standards and gasoline sulfur control requirements.[19] These emission control requirements result in lower VOC and NO_X emissions from new cars and light duty trucks, including sport utility vehicles. With respect to fuels, this rule required refiners and importers of gasoline to meet lower standards for sulfur in gasoline, which were phased in between 2004 and 2006. By 2006, refiners were required to meet a 30 ppm average sulfur level, with a maximum cap of 80 ppm. This reduction in fuel sulfur content ensures the effectiveness of low emission-control technologies. The Tier

[17] EPA also notes that the Knoxville Area contains no major stationary sources of ammonia; existing major stationary sources of VOCs are adequately controlled under other provisions of the CAA regulating the ozone NAAQS; and attainment in the Area is due to permanent and enforceable emissions reductions on all precursors necessary to provide for continued attainment. The Area has reduced VOC emissions through the implementation of various control programs including VOC RACT regulations and various on-road and non-road motor vehicle control programs. Table 5, below, shows that future VOC emissions are 12 percent below the attainment year emissions level.

[18] Consent Decree, *State of Alabama et al.* v. *TVA* (Civil Action No. 3:11–cv–00170, E.D. Tenn, June 15, 2011) available in the docket at Appendix B to Tennessee's December 20, 2016, SIP submittal.

[19] Tennessee also identified Tier 3 Motor Vehicle Emissions and Fuel Standards a federal measure. EPA issued this rule on April 28, 2014 (79 FR 23414), which applies to light duty passenger cars and trucks. EPA promulgated this rule to reduce air pollution from new passenger cars and trucks beginning in 2017. While the reductions did not aid the Area in attaining the standard, emissions reductions from these standards will occur during the maintenance period.

2 tailpipe standards established in this rule were phased in for new vehicles between 2004 and 2009. EPA estimates that, when fully implemented, this rule will cut NO_X and VOC emissions from light-duty vehicles and light-duty trucks by approximately 76 and 28 percent, respectively. NO_X and VOC reductions from medium-duty passenger vehicles included as part of the Tier 2 vehicle program are estimated to be approximately 37,000 and 9,500 tons per year, respectively, when fully implemented. In addition, EPA estimates that beginning in 2007, a reduction of 30,000 tons per year of NO_X will result from the benefits of sulfur control on heavy-duty gasoline vehicles. Some of these emission reductions occurred by the attainment years and additional emission reductions will occur throughout the maintenance period, as older vehicles are replaced with newer, compliant model years.

Heavy-duty gasoline and diesel highway vehicle standards & ultra low-sulfur diesel rule. On October 6, 2000 (65 FR 59896), EPA promulgated a rule to reduce NO_X and VOC emissions from heavy-duty gasoline and diesel highway vehicles that began to take effect in 2004. On January 18, 2001 (66 FR 5002), EPA promulgated a second phase of standards and testing procedures which began in 2007 to reduce particulate matter from heavy-duty highway engines and reduced the maximum highway diesel fuel sulfur content from 500 ppm to 15 ppm. The total program should achieve a 90 percent reduction in PM emissions and a 95 percent reduction in NO_X emissions for new engines using low-sulfur diesel, compared to existing engines using higher-content sulfur diesel. EPA expects that this rule will reduce NO_X emissions by 2.6 million tons by 2030 when the heavy-duty vehicle fleet is completely replaced with newer heavy-duty vehicles that comply with these emission standards.

Non-road, large spark-ignition engines and recreational engines standards. On November 8, 2002 (67 FR 68242), EPA adopted emission standards for large spark-ignition engines such as those used in forklifts and airport ground-service equipment; recreational vehicles such as off-highway motorcycles, all-terrain vehicles, and snowmobiles; and recreational marine diesel engines. These emission standards were phased in from model year 2004 through 2012. When all of the non-road spark-ignition and recreational engine standards are fully implemented, an overall 72 percent reduction in hydrocarbons, 80 percent reduction in NO_X, and 56 percent reduction in carbon monoxide emissions are expected by 2020. These controls help reduce ambient concentrations of $PM_{2.5}$.

Large non-road diesel engine standards. On June 29, 2004 (69 FR 38958), EPA issued a rule adopting emissions standards for non-road diesel engines and sulfur reductions in non-road diesel fuel. This rule applies to diesel engines used primarily in construction, agricultural, and industrial applications. The rule is being phased in between 2008 through 2015, and when fully implemented, will reduce emissions of NO_X, VOCs, particulate matter, and carbon monoxide from these engines. It is estimated that compliance with this rule will cut NO_X emissions from non-road diesel engines by up to 90 percent nationwide.

NO_X SIP Call. On October 27, 1998 (63 FR 57356), EPA issued the NO_X SIP Call requiring the District of Columbia and 22 states to reduce emissions of NO_X, a precursor to ozone and $PM_{2.5}$ pollution, and providing a mechanism (the NO_X Budget Trading Program) that states could use to achieve those reductions. Affected states were required to comply with Phase I of the SIP Call beginning in 2004 and Phase II beginning in 2007. By the end of 2008, ozone season NO_X emissions from sources subject to the NO_X SIP Call dropped by 62 percent from 2000 emissions levels. All NO_X SIP Call states, including Tennessee, have SIPs that currently satisfy their obligations under the NO_X SIP Call, and EPA will continue to enforce the requirements of the NO_X SIP Call.

Reciprocating internal combustion engine National Emissions Standards for Hazardous Air Pollutants (NESHAP). In 2010, EPA issued rules regulating emissions of air toxics from existing compression ignition (CI) and spark ignition (SI) stationary reciprocating internal combustion engines (RICE) that meet specific site rating, age, and size criteria. With these RICE standards fully implemented in 2013, EPA estimates that the CI RICE standards reduce $PM_{2.5}$ emissions from the covered CI engines by approximately 2,800 tons per year (tpy) and VOC emissions by approximately 27,000 tpy and that the SI RICE standards reduce NO_X emissions from the covered SI engines by approximately 96,000 tpy.

Boiler NESHAP. On March 21, 2011, EPA established emission standards for industrial, commercial, and institutional boilers and process heaters at major sources to meet hazardous air pollutant standards reflecting the application of maximum achievable control technology.[20] *See* 76 FR 15608. The compliance dates for the rule are January 31, 2016, for existing sources and April 1, 2013, or upon startup, whichever is later, for new sources. New sources are defined as sources that began operation on or after June 4, 2010. EPA estimates that the rule will reduce nationwide emissions of VOC by approximately 2,300 tpy. *See* 78 FR 7138 (January 31, 2013).

CAIR and CSAPR. The Clean Air Interstate Rule (CAIR) created regional cap-and-trade programs to reduce SO_2 and NO_X emissions in 28 eastern states, including Tennessee, that contributed to downwind nonattainment or interfered with maintenance of the 1997 8-hour ozone NAAQS and the 1997 $PM_{2.5}$ NAAQS. *See* 70 FR 25162 (May 12, 2005). EPA approved a revision to Tennessee's SIP on August 20, 2007 (72 FR 46388), that addressed the requirements of CAIR for the purpose of reducing SO_2 and NO_X emissions.

In 2008, the D.C. Circuit initially vacated CAIR, *North Carolina* v. *EPA,* 531 F.3d 896 (D.C. Cir. 2008), but ultimately remanded the rule to EPA without vacatur to preserve the environmental benefits provided by CAIR, *North Carolina* v. *EPA,* 550 F.3d 1176, 1178 (D.C. Cir. 2008). On August 8, 2011 (76 FR 48208), acting on the D.C. Circuit's remand, EPA promulgated the Cross-State Air Pollution Rule (CSAPR) to replace CAIR and thus to address the interstate transport of emissions contributing to nonattainment and interfering with maintenance of the two air quality standards covered by CAIR as well as the 2006 $PM_{2.5}$ NAAQS. CSAPR requires substantial reductions of SO_2 and NO_X emissions from EGUs in 28 states in the Eastern United States. As a general matter, because CSAPR is CAIR's replacement, emissions reductions associated with CAIR will for most areas be made permanent and enforceable through implementation of CSAPR.

Numerous parties filed petitions for review of CSAPR in the D.C. Circuit, and on August 21, 2012, the Court issued its ruling, vacating and remanding CSAPR to EPA and ordering continued implementation of CAIR. *EME Homer City Generation, L.P.* v. *EPA,* 696 F.3d 7, 38 (D.C. Cir. 2012). The D.C. Circuit's vacatur of CSAPR was

[20] On January 31, 2013, the EPA promulgated final amendments to this rule. *See* 78 FR 7138. Following that action, the Administrator received 13 petitions for reconsideration that identified certain issues that petitioners claimed warranted further opportunity for public comment. EPA took final action in response to these petitions on November 20, 2015. *See* 80 FR 72790.

reversed by the United States Supreme Court on April 29, 2014, and the case was remanded to the D.C. Circuit to resolve remaining issues in accordance with the high court's ruling. *EPA* v. *EME Homer City Generation, L.P.,* 134 S. Ct. 1584 (2014). On remand, the D.C. Circuit affirmed CSAPR in most respects, but invalidated without vacating some of the Phase 2 SO_2 and NO_X ozone season CSAPR budgets as to a number of states. *EME Homer City Generation, L.P.* v. *EPA,* 795 F.3d 118 (D.C. Cir. 2015) (*EME Homer City II*). The CSAPR budgets for Tennessee are not affected by the Court's decision. The litigation over CSAPR ultimately delayed implementation of that rule for three years, from January 1, 2012, when CSAPR's cap-and-trade programs were originally scheduled to replace the CAIR cap-and-trade programs, to January 1, 2015. CSAPR's Phase 2 budgets were originally promulgated to begin on January 1, 2014, and are now scheduled to begin on January 1, 2017. CSAPR will continue to operate under the existing emissions budgets until EPA fully addresses the D.C. Circuit's remand.[21] Therefore, to the extent that these transport rules impact attainment of the 2006 24-hour $PM_{2.5}$ NAAQS in the Knoxville Area, any emission reductions associated with CAIR that helped the Knoxville Area achieve attainment of the 2006 24-hour $PM_{2.5}$ NAAQS are permanent and enforceable for purposes of redesignation under section 107(d)(3)(E)(iii) of the CAA because CSAPR requires similar or greater emission reductions starting in 2015 and beyond.[22]

In addition to the above federal measures, Tennessee identified its consent decree with TVA as providing emissions reductions that have contributed to the improvement in air quality in the region. The consent decree covers all of TVA's coal-fired power plants, including two plants located in the Area (Bull Run Fossil Plant and Kingston Fossil Plant), and among other things, requires system-wide annual tonnage limitations for SO_2 (decreasing incrementally from 285,000 tons in 2012 to 110,000 tons in 2019 and beyond); continuous operation of existing NO_X and SO_2 controls[23] and PM continuous emissions monitoring systems (CEMS) at Bull Run and Kingston; and a maximum PM emissions rate of 0.030 pounds per million British Thermal Units (lb/MMBtu) of heat input at Bull Run and Kingston as of June 13, 2011, the consent decree obligation date.[24] Emissions data from EPA's Clean Air Markets Division (CAMD) database show that the combined SO_2 emissions from Bull Run and Kingston have decreased by approximately 97 percent between 2008–2014 and that combined NO_X emissions have decreased by approximately 82 percent during this time period.[25]

Tennessee incorporated the consent decree requirements most responsible for attaining the standard in the Area (*i.e.,* particulate matter emissions limit, continuous operation of NO_X and SO_2 control equipment and PM CEMS, and compliance with the system-wide annual NO_X and SO_2 tonnage limits) into the Title V operating permits for Bull Run and Kingston, and the State submitted those permit conditions to EPA for incorporation into the SIP along with its request for redesignation.[26] In a separate proposed action addressing the redesignation of the Knoxville Area for the 1997 Annual $PM_{2.5}$ NAAQS, EPA has proposed to include these permit conditions into the SIP as source-specific requirements.

Criteria (4)—The Knoxville Area Has a Fully Approved Maintenance Plan Pursuant to Section 175A of the CAA

For redesignating a nonattainment area to attainment, the CAA requires EPA to determine that the area has a fully approved maintenance plan pursuant to section 175A of the CAA (CAA section 107(d)(3)(E)(iv)). In conjunction with its request to redesignate the Knoxville Area to attainment for the 2006 24-hour $PM_{2.5}$ NAAQS, Tennessee submitted a SIP revision to provide for the maintenance of the 2006 24-hour $PM_{2.5}$ NAAQS for at least 10 years after the effective date of redesignation to attainment. EPA believes that this maintenance plan meets the requirements for approval under section 175A of the CAA for the reasons discussed below.

a. What is required in a maintenance plan?

Section 175A of the CAA sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. Under section 175A, the plan must demonstrate continued attainment of the applicable NAAQS for at least 10 years after the Administrator approves a redesignation to attainment. Eight years after the redesignation, Tennessee must submit a revised maintenance plan demonstrating that attainment will continue to be maintained for the 10 years following the initial 10-year period. To address the possibility of future NAAQS violations, the maintenance plan must contain such contingency measures, as EPA deems necessary, to assure prompt correction of any future 2006 24-hour $PM_{2.5}$ NAAQS violations. The Calcagni Memorandum provides further guidance on the content of a maintenance plan, explaining that a maintenance plan should address five requirements: The attainment emissions inventory, maintenance demonstration, monitoring, verification of continued attainment, and a contingency plan. As is discussed below, EPA proposes to find that Tennessee's maintenance plan includes all the necessary components and is thus proposing to approve it as a revision to the Tennessee SIP.

b. Attainment Emissions Inventory

As discussed above, EPA has proposed to determine that the Area is

[21] On September 17, 2016, EPA finalized an update to the CSAPR ozone season program. *See* 81 FR 74504 (October 26, 2016). The update addresses summertime transport of ozone pollution in the eastern United States that crosses state lines to help downwind states and communities meet and maintain the 2008 8-hour ozone NAAQS and addresses the remanded Phase 2 ozone season NO_X budgets. The update withdraws the remanded NO_X budgets, sets new Phase 2 CSAPR ozone season NO_X emissions budgets for eight of the eleven states with remanded budgets, and removes the other three states from the CSAPR ozone season NO_X trading program. On November 10, 2016, EPA proposed to withdraw the federal implementation plan provisions that require affected electricity generating units in Texas to participate in Phase 2 of the CSAPR trading programs for annual emissions of SO_2 and NO_X. See 81 FR 78954. Withdrawal of the FIP requirements is intended to address the remand of the CSAPR Phase 2 SO_2 budget for Texas. As discussed in the November 10, 2016, notice, EPA expects that EGUs in Alabama, Georgia, and South Carolina will continue to participate in CSAPR trading programs for SO_2 and annual NO_X pursuant to approved SIP revisions (with equally or more stringent emissions budgets).

[22] EPA notes, however, that the Agency's air quality modeling analysis performed as part of the CSAPR rulemaking demonstrates that the Area would be able to maintain the 2006 24-hour $PM_{2.5}$ NAAQS even in the absence of either CAIR or CSAPR. *See* ''Air Quality Modeling Final Rule Technical Support Document,'' App. B–93. This modeling is available in the docket for this proposed redesignation action.

[23] Paragraphs 69 and 85 of the Consent Decree require the installation and continual operation of selective catalytic reduction (SCR) and wet flue gas recirculation (Wet FGD), respectively, for Bull Run Unit 1 and Kingston Units 1–9.

[24] Tennessee also notes that the consent decree requires the repowering or retirement of units at John Sevier Fossil Plant and Widows Creek Fossil Plant. CAMD data shows that SO_2 emissions at John Sevier, located approximately 65 miles northeast of Knoxville, decreased by approximately 100 percent between 2008–2014 due to the retirement and replacement of the coal-fired units with natural gas combined cycle units. The retirement of Units 1 through 6 at Widows Creek, located approximately 150 miles southwest of Knoxville, resulted in a 49 percent decrease in SO_2 emissions from 2008–2014 as these units were taken offline.

[25] See Section 3.1.1 of the State's submission for additional information.

[26] See Appendix L of the State's submission for the permit conditions proposed for incorporation into the SIP.

attaining the 2006 24-hour $PM_{2.5}$ NAAQS based on monitoring data for the 3-year period from 2013–2015. *See* 81 FR 91088. In its maintenance plan, Tennessee selected 2014 as the attainment emission inventory year. The attainment inventory identifies the level of emissions in the Area that is sufficient to attain the 2006 24-hour $PM_{2.5}$ NAAQS. Tennessee began development of the attainment inventory by first generating a baseline emissions inventory for the Area. As noted above, Tennessee selected 2008 as the base year for developing a comprehensive emissions inventory for direct $PM_{2.5}$ and the $PM_{2.5}$ precursors SO_2, NO_X, VOCs, and ammonia. The projected inventory included with the maintenance plan estimates emissions from 2014 to 2028, which satisfies the 10-year interval required in section 175(A) of the CAA.

The emissions inventories are composed of four major types of sources: Point, area, on-road mobile, and non-road mobile. The attainment and future year emissions inventories were developed/projected as follows:

- Point source emissions were obtained from the 2014 National Emissions Inventory (NEI) and projected inventories were calculated using growth factors derived from the 2015 Annual Energy Outlook (AEO2015) developed by the U.S. Energy Information Administration. Growth factors were developed for point sources based on North American Industry Classification System (NAICS) codes and/or Source Classification Codes (SCC).
- Area source emissions were developed using EPA Nonpoint files located on EPA's CHIEF Emission Inventory Web site for the 2014 NEI and projected inventories by using 2014 emissions and growth factors obtained from Annual Energy Outlook 2015 energy forecasts for consumption and production, and TranSystems Category Specific Growth Factors.
- On-road mobile emissions were estimated using the latest version of EPA's MOVES2014a model. The input parameters for the model runs were developed, reviewed and agreed to by the transportation partners through interagency consultation.[27] Attainment year (2014) vehicle miles traveled (VMT) data was obtained from the Tennessee Department of Transportation (TDOT) through the HPMS (Highway Performance Monitoring System) system. Future VMT estimates were provided by the Knoxville Regional Transportation Planning Organization based on travel demand modeling performed for the nonattainment counties. For all interim years between the years 2014 and 2028, on-road emissions were interpolated.
- Non-road mobile emissions were obtained from EPA's Nonroad files located on EPA's EIS Gateway for the 2011 NEI and using MOVES2014a. Future nonroad mobile emissions were projected using 2011 emissions and national growth factors. Growth factors were multiplied by the 2014 emission values to calculate emissions for future years.

The 2014 SO_2, NO_X, $PM_{2.5}$, VOC, and ammonia emissions for the Knoxville Area are summarized in Tables 2 through 6.

Section 175A requires a state seeking redesignation to attainment to submit a SIP revision to provide for the maintenance of the NAAQS in the Area ''for at least 10 years after the redesignation.'' EPA has interpreted this as a showing of maintenance ''for a period of ten years following redesignation.'' Calcagni Memorandum, p. 9. Where the emissions inventory method of showing maintenance is used, the purpose is to show that emissions during the maintenance period will not increase over the attainment year inventory. Calcagni Memorandum, pp. 9–10.

As discussed in detail below, Tennessee's maintenance plan submission expressly documents that the Area's overall emissions inventories will remain below the attainment year inventories through 2028. In addition, for the reasons set forth below, EPA believes that the Area will continue to maintain the 2006 24-hour $PM_{2.5}$ NAAQS through 2028. Thus, if EPA finalizes its proposed approval of the redesignation request and maintenance plan, the approval will be based upon this showing, in accordance with section 175A, and EPA's analysis described herein, that Tennessee's maintenance plan provides for maintenance for at least ten years after redesignation.

c. Maintenance Demonstration

The maintenance plan for the Knoxville Area includes a maintenance demonstration that:

(i) Shows compliance with and maintenance of the Annual $PM_{2.5}$ standard by providing information to support the demonstration that current and future emissions of SO_2, NO_X, $PM_{2.5}$, and VOCs remain at or below 2014 emissions levels.

(ii) Uses 2014 as the attainment year and includes future emission inventory projections for 2028.

(iii) Identifies an ''out year'' at least 10 years after EPA review and potential approval of the maintenance plan. Per 40 CFR part 93, NO_X and $PM_{2.5}$ MVEBs were established for the last year (2028) of the maintenance plan. Additionally, Tennessee chose, through interagency consultation, to establish NO_X and $PM_{2.5}$ MVEBs for 2014 (see section VI below).

(iv) Provides, as shown in Tables 2 through 6 below, the estimated and projected emissions inventories, in tons per day (tpd), for the Knoxville Area, for $PM_{2.5}$, NO_X, SO_2, VOCs, and ammonia.

TABLE 2—KNOXVILLE AREA $PM_{2.5}$ EMISSION INVENTORY

[tpd]

	Point	Area	Onroad	Nonroad	Total
2014	3.10	4.86	1.22	0.53	9.70
2017	2.96	4.94	1.05	0.46	9.43
2020	3.19	5.09	0.89	0.42	9.59
2023	3.25	5.24	0.73	0.40	9.61
2026	3.30	5.39	0.56	0.39	9.64
2028	3.32	5.49	0.45	0.41	9.67

[27] The interagency consultation partners consist of the following entities: EPA, the United States Department of Transportation (Federal Highway Administration and Federal Transit Administration), the Knoxville Regional Transportation Planning Organization, Knox County Department of Air Quality Management, the Tennessee Department of Transportation, the Lakeway Area Metropolitan Transportation Planning Organization, the Great Smoky Mountains National Park Service, and the Tennessee Department of Environment and Conservation.

TABLE 3—KNOXVILLE AREA NO_X EMISSION INVENTORY

[tpd]

	Point	Area	Onroad	Nonroad	Total
2014	16.55	3.09	42.73	7.64	70.01
2017	15.69	2.70	36.25	7.03	61.67
2020	16.81	2.69	29.77	6.82	56.10
2023	17.03	2.68	23.29	7.01	50.01
2026	17.27	2.67	16.81	7.65	44.40
2028	17.36	2.68	12.49	8.85	41.37

TABLE 4—KNOXVILLE AREA SO_2 EMISSION INVENTORY

[tpd]

	Point	Area	Onroad	Nonroad	Total
2014	11.36	0.08	0.23	0.13	11.80
2017	8.56	0.10	0.20	0.16	9.02
2020	9.37	0.10	0.17	0.21	9.86
2023	9.47	0.10	0.14	0.30	10.01
2026	9.59	0.10	0.12	0.42	10.23
2028	9.63	0.10	0.10	0.61	10.44

TABLE 5—KNOXVILLE AREA VOC EMISSION INVENTORY

[tpd]

	Point	Area	Onroad	Nonroad	Total
2014	8.07	24.30	16.77	6.41	55.55
2017	9.46	24.35	14.58	5.48	53.88
2020	10.45	24.66	12.38	4.92	52.41
2023	11.07	24.98	10.19	4.77	51.00
2026	11.65	25.31	7.99	4.84	49.80
2028	12.00	25.51	6.53	5.11	49.14

TABLE 6—KNOXVILLE AREA NH_3 EMISSION INVENTORY

[tpd]

	Point	Area	Onroad	Nonroad	Total
2014	0.25	3.05	0.84	0.01	4.14
2017	0.24	3.20	0.81	0.01	4.26
2020	0.25	3.30	0.79	0.01	4.35
2023	0.25	3.38	0.76	0.01	4.41
2026	0.26	3.41	0.74	0.01	4.41
2028	0.26	3.43	0.72	0.01	4.42

In situations where local emissions are the primary contributor to nonattainment, such as the Knoxville Area, if the future projected emissions in the nonattainment area remain at or below the baseline emissions in the nonattainment area, then the ambient air quality standard should not be exceeded in the future. As reflected above in Tables 2 through 5, future emissions of $PM_{2.5}$, NO_X, SO_2, and VOCs in the Knoxville Area are expected to be below the ''attainment level'' emissions in 2014, thus illustrating that the Knoxville Area is expected to continue to attain the 2006 $PM_{2.5}$ NAAQS through 2028 and beyond. Emissions of direct $PM_{2.5,}$ NO_X, SO_2, and VOCs in the Knoxville Area are expected to decrease from 2014 to 2028 by approximately 1 percent, 41 percent, 12 percent, and 22 percent, respectively. Although ammonia emissions are projected to increase between 2014 and 2028, the emissions increase is relatively small (approximately 0.28 tpd), total ammonia emissions are already relatively low (approximately 4.1 tpd in 2014), there are no major stationary sources of ammonia in the Area, the Area is well below the NAAQS, and the decrease in emissions of the other precursors more than offset the projected increase. Thus, the projected inventories indicate that future emissions in the Knoxville Area are expected to support continued maintenance of the 2006 24-hour $PM_{2.5}$ NAAQS through 2028.

As discussed in section VI of this proposed rulemaking, a safety margin is the difference between the attainment level of emissions (from all sources) and the projected level of emissions (from all sources) in the maintenance plan. The attainment level of emissions is the level of emissions during one of the years in which the Area met the NAAQS. Tennessee selected 2014 as the attainment emissions inventory year for the Knoxville Area. Tennessee calculated a safety margin in its submittal for the year 2028 and allocated the entire portion of the 2028 $PM_{2.5}$ safety margin (in tpd) to the 2028 MVEB for the Knoxville Area. Specifically, the entire safety margin is allocated to the 2028 $PM_{2.5}$ MVEB. Also,

Tennessee allocated 7.16 tpd of the 2028 NO_X safety margin to the 2028 NO_X MVEB. The allocation and the resulting available safety margins for the Area are discussed further in section VI of this proposed rulemaking.

d. Monitoring Network

There are currently seven monitors measuring $PM_{2.5}$ in the Knoxville Area. Tennessee, through TDEC, has committed to continue operation of the monitors in the Knoxville Area in compliance with 40 CFR part 58 and have thus addressed the requirement for monitoring. EPA approved Tennessee's 2016 monitoring plan on October 21, 2016.

e. Verification of Continued Attainment

Tennessee, through TDEC, has the legal authority to enforce and implement the requirements of the Knoxville Area 2006 24-hour $PM_{2.5}$ maintenance plan. This includes the authority to adopt, implement, and enforce any subsequent emissions control contingency measures determined to be necessary to correct future $PM_{2.5}$ attainment problems.

TDEC will track the progress of the maintenance plan by performing future reviews of triennial emission inventories for the Knoxville Area as required in the Air Emissions Reporting Rule (AERR). Emissions information will be compared to the 2014 attainment year to assure continued compliance with the 2006 24-hour $PM_{2.5}$ standard.

f. Contingency Measures in the Maintenance Plan

Section 175A of the CAA requires that a maintenance plan include such contingency measures as EPA deems necessary to assure that a state will promptly correct a violation of the NAAQS that occurs after redesignation. The maintenance plan should identify the contingency measures to be adopted, a schedule and procedure for adoption and implementation, and a time limit for action by Tennessee. A state should also identify specific indicators to be used to determine when the contingency measures need to be implemented. The maintenance plan must include a requirement that a state will implement all measures with respect to control of the pollutant that were contained in the SIP before redesignation of the area to attainment in accordance with section 175A(d).

The contingency plan included in the submittal contains a commitment to implement measures that exist in the current SIP for $PM_{2.5}$ and identifies triggers to determine when contingency measures are needed and a process of developing and implementing appropriate control measures. The primary trigger of the contingency plan is a quality assured/quality controlled violating design value of the 2006 24-hour $PM_{2.5}$ NAAQS at any monitor. Upon activation of the primary trigger, Tennessee, in conjunction with the Knox County Department of Air Quality Management (DAQM), will commence an analysis to determine what additional measures will be necessary to attain or maintain the 2006 24-hour $PM_{2.5}$ NAAQS. In the event of a monitored violation of the 2006 24-hour $PM_{2.5}$ NAAQS in the Area, Tennessee commits to adopt and implement one or more of the following control measures within 24 months of the monitored violation in order to bring the Area into compliance:

- Additional RACT for point sources of $PM_{2.5}$ emissions not already covered by RACT, best available control technology (BACT), or reasonable and proper emission limitations;
- Additional RACM for area sources of $PM_{2.5}$;
- Additional RACT for major point sources of NO_X emissions;
- Additional RACT for minor point sources of NO_X emissions;
- Additional RACM for area sources of NO_X emissions;
- Additional RACT for major point sources of SO_2 emissions;
- Additional RACT for minor point sources of SO_2 emissions;
- Additional RACM for area sources of SO_2 emissions; and
- Other control measures, not included in the above list, if new control programs are deemed more advantageous for the Area.

A secondary trigger is activated when one of the following conditions occurs that may forewarn of a potential exceedance of the 24-hour $PM_{2.5}$ NAAQS:

- A 98th-percentile $PM_{2.5}$ daily value of greater than or equal to 37 $\mu g/m^3$ for the previous calendar year at any federal reference monitor (FRM) in the Area, based on quality-assured and certified monitoring data;
- A 98th-percentile $PM_{2.5}$ daily value of greater than or equal to 36 $\mu g/m^3$ for each of the previous two calendar years at any FRM monitor in the Area, based on quality-assured and certified monitoring data; or
- Total emissions of $PM_{2.5}$, SO_2, or NO_X in the most recent NEI for the Area exceeding 130% of the corresponding emissions for 2014 for that pollutant.

If the secondary trigger is activated, Tennessee and Knox County DAQM will investigate the occurrence and evaluate existing control measures to determine whether further emission reduction measures should be implemented.

EPA preliminarily concludes that the maintenance plan adequately addresses the five basic components of a maintenance plan: attainment emission inventory, maintenance demonstration, monitoring network, verification of continued attainment, and a contingency plan. Therefore, EPA proposes to find that the maintenance plan SIP revision submitted by Tennessee for Knoxville Area meets the requirements of section 175A of the CAA and is approvable.

VI. What is EPA's analysis of the proposed NO_X and $PM_{2.5}$ MVEBs for the Knoxville?

Under section 176(c) of the CAA, new transportation plans, programs, and projects, such as the construction of new highways, must ''conform'' to (*i.e.,* be consistent with) the part of a state's air quality plan that addresses pollution from cars and trucks. Conformity to the SIP means that transportation activities will not cause new air quality violations, worsen existing violations, or delay timely attainment of the NAAQS or any interim milestones. If a transportation plan does not conform, most new projects that would expand the capacity of roadways cannot go forward. Regulations at 40 CFR part 93 set forth EPA policy, criteria, and procedures for demonstrating and assuring conformity of such transportation activities to a SIP. The regional emissions analysis is one, but not the only, requirement for implementing transportation conformity. Transportation conformity is a requirement for nonattainment and maintenance areas. Maintenance areas are areas that were previously nonattainment for a particular NAAQS but have since been redesignated to attainment with an approved maintenance plan for that NAAQS.

Under the CAA, states are required to submit, at various times, control strategy SIPs and maintenance plans for nonattainment areas. These control strategy SIPs (including RFP and attainment demonstration) and maintenance plans create MVEBs for criteria pollutants and/or their precursors to address pollution from cars and trucks. Per 40 CFR part 93, a MVEB must be established for the last year of the maintenance plan. A state may adopt MVEBs for other years as well. The MVEB is the portion of the total allowable emissions in the maintenance demonstration that is allocated to highway and transit vehicle

use and emissions. *See* 40 CFR 93.101. The MVEB serves as a ceiling on emissions from an area's planned transportation system. The MVEB concept is further explained in the preamble to the November 24, 1993, Transportation Conformity Rule (58 FR 62188). The preamble also describes how to establish the MVEB in the SIP and how to revise the MVEB.

After interagency consultation with the transportation partners for the Knoxville Area, Tennessee has elected to develop MVEBs for NO_X and $PM_{2.5}$ for the entire Area. MVEBs were not developed for VOCs and ammonia because these pollutants are not significant contributors to mobile source emissions in the Knoxville Area. Tennessee developed these MVEBs, as required, for the last year of its maintenance plan, 2028. Tennessee also established MVEBs for the attainment year of 2014. The MVEBs reflect the total on-road emissions for 2014 and 2028, plus an allocation from the available NO_X and $PM_{2.5}$ safety margin. Under 40 CFR 93.101, the term ''safety margin'' is the difference between the attainment level (from all sources) and the projected level of emissions (from all sources) in the maintenance plan. The safety margin can be allocated to the transportation sector; however, the total emissions must remain below the attainment level. The NO_X and $PM_{2.5}$ MVEBs and allocation from the safety margin were developed in consultation with the transportation partners and were added to account for uncertainties in population growth, changes in model vehicle miles traveled, and new emission factor models. Further details are provided below to explain how the NO_X and $PM_{2.5}$ MVEBs for 2028 were derived.

The State developed a worst case scenario to estimate the potential emissions increases due to changes in the models and planning assumptions mentioned earlier. For the worst case scenario, an analysis year of 2045 was selected. In addition, projected VMT was increased by 10 percent, the age of the vehicle fleet was increased by approximately two years, and the vehicle source type population was increased by 10 percent above the projected vehicle source type population for 2045. This analysis yielded emissions of $PM_{2.5}$ from on-road sources of about 0.22 tpd above those projected from on-road sources in 2028. Since the entire $PM_{2.5}$ safety margin of 0.03 tpd is allocated to the 2028 MVEB, an additional 0.19 tpd is still needed to cover the emissions increases modeled in the worst case scenario.

Since there is no apparent $PM_{2.5}$ safety margin remaining to allocate the additional 0.19 tpd to the 2028 MVEB, Tennessee performed a speciation data assessment to analyze the relationship between $PM_{2.5}$ emissions and ambient concentrations and the impact it has on the future air quality in the Knoxville Area with the additional allocation to the 2028 MVEB. With the additional 0.19 tpd allocation, the overall $PM_{2.5}$ emissions from the base year 2014 increases from 9.70 tpd to 9.86 tpd in the out year of 2028. This is equal to approximately a 2 percent increase in attainment year $PM_{2.5}$ emissions. Tennessee's analysis indicates that a 2 percent direct $PM_{2.5}$ increase will cause a 2 percent increase in ambient concentrations of $PM_{2.5}$ which equates to 0.43μg/m^3.

As mentioned in Section V, the three-year design value for years 2013–2015 is 20 μg/m^3. Therefore, the design value would be approximately 20.43μg/m^3 with the 2 percent increase. Even with the 2 percent increase in ambient $PM_{2.5}$ concentrations, the 20.43μg/m^3 design value is still below the 2006 $PM_{2.5}$ NAAQS of 35 ug/m.[28] Furthermore, the on-road $PM_{2.5}$ emissions as compared to the overall $PM_{2.5}$ emissions from all sectors trends downward from 12.6 percent in 2014 to 4.7 percent in 2028. See Table 7, below.

TABLE 7—$PM_{2.5}$ ON-ROAD MOBILE EMISSIONS COMPARISON TO THE TOTAL $PM_{2.5}$ EMISSIONS FROM ALL SECTORS FOR THE KNOXVILLE AREA

[tpd]

	2014	2017	2020	2023	2026	2028
$PM_{2.5}$ On-road emissions	1.22	1.05	0.89	0.73	0.56	0.45
Total $PM_{2.5}$ emissions (all sectors)	9.70	9.43	9.59	9.61	9.64	9.67
On-road % of total $PM_{2.5}$ emissions	12.6	11.1	9.3	7.6	5.8	4.7

Therefore, based on the Tennessee's speciation data assessment which concludes that there is a decrease in sulfate and nitrate concentrations even with a projected 2 percent increase in direct $PM_{2.5}$ emissions coupled with the downward trend in on-road emissions, the Knoxville Area is expected to maintain the 2006 $PM_{2.5}$ standard. The NO_X and $PM_{2.5}$ MVEBs with safety margins for the Knoxville Area are defined in Table 8, below.

TABLE 8—MVEB WITH SAFETY MARGIN FOR THE KNOXVILLE AREA

[tpd]

Pollutant	2014	2028
$PM_{2.5}$ On-road Emissions	1.22	0.45
Safety Margin allocation	.....	*0.22
$PM_{2.5}$ MVEB	1.22	0.67
NO_X On-road Emissions	42.73	12.49
Safety Margin allocation	.....	7.16
NO_X MVEB	42.73	19.65

*The 2028 safety margin allocation includes 0.03 tons/day and an additional 0.19 tons/day.

[28] Tennessee describes the speciation analysis in Section 4.1.5 of the submittal. See figure 4–1 for more details.

There is no 2028 safety margin remaining for $PM_{2.5}$, and the remaining 2028 safety margin for NO_X is 21.48 tpd. Through this rulemaking, EPA is proposing to approve into the Tennessee SIP the MVEBs for NO_X and $PM_{2.5}$ for 2014 and 2028 for the Knoxville Area because EPA has determined that the Area maintains the 2006 24-hour $PM_{2.5}$ NAAQS with the emissions at the levels of the budgets. The MVEBs for the Knoxville Area were found adequate and are currently being used to determine transportation conformity. After thorough review, EPA is proposing to approve the budgets because they are consistent with maintenance of the 2006 24-hour $PM_{2.5}$ NAAQS through 2028.

VII. What is the effect of EPA's proposed actions?

EPA's proposed actions establish the basis upon which EPA may take final action on the issues being proposed for approval. Approval of Tennessee's redesignation request would change the legal designation of Anderson, Blount, Knox, and Loudon Counties and a portion of Roane County for the 2006 24-hour $PM_{2.5}$ NAAQS, found at 40 CFR part 81, from nonattainment to attainment. Approval of Tennessee's associated SIP revision would also incorporate a plan for maintaining the 2006 24-hour $PM_{2.5}$ NAAQS in the Area through 2028 and Tennessee's RACM determination into the Tennessee SIP. The maintenance plan includes contingency measures to remedy any future violations of the 2006 24-hour $PM_{2.5}$ NAAQS and procedures for evaluation of potential violations. The maintenance plan also includes NO_X and $PM_{2.5}$ MVEBs for the Knoxville Area.

VIII. Proposed Actions

EPA is proposing to: (1) Approve Tennessee's RACM determination for the Knoxville Area pursuant to CAA sections 172(c)(1) and 189(a)(1)(C) and incorporate it into the SIP; (2) approve Tennessee's plan for maintaining the 2006 24-hour $PM_{2.5}$ NAAQS (maintenance plan), including the associated MVEBs for the Knoxville Area, and incorporate it into the SIP; and (3) redesignate the Knoxville Area to attainment for the 2006 24-hour $PM_{2.5}$ NAAQS.

If finalized, approval of the redesignation request would change the official designation of Anderson, Blount, Knox, and Loudon Counties and a portion of Roane County for the 2006 24-hour $PM_{2.5}$ NAAQS, found at 40 CFR part 81 from nonattainment to attainment, as found at 40 CFR part 81.

IX. Statutory and Executive Order Reviews

Under the CAA, redesignation of an area to attainment and the accompanying approval of a maintenance plan under section 107(d)(3)(E) are actions that affect the status of a geographical area and do not impose any additional regulatory requirements on sources beyond those imposed by state law. A redesignation to attainment does not in and of itself create any new requirements, but rather results in the applicability of requirements contained in the CAA for areas that have been redesignated to attainment. Moreover, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, these proposed actions merely approve Commonwealth law as meeting federal requirements and do not impose additional requirements beyond those imposed by state law. For that reason, these proposed actions:

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

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs of tribal governments or preempt tribal law.

List of Subjects

40 CFR Part 52

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

40 CFR Part 81

Environmental protection, Air pollution control.

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

Dated: April 27, 2017.

V. Anne Heard,

Acting Regional Administrator, Region 4.

[FR Doc. 2017–10905 Filed 5–26–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA–R05–OAR–2016–0137; FRL–9962–69–Region 5]

Air Plan Approval; Indiana; Redesignation of the Muncie Area to Attainment of the 2008 Lead Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to redesignate the Muncie, Indiana nonattainment area to attainment for the 2008 national ambient air quality standard (NAAQS) for lead. EPA is proposing to approve this request and two additional related actions as revisions to the Indiana state implementation plan (SIP). These are the state's plan for maintaining the 2008 lead NAAQS through 2030 for the area and the 2013 attainment year emissions inventory for the area. EPA is proposing to approve these actions in accordance with the Clean Air Act and EPA's implementation regulations regarding the 2008 lead NAAQS.

DATES: Comments must be received on or before June 29, 2017.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R05–OAR–2016–0137 at *http://www.regulations.gov* or via email to *blakley.pamela@epa.gov.* For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Anthony Maietta, Environmental Protection Specialist, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–8777, *maietta.anthony@epa.gov.*

SUPPLEMENTARY INFORMATION: In the Final Rules section of this **Federal Register**, EPA is approving the State's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this rule, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment. For additional information, see the direct final rule which is located in the Rules section of this **Federal Register**.

Dated: May 4, 2017.

Robert A. Kaplan,

Acting Regional Administrator, Region 5.

[FR Doc. 2017–10904 Filed 5–26–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA–R04–OAR–2017–0085; FRL–9962–26–Region 4]

Air Plan Approval and Air Quality Designation; TN; Redesignation of the Knoxville 1997 Annual $PM_{2.5}$ Nonattainment Area to Attainment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: On December 20, 2016, Tennessee, through the Tennessee Department of Environment and Conservation (TDEC), submitted a request for the Environmental Protection Agency (EPA) to redesignate the Knoxville-Sevierville-La Follette, TN fine particulate matter ($PM_{2.5}$) nonattainment area (hereinafter referred to as the ''Knoxville Area'' or ''Area'') to attainment for the 1997 Annual $PM_{2.5}$ national ambient air quality standards (NAAQS) and to approve a state implementation plan (SIP) revision containing a maintenance plan, a reasonably available control measures (RACM) determination, and source-specific requirements for the Area. EPA is proposing to approve Tennessee's RACM determination for the Knoxville Area and incorporate it into the SIP; to incorporate source-specific requirements for two sources in the Area into the SIP; determine that the Knoxville Area is attaining the 1997 Annual $PM_{2.5}$ NAAQS based on 2013–2015 data; approve Tennessee's plan for maintaining the 1997 Annual $PM_{2.5}$ NAAQS for the Knoxville Area (maintenance plan), including the associated motor vehicle emission budgets (MVEBs) for nitrogen oxides (NO_X) and $PM_{2.5}$ for the years 2014 and 2028, and incorporate it into the SIP; and to redesignate the Knoxville Area to attainment for the 1997 Annual $PM_{2.5}$ NAAQS.

DATES: Comments must be received on or before June 29, 2017.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–OAR–2017–0085 at *http://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Sean Lakeman of the Air Regulatory Management Section, in the Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Sean Lakeman may be reached by phone at (404) 562–9043, or via electronic mail at *lakeman.sean@epa.gov.*

SUPPLEMENTARY INFORMATION:

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I. What are the actions EPA is proposing to take?

EPA is proposing to take the following separate but related actions: (1) To approve Tennessee's RACM determination for the Knoxville Area pursuant to Clean Air Act (CAA or Act) sections 172(c)(1) and 189(a)(1)(C) and incorporate it into the SIP; (2) to

determine that the Knoxville Area is attaining the 1997 Annual $PM_{2.5}$ NAAQS based on 2013–2015 data; (3) to approve Tennessee's plan for maintaining the 1997 Annual $PM_{2.5}$ NAAQS (maintenance plan) including the associated MVEBs for the Knoxville Area and incorporate it into the SIP; (4) to incorporate source-specific requirements for two sources in the Area into the SIP; and (5) to redesignate the Knoxville Area to attainment for the 1997 Annual $PM_{2.5}$ NAAQS. EPA has already made its determination on the adequacy of the 2014 and 2028 MVEBs for the Knoxville Area for transportation conformity purposes and notified the public of that determination through publication of the Notice of Adequacy on March 10, 2017. *See* 82 FR 13337. These MVEBs were effective on March 27, 2017.[1] The Knoxville Area consists of Anderson, Blount, Knox, and Loudon Counties in their entirety and a portion of Roane County (the area described by U.S. Census 2000 block group identifier 47–145–0307–2). These proposed actions are summarized below and described in greater detail throughout this notice of proposed rulemaking.

EPA's 1997 Annual $PM_{2.5}$ nonattainment designation for the Area triggered an obligation for Tennessee to develop a nonattainment SIP revision addressing certain CAA requirements under title I, part D, subpart 1 (hereinafter ''Subpart 1'') and title I, part D, subpart 4 (hereinafter ''Subpart 4''). Subpart 1 contains the general requirements for nonattainment areas for criteria pollutants, including requirements to develop a SIP that provides for the implementation of RACM under section 172(c)(1), requires reasonable further progress (RFP), includes base-year and attainment-year emissions inventories, and provides for the implementation of contingency measures. As discussed in greater detail later in this notice, Subpart 4 contains specific planning and scheduling requirements for coarse particulate matter (PM_{10}) nonattainment areas, including requirements for new source review, RACM (under section 189(a)(1)(C)), and RFP. In the General Preamble, EPA's longstanding general guidance interpreting the 1990 amendments to the CAA, EPA discussed the relationship of Subpart 1 and Subpart 4 SIP requirements and pointed out that Subpart 1 requirements were to an extent ''subsumed by, or integrally related to, the more specific PM–10 requirements.'' *See* 57 FR 13538 (April 16, 1992). Under the United States Court of Appeals for the District of Columbia Circuit's (D.C. Circuit's) January 4, 2013, decision in *Natural Resources Defense Council* v. *EPA,* 706 F.3d 428 (D.C. Cir. 2013), Subpart 4 requirements apply to $PM_{2.5}$ nonattainment areas.[2]

On June 2, 2014, EPA published a rule entitled ''Identification of Nonattainment Classification and Deadlines for Submission of State Implementation Plan (SIP) Provisions for the 1997 Fine Particle ($PM_{2.5}$) National Ambient Air Quality Standard (NAAQS) and 2006 $PM_{2.5}$ NAAQS'' (''Classification and Deadlines Rule''). *See* 79 FR 31566. In that rule, the Agency responded to the D.C. Circuit's January 2013 decision by identifying all $PM_{2.5}$ nonattainment areas for the 1997 and 2006 $PM_{2.5}$ NAAQS as ''moderate'' nonattainment areas under Subpart 4, and by establishing a new SIP submission date of December 31, 2014, for moderate area attainment plans and for any additional attainment-related or nonattainment new source review plans necessary for areas to comply with the requirements applicable under subpart 4. *Id.* at 31567–70.

Based on its moderate nonattainment area classification, Tennessee was required to submit a SIP revision addressing RACM pursuant to CAA section 172(c)(1) and section 189(a)(1)(C) for the Area. Although EPA does not believe that section 172(c)(1) and section 189(a)(1)(C) RACM must be approved into a SIP prior to redesignation of an area to attainment once that area is attaining the NAAQS, EPA is proposing to approve Tennessee's RACM determination and incorporate it into its SIP pursuant to a recent decision by the United States Court of Appeals for the Sixth Circuit (Sixth Circuit) in *Sierra Club* v. *EPA,* 793 F.3d 656 (6th Cir. 2015), as discussed in Section V.A, below.[3]

EPA is proposing to determine that the Knoxville Area is attaining the 1997 Annual $PM_{2.5}$ NAAQS based on recent air quality data. EPA also proposes to approve Tennessee's maintenance plan for the Knoxville Area as meeting the requirements of section 175A (such approval being one of the CAA) criteria for redesignation to attainment status) and incorporate it into the SIP. The maintenance plan is designed to help keep the Knoxville Area in attainment for the 1997 Annual $PM_{2.5}$ NAAQS through 2028. The maintenance plan includes 2014 and 2028 MVEBs for NO_X and direct $PM_{2.5}$ for the Knoxville Area. EPA is proposing to approve these MVEBs and incorporate them into the Tennessee SIP. EPA is also proposing to incorporate source-specific requirements for two sources located in the Area—the Tennessee Valley Authority (TVA) Bull Run Fossil Plant and TVA Kingston Fossil Plant—into the SIP. The specific requirements proposed for incorporation are discussed in Section V.A, below.

EPA also proposes to determine that the Knoxville Area has met the requirements for redesignation under section 107(d)(3)(E) of the CAA. Accordingly, in this action, EPA is proposing to approve a request to change the legal designation of Anderson, Blount, Knox, and Loudon Counties and a portion of Roane County within the Knoxville Area, as found at 40 CFR part 81, from nonattainment to attainment for the 1997 Annual $PM_{2.5}$ NAAQS.

In summary, this proposed rulemaking is in response to Tennessee's December 20, 2016, redesignation request and associated SIP submission that address the specific issues summarized above and the necessary elements for redesignation described in section 107(d)(3)(E) of the CAA for the redesignation of the Knoxville Area to attainment for the 1997 Annual $PM_{2.5}$ NAAQS.

II. What is the background for EPA's proposed actions?

Fine particle pollution can be emitted directly or formed secondarily in the atmosphere.[4] The main precursors of

[1] EPA issued a letter to the State on February 15, 2017, finding the MVEBs adequate for transportation conformity purposes.

[2] In explaining its decision, the Court reasoned that the plain meaning of the CAA requires implementation of the 1997 $PM_{2.5}$ NAAQS under Subpart 4 because $PM_{2.5}$ particles fall within the statutory definition of PM_{10} and are thus subject to the same statutory requirements. EPA finalized its interpretation of Subpart 4 requirements as applied to the $PM_{2.5}$ NAAQS in its final rule entitled ''Air Quality State Implementation Plans; Approvals and Promulgations: Fine Particulate Matter National Ambient Air Quality Standards'' (81 FR 58010, August 24, 2016).

[3] On August 2, 2012, EPA published a final determination that the Area had attained the 1997 Annual $PM_{2.5}$ NAAQS based on ambient air monitoring data for the 2009–2011 time period. *See* 77 FR 45954. In that determination and in accordance with EPA's clean data policy, EPA suspended the requirements for the Area to submit a SIP revision addressing RACM, RFP plans, contingency measures, and certain other attainment planning requirements so long as the Area continues to attain the 1997 Annual $PM_{2.5}$ NAAQS. EPA notes, however, that in 2013 it issued results of a technical systems audit on the $PM_{2.5}$ laboratory in Tennessee that invalidated all 2010–2012 $PM_{2.5}$ monitoring data for the Area. After the monitoring audit issues were addressed, Tennessee submitted valid data for all sites, resulting in complete and valid design values using 2013–2015 data.

[4] Fine particulate matter ($PM_{2.5}$) refers to airborne particles less than or equal to 2.5 micrometers in diameter. Although treated as a single pollutant, fine particles come from many different sources and are composed of many different compounds. In the

Continued

secondary $PM_{2.5}$ are sulfur dioxide (SO_2), NO_X, ammonia, and volatile organic compounds (VOCs). *See* 81 FR 58010, 58014 (August 24, 2016). Sulfates are a type of secondary particle formed from SO_2 emissions from power plants and industrial facilities. Nitrates, another common type of secondary particle, are formed from NO_X emissions from power plants, automobiles, and other combustion sources.

On July 18, 1997, EPA promulgated the first air quality standards for $PM_{2.5}$. EPA promulgated an annual standard at a level of 15.0 micrograms per cubic meter (μg/m³), based on a 3-year average of annual mean $PM_{2.5}$ concentrations. In the same rulemaking, EPA promulgated a 24-hour standard of 65 μg/m³, based on a 3-year average of the 98th percentile of 24-hour concentrations. On October 17, 2006 (71 FR 61144), EPA retained the annual average NAAQS at 15.0 μg/m³ but revised the 24-hour NAAQS to 35 μg/m³, based again on the 3-year average of the 98th percentile of 24-hour concentrations.[5] Under EPA regulations at 40 CFR part 50, the primary and secondary 1997 Annual $PM_{2.5}$ NAAQS are attained when the annual arithmetic mean concentration, as determined in accordance with 40 CFR part 50, Appendix N, is less than or equal to 15.0 μg/m³ at all relevant monitoring sites in the subject area averaged over a 3-year period.

On January 5, 2005, at 70 FR 944, and supplemented on April 14, 2005, at 70 FR 19844, EPA designated the Knoxville Area as nonattainment for the 1997 Annual $PM_{2.5}$ NAAQS. All 1997 $PM_{2.5}$ NAAQS areas were designated under Subpart 1. Subpart 1 contains the general requirements for nonattainment areas for any pollutant governed by a NAAQS and is less prescriptive than the other subparts of title I, part D. On April 25, 2007 (72 FR 20586), EPA promulgated its Clean Air Fine Particle Implementation Rule, codified at 40 CFR part 51, subpart Z, in which the Agency provided guidance for state and tribal plans to implement the 1997 $PM_{2.5}$ NAAQS. The D.C. Circuit remanded the Clean Air Fine Particle Implementation Rule and the final rule entitled ''Implementation of the New Source Review (NSR) Program for Particulate Matter Less than 2.5 Micrometers ($PM_{2.5}$)'' (73 FR 28321, May 16, 2008) (collectively, ''1997 $PM_{2.5}$ Implementation Rules'') to EPA on January 4, 2013, in *Natural Resources Defense Council* v. *EPA,* 706 F.3d 428 (D.C. Cir. 2013). The Court found that EPA erred in implementing the 1997 $PM_{2.5}$ NAAQS pursuant to the general implementation provisions of Subpart 1, rather than the particulate matter-specific provisions of Subpart 4.

On July 29, 2016, EPA issued a rule entitled, ''Fine Particulate Matter National Ambient Air Quality Standards: State Implementation Plan Requirements'' ($PM_{2.5}$ SIP Requirements Rule) that clarifies how states should meet the statutory SIP requirements that apply to areas designated nonattainment for any $PM_{2.5}$ NAAQS under Subparts 1 and 4. *See* 81 FR 58010 (August 24, 2016). It does so by establishing regulatory requirements and providing guidance that is applicable to areas that are currently designated nonattainment for existing $PM_{2.5}$ NAAQS and areas that are designated nonattainment for any $PM_{2.5}$ NAAQS in the future. In addition, the rule responds to the D.C. Circuit's remand of the 1997 $PM_{2.5}$ Implementation Rules. As a result, the requirements of the rule also govern future actions associated with states' ongoing implementation efforts for the 1997 and 2006 $PM_{2.5}$ NAAQS.

In the $PM_{2.5}$ SIP Requirements Rule, EPA revoked the 1997 primary Annual $PM_{2.5}$ NAAQS in areas that had always been attainment for that NAAQS, and in areas that had been designated as nonattainment but that were redesignated to attainment before October 24, 2016, the rule's effective date. *See* 81 FR 58010 (August 24, 2016). EPA also finalized a provision that revokes the 1997 primary Annual $PM_{2.5}$ NAAQS in areas that are redesignated to attainment for that NAAQS after October 24, 2016, effective on the effective date of the redesignation of the area to attainment for that NAAQS. *See* 40 CFR 50.13(d).

EPA is proposing to redesignate the Knoxville Area to attainment for the 1997 Annual $PM_{2.5}$ NAAQS and proposing to approve the CAA section 175A maintenance plan for the 1997 Annual $PM_{2.5}$ NAAQS for the reasons described elsewhere in this notice.[6] If the proposal is finalized, the 1997 primary Annual $PM_{2.5}$ NAAQS will be revoked in the Area on the effective date of the redesignation. Beginning on that date, the Area will no longer be subject to transportation or general conformity requirements for the 1997 Annual $PM_{2.5}$ NAAQS due to the revocation of the primary NAAQS. *See* 81 FR 58125. The Area will be required to implement the CAA section 175A maintenance plan for the 1997 Annual $PM_{2.5}$ NAAQS and the prevention of significant deterioration (PSD) program for the 1997 Annual $PM_{2.5}$ NAAQS. Once approved, the maintenance plan can only be revised if the revision meets the requirements of CAA section 110(l) and, if applicable, CAA section 193. The Area would not be required to submit a second 10-year maintenance plan for the 1997 Annual $PM_{2.5}$ NAAQS. *See* 81 FR 58144.

III. What are the criteria for redesignation?

The CAA provides the requirements for redesignating a nonattainment area to attainment. Specifically, section 107(d)(3)(E) of the CAA allows for redesignation provided the following criteria are met: (1) The Administrator determines that the area has attained the applicable NAAQS; (2) the Administrator has fully approved the applicable implementation plan for the area under section 110(k); (3) the Administrator determines that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the applicable SIP and applicable federal air pollutant control regulations, and other permanent and enforceable reductions; (4) the Administrator has fully approved a maintenance plan for the area as meeting the requirements of section 175A; and (5) the state containing such area has met all requirements applicable to the area under section 110 and part D of title I of the CAA.

On April 16, 1992, EPA provided guidance on redesignation in the General Preamble for the Implementation of title I of the CAA Amendments of 1990 (57 FR 13498), and the Agency supplemented this guidance on April 28, 1992 (57 FR 18070). EPA has provided further guidance on processing redesignation requests in the following documents:

Knoxville Area, one of the sources of $PM_{2.5}$ is fuel burning sources (such as coal-burning power plants, motor vehicles and combustion operations). VOC, also precursors for PM, are emitted from a variety of sources, including motor vehicles, chemical plants, refineries, factories, consumer and commercial products, and other industrial sources. VOC are also emitted by natural sources such as vegetation.

[5] In response to legal challenges of the annual standard promulgated in 2006, the D.C. Circuit remanded that NAAQS to EPA for further consideration. *See American Farm Bureau Federation and National Pork Producers Council, et al.* v. *EPA,* 559 F.3d 512 (D.C. Cir. 2009). However, given that the 1997 and 2006 Annual NAAQS are essentially identical, attainment of the 1997 Annual NAAQS would also indicate attainment of the remanded 2006 Annual NAAQS.

[6] CAA section 175A(a) establishes the requirements that must be fulfilled by nonattainment areas in order to be redesignated to attainment. That section only requires that nonattainment areas for the *primary* standard submit a plan addressing maintenance of the *primary* NAAQS in order to be redesignated to attainment; it does not require nonattainment areas for secondary NAAQS to submit maintenance plans in order to be redesignated to attainment.

1. ''Procedures for Processing Requests to Redesignate Areas to Attainment,'' Memorandum from John Calcagni, Director, Air Quality Management Division, September 4, 1992 (hereinafter referred to as the ''Calcagni Memorandum'');

2. ''State Implementation Plan (SIP) Actions Submitted in Response to Clean Air Act (CAA) Deadlines,'' Memorandum from John Calcagni, Director, Air Quality Management Division, October 28, 1992; and

3. ''Part D New Source Review (Part D NSR) Requirements for Areas Requesting Redesignation to Attainment,'' Memorandum from Mary D. Nichols, Assistant Administrator for Air and Radiation, October 14, 1994 (hereinafter referred to as the ''Nichols Memorandum'').

IV. Why is EPA proposing these actions?

On December 20, 2016, Tennessee requested that EPA redesignate the Knoxville Area to attainment for the 1997 Annual $PM_{2.5}$ NAAQS and submitted an associated SIP revision containing a maintenance plan, a RACM determination, and source-specific requirements for two sources in the Area. EPA's evaluation indicates that the RACM determination and source-specific requirements meet the relevant requirements of the CAA and that the Knoxville Area meets the requirements for redesignation set forth in section 107(d)(3)(E), including the maintenance plan requirements under section 175A of the CAA. As a result of these proposed findings, EPA is proposing to take the separate but related actions summarized in section I of this notice.

V. What is EPA's analysis of the request?

As stated above, in accordance with the CAA, EPA proposes to: (1) To approve Tennessee's RACM determination for the Knoxville Area and incorporate it into the SIP; (2) to determine that the Area is attaining the 1997 Annual $PM_{2.5}$ NAAQS based on 2013–2015 data; (3) to approve Tennessee's plan for maintaining the 1997 Annual $PM_{2.5}$ NAAQS (maintenance plan), including the associated MVEBs for the Knoxville Area, and incorporate it into the Tennessee SIP; (4) to incorporate source-specific requirements for two sources in the Area into the SIP; and (5) to redesignate the Knoxville Area to attainment for the 1997 Annual $PM_{2.5}$ NAAQS.

A. RACM Determination

1. Relationship Between RACM and Redesignation Criteria

As noted above, there are a number of planning requirements in the CAA that are designed to help areas achieve attainment or demonstrate progress toward attainment. Where those areas are already attaining the NAAQS in question, EPA has long interpreted these requirements as not applicable for purposes of evaluating whether an area has a fully approved SIP pursuant to CAA section 107(d)(3)(E)(ii). *See, e.g.,* 57 FR 13498, 13564 (April 16, 1992); Calcagni Memorandum. Included in this category of suspended or inapplicable planning requirements are the provisions in Subparts 1 and 4 requiring areas to submit plans providing for implementation of RACM, including reasonably available control technology (RACT). However, in *Sierra Club* v. *EPA,* the Sixth Circuit vacated EPA's redesignation of the Indiana and Ohio portions of the Cincinnati-Hamilton nonattainment area to attainment for the 1997 $PM_{2.5}$ NAAQS because EPA had not yet approved Subpart 1 RACM for the Cincinnati Area into the Indiana and Ohio SIPs. The Court concluded that ''a State seeking redesignation 'shall provide for the implementation' of RACM/RACT, even if those measures are not strictly necessary to demonstrate attainment with the $PM_{2.5}$ NAAQS. . . . If the State has not done so, EPA cannot 'fully approve' the area's SIP, and redesignation to attainment status is improper.'' *Sierra Club,* 793 F.3d at 670.

EPA is bound by the Sixth Circuit's decision in *Sierra Club* v. *EPA* within the Court's jurisdiction.[7] Therefore, EPA is proposing to approve Tennessee's RACM determination into the SIP in conjunction with its proposal to approve the State's redesignation request for the Area pursuant to the Court's decision.[8]

2. Proposed Approval of Tennessee's RACM Determination

Subpart 1 requires that each attainment plan ''provide for the implementation of all reasonably available control measures as expeditiously as practicable (including such reductions in emission from the existing sources in the area as may be obtained through the adoption, at a minimum, of reasonably available control technology), and shall provide for attainment of the national primary ambient air quality standards.'' *See* CAA section 172(c)(1). The attainment planning requirements in Subpart 4 that are specific to PM_{10} (including $PM_{2.5}$) likewise impose upon states an obligation to develop attainment plans that require RACM for sources of direct $PM_{2.5}$ and $PM_{2.5}$ precursors within a moderate nonattainment area. CAA section 189(a)(1)(C) requires that states with a moderate $PM_{2.5}$ nonattainment area have attainment plan provisions to assure that RACM is implemented by no later than four years after designation of the area.[9]

EPA reads CAA sections 172(c)(1) and 189(a)(1)(C), and EPA's implementing regulations, together to require that attainment plans for moderate nonattainment areas must provide for the implementation of RACM for existing sources of $PM_{2.5}$ and $PM_{2.5}$ precursors in the nonattainment area as expeditiously as practicable but no later than four years after designation.[10] As set forth in 40 CFR 51.1009(a)(4), states are required to adopt and implement all technologically and economically feasible control measures for PM and its precursors that are necessary to bring a moderate nonattainment area into attainment by its attainment date or that would advance attainment by one year. If a state demonstrates that a control measure would not be necessary for attaining the standard as expeditiously as practicable or would not advance the attainment date, the state is not required to adopt such measure into its SIP. 40 CFR 51.1009(a)(4)(i)(A) further specifies that those measures that are identified for adoption and implementation constitute RACM for the area. Therefore, any measure that is not necessary for the area to achieve attainment or does not advance attainment by one year does not constitute RACM.[11]

In this action, EPA proposes to approve Tennessee's December 20, 2016 RACM submission. In that submission, Tennessee did not identify any

[7] The states of Kentucky, Michigan, Ohio, and Tennessee are located within the Sixth Circuit's jurisdiction.

[8] The EPA Region 4 Regional Administrator signed a memorandum on July 20, 2015, seeking concurrence from the Director of EPA's Air Quality Policy Division (AQPD) in the Office of Air Quality Planning and Standards to act inconsistent with EPA's interpretation of CAA sections 107(d)(3)(E) and 172(c)(1) when taking action on pending and future redesignation requests in Kentucky and Tennessee because the Region is bound by the Sixth Circuit's decision in *Sierra Club* v. *EPA.* The AQPD Director issued her concurrence on July 22, 2015. This memorandum is not required to satisfy EPA's regional consistency regulations. *See* 40 CFR 56.5(b)(1); 81 FR 51102 (August 3, 2016).

[9] States with areas later reclassified as ''serious'' nonattainment areas under Subpart 4 must also develop and submit later plans to meet additional requirements for serious areas. *See* 40 CFR 51.1003(b).

[10] This interpretation is consistent with guidance described in the General Preamble. *See* 57 FR 13498, 13540 (April 16, 1992). For further discussion, see 81 FR 58010, 58035 (August 24, 2016).

[11] Reviewing courts have upheld EPA's interpretation of RACM as encompassing only those measures necessary to advance attainment. *See Sierra Club* v. *EPA,* 314 F.3d 735, 743–745 (5th Cir. 2002); *Sierra Club* v. *EPA,* 294 F.3d 155, 162–163 (D.C. Cir. 2002); *NRDC* v. *EPA,* 571 F.3d 1245, 1252 (D.C. Cir. 2009).

measures necessary to bring the Area into attainment, nor any measures that would advance attainment of the Area, because the Area is already attaining the 1997 Annual $PM_{2.5}$ NAAQS. Because only those measures that are necessary to attain by the attainment date or would advance attainment by one year constitute RACM under CAA sections 172(c)(1), 189(a)(1), and EPA's implementing regulations, EPA proposes to approve Tennessee's determination that no additional measures are necessary to meet the State's obligations to have fully adopted RACM under the CAA and under the Sixth Circuit's decision in *Sierra Club.*

B. Redesignation Request and Maintenance Demonstration

The five redesignation criteria provided under CAA section 107(d)(3)(E) are discussed in greater detail for the Area in the following paragraphs of this section.

Criteria (1)—The Knoxville Area Has Attained the 1997 Annual $PM_{2.5}$ NAAQS

For redesignating a nonattainment area to attainment, the CAA requires EPA to determine that the area has attained the applicable NAAQS (CAA section 107(d)(3)(E)(i)). For $PM_{2.5}$, an area may be considered to be attaining the 1997 Annual $PM_{2.5}$ NAAQS if it meets the standards, as determined in accordance with 40 CFR 50.13 and Appendix N of part 50, based on three complete, consecutive calendar years of quality-assured air quality monitoring data. To attain the 1997 Annual $PM_{2.5}$ NAAQS, the 3-year average of the annual arithmetic mean concentration, as determined in accordance with 40 CFR part 50, Appendix N, must be less than or equal to 15.0 μg/m^3 at all relevant monitoring sites in the subject area over a 3-year period. The relevant data must be collected and quality-assured in accordance with 40 CFR part 58 and recorded in the EPA Air Quality System (AQS) database. The monitors generally should have remained at the same location for the duration of the monitoring period required for demonstrating attainment.

EPA has evaluated the complete, quality-assured data for the Area from 2013–2015, and as shown in Table 1 below, the monitors in the Knoxville Area all have annual arithmetic mean $PM_{2.5}$ concentrations averaged over three years (*i.e.,* design values) that are attaining the 1997 Annual $PM_{2.5}$ NAAQS.

TABLE 1—KNOXVILLE AREA 2013–2015 DESIGN VALUES FOR THE 1997 ANNUAL $PM_{2.5}$ NAAQS

Monitor site	Site ID	2013–2015 Design value (μg/m^3)
Sequoyah Ave, Maryville	470090011	8.6
Bearden Middle School	470930028	9.2
Davanna Street, Air Lab	470931013	9.9
Rule High School	470931017	9.9
Spring Hill Elementary School	470931020	9.1
Loudon Pope site	471050108	9.4
Harriman High School	471450004	8.7

As shown in Table 1, above, the Knoxville Area has a 2013–2015 design value of 9.9 μg/m^3, which is below the 1997 Annual $PM_{2.5}$ NAAQS. Therefore, EPA has preliminarily concluded that the Knoxville Area meets the 1997 Annual $PM_{2.5}$ NAAQS of 15.0 μg/m^3 for the period 2013–2015, the most recent 3-year period of certified data availability. For this proposed action, EPA has also reviewed the preliminary 2014–2016 design values for the Area and proposes to find that the preliminary data does not indicate a violation of the NAAQS.[12] EPA will not take final action to approve the redesignation if the 3-year design value exceeds the NAAQS prior to EPA finalizing the redesignation. As discussed in more detail below, Tennessee has committed to continue monitoring in the Knoxville Area in accordance with 40 CFR part 58.

Criteria (2)—Tennessee Has a Fully Approved SIP Under Section 110(k) for the Knoxville Area and Criteria (5)—Tennessee Has Met All Applicable Requirements Under Section 110 and Part D of the CAA

For redesignating a nonattainment area to attainment, the CAA requires EPA to determine that the state has met all applicable requirements under section 110 and part D of title I of the CAA (CAA section 107(d)(3)(E)(v)) and that the state has a fully approved SIP under section 110(k) for the area (CAA section 107(d)(3)(E)(ii)). EPA proposes to find that Tennessee has met all applicable SIP requirements for the Knoxville Area under section 110 of the CAA (general SIP requirements) for purposes of redesignation. Additionally, EPA proposes to find that Tennessee has met all applicable SIP requirements for purposes of redesignation under part D of title I of the CAA in accordance with section 107(d)(3)(E)(v). Further, EPA proposes to determine that the SIP is fully approved with respect to all requirements applicable for purposes of redesignation in accordance with section 107(d)(3)(E)(ii) if EPA takes final action to incorporate Tennessee's RACM determination into the SIP pursuant to the Sixth Circuit's decision in *Sierra Club* v. *EPA.* In making these determinations, EPA ascertained which requirements are applicable to the Area and, if applicable, that they are fully approved under section 110(k). SIPs must be fully approved only with respect to requirements that were applicable prior to submittal of the complete redesignation request.

a. Tennessee Has Met All Applicable Requirements Under Section 110 and Part D of the CAA

General SIP requirements. General SIP elements and requirements are delineated in section 110(a)(2) of title I, part A of the CAA. These requirements include, but are not limited to, the following: Submittal of a SIP that has been adopted by the state after reasonable public notice and hearing; provisions for establishment and operation of appropriate procedures needed to monitor ambient air quality; implementation of a source permit program; provisions for the implementation of part C requirements (Prevention of Significant Deterioration (PSD)) and provisions for the

[12] This preliminary data is available at EPA's air data Web site: *http://aqsdr1.epa.gov/aqsweb/aqstmp/airdata/download_files.html#Daily.*

implementation of part D requirements (NNSR permit programs); provisions for air pollution modeling; and provisions for public and local agency participation in planning and emission control rule development.

Section 110(a)(2)(D) requires that SIPs contain certain measures to prevent sources in a state from significantly contributing to air quality problems in another state. To implement this provision, EPA has required certain states to establish programs to address the interstate transport of air pollutants. The section 110(a)(2)(D) requirements for a state are not linked with a particular nonattainment area's designation and classification in that state. EPA believes that the requirements linked with a particular nonattainment area's designation and classifications are the relevant measures to evaluate in reviewing a redesignation request. The transport SIP submittal requirements, where applicable, continue to apply to a state regardless of the designation of any one particular area in the state. Thus, EPA does not believe that the CAA's interstate transport requirements should be construed to be applicable requirements for purposes of redesignation.

In addition, EPA believes that other section 110 elements that are neither connected with nonattainment plan submissions nor linked with an area's attainment status are not applicable requirements for purposes of redesignation. The area will still be subject to these requirements after the area is redesignated. The section 110 and part D requirements which are linked with a particular area's designation and classification are the relevant measures to evaluate in reviewing a redesignation request. This approach is consistent with EPA's existing policy on applicability (*i.e.,* for redesignations) of conformity and oxygenated fuels requirements, as well as with section 184 ozone transport requirements. *See* Reading, Pennsylvania, proposed and final rulemakings (61 FR 53174–53176, October 10, 1996), (62 FR 24826, May 7, 1997); Cleveland-Akron-Loraine, Ohio, final rulemaking (61 FR 20458, May 7, 1996); and Tampa, Florida, final rulemaking at (60 FR 62748, December 7, 1995). *See also* the discussion on this issue in the Cincinnati, Ohio, redesignation (65 FR 37879, June 19, 2000), and in the Pittsburgh, Pennsylvania, redesignation (66 FR 53094, October 19, 2001).

EPA has reviewed Tennessee's SIP and has preliminarily concluded that it meets the general SIP requirements under section 110(a)(2) of the CAA to the extent they are applicable for purposes of redesignation. EPA has previously approved provisions of Tennessee's SIP addressing CAA section 110(a)(2) requirements including provisions addressing the 1997 Annual $PM_{2.5}$ NAAQS. *See* 77 FR 45958 (August 2, 2012), 78 FR 18241 (March 26, 2013), and 79 FR 26143 (May 7, 2014). These requirements are, however, statewide requirements that are not linked to the $PM_{2.5}$ nonattainment status of the Area. Therefore, EPA believes these SIP elements are not applicable for purposes of this redesignation.

Title I, part D, applicable SIP requirements. EPA proposes to determine that Tennessee meets the applicable SIP requirements for the Knoxville Area for purposes of redesignation under part D of the CAA. Subpart 1 of part D, comprised of sections 172–179B of the CAA, sets forth the basic nonattainment requirements applicable to all nonattainment areas. For purposes of evaluating this redesignation request, the applicable Subpart 1 SIP requirements are contained in section 172(c) and in section 176. A thorough discussion of the requirements contained in sections 172 and 176 can be found in the General Preamble for Implementation of Title I. *See* 57 FR 13498 (April 16, 1992). Subpart 4, found in section 189, sets forth additional nonattainment requirements for particulate matter nonattainment areas.

Subpart 1, section 172 Requirements Section 172(c) sets out general nonattainment plan requirements. A thorough discussion of these requirements can be found in the General Preamble. EPA's longstanding interpretation of the nonattainment planning requirements of section 172 is that once an area is attaining the NAAQS, those requirements are not ''applicable'' for purposes of CAA section 107(d)(3)(E)(ii) and therefore need not be approved into the SIP before EPA can redesignate the area. In the General Preamble, EPA set forth its interpretation of applicable requirements for purposes of evaluating redesignation requests when an area is attaining a standard. *See* 57 FR at 13564. EPA noted that the requirements for RFP and other measures designed to provide for an area's attainment do not apply in evaluating redesignation requests because those nonattainment planning requirements ''have no meaning'' for an area that has already attained the standard. *Id.* This interpretation is also set forth in the Calcagni Memorandum.

EPA's understanding of section 172 also forms the basis of its Clean Data Policy. Under the Clean Data Policy, EPA promulgates a determination of attainment, published in the **Federal Register** and subject to notice-and-comment rulemaking, and this determination formally suspends a state's obligation to submit most of the attainment planning requirements that would otherwise apply, including an attainment demonstration and planning SIPs to provide for RFP, RACM, and contingency measures under section 172(c)(9). The Clean Data Policy has been codified in regulations regarding the implementation of the ozone and $PM_{2.5}$ NAAQS. *See e.g.,* 70 FR 71612 (November 29, 2005) and 72 FR 20586 (April 25, 2007).

EPA's long-standing interpretation regarding the applicability of the section 172(c) attainment planning requirements for an area that is attaining a NAAQS applies in this proposed redesignation of the Area as well, with the exception of the applicability of the requirement to implement RACM under section 172(c)(1). As discussed above, the Sixth Circuit ruled in *Sierra Club* that, in order to meet the requirement of section 107(d)(3)(E)(ii), states are required to submit plans addressing RACM under section 172(c)(1) and EPA is required to approve those plans prior to redesignating an area, regardless of whether the area is attaining the standard. Because Tennessee is within the Sixth Circuit's jurisdiction, EPA is acting in accordance with the *Sierra Club* decision by proposing to approve Tennessee's RACM determination for the Area in parallel with this proposed redesignation action.

Section 172(c)(1) requires the plans for all nonattainment areas to provide for the implementation of RACM as expeditiously as practicable and to provide for attainment of the primary NAAQS. Under this requirement, a state must consider all available control measures, including reductions that are available from adopting reasonably available control technology on existing sources, for a nonattainment area and adopt and implement such measures as are reasonably available in the area as components of the area's attainment demonstration. As discussed above, EPA is proposing to approve Tennessee's RACM determination and incorporate it into the SIP.

As noted above, the remaining section 172(c) attainment planning requirements are not applicable for purposes of evaluating the State's redesignation request. Specifically, the RFP requirement under section 172(c)(2), which is defined as progress that must be made toward attainment, the requirement to submit section

172(c)(9) contingency measures, which are measures to be taken if the area fails to make reasonable further progress to attainment, and the section 172(c)(6) requirement that the SIP contain control measures necessary to provide for attainment of the standard, are not applicable requirements that Tennessee must meet here because the Area has monitored attainment of the 1997 Annual $PM_{2.5}$ NAAQS.

Section 172(c)(3) requires submission and approval of a comprehensive, accurate, and current inventory of actual emissions. On August 21, 2012 (77 FR 50378), EPA approved Tennessee's 2002 base-year emissions inventory for the Knoxville Area.

Section 172(c)(4) requires the identification and quantification of allowable emissions for major new and modified stationary sources to be allowed in an area, and section 172(c)(5) requires source permits for the construction and operation of new and modified major stationary sources anywhere in the nonattainment area. EPA has determined that, since PSD requirements will apply after redesignation, areas being redesignated need not comply with the requirement that a NNSR program be approved prior to redesignation, provided that the area demonstrates maintenance of the NAAQS without NNSR. A more detailed rationale for this view is described in the Nichols Memorandum. *See also* rulemakings for the Illinois portion of the St. Louis Area (77 FR 34819, 34826, June 12, 2012); Louisville, Kentucky (66 FR 53665, 53669, October 23, 2001); Grand Rapids, Michigan (61 FR 31831, 31834–31837, June 21, 1996); Cleveland-Akron-Lorain, Ohio (61 FR 20458, 20469–20470, May 7, 1996); Detroit, Michigan (60 FR 12459, 12467–12468, March 7, 1995). Tennessee has demonstrated that the Knoxville Area will be able to maintain the NAAQS without NNSR in effect, and therefore Tennessee need not have fully approved NNSR programs prior to approval of the redesignation request. Tennessee's PSD program will become effective in the Knoxville Area upon redesignation to attainment.

Section 172(c)(7) requires the SIP to meet the applicable provisions of section 110(a)(2). As noted above, EPA believes that the Tennessee SIP meets the requirements of section 110(a)(2) applicable for purposes of redesignation.

Subpart 1, section 176 Conformity Requirements. Section 176(c) of the CAA requires states to establish criteria and procedures to ensure that federally-supported or funded projects conform to the air quality planning goals in the applicable SIP. The requirement to determine conformity applies to transportation plans, programs and projects that are developed, funded or approved under title 23 of the United States Code (U.S.C.) and the Federal Transit Act (transportation conformity) as well as to all other federally-supported or funded projects (general conformity). State transportation conformity SIP revisions must be consistent with federal conformity regulations relating to consultation, enforcement and enforceability that EPA promulgated pursuant to its authority under the CAA.

EPA believes that it is reasonable to interpret the conformity SIP requirements [13] as not applying for purposes of evaluating the redesignation request under section 107(d) because state conformity rules are still required after redesignation and federal conformity rules apply where state rules have not been approved. *See Wall* v. *EPA,* 265 F.3d 426 (6th Cir. 2001) (upholding this interpretation); 60 FR 62748 (December 7, 1995). Nonetheless, Tennessee has an approved conformity SIP. *See* 78 FR 29027 (May 17, 2013).

Subpart 4 Requirements. As discussed above, in *NRDC* v. *EPA,* the D.C. Circuit held that EPA should have implemented the 1997 $PM_{2.5}$ NAAQS pursuant to the particulate matter-specific provisions of Subpart 4. On remand, EPA identified all areas designated nonattainment for either the 1997 or the 2006 $PM_{2.5}$ NAAQS, including the Knoxville Area, as moderate nonattainment areas for purposes of Subpart 4 in the Classification and Deadlines Rule. Moderate nonattainment areas are subject to the requirements of sections 189(a), (c), and (e), including: (1) An approved permit program for construction of new and modified major stationary sources (section 189(a)(1)(A)); (2) an attainment demonstration (section 189(a)(1)(B)); (3) provisions for RACM (section 189(a)(1)(C)); (4) quantitative milestones demonstrating RFP toward attainment by the applicable attainment date (section 189(c)); and (5) precursor control (section 189(e)).[14]

With respect to the specific attainment planning requirements under Subpart 4,[15] EPA applies the same interpretation that it applies to attainment planning requirements under Subpart 1 or any of the other pollutant-specific subparts. That is, under its long-standing interpretation of the CAA, where an area is already attaining the standard, EPA does not consider those attainment planning requirements to be applicable for purposes of evaluating a request for redesignation, that is, CAA section 107(d)(3)(E)(ii) or (v), because requirements that are designed to help an area achieve attainment no longer have meaning where an area is already meeting the standard. EPA has proposed to determine that the Area has attained the 1997 Annual $PM_{2.5}$ standard. Therefore, under its longstanding interpretation, EPA is proposing to determine that the requirements to submit an attainment demonstration under section 189(a)(1)(B) and a RFP demonstration under section 189(c)(1) are not applicable for purposes of evaluating Tennessee's redesignation request. As discussed in greater detail above, the Sixth Circuit's decision in *Sierra Club* requires EPA to approve RACM under Subpart 1 prior to redesignation, and EPA is bound by the Sixth Circuit's decision within its jurisdiction. EPA therefore proposes to approve Tennessee's RACM submittal for the Knoxville Area. Such approval, if finalized, would also satisfy any similar obligation regarding Subpart 4 RACM.

The permit requirements of Subpart 4, contained in section 189(a)(1)(A), refer to and apply the Subpart 1 permit provisions requirements of sections 172 and 173 to PM_{10}, without adding to them. Consequently, EPA believes that section 189(a)(1)(A) does not itself impose for redesignation purposes any additional requirements for moderate areas beyond those contained in Subpart 1.[16] As discussed above, EPA has long relied on the interpretation that a fully approved nonattainment new source review program is not considered an applicable requirement for redesignation, provided the area can maintain the standard with a PSD program after redesignation. A detailed rationale for this view is described in the Nichols Memorandum. *See also* rulemakings for the Illinois portion of the St. Louis Area (77 FR 34819, 34826, June 12, 2012); Louisville, Kentucky (66 FR 53665, 53669, October 23, 2001); Grand Rapids, Michigan (61 FR 31831,

[13] CAA section 176(c)(4)(E) requires states to submit revisions to their SIPs to reflect certain Federal criteria and procedures for determining transportation conformity. Transportation conformity SIPs are different from the MVEBs that are established in control strategy SIPs and maintenance plans.

[14] EPA's final implementation rule (81 FR 58010, August 24, 2016)) includes, among other things, the Agency's interpretation of these moderate area requirements for purposes of $PM_{2.5}$ NAAQS implementation.

[15] These planning requirements include the attainment demonstration, quantitative milestone requirements, and RACM analysis.

[16] The potential effect of section 189(e) on section 189(a)(1)(A) for purposes of evaluating this redesignation is discussed below.

31834–31837, June 21, 1996); Cleveland-Akron-Lorain, Ohio (61 FR 20458, 20469–20470, May 7, 1996); Detroit, Michigan (60 FR 12459, 12467–12468, March 7, 1995).

Subpart 4 and the Control of $PM_{2.5}$ Precursors. CAA section 189(e) provides that control requirements for major stationary sources of direct PM_{10} (including $PM_{2.5}$) shall also apply to PM precursors from those sources, except where EPA determines that major stationary sources of such precursors ''do not contribute significantly to PM_{10} levels which exceed the standard in the area.'' The CAA does not explicitly address whether it would be appropriate to include a potential exemption from precursor controls for all source categories under certain circumstances. In implementing Subpart 4 with regard to controlling $PM_{10,}$ EPA permitted states to determine that a precursor was ''insignificant'' where the state could show in its attainment plan that it would expeditiously attain without adoption of emission reduction measures aimed at that precursor. This approach was upheld in *Association of Irritated Residents* v. *EPA,* 423 F.3d 989 (9th Cir. 2005) and extended to $PM_{2.5}$ implementation in the PM Implementation Rule. A state may develop its attainment plan and adopt reasonably available control measures that target only those precursors that are necessary to control for purposes of timely attainment. *See* 81 FR 58020. In the rule, EPA also finalized application of 189(e) to the NNSR permitting program, requiring states to determine whether a new major source of a precursor might have a significant contribution to air quality before allowing exemption of controls of a precursor from a new major stationary source or major modification in the context of that program. *See* 81 FR 58026.

Therefore, because the requirement of section 189(e) is primarily actionable in the context of addressing precursors in an attainment plan and in NNSR permitting, a precursor exemption analysis under section 189(e) and EPA's implementing regulations is not an applicable requirement that needs to be fully approved in the context of a redesignation under CAA section 107(d)(3)(E)(ii). As discussed above, for areas that are attaining the standard, EPA does not interpret attainment planning requirements of Subparts 1 and 4 to be applicable requirements for the purposes of redesignating an area to attainment nor does it interpret NNSR to be an applicable requirement if the area can maintain the NAAQS with a PSD program after redesignation. However, to the extent that Tennessee is required to conduct a precursor exemption analysis in order to satisfy 189(e) in the context of its RACM determination for the Knoxville Area, which is required pursuant to the Sixth Circuit's decision in *Sierra Club,* EPA proposes to find that the requirements of section 189(e), as interpreted by EPA's regulations, are met in this case. The Area has expeditiously attained the 1997 Annual $PM_{2.5}$ NAAQS, and therefore, no additional controls of any pollutant, including any $PM_{2.5}$ precursor, are necessary to bring the Area into attainment.[17]

For these reasons, EPA proposes to find that Tennessee has satisfied all applicable requirements for purposes of redesignation of the Knoxville Area under section 110 and part D of the CAA.

b. Tennessee Has a Fully-Approved Applicable SIP Under Section 110(k) of the CAA

EPA has fully approved the applicable Tennessee SIP for the Knoxville Area under section 110(k) of the CAA for all requirements applicable for purposes of redesignation with the exception of the RACM requirements. In today's proposed action, EPA is proposing to approve the RACM determination for the Area and incorporate it into the Kentucky SIP. EPA may rely on prior SIP approvals in approving a redesignation request (*see* Calcagni Memorandum at p. 3; *Southwestern Pennsylvania Growth Alliance* v. *Browner,* 144 F.3d 984 (6th Cir. 1998; *Wall,* 265 F.3d 426) plus any additional measures it may approve in conjunction with a redesignation action. *See* 68 FR 25426 (May 12, 2003) and citations therein. Following passage of the CAA of 1970, Tennessee has adopted and submitted, and EPA has fully approved at various times, provisions addressing the various SIP elements applicable for the 1997 Annual $PM_{2.5}$ NAAQS in the Knoxville Area.

As indicated above, EPA believes that the section 110 elements not connected with nonattainment plan submissions and not linked to an area's nonattainment status are not applicable requirements for purposes of redesignation. If EPA finalizes approval of the RACM determination, EPA has approved all part D requirements applicable under the 1997 Annual $PM_{2.5}$ NAAQS, as identified above, for purposes of this proposed redesignation pursuant to the Sixth Circuit's decision.

Criteria (3)—The Air Quality Improvement in the Knoxville Area Is Ddue to Permanent and Enforceable Reductions in Emissions Resulting From Implementation of the SIP and Applicable Federal Air Pollution Control Regulations and Other Permanent and Enforceable Reductions

For redesignating a nonattainment area to attainment, the CAA requires EPA to determine that the air quality improvement in the area is due to permanent and enforceable reductions in emissions resulting from implementation of the SIP and applicable federal air pollution control regulations and other permanent and enforceable reductions (CAA section 107(d)(3)(E)(iii)). EPA has preliminarily determined that Tennessee has demonstrated that the observed air quality improvement in the Knoxville Area is due to permanent and enforceable reductions in emissions resulting from federal measures and a 2011 consent decree between Tennessee and the Tennessee Valley Authority (TVA).[18]

Federal measures enacted in recent years have resulted in permanent emission reductions in particulate matter and its precursors. The federal measures that have been implemented include:

Tier 2 vehicle standards and low-sulfur gasoline. On February 10, 2000 (65 FR 6698), EPA promulgated Tier 2 motor vehicle emission standards and gasoline sulfur control requirements.[19] These emission control requirements result in lower VOC and NO_X emissions from new cars and light duty trucks, including sport utility vehicles. With respect to fuels, this rule required refiners and importers of gasoline to meet lower standards for sulfur in

[17] EPA also notes that the Knoxville Area contains no major stationary sources of ammonia; existing major stationary sources of VOCs are adequately controlled under other provisions of the CAA regulating the ozone NAAQS; and attainment in the Area is due to permanent and enforceable emissions reductions on all precursors necessary to provide for continued attainment. The Area has reduced VOC emissions through the implementation of various control programs including VOC RACT regulations and various on-road and non-road motor vehicle control programs. Table 5, below, shows that future VOC emissions are 12 percent below the attainment year emissions level.

[18] Consent Decree, *State of Alabama et al.* v. *TVA* (Civil Action No. 3:11–cv–00170, E.D. Tenn, June 15, 2011) available in the docket at Appendix B to Tennessee's December 20, 2016, SIP submittal.

[19] Tennessee also identified Tier 3 Motor Vehicle Emissions and Fuel Standards a federal measure. EPA issued this rule on April 28, 2014 (79 FR 23414), which applies to light duty passenger cars and trucks. EPA promulgated this rule to reduce air pollution from new passenger cars and trucks beginning in 2017. While the reductions did not aid the Area in attaining the standard, emissions reductions from these standards will occur during the maintenance period.

gasoline, which were phased in between 2004 and 2006. By 2006, refiners were required to meet a 30 ppm average sulfur level, with a maximum cap of 80 ppm. This reduction in fuel sulfur content ensures the effectiveness of low emission-control technologies. The Tier 2 tailpipe standards established in this rule were phased in for new vehicles between 2004 and 2009. EPA estimates that, when fully implemented, this rule will cut NO_X and VOC emissions from light-duty vehicles and light-duty trucks by approximately 76 and 28 percent, respectively. NO_X and VOC reductions from medium-duty passenger vehicles included as part of the Tier 2 vehicle program are estimated to be approximately 37,000 and 9,500 tons per year, respectively, when fully implemented. In addition, EPA estimates that beginning in 2007, a reduction of 30,000 tons per year of NO_X will result from the benefits of sulfur control on heavy-duty gasoline vehicles. Some of these emission reductions occurred by the attainment years and additional emission reductions will occur throughout the maintenance period, as older vehicles are replaced with newer, compliant model years.

Heavy-duty gasoline and diesel highway vehicle standards & ultra low-sulfur diesel rule. On October 6, 2000 (65 FR 59896), EPA promulgated a rule to reduce NO_X and VOC emissions from heavy-duty gasoline and diesel highway vehicles that began to take effect in 2004. On January 18, 2001 (66 FR 5002), EPA promulgated a second phase of standards and testing procedures which began in 2007 to reduce particulate matter from heavy-duty highway engines and reduced the maximum highway diesel fuel sulfur content from 500 ppm to 15 ppm. The total program should achieve a 90 percent reduction in PM emissions and a 95 percent reduction in NO_X emissions for new engines using low-sulfur diesel, compared to existing engines using higher-content sulfur diesel. EPA expects that this rule will reduce NO_X emissions by 2.6 million tons by 2030 when the heavy-duty vehicle fleet is completely replaced with newer heavy-duty vehicles that comply with these emission standards.

Non-road, large spark-ignition engines and recreational engines standards. On November 8, 2002 (67 FR 68242), EPA adopted emission standards for large spark-ignition engines such as those used in forklifts and airport ground-service equipment; recreational vehicles such as off-highway motorcycles, all-terrain vehicles, and snowmobiles; and recreational marine diesel engines. These emission standards were phased in from model year 2004 through 2012. When all of the non-road spark-ignition and recreational engine standards are fully implemented, an overall 72 percent reduction in hydrocarbons, 80 percent reduction in NO_X, and 56 percent reduction in carbon monoxide emissions are expected by 2020. These controls help reduce ambient concentrations of $PM_{2.5}$.

Large non-road diesel engine standards. On June 29, 2004, (69 FR 38958), EPA issued a rule adopting emissions standards for non-road diesel engines and sulfur reductions in non-road diesel fuel. This rule applies to diesel engines used primarily in construction, agricultural, and industrial applications. The rule is being phased in between 2008 through 2015, and when fully implemented, will reduce emissions of NO_X, VOC, particulate matter, carbon monoxide from these engines. It is estimated that compliance with this rule will cut NO_X emissions from non-road diesel engines by up to 90 percent nationwide.

NO_X SIP Call. On October 27, 1998 (63 FR 57356), EPA issued the NO_X SIP Call requiring the District of Columbia and 22 states to reduce emissions of NO_X, a precursor to ozone and $PM_{2.5}$ pollution,and providing a mechanism (the NO_X Budget Trading Program) that states could use to achieve those reductions. Affected states were required to comply with Phase I of the SIP Call beginning in 2004 and Phase II beginning in 2007. By the end of 2008, ozone season NO_X emissions from sources subject to the NO_X SIP Call dropped by 62 percent from 2000 emissions levels. All NO_X SIP Call states, including Tennessee, have SIPs that currently satisfy their obligations under the NO_X SIP Call, and EPA will continue to enforce the requirements of the NO_X SIP Call.

Reciprocating internal combustion engine National Emissions Standards for Hazardous Air Pollutants (NESHAP). In 2010, EPA issued rules regulating emissions of air toxics from existing compression ignition (CI) and spark ignition (SI) stationary reciprocating internal combustion engines (RICE) that meet specific site rating, age, and size criteria. With these RICE standards fully implemented in 2013, EPA estimates that the CI RICE standards reduce $PM_{2.5}$ emissions from the covered CI engines by approximately 2,800 tons per year (tpy) and VOC emissions by approximately 27,000 tpy and that the SI RICE standards reduce NO_X emissions from the covered SI engines by approximately 96,000 tpy.

Boiler NESHAP. On March 21, 2011, EPA established emission standards for industrial, commercial, and institutional boilers and process heaters at major sources to meet hazardous air pollutant standards reflecting the application of maximum achievable control technology.[20] *See* 76 FR 15608. The compliance dates for the rule are January 31, 2016, for existing sources and April 1, 2013, or upon startup, whichever is later, for new sources. New sources are defined as sources that began operation on or after June 4, 2010. EPA estimates that the rule will reduce nationwide emissions of VOC by approximately 2,300 tpy. *See* 78 FR 7138 (January 31, 2013).

Utility Mercury Air Toxics Standards (MATS) and New Source Performance Standards (NSPS). The MATS for coal and oil-fired electric generation units (EGUs) and the NSPS for fossil-fuel-fired electric utility steam generating units were published on February 16, 2012 (77 FR 9304).[21] The purpose is to reduce mercury and other toxic air pollutant emissions from coal and oil-fired EGUs, 25 megawatts or more, that generate electricity for sale and distribution through the national electric grid to the public. The NSPS has revised emission standards for NO_X, SO_2, and PM that apply to new coal and oil-fired power plants. The MATS compliance date for existing sources was April 16, 2015.

CAIR and CSAPR. The Clean Air Interstate Rule (CAIR) created regional cap-and-trade programs to reduce SO_2 and NO_X emissions in 28 eastern states, including Tennessee, that contributed to downwind nonattainment or interfered with maintenance of the 1997 8-hour ozone NAAQS and the 1997 $PM_{2.5}$ NAAQS. *See* 70 FR 25162 (May 12, 2005). EPA approved a revision to Tennessee's SIP on August 20, 2007 (72 FR 46388), that addressed the requirements of CAIR for the purpose of reducing SO_2 and NO_X emissions.

In 2008, the D.C. Circuit initially vacated CAIR, *North Carolina* v. *EPA,* 531 F.3d 896 (D.C. Cir. 2008), but ultimately remanded the rule to EPA without vacatur to preserve the environmental benefits provided by

[20] On January 31, 2013, the EPA promulgated final amendments to this rule. *See* 78 FR 7138. Following that action, the Administrator received 13 petitions for reconsideration that identified certain issues that petitioners claimed warranted further opportunity for public comment. EPA took final action in response to these petitions on November 20, 2015. *See* 80 FR 72790.

[21] For further information, see Regulatory Impact Analysis for Final Mercury and Air Toxics Standards, EPA–452/R–11–011/December 2011, available at *https://www.epa.gov/sties/production/files/2015-11/documents/matsriafinal.pdf.*

CAIR, *North Carolina* v. *EPA,* 550 F.3d 1176, 1178 (D.C. Cir. 2008). On August 8, 2011 (76 FR 48208), acting on the D.C. Circuit's remand, EPA promulgated the Cross-State Air Pollution Rule (CSAPR) to replace CAIR and thus to address the interstate transport of emissions contributing to nonattainment and interfering with maintenance of the two air quality standards covered by CAIR as well as the 2006 $PM_{2.5}$ NAAQS. CSAPR requires substantial reductions of SO_2 and NO_X emissions from EGUs in 28 states in the Eastern United States. As a general matter, because CSAPR is CAIR's replacement, emissions reductions associated with CAIR will for most areas be made permanent and enforceable through implementation of CSAPR.

Numerous parties filed petitions for review of CSAPR in the D.C. Circuit, and on August 21, 2012, the Court issued its ruling, vacating and remanding CSAPR to EPA and ordering continued implementation of CAIR. *EME Homer City Generation, L.P.* v. *EPA,* 696 F.3d 7, 38 (D.C. Cir. 2012). The D.C. Circuit's vacatur of CSAPR was reversed by the United States Supreme Court on April 29, 2014, and the case was remanded to the D.C. Circuit to resolve remaining issues in accordance with the high court's ruling. *EPA* v. *EME Homer City Generation, L.P.,* 134 S. Ct. 1584 (2014). On remand, the D.C. Circuit affirmed CSAPR in most respects, but invalidated without vacating some of the Phase 2 SO_2 and NO_X ozone season CSAPR budgets as to a number of states. *EME Homer City Generation, L.P.* v. *EPA,* 795 F.3d 118 (D.C. Cir. 2015) (*EME Homer City II*). The CSAPR budgets for Tennessee are not affected by the Court's decision. The litigation over CSAPR ultimately delayed implementation of that rule for three years, from January 1, 2012, when CSAPR's cap-and-trade programs were originally scheduled to replace the CAIR cap-and-trade programs, to January 1, 2015. CSAPR's Phase 2 budgets were originally promulgated to begin on January 1, 2014, and are now scheduled to begin on January 1, 2017. CSAPR will continue to operate under the existing emissions budgets until EPA fully addresses the D.C. Circuit's remand.[22] Therefore, to the extent that these transport rules impact attainment of the 1997 Annual $PM_{2.5}$ NAAQS in the Knoxville Area, any emission reductions associated with CAIR that helped the Knoxville Area achieve attainment of the 1997 Annual $PM_{2.5}$ NAAQS are permanent and enforceable for purposes of redesignation under section 107(d)(3)(E)(iii) of the CAA because CSAPR requires similar or greater emission reductions starting in 2015 and beyond.[23]

In addition to the above federal measures, Tennessee identified its consent decree with TVA as providing emissions reductions that have contributed to the improvement in air quality in the region. The consent decree covers all of TVA's coal-fired power plants, including two plants located in the Area (Bull Run Fossil Plant and Kingston Fossil Plant), and among other things, requires system-wide annual tonnage limitations for SO_2 (decreasing incrementally from 285,000 tons in 2012 to 110,000 tons in 2019 and beyond); continuous operation of existing NO_X and SO_2 controls[24] and PM continuous emissions monitoring systems (CEMS) at Bull Run and Kingston; and a maximum PM emissions rate of 0.030 pounds per million British Thermal Units (lb/MMBtu) of heat input at Bull Run and Kingston as of June 13, 2011, the consent decree obligation date.[25] Emissions data from EPA's Clean Air Markets Division (CAMD) database show that the combined SO_2 emissions from Bull Run and Kingston have decreased by approximately 97 percent between 2008–2014 and that combined NO_X emissions have decreased by approximately 82 percent during this time period.[26]

Tennessee incorporated the consent decree requirements most responsible for attaining the standard in the Area (*i.e.,* particulate matter emissions limit, continuous operation of NO_X and SO_2 control equipment and PM CEMS, and compliance with the system-wide annual NO_X and SO_2 tonnage limits) into the Title V operating permits for Bull Run and Kingston, and the State submitted those permit conditions to EPA for incorporation into the SIP along with its request for redesignation.[27] In today's action, EPA is proposing to include these permit conditions in the SIP as source-specific requirements.

Criteria (4)—The Knoxville Area Has a Fully-Approved Maintenance Plan Pursuant to Section 175A of the CAA

For redesignating a nonattainment area to attainment, the CAA requires EPA to determine that the area has a fully approved maintenance plan pursuant to section 175A of the CAA (CAA section 107(d)(3)(E)(iv)). In conjunction with its request to redesignate the Knoxville Area to attainment for the 1997 Annual $PM_{2.5}$ NAAQS, Tennessee submitted a SIP revision to provide for the maintenance of the 1997 Annual $PM_{2.5}$ NAAQS for at least 10 years after the effective date of redesignation to attainment. EPA believes that this maintenance plan meets the requirements for approval under section 175A of the CAA for the reasons discussed below.

a. What is required in a maintenance plan?

Section 175A of the CAA sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. Under section 175A, the plan must demonstrate continued attainment of the applicable NAAQS for at least 10 years after the Administrator approves a redesignation to attainment. Because the 1997 primary Annual $PM_{2.5}$ NAAQS

[22] On September 17, 2016, EPA finalized an update to the CSAPR ozone season program. *See* 81 FR 74504 (October 26, 2016). The update addresses summertime transport of ozone pollution in the eastern United States that crosses state lines to help downwind states and communities meet and maintain the 2008 8-hour ozone NAAQS and addresses the remanded Phase 2 ozone season NO_X budgets. The update withdraws the remanded NO_X budgets, sets new Phase 2 CSAPR ozone season NO_X emissions budgets for eight of the eleven states with remanded budgets, and removes the other three states from the CSAPR ozone season NO_X trading program. On November 10, 2016, EPA proposed to withdraw the federal implementation plan provisions that require affected electricity generating units in Texas to participate in Phase 2 of the CSAPR trading programs for annual emissions of SO_2 and NO_X. *See* 81 FR 78954. Withdrawal of the FIP requirements is intended to address the remand of the CSAPR Phase 2 SO_2 budget for Texas. As discussed in the November 10, 2016, notice, EPA expects that EGUs in Alabama, Georgia, and South Carolina will continue to participate in CSAPR trading programs for SO_2 and annual NO_X pursuant to approved SIP revisions (with equally or more stringent emissions budgets).

[23] EPA notes, however, that the Agency's air quality modeling analysis performed as part of the CSAPR rulemaking demonstrates that the Area would be able to maintain the 1997 Annual $PM_{2.5}$ NAAQS even in the absence of either CAIR or CSAPR. *See* ''Air Quality Modeling Final Rule Technical Support Document,'' App. B–62–63. This modeling is available in the docket for this proposed redesignation action.

[24] Paragraphs 69 and 85 of the Consent Decree require the installation and continual operation of selective catalytic reduction (SCR) and wet flue gas recirculation (Wet FGD), respectively, for Bull Run Unit 1 and Kingston Units 1–9.

[25] Tennessee also notes that the consent decree requires the repowering or retirement of units at John Sevier Fossil Plant and Widows Creek Fossil Plant. CAMD data shows that SO_2 emissions at John Sevier, located approximately 65 miles northeast of Knoxville, decreased by approximately 100 percent between 2008–2014 due to the retirement and replacement of the coal-fired units with natural gas combined cycle units. The retirement of Units 1 through 6 at Widows Creek, located approximately 150 miles southwest of Knoxville, resulted in a 49 percent decrease in SO_2 emissions from 2008–2014 as these units were taken offline.

[26] See Section 3.1.1 of the State's submission for additional information.

[27] See Appendix L of the State's submission for the permit conditions proposed for incorporation into the SIP.

will be revoked for the Area if the Area is redesignated to attainment, Tennessee is not required to submit a second 10-year maintenance plan for the 1997 primary Annual $PM_{2.5}$ NAAQS. *See* 81 FR 58010, 58144. To address the possibility of future NAAQS violations, the maintenance plan must contain such contingency measures, as EPA deems necessary, to assure prompt correction of any future 1997 Annual $PM_{2.5}$ NAAQS violations. The Calcagni Memorandum provides further guidance on the content of a maintenance plan, explaining that a maintenance plan should address five requirements: The attainment emissions inventory, maintenance demonstration, monitoring, verification of continued attainment, and a contingency plan. As is discussed below, EPA finds that Tennessee's maintenance plan includes all the necessary components and is thus proposing to approve it as a revision to the Tennessee SIP.

b. Attainment Emissions Inventory

As discussed above, EPA is proposing to determine that the Knoxville Area is attaining the 1997 $PM_{2.5}$ NAAQS based on a monitoring data for the 3-year period from 2013–2015. In its maintenance plan, Tennessee selected 2014 as the attainment emission inventory year. The attainment inventory identifies the level of emissions in the Area that is sufficient to attain the 1997 Annual $PM_{2.5}$ NAAQS. Tennessee began development of the attainment inventory by first generating a baseline emissions inventory for the Area. As noted above, Tennessee selected 2002 as the base year for developing a comprehensive emissions inventory. The projected inventory included with the maintenance plan estimates emissions from 2014 to 2028, which satisfies the 10-year interval required in section 175(A) of the CAA.

The emissions inventories are composed of four major types of sources: Point, area, on-road mobile, and non-road mobile. The attainment and future year emissions inventories were developed/projected as follows:

- Point source emissions were obtained from the 2014 National Emissions Inventory (NEI) and projected inventories were calculated using growth factors derived from the 2015 Annual Energy Outlook (AEO2015) developed by the U.S. Energy Information Administration. Growth factors were developed for point sources based on North American Industry Classification System codes and/or Source Classification Codes.
- Area source emissions were developed using EPA Nonpoint files located on EPA's CHIEF Emission Inventory Web site for the 2014 NEI and projected inventories by using 2014 emissions and growth factors obtained from Annual Energy Outlook 2015 energy forecasts for consumption and production, and TranSystems Category Specific Growth Factors.
- On-road mobile emissions were estimated using the latest version of EPA's MOVES2014a model. The input parameters for the model runs were developed, reviewed and agreed to by the transportation partners through interagency consultation.[28] Attainment year (2014) vehicle miles traveled (VMT) data was obtained from the Tennessee Department of Transportation through the HPMS (Highway Performance Monitoring System) system. Future VMT estimates were provided by the Knoxville Regional Transportation Planning Organization based on travel demand modeling performed for the nonattainment counties. For all interim years between the years 2014 and 2028, onroad emissions were interpolated.
- Non-road mobile emissions were obtained from EPA's Nonroad files located on EPA's EIS Gateway for the 2011 NEI and using MOVES2014a. Future nonroad mobile emissions were projected using 2011 emissions and national growth factors. Growth factors were multiplied by the 2014 emission values to calculate emissions for future years.

The 2014 SO_2, NO_X, $PM_{2.5}$, VOC, and ammonia missions for the Knoxville Area are summarized in Tables 2 through 6.

Section 175A requires a state seeking redesignation to attainment to submit a SIP revision to provide for the maintenance of the NAAQS in the Area ''for at least 10 years after the redesignation.'' EPA has interpreted this as a showing of maintenance ''for a period of ten years following redesignation.'' Calcagni Memorandum, p. 9. Where the emissions inventory method of showing maintenance is used, the purpose is to show that emissions during the maintenance period will not increase over the attainment year inventory. Calcagni Memorandum, pp. 9–10.

As discussed in detail below, Tennessee's maintenance plan submission expressly documents that the Area's overall emissions inventories will remain below the attainment year inventories through 2028. In addition, for the reasons set forth below, EPA believes that the Area will continue to maintain the 1997 Annual $PM_{2.5}$ NAAQS through 2028. Thus, if EPA finalizes its proposed approval of the redesignation request and maintenance plan, the approval will be based upon this showing, in accordance with section 175A, and EPA's analysis described herein, that Tennessee's maintenance plan provides for maintenance for at least ten years after redesignation.

c. Maintenance Demonstration

The maintenance plan for the Knoxville Area includes a maintenance demonstration that:

(i) Shows compliance with and maintenance of the Annual $PM_{2.5}$ standard by providing information to support the demonstration that current and future emissions of SO_2, NO_X, $PM_{2.5}$, and VOCs remain at or below 2014 emissions levels.

(ii) Uses 2014 as the attainment year and includes future emission inventory projections for 2028.

(iii) Identifies an ''out year'' at least 10 years after EPA review and potential approval of the maintenance plan. Per 40 CFR part 93, NO_X and $PM_{2.5}$ MVEBs were established for the last year (2028) of the maintenance plan. Additionally, Tennessee chose, through interagency consultation, to establish NOx and $PM_{2.5}$ MVEBs for 2014 (see section VI below).

(iv) Provides, as shown in Tables 2 through 6 below, the estimated and projected emissions inventories, in tpy, for the Knoxville Area, for $PM_{2.5}$, NO_X, SO_2, VOC, and ammonia.

[28] The interagency consultation partners consist of the following entities: EPA, the United States Department of Transportation (Federal Highway Administration and Federal Transit Administration), the Knoxville Regional Transportation Planning Organization, Knox County Department of Air Quality management, the Tennessee Department of Transportation, the Lakeway Area Metropolitan Planning Organization, the Great Smokey Mountains National Park Service and the Tennessee Department of Environment and Conservation.

TABLE 2—KNOXVILLE AREA $PM_{2.5}$ EMISSION INVENTORY

[tpy]

	Point	Area	Onroad	Nonroad	Total
2014	1,129.70	1,772.14	444.78	194.60	3,541.21
2017	1,081.26	1,804.53	384.89	169.64	3,440.31
2020	1,165.20	1,856.91	324.99	152.38	3,499.48
2023	1,184.98	1,913.79	265.10	144.52	3,508.39
2026	1,205.31	1,966.42	205.21	143.46	3,520.40
2028	1,211.30	2,005.01	165.28	149.23	3,530.82

TABLE 3—KNOXVILLE AREA NO_X EMISSION INVENTORY

[tpy]

	Point	Area	Onroad	Nonroad	Total
2014	6,041.52	1,126.29	15,597.73	2,789.33	25,554.88
2017	5,725.54	985.98	13,232.05	2,567.57	22,511.14
2020	6,134.99	982.48	10,866.37	2,490.86	20,474.69
2023	6,217.20	977.19	8,500.68	2,560.11	18,255.18
2026	6,303.95	976.34	6,135.00	2,791.12	16,206.41
2028	6,336.33	977.04	4,557.88	3,230.56	15,101.81

TABLE 4—KNOXVILLE AREA SO_2 EMISSION INVENTORY

[tpy]

	Point	Area	Onroad	Nonroad	Total
2014	4,146.99	30.10	83.39	47.17	4,307.65
2017	3,125.61	35.25	73.20	58.23	3,292.29
2020	3,420.16	36.67	63.02	77.81	3,597.65
2023	3,454.73	37.40	52.84	107.89	3,652.86
2026	3,499.37	37.93	42.65	153.67	3,733.63
2028	3,514.63	37.98	35.86	222.93	3,811.40

TABLE 5—KNOXVILLE AREA VOCS EMISSION INVENTORY

[tpy]

	Point	Area	Onroad	Nonroad	Total
2014	2,944.28	8,869.86	6,122.57	2,340.70	20,277.41
2017	3,454.23	8,889.45	5,321.37	2,001.12	19,666.17
2020	3,814.52	9,000.92	4,520.18	1,794.24	19,129.86
2023	4,039.05	9,116.64	3,718.99	1,741.57	18,616.23
2026	4,251.65	9,239.75	2,917.79	1,766.53	18,175.73
2028	4,380.02	9,309.98	2,383.66	1,863.80	17,937.46

TABLE 6—KNOXVILLE AREA AMMONIA EMISSION INVENTORY

[tpy]

	Point	Area	Onroad	Nonroad	Total
2014	90.58	1,113.99	305.40	2.77	1,512.74
2017	88.83	1,166.32	296.59	2.82	1,554.57
2020	91.19	1,205.32	287.78	2.89	1,587.18
2023	92.69	1,234.43	278.97	2.96	1,609.05
2026	93.37	1,244.01	270.16	3.04	1,610.57
2028	93.56	1,253.67	264.29	3.09	1,614.61

In situations where local emissions are the primary contributor to nonattainment, such as the Knoxville Area, if the future projected emissions in the nonattainment area remain at or below the baseline emissions in the nonattainment area, then the ambient air quality standard should not be exceeded in the future. As reflected above in Tables 2 through 5, future emissions of $PM_{2.5}$, NO_X, SO_2, and VOC in the Knoxville Area are expected to be below the ''attainment level'' emissions in 2014, thus illustrating that the Knoxville Area is expected to continue to attain the 1997 $PM_{2.5}$ NAAQS through 2028 and beyond. Emissions of direct $PM_{2.5}$, NO_X, SO_2, and VOCs in the Knoxville Area are expected to decrease from 2014 to 2028 by approximately 1 percent, 41 percent, 12 percent, and 22

percent, respectively. Although ammonia emissions are projected to increase between 2014 and 2028, the emissions increase is relatively small (approximately 102 tpy), total ammonia emissions are already relatively low (approximately 1,513 tpd in 2014), there are no major stationary sources of ammonia in the Area, the Area is well below the NAAQS, and the decrease in emissions of the other precursors more than offset the projected increase. Thus, the projected inventories indicate that future emissions in the Knoxville Area are expected to support continued maintenance of the 1997 Annual $PM_{2.5}$ NAAQS through 2028.

As discussed in section VI of this proposed rulemaking, a safety margin is the difference between the attainment level of emissions (from all sources) and the projected level of emissions (from all sources) in the maintenance plan. The attainment level of emissions is the level of emissions during one of the years in which the Area met the NAAQS. Tennessee selected 2014 as the attainment emissions inventory year for the Knoxville Area. Tennessee calculated a safety margin in its submittal for the year 2028 and allocated the entire portion of the 2028 $PM_{2.5}$ safety margin in tons per day (tpd) to the 2028 MVEB for the Knoxville Area. Specifically, 10.39 tpy of the safety margin is allocated to the 2028 $PM_{2.5}$ MVEB. Also, Tennessee allocated 2,613.27 tpy of the 2028 NO_X safety margin to the 2028 NO_X MVEB. The allocation and the resulting available safety margins for the Knoxville Area are discussed further in section VI of this proposed rulemaking.

d. Monitoring Network

There are currently seven monitors measuring $PM_{2.5}$ in the Knoxville Area. Tennessee, through TDEC, has committed to continue operation of the monitors in the Knoxville Area in compliance with 40 CFR part 58 and have thus addressed the requirement for monitoring. EPA approved Tennessee's 2016 monitoring plan on October 21, 2016.

e. Verification of Continued Attainment

Tennessee, through TDEC, has the legal authority to enforce and implement the requirements of the Knoxville Area 1997 Annual $PM_{2.5}$ maintenance plan. This includes the authority to adopt, implement, and enforce any subsequent emissions control contingency measures determined to be necessary to correct future $PM_{2.5}$ attainment problems.

TDEC will track the progress of the maintenance plan by performing future reviews of triennial emission inventories for the Knoxville Area as required in the Air Emissions Reporting Rule (AERR). Emissions information will be compared to the 2014 attainment year to assure continued compliance with the annual $PM_{2.5}$ standard.

f. Contingency Measures in the Maintenance Plan

Section 175A of the CAA requires that a maintenance plan include such contingency measures as EPA deems necessary to assure that a state will promptly correct a violation of the NAAQS that occurs after redesignation. The maintenance plan should identify the contingency measures to be adopted, a schedule and procedure for adoption and implementation, and a time limit for action by Tennessee. A state should also identify specific indicators to be used to determine when the contingency measures need to be implemented. The maintenance plan must include a requirement that a state will implement all measures with respect to control of the pollutant that were contained in the SIP before redesignation of the area to attainment in accordance with section 175A(d).

The contingency plan included in the submittal contains a commitment to implement measures that exist in the current SIP for $PM_{2.5}$ and identifies triggers to determine when contingency measures are needed and a process of developing and implementing appropriate control measures. The primary trigger of the contingency plan is a quality assured/quality controlled violating design value of the 1997 Annual $PM_{2.5}$ NAAQS at any monitor. Upon activation of the primary trigger, Tennessee, in conjunction with the Knox County Department of Air Quality Management (DAQM), will commence an analysis to determine what additional measures will be necessary to attain or maintain the 1997 Annual $PM_{2.5}$ NAAQS. In the event of a monitored violation of the 1997 Annual $PM_{2.5}$ NAAQS in the Area, Tennessee commits to adopt and implement one or more of the following control measures within 24 months of the monitored violation in order to bring the Area into compliance:

- Additional RACT for point sources of $PM_{2.5}$ emissions not already covered by RACT, best available control technology (BACT), or reasonable and proper emission limitations;
- Additional RACM for area sources of $PM_{2.5}$;
- Additional RACT for major point sources of NO_X emissions;
- Additional RACT for minor point sources of NO_X emissions;
- Additional RACM for area sources of NO_X emissions;
- Additional RACT for major point sources of SO_2 emissions;
- Additional RACT for minor point sources of SO_2 emissions;
- Additional RACM for area sources of SO_2 emissions; and
- Other control measures, not included in the above list, if new control programs are deemed more advantageous for the Area.

A secondary trigger is activated when one of the following conditions occurs that may forewarn of a potential exceedance of the Annual $PM_{2.5}$ NAAQS:

- An annual mean $PM_{2.5}$ concentration (average of quarterly-average concentrations) of greater than or equal to 16.0 $\mu g/m^3$ for the previous calendar year at any federal reference monitor (FRM) in the Area, based on quality-assured and certified monitoring data;
- An annual mean $PM_{2.5}$ concentration (average of quarterly-average concentrations) of greater than or equal to 15.5 $\mu g/m^3$ for each of the previous two calendar years at any federal reference monitor (FRM) in the Area, based on quality-assured and certified monitoring data;
- Total emissions of $PM_{2.5}$, SO_2, or NO_X in the most recent NEI for the Area exceeding 130 percent of the corresponding emissions for 2014 for that pollutant.

If the secondary trigger is activated, Tennessee and Knox County DAQM will investigate the occurrence and evaluate existing control measures to determine whether further emission reduction measures should be implemented.

EPA preliminarily concludes that the maintenance plan adequately addresses the five basic components of a maintenance plan: attainment emission inventory, maintenance demonstration, monitoring network, verification of continued attainment, and a contingency plan. Therefore, EPA proposes to find that the maintenance plan SIP revision submitted by Tennessee for Knoxville Area meets the requirements of section 175A of the CAA and is approvable.

VI. What is EPA's analysis of the proposed NO_X and $PM_{2.5}$ MVEBs for the Knoxville?

Under section 176(c) of the CAA, new transportation plans, programs, and projects, such as the construction of new highways, must ''conform'' to (*i.e.,* be consistent with) the part of a state's air quality plan that addresses pollution from cars and trucks. Conformity to the

SIP means that transportation activities will not cause new air quality violations, worsen existing violations, or delay timely attainment of the NAAQS or any interim milestones. If a transportation plan does not conform, most new projects that would expand the capacity of roadways cannot go forward. Regulations at 40 CFR part 93 set forth EPA policy, criteria, and procedures for demonstrating and assuring conformity of such transportation activities to a SIP. The regional emissions analysis is one, but not the only, requirement for implementing transportation conformity. Transportation conformity is a requirement for nonattainment and maintenance areas. Maintenance areas are areas that were previously nonattainment for a particular NAAQS but have since been redesignated to attainment with an approved maintenance plan for that NAAQS.

Under the CAA, states are required to submit, at various times, control strategy SIPs and maintenance plans for nonattainment areas. These control strategy SIPs (including RFP and attainment demonstration) and maintenance plans create MVEBs for criteria pollutants and/or their precursors to address pollution from cars and trucks. Per 40 CFR part 93, a MVEB must be established for the last year of the maintenance plan. A state may adopt MVEBs for other years as well. The MVEB is the portion of the total allowable emissions in the maintenance demonstration that is allocated to highway and transit vehicle use and emissions. *See* 40 CFR 93.101. The MVEB serves as a ceiling on emissions from an area's planned transportation system. The MVEB concept is further explained in the preamble to the November 24, 1993, Transportation Conformity Rule (58 FR 62188). The preamble also describes how to establish the MVEB in the SIP and how to revise the MVEB.

After interagency consultation with the transportation partners for the Knoxville Area, Tennessee has elected to develop MVEBs for NO_X and $PM_{2.5}$ for the entire Area. MVEBs were not developed for VOCs and ammonia because these pollutants are not significant contributors to mobile source emissions in the Knoxville Area. Tennessee developed these MVEBs, as required, for the last year of its maintenance plan, 2028. Tennessee also established MVEBs for the attainment year of 2014. The MVEBs reflect the total on-road emissions for 2014 and 2028, plus an allocation from the available NO_X and $PM_{2.5}$ safety margin. Under 40 CFR 93.101, the term ''safety margin'' is the difference between the attainment level (from all sources) and the projected level of emissions (from all sources) in the maintenance plan. The safety margin can be allocated to the transportation sector; however, the total emissions must remain below the attainment level. The NO_X and $PM_{2.5}$ MVEBs and allocation from the safety margin were developed in consultation with the transportation partners and were added to account for uncertainties in population growth, changes in model vehicle miles traveled, and new emission factor models. Further details are provided below to explain how the $PM_{2.5}$ MVEBs for 2028 were derived.

The State developed the worst case scenario to estimate the potential emissions increases due to changes in the models and planning assumptions mentioned earlier. For the worst case scenario, an analysis year of 2045 was selected. In addition, projected VMT was increased by 10 percent, the age of the vehicle fleet was increased by approximately two years, and the vehicle source type population was increased by 10 percent above the projected vehicle source type population for 2045. This analysis yielded emissions of $PM_{2.5}$ from on-road sources of about 80 tpy above those projected from on-road sources in 2028. Since the entire $PM_{2.5}$ safety margin of 10.39 tpy is allocated to the 2028 MVEB, an additional 69.33 tpy is still needed to cover the emissions increases modeled in the worst case scenario.

Since there is no apparent $PM_{2.5}$ safety margin remaining to allocate the additional 69.33 tpy to the 2028 MVEB, Tennessee performed a speciation data assessment to analyze the relationship between $PM_{2.5}$ emissions and ambient concentrations and the impact it has on the future air quality in the Knoxville Area with the additional allocation to the 2028 MVEB. With the additional 69.33 tpy allocation, the overall $PM_{2.5}$ emissions from the base year 2014 increases from 3,541 tpy to 3,610 tpy in the out year of 2028. This is equal to approximately a 2 percent increase in attainment year $PM_{2.5}$ emissions. Tennessee's analysis indicates that a 2 percent direct $PM_{2.5}$ increase will cause a 2 percent increase in ambient concentrations of $PM_{2.5}$ which equates to 0.19 $\mu g/m^3$.

As mentioned in Section V, the three-year design value for years 2013–2015 is 10.0 $\mu g/m^3$. Therefore, the design value would be 10.19 $\mu g/m^3$ with the 2 percent increase. Even with the 2 percent increase in ambient $PM_{2.5}$ concentrations, the 10.19 $\mu g/m^3$ design value is still below the 1997 Annual $PM_{2.5}$ NAAQS of 15 $\mu g/m^3$ and the 2012 Annual $PM_{2.5}$ NAAQS of 12.0 $\mu g/m^3$.[29] Furthermore, the on-road $PM_{2.5}$ emissions as compared to the overall $PM_{2.5}$ emissions from all sectors trend downward from 12.6 percent in 2014 to 4.7 percent in 2028. See Table 7, below.

TABLE 7—$PM_{2.5}$ ON-ROAD MOBILE EMISSIONS COMPARISON TO THE TOTAL $PM_{2.5}$ EMISSIONS FROM ALL SECTORS FOR THE KNOXVILLE AREA

[Tons per day]

	2014	2017	2020	2023	2026	2028
$PM_{2.5}$ On-road emissions	444.78	384.89	324.99	265.10	205.21	165.28
Total $PM_{2.5}$ emissions (all sectors)	3,541.21	3440.31	3499.48	3508.39	3520.40	3,530.82
On-road % of total $PM_{2.5}$ emissions	12.6	11.1	9.3	7.6	5.8	4.7

Therefore, based on the Tennessee's speciation data assessment which concludes that there is a decrease in sulfate and nitrate concentrations even with a projected 2 percent increase in direct $PM_{2.5}$ emissions coupled with the downward trend in on-road emissions, the Knoxville Area is expected to maintain the 1997 Annual $PM_{2.5}$ standard.

The interagency consultation group approved a 10.39 tpy safety margin for

[29] Tennessee describes the speciation analysis in Section 4 of the submittal. See Figure 4.1 for more details.

direct $PM_{2.5}$ mobile source emission estimates for the year 2028 and 2,613.27 tpy safety margin for NO_X mobile source emission estimates for the year 2028. The NO_X and $PM_{2.5}$ MVEBs for the Knoxville Area are defined in Table 8, below.

TABLE 8—MVEB WITH SAFETY MARGIN FOR THE KNOXVILLE AREA

[tpy]

Pollutant	2014	2028
$PM_{2.5}$ On-road Emissions	444.78	165.28
Safety Margin allocation	.....	*79.72
$PM_{2.5}$ MVEB	444.78	245.00
NO_X On-road Emissions	15,597.73	4,557.88
Safety Margin allocation	.....	2,613.27
NO_X MVEB	15,597.73	7,171.14

*The MVEB for $PM_{2.5}$ in 2028 includes the available safety margin of 10.39 tons/year and an additional 69.33 tons/year.

There is no safety margin remaining for $PM_{2.5}$, and the remaining safety margin for NO_X is 7,839.80 tpy. Through this rulemaking, EPA is proposing to approve into the Tennessee SIP the MVEBs for NO_X and $PM_{2.5}$ for 2014 and 2028 for the Knoxville Area because EPA has determined that the Area maintains the 1997 Annual $PM_{2.5}$ NAAQS with the emissions at the levels of the budgets. The MVEBs for the Knoxville Area were found adequate and are being used to determine transportation conformity. After thorough review, EPA is proposing to approve the budgets because they are consistent with maintenance of the 1997 Annual $PM_{2.5}$ NAAQS through 2028. If the proposed redesignation is finalized, the Area will no longer be subject to transportation or general conformity requirements for the 1997 Annual $PM_{2.5}$ NAAQS upon the effective date of the redesignation because the redesignation will revoke the 1997 primary Annual $PM_{2.5}$ NAAQS for the Area. However, in the meantime, the applicable budgets for required regional emissions analysis years between the present time and 2028 are the new 2014 MVEBs; and the applicable budgets for years 2028 and beyond will be the new 2028 MVEBs. EPA notes that the Agency has already determined that these budgets are adequate for transportation conformity purposes.

VII. What is the effect of EPA's proposed actions?

EPA's proposed actions establish the basis upon which EPA may take final action on the issues being proposed for approval. Approval of Tennessee's redesignation request would change the legal designation of Anderson, Blount, Knox, and Loudon Counties and a portion of Roane County for the 1997 Annual $PM_{2.5}$ NAAQS, found at 40 CFR part 81, from nonattainment to attainment. Approval of Tennessee's associated SIP revision would also incorporate a plan for maintaining the 1997 Annual $PM_{2.5}$ NAAQS in the Area through 2028, Tennessee's RACM determination, and source-specific requirements for two sources in the Area into the Tennessee SIP. The maintenance plan includes contingency measures to remedy any future violations of the 1997 Annual $PM_{2.5}$ NAAQS and procedures for evaluation of potential violations. The maintenance plan also includes NO_X and $PM_{2.5}$ MVEBs for the Knoxville Area.

VIII. Proposed Actions

EPA is proposing to: (1) Approve Tennessee's RACM determination for the Knoxville Area pursuant to CAA sections 172(c)(1) and 189(a)(1)(C) and incorporate it into the SIP; (2) determine that the Area is attaining the 1997 Annual $PM_{2.5}$ NAAQS based on 2013–2015 data; (3) approve Tennessee's plan for maintaining the 1997 Annual $PM_{2.5}$ NAAQS (maintenance plan), including the associated MVEBs for the Knoxville Area, and incorporate it into the Tennessee SIP; (4) to incorporate source-specific requirements for two sources in the Area into the SIP; and (5) redesignate the Knoxville Area to attainment for the 1997 Annual $PM_{2.5}$ NAAQS.

If finalized, approval of the redesignation request would change the official designation of Anderson, Blount, Knox and Loudon Counties and a portion of Roane County for the 1997 Annual $PM_{2.5}$ NAAQS, found at 40 CFR part 81 from nonattainment to attainment, as found at 40 CFR part 81.

IX. Statutory and Executive Order Reviews

Under the CAA, redesignation of an area to attainment and the accompanying approval of a maintenance plan under section 107(d)(3)(E) are actions that affect the status of a geographical area and do not impose any additional regulatory requirements on sources beyond those imposed by state law. A redesignation to attainment does not in and of itself create any new requirements, but rather results in the applicability of requirements contained in the CAA for areas that have been redesignated to attainment. Moreover, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, these proposed actions merely approve Commonwealth law as meeting federal requirements and do not impose additional requirements beyond those imposed by state law. For that reason, these proposed actions:

- Are not significant regulatory actions subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January, 21, 2011);
- do not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- are certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- do not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- do not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- are not economically significant regulatory actions based on health or

safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

• are not significant regulatory actions subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

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

• will not have disproportionate human health or environmental effects under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs of tribal governments or preempt tribal law.

List of Subjects

40 CFR Part 52

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

40 CFR Part 81

Environmental protection, Air pollution control.

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

Dated: April 27, 2017.

V. Anne Heard,

Acting Regional Administrator, Region 4.

[FR Doc. 2017–10914 Filed 5–26–17; 8:45 am]

BILLING CODE 6560–50–P

GENERAL SERVICES ADMINISTRATION

[Notice–MA–2017–03; Docket 2017–0002; Sequence No. 7]

41 CFR Chapters 101 and 102

Evaluation of Existing Federal Management and Federal Property Management Regulations

AGENCY: General Services Administration (GSA).

ACTION: Request for comments.

SUMMARY: In accordance with Executive Order 13777, ''Enforcing the Regulatory Reform Agenda,'' GSA is seeking input on federal management and federal property management regulations that may be appropriate for repeal, replacement, or modification. See the **SUPPLEMENTARY INFORMATION** section below for additional guidance.

DATES: Comments must be received on or before July 31, 2017.

ADDRESSES: Submit comments identified by ''Notice–MA–2017–03, Evaluation of Existing Federal Management and Federal Property Regulations'' by any of the following methods:

• *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by searching for Notice–MA–2017–03, Evaluation of Existing Regulations. Select the link ''Comment Now'' that corresponds with ''Notice–MA–2017–03, Evaluation of Existing Federal Management and Federal Property Management Regulations.'' Follow the instructions provided on the screen. Please include your name, company name (if applicable), and ''Notice–MA–2017–03, Evaluation of Existing Federal Management and Federal Property Management Regulations'' on your attached document.

• *Google form found at: https://goo.gl/forms/EzesI5HeTP7SGZpD3.* If you are commenting via the google form, please note that each regulation or part that you are identifying for repeal, replacement or modification should be entered into the form *separately.* This will assist GSA in its tracking and analysis of the comments received.

• *Mail:* General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW., Washington, DC 20405.

GSA requests that comments be as specific as possible, include any supporting data, detailed justification for your proposal, or other information such as cost information, provide a Code of Federal Regulations (CFR) or **Federal Register** (FR) citation when referencing a specific regulation, and provide specific suggestions regarding repeal, replacement or modification.

FOR FURTHER INFORMATION CONTACT: Mr. Bob Holcombe, Director, Personal Property, Office of Government-wide Policy, 202–501–3828 or via email at *robert.holcombe@gsa.gov.*

SUPPLEMENTARY INFORMATION:

On February 24, 2017, the President signed Executive Order (E.O.) 13777, ''Enforcing the Regulatory Reform Agenda,'' which established a Federal policy ''to alleviate unnecessary regulatory burdens'' on the American people. Section 3(a) of the E.O. directs Federal agencies to establish a Regulatory Reform Task Force (Task Force). One of the duties of the Task Force is to evaluate existing regulations and ''make recommendations to the agency head regarding their repeal, replacement, or modification.'' The E.O. further asks that each Task Force ''attempt to identify regulations that:

(i) Eliminate jobs, or inhibit job creation;

(ii) are outdated, unnecessary, or ineffective;

(iii) impose costs that exceed benefits;

(iv) create a serious inconsistency or otherwise interfere with regulatory reform initiatives and policies;

(v) are inconsistent with the requirements of section 515 of the Treasury and General Government Appropriation Act, 2001 (44 U.S.C. 3516 note), or the guidance issued pursuant to that provision in particular those regulations that rely in whole or in part on data, information, or methods that are not publicly available or that are insufficiently transparent to meet the standard of reproducibility; or

(vi) derive from or implement Executive Orders or other Presidential directives that have been subsequently rescinded or substantially modified.''

Section 3(e) of the E.O. 13777 calls on the Task Force to ''seek input and other assistance, as permitted by law, from entities significantly affected by Federal regulations, including State, local, and tribal governments, small businesses, consumers, non-governmental organizations, trade associations'' on regulations that meet some or all of the criteria above. Through this notice, GSA is soliciting such input from the public to inform its Task Force's evaluation of existing federal management and federal property management regulations. Specifically, GSA is seeking input on regulations within 41 CFR Chapter 102 (Federal Management Regulation (FMR)) and 41 CFR Chapter 101 (Federal Property Management Regulations (FPMR)) that may be appropriate for repeal, replacement, or modification.

This Notice is requesting comment on topics contained in the following Subchapters of 41 CFR part 102:

- Subchapter A—General
- Subchapter B—Personal Property
- Subchapter C—Real Property
- Subchapter D—Transportation
- Subchapter F—Telecommunications
- Subchapter G—Administrative Programs

The Subchapters of 41 CFR part 102 may be found at *www.gsa.gov/FMR.* This Notice is also requesting comment on topics contained in the FPMR, 41 CFR part 101. The FPMR may be found at *www.ecfr.gov.* Although the agency may not respond to each individual comment, GSA may follow-up with

respondents to clarify comments. GSA values public feedback and will consider all input that it receives. GSA will also be conducting targeted outreach on this same topic. GSA intends to consider all GSA regulations for repeal, replacement, or modification under the guiding principles of E.O. 13777.

Dated: May 23, 2017.

Michael Downing,

Regulatory Reform Officer, Office of the Administrator.

[FR Doc. 2017–11057 Filed 5–26–17; 8:45 am]

BILLING CODE 6820–14–P

GENERAL SERVICES ADMINISTRATION

[Notice–MA–2017–02; Docket 2017–0002; Sequence No. 5]

41 CFR Subtitle F—Federal Travel Regulation System Evaluation of Existing Federal Travel Regulations

AGENCY: General Services Administration (GSA).

ACTION: Request for comments.

SUMMARY: In accordance with Executive Order 13777, ''Enforcing the Regulatory Reform Agenda,'' GSA is seeking input on the Federal Travel Regulations (FTR) that may be appropriate for repeal, replacement, or modification. See the **SUPPLEMENTARY INFORMATION** section below for additional guidance.

DATES: Comments must be received on or before July 31, 2017.

ADDRESSES: Submit comments identified by ''Notice–MA–2017–02, Evaluation of Existing Federal Travel Regulations'' by any of the following methods:

- *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by searching for Notice–MA–2017–02, Evaluation of Existing Federal Travel Regulations. Select the link ''Comment Now'' that corresponds with ''Notice–MA–2017–02, Evaluation of Existing Federal Travel Regulations.'' Follow the instructions provided on the screen. Please include your name, company name (if applicable), and ''Notice–MA–2017–02, Evaluation of Existing Federal Travel Regulations'' on your attached document.
- *Google form found at: https://goo.gl/forms/ArUI1rxwlM8yuMkt1.*

If you are commenting via the google form, please note that each regulation or part that you are identifying for repeal, replacement or modification should be entered into the form *separately.* This will assist GSA in its tracking and analysis of the comments received.

- *Mail:* General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW., Washington, DC 20405.

GSA requests that comments be as specific as possible, include any supporting data, detailed justification for your proposal, or other information such as cost information, provide a Code of Federal Regulations (CFR) citation when referencing a specific regulation, and provide specific suggestions regarding repeal, replacement or modification.

FOR FURTHER INFORMATION CONTACT: Mr. Craig Flynn, Office of Government-wide Policy, 202–384–5977, or via email at *travelpolicy@gsa.gov.*

SUPPLEMENTARY INFORMATION: On February 24, 2017, the President signed Executive Order (E.O.) 13777, ''Enforcing the Regulatory Reform Agenda,'' which established a Federal policy ''to alleviate unnecessary regulatory burdens'' on the American people. Section 3(a) of the E.O. directs Federal agencies to establish a Regulatory Reform Task Force (Task Force). One of the duties of the Task Force is to evaluate existing regulations and ''make recommendations to the agency head regarding their repeal, replacement, or modification.'' The E.O. further asks that each Task Force ''attempt to identify regulations that:

(i) Eliminate jobs, or inhibit job creation;

(ii) are outdated, unnecessary, or ineffective;

(iii) impose costs that exceed benefits;

(iv) create a serious inconsistency or otherwise interfere with regulatory reform initiatives and policies;

(v) are inconsistent with the requirements of section 515 of the Treasury and General Government Appropriation Act, 2001 (44 U.S.C. 3516 note), or the guidance issued pursuant to that provision in particular those regulations that rely in whole or in part on data, information, or methods that are not publicly available or that are insufficiently transparent to meet the standard of reproducibility; or

(vi) derive from or implement Executive Orders or other Presidential directives that have been subsequently rescinded or substantially modified.''

Section 3(e) of the E.O. 13777 calls on the Task Force to ''seek input and other assistance, as permitted by law, from entities significantly affected by Federal regulations, including State, local, and tribal governments, small businesses, consumers, non-governmental organizations, trade associations'' on regulations that meet some or all of the criteria above. Through this notice, GSA is soliciting such input from the public, including individual Federal employees who travel or are relocated in the best interest of the Government, to inform its Task Force's evaluation of the FTR. Specifically, 41 CFR Subtitle F (Federal Travel Regulation System) Chapter 300 (General), Chapter 301 (Temporary Duty Travel Allowances), Chapter 302 (Relocation Allowances), Chapter 303 (Payment of Expenses Connected With the Death of Certain Employees), and Chapter 304 (Payment of Travel Expenses From a Non-Federal Source) that may be appropriate for repeal, replacement, or modification. The FTR may be found at *www.gsa.gov/ftr.* Although the agency will not respond to each individual comments, GSA may follow-up with respondents to clarify comments. GSA values public feedback and will consider all input that it receives. GSA will also be conducting targeted outreach on this same topic. GSA intends to consider all GSA regulations for repeal, replacement, or modification under the guiding principles of E.O. 13777.

Dated: May 23, 2017.

Michael Downing,

Regulatory Reform Officer, Office of the Administrator.

[FR Doc. 2017–11055 Filed 5–26–17; 8:45 am]

BILLING CODE 6820–14–P

GENERAL SERVICES ADMINISTRATION

[Notice–MV–2017–02; Docket 2017–0002; Sequence No. 8]

48 CFR Chapter V

Evaluation of Existing Leasing Acquisition Regulations

AGENCY: General Services Administration (GSA).

ACTION: Request for comments.

SUMMARY: In accordance with Executive Order 13777, ''Enforcing the Regulatory Reform Agenda,'' GSA is seeking input on lease acquisition regulations, policies, and guidance issued by GSA across all of its leasing programs that may be appropriate for repeal, replacement, or modification.

DATES: Comments must be received on or before July 31, 2017.

ADDRESSES: Submit comments identified by ''Notice–MV–2017–02, Evaluation of Existing Leasing Acquisition Regulations'' by any of the following methods:

- *Regulations.gov: http://www.regulations.gov.* Submit comments

via the Federal eRulemaking portal by searching for Notice–MV–2017–02, Evaluation of Existing Regulations. Select the link ''Comment Now'' that corresponds with ''Notice–MV–2017–02, Evaluation of Existing Leasing Regulations.'' Follow the instructions provided on the screen. Please include your name, company name (if any), and ''Notice–MV–2017–02, Evaluation of Existing Leasing Regulations'' on your attached document.

• *Google form found at*: *https://goo.gl/forms/4ilmzTHJ2HhDcmG23.* If you are commenting via the google form, please note that each regulation or part that you are identifying for repeal, replacement or modification should be entered into the form separately. This will assist GSA in its tracking and analysis of the comments received.

• *Mail:* General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW., Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Ms. Francine Serafin, 202–705–8659, or via email at *francine.serafin@gsa.gov.*

SUPPLEMENTARY INFORMATION: On February 24, 2017, President Trump signed Executive Order (E.O.) 13777, ''Enforcing the Regulatory Reform Agenda,'' which established a federal policy ''to alleviate unnecessary regulatory burdens'' on the American people. Section 3(a) of the E.O. directs federal agencies to establish a Regulatory Reform Task Force (Task Force). One of the duties of the Task Force is to evaluate existing regulations and ''make recommendations to the agency head regarding their repeal, replacement, or modification.'' The E.O. further asks that each Task Force ''attempt to identify regulations that:

(i) Eliminate jobs, or inhibit job creation;

(ii) are outdated, unnecessary, or ineffective;

(iii) impose costs that exceed benefits;

(iv) create a serious inconsistency or otherwise interfere with regulatory reform initiatives and policies;

(v) are inconsistent with the requirements of section 515 of the Treasury and General Government Appropriates Act, 2001 (44 U.S.C. 3516 note), or the guidance issued pursuant to that provision in particular those regulations that rely in whole or in part on data, information, or methods that are not publicly available or that are insufficiently transparent to meet the standard of reproducibility; or

(vi) derive from or implement Executive Orders or other Presidential directives that have been subsequently rescinded or substantially modified.''

Section 3(e) of the E.O. calls on the Task Force to ''seek input and other assistance, as permitted by law, from entities significantly affected by Federal regulations, including State, local, and tribal governments, small businesses, consumers, non-governmental organizations, and trade associations'' on regulations that meet some or all of the criteria above. Through this notice, GSA is soliciting such input from the public to inform its Task Force's evaluation. This notice is specifically requesting input on existing lease acquisition regulations, policies, and guidance issued by GSA (*e.g.,* GSAR, GSA Leasing Desk Guide, GSA Lease Acquisition Circulars, GSA Leasing Alerts, and GSA Realty Services Letters). Examples of lease acquisition regulations, policies, and guidance GSA is requesting input on include the GSA Acquisition Regulations (GSAR), the GSA Acquisition Manual (GSAM), the GSA Leasing Desk Guide, GSA Lease Acquisition Circulars, GSA Leasing Alerts, GSA Realty Services Letters, or other GSA leasing related acquisition policies, standards, and guidance that have not been codified through regulation, but may be still be appropriate for repeal, replacement, or modification.

GSA requests that comments be as specific as possible, include any supporting data or other information such as cost information, provide a **Federal Register** (FR), GSAM, GSAR, Code of Federal Regulations (CFR) citation, GSA Leasing Desk Guide chapter and page, GSA Lease Acquisition Circular number, GSA Leasing Alert number, or GSA Realty Services Letter number when referencing a specific lease acquisition regulation, policy, or guidance. To be beneficial, comments should provide specific suggestions regarding repeal, replacement, or modification. Although the agency may not respond to each individual comment, the GSA values public feedback and will give careful consideration to all input that it receives.

GSA will also be conducting targeted outreach on this same topic. GSA intends to consider all GSA regulations for repeal, replacement, or modification under the guiding principles of EO 13777.

Dated: May 23, 2017.

Michael Downing,

Regulatory Reform Officer, Office of the Administrator.

[FR Doc. 2017–11051 Filed 5–26–17; 8:45 am]

BILLING CODE 6820–61–P

GENERAL SERVICES ADMINISTRATION

[Notice–MV–2017–01; Docket 2017–0002; Sequence No. 6]

48 CFR Chapter V

Evaluation of Existing Acquisition Regulations

AGENCY: General Services Administration (GSA).

ACTION: Request for comments.

SUMMARY: In accordance with Executive Order 13777, ''Enforcing the Regulatory Reform Agenda,'' GSA is seeking input on acquisition regulations, policies, standards, business practices and guidance issued by GSA across all of its acquisition, disposal, and sales programs, that may be appropriate for repeal, replacement, or modification.

DATES: Comments must be received on or before July 31, 2017.

ADDRESSES: Submit comments identified by ''Notice–MV–2017–01, Evaluation of Existing Acquisition Regulations'' by any of the following methods:

• *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by searching for Notice–MV–2017–01, Evaluation of Existing Acquisition Regulations. Select the link ''Comment Now'' that corresponds with ''Notice–MV–2017–01, Evaluation of Existing Acquisition Regulations.'' Follow the instructions provided on the screen. Please include your name, company name (if any), and ''Notice–MV–2017–01, Evaluation of Existing Acquisition Regulations'' on your attached document.

• *Google form found at: https://goo.gl/forms/GahAhb2aT4MVlREo1.* If you are commenting via the google form, please note that each regulation or part that you are identifying for repeal, replacement or modification should be entered into the form *separately.* This will assist GSA in its tracking and analysis of the comments received.

• *Mail:* General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW., Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Ms. Francine Serafin, Office of Government-wide Policy, 202–705–8659, or via email at *francine.serafin@gsa.gov.*

SUPPLEMENTARY INFORMATION: On February 24, 2017, President Trump signed Executive Order 13777, ''Enforcing the Regulatory Reform Agenda,'' which established a federal policy ''to alleviate unnecessary

regulatory burdens'' on the American people. Section 3(a) of the E.O. directs federal agencies to establish a Regulatory Reform Task Force (Task Force). One of the duties of the Task Force is to evaluate existing regulations and ''make recommendations to the agency head regarding their repeal, replacement, or modification.'' The E.O. further asks that each Task Force ''attempt to identify regulations that:

(i) Eliminate jobs, or inhibit job creation;

(ii) are outdated, unnecessary, or ineffective;

(iii) impose costs that exceed benefits;

(iv) create a serious inconsistency or otherwise interfere with regulatory reform initiatives and policies;

(v) are inconsistent with the requirements of section 515 of the Treasury and General Government Appropriates Act, 2001 (44 U.S.C. 3516 note), or the guidance issued pursuant to that provision in particular those regulations that rely in whole or in part on data, information, or methods that are not publicly available or that are insufficiently transparent to meet the standard of reproducibility; or

(vi) derive from or implement Executive Orders or other Presidential directives that have been subsequently rescinded or substantially modified.''

Section 3(e) of the E.O. calls on the Task Force to ''seek input and other assistance, as permitted by law, from entities significantly affected by Federal regulations, including State, local, and tribal governments, small businesses, consumers, non-governmental organizations, and trade associations'' on regulations that meet some or all of the criteria above. Through this notice, GSA is soliciting such input from the public to inform its Task Force's evaluation. This notice is specifically requesting input on existing acquisition regulations, policies, and guidance issued by GSA (*e.g.,* GSAR, GSA handbooks) or by the Federal Acquisition Service or the Public Building Service. Examples of regulations, policies, and guidance GSA is requesting input on include GSA's supplement to the FAR, the GSA Acquisition Regulations (GSAR), the GSA Acquisition Manual (GSAM), or acquisition policies, standards, business practices and guidance that have not been codified through regulation, but may be still be appropriate for repeal, replacement, or modification.

GSA has recently received public comments on Commercial Software Licenses and Order Level Materials (Other Direct Costs). These rules are currently in the final rulemaking stages and additional comments are not requested.

GSA is particularly interested in comments on areas not recently addressed, such as evergreen, price adjustments, catalogs, requirements relating to utilities, construction, and facilities. In addition, the recent Transactional Data Reporting rule is a final rule and is in a pilot stage. As such, comments on it, along with the Price Reduction Clause and the Commercial Sales Practice format, are also encouraged.

GSA requests that comments be as specific as possible, include any supporting data or other information such as cost information, provide a **Federal Register** (FR) or Code of Federal Regulations (CFR) citation when referencing a specific regulation, or cite a FAS or PBS clause number when citing service level policy. To be beneficial, comments should provide specific suggestions regarding repeal, replacement or modification. Although the agency may not respond to each individual comment, the GSA values public feedback and will give careful consideration to all input that it receives. GSA will also be conducting targeted outreach on this same topic.

Dated: May 23, 2017.

Michael Downing,

Regulatory Reform Officer, Office of the Administrator.

[FR Doc. 2017–11052 Filed 5–26–17; 8:45 am]

BILLING CODE 6820–61–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R2–ES–2016–0077; 4500030113]

RIN 1018–BB34

Endangered and Threatened Wildlife and Plants; Endangered Species Status for the Texas Hornshell

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; reopening of comment period; public hearings.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the reopening of the comment period for our August 10, 2016, proposed rule to list the Texas hornshell (*Popenaias popeii*) as an endangered species under the Endangered Species Act of 1973, as amended (Act). We also are notifying the public that we have scheduled informational meetings followed by public hearings on the proposed rule. Comments previously submitted on the proposal need not be resubmitted, as they are already incorporated into the public record and will be fully considered in our final determination.

DATES: *Written comments:* The comment period on the proposed rule that published August 10, 2016 (81 FR 52796), is reopened. We request that comments on the proposal be submitted on or before June 29, 2017. Comments submitted electronically using the Federal eRulemaking Portal (see **ADDRESSES** section, below) must be received by 11:59 p.m. Eastern Time on the closing date.

Public meetings and hearings: We will hold two public informational sessions and public hearings on the proposed listing rule:

(1) A public informational session from 5:00 p.m. to 6:00 p.m., followed by a public hearing from 6:30 p.m. to 8:30 p.m. on June 13, 2017, in Laredo, Texas (see **ADDRESSES**); and

(2) A public informational session from 5:00 p.m. to 6:00 p.m., followed by a public hearing from 6:30 p.m. to 8:30 p.m. on June 15, 2017, in Carlsbad, New Mexico (see **ADDRESSES**).

People needing reasonable accommodations in order to attend and participate in the public meetings should contact the Texas Coastal Ecological Services Field Office, at 281–286–8282, as soon as possible (see **FOR FURTHER INFORMATION CONTACT**). In order to allow sufficient time to process requests, please call no later than 1 week before the meeting date.

ADDRESSES: *Document availability:* You may obtain copies of the proposed rule and Species Status Assessment Report on the Internet at *http://www.regulations.gov* at Docket No. FWS–R2–ES–2016–0077, or by mail from the Texas Coastal Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Written comments: You may submit comments by one of the following methods:

(1) *Electronically:* Go to the Federal eRulemaking Portal: *http://www.regulations.gov.* In the Search box, enter FWS–R2–ES–2016–0077. You may submit a comment by clicking on ''Comment Now!''

(2) *By hard copy:* Submit by U.S. mail or hand-delivery to: Public Comments Processing, Attn: FWS–R2–ES–2016–0077; U.S. Fish and Wildlife Service Headquarters, MS: BPHC, 5275 Leesburg Pike, Falls Church, VA 22041–3803.

We request that you send comments only by the methods described above. 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 Information Requested section below for more information)

Public meetings and hearings: The public informational meetings will be held on the following dates and locations:

1. A public informational session from 5:00 p.m. to 6:00 p.m., followed by a public hearing from 6:30 p.m. to 8:30 p.m. at Student Center Ballroom #203, Texas A&M International University, 5201 University Blvd., Laredo, Texas 78041, on June 13, 2017.

2. A public informational session from 5:00 p.m. to 6:00 p.m., followed by a public hearing from 6:30 p.m. to 8:30 p.m. at the Pecos River Village Conference Center, 711 Muscatel Ave., Carlsbad, NM 88220, on June 15, 2017.

FOR FURTHER INFORMATION CONTACT: Chuck Ardizzone, U.S. Fish and Wildlife Service, Texas Coastal Ecological Services Field Office, 17629 El Camino Real #211, Houston, TX 77058; by telephone 281–286–8282; or by facsimile 281–488–5882. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Information Requested

We intend that any final action resulting from this proposed rule will be based on the best scientific and commercial data available and be as accurate and as effective as possible. Therefore, we request comments or information from other concerned governmental agencies, Native American tribes, the scientific community, industry, or any other interested parties concerning this proposed rule. We particularly seek comments concerning:

(1) The Texas hornshell's biology, range, and population trends, including:

(a) Biological or ecological requirements of the species, including habitat requirements for feeding and spawning;

(b) Genetics and taxonomy;

(c) Historical and current range, including distribution patterns;

(d) Historical and current population levels, and current and projected trends; and

(e) Past and ongoing conservation measures for the species, its habitat, or both.

(2) Factors that may affect the continued existence of the species, which may include habitat modification or destruction, overutilization, disease, predation, the inadequacy of existing regulatory mechanisms, or other natural or manmade factors.

(3) Biological, commercial trade, or other relevant data concerning any threats (or lack thereof) to this species and existing regulations that may be addressing those threats.

(4) Additional information concerning the historical and current status, range, distribution, and population size of this species, including the locations of any additional populations of this species, particularly in Mexico.

(5) Information related to climate change within the range of the Texas hornshell and how it may affect the species' habitat.

(6) The reasons why areas should or should not be designated as critical habitat as provided by section 4 of the Act (16 U.S.C. 1531 *et seq.*)

(7) Specific information on:

(a) The amount and distribution of habitat for the Texas hornshell;

(b) What areas, that are currently occupied and that contain the physical and biological features essential to the conservation of the Texas hornshell, should be included in a critical habitat designation and why;

(c) Special management considerations or protection that may be needed for the essential features in potential critical habitat areas, including managing for the potential effects of climate change; and

(d) What areas not occupied at the time of listing are essential for the conservation of the species and why.

If you previously submitted comments or information on the August 10, 2016, proposed rule (81 FR 52796), please do not resubmit them. We have incorporated them into the public record, and we will fully consider them in our final determination. Our final determination concerning the proposed rulemaking will take into consideration all written comments and any information we receive.

Please note that submissions merely stating support for or opposition to the action under consideration without providing supporting information, although noted, will not be considered in making a determination, as section 4(b)(1)(A) of the Act directs that determinations as to whether any species is an endangered or threatened species must be made ''solely on the basis of the best scientific and commercial data available.''

You may submit your comments and materials concerning the proposed rule by one of the methods listed in **ADDRESSES**. We request that you send comments only by the methods described in **ADDRESSES**. If you submit information via *http://www.regulations.gov,* your entire submission—including any personal identifying information—will be posted on the Web site. If your submission is made via a hardcopy that includes personal identifying information, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so. We will post all hardcopy submissions on *http://www.regulations.gov.* Please include sufficient information with your comments to allow us to verify any scientific or commercial information you include.

Comments and materials we receive, as well as supporting documentation we used in preparing the proposed rule, will be available for public inspection on *http://www.regulations.gov,* or by appointment, during normal business hours, at the U.S. Fish and Wildlife Service, Texas Coastal Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**). You may obtain copies of the proposed rule on the Internet at *http://www.regulations.gov* at Docket No. FWS–R2–ES–2016–0077, or by mail from the U.S. Fish and Wildlife Service, Texas Coastal Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Background

On August 10, 2016, we published a proposed rule (81 FR 52796) to list the Texas hornshell as an endangered species under the Act. The publication of this proposed rule was pursuant to a court-approved settlement agreement (Endangered Species Act Section 4 Deadline Litigation, No. 10–377 (EGS), MDL Docket No. 2165 (D.D.C. May 10, 2011)). That proposal had a 60-day comment period, ending October 11, 2016. The Act and the relevant settlement agreement require that we publish a final listing determination for the Texas hornshell on or before August 10, 2017. For a description of previous Federal actions concerning the Texas hornshell, please refer to the August 10, 2016, proposed listing rule (81 FR 52796).

During the comment period for the proposed listing rule, we received several requests for public hearings. We are reopening the comment period on our proposal to list the Texas hornshell as an endangered species for 30 days (see DATES) to hold those public hearings and allow the public an opportunity to provide comments on our proposal.

Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: May 4, 2017.

James W. Kurth,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 2017–11189 Filed 5–26–17; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 170320292–7292–01]

RIN 0648–XF311

Fisheries Off West Coast States; Coastal Pelagic Species Fisheries; Annual Specifications

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

ACTION: Proposed rule.

SUMMARY: NMFS proposes to implement annual management measures and harvest specifications to establish the allowable catch levels (*i.e.,* annual catch limit (ACL)/harvest guideline (HG)) for the northern subpopulation of Pacific sardine (hereafter, Pacific sardine), in the U.S. Exclusive Economic Zone (EEZ) off the Pacific coast for the fishing season of July 1, 2017, through June 30, 2018. This rule is proposed according to the Coastal Pelagic Species (CPS) Fishery Management Plan (FMP). The proposed action would prohibit directed non-tribal Pacific sardine commercial fishing for Pacific sardine off the coasts of Washington, Oregon, and California, which is required because the estimated 2017 biomass of Pacific sardine has dropped below the biomass threshold specified in the HG control rule. Under the proposed action, Pacific sardine may still be harvested as part of either the live bait or tribal fishery, or as incidental catch in other fisheries; the incidental harvest of Pacific sardine would initially be limited to 40-percent by weight of all fish per trip when caught with other CPS or up to 2 metric tons (mt) when caught with non-CPS. The proposed annual catch limit (ACL) for the 2017–2018 Pacific sardine fishing year is 8,000 mt. This proposed rule is intended to conserve and manage the Pacific sardine stock off the U.S. West Coast.

DATES: Comments must be received by June 14, 2017.

ADDRESSES: You may submit comments on this document, identified by NOAA–NMFS–2017–0045, by any 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-2017-0045,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to Barry A. Thom, Regional Administrator, West Coast Region, NMFS, 7600 Sand Point Way NE., Seattle, WA 98115–0070; Attn: Joshua Lindsay.
- *Instructions:* 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 by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *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. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

Copies of the report ''Assessment of Pacific Sardine Resource in 2017 for U.S.A. Management in 2017–2018'' may be obtained from the West Coast Region (see **ADDRESSES**).

FOR FURTHER INFORMATION CONTACT: Joshua Lindsay, West Coast Region, NMFS, (562) 980–4034, *joshua.lindsay@noaa.gov.*

SUPPLEMENTARY INFORMATION: During public meetings each year, the estimated biomass for Pacific sardine is presented to the Pacific Fishery Management Council's (Council) CPS Management Team (Team), the Council's CPS Advisory Subpanel (Subpanel) and the Council's Scientific and Statistical Committee (SSC), and the biomass and the status of the fishery are reviewed and discussed. The biomass estimate is then presented to the Council along with the calculated overfishing limit (OFL), available biological catch (ABC), and HG, along with recommendations and comments from the Team, Subpanel, and SSC. Following review by the Council and after hearing public comment, the Council adopts a biomass estimate and makes its catch level recommendations to NMFS. NMFS manages the Pacific sardine fishery in the U.S. EEZ off the Pacific coast (California, Oregon, and Washington) in accordance with the FMP. Annual specifications published in the **Federal Register** establish the allowable harvest levels (*i.e.,* OFL/ACL/HG) for each Pacific sardine fishing year. The purpose of this proposed rule is to implement these annual catch reference points for 2017–2018, including the OFL and an ABC that takes into consideration uncertainty surrounding the current estimate of biomass for Pacific sardine. The FMP and its implementing regulations require NMFS to set these annual catch levels for the Pacific sardine fishery based on the annual specification framework and control rules in the FMP. These control rules include the HG control rule, which, in conjunction with the OFL and ABC rules in the FMP, are used to manage harvest levels for Pacific sardine, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. 1801 *et seq.* According to the FMP, the quota for the principal commercial fishery is determined using the FMP-specified HG formula. The HG formula in the CPS FMP is HG = [(Biomass-CUTOFF) * FRACTION * DISTRIBUTION] with the parameters described as follows:

1. *Biomass.* The estimated stock biomass of Pacific sardine age one and above. For the 2017–2018 management season, this is 86,586 mt.

2. *CUTOFF.* This is the biomass level below which no HG is set. The FMP established this level at 150,000 mt.

3. *DISTRIBUTION.* The average portion of the Pacific sardine biomass estimated in the EEZ off the Pacific coast is 87 percent.

4. *FRACTION.* The temperature-varying harvest fraction is the percentage of the biomass above 150,000 mt that may be harvested.

As described above, the Pacific sardine HG control rule, the primary mechanism for setting the annual directed commercial fishery quota, includes a CUTOFF parameter, which has been set as a biomass level of 150,000 mt. This amount is subtracted from the annual biomass estimate before calculating the applicable HG for the fishing year. Since this year's biomass estimate is below that value, the formula results in an HG of zero, and no Pacific sardine are available for the primary commercial directed fishery during the 2017–2018 fishing season.

At the April 2017 Council meeting, the Council's SSC approved, and the Council adopted, the ''Assessment of the Pacific Sardine Resource in 2017 for U.S. Management in 2017–2018,'' which was completed by NMFS Southwest

Fisheries Science Center. The resulting Pacific sardine biomass estimate of 86,586 mt was adopted as the best available science for setting harvest specifications. Based on recommendations from its SSC and other advisory bodies, the Council recommended, and NMFS is proposing, an OFL of 16,957 mt, an ABC of 15,497 mt, and a prohibition on Pacific sardine catch, unless it is harvested as part of either the live bait or tribal fishery or incidental to other fisheries for the 2017–2018 Pacific sardine fishing year. As additional management measures, the Council also recommended, and NMFS is proposing, an ACL of 8,000 mt and that the incidental catch of Pacific sardine in other CPS fisheries be managed with the following automatic inseason actions to reduce the potential for both targeting and discard of Pacific sardine:

- An incidental per landing by weight allowance of 40 percent Pacific sardine in non-treaty CPS fisheries until a total of 2,000 mt of Pacific sardine are landed.
- When 2,000 mt are landed, the incidental per landing allowance would be reduced to 20 percent until a total of 5,000 mt of Pacific sardine have been landed.
- When 5,000 mt have been landed, the incidental per landing allowance would be reduced to 10 percent for the remainder of the 2017–2018 fishing year.

Because Pacific sardine is known to comingle with other CPS stocks, these incidental allowances are proposed to allow for the continued prosecution of these other important CPS fisheries and reduce the potential discard of sardine. Additionally, a 2 mt incidental per landing allowance in non-CPS fisheries is proposed.

The NMFS West Coast Regional Administrator would publish a notice in the **Federal Register** announcing the date of attainment of any of the incidental catch levels described above and subsequent changes to allowable incidental catch percentages. Additionally, to ensure that the regulated community is informed of any closure, NMFS will also make announcements through other means available, including fax, email, and mail to fishermen, processors, and state fishery management agencies.

In each of the previous 5 fishing years, the Quinault Indian Nation requested, and NMFS approved, a set-aside for the exclusive right to harvest Pacific sardine in the Quinault Usual and Accustomed Fishing Area off the coast of Washington State, pursuant to the 1856 Treaty of Olympia (Treaty with the Quinault). For the 2017–2018 fishing season, the Quinault Indian Nation has requested that NMFS provide a set-aside of 800 mt (the same amount that was requested and approved for the 2016–2017 season) and NMFS is considering the request.

Detailed information on the fishery and the stock assessment are found in the report ''Assessment of the Pacific Sardine Resource in 2017 for U.S. Management in 2017–2018'' (see **ADDRESSES**).

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Fishery Conservation and Management Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with the CPS FMP, other provisions of the Magnuson-Stevens Fishery Conservation and Management Act, and other applicable law, subject to further consideration after public comment.

This action is exempt from review under E.O. 12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities, for the following reasons:

For Regulatory Flexibility Act (RFA) purposes only, NMFS has established a small business size standard for businesses, including their affiliates, whose primary industry is commercial fishing (see 50 CFR 200.2). A business primarily engaged in commercial fishing (NAICS code 11411) is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual receipts not in excess of $11 million for all its affiliated operations worldwide.

The purpose of this proposed rule is to conserve the Pacific sardine stock by preventing overfishing, so that directed fishing may occur in future years. This will be accomplished by implementing the 2017–2018 annual specifications for Pacific sardine in the U.S. EEZ off the Pacific coast. The small entities that would be affected by the proposed action are the vessels that, if the fishery was open, would be expected to harvest Pacific sardine as part of the West Coast CPS small purse seine fleet. In 2014, the last year that a directed fishery for Pacific sardine was allowed, there were approximately 81 vessels permitted to operate in the directed sardine fishery component of the CPS fishery off the U.S. West Coast; 58 vessels in the Federal CPS limited entry fishery off California (south of 39° N. lat.), and a combined 23 vessels in Oregon and Washington's state Pacific sardine fisheries. The average annual per vessel revenue in 2014 for those vessels was well below the threshold level of $11 million; therefore, all of these vessels are considered small businesses under the RFA. Because each affected vessel is a small business, this proposed rule is considered to equally affect all of these small entities in the same manner. Therefore, this rule would not create disproportionate costs between small and large vessels/businesses.

The CPS FMP and its implementing regulations require NMFS to annually set an OFL, ABC, ACL, and HG or ACT for the Pacific sardine fishery based on the specified harvest control rules in the FMP applied to the current stock biomass estimate for that year. The derived annual HG is the level typically used to manage the principal commercial sardine fishery and is the harvest level typically used by NMFS for profitability analysis each year. As stated above, the CPS FMP dictates that when the estimated biomass drops below a certain level (150,000 mt) there is no HG. Therefore, for the purposes of profitability analysis, this action is essentially proposing an HG of zero for the 2017–2018 Pacific sardine fishing season (July 1, 2017, through June 30, 2018). The estimated biomass used for management during the preceding fishing year (2016–2017) was also below 150,000 mt; therefore, NMFS did not implement a HG, thereby disallowing a commercial directed Pacific sardine fishery. Since there is again no directed fishing for the 2017–2018 fishing year, this proposed rule will not change the potential profitability as compared to the previous fishing year.

The revenue derived from harvesting Pacific sardine is typically only one source of fishing revenue for many of the vessels that harvest Pacific sardine; as a result, the economic impact to the fleet from the proposed action cannot be viewed in isolation. From year to year, depending on market conditions and availability of fish, most CPS/sardine vessels supplement their income by harvesting other species. Many vessels in California also harvest anchovy, mackerel, and in particular, squid, making Pacific sardine only one component of a multi-species CPS fishery. Additionally, some sardine vessels that operate off of Oregon and Washington also fish for salmon in Alaska or squid in California during times of the year when sardine are not available. The purpose of the proposed incidental allowances under this action

are to ensure the vessels impacted by this sardine action can still access these other profitable fisheries while still limiting the harvest of Pacific sardine. These proposed incidental allowances are similar to those implemented last year and should not restrict access to those other fisheries.

CPS vessels typically rely on multiple species for profitability because abundance of Pacific sardine, like the other CPS stocks, is highly associated with ocean conditions and seasonality, and therefore are harvested at various times and areas throughout the year. Because each species responds to ocean conditions in its own way, not all CPS stocks are likely to be abundant at the same time; therefore, as abundance levels and markets fluctuate, it has necessitated that the CPS fishery as a whole rely on a group of species for its annual revenues.

Based on the disproportionality and profitability analysis above, the proposed action, if adopted, will not have a significant economic impact on a substantial number of small entities. As a result, an Initial Regulatory Flexibility Analysis is not required, and none has been prepared.

This action does not contain a collection-of-information requirement for purposes of the Paper Reduction Act.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: May 23, 2017.

Alan D. Risenhoover,

Acting Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. 2017–11031 Filed 5–26–17; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register
Vol. 82, No. 102
Tuesday, May 30, 2017

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Document Number AMS–NOP–17–0024; NOP–17–03]

Notice of Meeting of the National Organic Standards Board

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, as amended, (5 U.S.C. App.), the Agricultural Marketing Service (AMS), U.S. Department of Agriculture (USDA), is announcing a meeting of the National Organic Standards Board (NOSB) to assist the USDA in the development of standards for substances to be used in organic production and to advise the Secretary of Agriculture on any other aspects of the implementation of Organic Foods Production Act.

DATES: The Board will receive public comments via a webinar on October 24, 2017 from 1:00 p.m. to approximately 4:00 p.m. Eastern Time (ET). If the number of commenters registered for the webinar exceeds the time allotted, a second webinar will be held on October 26 from 1:00 p.m. to approximately 4:00 p.m. ET. An in-person meeting will be held October 31–November 2, 2017, from 8:30 a.m. to approximately 6:00 p.m. ET. Oral comments will be heard on Tuesday, October 31, 2017. The deadline to submit written comments and/or sign up for oral comment at either the webinar or face-to-face meeting is 11:59 p.m. ET, October 11, 2017.

ADDRESSES: The webinar(s) are virtual and will be accessed via the internet and/or phone. Access information will be available on the AMS Web site prior to the webinar. The in-person meeting will take place at the Omni Jacksonville Hotel, 245 Water Street, Jacksonville, FL, 32202, United States. Detailed information pertaining to the webinar and in-person meeting can be found at *www.ams.usda.gov/NOSBMeetings.*

FOR FURTHER INFORMATION CONTACT: Ms. Michelle Arsenault, Advisory Committee Specialist, National Organic Standards Board, USDA–AMS–NOP, 1400 Independence Ave. SW., Room 2642–S, Mail Stop 0268, Washington, DC 20250–0268; Phone: (202) 720–3252; Email: *nosb@ams.usda.gov.*

SUPPLEMENTARY INFORMATION: The NOSB makes recommendations to the Department of Agriculture about whether substances should be allowed or prohibited in organic production and/or handling, assists in the development of standards for organic production, and advises the Secretary on other aspects of the implementation of the Organic Foods Production Act (7 U.S.C. 6501–6522). The public meeting allows the NOSB to discuss and vote on proposed recommendations to the USDA, receive updates from the USDA National Organic Program (NOP) on issues pertaining to organic agriculture, and receive comments from the organic community. The meeting is open to the public. All meeting documents, including the meeting agenda, NOSB proposals and discussion documents, instructions for submitting and viewing public comments, and instructions for requesting time for oral comments will be available on the AMS Web site at *www.ams.usda.gov/NOSBMeetings.* Please check the Web site periodically for updates. Meeting topics will encompass a wide range of issues, including: Substances petitioned for addition to or deletion from the National List of Allowed and Prohibited Substances (National List), substances on the National List that are under sunset review, and guidance on organic policies. Participants and attendees may take photos and video at the meeting, but not in a manner that disturbs the proceedings.

Public Comments

Comments should address specific topics noted on the meeting agenda. Written comments: Written public comments will be accepted on or before 11:59 p.m. ET October 11, 2017 via *http://www.regulations.gov:* Document#AMS–NOP–17–0024. Comments submitted after this date will be provided to the NOSB, but Board members may not have adequate time to consider those comments prior to making recommendations. The NOP strongly prefers comments to be submitted electronically, however, written comments may also be submitted (*i.e.,* postmarked) by the deadline, via mail to the person listed under **FOR FURTHER INFORMATION CONTACT**.

Oral Comments: The NOSB is providing the public multiple dates and opportunities to provide oral comments and will accommodate as many individuals and organizations as time permits. Persons or organizations wishing to make oral comments must pre-register by 11:59 p.m. ET, October 11, 2017, and can only register for one speaking slot: Either during the webinar(s) scheduled for October 24 (and October 26 if needed) or at the in-person meeting, October 31, 2017. Due to the limited time allotted for in-person public comments, commenters are strongly encouraged to comment during the webinar(s). Instructions for registering and participating in the webinar can be found at *www.ams.usda.gov/NOSBMeetings.*

Meeting Accommodations: The meeting hotel is ADA Compliant, and the USDA provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in this public meeting, please notify the person listed under **FOR FURTHER INFORMATION CONTACT**. Determinations for reasonable accommodation will be made on a case-by-case basis.

Dated: May 23, 2017.

Bruce Summers,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 2017–10987 Filed 5–26–17; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Agency Information Collection Activities: Proposed Collection; Comment Request—Assessment of States' Use of Computer Matching Protocols in SNAP

AGENCY: Food and Nutrition Service, U.S. Department of Agriculture.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice invites the general public and other public agencies to comment on this NEW information collection request. This study will conduct a census of all 53 State Agencies that administer the Supplemental Nutrition Assistance Program (SNAP) to catalog and describe how States are currently using or planning to use computer matching strategies to reduce recipient fraud, payment errors, and administrative burden for both applicants and eligibility workers.

DATES: Written comments must be received on or before July 31, 2017.

ADDRESSES: Comments are invited on (1) 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; (2) 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) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments may be sent to Danielle Deemer, Office of Policy Support, U.S. Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room 10.1008, Alexandria, VA 22302. Comments may also be submitted via fax to the attention of Danielle Deemer at 703–305–2952 or via email to *Danielle.Deemer@fns.usda.gov.* Comments will also be accepted through the Federal eRulemaking Portal. Go to *http://www.regulations.gov* and follow the online instructions for submitting comments electronically.

All written comments will be open for public inspection at the office of the Food and Nutrition Service (FNS) during regular business hours (8:30 a.m. to 5:00 p.m. Monday through Friday) at 3101 Park Center Drive, Room 10.1008, Alexandria, VA 22302.

All responses to this notice will be summarized and included in the request for Office of Management and Budget (OMB) approval. All comments will be a matter of public record.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the proposed information collection forms should be directed to Danielle Deemer at 703–305–2952.

SUPPLEMENTARY INFORMATION:

Title: Assessment of States' Use of Computer Matching Protocols in SNAP.

Form Number: Not applicable.

OMB Number: 0584—NEW.

Expiration Date: Not yet determined.

Type of Request: New information collection request.

Abstract: Almost all Federal and State programs use computer data matching to determine or verify eligibility for benefits. For SNAP, States also use computer data matching to ensure program integrity. In order to receive SNAP, households must meet financial and non-financial eligibility criteria and provide information and verification about their household circumstances. State Agencies administering SNAP use data matching to verify information submitted at the application and recertification stages of an application process and to monitor changes in benefit recipients' household circumstances. This information collection will build on existing knowledge [1] [2] [3] by conducting an assessment of computer matching capabilities and activities to describe the data matches, systems, purposes, and administrative costs in each State agency and the challenges facing States and counties in effective data matching.

The primary purpose of this study is to assess the computer matching strategies used by State Agencies and to prepare an updated nationwide data-matching inventory to inform effective practices for SNAP.

This project has four research objectives:

1. To inventory all data matches that State SNAP offices currently use and plan to use in the future.

2. To identify and describe all data systems used for matching by each SNAP State agency. Such systems include automated systems, web-based systems, and/or software that integrate data from multiple sources.

3. To identify and describe the purposes for which States pursue each data match.

4. To calculate the annual and per-usage costs incurred in carrying out data matches, in total and, when possible, for each individual match.

To address the study objectives, three types of data will be collected and analyzed: (1) Extant documentation on State data-matching procedures; (2) extant documentation on administrative costs of data matching; and (3) survey data on all 53 State agencies collected via the National Survey of State SNAP Data-Matching Methods. The study will result in both a report for public release and a database that catalogs data matches and can be updated on an ongoing basis.

Affected Public: State, Local and Tribal government: Respondent group types identified includes: (1) 53 administrative staff at the State level and (2) 350 administrative staff at the county level.

Estimated Number of Respondents: 403 State, Local or Tribal Respondents (53 State Agencies and 350 County/Local SNAP Staff members). The National Survey of State SNAP Data-Matching Methods will be a self-administered web survey that will include all 50 States, the District of Columbia, and two territories (U.S. Virgin Islands and Guam). We anticipate a 100 percent response rate to the State portion of the survey. There are 350 County/Local SNAP Staff members and we anticipate 50 percent response rate for their portion of the survey. The estimates are delineated in Table 1.

Of the 53 State agencies, 43 administer SNAP at the State level and 10 administer SNAP at the county level. Therefore, the survey will also collect data at the county level from the 10 States that have county-administered SNAP to account for variations in processes and procedures at the county level. Due to the many and varied systems States use to match data for initial and continuing program eligibility, participation, and integrity checks, we anticipate that any particular State with county-administered SNAP could have multiple county/local respondents who can best answer system, process, technical, and cost-related questions. We estimate that about half of the 10 States with county-administered SNAP will ask county administrators to complete the sections of the survey about county-level processes and procedures.

Estimated Number of Responses per Respondent: All administrative staff at the State level and administrative staff at the county level will be asked to participate in one survey—the National Survey of State SNAP Data-Matching Methods. The survey will be web-based and will be completed by the respondents in a secured web portal.

[1] Borden, William S., and Robbi L. Ruben-Urm. (2002, January). ''An Assessment of Computer Matching in the Food Stamp Program.'' Final Report. Alexandria, VA: U.S. Department of Agriculture, Food and Nutrition Service.

[2] U.S. Government Accountability Office. (2014). ''Supplemental Nutrition Assistance Program: Enhanced Detection Tools and Reporting Could Improve Efforts to Combat Recipient Fraud'', GAO–14–641, a report to Ranking Member, Committee on the Budget, U.S. Senate.

[3] U.S. Government Accountability Office. (2016). ''More Information on Promising Practices Could Enhance States' Use of Data Matching for Eligibility'', GAO–17–222, a report to the Chairman, Committee on Agriculture, House of Representatives.

Estimated Number of Total Annual Responses: FNS anticipates 403 estimated total number of annual responses. We anticipate 228 responses and 175 non-responses.

Estimated Time per Response: The response times vary depending on the respondent type identified for county respondents. The time ranges from approximately 15 minutes (0.25), approximately 24 minutes (0.4008) and approximately 42 minutes (0.7014). The breakout is in Table 1.

There is a slight difference in the time required for State and county staff to complete the survey due to several additional items on the State survey. Time per response for State SNAP staff completing the state portion of the survey only varies from approximately 20 minutes (0.334), approximately 30 minutes (0.50) and approximately 45 minutes (0.75). Time per response for counties completing the county portion of the survey ranges from approximately 15 minutes (0.25), to approximately 24 minutes (0.40), to approximately 42 minutes (0.70). The length of time per response for state SNAP staff completing the survey for states and counties ranges from approximately 30 minutes (0.50), to approximately 60 minutes (1.00), to approximately 72 minutes (1.20).

Estimated Total Annual Burden on Respondents and Non-Respondents: The total estimated annual burden for respondents is approximately 135.55 burden hours (117.05 hours for respondents and 17.50 for non-respondents) which includes the amount of time to read an email, review a few questions, and decide to exit the survey.

BILLING CODE 3410–30–P

Table 1: Estimated Total Annual Burden among Respondents and Non-Respondents

Affected Public	Respondent Description	Type of Survey Instrument	Instrument	Sample Size	RESPONDENTS					NON-RESPONDENTS					
					Estimated Number of Respondents	Frequency of Responses (Annually)	Total Annual Responses	Average Hours per Response	Subtotal Estimated Annual Burden (Hours)	Estimated Number of Non-Respondents	Frequency of Response	Total Annual Resposnes	Average Time per Response (Hours)	Subtotal Estimated Annual Burden (Hours)	Grand Total Burden Hours
STATE-ADMINISTERED (includes the District of Columbia)															
STATE,LOCAL AND TRIBAL GOVERNMENT	State SNAP Staff (low burden)	Web Survey	Survey	4	4	1	4	0.33	1.32	0	0	0	0	0	**1.32**
	State SNAP Staff (medium burden)	Web Survey	Survey	28	28	1	28	0.5	14	0	0	0	0	0	**14**
	State SNAP Staff (high burden)	Web Survey	Survey	11	11	1	11	0.75	8.25	0	0	0	0	0	**8.25**
	Subtotal State 43 SNAP Staff administer SNAP at the State level			**43**	**43**	**1**	**43**	**0.55**	**23.57**	**0**	**0**	**0**	**0**	**0**	**23.57**
	STATES ADMINISTERED SNAP AT COUNTY LEVEL														
	State SNAP Staff Completing for State and County (low burden)	Web Survey	Survey	1	1	1	1	0.5	0.5	0	0	0	0	0	**0.5**
	State SNAP Staff Completing for State and County (medium burden)	Web Survey	Survey	2	2	1	2	1	2	0	0	0	0	0	**2**
	State SNAP Staff Completing for State and County (high burden)	Web Survey	Survey	2	2	1	2	1.2	2.4	0	0	0	0	0	**2.4**
	State SNAP Staff Completing for State only (low burden)	Web Survey	Survey	1	1	1	1	0.33	0.33	0	0	0	0	0	**0.33**
	State SNAP Staff Completing for State only (medium burden)	Web Survey	Survey	2	2	1	2	0.5	1	0	0	0	0	0	**1**

	State SNAP Staff Completing for State only (high burden)	Web Survey	Survey	2	2	1	2	0.75	1.5	0	0	0	0	0	**1.5**
	10 State Staff administer SNAP at County Level Subtotal			**10**	**10**	**1**	**10**	**0.773**	**7.73**	**0**	**0**	**0**	**0**	**0**	**7.73**
	GRAND TOTAL OF STATE BURDEN			**53**	**53**	**1**	**53**	**0.590566**	**31.3**	**0**	**0**	**0**	**0**	**0**	**31.3**
	SNAP ADMINISTERED AT COUNTY LEVEL														
	County/Local SNAP Staff (low burden)	Web Survey	Survey	70	35	1	35	0.25	8.75	35	0	35	0.1	3.5	**12.25**
	County/Local SNAP Staff (medium burden)	Web Survey	Survey	140	70	1	70	0.4	28	70	1	70	0.1	7	**35**
	County/Local SNAP Staff (high burden)	Web Survey	Survey	140	70	1	70	0.7	49	70	1	70	0.1	7	**56**
Subtotal State/County/Local SNAP Staff				**350**	**175**	**1**	**175**	**0.51**	**85.75**	**175**	**1**	**175**	**0.1**	**17.5**	**103.25**
GRAND TOTAL				**403**	**228**	**1**	**228**	**0.52**	**117.05**	**175**	**1**	**175**	**0.1**	**17.5**	**134.55**

Table 1:
*Assumes 50 percent of counties will respond to the survey.

Dated: May 18, 2017.

Jessica Shahin,

Acting Administrator, Food and Nutrition Service.

[FR Doc. 2017–11029 Filed 5–26–17; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Agency Information Collection Activities, Comments Request: Evaluation of Alternatives To Improve Elderly Access

AGENCY: Food and Nutrition Service (FNS), USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice invites the general public and other public agencies to comment on the proposed collection of information for the Evaluation of Alternatives to Improve Elderly Access. This is a NEW information collection. This study will provide FNS with a better understanding of the barriers to serving elderly populations in the Supplemental Nutrition Assistance Program (SNAP) and the extent to which available policy options improve program access, whether certain program models or combinations are more effective than others, and what tradeoffs exist between program simplification/access goals and ensuring benefit adequacy.

DATES: Written comments must be received on or before July 31, 2017.

ADDRESSES: Comments may be sent to Kameron Burt, Social Science Policy Analyst, Office of Policy Support, Food and Nutrition Service, USDA, 3101 Park Center Drive, Room 1014, Alexandria, VA 22302. Comments may also be submitted via fax to the attention of Kameron Burt at 703–305–2576 or via email to *kameron.burt@fns.usda.gov.* Comments will also be accepted through the Federal eRulemaking Portal. Go to *http://www.regulations.gov,* and follow the online instructions for submitting comments electronically.

All responses to this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will be a matter of public record.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project, or to obtain a copy of the data collection plans contact Kameron Burt, Social Science Policy Analyst, Office of Policy Support, Food and Nutrition Service, USDA, 3101 Park Center Drive, Room 1014, Alexandria, VA 22302; Fax: 703–305–2576; Email: *kameron.burt@fns.usda.gov.*

SUPPLEMENTARY INFORMATION: 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, including the validity of the methodology and assumptions that were used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Title: Evaluation of Alternatives to Improve Elderly Access.

Form Number: [If applicable, insert number].

OMB Number: Not yet assigned.

Expiration Date: Not yet determined.

Type of Request: New collection.

Abstract: The Food and Nutrition Service (FNS), under authorization of SEC. 17. [7 U.S.C. 2026] of the FOOD AND NUTRITION ACT OF 2008, as amended, intends to conduct the Evaluation of Alternatives to Improve Elderly Access. FNS is interested in exploring whether policy options designed to improve access to the Supplemental Nutrition Assistance Program (SNAP) for the elderly are effective. The objective of the study is to better understand how to maximize elder (60+) access to SNAP. The evaluation will have four key components:

(1) Exploratory Study: To ground the study plan and subsequent components of the study, the project began with an initial exploratory research phase to determine what is known about elder SNAP participation levels and caseload dynamics over time, factors influencing elder participation in SNAP, and the scope, range, and effects of State interventions for elders to date. The exploratory study drew primarily on existing data, including SNAP Quality Control (QC) data from Fiscal Years 2010 to 2015 and an index of State policy options, and a literature review, supplemented by discussions with FNS Regional and National office staff and experts from advocacy groups.

(2) Study of State Interventions: The Study of State Interventions will document the design, implementation, and operation of interventions intended to increase access to SNAP among the elderly population in the selected States. This component will provide a comprehensive understanding of the interventions, helping us to interpret the effects or lack thereof observed in the Study of Intervention Effects, draw lessons on how aspects of the interventions may be improved, and assess whether the interventions, if implemented in other locations or contexts, might yield similar outcomes. The primary source of data for this study component will be the extensive information collected during three-day site visits to each of the ten selected States.

(3) Study of elder participant perspectives: The purpose of the study is to gather direct input from elders about their awareness of SNAP, perceptions of the program, and experiences applying for and receiving SNAP benefits. Key data collection activities for this component will include: Phone screenings with elderly individuals to confirm eligibility and schedule interviews (560 individuals will be screened to result in 280 scheduled interviews); semi-structured interviews with 200 elderly eligible individuals (out of the 280 scheduled interviews) grouped into three categories (SNAP participants, non-participating applicants, and non-participants). FNS plans to contact or recruit another 115 individuals 60+ to participate in the focus group. Out of the 115 contacted, 80 will go on to participate in the actual focus group. These focus groups will be used to validate and explore key themes that emerge in the interviews. Overall, the expectation is that out of the total 675 elderly individuals contacted, 395 will not respond or choose not to take part in the study.

(4) Study of State Intervention Effects: The objective of the Study of State Intervention Effects is to assess the relative association between State interventions and key program outcomes, including elderly SNAP application trends and caseloads, and rates of churning. The focus of this analysis will be on the interventions that are specifically targeted to elderly households (in addition to the Community Partner Interview Demonstration (CPID)). The study team identified the following interventions as being of particular interest to the study because they either aim at increasing the enrollment of elderly participants or hold particular promise in this regard: Elderly Simplified Application Project (ESAP); Standard Medical Deduction (SMD); CPID; Combined Application

Project (CAP); participating in a 36-Month Certification Demonstration; and having a 36-month certification or recertification interview waiver.

The key data source for this study will be a longitudinal file for each State that will be built by requesting caseload data from each study State for a period of time beginning 12 months before the implementation of an intervention and continuing through 12 months after implementation.

Affected Public: Respondent categories of affected public and the corresponding study participants will include: State and Local or Tribal Government [Agency SNAP Directors and selected State and county government staff], Non-profit Business organizations [Organizations serving elderly individuals and Community Based Organizations], and Individuals & Households [Elderly 60+ Recipients, Non-recipients, and Non-participating applicants].

Estimated Number of Respondents: 1,018 (675 Individuals/Households, 90 Businesses and 253 State employees).

Out of the 1,018 contacted, 660 are estimated to participate as respondents and 358 are estimated to not partake, who are considered our non-respondent group. The break out is as follows: The total estimated number of respondents includes: Out of 13 State SNAP Directors, 10 State SNAP Directors will participate; out of 70 State SNAP Administrative Staff, 70 State SNAP Administrative Staff will participate; out of 675 Individuals/Households, 360 Individuals Households (Elderly SNAP Recipients 60+ and Non-recipients, and Non-participating applicants) will participate; out of 50 Non-profit Organizations (Organizations serving elderly individuals) contacted, 40 will participate; out of 20 County Government SNAP Directors contacted, 20 will participate; out of 50 State and County Staff (Partner Agencies) contacted, 30 will participate; out of 100 County SNAP Staff contacted, 100 will participate; and out of 40 Non-profit Organizations (Community Based Organizations) contacted, 30 will.

Estimated Number of Responses per Respondent: 1.28.

The estimated number of responses per State Government SNAP Director is two: 10 State SNAP Directors will complete a Memorandum of Understanding with the research team; the same 10 State SNAP Directors will also take part in an interview lasting approximately 1 hour.

The estimated number of responses per State SNAP Administrative Staff is one: 20 respondents will prepare and provide caseload data files; 50 other respondents will take part in an interview.

The estimated number of responses per Individual Household (Elderly SNAP Recipients and Non-recipients) is one: 200 respondents will take part in an interview; 80 other respondents will take part in a focus group discussion (additionally, 395 other elderly individuals will be screened and/or have an interview or focus group scheduled but will not complete that activity).

The estimated number of responses per Non-profit Organization (Organizations serving elderly individuals) is one: 40 respondents will provide assistance with recruiting participants for interviews and focus groups.

The estimated number of responses per Non-profit Organizations (Community Based Organizations) is one: 30 respondents will participate in interviews as part of the study of State interventions.

The estimated number of responses per County Government SNAP Director is one: 20 respondents will take part in an interview.

The estimated number of responses per State and County Staff (Partner Agencies) is one: 30 respondents will take part in an interview.

The estimated number of responses per County SNAP Staff is one: 100 respondents will take part in an interview.

Estimated Total Annual Responses: 1,308.

Estimated Time per Response: 1.0515 hours.

The estimated time of response varies from one to 20 hours depending on respondent group and data collection activity, as shown in the table below, with an average estimated time of 1.53 hours for all participants (the average estimated time is .10 hours for non-respondents). Twenty State SNAP Administrative Staff will spend an estimated 20 hours to prepare and provide caseload data files, and 10 State Government SNAP Directors will spend an estimated 10 hours to complete a Memorandum of Understanding with the research team. All other data collection activities produce a burden of 1.5 hours or less.

Estimated Total Annual Burden on Respondents: 1,375.40 hours.

See Table 1 below for estimated total annual burden for each type of respondent.

Dated: May 18, 2017.

Jessica Shahin,

Acting Administrator, Food and Nutrition Service.

BILLING CODE 3410–30–P

Table 1: Estimated Total Burden per Respondent Type

			RESPONDENTS						NON-RESPONDENTS					
Respondent Description	Study Component	Instrument	Sample Size	Estimated Number of Respondents	Frequency of Response (Annually)	Total Annual Responses	Average Hours per Response	Subtotal Estimated Annual Burden (Hours)	Estimated Number of Non-Respondents	Frequency of Response	Total Annual Responses	Average Time per Response (Hours)	Subtotal Estimated Annual Burden (Hours)	Grand Total Burden Estimate
INDIVIDUALS & HOUSEHOLDS														
Individuals Elderly 60+*	Elderly Participant Perspectives	Interview Phone Screenings	560.0	280.0	1.0	280.0	0.3	70.0	280.0	1.0	280.0	0.1	22.4	92.4
	Elderly Participant Perspectives	Interview Scheduling and Interviews	280.0	200.0	1.0	200.0	1.0	200.0	80.0	1.0	80.0	0.1	6.4	206.4
Individuals Elderly 60+	Elderly Participant Perspectives	Focus Group	115.0	80.0	1.0	80.0	1.5	120.0	35.0	1.0	35.0	0.1	2.8	122.8
Subtotal Individuals and Households			**675.0**	**360.0**	**1.0**	**560.0**	**0.7**	**390.0**	**315.0**	**1.0**	**395.0**	**0.1**	**31.6**	**421.6**
BUSINESS NOT-FOR PROFIT														
Organizations serving elderly individuals 60+	Elderly Participant Perspectives	Data collection site visits	50.0	40.0	1.0	40.0	5.0	200.0	10.0	1.0	10.0	0.2	1.6	201.6
Community based organization	State Interventions	Data collection site visits	40.0	30.0	1.0	30.0	1.0	30.0	10.0	1.0	10.0	0.2	1.6	31.6
Subtotal Business for not-for Profit			**90.0**	**70.0**	**1.0**	**70.0**	**3.3**	**230.0**	**20.0**	**1.0**	**20.0**	**0.2**	**3.2**	**233.2**
STATE, LOCAL & TRIBAL SNAP AND PARTNER AGENCY STAFF														
State SNAP Director*	Intervention effects & Elderly Participant Perspectives	Complete MOU	13.0	10.0	1.0	10.0	10.0	100.0	3.0	1.0	3.0	3.0	9.0	109.0
	Intervention effects & Elderly Participant Perspectives	Data Collection site visits	10.0	10.0	1.0	10.0	1.0	10.0	0.0	0.0	0.0	0.0	0.0	10.0
State SNAP Staff	Intervention effects & Elderly Participant Perspectives	Provide Administrative Data	20.0	20.0	1.0	20.0	20.0	400.0	0.0	0.0	0.0	0.0	0.0	400.0
State SNAP Staff	State Interventions	Data collection site visits	50.0	50.0	1.0	50.0	1.0	50.0	0.0	0.0	0.0	0.0	0.0	50.0
Local SNAP Office Diectors	State Interventions	Data collection site visits	20.0	20.0	1.0	20.0	1.0	20.0	0.0	0.0	0.0	0.0	0.0	20.0
State & Local Partner Agency Staff	State Interventions	Data collection site visits	50.0	30.0	1.0	30.0	1.0	30.0	20.0	1.0	20.0	0.1	1.6	31.6
Local SNAP Staff	State Interventions	Data collection site visits	100.0	100.0	1.0	100.0	1.0	100.0	0.0	0.0	0.0	0.0	0.0	100.0
Subtotal State and Local SNAP and Partner Staff			**253.0**	**230.0**	**1.0**	**240.0**	**3.0**	**710.0**	**23.0**	**1.0**	**23.0**	**0.5**	**10.6**	**720.6**
GRAND TOTAL			**1018.0**	**660.0**	**1.0**	**870.0**	**1.5**	**1330.0**	**358.0**	**1.0**	**438.0**	**0.1**	**45.4**	**1375.4**

* These respondents are involved in two activities and, therefore, are not double counted.

[FR Doc. 2017–11028 Filed 5–26–17; 8:45 am]
BILLING CODE 3410–30–C

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Agency Information Collection Activities: Proposed Collection; Comment Request—Study of School Food Authority (SFA) Procurement Practices

AGENCY: Food and Nutrition Service (FNS), United States Department of Agriculture (USDA).

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice invites the general public and other public agencies to comment on this proposed information collection. This collection is a new information collection for the Study of School Food Authority (SFA) Procurement Practices. This study is intended to describe and assess the practices of SFAs related to procuring goods and services for school meal programs (*e.g.,* National School Lunch Program [NSLP] and the School Breakfast Program [SBP]), and to better understand how SFAs make decisions that lead to these procurement practices. The SFA Procurement Practices study will go beyond previous studies that concentrated on single food service or Child Nutrition programs (*e.g.,* NSLP, SBP, or the Summer Food Service Program [SFSP]) or studies that focused on single procurement practices (*e.g.,* use of Food Service Management Companies [FSMCs]) at the SFA level.

This collection includes a mixed-methods approach of qualitative and quantitative information utilizing a structured web-based survey, as well as in-depth interviews (IDIs) to be conducted by telephone. Data will be collected from a subsample of the SFA population participating in the second year of the Child Nutrition Program Operations Study-II (CN–OPS II) (OMB Number 0584–0607).

DATES: Written comments must be received on or before July 31, 2017.

ADDRESSES: 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, including the validity of the methodology and assumptions that were used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments may be sent to: Ashley Chaifetz, Ph.D., Social Science Research Analyst, Special Nutrition Evaluation Branch, Food and Nutrition Service, USDA, 3101 Park Center Drive, Alexandria, VA 22302. Comments may also be submitted via fax to the attention of Ashley Chaifetz at 703–305–2576 or via email to *Ashley.Chaifetz@fns.usda.gov*. Comments will also be accepted through the Federal eRulemaking Portal. Go to *http://www.regulations.gov* and follow the online instructions for submitting comments electronically.

All responses to this notice will be summarized and included in the request for Office of Management and Budget (OMB) approval. All comments will be a matter of public record.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project, contact Ashley Chaifetz, Ph.D., Social Science Research Analyst, Special Nutrition Evaluation Branch, Food and Nutrition Service, USDA, 3101 Park Center Drive, Alexandria, VA 22302; Fax: 703–305–2576; Email: *Ashley.Chaifetz@fns.usda.gov*.

SUPPLEMENTARY INFORMATION:

Title: Study of School Food Authority (SFA) Procurement Practices (SFA Procurement Practices Study).

Form Number: N/A.

OMB Number: Not yet assigned.

Expiration Date: Not yet determined.

Type of Request: New collection.

Abstract: The SFA Procurement Practices Study will describe and evaluate the decision-making processes of SFAs regarding school food procurement practices. Using a nationally representative sample of SFAs, this study will be one of the first FNS studies of SFA procurement practices for school meal programs to comprehensively examine food service management companies, group purchasing agreements, recordkeeping, local food purchases, and food purchase specifications.

The Richard B. Russell National School Lunch Act and Child Nutrition Act provide the legislative authority for the NSLP and the SBP. FNS administers the NSLP and the SBP at the Federal level, in addition to other meal programs at schools, including the SFSP, Child and Adult Care Food Program (CACFP), and Special Milk Program for Children (SMP). At the State level, school meal programs are administered by State agencies (typically State Departments of Education or Agriculture). Approximately 20,000 SFAs, which can consist of a school, school district, or multiple districts, are responsible for administering and ensuring eligibility is met for the school meal programs, including procurement. School food procurement consists mainly of commercial food purchases, but USDA Foods also make up a portion of the items purchased.

For each meal served by the NSLP, the SFA receives entitlement dollars to purchase USDA Foods, which can include purchasing items directly from the USDA or diverting bulk ingredients for further processing. SFAs can also use their entitlement dollars to purchase fresh produce from the USDA Department of Defense Fresh Fruit and Vegetable program (USDA DoD Fresh) or the Fresh Fruit and Vegetable Program (FFVP). Additionally, some SFAs contract with an FSMC to manage on-site operations, including procurement; others enter into group purchasing agreements or use procurement methods such as small and micro-purchases.

The objectives of the study include the following:

- Identify and describe the means through which self-operating SFAs develop and publish solicitations, evaluate and award contracts, and monitor procurement contracts for all school food purchases.
- Identify and describe the rationale, procedures, and recordkeeping practices used by SFAs with respect to their contracts with FSMCs.
- Identify and describe the forms of cooperative purchasing arrangements SFAs use to purchase food products and services.
- Assess the strengths and weaknesses of SFAs with respect to procurement-related expertise in developing solicitation and contract documents, evaluating bids/responses, negotiating terms and conditions, and assessing the availability of State agency-provided technical assistance and training resources.

The SFA Procurement Practices Study will assist FNS to better understand SFA procurement practices by identifying the ways SFAs make decisions about procuring goods and services and the outcomes of such decisions.

The activities to be undertaken subject to this notice include (1)

conducting a structured web survey of approximately 560 SFA Child Nutrition Directors, and (2) conducting in-depth interviews with 100 SFA Child Nutrition Directors, a subsample of the 560 SFA Child Nutrition Directors that completed the structured web survey.

Affected Public: State, Local, and Tribal Governments.

Type of Respondents: SFA Child Nutrition Directors.

Estimated Total Number of Respondents: The estimated total number of unique respondents is 700. This figure includes 560 respondents and 140 non-respondents. The estimated total number of participants for the web survey is 700 (560 respondents and 140 non-respondents at a response rate of 80 percent). The estimated total number of participants for the in-depth interviews is 125 (100 respondents and 25 non-respondents at a response rate of 80 percent).

Estimated Frequency of Responses per Respondent: Respondents (SFA Child Nutrition Directors) will be asked to complete each data collection instrument (web survey and IDI) no more than one time. Respondents may be asked to respond to only the web survey or to both the web survey and the IDI. FNS estimates that respondents will average 7.2 responses (5,024/700) across the entire collection, with respondents averaging 4.8 responses (2,690/560) and non- respondents averaging 16.7 responses (2,334/140).

For the Web survey, all 700 potential respondents will receive a pre-survey notification letter, a Frequently Asked Questions document, and a pre-survey notification email. These materials will explain the study and survey, and encourage and remind the respondent to complete the survey. During the data collection period, a first reminder email will be sent to an estimated 560 potential respondents who, at that point in time, have yet to complete the web survey. Later in the data collection period, a second reminder email will be sent to an estimated 224 potential respondents who, at that point in time, have yet to complete the web survey. Upon completion of the web survey data collection period, the estimated 560 respondents will receive a post-survey response clarification communication; an estimated 280 of these respondents will receive a phone call and 280 will receive an email, depending on the extent of the clarifications that are needed. Thank you emails will be sent to the estimated 280 respondents who were sent a response clarification email. Respondents that received a response clarification phone call will be thanked for their participation in the survey at the end of the call.

For the in-depth interviews, 125 of the estimated 560 respondents to the web survey will receive a pre-interview notification letter, which includes the Frequently Asked Questions document that they received prior to the web survey. These materials will explain the purpose of the interview and why they were chosen for the interview, and will encourage them to participate. Next, each of the 125 potential interviewees will receive a pre-interview scheduling phone call. The purpose of the call will be to further encourage their participation and to schedule the interview. A reminder email will be sent to and a second pre-interview scheduling phone call will be attempted with an estimated 75 potential respondents who, at that point in time, have yet to schedule an interview. After the scheduling calls, the estimated 100 respondents who agree to and schedule an interview will be sent a participant confirmation email. At the completion of the interview, the respondents will be thanked for their participation; thank you emails will not be sent out after the interview.

Estimated Total Annual Responses: The estimated total number of responses across all categories is 5,024. This includes 2,690 for respondents and 2,334 for non-respondents.

Estimated Total Annual Burden Hours on Respondents: The estimated total annual burden hours expected across all respondents is 909.12 hours. The estimated burden for each type of response is given in the table below (Exhibit 1).

Dated: May 18, 2017.

Jessica Shahin,

Acting Administrator, Food and Nutrition Service.

BILLING CODE 3410–30–P

BILLING CODE 3410-P

Exhibit 1. Estimated Number of Respondents, Non-Respondents, and Hours of Burden

Affected Public	Respondent Type	Data Collection Activity	Original Sample Size	Responsive					Non-Responsive					Estimated Total Annual Hour Burden
				Estimated Number of Respondents	Frequency of Response	Estimated Total Annual Responses	Hours per Response	Estimated Annual Burden (hours)	Estimated Number of Non-Respondents	Frequency of Response	Estimated Total Annual Responses	Hours per Response	Estimated Annual Burden (hours)	
State, Local, and Tribal Government	SFA Directors	Structured Web Survey (Data Collection)	700	560	1	560	1.00	560.00	140	1	140	0.04	5.60	565.60
	SFA Directors	Pre-Survey Notification Letter (Web Survey)	700	140	1	140	0.06	8.40	560	1	560	0.04	22.40	30.80
	SFA Directors	Pre-Survey Notification FAQ (Web Survey)	700	140	1	140	0.08	11.20	560	1	560	0.04	22.40	33.60
	SFA Directors	Pre-Survey Notification Email (Web Survey)	700	140	1	140	0.05	7.00	560	1	560	0.03	16.80	23.80
	SFA Directors	Survey Reminder Email #1 (Web Survey)	560	336	1	336	0.05	16.80	224	1	224	0.03	6.72	23.52
	SFA Directors	Survey Reminder Email #2 (Web Survey)	224	84	1	84	0.05	4.20	140	1	140	0.03	4.20	8.40
	SFA Directors	Post-Survey Response Clarification Email (Web Survey)	280	280	1	280	0.05	14.00	0	0	0	0.00	0.00	14.00
	SFA Directors	Post-Survey Response Clarification Phone Call (Web Survey)	280	280	1	280	0.08	22.40	0	0	0	0.00	0.00	22.40

Affected Public	Respondent Type	Data Collection Activity	Original Sample Size	Responsive				Non-Responsive				Estimated Total Annual Hour Burden
				Estimated Number of Respondents	Frequency of Response	Estimated Total Annual Responses	Hours per Response	Estimated Annual Burden (hours)	Estimated Number of Non-Respondents	Frequency of Response	Estimated Total Annual Responses	Hours per Response	Estimated Annual Burden (hours)	
	SFA Directors	Post-Survey Thank-You Email (Web Survey)	280	280	1	280	0.05	14.00	0	0	0	0.00	0.00	14.00
	SFA Directors	IDI Protocol (Data Collection)	100	100	1	100	1.50	150.00	0	0	0	0.00	0.00	150.00
	SFA Directors	Pre-Interview Notification Letter (In-Depth Interview)	125	100	1	100	0.06	6.00	25	1	25	0.04	1.00	7.00
	SFA Directors	Pre-Interview Scheduling Phone Call, First Attempt (In-Depth Interview)	125	50	1	50	0.07	3.50	75	1	75	0.01	0.75	4.25
	SFA Directors	Pre-Interview Reminder Email (In-Depth Interview)	75	50	1	50	0.05	2.50	25	1	25	0.02	0.50	3.00
	SFA Directors	Pre-Interview Scheduling Phone Call, Second Attempt (In-Depth Interview)	75	50	1	50	0.07	3.50	25	1	25	0.01	0.25	3.75
	SFA Directors	Participant Confirmation Email (In-Depth Interview)	100	100	1	100	0.05	5.00	0	0	0	0.00	0.00	5.00
	Total Reporting Burden		**700**	**560**	**4.80**	**2,690**	**0.31**	**828.50**	**140**	**16.67**	**2,334**	**0.03**	**80.62**	**909.12**

[FR Doc. 2017–11041 Filed 5–26–17; 8:45 am]

BILLING CODE 3410–30–C

DEPARTMENT OF AGRICULTURE

Forest Service

Sierra County Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Sierra County Resource Advisory Committee (RAC) will meet in Sierraville, California. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act of 2000 (the Act) and operates in compliance with the Federal Advisory Committee Act. The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with the Act. RAC information can be found at the following Web site: *http://cloudapps-usda-gov.force.com/FSSRS/RAC_Page?id=001t0000002JcuzAAC.*

DATES: The meeting will be held on Friday, June 16, 2017, at 9:00 a.m.

All RAC meetings are subject to cancellation. For status of meeting prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

ADDRESSES: The meeting will be held at the Sierraville Ranger Station, Conference Room, 317 South Lincoln (Highway 89), Sierraville, California.

Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION**. All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at Sierraville Ranger Station. Please call ahead to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Michael Woodbridge, RAC Coordinator, by phone at 530–478–6205 or via email at *mjwoodbridge@fs.fed.us.*

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to:

1. Welcome and oriententation of members,
2. Federal Advisory Committee Act overview,
3. Development of project ranking citeria and voting process,
4. Elect a RAC chairperson,
5. Project proponent presentations, and
6. Review and selection of project proposals.

The meeting is open to the public. The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should submit a request in writing by June 12, 2017, to be scheduled on the agenda. Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before or after the meeting. Written comments and requests for time to make oral comments must be sent to Michael Woodbridge, RAC Coordinator, 631 Coyote Street, Nevada City, California 95959; by email to *mjwoodbridge@fs.fed.us,* or via facsimile to 530–478–6109.

Meeting Accommodations: If you are a person requiring reasonable accommodation, please make requests in advance for sign language interpreting, assistive listening devices, or other reasonable accommodation. For access to the facility or proceedings, please contact the person listed in the section titled **FOR FURTHER INFORMATION CONTACT**. All reasonable accommodation requests are managed on a case by case basis.

Dated: May 5, 2017.

Jeanne M. Higgins,

Acting Associate Deputy Chief, National Forest System.

[FR Doc. 2017–10952 Filed 5–26–17; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration

Opportunity for Designation in the Aberdeen Area; Request for Comments on the Official Agency Servicing This Area

AGENCY: Grain Inspection, Packers and Stockyards Administration, USDA.

ACTION: Notice.

SUMMARY: The designation of the official agency listed below will end on September 30, 2017. We are asking persons or governmental agencies interested in providing official services in the areas presently served by this agency to submit an application for designation. In addition, we are asking for comments on the quality of services provided by the following designated agency: Aberdeen Grain Inspection, Inc. (Aberdeen).

DATES: Applications and comments must be received by June 29, 2017.

ADDRESSES: Submit applications and comments concerning this notice using any of the following methods:

- *Applying for Designation on the Internet:* Use FGISonline (*https://fgis.gipsa.usda.gov/default_home_FGIS.aspx*) and then click on the Delegations/Designations and Export Registrations (DDR) link. You will need to obtain an FGISonline customer number and USDA eAuthentication username and password prior to applying.
- *Submit Comments Using the Internet:* Go to *Regulations.gov* (*http://www.regulations.gov*). Instructions for submitting and reading comments are detailed on the site.
- *Mail, Courier or Hand Delivery:* Jacob Thein, Compliance Officer, USDA, GIPSA, FGIS, QACD, 10383 North Ambassador Drive, Kansas City, MO 64153.
- *Fax:* Jacob Thein, 816–872–1257.
- *Email: FGIS.QACD@usda.gov.*

Read Applications and Comments: All applications and comments will be available for public inspection at the office above during regular business hours (7 CFR 1.27(c)).

FOR FURTHER INFORMATION CONTACT: Jacob Thein, 816–866–2223 or *FGIS.QACD@usda.gov.*

SUPPLEMENTARY INFORMATION: Section 79(f) of the United States Grain Standards Act (USGSA) authorizes the Secretary to designate a qualified applicant to provide official services in a specified area after determining that the applicant is better able than any other applicant to provide such official services (7 U.S.C. 79(f)). Under section 79(g) of the USGSA, designations of official agencies are effective for no longer than five years, unless terminated by the Secretary, and may be renewed according to the criteria and procedures prescribed in section 79(f) of the USGSA.

Areas Open for Designation

Aberdeen

Pursuant to Section 79(f)(2) of the USGSA, the following geographic area in the States of North Dakota and South Dakota is assigned to this official agency.

In North Dakota and South Dakota

Bounded on the north by U.S. Route 12 east to State Route 22; State Route 22 north to the Burlington-Northern line; the Burlington-Northern line east to State Route 21; State Route 21 east to State Route 49; State Route 49 south to the North Dakota-South Dakota State

line; the North Dakota-South Dakota State line east to U.S. Route 83; U.S. Route 83 north to State Route 13; State Route 13 east and north to McIntosh County; the northern McIntosh County line east to Dickey County; the northern Dickey County line east to U.S. Route 281; U.S. Route 281 south to the North Dakota-South Dakota State line; the North Dakota-South Dakota State line east; bounded on the east by the eastern South Dakota State line (the Big Sioux River) to A54B; bounded on the south by A54B west to State Route 11; State Route 11 north to State Route 44 (U.S. 18); State Route 44 west to the Missouri River; the Missouri River south-southeast to the South Dakota State line; the southern South Dakota State line west; and bounded on the west by the western South Dakota State line north; the western North Dakota State line north to U.S. Route 12.

Opportunity for Designation

Interested persons or governmental agencies may apply for designation to provide official services in the geographic area specified above under the provisions of section 79(f) of the USGSA and 7 CFR 800.196. Designation in the specified geographic area in North Dakota and South Dakota is for the period beginning October 1, 2017, to September 30, 2022. To apply for designation or to request more information, contact Jacob Thein at the address listed above or visit GIPSA's Web site at (*https://fgis.gipsa.usda.gov/default_home_FGIS.aspx*).

Request for Comments

We are publishing this notice to provide interested persons the opportunity to comment on the quality of services provided by the Aberdeen official agency. In the designation process, we are particularly interested in receiving comments citing reasons and pertinent data supporting or objecting to the designation of the applicant. Submit all comments to Jacob Thein at the above address or at *http://www.regulations.gov.*

We consider applications, comments, and other available information when determining which applicants will be designated.

Authority: 7 U.S.C. 71–87k.

Randall D. Jones,

Acting Administrator, Grain Inspection, Packers and Stockyards Administration.

[FR Doc. 2017–10996 Filed 5–26–17; 8:45 am]

BILLING CODE 3410–KD–P

DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration

Opportunity for Designation in the Hastings Area; Request for Comments on the Official Agency Servicing This Area

AGENCY: Grain Inspection, Packers and Stockyards Administration, USDA.

ACTION: Notice.

SUMMARY: The designation of the official agency listed below will end on September 30, 2017. We are asking persons or governmental agencies interested in providing official services in the areas presently served by this agency to submit an application for designation. In addition, we are asking for comments on the quality of services provided by the following designated agency: Hastings Grain Inspection, Inc. (Hastings).

DATES: Applications and comments must be received by June 29, 2017.

ADDRESSES: Submit applications and comments concerning this notice using any of the following methods:

- *Applying for Designation on the Internet:* Use FGISonline (*https://fgis.gipsa.usda.gov/default_home_FGIS.aspx*) and then click on the Delegations/Designations and Export Registrations (DDR) link. You will need to obtain an FGISonline customer number and USDA eAuthentication username and password prior to applying.
- *Submit Comments Using the Internet:* Go to *Regulations.gov* (*http://www.regulations.gov*). Instructions for submitting and reading comments are detailed on the site.
- *Mail, Courier or Hand Delivery:* Jacob Thein, Compliance Officer, USDA, GIPSA, FGIS, QACD, 10383 North Ambassador Drive, Kansas City, MO 64153.
- *Fax:* Jacob Thein, 816–872–1257.
- *Email: FGIS.QACD@usda.gov.*

Read Applications and Comments: All applications and comments will be available for public inspection at the office above during regular business hours (7 CFR 1.27(c)).

FOR FURTHER INFORMATION CONTACT: Jacob Thein, 816–866–2223 or *FGIS.QACD@usda.gov.*

SUPPLEMENTARY INFORMATION: Section 79(f) of the United States Grain Standards Act (USGSA) authorizes the Secretary to designate a qualified applicant to provide official services in a specified area after determining that the applicant is better able than any other applicant to provide such official services (7 U.S.C. 79(f)). Under section 79(g) of the USGSA, designations of official agencies are effective for no longer than five years, unless terminated by the Secretary, and may be renewed according to the criteria and procedures prescribed in section 79(f) of the USGSA.

Areas Open for Designation

Hastings

Pursuant to Section 79(f)(2) of the USGSA, the following geographic area in the State of Nebraska is assigned to this official agency.

In Nebraska

Bounded on the north by the northern Nebraska State line from the western Sioux County line east to the eastern Knox County line; bounded on the east by the eastern and southern Knox County lines; the eastern Antelope County line; the northern Madison County line east to U.S. Route 81; U.S. Route 81 south to the southern Madison County line; the southern Madison County line; the eastern Boone, Nance, and Merrick County lines; the Platte River southwest; the eastern Hamilton County line; the northern and eastern Fillmore County lines; the southern Fillmore County line west to U.S. Route 81; U.S. Route 81 south to State Highway 8; State Highway 8 west to the County Road 1 mile west of U.S. Route 81; the County Road south to the southern Nebraska State line; bounded on the south by the southern Nebraska State line, from the County Road 1 mile west of U.S. Route 81, west to the western Dundy County line; and bounded on the west by the western Dundy, Chase, Perkins, and Keith County lines; the southern and western Garden County lines; the southern Morrill County line west to U.S. Route 385; U.S. Route 385 north to the southern Box Butte County line; the southern and western Sioux County lines north to the northern Nebraska State line.

The following grain elevators are part of this geographic area assignment. In Kansas Grain Inspection Service, Inc.'s area: Farmers Coop, Big Springs, Deuel County, Nebraska; and Big Springs Elevator, Big Springs, Deuel County, Nebraska. In Fremont Grain Inspection Department, Inc.'s area: Huskers Cooperative Grain Company, Columbus, Platte County, Nebraska.

Opportunity for Designation

Interested persons or governmental agencies may apply for designation to provide official services in the geographic area specified above under

the provisions of section 79(f) of the USGSA and 7 CFR 800.196. Designation in the specified geographic area in Nebraska is for the period beginning October 1, 2017, to September 30, 2022. To apply for designation or to request more information, contact Jacob Thein at the address listed above or visit GIPSA's Web site at (*https://fgis.gipsa.usda.gov/default_home_FGIS.aspx*).

Request for Comments

We are publishing this notice to provide interested persons the opportunity to comment on the quality of services provided by the Hastings official agency. In the designation process, we are particularly interested in receiving comments citing reasons and pertinent data supporting or objecting to the designation of the applicant. Submit all comments to Jacob Thein at the above address or at *http://www.regulations.gov.*

We consider applications, comments, and other available information when determining which applicants will be designated.

Authority: 7 U.S.C. 71–87k.

Randall D. Jones,

Acting Administrator, Grain Inspection, Packers and Stockyards Administration.

[FR Doc. 2017–10988 Filed 5–26–17; 8:45 am]

BILLING CODE 3410–KD–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the New Hampshire Advisory Committee

AGENCY: Commission on Civil Rights.

ACTION: Announcement of meetings.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission), and the Federal Advisory Committee Act (FACA), that a planning meeting of the New Hampshire Advisory Committee to the Commission will convene at 12:00 p.m. (EDT) on Friday, June 16, 2017, in Room P435, University of New Hampshire, 88 Commercial Street, Manchester, NH. The purpose of the meeting is to conduct orientation for the newly appointed Committee and discuss current civil rights issues of importance in the state.

DATES: Friday, June 16, 2017, at 12:00 p.m. (EDT).

ADDRESSES: University of New Hampshire, Room P435, 88 Commercial St., Manchester, NH 03101.

FOR FURTHER INFORMATION CONTACT: Barbara J. Delaviez, Designated Federal Official (DFO), *ero@usccr.gov,* 202–376–7533.

SUPPLEMENTARY INFORMATION: If other persons who plan to attend the meeting require other accommodations, please contact Evelyn Bohor at *ebohor@usccr.gov* at the Eastern Regional Office at least ten (10) working days before the scheduled date of the meeting.

Members of the public are invited to make statements during the open comment period of the meeting or submit written comments. The comments must be received in the regional office approximately 30 days after each scheduled meeting. Written comments may be mailed to the Eastern Regional Office, U.S. Commission on Civil Rights, 1331 Pennsylvania Avenue, Suite 1150, Washington, DC 20425, faxed to (202) 376–7548, or emailed to Evelyn Bohor at *ero@usccr.gov.* Persons who desire additional information may contact the Eastern Regional Office at (202) 376–7533.

Records and documents discussed during the meeting will be available for public viewing as they become available at *http://facadatabase.gov/committee/meetings.aspx?cid=262,* and clicking on the ''Meeting Details'' and ''Documents'' links. Records generated from this meeting may also be inspected and reproduced at the Eastern Regional Office, as they become available, both before and after the meeting. Persons interested in the work of this advisory committee are advised to go to the Commission's Web site, *www.usccr.gov,* or to contact the Eastern Regional Office at the above phone number, email or street address.

Agenda

- Welcome and Roll-call
  Barbara J. Delaviez, Deputy Director and DFO, Eastern Regional Office
- Introductions
  JerriAnne Boggis, Chair, New Hampshire State Advisory Committee
- Orientation and brief update on Commission and Region Activities
- Discuss current civil rights issues of importance in the state
- Next Steps
- Open Comment

Dated: May 23, 2017.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2017–10966 Filed 5–26–17; 8:45 am]

BILLING CODE P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Oregon Advisory Committee

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 (FACA) that a meeting of the Oregon Advisory Committee (Committee) to the Commission will be held at 1:00 p.m. (Pacific Time) Monday, June 19, 2017. The purpose of the meeting is for the Committee to consider and discuss potential topics for their FY17 civil rights project.

DATES: The meeting will be held on Monday, June 19, 2017, at 1:00 p.m. PDT.

ADDRESSES: Public call information: Dial: 877–852–6543 Conference ID: 2136543.

FOR FURTHER INFORMATION CONTACT: Ana Victoria Fortes (DFO) at *afortes@usccr.gov* or (213) 894–3437.

SUPPLEMENTARY INFORMATION: This meeting is available to the public through the following toll-free call-in number: 877–852–6543, conference ID number: 2136543. Any interested member of the public may call this number and listen to the meeting. Callers can expect to incur charges for calls they initiate over wireless lines, and the Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Persons with hearing impairments may also follow the 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 entitled to make comments during the open period at the end of the meeting. Members of the public may also submit written comments; the comments must be received in the Regional Programs Unit within 30 days following the meeting. Written comments may be mailed to the Western Regional Office, U.S. Commission on Civil Rights, 300 North Los Angeles Street, Suite 2010, Los Angeles, CA 90012. They may be faxed to the Commission at (213) 894–0508, or emailed Ana Victoria Fortes at *afortes@usccr.gov.* Persons who desire additional information may contact the

Regional Programs Unit at (213) 894–3437.

Records and documents discussed during the meeting will be available for public viewing prior to and after the meeting at *http://facadatabase.gov/committee/meetings.aspx?cid=270.* Please click on the ''Meeting Details'' and ''Documents'' links. Records generated from this meeting may also be inspected and reproduced at the Regional Programs Unit, as they become available, both before and after the meeting. Persons interested in the work of this Committee are directed to the Commission's Web site, *http://www.usccr.gov,* or may contact the Regional Programs Unit at the above email or street address.

Agenda

I. Introductions
II. Discussion Regarding Potential FY17 Topics
III. Public Comment
IV. Next Steps
V. Adjournment

Dated: May 24, 2017.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2017–11046 Filed 5–26–17; 8:45 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Nevada State Advisory Committee

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 (FACA) that a meeting of the Nevada Advisory Committee (Committee) to the Commission will be held at 1:30 p.m. (Pacific Time) Thursday, May 25, 2017, for the purpose of voting on the advisory memorandum issued to the U.S. Commission on Civil Rights to contribute to their 2017 statutory enforcement report.

DATES: The meeting will be held on Thursday, May 25, 2017, at 1:30 p.m. PDT.

ADDRESSES: Public call information: Dial: 888–515–2880, Conference ID: 3446454.

FOR FURTHER INFORMATION CONTACT: Ana Victoria Fortes (DFO) at *afortes@usccr.gov* or (213) 894–3437.

SUPPLEMENTARY INFORMATION: This meeting is available to the public through the following toll-free call-in number: 888–515–2880, conference ID number: 3446454. Any interested member of the public may call this number and listen to the meeting. Callers can expect to incur charges for calls they initiate over wireless lines, and the Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Persons with hearing impairments may also follow the 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 entitled to make comments during the open period at the end of the meeting. Members of the public may also submit written comments; the comments must be received in the Regional Programs Unit within 30 days following the meeting. Written comments may be mailed to the Western Regional Office, U.S. Commission on Civil Rights, 300 North Los Angeles Street, Suite 2010, Los Angeles, CA 90012. They may be faxed to the Commission at (213) 894–0508, or emailed Ana Victoria Fortes at *afortes@usccr.gov*. Persons who desire additional information may contact the Regional Programs Unit at (213) 894–3437.

Records and documents discussed during the meeting will be available for public viewing prior to and after the meeting at *http://facadatabase.gov/committee/meetings.aspx?cid=261.* Please click on the ''Meeting Details'' and ''Documents'' links. Records generated from this meeting may also be inspected and reproduced at the Regional Programs Unit, as they become available, both before and after the meeting. Persons interested in the work of this Committee are directed to the Commission's Web site, *http://www.usccr.gov,* or may contact the Regional Programs Unit at the above email or street address.

Agenda

I. Welcome
II. Discussion on Advisory Memorandum
  a. Committee to Vote
III. Public Comment
IV. Next Steps
V. Adjournment

Exceptional Circumstance: Pursuant to 41 CFR 102–3.150, the notice for this meeting is given less than 15 calendar days prior to the meeting because of the exceptional circumstances of administrative difficulties in getting the notice filed.

Dated: May 24, 2017.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2017–11045 Filed 5–26–17; 8:45 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Alaska Advisory Committee

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 (FACA) that a meeting of the Alaska Advisory Committee (Committee) to the Commission will be held at 1:00 p.m. (Alaska Time) Tuesday, June 13, 2017. The purpose of the meeting is for the Committee to receive orientation from Commission staff and discussion regarding the status of the Committee project on voting rights.

DATES: The meeting will be held on Tuesday, June 13, 2017, at 1:00 p.m. AKDT.

ADDRESSES: Public call information: Dial: 877–874–1586 Conference ID: 1868231.

FOR FURTHER INFORMATION CONTACT: Ana Victoria Fortes (DFO) at *afortes@usccr.gov* or (213) 894–3437.

SUPPLEMENTARY INFORMATION: This meeting is available to the public through the following toll-free call-in number: 877–874–1586, conference ID number: 1868231. Any interested member of the public may call this number and listen to the meeting. Callers can expect to incur charges for calls they initiate over wireless lines, and the Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Persons with hearing impairments may also follow the 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 entitled to make comments during the open period at the end of the meeting. Members of the public may also submit written comments; the comments must be received in the Regional Programs Unit within 30 days following the meeting. Written comments may be mailed to the Western Regional Office, U.S.

Commission on Civil Rights, 300 North Los Angeles Street, Suite 2010, Los Angeles, CA 90012. They may be faxed to the Commission at (213) 894–0508, or emailed Ana Victoria Fortes at *afortes@usccr.gov.* Persons who desire additional information may contact the Regional Programs Unit at (213) 894–3437.

Records and documents discussed during the meeting will be available for public viewing prior to and after the meeting at *http://facadatabase.gov/committeemeetings.aspx?cid=276.* Please click on the ''Meeting Details'' and ''Documents'' links. Records generated from this meeting may also be inspected and reproduced at the Regional Programs Unit, as they become available, both before and after the meeting. Persons interested in the work of this Committee are directed to the Commission's Web site, *http://www.usccr.gov,* or may contact the Regional Programs Unit at the above email or street address.

Agenda

I. Introductions
II. Committee Orientation
III. Discussion Regarding Status of Alaska Committee Project
IV. Public Comment
V. Next Steps
VI. Adjournment

Dated: May 24, 2017.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2017–11044 Filed 5–26–17; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Office of the Secretary

Submission for OMB Review; Comment Request; Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery

The Department of Commerce will submit a request for renewal of an existing collection of information entitled, ''Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery,'' to the Office of Management and Budget (OMB) for clearance under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Office of the Secretary, Office of the Chief Information Officer.

Title: Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery.

OMB Control Number: 0690–0030.

Form Number(s): None.

Type of Request: Regular (extension of a currently approved information collection).

Number of Respondents: 244,710.

Average Hours per Response: 5 to 30 minutes for surveys; 1 to 2 hours for focus groups; 30 minutes to 1 hour for interviews (Other response times will depend on the type of information collected).

Burden Hours: 75,711 (Correction to the 60-day **Federal Register** Notice, which stated 631,334. *Burden Hours).*

Needs and Uses: This request is for an extension of a currently approved information collection of a ''Generic Fast-track'' process offered to all government agencies by OMB in 2010. Fast-track means that each request receives approval five days after submission, if no issues are brought to DOC's attention by OMB within five days.

The information collection activity for this fast-track process will garner qualitative customer and stakeholder feedback in an efficient, timely manner, in accordance with the Department of Commerce's commitment to improving service delivery. By qualitative feedback we mean information that provides useful insights on perceptions and opinions, but are not statistical surveys that yield quantitative results that can be generalized to the population of study. This feedback will provide insights into customer or stakeholder perceptions, experiences and expectations, 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. These collections will allow for ongoing, collaborative and actionable communications between the Department and its customers and stakeholders. It will also allow feedback to contribute directly to the improvement of program management.

The DOC received no comments in response to the 60-day notice published in the **Federal Register** on March 23, 2017 (82 FR 14872).

Affected Public: Individuals or households; Business or other for-profit organizations; Not-for-profit institutions; State, local or Tribal Government; Federal Government, etc.

Frequency: One-time; Annually.

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.

Sheleen Dumas,

Departmental PRA Lead, Office of the Chief Information Officer.

[FR Doc. 2017–10971 Filed 5–26–17; 8:45 am]

BILLING CODE 3510–17–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–827]

Certain Cased Pencils 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 November 21, 2016, the Department of Commerce (the Department) published the preliminary results and rescission, in part, of the administrative review of the antidumping duty order on certain cased pencils (pencils) from the People's Republic of China (PRC). This review covers one company, Shandong Rongxin Import & Export Co., Ltd. (Rongxin), for the period of review (POR) December 1, 2014, through November 30, 2015. The Department continues to find that Rongxin has not established its eligibility for a separate rate, and, thus, should be treated as part of the PRC-wide entity.

DATES: Effective May 30, 2017.

FOR FURTHER INFORMATION CONTACT: Mary Kolberg, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–1785.

SUPPLEMENTARY INFORMATION:

Background

The Department published its *Preliminary Results* in this administrative review on November 21, 2016.[1] We invited interested parties to comment on the preliminary results. Rongxin filed a case brief on December 21, 2016.[2] We received a rebuttal brief from Dixon Ticonderoga Company (Dixon), a petitioner in the underlying

[1] *See Certain Cased Pencils from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review and Partial Rescission; 2014–2015,* 81 FR 83201 (November 21, 2016) (*Preliminary Results*).

[2] *See* Letter from Rongxin, re: ''Cased Pencils from the People's Republic of China: CASE BRIEF,'' dated December 21, 2016.

investigation, on December 28, 2016.[3] The Department found that Dixon's rebuttal brief contained untimely filed new factual information and requested that Dixon resubmit its rebuttal brief without this information.[4] Dixon submitted its revised rebuttal brief on January 17, 2017.[5] On March 10, 2017, we determined that additional time was necessary to analyze the arguments submitted by parties and extended the deadline for completion of the final results by 60 days to May 22, 2017.[6]

Scope of the Order

The merchandise subject to the order includes certain cased pencils from the PRC. The subject merchandise is currently classifiable under Harmonized Tariff Schedule of the United States (HTSUS) subheading 9609.1010. A full description of the scope of the order is contained in the Issues and Decision Memorandum.[7] Although the HTSUS subheadings are provided for convenience and customs purposes, the written product description is dispositive.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties in this review are addressed in the Issues and Decision Memorandum, which is hereby adopted by this notice. A list of the issues which parties raised is attached to this notice as an appendix. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov,* and it is available to all parties 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://trade.gov/enforcement.*

Final Results of Review

The Department continues to find that Rongxin has not established its eligibility for a separate rate and is part of the PRC-wide entity. The rate applicable to the PRC-wide entity is 114.90 percent.[8]

Assessment Rates

Upon issuing the final results of review, the Department will determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries covered by this review.[9] The Department intends to issue appropriate assessment instructions to CBP 15 days after publication of the final results of review. In particular, we intend to instruct CBP to liquidate entries of subject merchandise exported by Rongxin during the POR, at the current rate for the PRC-wide entity (*i.e.,* 114.90 percent).

The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of this review and for future cash deposits of estimated antidumping duties, where applicable.

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for shipments of the subject merchandise from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(2)(C) of the Act: (1) For previously investigated or reviewed PRC and non-PRC exporters not listed above that received a separate rate in a prior segment of this proceeding, the cash deposit rate will continue to be the existing exporter-specific rate; (2) for all PRC exporters of subject merchandise that have not established their eligibility for a separate rate, the cash deposit rate will be that for the PRC-wide entity (*i.e.,*114.90 percent); and (3) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporter that supplied that non-PRC exporter. These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Administrative Protective Orders

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 the 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 terms of an APO is a violation which is subject to sanction.

We are issuing and publishing these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act, 19 CFR 351.213, and 351.221(b)(5).

Dated: May 22, 2017.

Gary Taverman

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

Appendix I

List of Topics Discussed in the Issues and Decision Memorandum

[3] *See* Letter from Dixon, ''Certain Cased Pencils from the People's Republic of China, Administrative Review POR 12/01/14–11/30/15: Rebuttal Brief of Dixon Ticonderoga Company,'' dated December 28, 2016.

[4] *See* Letter from the Department to Dixon, ''Rebuttal Brief: Certain Cased Pencils from the People's Republic of China, 2014–2015 Administrative Review,'' dated January 11, 2017.

[5] *See* Letter from Dixon, ''Certain Cased Pencils from the People's Republic of China, Administrative Review POR 12/01/14–11/3015: Revised Rebuttal Brief of Dixon Ticonderoga Company,'' dated January 17, 2017.

[6] *See* Memorandum, ''Cased Pencils from the People's Republic of China: Extension of Time Limit for Final Results of the Antidumping Duty Administrative Review,'' dated March 10, 2017.

[7] *See* Memorandum, ''Issues and Decision Memorandum for Final Results of Antidumping Duty Administrative Review: Certain Cased Pencils from the People's Republic of China; 2014–2015,'' dated concurrently with and hereby adopted by this notice (Issues and Decision Memorandum).

[8] *See Notice of Amended Final Results and Partial Rescission of Antidumping Duty Administrative Review: Certain Cased Pencils from the People's Republic of China,* 67 FR 59049 (September 19, 2002). The Department's change in policy regarding conditional review of the PRC-wide entity applies to this review. *See Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings,* 78 FR 65963 (November 4, 2013). Under this policy, the PRC-wide entity will not be under review unless a party specifically requests, or the Department self-initiates, a review of the entity. *See Notice of Amended Final Results and Partial Rescission of Antidumping Duty Administrative Review: Certain Cased Pencils from the People's Republic of China,* 67 FR 59049 (September 19, 2002).

[9] *See* section 751(a)(2)(C) of the Tariff Act of 1930, as amended, (the Act), and 19 CFR 351.212(b)(1).

[FR Doc. 2017–11053 Filed 5–26–17; 8:45 am]
BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–881]

Malleable Cast Iron Pipe Fittings From the People's Republic of China: Notice of Rescission of the Antidumping Duty Administrative Review; 2015–2016

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: On February 13, 2017, the Department of Commerce (Department) initiated an administrative review of the antidumping duty order on malleable cast iron pipe fittings from the People's Republic of China (PRC) for four companies. The Department previously rescinded this review with respect to two of the four companies. Based on timely withdrawal of requests for review, we are rescinding this administrative review with respect to the remaining two companies, Beijing Sai Lin Ke Hardware Co. Ltd. (SLK) and LDR Industries Inc (LDR).

DATES: Effective May 30, 2017.

FOR FURTHER INFORMATION CONTACT: Paul Stolz, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–4474.

SUPPLEMENTARY INFORMATION:

Background

On December 1, 2016, the Department published a notice of opportunity to request an administrative review of the antidumping duty order on malleable cast iron pipe fittings from the PRC for the December 1, 2015, through November 30, 2016, period of review (POR).[1] On January 3, 2017, the Department received from Anvil International, LLC (the petitioner) a timely request to conduct an administrative review of the antidumping duty order on malleable cast iron pipe fittings from the PRC for four producers and/or exporters of the subject merchandise.[2] Based on this request, on February 13, 2017, in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act), the Department published in the **Federal Register** a notice of initiation of an administrative review covering the period December 1, 2015, through November 30, 2016, with respect to four companies: SLK, LDR, Jinan Meide Casting Co., Ltd. (JMC), and Langfang Pannext Pipe Fitting Co., Ltd. (Pannext).[3] Based on a timely withdrawal of requests for review, the Department previously rescinded the review, in part, with respect to Pannext and JMC.[4] On April 27, 2017, the petitioner timely withdrew its request for an antidumping duty administrative review of the two remaining companies covered by the *Initiation Notice,* SLK and LDR.[5]

Rescission

Pursuant to 19 CFR 351.213(d)(1), the Secretary will rescind an administrative review, in whole or in part, if a party who requested a review withdraws the request within 90 days of the date of publication of the notice of initiation of the requested review. Anvil timely withdrew its request for an administrative review of SLK and LDR within the 90-day deadline. No other party requested a review of these companies. Accordingly, we are rescinding this review with respect to these companies, pursuant to 19 CFR 351.213(d)(1). Further, as a result of the rescission with respect to SLK and LDR and the prior rescission with respect to Pannext and JMC, this review is now rescinded in its entirety.

Assessment

Because the Department is rescinding this administrative review in its entirety, the Department will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on all appropriate entries of malleable cast iron pipe fittings from the PRC. Antidumping duties shall be assessed at rates equal to the cash deposit of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i). The Department intends to issue appropriate assessment instructions to CBP 15 days after the publication of this notice.

Notification to Importers

This notice serves as a reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

Notification Regarding Administrative Protective Order

This notice serves as a final reminder to parties subject to an administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under an APO in accordance with 19 CFR 351.305, 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 terms of an APO is a violation which is subject to sanction.

This notice is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.213(d)(4).

Dated: May 24, 2017.

Gary Taverman,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2017–11091 Filed 5–26–17; 8:45 am]
BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Renewable Energy and Energy Efficiency Advisory Committee

AGENCY: International Trade Administration, U.S. Department of Commerce.

ACTION: Notice of an open meeting.

SUMMARY: The Renewable Energy and Energy Efficiency Advisory Committee (REEEAC) will hold a conference call on Wednesday, June 21, 2017 at 4:00 p.m.. The conference call is open to the

[1] *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review,* 81 FR 86694 (December 1, 2016).

[2] *See* letter from the petitioner, ''Malleable Cast Iron Pipe Fittings from the People's Republic of China: Request for Administrative Review,'' dated January 3, 2017.

[3] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews, 82 FR 10457 (February 13, 2017) (Initiation Notice).*

[4] *See Malleable Cast Iron Pipe Fittings from the People's Republic of China: Notice of Partial Rescission of the Antidumping Duty Administrative Review; 2015–2016,* 82 FR 17798, 17799 (April 13, 2017) (*Partial Rescission Notice*).

[5] *See* letter from the petitioner, ''Malleable Cast Iron Pipe Fittings from the People's Republic Of China: Withdrawal of Request for Administrative Review,'' dated April 27, 2017 (Withdrawal Request).

public with registration instructions provided below.

DATES: June 21, 2017, from 4:00 p.m. to 5:00 p.m. Eastern Standard Time (EST). Members of the public wishing to participate must register in advance with Victoria Gunderson at the contact information below by 5:00 p.m. EST on Friday, June 16, 2017, in order to pre-register, including any requests to make comments during the meeting or for accommodations or auxiliary aids.

FOR ALL FURTHER INFORMATION, PLEASE CONTACT: Victoria Gunderson, Designated Federal Officer, Office of Energy and Environmental Industries (OEEI), International Trade Administration, U.S. Department of Commerce at (202) 482–7890; email: *Victoria.Gunderson@trade.gov.*

SUPPLEMENTARY INFORMATION:

Background: The Secretary of Commerce established the REEEAC pursuant to discretionary authority and in accordance with the Federal Advisory Committee Act, as amended (5 U.S.C. App.), on July 14, 2010. The REEEAC was re-chartered on June 18, 2012, June 12, 2014, and June 9, 2016. The REEEAC provides the Secretary of Commerce with consensus advice from the private sector on the development and administration of programs and policies to expand the export competitiveness of the U.S. renewable energy and energy efficiency products and services.

On June 21, 2017, the REEEAC will hold a conference call to potentially approve recommendations to the Secretary of Commerce informing of actions to improve the competitiveness of the U.S. renewable energy and energy efficiency industries.

The meeting will be open to the public and will be accessible to people with disabilities. All guests are required to register in advance by the deadline identified under the **DATES** caption. Requests for auxiliary aids must be submitted by the registration deadline. Last minute requests will be accepted, but may be impossible to fill.

A limited amount of time before the close of the meeting will be available for oral comments from members of the public attending the meeting. To accommodate as many speakers as possible, the time for public comments will be limited to two to five minutes per person (depending on number of public participants). Individuals wishing to reserve speaking time during the meeting must contact Ms. Gunderson and submit a brief statement of the general nature of the comments, as well as the name and address of the proposed participant by 5:00 p.m. EST on Friday, June 16, 2017. If the number of registrants requesting to make statements is greater than can be reasonably accommodated during the meeting, the International Trade Administration may conduct a lottery to determine the speakers. Speakers are requested to submit a copy of their oral comments by email to Ms. Gunderson for distribution to the participants in advance of the meeting.

Any member of the public may submit written comments concerning the REEEAC's affairs at any time before or after the meeting. Comments may be submitted to the Renewable Energy and Energy Efficiency Advisory Committee, c/o: Victoria Gunderson, Designated Federal Officer, Office of Energy and Environmental Industries, U.S. Department of Commerce; 1401 Constitution Avenue NW.; Mail Stop: 4053; Washington, DC 20230. To be considered during the meeting, written comments must be received no later than 5:00 p.m. EST on Friday, June 16, 2017, to ensure transmission to the REEEAC prior to the meeting. Comments received after that date will be distributed to the members but may not be considered at the meeting.

Copies of REEEAC meeting minutes will be available within 30 days following the meeting.

Dated: May 23, 2017.

Edward A. O'Malley,

Director, Office of Energy and Environmental Industries.

[FR Doc. 2017–10998 Filed 5–26–17; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

International Trade Administration

Renewable Energy and Energy Efficiency Advisory Committee

AGENCY: International Trade Administration, U.S. Department of Commerce.

ACTION: Notice of an open meeting.

SUMMARY: The Renewable Energy and Energy Efficiency Advisory Committee (REEEAC) will hold a meeting on Thursday, July 27, 2017 at the U.S. Department of Commerce Herbert C. Hoover Building in Washington, DC. The meeting is open to the public with registration instructions provided below.

DATES: July 27, 2017, from approximately 8:30 a.m. to 5:00 p.m. Eastern Standard Time (EST). Members of the public wishing to participate must register in advance with Victoria Gunderson at the contact information below by 5:00 p.m. EST on Friday, July 21, 2017, in order to pre-register, including any requests to make comments during the meeting or for accommodations or auxiliary aids.

FOR FURTHER INFORMATION CONTACT: Victoria Gunderson, Designated Federal Officer, Office of Energy and Environmental Industries (OEEI), International Trade Administration, U.S. Department of Commerce at (202) 482–7890; email: *Victoria.Gunderson@trade.gov.*

SUPPLEMENTARY INFORMATION:

Background: The Secretary of Commerce established the REEEAC pursuant to discretionary authority and in accordance with the Federal Advisory Committee Act, as amended (5 U.S.C. App.), on July 14, 2010. The REEEAC was re-chartered on June 18, 2012, June 12, 2014, and June 9, 2016. The REEEAC provides the Secretary of Commerce with consensus advice from the private sector on the development and administration of programs and policies to expand the export competitiveness of the U.S. renewable energy and energy efficiency products and services.

On July 27, the REEEAC will hold the third in-person meeting of its new charter term and hold REEEAC sub-committee working sessions, discuss next steps for each sub-committee, consider recommendations for approval, and hear from officials from the Department of Commerce and other agencies on major issues impacting the competitiveness of the U.S. renewable energy and energy efficiency industries.

The meeting will be open to the public and will be accessible to people with disabilities. All guests are required to register in advance by the deadline identified under the **DATES** caption. Requests for auxiliary aids must be submitted by the registration deadline. Last minute requests will be accepted, but may be impossible to fill.

A limited amount of time before the close of the meeting will be available for oral comments from members of the public attending the meeting. To accommodate as many speakers as possible, the time for public comments will be limited to two to five minutes per person (depending on number of public participants). Individuals wishing to reserve speaking time during the meeting must contact Ms. Gunderson and submit a brief statement of the general nature of the comments, as well as the name and address of the proposed participant by 5:00 p.m. EST on Friday, July 21, 2017. If the number of registrants requesting to make statements is greater than can be

reasonably accommodated during the meeting, the International Trade Administration may conduct a lottery to determine the speakers. Speakers are requested to submit a copy of their oral comments by email to Ms. Gunderson for distribution to the participants in advance of the meeting.

Any member of the public may submit written comments concerning the REEEAC's affairs at any time before or after the meeting. Comments may be submitted to the Renewable Energy and Energy Efficiency Advisory Committee, c/o: Victoria Gunderson, Designated Federal Officer, Office of Energy and Environmental Industries, U.S. Department of Commerce; 1401 Constitution Avenue NW., Mail Stop: 4053; Washington, DC 20230. To be considered during the meeting, written comments must be received no later than 5:00 p.m. EST on Friday, July 21, 2017, to ensure transmission to the REEEAC prior to the meeting. Comments received after that date will be distributed to the members but may not be considered at the meeting.

Copies of REEEAC meeting minutes will be available within 30 days following the meeting.

Dated: May 23, 2017.

Edward A. O'Malley,

Director, Office of Energy and Environmental Industries.

[FR Doc. 2017–10999 Filed 5–26–17; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

International Trade Administration

Advisory Committee on Supply Chain Competitiveness: Notice of Public Meetings

AGENCY: International Trade Administration, U.S. Department of Commerce.

ACTION: Notice of open meetings.

SUMMARY: This notice sets forth the schedule and proposed topics of discussion for public meetings of the Advisory Committee on Supply Chain Competitiveness (Committee).

DATES: The meetings will be held on June 21, 2017, from 12:00 p.m. to 3:00 p.m., and June 22, 2017, from 9:00 a.m. to 4:00 p.m., Eastern Standard Time (EST).

ADDRESSES: The meetings on June 21 and 22 will be held at the U.S. Department of Commerce, 1401 Constitution Avenue NW., Research Library (Room 1894), Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Richard Boll, Office of Supply Chain, Professional & Business Services (OSCPBS), International Trade Administration. (Phone: (202) 482–1135 or Email: *richard.boll@trade.gov.*

SUPPLEMENTARY INFORMATION:

Background: The Committee was established under the discretionary authority of the Secretary of Commerce and in accordance with the Federal Advisory Committee Act (5 U.S.C. App.). It provides advice to the Secretary of Commerce on the recommended elements of a comprehensive policy approach to supply chain competitiveness designed to support U.S. export growth and national economic competitiveness, encourage innovation, facilitate the movement of goods, and improve the competitiveness of U.S. supply chains for goods and services in the domestic and global economy; and provides advice to the Secretary on regulatory policies and programs and investment priorities that affect the competitiveness of U.S. supply chains. For more information about the Committee visit: *http://trade.gov/td/services/oscpb/supplychain/acscc/.*

Matters to Be Considered: Committee members are expected to continue to discuss the major competitiveness-related topics raised at the previous Committee meetings, including trade and competitiveness; freight movement and policy; trade innovation; regulatory issues; finance and infrastructure; and workforce development. The Committee's subcommittees will report on the status of their work regarding these topics. The agenda may change to accommodate other Committee business. The Office of Supply Chain, Professional & Business Services will post the final detailed agendas on its Web site, *http://trade.gov/td/services/oscpb/supplychain/acscc/,* at least one week prior to the meeting.

The meetings will be open to the public and press on a first-come, first-served basis. Space is limited. The public meetings are physically accessible to people with disabilities. Individuals requiring accommodations, such as sign language interpretation or other ancillary aids, are asked to notify Mr. Richard Boll, at (202) 482–1135 or *richard.boll@trade.gov* five (5) business days before the meeting.

Interested parties are invited to submit written comments to the Committee at any time before and after the meeting. Parties wishing to submit written comments for consideration by the Committee in advance of this meeting must send them to the Office of Supply Chain, Professional & Business Services, 1401 Constitution Ave. NW., Room 11014, Washington, DC 20230, or email to *richard.boll@trade.gov.*

For consideration during the meetings, and to ensure transmission to the Committee prior to the meetings, comments must be received no later than 5:00 p.m. EST on June 12, 2017. Comments received after June 12, 2017, will be distributed to the Committee, but may not be considered at the meetings. The minutes of the meetings will be posted on the Committee Web site within 60 days of the meeting.

Dated: May 23, 2017.

Maureen Smith,

Director, Office of Supply Chain.

[FR Doc. 2017–11074 Filed 5–26–17; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF435

Takes of Marine Mammals Incidental to Specified Activities; U.S. Navy Training Activities in the Gulf of Alaska Temporary Maritime Activities Area

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

ACTION: Notice of issuance of a Letter of Authorization.

SUMMARY: In accordance with the Marine Mammal Protection Act (MMPA) as amended, and implementing regulations, notice is hereby given that a Letter of Authorization (LOA) has been issued to the U.S. Navy (Navy) to take marine mammals incidental to Navy training activities conducted in the Gulf of Alaska (GOA) Temporary Maritime Activities Area (Study Area). These activities are considered military readiness activities pursuant to the MMPA, as amended by the National Defense Authorization Act of 2004 (NDAA).

DATES: Effective from April 26, 2017 to April 26, 2022.

ADDRESSES: The LOA and supporting documents may be obtained online at: *www.nmfs.noaa.gov/pr/permits/incidental/military.htm.* In case of problems accessing these documents, please call the contact listed below (see **FOR FURTHER INFORMATION CONTACT**).

FOR FURTHER INFORMATION CONTACT: Jolie Harrison or Stephanie Egger, Office of Protected Resources, NMFS, 301–427–8401.

SUPPLEMENTARY INFORMATION:

Background

Section 101(a)(5)(A) of the MMPA directs the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and regulations are issued. Under the MMPA, the term ''take'' means to harass, hunt, capture, or kill or to attempt to harass, hunt, capture, or kill marine mammals. We, NMFS, have been delegated the authority to issue such regulations and Authorizations.

The NDAA (Pub. L. 108–136) removed the ''small numbers'' and ''specified geographical region'' limitations indicated above and amended the definition of ''harassment'' as it applies to a ''military readiness activity'' to read as follows (Section 3(18)(B) of the MMPA): ''(i) Any act that injures or has the significant potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) Any act that disturbs or is likely to disturb a marine mammal or marine mammal stock in the wild by causing disruption of natural behavioral patterns, including, but not limited to, migration, surfacing, nursing, breeding, feeding, or sheltering, to a point where such behavioral patterns are abandoned or significantly altered (Level B Harassment).

An authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s); will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant); and, if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth. NMFS has defined ''negligible impact'' in 50 CFR 216.103 as ''an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.''

Regulations governing the taking of individuals of 19 species of marine mammals, representing 27 stocks, by Level B harassment and one species of marine mammal (Dall's porpoise) by Level A harassment incidental to Navy training activities in the GOA Study Area are in effect from April 26, 2017 through April 26, 2022 (82 FR 19530, April 27, 2017) and are codified at 50 CFR part 218, subpart P. The regulations include mitigation, monitoring, and reporting requirements. Pursuant to those regulations, NMFS issued a five-year LOA for the incidental take of marine mammals during training activities in the GOA Study Area on April 26, 2017. For detailed information on this action, please refer to the April 27, 2017 **Federal Register** notice and 50 CFR part 218, subpart P.

Summary of Request

On July 28, 2014, NMFS received an application from the Navy requesting regulations and a subsequent LOA for the take of 19 species of marine mammals, representing 27 stocks, incidental to Navy training activities to be conducted in the GOA Study Area over 5 years. On October 14, 2014, the Navy submitted a revised application to reflect minor changes in the number and types of training activities. To address minor inconsistencies with the draft Supplemental Environmental Impact Statement/Overseas Environmental Impact Statement (DSEIS/OEIS), the Navy submitted a final revision to the application on January 21, 2015. In November 2016, the Navy requested that the final rule and LOA be issued for the training activities addressed by Alternative 1 of the Final Supplemental Environmental Impact Statement/ Overseas Environmental Impact Statement (FSEIS/OEIS). The Navy's application was based on the training activities addressed by Alternative 2 of the DSEIS/OEIS; therefore, our proposed rule (81 FR 9950; February 26, 2016) analyzed the level of activities as described by Alternative 2. Pursuant to the Navy's November 2016 request, the final rule (82 FR 19530; April 27, 2017) reflects the training activities addressed by Alternative 1 of the FSEIS/OEIS, which include a subset of the activities analyzed in the proposed rule. The change from Alternative 2 to Alternative 1 results in a significant reduction in proposed training activities (*i.e.,* lessening the number of the Carrier Strike Group Events from 2 to 1 per year, and the number of SINKEXs from 2 to 0 per year, which means that several types of explosives will no longer be used and there will be no live MISSILEX). This significantly decreases the number of anticipated and authorized takes for this activity compared to what was presented in the proposed rule.

The Study Area is a polygon roughly the shape of a 300 nm by 150 nm rectangle oriented northwest to southeast in the long direction, located south of Prince William Sound and east of Kodiak Island, Alaska. The activities conducted within the Study Area are classified as military readiness activities. The final rule (82 FR 19530, April 27, 2017) and GOA FSEIS/OEIS include a complete description of the Navy's specified training activities incidental to which NMFS is authorizing take of marine mammals. Sonar use and underwater detonations are the stressors most likely to result in impacts on marine mammals that could rise to the level of harassment.

Authorization

We have issued an LOA to the Navy authorizing the take of marine mammals by harassment incidental to training activities in the GOA Study Area, as described above. The level and type of take authorized by the LOA is the same as the level and type of take analyzed in the final rule (82 FR 19530, April 27, 2017). There are no mortality takes of any species predicted or authorized for any training activities in the GOA Study Area. Take of marine mammals will be minimized through implementation of mitigation measures, including: pre-exercise visual or aerial monitoring during certain training activities; the use of lookouts to monitor for marine mammals and begin powerdown and shutdown of sonar when marine mammals are detected within ranges where the received sound level is likely to result in threshold shift or injury; use of exclusion zones that avoid exposing marine mammals to levels of explosives likely to result in injury or death of marine mammals; avoidance of marine mammals by vessels; limitation of activities in a North Pacific Right Whale ''Cautionary Area''; and implementation of a stranding response plan, among others. The Navy is also required to comply with monitoring and reporting measures under 50 CFR 218.155. Additionally, the rule and LOA include an adaptive management component that allows for timely modification of mitigation or monitoring measures based on new information, when appropriate. For full details on the mitigation, monitoring, and reporting requirements, please refer to the final rule (82 FR 19530; April 27, 2017).

Issuance of the LOA is based on findings, described in the preamble to the final rule, that the total taking of marine mammals incidental to the Navy's training activities in the GOA Study Area will have a negligible impact on the affected marine mammal species or stocks and will not have an unmitigable adverse impact on the availability of such species or stocks for taking for subsistence purposes.

The LOA will remain valid through April 26, 2022, provided that the Navy

remains in conformance with the conditions of the regulations and the LOA, including the mitigation, monitoring, and reporting requirements described in 50 CFR part 218, subpart P and the LOA.

Dated: May 23, 2017.

Donna S. Wieting,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2017–11037 Filed 5–26–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF118

Takes of Marine Mammals Incidental to Specified Activities; Gull Monitoring and Research in Glacier Bay National Park, Alaska, 2017

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

ACTION: Notice; issuance of an incidental harassment authorization.

SUMMARY: In accordance with the regulations implementing the Marine Mammal Protection Act (MMPA) as amended, notification is hereby given that the NMFS has issued an incidental harassment authorization (IHA) to the National Park Service (NPS) to incidentally harass, by Level B harassment only, marine mammals during gull monitoring and research activities in Glacier Bay National Park (Glacier Bay NP) from May through September, 2017.

DATES: This Authorization is effective from May 1, 2017 through September 30, 2017.

FOR FURTHER INFORMATION CONTACT: Stephanie Egger, Office of Protected Resources, NMFS, (301) 427–8401. Electronic copies of the application and supporting documents, as well as a list of the references cited in this document, may be obtained online at *http://www.nmfs.noaa.gov/pr/permits/incidental/research.htm.* In case of problems accessing these documents, please call the contact listed above.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the MMPA direct the Secretary of Commerce to allow, upon request by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified area, the incidental, but not intentional, taking of small numbers of marine mammals, provided that certain findings are made and the necessary prescriptions are established.

The incidental taking of small numbers of marine mammals shall be allowed if NMFS (through authority delegated by the Secretary) finds that the total taking by the specified activity during the specified time period will (i) have a negligible impact on the species or stock(s) and (ii) not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant). Further, the permissible methods of taking, as well as the other means of effecting the least practicable adverse impact on the species or stock and its habitat (*i.e.,* mitigation) must be prescribed. Last, requirements pertaining to the monitoring and reporting of such taking must be set forth.

Where there is the potential for serious injury or death, the allowance of incidental taking requires promulgation of regulations under section 101(a)(5)(A). Subsequently, a Letter (or Letters) of Authorization may be issued as governed by the prescriptions established in such regulations, provided that the level of taking will be consistent with the findings made for the total taking allowable under the specific regulations. Under section 101(a)(5)(D), NMFS may authorize incidental taking by harassment only (*i.e.,* no serious injury or mortality), for periods of not more than one year, pursuant to requirements and conditions contained within an IHA. The promulgation of regulations or issuance of IHAs (with their associated prescripted mitigation, monitoring, and reporting) requires notice and opportunity for public comment.

NMFS has defined ''negligible impact'' in 50 CFR 216.103 as ''. . . an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.''

NMFS has defined ''unmitigable adverse impact'' in 50 CFR 216.103 as ''. . . an impact resulting from the specified activity:

(1) That is likely to reduce the availability of the species to a level insufficient for a harvest to meet subsistence needs by: (i) Causing the marine mammals to abandon or avoid hunting areas; (ii) directly displacing subsistence users; or (iii) placing physical barriers between the marine mammals and the subsistence hunters; and

(2) That cannot be sufficiently mitigated by other measures to increase the availability of marine mammals to allow subsistence needs to be met.

Except with respect to certain activities not pertinent here, section 3(18) of the MMPA defines ''harassment'' as: Any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

Summary of Request

On November 22, 2016, NMFS received an application from Glacier Bay NP requesting taking by harassment of marine mammals, incidental to conducting monitoring and research studies on glaucous-winged gulls (*Larus glaucescens*) within Glacier Bay NP, Alaska. The application was considered adequate and complete on February 10, 2017. NMFS previously issued three IHAs to Glacier Bay NP for the same activities from 2014 to 2016 (79 FR 56065, September 18, 2014; 80 FR 28229, May 18, 2015; 81 FR 34994, May 16, 2016).

For the 2017 research season, Glacier Bay NP plans to conduct ground-based and vessel-based surveys to collect data on the number and distribution of nesting gulls within six study sites in Glacier Bay, Alaska. Marine mammals have only been observed at four of the six study sites. The planned activities would occur over the course of five months, from May through September 2017.

The following aspects of the planned gull research activities have the potential to take marine mammals: Noise generated by motorboat approaches and departures; noise generated by researchers while conducting ground surveys; and human presence (visual disturbance) during the monitoring and research activities. Harbor seals hauled out at the study sites may flush into the water or exhibit temporary modification in behavior (Level B harassment). Thus, Glacier Bay NP has requested an authorization to take harbor seals by Level B harassment only. Although Steller sea lions (*Eumetopias jubatus*) may be present in the action area, Glacier Bay NP will avoid any site used by Steller sea lions.

Description of the Specified Activity

Glacier Bay NP plans to identify the onset of gull nesting; conduct mid-

season surveys of adult gulls, and locate and document gull nest sites within the following study areas: Boulder, Lone, and Flapjack Islands, and Geikie Rock from May 1 through September 30, 2017. Glacier Bay NP plans to conduct a maximum of three ground-based surveys per each study site and a maximum of two vessel-based surveys per each study site. Duration of surveys would be 30 minutes (min) to two hours (hr) each. Each of these study sites contains harbor seal haulout sites and Glacier Bay NP plans to visit each study site up to five times during the research season. Glacier Bay NP also plans to conduct studies at South Marble Island and Tlingit Point Islet; however, there are no reported pinniped haulouts at those locations.

Glacier Bay NP must conduct the gull monitoring studies to meet the requirements of a 2010 Record of Decision for a Legislative Environmental Impact Statement (LEIS) (NPS, 2010) which states that Glacier Bay NP must initiate a monitoring program for the gulls to inform future native egg harvests by the Hoonah Tlingit in Glacier Bay, AK. Glacier Bay NP also actively monitors harbor seals at breeding and molting sites to assess population trends over time (*e.g.,* Mathews & Pendleton, 2006; Womble *et al.,* 2010). Glacier Bay NP coordinates pinniped monitoring programs with NMFS' Alaska Fisheries Science Center and the Alaska Department of Fish and Game and plans to continue these collaborations and sharing of monitoring data and observations in the future.

A detailed description of the planned Glacier Bay NP project is provided in the **Federal Register** notice for the proposed IHA (82 FR 12931; March 8, 2017). Since that time, no changes have been made to the planned activities. Therefore, a detailed description is not provided here. Please refer to that **Federal Register** notice for the description of the specific activity.

Comments and Responses

A notice of NMFS's proposal to issue an IHA to the NPS at Glacier Bay NP was published in the **Federal Register** on March 8, 2017 (82 FR 12931). That notice described, in detail, Glacier Bay NP's activity, the marine mammal species that may be affected by the activity, and the anticipated effects on marine mammals. During the 30-day public comment period, NMFS received only one pertinent comment letter, from the Marine Mammal Commission (Commission).

Comment 1: NMFS received a comment from the Commission with the recommendation that NMFS follow its policy of a 24-hour reset for enumerating the number of harbor seals that could be taken during the planned activities by applying standard rounding rules before summing the numbers of estimated takes across survey sites and survey days.

Response: Calculating predicted take is not an exact science and there are arguments for taking different mathematical approaches in different situations, and for making qualitative adjustments in other situations. NMFS is currently engaged in developing a protocol to guide more consistent take calculation given certain circumstances. We believe, however, that the methodology for this action remains appropriate.

Description of Marine Mammals in the Area of the Specified Activity

A detailed description of the of the species likely to be affected by the Glacier Bay NP project, including brief introductions to the species and relevant stocks as well as available information regarding population trends and threats, and information regarding local occurrence, were provided in the **Federal Register** notice for the proposed IHA (82 FR 12931; March 8, 2017); since that time, we are not aware of any changes in the status of these species and stocks; therefore, detailed descriptions are not provided here. Please refer to that **Federal Register** notice for these descriptions. Please refer to additional species information available in the NMFS SARs for Alaska at *http://www.nmfs.noaa.gov/pr/sars/region.htm.*

Marine mammals under NMFS' jurisdiction that occur in the vicinity of the study sites in Glacier Bay NP include the harbor seal and Steller sea lion (Table 1).

TABLE 1—GENERAL INFORMATION ON MARINE MAMMALS THAT COULD POTENTIALLY HAUL OUT IN THE STUDY AREAS IN GLACIER BAY, ALASKA, MAY THROUGH SEPTEMBER 2017

Species	Scientific name	Stock name	Regulatory status [1] [2]	Occurrence and range	Season
Harbor seal	(*Phoca vitulina*)	Glacier Bay/Icy Strait	MMPA–NC ESA–NL	common coastal	year-round.
Steller sea lion	(*Eumetopias jubatus*)	Eastern U.S.	MMPA–D, S ESA–DL	uncommon coastal	year-round.
Steller sea lion	(*Eumetopias jubatus*)	Western U.S.	MMPA–D, S ESA–E	uncommon coastal	unknown.

[1] MMPA: D = Depleted, S = Strategic, NC = Not Classified.
[2] ESA: E = Endangered, T = Threatened, DL = Delisted, NL = Not listed.
[3] 2015 NMFS Stock Assessment Report (Muto *et al.,* 2016).

Both are protected under the MMPA and the Steller sea lion is listed as endangered (Western Distinct Population Segment) under the Endangered Species Act (ESA). It was determined that take will not occur for Steller sea lions based on available survey data and for the fact that NPS will not survey a site if Steller sea lions are present. Therefore, Steller sea lions are not discussed further in this authorization.

Harbor seals of Glacier Bay are considered part of the Glacier Bay/Icy Strait stock (Table 2)—ranging from Cape Fairweather southeast to Column Point, extending inland to Glacier Bay, Icy Strait, and from Hanus Reef south to Tenakee Inlet (Muto *et al.,* 2016).

TABLE 2—HARBOR SEAL STATUS INFORMATION

Species	Stock	ES)/MMPA status; strategic (Y/N) [1]	Stock abundance (N_{min}, most recent abundance survey) [2]	PBR [3]	Annual M/SI [4]	Relative occurrence/ season of occurrence
Harbor seal	Glacier Bay/Icy Strait (Alaska).	—; N	7,210 (5,647; 2011)	169	104	Harbor seals are year-round inhabitants of Glacier Bay, Alaska.

[1] Endangered Species Act (ESA) status: Endangered (E), Threatened (T)/MMPA status: Depleted (D). A dash (—) indicates that the species is not listed under the ESA or designated as depleted under the MMPA. Under the MMPA, a strategic stock is one for which the level of direct human-caused mortality exceeds PBR (see footnote 3) or which is determined to be declining and likely to be listed under the ESA within the foreseeable future. Any species or stock listed under the ESA is automatically designated under the MMPA as depleted and as a strategic stock.

[2] N_{min} is the minimum estimate of stock abundance. The most recent abundance survey that is reflected in the abundance estimate is presented; there may be more recent surveys that have not yet been incorporated into the estimate.

[3] Potential biological removal, defined by the MMPA as the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population size (OSP).

[4] These values, found in NMFS' SARs, represent annual levels of human-caused mortality plus serious injury from all sources combined (*e.g.,* commercial fisheries, subsistence hunting, ship strike). Annual M/SI often cannot be determined precisely and is in some cases presented as a minimum value. All values presented here are from the final 2015 Harbor Seal, Alaska SAR. (*http://www.nmfs.noaa.gov/pr/sars/pdf/stocks/alaska/2015/ak2015_sehr.pdf.*)

Potential Effects of the Specified Activities on Marine Mammals and Their Habitat

The effects of noise and visual disturbance from the Glacier Bay NP activities for the gull monitoring and research project have the potential to result in behavioral harassment of marine mammals in the vicinity of the action area. The project would not result in permanent impacts to habitats used directly by marine mammals, such as haulout sites, nor impacts to food sources. The **Federal Register** notice for the proposed IHA (82 FR 12931; March 8, 2017) included a discussion of the effects of disturbance on marine mammals and their habitat, therefore that information is not repeated here; please refer to the **Federal Register** notice (82 FR 12931; March 8, 2017) for that information.

Based on the available data, previous monitoring reports from Glacier Bay NP, and studies described in the proposed IHA, we anticipate that any pinnipeds found in the vicinity of the project could have short-term behavioral reactions (*i.e.,* may result in marine mammals avoiding certain areas) due to noise and visual disturbance generated by: (1) Motorboat approaches and departures and (2) human presence during gull research activities. We would expect the pinnipeds to return to a haul-out site within minutes to hours of the stimulus based on previous research (Allen *et al.,* 1985). Pinnipeds may be temporarily displaced from their haul-out sites, but we do not expect that the pinnipeds would permanently abandon a haul-out site during the conduct of the research as activities are short in duration (30 min to up to two hours), and previous surveys have demonstrated that seals have returned to their haulout sites and have not permanently abandoned the sites.

NMFS does not anticipate that the planned activities would result in the injury, serious injury, or mortality of pinnipeds. NMFS does not anticipate that strikes or collisions would result from the movement of the motorboat. The planned activities will not result in any permanent impact on habitats used by marine mammals, including prey species and foraging habitat. The potential effects to marine mammals described in this section of the document do not take into consideration the monitoring and mitigation measures described later in this document (see the ''Mitigation'' and ''Monitoring and Reporting'' sections).

Estimated Take

This section includes an estimate of the number of incidental ''takes'' for the authorization pursuant to this IHA, which informed both NMFS' consideration of whether the number of takes is ''small'' and the negligible impact determination.

Take in the form of harassment is expected to result from these activities. Except with respect to certain activities not pertinent here, the MMPA defines ''harassment'' as: Any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

As described previously in the Effects section, Level B Harassment is expected to occur and is authorized in the numbers identified below. Based on the nature of the activity and the anticipated effectiveness of the mitigation measures, Level A Harassment is neither anticipated nor authorized. The death of a marine mammal is also a type of incidental take. However, as described previously, no mortality is anticipated or authorized from this activity.

All anticipated takes would be by Level B harassment, involving temporary changes in behavior. NMFS expects that the presence of Glacier Bay NP personnel could disturb animals hauled out and that the animals may alter their behavior or attempt to move away from the researchers.

Harbor seals may be disturbed when vessels approach or researchers go ashore for the purpose of monitoring gull colonies. Harbor seals tend to haul out in small numbers at study sites (2015–2016): Boulder Island—average 4.85 seals, Flapjack Island—average 11.22 seals, Geikie Rock—average 10.25 seals, and Lone Island average of 17.22 seals (see raw data from Tables 1 of the 2016 and 2015 Monitoring Report). Based on previous pinniped observations during gull monitoring (2015 and 2016) conducted by Glacier Bay NP, NMFS estimates that the research activities could potentially affect by Level B behavioral harassment 218 incidents of harassment to harbor seals over the course of the authorization. This number was calculated by multiplying the average number of seals observed at each site (2015–2016) by five visits per site for a total of 218 incidents of harassment (Table 3). The highest number of annual visits to each gull study site will be five, therefore it is expected that individual harbor seals at a given site will be disturbed no more than five times per year.

TABLE 3—LEVEL B TAKES BY HARASSMENT DURING NPS GULL SURVEYS

Survey sites	Average number of seals observed *	Number of site visits	Incidents of harassments/Level B take
Boulder Island	4.85 seals	5	24.29.
Flapjack Island	11.22 seals	5	56.11.
Geikie Rock	10.25 seals	5	51.25.
Lone Island	17.22 seals	5	86.1.
	Total 43.5 (44 seals)		Total: 218 incidents of harassment.

* Data from 2016 and 2015 NPS gull surveys.

There can be greater numbers of seals on the survey islands then what is detected by the NPS during the gull surveys. Aerial survey maximum counts show that harbor seals sometimes haul out in large numbers at all four locations (see Table 1 of the application). However, harbor seals hauled out at Flapjack Island are generally on the southern end whereas the gull colony is on the northern end. Similarly, harbor seals on Boulder Island tend to haul out on the southern end while the gull colony is located and can be accessed on the northern end without disturbance. Aerial survey counts for harbor seals are conducted during low tide while ground and vessel surveys are conducted during high tide, which along with greater visibility during aerial surveys, may also contribute to why there are greater numbers of seals observed during the aerial surveys.

Effects of Specified Activities on Subsistence Uses of Marine Mammals

Subsistence harvest of harbor seals by Alaska Natives is exempted from the MMPA's take prohibition (16 U.S.C. 1371(b)(1)); however, subsistence harvest of harbor seals has not been permitted in Glacier Bay NP since 1974 (Catton, 1995). The extensive post-breeding seasonal distribution of seals from Glacier Bay (Womble and Gende, 2013) may expose seals to subsistence harvest outside of the park. Subsistence surveys and anthropological studies demonstrate that harbor seals may be harvested during all months; however, there are typically two distinct seasonal peaks for harvest of seals, which occur during spring and in autumn/early winter (de Laguna, 1972; Emmons, 1991). These time periods co-occur with the time period during which seals travel beyond the boundaries of Glacier Bay (Womble and Gende, 2013). The level of subsistence harvest on seals from Glacier Bay/Icy Strait stock has not been quantified; however, subsistence reports from nearby communities have documented subsistence harvest (*e.g.,* Wolfe *et al.,* 2009). Due to the prohibition of subsistence harvest at the gull study sites and the temporary behavior disturbance of marine mammal disturbance caused by this project, we anticipate no impacts to subsistence harvest of marine mammals in the region.

Mitigation

In order to issue an incidental take authorization under section 101(a)(5)(D) of the MMPA, we must set forth the permissible methods of taking pursuant to such activity, and other means of effecting the least practicable adverse impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and the availability of such species or stock for taking for certain subsistence uses.

Glacier Bay NP has based the mitigation measures, which they will to implement during their research, on the following: (1) Protocols used during previous gull research activities as required by our previous authorizations for these activities; and (2) recommended best practices in Womble *et al.* (2010); Richardson *et al.* (1995); Pierson *et al.* (1998); and Weir and Dolman (2007).

To reduce the potential for disturbance from acoustic and visual stimuli associated with the activities Glacier Bay NP and/or its designees will implement the following mitigation measures for marine mammals:

- Perform pre-survey monitoring before deciding to access a study site;
- Avoid accessing a site where Steller sea lions are present;
- Perform controlled and slow ingress to the study site to prevent flushing harbor seals and select a pathway of approach to minimize the number of marine mammals harassed;
- Monitor for offshore predators at study sites. Avoid approaching the study site if killer whales (*Orcinus orca*) are observed. If Glacier Bay NP and/or its designees see predators in the area, they must not disturb the pinnipeds until the area is free of predators; and
- Maintain a quiet research atmosphere in the visual presence of pinnipeds.

Pre-Survey Monitoring

Prior to deciding to land onshore to conduct the study, the researchers will use high-powered image stabilizing binoculars from the watercraft to document the number, species, and location of hauled out marine mammals at each island. The vessels will maintain a distance of 100 to 500 meter (m) (328 to 1,640 feet) from the shoreline to allow the researchers to conduct pre-survey monitoring.

Site Avoidance

If there are Steller sea lions are present, the researchers will not approach the island and will not conduct gull monitoring and research.

Controlled Landings

The researchers will determine whether to approach the island based on type of animals present. Researchers will approach the island by motorboat at a speed of approximately 2 to 3 knots (2.3 to 3.4 miles per hour). This will provide enough time for any marine mammals present to slowly enter the water without panic (flushing). The researchers will also select a pathway of approach farthest from the hauled out harbor seals to minimize disturbance.

Minimize Predator Interactions

If the researchers visually observe marine predators (*i.e.,* killer whales) present in the vicinity of hauled out marine mammals, the researchers will not approach the study site.

Noise Reduction Protocols

While onshore at study sites, the researchers will remain vigilant for hauled out marine mammals. If marine mammals are present, the researchers will move slowly and use quiet voices to minimize disturbance to the animals present.

Mitigation Conclusions

NMFS has carefully evaluated the applicant's mitigation measures and considered a range of other measures in the context of ensuring that NMFS prescribes the means of affecting the least practicable impact on the affected

marine mammal species and stocks and their habitat. Our evaluation of potential measures included consideration of the following factors in relation to one another:

- The manner in which, and the degree to which, the successful implementation of the measure is expected to minimize adverse impacts to marine mammal species or stocks;
- The proven or likely efficacy of the specific measure to minimize adverse impacts as planned; and
- The practicability of the measure for applicant implementation.

Any mitigation measure(s) prescribed by NMFS should be able to accomplish, have a reasonable likelihood of accomplishing (based on current science), or contribute to the accomplishment of one or more of the general goals listed below:

1. Avoidance or minimization of injury or death of marine mammals wherever possible (goals 2, 3, and 4 may contribute to this goal).
2. A reduction in the numbers of marine mammals (total number or number at biologically important time or location) exposed to received levels of pile driving, or other activities expected to result in the take of marine mammals (this goal may contribute to 1, above, or to reducing harassment takes only).
3. A reduction in the number of times (total number or number at biologically important time or location) individuals would be exposed to received levels of pile driving, or other activities expected to result in the take of marine mammals (this goal may contribute to 1, above, or to reducing harassment takes only).
4. A reduction in the intensity of exposures (either total number or number at biologically important time or location) to received levels of pile driving, or other activities expected to result in the take of marine mammals (this goal may contribute to a, above, or to reducing the severity of harassment takes only).
5. Avoidance or minimization of adverse effects to marine mammal habitat, paying special attention to the food base, activities that block or limit passage to or from biologically important areas, permanent destruction of habitat, or temporary destruction/disturbance of habitat during a biologically important time.
6. For monitoring directly related to mitigation—an increase in the probability of detecting marine mammals, thus allowing for more effective implementation of the mitigation.

Based on our evaluation of the applicant's measures, as well as other measures considered by NMFS, NMFS has determined that the mitigation measures provide the means of effecting the least practicable impact on marine mammal species or stocks and their habitat, paying particular attention to rookeries, mating grounds, areas of similar significance, and on the availability of such species or stock for subsistence uses.

Monitoring and Reporting

Monitoring

In order to issue an incidental take authorization for an activity, section 101(a)(5)(D) of the MMPA that we must set forth ''requirements pertaining to the monitoring and reporting of such taking.'' The Act's implementing regulations at 50 CFR 216.104(a)(13) indicate that requests for an incidental take authorization must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and our expectations of the level of taking or impacts on populations of marine mammals present in the action area.

Glacier Bay NP submitted a marine mammal monitoring plan in section 13 of their application. Monitoring requirement NMFS prescribes shall improve our understanding of one or more of the following:

- Occurrence of marine mammal species in action area (*e.g.,* presence, abundance, distribution, density);
- Nature, scope, or context of likely marine mammal exposure to potential stressors/impacts (individual or cumulative, acute or chronic), through better understanding of: (1) Action or environment (*e.g.,* source characterization, propagation, ambient noise); (2) Affected species (*e.g.,* life history, dive patterns); (3) Co-occurrence of marine mammal species with the action; or (4) Biological or behavioral context of exposure (*e.g.,* age, calving or feeding areas);
- Individual responses to acute stressors, or impacts of chronic exposures (behavioral or physiological);
- How anticipated responses to stressors impact either: (1) Long-term fitness and survival of an individual; or (2) Population, species, or stock;
- Effects on marine mammal habitat and resultant impacts to marine mammals; and
- Mitigation and monitoring effectiveness.

Glacier Bay NP will conduct marine mammal monitoring during the project, in order to implement the mitigation measures that require real-time monitoring. The researchers will monitor the area for pinnipeds during all research activities. Monitoring activities will consist of conducting and recording observations on pinnipeds within the vicinity of the research areas. The monitoring notes will provide dates, location, species, the researcher's activity, behavioral state, numbers of animals that were alert or moved greater than one meter, and numbers of pinnipeds that flushed into the water.

The method for recording disturbances follows those in Mortenson (1996). Glacier Bay NP will record disturbances on a three-point scale that represents an increasing seal response to the disturbance (Table 4). Glacier Bay will record the time, source, and duration of the disturbance, as well as an estimated distance between the source and haul-out. NMFS consider only responses falling into Levels 2 and 3 as harassment under the MMPA, under the terms of this authorization.

TABLE 4—SEAL RESPONSE TO DISTURBANCE

Level	Type of response	Definition
1	Alert	Seal head orientation or brief movement in response to disturbance, which may include turning head towards the disturbance, craning head and neck while holding the body rigid in a u-shaped position, changing from a lying to a sitting position, or brief movement of less than twice the animal's body length. Alerts would be recorded, but not counted as a 'take'.
2	Movement	Movements in response to the source of disturbance, ranging from short withdrawals at least twice the animal's body length to longer retreats over the beach, or if already moving a change of direction of greater than 90 degrees. These movements would be recorded and counted as a 'take'.
3	Flush	All retreats (flushes) to the water. Flushing into the water would be recorded and counted as a 'take'.

Glacier Bay NP complied with the monitoring requirements under the previous authorizations. NMFS posted the 2016 report on our Web site at *http://www.nmfs.noaa.gov/pr/permits/incidental/research.htm* and the results from the previous Glacier Bay NP monitoring reports support our findings that the mitigation measures required under the 2014–2016 Authorizations, provide the means of effecting the least practicable impact on the species or stock. During the last two years of this activity, approximately a third of all observed harbor seals have flushed in response to these activities (37 percent in 2015 and 36 percent in 2016). In 2016, of the 216 harbor seals that were observed: 77 flushed in to the water, 3 became alert but did not move >1 m, and 17 moved >1 m but did not flush into the water. On five occasions, harbor seals were flushed into the water when islands were accessed for gull surveys. In these instances, the vessel approached the island at very slow speed and most of the harbor seals flushed into the water at approximately 50–100 m. In 4 instances, fewer than 25 harbor seals were present, but in 1 instance, 41 harbor seals were observed flushing into the water when NPS first saw them as they rounded a point of land in kayaks accessing Flapjack Island. In 5 instances, harbor seals were observed hauled out and not disturbed due to their distance from the survey areas. In 2015, of the 156 harbor seals that were observed: 57 flushed in to the water, 25 became alert but did not move >1 m, and zero moved >1 m but did not flush into the water. No pups were observed. On two occasions, harbor seals were observed at the study sites in numbers <25 and the islands were accessed for gull surveys. In these instances, the vessel approached the island at very slow speed and most of the harbor seals flushed into water at approximately 200 m (Geikie 8/5/15) and 280 m (Lone, 8/5/15). In one instance, (Lone, 6/11/15) NPS counted 20 harbor seals hauled out during our initial vessel-based monitoring, but once on the island, NPS observed 33 hauled out seals. When NPS realized the number of seals present, they ceased the survey and left the area, flushing 13 seals into the water.

Glacier Bay NP can add to the knowledge of pinnipeds in the action area by noting observations of: (1) Unusual behaviors, numbers, or distributions of pinnipeds, such that any potential follow-up research can be conducted by the appropriate personnel; (2) tag-bearing carcasses of pinnipeds, allowing transmittal of the information to appropriate agencies and personnel; and (3) rare or unusual species of marine mammals for agency follow-up. Glacier Bay NP actively monitors harbor seals at breeding and molting haul out locations to assess trends over time (*e.g.,* Mathews & Pendleton, 2006; Womble *et al.* 2010, Womble and Gende, 2013). This monitoring program involves collaborations with biologists from the Alaska Department of Fish and Game, and the Alaska Fisheries Science Center. Glacier Bay NP will continue these collaborations and encourage continued or renewed monitoring of marine mammal species. Additionally, Glacier Bay NP will report vessel-based counts of marine mammals, branded, or injured animals, and all observed disturbances to the appropriate state and federal agencies.

Reporting

Glacier Bay NP will submit a draft monitoring report to NMFS no later than 90 days after the expiration of the IHA. The report will include a summary of the information gathered pursuant to the monitoring requirements set forth in the Authorization. Glacier Bay NP will submit a final report to NMFS within 30 days after receiving comments on the draft report. If Glacier Bay NP receives no comments from NMFS on the report, NMFS will consider the draft report to be the final report.

The report will describe the operations conducted and sightings of marine mammals near the project. The report will provide full documentation of methods, results, and interpretation pertaining to all monitoring. The report will provide:

1. A summary and table of the dates, times, and weather during all research activities.

2. Species, number, location, and behavior of any marine mammals observed throughout all monitoring activities.

3. An estimate of the number (by species) of marine mammals exposed to acoustic or visual stimuli associated with the research activities.

4. A description of the implementation and effectiveness of the monitoring and mitigation measures of the Authorization and full documentation of methods, results, and interpretation pertaining to all monitoring.

In the unanticipated event that the specified activity clearly causes the take of a marine mammal in a manner prohibited by the authorization, such as an injury (Level A harassment), serious injury, or mortality (*e.g.,* vessel-strike, stampede, etc.), Glacier Bay NP shall immediately cease the specified activities and immediately report the incident to the Office of Protected Resources, NMFS and the Alaska Regional Stranding Coordinator. The report must include the following information:

- Time, date, and location (latitude/longitude) of the incident;
- Description and location of the incident (including water depth, if applicable);
- Environmental conditions (*e.g.,* wind speed and direction, Beaufort sea state, cloud cover, and visibility);
- Description of all marine mammal observations in the 24 hours preceding the incident;
- Species identification or description of the animal(s) involved;
- Fate of the animal(s); and
- Photographs or video footage of the animal(s) (if equipment is available).

Glacier Bay NP shall not resume its activities until NMFS is able to review the circumstances of the prohibited take. NMFS will work with Glacier Bay NP to determine what is necessary to minimize the likelihood of further prohibited take and ensure MMPA compliance. Glacier Bay NP may not resume their activities until notified by us via letter, email, or telephone.

In the event that Glacier Bay NP discovers an injured or dead marine mammal, and the lead researcher determines that the cause of the injury or death is unknown and the death is relatively recent (*i.e.,* in less than a moderate state of decomposition as we describe in the next paragraph), Glacier Bay NP will immediately report the incident to the Office of Protected Resources, NMFS and the Alaska Regional Stranding Coordinator. The report must include the same information identified in the paragraph above this section. Activities may continue while we review the circumstances of the incident. NMFS will work with Glacier Bay NP to determine whether modifications in the activities are appropriate.

In the event that Glacier Bay NP discovers an injured or dead marine mammal, and the lead visual observer determines that the injury or death is not associated with or related to the authorized activities (*e.g.,* previously wounded animal, carcass with moderate to advanced decomposition, or scavenger damage), Glacier Bay NP will report the incident to the incident to the Office of Protected Resources, NMFS and the Alaska Regional Stranding Coordinator within 24 hours of the discovery. Glacier Bay NP researchers will provide photographs or video footage (if available) or other documentation of the stranded animal

sighting to us. Glacier Bay NP can continue their research activities.

Negligible Impact Analysis and Determinations

NMFS has defined negligible impact as ''an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival'' (50 CFR 216.103). A negligible impact finding is based on the lack of likely adverse effects on annual rates of recruitment or survival (*i.e.,* population-level effects). An estimate of the number of takes, alone, is not enough information on which to base an impact determination. In addition to considering the authorized number of marine mammals that might be ''taken'' through harassment, NMFS considers other factors, such as the likely nature of any responses (*e.g.,* intensity, duration), the context of any responses (*e.g.,* critical reproductive time or location, migration, etc.), as well as effects on habitat, the status of the affected stocks, and the likely effectiveness of the mitigation. Consistent with the 1989 preamble for NMFS' implementing regulations (54 FR 40338; September 29, 1989), the impacts from other past and ongoing anthropogenic activities are incorporated into these analyses via their impacts on the environmental baseline (*e.g.,* as reflected in the regulatory status of the species, population size and growth rate where known, ongoing sources of human-caused mortality, or ambient noise levels).

In making a negligible impact determination, we consider:

- The number of anticipated injuries, serious injuries, or mortalities;
- The number, nature, and intensity, and duration of Level B harassment;
- The context in which the takes occur (*e.g.,* impacts to areas of significance, impacts to local populations, and cumulative impacts when taking into account successive/contemporaneous actions when added to baseline data);
- The status of stock or species of marine mammals (*i.e.,* depleted, not depleted, decreasing, increasing, stable, impact relative to the size of the population);
- Impacts on habitat affecting rates of recruitment/survival; and
- The effectiveness of monitoring and mitigation measures to reduce the number or severity of incidental take.

For reasons stated previously in this document and based on the following factors, NMFS does not expect Glacier Bay NP's specified activities to cause long-term behavioral disturbance, abandonment of the haul-out area, injury, serious injury, or mortality:

1. The takes from Level B harassment would be due to potential behavioral disturbance. The effects of the research activities would be limited to short-term startle responses and localized behavioral changes due to the short and sporadic duration of the research activities;

2. The availability of alternate areas for pinnipeds to avoid disturbances from research operations. Anecdotal observations and results from previous monitoring reports also show that the pinnipeds returned to the various sites and did not permanently abandon haul-out sites after Glacier Bay NP conducted their research activities; and

3. There is little potential for stampeding events or large-scale flushing events leading to injury, serious injury, or mortality. Researchers will not access the survey sites if Steller sea lions are present. Harbor seals are a species that do not stampede, but flush, and injury or mortality is not anticipated from flushing events. Researchers will approach study sites slowly to provide enough time for any marine mammals present to slowly enter the water without panic.

We do not anticipate that any injuries, serious injuries, or mortalities will occur as a result of Glacier Bay NP's activities and we do not authorize injury, serious injury, or mortality. Harbor seals may exhibit behavioral modifications, including temporarily vacating the area during the gull research activities to avoid human disturbance. Further, these activities will not take place in areas of significance for marine mammal feeding, resting, breeding, or pupping and would not adversely impact marine mammal habitat. Due to the nature, degree, and context of the behavioral harassment anticipated, we do not expect the activities to impact annual rates of recruitment or survival.

NMFS does not expect pinnipeds to permanently abandon any area surveyed by researchers, as is evidenced by continued presence of pinnipeds at the sites during annual gull monitoring. In summary, NMFS anticipates that impacts to hauled-out harbor seals during Glacier Bay NP's research activities would be behavioral harassment of limited duration (*i.e.,* up to two hours per visit) and limited intensity (*i.e.,* temporary flushing at most).

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the monitoring and mitigation measures, NMFS finds that the total marine mammal take from the planned activity will have a negligible impact on all affected marine mammal species or stocks.

Small Numbers

As noted above, only small numbers of incidental take may be authorized under section 101(a)(5)(D) of the MMPA for specified activities other than military readiness activities. The MMPA does not define small numbers and so, in practice, NMFS compares the number of individuals taken to the most appropriate estimation of the relevant species or stock size in our determination of whether an authorization is limited to small numbers of marine mammals.

As mentioned previously, NMFS estimates that Glacier Bay NP's activities could potentially affect, by Level B harassment only, one species of marine mammal under our jurisdiction. For harbor seals, this estimate is small (three percent) relative of the Glacier Bay/Icy Strait stock of harbor seals (7,210 seals, see Table 2).

Based on the analysis contained herein of the planned activity (including the mitigation and monitoring measures) and the anticipated take of marine mammals, NMFS finds that small numbers of marine mammals would be taken relative to the population size of the affected species or stocks.

Impact on Availability of Affected Species or Stock for Taking for Subsistence Uses

Section 101(a)(5)(D) of the MMPA also requires us to determine that the taking will not have an unmitigable adverse effect on the availability of marine mammal species or stocks for subsistence use. There are no relevant subsistence uses of marine mammals implicated by this action. Glacier Bay NP prohibits subsistence harvest of harbor seals within the Park (Catton, 1995). Thus, NMFS has determined that the total taking of affected species or stocks would not have an unmitigable adverse impact on the availability of such species or stocks for taking for subsistence purposes.

Endangered Species Act (ESA)

Issuance of an MMPA authorization requires compliance with the ESA. No incidental take of ESA-listed species is authorized or expected to result from this activity. Therefore, NMFS has

determined that formal consultation under section 7 of the ESA is not required for this action.

National Environmental Policy Act

In compliance with NOAA policy, the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*), and the Council on Environmental Quality Regulations (40 CFR parts 1500–1508), NMFS determined the issuance of the IHA qualifies to be categorically excluded from further NEPA review. This action is consistent with categories of activities identified in CE B4 of the Companion Manual for NOAA Administrative Order 216–6A, which do not individually or cumulatively have the potential for significant impacts on the quality of the human environment and we have not identified any extraordinary circumstances that would preclude this categorical exclusion.

Authorization

NMFS has issued an IHA to the NPS at Glacier Bay NP for the harassment of small numbers of harbor seals incidental to conducting monitoring and research studies on glaucous-winged gulls within Glacier Bay NP, Alaska provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated.

Dated: May 23, 2017.

Donna S. Wieting,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2017–11036 Filed 5–26–17; 8:45 am]

BILLING CODE 3510–22–P

COMMODITY FUTURES TRADING COMMISSION

Agency Information Collection Activities: Extension of Information Collections Under the Dodd-Frank Act

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice.

SUMMARY: The Commodity Futures Trading Commission (''Commission'' or ''CFTC'') is announcing an opportunity for public comment on the extension of two information collections (ICs), one concerning the filing of an annual report provided for in the Derivatives Clearing Organization General Provisions and Core Principles regulations and the other concerning the filing of a Subpart C Election Form and other reporting and recordkeeping requirements provided for in subpart C, part 39 of the Commission Regulations. Under the Paperwork Reduction Act (''PRA''), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection, and to allow 60 days for public comment.

DATES: Comments must be submitted on or before July 31, 2017.

ADDRESSES: You may submit comments, identified by OMB Control No. 3038–0081 by any of the following methods:

- The Agency's Web site, at *http://comments.cftc.gov/.* Follow the instructions for submitting comments through the Web site.
- *Mail:* Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581.
- *Hand Delivery/Courier:* Same as Mail above.
- *Federal eRulemaking Portal: http://www.regulations.gov/.* Follow the instructions for submitting comments through the Portal.

Please submit your comments using only one method.

FOR FURTHER INFORMATION CONTACT: Tracey Wingate, Special Counsel, Division of Clearing and Risk, Commodity Futures Trading Commission, (202) 418–5318; email: *twingate@cftc.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA, 44 U.S.C. 3501 *et seq.,* Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of Information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3 and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA, 44 U.S.C. 3506(c)(2)(A), requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information before submitting the collection to OMB for approval. To comply with this requirement, the CFTC is publishing notice of the proposed collection of information listed below.

This notice solicits comments on two ICs contained in OMB Control No. 3038–0081: (A) The filing of an annual report provided for in Derivatives Clearing Organization General Provisions and Core Principles [1] (part 39 of the Commission Regulations); and, (B) filing of the Subpart C Election Form provided for in subpart C, part 39 of the Commission Regulations for DCOs that elect to be held to the same standards as systemically important DCOs (''SIDCOs'') regulatory requirements (''Subpart C DCOs''). These additional standards are mandatory for SIDCOs and optional for Subpart C DCOs. An agency may not conduct or sponsor, and a person is not required to respond to, an information collection unless it displays a valid OMB control number. An explanation of the ICs and the current burden estimates are provided for below:

Title: Derivatives Clearing Organizations, General Regulations and International Standards; OMB Control No. 3038–0081. This is a request for extension of a currently approved OMB Control No. 3038–0081.

Abstract:

(A) *Annual report provided for in Derivatives Clearing Organization General Provisions and Core Principles.* Section 725(c) of the Dodd-Frank Act amended Section 5b(c)(2) of the CEA to allow the Commission to establish regulatory standards for compliance with the DCO core principles. Accordingly, the Commission adopted a final rule to set specific standards for compliance with DCO Core Principles.[2] The DCO Final Rule requires the appointment of a CCO, the filing of an annual report and adherence to certain recordkeeping requirements.[3] It also allows the Commission to collect information at other times as necessary. The information collected in the annual report pursuant to those regulations is necessary for the Commission to evaluate whether DCOs are complying with Commission regulations.

(B) *Subpart C Election Form and other reporting and recordkeeping requirements provided for in subpart C, part 39 of the Commission Regulations.* In the Derivatives Clearing Organizations and International Standards final rule (SIDCO-Subpart C DCO Final Rule),[4] the Commission adopted amendments to its regulations

[1] OMB Control No. 3038–0081 is being retitled to more accurately reflect the information collections covered.

[2] *See* Derivatives Clearing Organization General Provisions and Core Principles, 76 FR 69334 (November 8, 2011) (DCO Final Rule).

[3] These DCO recordkeeping requirements and associated costs are captured in separate proposed rulemakings under separate OMB Control Nos.; specifically, *see* Risk Management Requirements for Derivatives Clearing Organizations; 76 FR 3698 (Jan. 20, 2011) (OMB Control No. 3038–0076); Information Management Requirements for Derivatives Clearing Organizations, 75 FR 78185 (Dec. 15, 2010) (OMB Control No. 3038–0069); and Financial Resources requirements for Derivatives Clearing Organizations, 75 FR 63113 (Oct. 14, 2010) (OMB Control No. 3038–0066).

[4] *See* Derivatives Clearing Organizations and International Standards, 78 FR 72476 (December 2, 2013) (SIDCO-Subpart C DCO Final Rule).

to establish additional standards for compliance with the DCO core principles set forth in Section 5b(c)(2) of the CEA for SIDCOs and Subpart C DCOs which are consistent with certain international standards. Specifically, the additional requirements address any remaining gaps between the Commission's existing regulations and the Principles for Financial Market Infrastructures (''PFMI'') published by the Committee on Payments and Market Infrastructures and the Board of the International Organization of Securities Commissions.

The SIDCO-Subpart C DCO Final Rule also established the process whereby DCO and DCO applicants, respectively, may elect to become Subpart C DCOs subject to the provisions of Subpart C. The election involves filing the Subpart C Election Form contained in appendix B to part 39 of the Commission's regulations, which involves completing certifications, providing exhibits, and drafting and publishing responses to the PFMI Disclosure Framework and PFMI Quantitative Information Disclosure, as applicable. Additionally, the SIDCO-Subpart C DCO Final Rule provides for Commission requests for supplemental information from those requesting Subpart C DCO status; requires amendments to the Subpart C Election Form in the event that a DCO or DCO Applicant, respectively, discovers a material omission or error in, or if there is a material change in, the information provided in the Subpart C Election Form; to submit a notice of withdrawal to the Commission in the event the DCO or DCO applicant determines not to seek Subpart C DCO status prior to such status becoming effective; and procedures by which a Subpart C DCO may rescind its Subpart C DCO status after it has been permitted to take effect. Further, each of these requirements implies recordkeeping that would be produced by a DCO to the Commission on an occasional basis to demonstrate compliance with the rules. The information that would be collected under in subpart C, part 39 of the Commission Regulations is necessary for the Commission to determine whether a DCO meets the Subpart C DCO standards and is likely to be able to maintain compliance with such standards; to evaluate whether SIDCOs and Subpart C DCOs are complying with Commission regulations; and to perform risk analyses with respect to SIDCOs and Subpart C DCOs.

With respect to the collection of information, the CFTC invites comments on:

- Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have a practical use;
- The accuracy of the Commission's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Ways to enhance the quality, usefulness, and clarity of the information to be collected; and
- Ways to minimize the burden of 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.

All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to *http://www.cftc.gov.* You should submit only information that you wish to make available publicly. If you wish the Commission to consider information that you believe is exempt from disclosure under the Freedom of Information Act, a petition for confidential treatment of the exempt information may be submitted according to the procedures established in § 145.9 of the Commission's regulations.[5]

The Commission reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse or remove any or all of your submission from *http://www.cftc.gov* that it may deem to be inappropriate for publication, such as obscene language. All submissions that have been redacted or removed that contain comments on the merits of the Information Collection Request will be retained in the public comment file and will be considered as required under the Administrative Procedure Act and other applicable laws, and may be accessible under the Freedom of Information Act.

Burden Statement: The total annual time burden for all respondents is estimated to be 18,472 hours.

See Appendix A for an individual breakdown for burden for annual reports provided for in Derivatives Clearing Organization General Provisions and Core Principles.

See Appendix B for an individual breakdown for burden for Subpart C Election Form and other reporting and recordkeeping requirements provided for in subpart C, part 39 of the Commission Regulations.

Authority: 44 U.S.C. 3501 *et seq.*

Dated: May 19, 2017.

Robert N. Sidman,

Deputy Secretary of the Commission.

Appendix A—Derivatives Clearing Organization General Provisions and Core Principles OMB Collection 3038–0081

ANNUAL REPORTING REQUIREMENTS FOR DERIVATIVES CLEARING ORGANIZATIONS

Estimated number of respondents per year	Reports annually by each respondent	Total annual responses	Estimated average number of hours per response	Estimated total number of hours of annual burden in fiscal year (maximum: 12 × 80)
12	1	12	40–80	480–960

Appendix B—Subpart C Election Form and Other Reporting and Recordkeeping Requirements Provided for in Subpart C, Part 39 of the Commission Regulations OMB Collection 3038–0081

[5] 17 CFR 145.9.

SIDCO/SUBPART C DCO REGULATIONS—REPORTING COLLECTION

	Estimated number of respondents per year	Reports annually by each	Total annual responses	Estimated average number of hours per response	Estimated total number of hours of annual burden in fiscal year
Certifications—Subpart C Election Form	5	1	5	25	125
Exhibits A thru G—Subpart C Election Form	5	1	5	155	775
Disclosure Framework Responses	5	1	5	200	1,000
Quantitative Information Disclosures	5	1	5	80	400
Supplemental Information	5	5	25	45	1,125
Amendments to Subpart C Election Form	5	3	15	8	120
Withdrawal Notices	1	1	1	2	2
Rescission Notices	1	75	75	3	225
Written Governance Arrangements	7	1	7	200	1,400
Governance Disclosures	7	6	42	3	126
Financial and Liquidity Resource Documentation	7	1	7	120	840
Stress Test Results	7	16	112	14	1,568
Disclosure Framework Requirements (SIDCOs Only)	2	1	2	200	400
Disclosure Framework Requirements (Both)	7	1	7	80	560
Quantitative Information Disclosures (SIDCOs Only)	2	1	2	80	160
Quantitative Information Disclosures (Both)	7	1	7	35	245
Transaction, Segregation, Portability Disclosures	7	2	14	35	490
Efficiency and Effectiveness Review	7	1	7	3	21
Recovery and Wind-Down Plan	7	1	7	480	3,360
Totals		120	350	1,768	12,942

SIDCO/SUBPART C DCO REGULATIONS—RECORDKEEPING COLLECTION

	Estimated number of recordkeepers per year	Records to be kept annually by each	Total annual responses	Estimated average number of hours per record	Estimated total number of hours of annual burden in fiscal year
Generally	5	82	410	1	2,050
Liquidity Resource Due Diligence and Testing	7	4	28	10	280
Financial and Liquidity Resources, Excluding Due Diligence	7	4	28	10	280
Generally	7	28	196	10	1,960
Totals		118	662	31	4,570

[FR Doc. 2017–11105 Filed 5–26–17; 8:45 am]

BILLING CODE 6351–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Health Board; Notice of Federal Advisory Committee Meeting

ADDRESSES: Under Secretary of Defense for Personnel and Readiness, Department of Defense.

ACTION: Notice of Federal Advisory Committee meeting.

SUMMARY: The Department of Defense (DoD) is publishing this notice to announce that the following Federal Advisory Committee meeting of the Defense Health Board will take place.

DATES: Open to the public Monday, June 26, 2017 from 9:15 a.m. to 12:30 p.m. and from 1:30 p.m. to 5:00 p.m.

ADDRESSES: The address of the open meeting is the Gatehouse, 8111 Gatehouse Road, Room 252A/B, Falls Church, Virginia 22042 (registration requested; see guidance in **SUPPLEMENTARY INFORMATION**, ''Meeting Accessibility'').

FOR FURTHER INFORMATION CONTACT: CAPT Juliann Althoff, Medical Corps, U.S. Navy, (703) 681–6653 (Voice), (703) 681–9539 (Facsimile), juliann.m.althoff.mil@mail.mil (Email). Mailing address is 7700 Arlington Boulevard, Suite 5101, Falls Church, Virginia 22042. Web site: *http://www.health.mil/dhb.* The most up-to-date changes to the meeting agenda can be found on the Web site.

SUPPLEMENTARY INFORMATION: This meeting is being held under the provisions of the Federal Advisory Committee Act (FACA) of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.140 and 102–3.150.

Availability of Materials for the Meeting: Additional information, including the agenda, is available at the DHB Web site, *http://www.health.mil/dhb.*

Purpose of the Meeting: The Department of Defense is publishing this notice to announce a Federal Advisory Committee meeting of the Defense Health Board (DHB). The DHB provides independent advice and recommendations to maximize the safety and quality of, as well as access to, health care for DoD health care beneficiaries. The purpose of the meeting is to provide progress updates on specific taskings before the DHB.

Agenda: Pursuant to 5 U.S.C. 552b and 41 CFR 102–3.140 through 102–3.165 and subject to availability of space, the meeting is open to the public from 9:15 a.m. to 12:30 p.m. and from 1:30 p.m. to 5:00 p.m. on June 26, 2017.

The DHB anticipates receiving a decision brief from the Public Health Subcommittee on its review of improving Defense Health Program medical research processes, a decision brief from a subset of the Board on the Deployment Health Centers review, as well as a progress update on the pediatric health care services tasking. Any changes to the agenda can be found at the link provided in this **SUPPLEMENTARY INFORMATION** section.

Meeting Accessibility: Pursuant to 5 U.S.C. 552b, and 41 CFR 102–3.140 through 102–3.165 and subject to availability of space, this meeting is open to the public. Seating is limited and is on a first-come basis. All members of the public who wish to attend the public meeting are asked to register by emailing their name, rank/title, and organization/company to *dha.ncr.dhb.mbx.defense-health-board@mail.mil* or by contacting Ms. Margaret Welsh at (703) 681–8007 or *margaret.s.welsh.ctr@mail.mil.* Registration will also be available at the door on the day of the meeting.

Special Accommodations: Individuals requiring special accommodations to access the public meeting should contact Ms. Margaret Welsh at least five (5) business days prior to the meeting so that appropriate arrangements can be made.

Written Statements: Any member of the public wishing to provide comments to the DHB may do so in accordance with section 10(a)(3) of the Federal Advisory Committee Act, 41 CFR 102–3.105(j) and 102–3.140, and the procedures described in this notice. Written statements may be submitted to the DHB Designated Federal Officer (DFO), CAPT Juliann Althoff, at *juliann.m.althoff.mil@mail.mil* and should be no longer than two type-written pages and include the issue, a short discussion, and a recommended course of action. Supporting documentation may also be included, to establish the appropriate historical context and to provide any necessary background information. If the written statement is not received at least five (5) business days prior to the meeting, the DFO may choose to postpone consideration of the statement until the next open meeting. The DFO will review all timely submissions with the DHB President and ensure they are provided to members of the DHB before the meeting that is subject to this notice. After reviewing the written comments, the President and the DFO may choose to invite the submitter to orally present their issue during an open portion of this meeting or at a future meeting. The DFO, in consultation with the DHB President, may allot time for members of the public to present their issues for review and discussion by the DHB.

Dated: May 24, 2017.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2017–11106 Filed 5–26–17; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Judicial Proceedings Since Fiscal Year 2012 Amendments Panel; Notice of Federal Advisory Committee Meeting

AGENCY: General Counsel of the Department of Defense, Department of Defense.

ACTION: Notice of Federal Advisory Committee meeting.

SUMMARY: The Department of Defense (DoD) is publishing this notice to announce that the following Federal Advisory Committee meeting of the Judicial Proceedings Since Fiscal Year 2012 Amendments Panel will take place.

DATES: Open to the public, Friday, June 16, 2017, from 9:00 a.m. to 4:15 p.m.

ADDRESSES: One Liberty Center, Suite 1432, 875 North Randolph Street, Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: Maria Fried, 703–571–2664 (Voice), 703–693–3903 (Facsimile), *whs.pentagon.em.mbx.judicial-panel@mail.mil* (Email). Mailing address is One Liberty Center, 875 N. Randolph Street, Suite 150, Arlington, Virginia 22203. Web site: *http://jpp.whs.mil/.* The most up-to-date changes to the meeting agenda can be found on the Web site.

SUPPLEMENTARY INFORMATION: This meeting is being held under the provisions of the Federal Advisory Committee Act (FACA) of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.140 and 102–3.150. Materials provided to Panel members for use at the public meeting may be obtained at the meeting or from the Panel's Web site at *http://jpp.whs.mil/.*

Purpose of the Meeting: In section 576(a)(2) of the National Defense Authorization Act for Fiscal Year 2013 (Pub. L. 112–239), as amended, Congress tasked the Judicial Proceedings Panel to conduct an independent review and assessment of judicial proceedings conducted under the Uniform Code of Military Justice (UCMJ) involving adult sexual assault and related offenses since the amendments made to the UCMJ by section 541 of the National Defense Authorization Act for Fiscal Year 2012 (Pub. L. 112–81; 125 Stat. 1404), for the purpose of developing recommendations for improvements to such proceedings. At this meeting, the Panel will deliberate on three pending reports: the JPP Report on Barriers to the Fair Administration of Military Justice in Sexual Assault Cases; the JPP Report on FY 2015 Statistical Data Regarding Military Adjudication of Sexual Assault Offenses; and the JPP Final Report.

Agenda: 8:30 a.m.– 9:00 a.m. Administrative Work (41 CFR 102–3.160, not subject to notice & open meeting requirements); 9:00 a.m.–9:15 a.m. Welcome and Introduction; 9:15 a.m.–12:15 p.m. Panel Deliberations on JPP Report on Barriers to the Fair Administration of Military Justice in Sexual Assault Cases; 12:15 p.m.–1:00 p.m. Lunch; 1:00 p.m.–3:00 p.m. Panel Deliberations on JPP Report on FY 2015 Statistical Data Regarding Military Adjudication of Sexual Assault Offenses; 3:00 p.m.–4:00 p.m. Panel Discussion on JPP Final Report; 4:00 p.m.–4:15 p.m. Public Comment; 4:15 p.m. Meeting Adjourned.

Meeting Accessibility: Pursuant to 5 U.S.C. 552b and 41 CFR 102–3.140 through 102–3.165, and the availability of space, this meeting is open to the public. Seating is limited and is on a first-come basis. In the event the Office of Personnel Management closes the government due to inclement weather or for any other reason, please consult the Web site for any changes to the public meeting date or time. Visitors are required to sign in at the One Liberty Center security desk and must leave government-issued photo identification on file while in the building. Department of Defense Common Access Card (CAC) holders who do not have authorized access to One Liberty Center must provide an alternate form of government-issued photo identification to leave on file with security while in the building. All visitors must pass through a metal detection security screening. Individuals requiring special accommodations to access the public meeting should contact the Judicial Proceedings Panel at *whs.pentagon.em.mbx.judicial-panel@mail.mil* at least five (5) business days prior to the meeting so that appropriate arrangements can be made.

Written Statements: Pursuant to 41 CFR 102–3.140 and section 10(a)(3) of the Federal Advisory Committee Act of 1972, the public or interested organizations may submit written

comments to the Panel about its mission and topics pertaining to this public session. Written comments must be received by the JPP at least five (5) business days prior to the meeting date so that they may be made available to the Judicial Proceedings Panel for their consideration prior to the meeting. Written comments should be submitted via email to the Judicial Proceedings Panel at *whs.pentagon.em.mbx.judicial-panel@mail.mil* in the following formats: Adobe Acrobat or Microsoft Word. Please note that since the Judicial Proceedings Panel operates under the provisions of the Federal Advisory Committee Act, as amended, all written comments will be treated as public documents and will be made available for public inspection. If members of the public are interested in making an oral statement pertaining to the agenda for the public meeting, a written statement must be submitted as above along with a request to provide an oral statement. After reviewing the written comments and the oral statement, the Chair and the Designated Federal Official will determine who will be permitted to make an oral presentation of their issue during the public comment portion of this meeting. This determination is at the sole discretion of the Chair and Designated Federal Official, will depend on the time available and relevance to the Panel's activities for that meeting, and will be on a first-come basis. When approved in advance, oral presentations by members of the public will be permitted from 4:00 p.m. to 4:15 p.m. on June 16, 2017, in front of the Panel members.

Dated: May 23, 2017.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2017–11012 Filed 5–26–17; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2017–ICCD–0010]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; IDEA Part B State Performance Plan (SPP) and Annual Performance Report (APR)

AGENCY: Office of Special Education and Rehabilitative Services (OSERS), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing an extension of an existing information collection.

DATES: Interested persons are invited to submit comments on or before June 29, 2017.

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–2017–ICCD–0010. 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 226–62, Washington, DC 20202–4537.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Rebecca Walawender, 202–245–7399.

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: IDEA Part B State Performance Plan (SPP) and Annual Performance Report (APR).

OMB Control Number: 1820–0624.

Type of Review: An extension of an existing information collection.

Respondents/Affected Public: Federal Government.

Total Estimated Number of Annual Responses: 60.

Total Estimated Number of Annual Burden Hours: 102,000.

Abstract: In accordance with 20 U.S.C. 1416(b)(1), not later than 1 year after the date of enactment of the Individuals with Disabilities Education, as revised in 2004, each State must have in place a performance plan that evaluates the States efforts to implement the requirements and purposes of Part B and describe how the State will improve such implementation. This plan is called the Part B State Performance Plan (Part B–SPP). In accordance with 20 U.S.C. 1416(b)(2)(C)(ii) the State shall report annually to the public on the performance of each local educational agency located in the State on the targets in the States performance plan. The State also shall report annually to the Secretary on the performance of the State under the States performance plan. This report is called the Part B Annual Performance Report (Part B–APR). Information Collection 1820–0624 corresponds to 34 CFR 300.600–300.602.

Dated: May 24, 2017.

Tomakie Washington,

Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.

[FR Doc. 2017–11101 Filed 5–26–17; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2017–ICCD–0073]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Historically Black Colleges and Universities Master's Degree Program

AGENCY: Office of Postsecondary Education (OPE), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing a reinstatement of a previously approved information collection.

DATES: Interested persons are invited to submit comments on or before June 29, 2017.

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–2017–ICCD–0073. 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 224–84, Washington, DC 20202–4537.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Sheryl Wilson, 202–453–7166.

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: Historically Black Colleges and Universities Master's Degree Program.

OMB Control Number: 1840–0806.

Type of Review: A reinstatement of a previously approved information collection.

Respondents/Affected Public: State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 18.

Total Estimated Number of Annual Burden Hours: 306.

Abstract: The Higher Education Opportunity Act (HEOA) of 2008 amended Title VII, Subpart 4 of the Higher Education Act of 1965 to add a new master's degree program to advance educational opportunities for African Americans. Title VIII, Part AA, Section 897 of the Higher Education Act of 1965, as amended (HEA), authorizes and appropriates mandatory funding totaling $11.5 million annually for the master's degree program at HBCUs to provide grants to eligible institutions in this program for fiscal years (FY) 2009 through 2014. The new mandatory funding allocated for FY 2017 is $7,500,000. The Historically Black Colleges and Universities master's degree (HBCU–M) program authorizes the Department of Education (the Department) to award grants to specified institutions that the Department determines are making a substantial contribution to graduate education opportunities for African Americans at the master's level in mathematics, engineering, the physical or natural sciences, computer science, information technology, nursing, allied health or other scientific disciplines. This program provides grants for up to six years to establish or strengthen qualified master's degree programs in these fields at eligible institutions.

Dated: May 24, 2017.

Kate Mullan,

Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.

[FR Doc. 2017–11047 Filed 5–26–17; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2017–ICCD–0026]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Annual Vocational Rehabilitation Program/Cost Report (RSA–2)

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing an extension of an existing information collection.

DATES: Interested persons are invited to submit comments on or before June 29, 2017.

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–2017–ICCD–0026. 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 226–62, Washington, DC 20202–4537.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact David Steels, 202–245–6520.

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: Annual Vocational Rehabilitation Program/Cost Report (RSA–2).

OMB Control Number: 1820–0017.

Type of Review: An extension of an existing information collection.

Respondents/Affected Public: State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 80.

Total Estimated Number of Annual Burden Hours: 320.

Abstract: The Annual Vocational Rehabilitation Program/Cost Report (RSA 2) collects data on the vocational rehabilitation (VR) and supported employment (SE) program activities for agencies funded under the Rehabilitation Act of 1973, as amended (Rehabilitation Act). The RSA–2 captures: Administrative expenditures for the VR and SE programs; VR program service expenditures by category; SE administrative expenditures and service expenditures; expenditures for the VR program by number of individuals served; the costs of types of services provided; and a breakdown of staff of the VR agencies.

Dated: May 24, 2017.

Tomakie Washington,

Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.

[FR Doc. 2017–11102 Filed 5–26–17; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2017–ICCD–0009]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; IDEA Part C State Performance Plan (SPP) and Annual Performance Report (APR)

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing an extension of an existing information collection.

DATES: Interested persons are invited to submit comments on or before June 29, 2017.

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–2017–ICCD–0009. 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 226–62, Washington, DC 20202–4537.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Rebecca Walawender, 202–245–7399.

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: IDEA Part C State Performance Plan (SPP) and Annual Performance Report (APR).

OMB Control Number: 1820–0578.

Type of Review: An extension of an existing information collection.

Respondents/Affected Public: State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 56.

Total Estimated Number of Annual Burden Hours: 61,600.

Abstract: In accordance with 20 U.S.C. 1416(b)(1) and 20 U.S.C. 1442, each State lead implementing agency must have in place a performance plan that evaluates the agency's efforts to implement the requirements and purposes of Part C of the Individuals with Disabilities Education Act and describe how the agency will improve implementation. This plan is called the Part C State Performance Plan (Part C SPP). In accordance with 20 U.S.C. 1416(b)(2)(C)(ii) the lead agency shall report annually to the public on the performance of each early intervention service program located in the State on the targets in the lead agency's performance plan. The lead agency also shall report annually to the Secretary on the performance of the State under the lead agency's performance plan. This report is called the Part C Annual Performance Report (Part C APR).

Dated: May 24, 2017.

Tomakie Washington,

Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.

[FR Doc. 2017–11100 Filed 5–26–17; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2017–ICCD–0039]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and approval; Comment Request; School Survey on Crime and Safety (SSOCS) 2018 and 2020

AGENCY: National Center for Education Statistics (NCES), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing a revision of an existing information collection.

DATES: Interested persons are invited to submit comments on or before June 29, 2017.

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–2017–ICCD–0039. 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 224–84, 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: School Survey on Crime and Safety (SSOCS) 2018 and 2020.

OMB Control Number: 1850–0761.

Type of Review: A revision of an existing information collection.

Respondents/Affected Public: Individual or Households.

Total Estimated Number of Annual Responses: 7,692.

Total Estimated Number of Annual Burden Hours: 2,974.

Abstract: The School Survey on Crime and Safety (SSOCS) is a nationally representative survey of elementary and secondary school principals that serves as the primary source of school-level data on crime and safety in public schools. SSOCS is the only recurring federal survey collecting detailed information on the incidence, frequency, seriousness, and nature of violence affecting students and school personnel from the school's perspective. Data are also collected on frequency and types of disciplinary actions taken for select offenses; perceptions of other disciplinary problems, such as bullying, verbal abuse and disorder in the classroom; the presence and role of school security staff; parent and community involvement; staff training; mental health services available to students; and, school policies and programs concerning crime and safety. Prior administrations of SSOCS were conducted in 2000, 2004, 2006, 2008, 2010, and 2016. This request is to conduct the 2018 and 2020 administrations of SSOCS.

Dated: May 24, 2017.

Kate Mullan,

Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.

[FR Doc. 2017–11043 Filed 5–26–17; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Applications for New Awards; Education Research and Special Education Research Grant Programs

AGENCY: Institute of Education Sciences, Department of Education.

ACTION: Notice.

SUMMARY: The Department of Education is issuing a notice inviting applications for new awards for fiscal year (FY) 2018 for the Education Research and Special Education Research Grant Programs, Catalog of Federal Domestic Assistance (CFDA) numbers 84.305A, 84.305C, 84.305H, 84.305L, 84.324A, 84.324B, 84.324L, and 84.324N.

DATES: The dates when applications are available and the deadlines for transmittal of applications invited under this notice are indicated in the chart at the end of this notice and in the Requests for Applications (RFAs) that are posted at the following Web sites: *http://ies.ed.gov/funding* and *www.ed.gov/aout/offices/list/ies/programs.html.*

FOR FURTHER INFORMATION CONTACT: The contact person associated with a particular research competition is listed in the chart at the end of this notice, as well as in the relevant RFA and application package.

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service, toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The Institute's purpose in awarding these grants is to provide national leadership in expanding fundamental knowledge and understanding of (1) developmental and school readiness outcomes for infants and toddlers with or at risk for a disability, and (2) education outcomes for all students from early childhood education through postsecondary and adult education. The Institute's research grant programs are designed to provide interested individuals and the general public with reliable and valid information about education practices that support learning and improve academic achievement and access to education opportunities for all students. These interested individuals include parents, educators, students, researchers, and policymakers. In carrying out its grant programs, the Institute provides support for programs of research in areas of demonstrated national need.

Competitions in This Notice: The Institute will conduct 10 research competitions in FY 2018 through two of its centers:

The Institute's National Center for Education Research (NCER) will hold five competitions: One competition for education research; one competition for education research and development centers; one competition for partnerships and collaborations focused on problems of practice or policy; and two competitions for low-cost, short-duration evaluation of education interventions.

The Institute's National Center for Special Education Research (NCSER) will hold five competitions: One competition for special education research; one competition for research training programs in special education; two competitions for low-cost, short-duration evaluation of special education interventions; and one competition for research networks focused on critical problems of policy and practice in special education.

NCER Competitions

The Education Research Competition. Under this competition, NCER will consider only applications that address one of the following 12 topics:

- Cognition and Student Learning.
- Early Learning Programs and Policies.
- Education Leadership.

- Education Technology.
- Effective Teachers and Effective Teaching.
- English Learners.
- Improving Education Systems.
- Postsecondary and Adult Education.
- Reading and Writing.
- Science, Technology, Engineering, and Mathematics Education.
- Social and Behavioral Context for Academic Learning.
- Special Topics, which include:
- Arts in Education.
- Career and Technical Education.
- Systemic Approaches to Educating Highly Mobile Students.

The Education Research and Development Centers Competition. Under this competition, NCER will consider only applications that address one of the following four topics:

- Improving Education Outcomes for Disadvantaged

Students in Choice Schools.

- Improving Rural Education.
- Writing in Secondary Schools.
- Exploring Science Teaching in Elementary School Classrooms.

The Partnerships and Collaborations Focused on Problems of Practice or Policy Competition. Under this competition, NCER will consider only applications that address one of the following two topics:

- Researcher-Practitioner Partnerships in Education Research.
- Evaluation of State and Local Education Programs and Policies.

The Low-Cost, Short-Duration Evaluation of Education Interventions Competition. Under these two competitions, NCER will consider only applications that address low-cost, short-duration evaluation of education interventions.

NCSER Competitions

The Special Education Research Competition. Under this competition, NCSER will consider only applications that address one of the following 11 topics:

- Autism Spectrum Disorders.
- Cognition and Student Learning in Special Education.
- Early Intervention and Early Learning in Special Education.
- Families of Children with Disabilities.
- Mathematics and Science Education.
- Professional Development for Teachers and School-Based Service Providers.
- Reading, Writing, and Language Development.
- Social and Behavioral Outcomes to Support Learning.
- Special Education Policy, Finance, and Systems.
- Technology for Special Education.
- Transition Outcomes for Secondary Students with Disabilities.

The Research Training Programs in Special Education Competition. Under this competition, NCSER will consider only applications that address one of the following three topics:

- Postdoctoral Research Training Program in Special Education and Early Intervention.
- Early Career Development and Mentoring.
- Methods Training Using Sequential, Multiple Assignment, Randomized Trial (SMART) Designs for Adaptive Interventions in Education.

The Low-Cost, Short-Duration Evaluation of Special Education Interventions Competition. Under these two competitions, NCSER will consider only applications that address low-cost, short-duration evaluation of special education interventions.

The Research Networks Focused on Critical Problems of Policy and Practice in Special Education Competition. Under this competition, NCSER will consider only applications that address research on Multi-Tiered Systems of Support under one of the following two topics:

- Network Lead.
- Research Team.

Program Authority: 20 U.S.C. 9501 *et seq.*

Applicable Regulations: (a) The Education Department General Administrative Regulations in 34 CFR parts 77, 81, 82, 84, 86, 97, 98, and 99. In addition, the regulations in 34 CFR part 75 are applicable, except for the provisions in 34 CFR 75.100, 75.101(b), 75.102, 75.103, 75.105, 75.109(a), 75.200, 75.201, 75.209, 75.210, 75.211, 75.217(a)–(c), 75.219, 75.220, 75.221, 75.222, and 75.230. (b) The Office of Management and Budget Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485. (c) The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200, as adopted and amended in 2 CFR part 3474.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education only.

II. Award Information

Types of Awards: Discretionary grants and cooperative agreements.

Fiscal Information: Although Congress has not yet enacted an appropriation for FY 2018, the Institute is inviting applications for these competitions now so that applicants can have adequate time to prepare their applications. The Department may announce additional topics later in 2017. The actual award of grants will depend on the availability of funds.

Estimated Range of Awards: See chart at the end of this notice.

Estimated Size and Number of Awards: The size of the awards will depend on the scope of the projects proposed. The number of awards made under each competition will depend on the quality of the applications received for that competition, the availability of funds, and the following limits on awards for specific competitions and topics set by the Institute. See the chart at the end of this notice for additional information.

The Institute may waive any of the following limits on awards for a specific competition or topic in the special case that the peer review process results in a tie between two or more grant applications, making it impossible to adhere to the limits without funding only some of the equally ranked applications. In that case, the Institute may make a larger number of awards to include all applications of the same rank.

For NCER's Education Research and Development Center competition, we intend to fund one grant under the Choice Schools topic, one grant under the Rural Education topic, one grant under the Writing topic, and one grant under the Science Teaching topic.

For NCSER's Research Training Programs in Special Education competition, we intend to fund no more than one grant under the Methods Training Using SMART Designs for Adaptive Interventions in Education topic.

For NCSER's Research Networks Focused on Critical Problems of Policy and Practice in Special Education competition, we intend to fund one Network Lead grant and up to four Research Team grants. At least two Research Team grants are needed to form the Network. If only one Research Team grant is awarded, the grantee will conduct the project independently. No Network Lead grant will be awarded unless at least two Research Team grants are awarded.

Contingent on the availability of funds and the quality of applications, we may make additional awards in FY 2019 from the list of highly-rated unfunded applications from the FY 2018 competitions.

Note: The Department is not bound by any estimates in this notice.

Project Period: See chart at the end of this notice.

III. Eligibility Information

1. *Eligible Applicants:* Applicants that have the ability and capacity to conduct scientifically valid research are eligible to apply. Eligible applicants include, but are not limited to, nonprofit and for-profit organizations and public and private agencies and institutions of higher education, such as colleges and universities.

2. *Cost Sharing or Matching:* These programs do not require cost sharing or matching.

IV. Application and Submission Information

1. *Request for Applications and Other Information:* Information regarding program and application requirements for the competitions will be contained in the NCER and NCSER RFAs, which will be available on or before June 8, 2017 on the Institute's Web site at: *http://ies.ed.gov/funding/.* Each competition will have its own application package. The dates on which the application packages for these competitions will be available are indicated in the chart at the end of this notice.

The selection criteria and review procedures for the competitions are contained in the RFAs. The RFAs also include information on the maximum award available under each grant competition. Applications that include proposed budgets higher than the relevant maximum award will not be considered for an award.

Individuals with disabilities can obtain a copy of the application package in an accessible format (*e.g.,* Braille, large print, audiotape, or compact disc) by contacting the person listed under **FOR FURTHER INFORMATION CONTACT** in the chart at the end of this notice.

2. *Content and Form of Application Submission:* Requirements concerning the content of an application are contained in the RFA for the specific competition. The forms that must be submitted are in the application package for the specific competition.

3. *Submission Dates and Times:* The deadline date for transmittal of applications for each competition is indicated in the chart at the end of this notice and in the RFAs for the competitions.

We do not consider an application that does not comply with the deadline requirements.

Application packages for grants under these competitions must be obtained from and submitted electronically using the *Grants.gov* Apply site (*www.Grants.gov*). For information (including dates and times) about how to submit your application package electronically, or in paper format by mail or hand delivery if you qualify for an exception to the electronic submission requirement, please refer to the *Other Submission Requirements* section below.

Individuals with disabilities who need an accommodation or auxiliary aid in connection with the application process should contact the person listed under **FOR FURTHER INFORMATION CONTACT** in the chart at the end of this notice. If the Department provides an accommodation or auxiliary aid to an individual with a disability in connection with the application process, the individual's application remains subject to all other requirements and limitations in this notice.

4. *Intergovernmental Review:* These competitions are not subject to Executive Order 12372 and the regulations in CFR part 79.

5. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

6. *Data Universal Numbering System Number, Taxpayer Identification Number, and System for Award Management:* To do business with the Department of Education, you must—

a. Have a Data Universal Numbering System (DUNS) number and a Taxpayer Identification Number (TIN);

b. Register both your DUNS number and TIN with the System for Award Management (SAM), the Government's primary registrant database;

c. Provide your DUNS number and TIN on your application; and

d. Maintain an active SAM registration with current information while your application is under review by the Department and, if you are awarded a grant, during the project period.

You can obtain a DUNS number from Dun and Bradstreet at the following Web site: *http://fedgov.dnb.com/webform.* A DUNS number can be created within one to two business days.

If you are a corporate entity, agency, institution, or organization, you can obtain a TIN from the Internal Revenue Service. If you are an individual, you can obtain a TIN from the Internal Revenue Service or the Social Security Administration. If you need a new TIN, please allow two to five weeks for your TIN to become active.

The SAM registration process can take approximately seven business days, but may take upwards of several weeks, depending on the completeness and accuracy of the data you enter into the SAM database. Thus, if you think you might want to apply for Federal financial assistance under a program administered by the Department, please allow sufficient time to obtain and register your DUNS number and TIN. We strongly recommend that you register early.

Note: Once your SAM registration is active, it may be 24 to 48 hours before you can access the information in, and submit an application through, *Grants.gov*.

If you are currently registered with SAM, you may not need to make any changes. However, please make certain that the TIN associated with your DUNS number is correct. Also, note that you will need to update your registration annually. This may take three or more business days.

Information about SAM is available at *www.SAM.gov*. To further assist you with obtaining and registering your DUNS number and TIN in SAM or updating your existing SAM account, we have prepared a *SAM.gov* Tip Sheet, which you can find at: *www2.ed.gov/fund/grant/apply/sam-faqs.html.*

In addition, if you are submitting your application via *Grants.gov*, you must (1) be designated by your organization as an Authorized Organization Representative (AOR); and (2) register yourself with *Grants.gov* as an AOR. Details on these steps are outlined at the following *Grants.gov* Web page: *www.grants.gov/web/grants/register.html.*

7. *Other Submission Requirements:* Applications for grants under these competitions must be submitted electronically unless you qualify for an exception to this requirement in accordance with the instructions in this section.

a. Electronic Submission of Applications

Applications to the grant competitions contained in this notice must be submitted electronically using the Governmentwide *Grants.gov* Apply site at *www.Grants.gov*. Through this site, you will be able to download a copy of the application package, complete it offline, and then upload and submit your application. You may not email an electronic copy of a grant application to us.

We will reject your application if you submit it in paper format unless, as described elsewhere in this section, you qualify for one of the exceptions to the electronic submission requirement *and* submit, no later than two weeks before the application deadline date, a written statement to the Department that you qualify for one of these exceptions.

Further information regarding calculation of the date that is two weeks before the application deadline date is provided later in this section under *Exception to Electronic Submission Requirement.*

You may access the electronic grant applications for the grant competitions contained in this notice at *www.Grants.gov*. You must search for the downloadable application package for each competition by the CFDA number. Do not include the CFDA number's alpha suffix in your search (*e.g.,* search for 84.305, not 84.305A).

Please note the following:

- When you enter the *Grants.gov* site, you will find information about submitting an application electronically through the site, as well as the hours of operation.
- Applications received by *Grants.gov* are date and time stamped. Your application must be fully uploaded and submitted and must be date and time stamped by the *Grants.gov* system no later than 4:30 p.m., Washington, DC time, on the application deadline date. Except as otherwise noted in this section, we will not accept your application if it is received—that is, date and time stamped by the *Grants.gov* system—after 4:30 p.m., Washington, DC time, on the application deadline date. We do not consider an application that does not comply with the deadline requirements. When we retrieve your application from *Grants.gov*, we will notify you if we are rejecting your application because it was date and time stamped by the *Grants.gov* system after 4:30 p.m., Washington, DC time, on the application deadline date.
- The amount of time it can take to upload an application will vary depending on a variety of factors, including the size of the application and the speed of your internet connection. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the submission process through *Grants.gov*.
- You should review and follow the Education Submission Procedures for submitting an application through *Grants.gov* that are included in the application package for the competition to ensure that you submit your application in a timely manner to the *Grants.gov* system. You can also find the Education Submission Procedures pertaining to *Grants.gov* under News and Events on the Department's G5 system home page at *www.G5.gov*. In addition, for specific guidance and procedures for submitting an application through *Grants.gov*, please refer to the *Grants.gov* Web site at: *www.grants.gov/web/grants/applicants/apply-for-grants.html.*
- You will not receive additional point value because you submit your application in electronic format, nor will we penalize you if you qualify for an exception to the electronic submission requirement, as described elsewhere in this section, and submit your application in paper format.
- You must submit all documents electronically, including all information you typically provide on the following forms: The Application for Federal Assistance (SF 424), the Department of Education Supplemental Information for SF 424, Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications.
- You must upload any narrative sections and all other attachments to your application as files in a read-only Portable Document Format (PDF). Do not upload an interactive or fillable PDF file. Any fillable PDF documents must be saved as flattened non-fillable files. If you upload a file type other than a read-only PDF (*e.g.,* Word, Excel, WordPerfect, etc.) or submit a password-protected file, we will not review that material. Please note that this could result in your application not being considered for funding because the material in question—for example, the project narrative—is critical to a meaningful review of your proposal. For that reason it is important to allow yourself adequate time to upload all material as PDF files. The Department will not convert material from other formats to PDF.
- After you electronically submit your application, you will receive from *Grants.gov* an automatic notification of receipt that contains a *Grants.gov* tracking number. (This notification indicates receipt by *Grants.gov* only, not receipt by the Department.) *Grants.gov* will also notify you automatically by email if your application met all the *Grants.gov* validation requirements or if there were any errors (such as submission of your application by someone other than a registered Authorized Organization Representative, or inclusion of an attachment with a file name that contains special characters). You will be given an opportunity to correct any errors and resubmit, but you must still meet the deadline for submission of applications.

Once your application is successfully validated by *Grants.gov*, the Department will retrieve your application from *Grants.gov* and send you an email with a unique PR/Award number for your application.

These emails do not mean that your application is without any disqualifying errors. While your application may have been successfully validated by *Grants.gov*, it must also meet the Department's application requirements as specified in this notice and in the application instructions. Disqualifying errors could include, for instance, failure to upload attachments in a read-only, PDF; failure to submit a required part of the application; or failure to meet applicant eligibility requirements. It is your responsibility to ensure that your submitted application has met all of the Department's requirements.

- We may request that you provide us original signatures on forms at a later date.

Application Deadline Date Extension in Case of Technical Issues with the Grants.gov System: If you are experiencing problems submitting your application through *Grants.gov*, please contact the *Grants.gov* Support Desk, toll free, at 1–800–518–4726. You must obtain a *Grants.gov* Support Desk Case Number and must keep a record of it.

If you are prevented from electronically submitting your application on the application deadline date because of technical problems with the *Grants.gov* system, we will grant you an extension until 4:30 p.m., Washington, DC time, the following business day to enable you to transmit your application electronically or by hand delivery. You also may mail your application by following the mailing instructions described elsewhere in this notice.

If you submit an application after 4:30 p.m., Washington, DC time, on the application deadline date, please contact the person listed under **FOR FURTHER INFORMATION CONTACT** and provide an explanation of the technical problem you experienced with *Grants.gov*, along with the *Grants.gov* Support Desk Case Number. We will accept your application if we can confirm that a technical problem occurred with the *Grants.gov* system and that the problem affected your ability to submit your application by 4:30 p.m., Washington, DC time, on the application deadline date. We will contact you after we determine whether your application will be accepted.

Note: The extensions to which we refer in this section apply only to the unavailability of, or technical problems with, the *Grants.gov* system. We will not grant you an extension if you failed to fully register to submit your application to *Grants.gov* before the application deadline date and time or if the technical problem you experienced is unrelated to the *Grants.gov* system.

Exception to Electronic Submission Requirement: You qualify for an exception to the electronic submission requirement, and may submit your application in paper format, if you are unable to submit an application through the *Grants.gov* system because—

- You do not have access to the internet; or
- You do not have the capacity to upload large documents to the *Grants.gov* system; and
- No later than two weeks before the application deadline date (14 calendar days or, if the fourteenth calendar day before the application deadline date falls on a Federal holiday, the next business day following the Federal holiday), you mail or fax a written statement to the Department, explaining which of the two grounds for an exception prevents you from using the internet to submit your application.

If you mail your written statement to the Department, it must be postmarked no later than two weeks before the application deadline date. If you fax your written statement to the Department, we must receive the faxed statement no later than two weeks before the application deadline date.

Address and mail or fax your statement to: Ellie Pelaez, U.S. Department of Education, 550 12th Street SW., Potomac Center Plaza, Room 4107, Washington, DC 20202.

Fax: 202–245–6752.

Your paper application must be submitted in accordance with the mail or hand delivery instructions described in this notice.

b. Submission of Paper Applications by Mail

If you qualify for an exception to the electronic submission requirement, you may mail (through the U.S. Postal Service or a commercial carrier) your application to the Department. You must mail the original and two copies of your application, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number: [*Identify the CFDA number, including suffix letter, for the competition under which you are applying.*]), LBJ Basement Level 1, 400 Maryland Avenue SW., Washington, DC 20202–4260.

You must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

We will not consider applications postmarked after the application deadline date.

c. Submission of Paper Applications by Hand Delivery

If you qualify for an exception to the electronic submission requirement, you (or a courier service) may deliver your paper application to the Department by hand. You must deliver the original and two copies of your application by hand, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number: [*Identify the CFDA number, including suffix letter, for the competition under which you are applying.*]), 550 12th Street SW., Room 7039, Potomac Center Plaza, Washington, DC 20202–4260.

The Application Control Center accepts hand deliveries daily between 8:00 a.m. and 4:30 p.m., Washington, DC time, except Saturdays, Sundays, and Federal holidays.

Note for Mail or Hand Delivery of Paper Applications: If you mail or hand deliver your application to the Department—

(1) You must indicate on the envelope and—if not provided by the Department—in Item 11 of the SF 424 the CFDA number, including suffix letter, if any, of the competition under which you are submitting your application; and

(2) The Application Control Center will mail to you a notification of receipt of your grant application. If you do not receive this notification within 15 business days from the application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245–6288.

V. Application Review Information

1. *Selection Criteria:* The selection criteria for these competitions are provided in the RFAs.

2. *Review and Selection Process:* We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary also requires various assurances including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department of Education (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

3. *Risk Assessment and Special Conditions:* Consistent with 2 CFR 200.205, before awarding grants under these competitions the Department conducts a review of the risks posed by applicants. Under 2 CFR 3474.10, the Secretary may impose special conditions and, in appropriate circumstances, high-risk conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 2 CFR part 200, subpart D; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

4. *Integrity and Performance System:* If you are selected under this competition to receive an award that over the course of the project period may exceed the simplified acquisition threshold (currently $150,000), under 2 CFR 200.205(a)(2) we must make a judgment about your integrity, business ethics, and record of performance under Federal awards—that is, the risk posed by you as an applicant—before we make an award. In doing so, we must consider any information about you that is in the integrity and performance system (currently referred to as the Federal Awardee Performance and Integrity Information System (FAPIIS)), accessible through SAM. You may review and comment on any information about yourself that a Federal agency previously entered and that is currently in FAPIIS.

Please note that, if the total value of your currently active grants, cooperative agreements, and procurement contracts from the Federal Government exceeds $10,000,000, the reporting requirements in 2 CFR part 200, Appendix XII, require you to report certain integrity information to FAPIIS semiannually. Please review the requirements in 2 CFR part 200, Appendix XII, if this grant

plus all the other Federal funds you receive exceed $10,000,000.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN); or we may send you an email containing a link to access an electronic version of your GAN. We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Grant Administration:* Applicants should budget for an annual two-day meeting for project directors to be held in Washington, DC.

4. *Reporting:* (a) If you apply for a grant under one of the competitions announced in this notice, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multiyear award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *www.ed.gov/fund/grant/apply/appforms/appforms.html.*

5. *Performance Measures:* To evaluate the overall success of its education research and special education research grant programs, the Institute annually assesses the percentage of projects that result in peer-reviewed publications, the number of newly developed or modified interventions with evidence of promise for improving student education outcomes, and the number of Institute-supported interventions with evidence of efficacy in improving student outcomes including school readiness outcomes for young children and student academic outcomes and social and behavioral competencies for school-age students. School readiness outcomes include pre-reading, reading, pre-writing, early mathematics, early science, and social-emotional skills that prepare young children for school. Student academic outcomes include learning and achievement in core academic content areas (reading, writing, math, and science) and outcomes that reflect students' successful progression through the education system (*e.g.,* course and grade completion; high school graduation; postsecondary enrollment, progress, and completion). Social and behavioral competencies include social and emotional skills, attitudes, and behaviors that are important to student's academic and post-academic success. Additional education outcomes for students with or at risk of a disability include developmental outcomes for infants and toddlers (birth to age three) pertaining to cognitive, communicative, linguistic, social, emotional, adaptive, functional, or physical development; and developmental and functional outcomes that improve education outcomes, transition to employment, independent living, and postsecondary education for students with disabilities.

6. *Continuation Awards:* In making a continuation award under 34 CFR 75.253, the Secretary considers, among other things: Whether a grantee has made substantial progress in meeting the goals and objectives of the project; whether the grantee has expended funds in a manner that is consistent with its approved application and budget; and, if the Secretary has established performance measurement requirements, whether the grantee has met the performance targets in the grantee's approved application.

In making a continuation award, the Secretary also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

VII. Other Information

Accessible Format: Individuals with disabilities can obtain this document and a copy of the RFA in an accessible format (*e.g.,* Braille, large print, audiotape, or compact disc) on request to the appropriate program contact person listed in the chart at the end of this notice.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. Free internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe PDF. To use PDF you must have Adobe Acrobat Reader, which is available free at this site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: May 24, 2017.

Thomas Brock,

Commissioner of the National Center for Education Research, Delegated the Duties of the Director of the Institute of Education Sciences.

CFDA No. and name	Application package available	Deadline for transmittal of applications	Estimated range of awards*	Project period	For further information contact
National Center for Education Research (NCER)					
84.305A Education Research: ▪ Cognition and Student Learning. ▪ Early Learning Programs and Policies. ▪ Education Leadership. ▪ Education Technology. ▪ Effective Teachers and Effective Teaching. ▪ English Learners. ▪ Improving Education Systems.	June 22, 2017	August 17, 2017	$100,000 to $760,000.	Up to 5 years	Erin Higgins, *Erin.Higgins@ed.gov.*

CFDA No. and name	Application package available	Deadline for transmittal of applications	Estimated range of awards *	Project period	For further information contact
▪ Postsecondary and Adult Education. ▪ Reading and Writing. ▪ Science, Technology, Engineering, and Mathematics Education. ▪ Social and Behavioral Context for Academic Learning. ▪ Special Topics. ○ Arts in Education. ○ Career and Technical Education. ○ Systemic Approaches to Educating Highly Mobile Students.					
84.305C Education Research and Development Centers: ▪ Improving Education Outcomes for Disadvantaged Students in Choice Schools. ▪ Improving Rural Education. ▪ Writing in Secondary Schools. ▪ Exploring Science Teaching in Elementary School Classrooms.	July 13, 2017	September 21, 2017.	$1,000,000 to $2,000,000.	Up to 5 years	Corinne Alfed, *Corinne.Alfed@ed.gov*.
84.305H Partnerships and Collaborations Focused on Problems of Practice or Policy: ▪ Researcher-Practitioner Partnerships in Education Research. ▪ Evaluation of State and Local Education Programs and Policies.	June 22, 2017	August 17, 2017	$50,000 to $1,000,000.	Up to 5 years	Allen Ruby, *Allen.Ruby@ed.gov*.
84.305L–1 Low-Cost, Short-Duration Evaluation of Education Interventions	June 22, 2017	August 3, 2017	$50,000 to $125,000.	Up to 2 years	Phill Gagne, *Phill.Gagne@ed.gov*.
84.305L–2 Low-Cost, Short-Duration Evaluation of Education Interventions	January 11, 2018 ...	March 1, 2018	$50,000 to $125,000.	Up to 2 years	Phill Gagne, *Phill.Gagne@ed.gov*.
National Center for Special Education Research (NCSER)					
84.324A Special Education Research: ▪ Autism Spectrum Disorders. ▪ Cognition and Student Learning in Special Education. ▪ Early Intervention and Early Learning in Special Education. ▪ Families of Children with Disabilities. ▪ Mathematics and Science Education. ▪ Professional Development for Teachers and School-Based Service Providers. ▪ Reading, Writing, and Language Development. ▪ Social and Behavioral Outcomes to Support Learning. ▪ Special Education Policy, Finance, and Systems. ▪ Technology for Special Education. ▪ Transition Outcomes for Secondary Students with Disabilities.	June 22, 2017	August 17, 2017	$100,000 to $760,000.	Up to 5 years	Sarah Brasiel, *Sarah.Brasiel@ed.gov*.
84.324B Research Training Programs in Special Education: ▪ Postdoctoral Research Training Program in Special Education and Early Intervention. ▪ Early Career Development and Mentoring. ▪ Methods Training Using Sequential, Multiple Assignment, Randomized Trial (SMART) Designs for Adaptive Interventions in Education.	June 22, 2017	August 17, 2017	$100,000 to $225,000.	Up to 5 years	Katherine Taylor, *Katherine.Taylor@ed.gov*.
84.324L–1 Low-Cost, Short-Duration Evaluation of Special Education Interventions	June 22, 2017	August 3, 2017	$50,000 to $125,000.	Up to 2 years	Kimberley Sprague, *Kimberley.Sprague@ed.gov*.
84.324L–2 Low-Cost, Short-Duration Evaluation of Special Education Interventions	January 11, 2018 ...	March 1, 2018	$50,000 to $125,000.	Up to 2 years	Kimberley Sprague, *Kimberley.Sprague@ed.gov*.
84.324N Research Networks Focused on Critical Problems of Policy and Practice in Special Education ▪ Network Lead. ▪ Research Team.	July 13, 2017	September 21, 2017.	$300,000 to $1,000,000.	Up to 5 years	Amy Sussman, *Amy.Sussman@ed.gov*.

* These estimates are annual amounts.

Note: The Department is not bound by any estimates in this notice.

Note: If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service, toll free, at 1–800–877–8339.

[FR Doc. 2017–11107 Filed 5–26–17; 8:45 am]

BILLING CODE 4000–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–TRI–2017–0057; FRL–9961–07]

Agency Information Collection Activities; Proposed Renewal of an Existing Collection; Comment Request

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA), this document announces that EPA is planning to submit an Information Collection Request (ICR) to the Office of Management and Budget (OMB). The ICR, entitled: ''Toxic Chemical Release Reporting and Renewals of Form R, Form A, and Form R Schedule 1'' and identified by EPA ICR No. 1363.26 and OMB Control No. 2025–0009, represents the renewal of an existing ICR that is scheduled to expire on November 30, 2017. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection that is summarized in this document. The ICR and accompanying material are available in the docket for public review and comment.

DATES: Comments must be received on or before July 31, 2017.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–TRI–2017–0057, 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 Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.
- *Mail:* Document Control Office (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 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.*

FOR FURTHER INFORMATION CONTACT: *For technical information contact:* Cassandra Vail, Toxics Release Inventory Program Division (7410M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (202) 566–0753; email address: *vail.cassandra@epa.gov.*

For general information contact: The Emergency Planning and Community Right-to-Know Act (EPCRA) Hotline; telephone numbers: Toll free at (800) 424–9346 (select menu option 3) or (703) 412–9810 in the Washington, DC area and international; or toll free, TDD (800) 553–7672; or go to *http://www.epa.gov/superfund/contacts/infocenter.*

SUPPLEMENTARY INFORMATION:

I. What information is EPA particularly interested in?

Pursuant to PRA section 3506(c)(2)(A) (44 U.S.C. 3506(c)(2)(A)), EPA specifically solicits comments and information to enable it to:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility.

2. Evaluate the accuracy of the Agency's estimates 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.

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. In particular, EPA is requesting comments from very small businesses (those that employ less than 25) on examples of specific additional efforts that EPA could make to reduce the paperwork burden for very small businesses affected by this collection.

II. What information collection activity or ICR does this action apply to?

Title: Toxic Chemical Release Reporting and Renewals of Form R, Form A, and Form R Schedule 1.

ICR number: EPA ICR No. 1363.26.

OMB control number: OMB Control No. 2025–0009.

ICR status: This ICR is currently scheduled to expire on November 30, 2017. 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 OMB control numbers for EPA's regulations in title 40 of the Code of Federal Regulations (CFR), after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers for certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: Pursuant to section 313 of the Emergency Planning and Community Right-to-Know Act (EPCRA), certain facilities that manufacture, process, or otherwise use specified toxic chemicals in amounts above reporting threshold levels must submit annually to EPA and to designated State or Tribal officials toxic chemical release forms containing information specified by EPA. 42 U.S.C. 11023. In addition, pursuant to section 6607 of the Pollution Prevention Act (PPA), facilities reporting under section 313 of EPCRA must also report pollution prevention and waste management data, including recycling information, for such chemicals; see 42 U.S.C. 13106. EPA compiles and stores these reports in a publicly accessible database known as the Toxics Release Inventory (TRI). Regulations at 40 CFR part 372, subpart B, require facilities that meet all of the following criteria to report:

1. The facility has 10 or more fulltime employee equivalents (*i.e.,* a total of 20,000 hours worked per year or greater; see 40 CFR 372.3); and

2. The facility is included in a North American Industry Classification System (NAICS) Code listed at 40 CFR 372.23 or under Executive Order 13693, federal facilities regardless of their industry classification; and

3. The facility manufactures (defined to include importing), processes, or otherwise uses any EPCRA section 313 (TRI) chemical in quantities greater than the established thresholds for the specific chemical in the course of a calendar year.

Facilities that meet these criteria must file a Form R report or, in some cases, may submit a Form A Certification Statement, for each listed toxic chemical for which the criteria are met. As specified in EPCRA section 313(a), facilities must submit reports for any calendar year on or before July 1 of the following year. For example, reporting year 2015 data should have been submitted and certified on or before July 1, 2016.

EPA maintains the list of toxic chemicals subject to TRI reporting at 40 CFR 372.65 and the Agency publishes this list each year as Table II in the

Toxics Release Inventory Reporting Forms and Instructions. The current TRI chemical list contains 595 chemicals and 31 chemical categories. Environmental agencies, industry, and the public use TRI data for a wide variety of purposes. EPA program offices use TRI data, along with other data, to help establish programmatic priorities, evaluate potential hazards to human health and the natural environment, and undertake appropriate regulatory and/or enforcement activities. Environmental and public interest groups use the data to better understand toxic chemical releases at the community level and to work with industry, government agencies, and others to promote reductions in toxic chemical releases. Industrial facilities use the TRI data to evaluate the efficiency of their production processes and to help track and communicate their progress in achieving pollution prevention goals.

The TRI data are unique in providing a multi-media (air, water, and land) picture of toxic chemical releases, transfers, and other waste management activities by covered facilities on a yearly basis. While other environmental media programs provide some toxic chemical data and related permit data, TRI data are unique with regard to the types of chemicals and industry sectors covered as well as the frequency of reporting. Facilities subject to TRI reporting must submit reports for each calendar year to EPA and the State or Indian Country in which they are located by July 1 of the following year.

Respondents may claim trade secrecy for a chemical's identity as described in EPCRA Section 322 and its implementing regulations in 40 CFR part 350. EPA will disclose information covered by a claim of trade secrecy only to the extent permitted by and in accordance with the procedures in 40 CFR part 350 and 40 CFR part 2).

Burden statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to range between 22.0 hours and 35.7 hours per response, depending upon the nature of the response. Burden is defined in 5 CFR 1320.3(b).

The ICR, which is available in the docket along with other related materials, provides a detailed explanation of the collection activities and the burden estimate that is only briefly summarized here:

Respondents/Affected Entities: Entities potentially affected by this ICR are facilities that submit annual reports under section 313 of EPCRA and section 6607 of PPA.

Estimated total number of potential respondents: 21,856.

Frequency of response: Annual.

Estimated total average number of responses for each respondent: 3.5.

Estimated total annual burden hours: 3,597,275 hours.

Estimated total annual costs: $199,217,090. This includes an estimated burden cost of $199,217,090 and an estimated cost of $0 for capital investment or maintenance and operational costs.

III. Are there changes in the estimates from the last approval?

There is an increase of 41,277 hours (from 3,555,998 hours to 3,597,275 hours) in the total estimated respondent burden compared with that identified in the ICR currently approved by OMB. This increase reflects a slight increase in the number of facilities reporting to TRI. This change is an adjustment.

IV. What changes does this ICR propose?

OMB approved the ICR for Form R, the Form A Certification Statement, and Form R Schedule 1 on November 24, 2014, with the expiration date of November 30, 2017. EPA proposes making several changes to the TRI reporting forms and associated instructions. These revisions are aimed at improving the user experience by clarifying the intent of questions.

1. Provide Bureau of Indian Affairs (BIA) code as a separate element on the form. (Part I: Section 4.1)

2. When reporting a metal compound, indicate whether report also includes the elemental metal. (Part II: Section 1)

3. Add sub-categories of uses. (Part II: Sections 3.2a, b and Sections 3.3a, b, c)

4. Add finer gradation for range codes used for Maximum Amount of the EPCRA Section 313 Chemical On-site at Any Time during the Calendar Year. (Part II: Section 4)

5. Add management codes for the transfer of waste to POTWs. (Part II: Section 6.1)

6. Separate 8.8 into separate boxes for quantities associated with (1) remedial actions, (2) catastrophic events, and (3) one-time events not associated with production processes. (Part II: Section 8.8)

7. When reporting an air release of chromium, indicate whether the release contains Chromium-VI (hexavalent chromium). (Part II: Section 9.1)

8. Add a free text field for each chemical listed on Form A. (Part II: Section 3)

9. Add a free text field for facility-level info on Form A. (Part III: Section 1.1)

V. What is the next step in the process for this ICR?

EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval pursuant to 5 CFR 1320.12. EPA will issue another **Federal Register** document pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB. If you have any questions about this ICR or the approval process, please contact the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

Authority: 44 U.S.C. 3501 *et seq.*

Dated: April 14, 2017.

Wendy C. Hamnett,

Acting Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

[FR Doc. 2017–11086 Filed 5–26–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–ORD–2015–0765; FRL–9963–33–ORD]

Request for Nominations of Experts to the EPA Office of Research and Development's Board of Scientific Counselors; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; correction.

SUMMARY: The U.S. Environmental Protection Agency (EPA) published a notice seeking nominations for technical experts to serve on its Board of Scientific Counselors (BOSC), a federal advisory committee to the Office of Research and Development (ORD) in the **Federal Register** on May 25, 2017. An error in the date for submitting nominations via the BOSC Web site is identified and corrected in this action.

FOR FURTHER INFORMATION CONTACT: Any member of the public needing additional information regarding this Notice and Request for Nominations may contact Mr. Tom Tracy, Office of Science Policy, Office of Research and Development, Mail Code 8104–R, Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460; via phone/voice mail at: (202) 564–6518; via fax at: (202) 565–2911; or via email at: *tracy.tom@epa.gov.* General information concerning the BOSC can be found at the following Web site: *https://www.epa.gov/bosc.*

Correction

In the notice FR Doc. 2017–10672, published in the issue of Thursday, May 25, 2017 (82 FR 24120), make the following correction:

On page 24121, in the third column, first full paragraph, in the ninth line, remove the date ''July 21, 2017'' and add in its place the date ''June 30, 2017''.

Dated: May 25, 2017.

Nicole Owens,

Director, Office of Regulatory Management Division.

[FR Doc. 2017–11166 Filed 5–25–17; 11:15 am]

BILLING CODE 6560–50–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice to All Interested Parties of the Termination of the Receivership of 10086—Security Bank of Gwinnett County, Suwanee, Georgia

Notice is hereby given that the Federal Deposit Insurance Corporation (''FDIC'') as Receiver for Security Bank of Gwinnett County, Suwanee, Georgia (''the Receiver'') intends to terminate its receivership for said institution. The FDIC was appointed receiver of Security Bank of Gwinnett County on July 24, 2009. The liquidation of the receivership assets has been completed. To the extent permitted by available funds and in accordance with law, the Receiver will be making a final dividend payment to proven creditors.

Based upon the foregoing, the Receiver has determined that the continued existence of the receivership will serve no useful purpose. Consequently, notice is given that the receivership shall be terminated, to be effective no sooner than thirty days after the date of this Notice. If any person wishes to comment concerning the termination of the receivership, such comment must be made in writing and sent within thirty days of the date of this Notice to: Federal Deposit Insurance Corporation, Division of Resolutions and Receiverships, Attention: Receivership Oversight Department 34.6, 1601 Bryan Street, Dallas, TX 75201.

No comments concerning the termination of this receivership will be considered which are not sent within this time frame.

Dated: May 24, 2017.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2017–11062 Filed 5–26–17; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 26, 2017.

A. Federal Reserve Bank of San Francisco (Gerald C. Tsai, Director, Applications and Enforcement) 101 Market Street, San Francisco, California 94105–1579:

1. *Farmers & Merchants Bancorp,* Lodi, California; to acquire 39.45 percent of the outstanding voting shares of Bank of Rio Vista, Rio Vista, California.

Board of Governors of the Federal Reserve System, May 24, 2017.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2017–11038 Filed 5–26–17; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Agency for Healthcare Research and Quality, HHS.

ACTION: Notice.

SUMMARY: This notice announces the intention of the Agency for Healthcare Research and Quality (AHRQ) to request that the Office of Management and Budget (OMB) approve the proposed information collection project: ''*Voluntary Customer Survey Generic Clearance for the Agency for Healthcare Research and Quality.*''

DATES: Comments on this notice must be received by July 31, 2017.

ADDRESSES: Written comments should be submitted to: Doris Lefkowitz, Reports Clearance Officer, AHRQ, by email at *doris.lefkowitz@AHRQ.hhs.gov*.

Copies of the proposed collection plans, data collection instruments, and specific details on the estimated burden can be obtained from the AHRQ Reports Clearance Officer.

FOR FURTHER INFORMATION CONTACT: Doris Lefkowitz, AHRQ Reports Clearance Officer, (301) 427–1477, or by email at *doris.lefkowitz@AHRQ.hhs.gov*.

SUPPLEMENTARY INFORMATION:

Proposed Project

Voluntary Customer Survey Generic Clearance for the Agency for Healthcare Research and Quality

In accordance with the Paperwork Reduction Act, 44 U.S.C. 3501–3520, AHRQ invites the public to comment on this proposed information collection. This is a request for the Office of Management and Budget (OMB) to re-approve for an additional 3 years, under the Paperwork Reduction Act of 1995, the generic clearance for the Agency for Healthcare Research and Quality (AHRQ) to survey the users of AHRQ's work products and services, OMB control number 0935–0106. The current clearance was approved on November 12, 2014 and will expire on November 30, 2017.

AHRQ will undertake customer surveys to assess its work products and services provided to its customers, to identify problem areas, and to determine how they can be improved. Surveys conducted under this generic clearance are not required by regulation and will not be used by AHRQ to

regulate or sanction its customers. Surveys will be entirely voluntary, and information provided by respondents will be combined and summarized so that no individually identifiable information will be released. Proposed information collections submitted under this generic clearance will be reviewed and acted upon by OMB within 14 days of submission.

Method of Collection

The information collected through focus groups and voluntary customer surveys will be used by AHRQ to identify strengths and weaknesses in products and services to make improvements that are practical and feasible. Information from these customer surveys will be used to plan and redirect resources and efforts to improve or maintain a high quality of service to the lay and health professional public.

Estimated Annual Respondent Burden

Exhibit 1 shows the estimated total burden hours for the respondents. Mail surveys are estimated to average 15 minutes, telephone surveys 40 minutes, web-based surveys 10 minutes, focus groups two hours, and in-person interviews are estimated to average 50 minutes. Mail surveys may also be sent to respondents via email, and may include a telephone non-response follow-up. Telephone non-response follow-up for mailed surveys does not count as a telephone survey. The total burden hours for the 3 years of the clearance is estimated to be 10,900 hours.

Exhibit 2 shows the estimated cost burden for the respondents. The total cost burden for the 3 years of the clearance is estimated to be $128,757.

EXHIBIT 1—ESTIMATED BURDEN HOURS OVER 3 YEARS

Type of information collection	Number of respondents	Number of responses per respondent	Hours per response	Total burden hours
Mail/email *	5,000	1	15/60	1,250
Telephone	200	1	40/60	133
Web-based	5,000	1	10/60	833
Focus Groups	500	1	2.0	1,000
In-person	200	1	50/60	167
Total	10,900	na	na	3,383

* May include telephone non-response follow-up in which case the burden will not change.

EXHIBIT 2—ESTIMATED COST BURDEN OVER 3 YEARS

Type of information collection	Number of respondents	Total burden hours	Average hourly wage rate *	Total cost burden
Mail/email	5,000	1,250	$38.06	$47,575
Telephone	200	133	38.06	5,062
Web-based	5,000	833	38.06	31,704
Focus Groups	500	1,000	38.06	38,060
In-person	200	167	38.06	6,356
Total	10,900	3,383	38.06	128,757

* Bureau of Labor & Statistics on ''Occupational Employment and Wages, May 2016'' found at the following URL: *https://www.bls.gov/oes/current/oes290000.htm* for the respondents. The total cost burden for the 3 years of the clearance is estimated to be $386,271.

Request for Comments

In accordance with the Paperwork Reduction Act, comments on AHRQ's information collection are requested with regard to any of the following: (a) Whether the proposed collection of information is necessary for the proper performance of AHRQ health care research and health care information dissemination functions, including whether the information will have practical utility; (b) the accuracy of AHRQ's estimate of burden (including hours and costs) of the proposed collection(s) 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 upon the respondents, including the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the Agency's subsequent request for OMB approval of the proposed information collection. All comments will become a matter of public record.

Sharon B. Arnold,

Deputy Director.

[FR Doc. 2017–11099 Filed 5–26–17; 8:45 am]

BILLING CODE 4160–90–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Agency Information Collection Activities: Proposed Collection: Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery

AGENCY: Agency for Healthcare Research and Quality (AHRQ), HHS.

ACTION: Notice.

SUMMARY: As part of a Federal Government-wide effort to streamline the process to seek feedback from the public on service delivery, AHRQ has submitted a Generic Information Collection Request (Generic ICR): ''Generic Clearance for the Collection of

Qualitative Feedback on Agency Service Delivery.''

DATES: Comments must be submitted July 31, 2017.

ADDRESSES: Written comments should be submitted to: Doris Lefkowitz, Reports Clearance Officer, AHRQ, by email at *doris.lefkowitz@AHRQ.hhs.gov*.

FOR FURTHER INFORMATION CONTACT: To request additional information, please contact: Doris Lefkowitz, AHRQ Reports Clearance Officer, (301) 427–1477, or by email at *doris.lefkowitz@AHRQ.hhs.gov*.

SUPPLEMENTARY INFORMATION:

Proposed Project

Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery

As part of a Federal Government-wide effort to streamline the process to seek feedback from the public on service delivery, AHRQ has submitted a Generic Information Collection Request (Generic ICR): ''Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery'' to OMB for approval under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et. seq.*). The information collection activity will gather qualitative customer and stakeholder feedback in an efficient, timely manner, in accordance with the Administration's commitment to improving service delivery.

Qualitative feedback is information that provides useful insights on perceptions and opinions, but is 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. These collections will allow for ongoing, collaborative and actionable communications between the Agency and its customers and stakeholders. The feedback will contribute directly to the improvement of program management. The current clearance was approved on November 11, 2014 (OMB Control Number 0935–0179) and will expire on November 30, 2017.

Below we provide AHRQ's projected average annual estimates for the next three years:

Current Actions: New collection of information.

Type of Review: New Collection.

Affected Public: Individuals and Households, Businesses and Organizations, State, Local or Tribal Government.

Average Expected Annual Number of activities: 10.

Respondents: 10,900.

Annual responses: 10,900.

Frequency of Response: Once per request.

The total number of respondents across all 10 activities in a given year is 10,900.

Average minutes per response: 19.

Burden hours: 3,452.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid Office of Management and Budget control number.

Request for Comments

In accordance with the Paperwork Reduction Act, comments on AHRQ's information collection are requested with regard to any of the following: (a) Whether the proposed collection of information is necessary for the proper performance of AHRQ health care research and health care information dissemination functions, including whether the information will have practical utility; (b) the accuracy of AHRQ's estimate of burden (including hours and costs) of the proposed collection(s) 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 upon the respondents, including the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the Agency's subsequent request for OMB approval of the proposed information collection. All comments will become a matter of public record.

Sharon B. Arnold,

Deputy Director.

[FR Doc. 2017–11098 Filed 5–26–17; 8:45 am]

BILLING CODE 4160–90–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–17–1027]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The notice for the proposed information collection is published to obtain comments from the public and affected agencies.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address any of the following: (a) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) Enhance the quality, utility, and clarity of the information to be collected; (d) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses; and (e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570 or send an email to *omb@cdc.gov.* Written comments and/or suggestions regarding the items contained in this notice should be directed to the Attention: CDC Desk Officer, Office of Management and Budget, Washington, DC 20503 or by fax to (202) 395–5806. Written comments should be received within 30 days of this notice.

Proposed Project

Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery (OMB Control No. 0920–1027; Expiration 8/31/2017)—Revision—Centers for Disease Control and Prevention (CDC), National Center for HIV/AIDS, Viral Hepatitis, STD, and TB Prevention (NCHHSTP).

Background and Brief Description

The information collection activity will garner qualitative customer and stakeholder feedback in an efficient, timely manner, in accordance with the Administration's commitment to improving service delivery. By qualitative feedback we mean information that provides useful insights on perceptions and opinions, but are not statistical surveys that yield

quantitative results that can be generalized to the population of study. This feedback will provide insights into customer or stakeholder perceptions, experiences and expectations, 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. These collections will allow for ongoing, collaborative, and actionable communications between the Agency and its customers and stakeholders. It will also allow feedback to contribute directly to the improvement of program management.

Feedback collected under this generic clearance will provide useful information, but it will not yield data that can be generalized to the overall population. This type of generic clearance for qualitative information will not be used for quantitative information collections that are designed to yield reliably actionable results, such as monitoring trends over time or documenting program performance. Such data uses require more rigorous designs that address: the target population to which generalizations will be made, the sampling frame, the sample design (including stratification and clustering), the precision requirements or power calculations that justify the proposed sample size, the expected response rate, methods for assessing potential non-response bias, the protocols for data collection, and any testing procedures that were or will be undertaken prior fielding the study. Depending on the degree of influence the results are likely to have, such collections may still be eligible for submission for other generic mechanisms that are designed to yield quantitative results.

This is a revision to the previously approved collection to reduce the burden hours from 12,400 to 9,690 hours as a result of the previous usage and anticipated future usage of this Generic Information Collection. Respondents will be screened and selected from Individuals and Households, Businesses, Organizations, and/or State, Local or Tribal Government. Below we provide CDC's projected annualized estimate for the next three years. There is no cost to respondents other than their time. The estimated annualized burden hours for this data collection activity are 9,690.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of collection	Number of respondents	Annual frequency per response	Hours per response
Online surveys	10,500	1	30/60
Discussion Groups	280	1	2
Focus groups	640	1	2
Website/app usability testing	2,000	1	30/60
Interviews	800	1	2

Leroy A. Richardson,

Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2017–11017 Filed 5–26–17; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–17–17ABD; Docket No. CDC–2017–0036]

Proposed Data Collection Submitted for Public Comment and Recommendations

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice with comment period.

SUMMARY: The Centers for Disease Control and Prevention (CDC), as part of its continuing efforts to reduce public burden and maximize the utility of government information, 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. This notice invites comment on ''Backyard Integrated Tick Management Project'' which will evaluate the effectiveness of specific tick control methods used on single versus multiple adjacent properties to suppress host-seeking ticks infected with Lyme disease spirochetes and to reduce human tick bites, and help the CDC better understand human landscape use patterns and tick exposure locations.

DATES: Written comments must be received on or before July 31, 2017.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2017–0036 by any of the following methods:

- *Federal eRulemaking Portal: Regulations.gov*. Follow the instructions for submitting comments.
- *Mail:* Leroy A. Richardson, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE., MS–D74, Atlanta, Georgia 30329.

Instructions: All submissions received must include the agency name and Docket Number. All relevant comments received will be posted without change to *Regulations.gov*, including any personal information provided. For access to the docket to read background documents or comments received, go to *Regulations.gov*.

Please note: All public comment should be submitted through the Federal eRulemaking portal (Regulations.gov) or by U.S. mail to the address listed above.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact Leroy Richardson, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE., MS–D74, Atlanta, Georgia 30329; phone: 404–639–7570; Email: *omb@cdc.gov*.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. In addition, the PRA also requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to OMB for approval. To

comply with this requirement, we are publishing this notice of a proposed data collection as described below.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information; and to transmit or otherwise disclose the information.

Proposed Project

Backyard Integrated Tick Management Project—Existing Collection in Use Without an OMB Control Number—National Center for Emerging and Zoonotic Infectious Diseases (NCEZID), Centers for Disease Control and Prevention (CDC)

Background and Brief Description

The combined number of confirmed and probable Lyme disease cases have exceeded 30,000 in all years since 2008, and recent estimates suggest that the true number of Lyme disease cases may be 10-fold higher. There is no Lyme disease vaccine for use in humans and prevention of infection is therefore completely reliant on personal protective measures (avoiding tick habitat, use of repellent, tick checks or prompt tick removal, etc.) and methods to suppress vector ticks in the environment.

The primary goal of this project is to evaluate the effectiveness of specific tick/pathogen control methods used on single versus multiple adjacent properties on the risk of human exposure to ticks. The secondary goal is to better understand human landscape use patterns and tick exposure locations. The project was initiated in direct response to knowledge gaps, identified by CDC Subject Matter Experts (SMEs), for the use of integrated tick vector/rodent reservoir management to reduce human risk of exposure to Ixodes scapularis ticks, the sole vector of Lyme disease in the Northeast.

Resulting data is intended to be used to provide suggestions for improving tick/pathogen control methods used in the environment.

Information will be collected, under protocols approved by the institutional review boards (IRBs) at Western Connecticut State University (WCSU) and the University of Rhode Island (URI), from inhabitants of residential properties to (i) compare the effectiveness of an integrated tick management approach at single-treated residential properties vs. contiguously-treated residential properties to reduce human tick bites and (ii) increase the understanding of where people encounter ticks, both near their homes and in other outdoor settings.

Another potential positive outcome of the information collection is more effective targeting of tick control efforts to high risk areas, minimizing pesticide use. Not collecting the information would lead to inadequate evaluation of the implemented integrated tick management program (solely focusing on host-seeking ticks collected from the vegetation) as well as the unacceptable status quo for detailed knowledge of where people encounter ticks within their residential properties and on the residential properties versus elsewhere.

Information will be collected by WCSU and URI researchers from inhabitants (adults and children) of participating residential properties (freestanding homes with tick habitat on the property) located in Connecticut and Rhode Island. Consenting participants will complete one introductory survey by telephone, projected to last no more than 15 minutes. In May–August of Years 1–4, participants will also complete an emailed monthly tick encounter survey about the number of ticks found on each member of the household and each household member's tick-borne disease status, projected to take no more than 10 minutes per month to complete. An end-of-season survey will also be administered in March/April each year, projected to take no more than 10 minutes to complete.

In addition, participants will be asked to record location of daily activity on behalf of themselves and household members each day over the first week of June in a single year via emailed daily surveys, projected to take 70 minutes over the week of participation. Lastly, an end-of-study survey will be administered in September 2020, projected to take no more than 15 minutes. In total, we expect approximately two hours or less of total time spent on surveys by consented participants in each year of the study. All survey instruments have been approved by the IRBs at WCSU and URI.

The collection of information is conducted by WCSU, and its subcontractor, URI, as part of a Cooperative Agreement with the Centers for Disease Control and Prevention (CDC) (1U01CK0004912–01). The Cooperative Agreement was established based on WCSU competing successfully for CDC RFA–CK–16–002 (Spatially Scalable Integrated Tick Vector/Rodent Reservoir Management to Reduce Human Risk of Exposure to Ixodes scapularis Ticks Infected with Lyme Disease Spirochetes).

This study is authorized by Section 301 of the Public Health Service Act (42 U.S.C. 241).

There is no cost to respondents other than their time to participate.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
Households or Individuals	Eligibility Survey	500	1	15/60	125
	Introductory Survey (including Consent Form).	230	1	30/60	115
	Monthly Surveys	230	4	10/60	154

ESTIMATED ANNUALIZED BURDEN HOURS—Continued

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
	Daily Surveys	230	7	10/60	269
	Annual End of Year Survey	230	1	15/60	58
	Final Survey	230	1	15/60	58
Total					779

Leroy A. Richardson,

Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2017–11018 Filed 5–26–17; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–17–17AHW; Docket No. CDC–2017–0052]

Proposed Data Collection Submitted for Public Comment and Recommendations

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice with comment period.

SUMMARY: The Centers for Disease Control and Prevention (CDC), as part of its continuing efforts to reduce public burden and maximize the utility of government information, 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. This notice invites comment on an information collection titled ''Zika Virus Enhanced Surveillance of Selected Populations.'' This information collection will help state health departments better define the public health burden and clinical characteristics of Zika virus disease.

DATES: Written comments must be received on or before July 31, 2017.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2017–0052 by any of the following methods:

- *Federal eRulemaking Portal: Regulations.gov*. Follow the instructions for submitting comments.
- *Mail:* Leroy A. Richardson, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE., MS–D74, Atlanta, Georgia 30329.

Instructions: All submissions received must include the agency name and Docket Number. All relevant comments received will be posted without change to *Regulations.gov*, including any personal information provided. For access to the docket to read background documents or comments received, go to *Regulations.gov*.

Please note: All public comment should be submitted through the Federal eRulemaking portal (Regulations.gov) or by U.S. mail to the address listed above.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact Leroy A. Richardson, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE., MS–D74, Atlanta, Georgia 30329; phone: 404–639–7570; Email: *omb@cdc.gov.*

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. In addition, the PRA also requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information; and to transmit or otherwise disclose the information.

Proposed Project

Zika Virus Enhanced Surveillance of Selected Populations—Emergency ICR—National Center for Emerging and Zoonotic Infectious Diseases (NCEZID), Centers for Disease Control and Prevention (CDC)

Background and Brief Description

Zika virus is a mosquito-borne flavivirus primarily transmitted to humans by Aedes mosquitoes. Zika virus infections can also be transmitted congenitally, at the time of birth from a viremic mother to her newborn, sexually, through blood transfusion, and through inadvertent laboratory exposure. Most Zika virus infections are asymptomatic. Clinical illness, when it occurs, is generally mild and characterized by acute onset of fever, maculopapular rash, arthralgia, and/or nonpurulent conjunctivitis. As routine surveillance data have been reported to CDC, it has become apparent that the

full spectrum of Zika virus disease may have been underestimated. In addition, there has been recent recognition that some non-congenital infections are quite severe. Guillain-Barre syndrome, other neurologic manifestations, and thrombocytopenia have been reported following Zika virus infections, but specific clinical findings and outcomes are not well described. Additionally, there are few published reports describing postnatally-acquired Zika virus disease among children, but there is some indication that the disease presentation in children may differ from that seen in adults. Identifying risk factors for developing more severe disease with Zika virus infections and better describing the full spectrum of Zika virus disease is important to obtain prior to the next transmission season in order develop or revise existing guidance used by clinicians and public health officials.

This information is essential to the CDC's ongoing Zika response in order to be able to develop more specific guidance and other informational tools for clinicians who care for patients and assist public health officials in targeting prevention messages towards high risk groups. This information will help healthcare providers recognize Zika virus disease among their patients and allow them to alert their state or local health department of suspect cases to facilitate diagnosis and mitigate the risk for local transmission.

CDC cannot reasonably comply with the normal OMB clearance procedures given the need for these data to evaluate and revise existing guidance documents and informational products prior to the summer months when we anticipate that Zika virus transmission in the Americas will substantially increase.

CDC will request an accelerated OMB review to give CDC the ability to rapidly answer urgent remaining questions that will shape the course of this public health emergency response.

The specific goals and objectives are:

1. Describe the clinical manifestations and outcomes among:

a. Patients hospitalized for Zika virus disease.

b. Children <18 years of age with postnatally acquired Zika virus disease.

c. Children of different age groups.

d. Persons with neurologic symptoms associated with Zika virus disease.

2. Assess for unique clinical feature of Zika virus disease in children <18 years of age.

3. Compare demographics, underlying medical conditions, and acute symptoms among cases hospitalized and not hospitalized for Zika virus disease.

Basic demographic information, clinical, and laboratory data will be collected by participating health departments from patients/guardians, providers, or medical records as appropriate. Many of the data elements included in the Enhanced Surveillance Forms are standard ArboNET variables covered by OMB Control No. 0920–0728.

Additional data elements requested for this enhanced surveillance project are sometimes already routinely collected by health departments but are not reported to CDC.

Once eligible cases are identified by participating health departments, staff will extract data already collected using pre-existing case report forms and available medical records.

If data are missing in existing records, patients/caregivers or healthcare providers will be contacted telephonically using a standard script and the case investigation form to collect any additional data elements needed.

Once data are collected, participating sites will submit data to CDC through secure means. Data will be coded prior to submission to CDC for analysis purposes.

There is no cost to respondents other than the time to participate.

Authorizing legislation comes from Section 301 of the Public Health Service Act (42 U.S.C. 241).

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
Health Departments	Zika Virus Disease Enhanced Surveillance—Neurologic symptoms associated with Zika virus disease.	11	3	4	132
	Zika Virus Disease Enhanced Surveillance—Postnatally acquired Zika virus disease among children aged <18 years.	12	10	1	120
	Zika Virus Disease Enhanced Surveillance—Hospitalization associated with Zika virus disease.	12	5	2	120
Total					372

Leroy A. Richardson,

Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2017–11019 Filed 5–26–17; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–16–0666; Docket No. CDC–2017–0047]

Proposed Data Collection Submitted for Public Comment and Recommendations

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice with comment period.

SUMMARY: The Centers for Disease Control and Prevention (CDC), as part of its continuing efforts to reduce public burden and maximize the utility of government information, 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. This notice invites comment on the National Healthcare Safety Network (NHSN). NHSN is a system designed to accumulate, exchange, and integrate relevant information and resources among private and public stakeholders to support local and national efforts to protect patients and promote healthcare safety.

DATES: Written comments must be received on or before July 31, 2017.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2017–0047 by any of the following methods:

- *Federal eRulemaking Portal: Regulations.gov*. Follow the instructions for submitting comments.
- *Mail:* Leroy A. Richardson, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE., MS–D74, Atlanta, Georgia 30329.

Instructions: All submissions received must include the agency name and Docket Number. All relevant comments received will be posted without change to *Regulations.gov*, including any personal information provided. For access to the docket to read background documents or comments received, go to *Regulations.gov*.

Please note: All public comment should be submitted through the Federal eRulemaking portal (Regulations.gov) or by U.S. mail to the address listed above.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact Leroy Richardson, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE., MS–D74, Atlanta, Georgia 30329; phone: 404–639–7570; Email: *omb@cdc.gov.*

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. In addition, the PRA also requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information; and to transmit or otherwise disclose the information.

Proposed Project

National Healthcare Safety Network (NHSN) (OMB Control Number 0920–0666, Expires—Revision—National Center for Emerging and Zoonotic Infection Diseases (NCEZID), Centers for Disease Control and Prevention (CDC)

Background and Brief Description

The Centers for Disease Control and Prevention (CDC) is requesting a three-year approval of the *National Healthcare Safety Network* information collection project.

The National Healthcare Safety Network (NHSN) is a system designed to accumulate, exchange, and integrate relevant information and resources among private and public stakeholders to support local and national efforts to protect patients and promote healthcare safety. Specifically, the data is used to determine the magnitude of various healthcare-associated adverse events and trends in the rates of these events among patients and healthcare workers with similar risks.

The data collected will be used to inform and detect changes in the epidemiology of adverse events resulting from new and current medical therapies and changing risks. The NHSN currently consists of five components: Patient Safety, Healthcare Personnel Safety, Biovigilance, Long-Term Care Facility (LTCF), and Dialysis. The Outpatient Procedure Component is on track to be released in NHSN in 2018. The development of this component has been previously delayed to obtain additional user feedback and support from outside partners.

Changes were made to four facility surveys. Based on user feedback and internal reviews of the annual facility surveys it was determined that questions and response options be amended, removed, or added to fit the evolving uses of the annual facility surveys. Also, the surveys are being increasingly used to help intelligently interpret the other data elements reported into NHSN. Currently, the surveys are used to appropriately risk adjust the numerator and denominator data entered into NHSN while also guiding decisions on future division priorities for prevention.

Further, two new forms were added to expand NHSN surveillance to enhance data collection by Ambulatory Surgical Centers to identify areas where prevention of SSIs may be improved. An additional 14 forms were modified within the Hemovigilance module to streamline data collection/entry for adverse reaction events.

Overall, minor revisions have been made to a total of 38 forms within the package to clarify and/or update surveillance definitions, increase or decrease the number of reporting facilities, and adding new forms. The previously approved NHSN package included 70 individual collection forms; the current revision request includes a total of 72 forms. The reporting burden will decrease by 811,985 hours, for a total of 5,922,953 hours.

This collection of information is authorized by the Public Health Service Act (42 U.S.C. 242b, 242k, and 242m (d)). There is no cost to respondents other than the time to participate.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form No. & name	Number of respondents	Number of responses per respondent	Average burden per response (hours)	Total burden (hours)
Registered Nurse (Infection Preventionist).	57.100 NHSN Registration Form ...	2,000	1	5/60	167
Registered Nurse (Infection Preventionist).	57.101 Facility Contact Information	2,000	1	10/60	333
Registered Nurse (Infection Preventionist).	57.103 Patient Safety Component—Annual Hospital Survey.	5,000	1	55/60	4,583
Registered Nurse (Infection Preventionist).	57.105 Group Contact Information	1,000	1	5/60	83
Registered Nurse (Infection Preventionist).	57.106 Patient Safety Monthly Reporting Plan.	6,000	12	15/60	18,000
Registered Nurse (Infection Preventionist).	57.108 Primary Bloodstream Infection (BSI).	6,000	44	30/60	132,000
Registered Nurse (Infection Preventionist).	57.111 Pneumonia (PNEU)	6,000	72	30/60	216,000
Registered Nurse (Infection Preventionist).	57.112 Ventilator—Associated Event.	6,000	144	25/60	360,000
Registered Nurse (Infection Preventionist).	57.113 Pediatric Ventilator—Associated Event (PedVAE).	2,000	120	25/60	100,000
Registered Nurse (Infection Preventionist).	57.114 Urinary Tract Infection (UTI).	6,000	40	20/60	80,000
Registered Nurse (Infection Preventionist).	57.115 Custom Event	2,000	91	35/60	106,167
Staff RN	57.116 Denominators for Neonatal Intensive Care Unit (NICU).	6,000	12	4	288,000
Staff RN	57.117 Denominators for Specialty Care Area (SCA)/Oncology (ONC).	6,000	9	5	270,000
Staff RN	57.118 Denominators for Intensive Care Unit (ICU)/Other locations (not NICU or SCA).	6,000	60	5	1,800,000
Registered Nurse (Infection Preventionist).	57.120 Surgical Site Infection (SSI).	6,000	36	35/60	126,000
Staff RN	57.121 Denominator for Procedure	6,000	540	10/60	540,000
Laboratory Technician	57.123 Antimicrobial Use and Resistance (AUR)—Microbiology Data Electronic Upload Specification Tables.	6,000	12	5/60	6,000
Pharmacist	57.124 Antimicrobial Use and Resistance (AUR)—Pharmacy Data Electronic Upload Specification Tables.	6,000	12	5/60	6,000
Registered Nurse (Infection Preventionist).	57.125 Central Line Insertion Practices Adherence Monitoring.	100	100	25/60	4,167
Registered Nurse (Infection Preventionist).	57.126 MDRO or CDI Infection Form.	6,000	72	30/60	216,000
Registered Nurse (Infection Preventionist).	57.127 MDRO and CDI Prevention Process and Outcome Measures Monthly Monitoring.	6,000	24	15/60	36,000
Registered Nurse (Infection Preventionist).	57.128 Laboratory-identified MDRO or CDI Event.	6,000	240	20/60	480,000
Registered Nurse (Infection Preventionist).	57.129 Adult Sepsis	50	250	25/60	5,208
Registered Nurse (Infection Preventionist).	57.137 Long-Term Care Facility Component—Annual Facility Survey.	2,600	1	2	5,200
Registered Nurse (Infection Preventionist).	57.138 Laboratory-identified MDRO or CDI Event for LTCF.	2,600	12	15/60	7,800
Registered Nurse (Infection Preventionist).	57.139 MDRO and CDI Prevention Process Measures Monthly Monitoring for LTCF.	2,600	12	10/60	5,200
Registered Nurse (Infection Preventionist).	57.140 Urinary Tract Infection (UTI) for LTCF.	2,600	14	30/60	18,200

ESTIMATED ANNUALIZED BURDEN HOURS—Continued

Type of respondent	Form No. & name	Number of respondents	Number of responses per respondent	Average burden per response (hours)	Total burden (hours)
Registered Nurse (Infection Preventionist).	57.141 Monthly Reporting Plan for LTCF.	2,600	12	5/60	2,600
Registered Nurse (Infection Preventionist).	57.142 Denominators for LTCF Locations.	2,600	12	4	124,800
Registered Nurse (Infection Preventionist).	57.143 Prevention Process Measures Monthly Monitoring for LTCF.	2,600	12	5/60	600
Registered Nurse (Infection Preventionist).	57.150 LTAC Annual Survey	400	1	55/60	367
Registered Nurse (Infection Preventionist).	57.151 Rehab Annual Survey	1,000	1	55/60	917
Occupational Health RN/Specialist ...	57.200 Healthcare Personnel Safety Component Annual Facility Survey.	50	1	8	400
Occupational Health RN/Specialist ...	57.203 Healthcare Personnel Safety Monthly Reporting Plan.	17,000	1	5/60	1,417
Occupational Health RN/Specialist ...	57.204 Healthcare Worker Demographic Data.	50	200	20/60	3,333
Occupational Health RN/Specialist ...	57.205 Exposure to Blood/Body Fluids.	50	50	1	2,500
Occupational Health RN/Specialist ...	57.206 Healthcare Worker Prophylaxis/Treatment.	50	30	15/60	375
Laboratory Technician	57.207 Follow-Up Laboratory Testing.	50	50	15/60	625
Occupational Health RN/Specialist ...	57.210 Healthcare Worker Prophylaxis/Treatment—Influenza.	50	50	10/60	417
Medical/Clinical Laboratory Technologist.	57.300 Hemovigilance Module Annual Survey.	500	1	2	1,000
Medical/Clinical Laboratory Technologist.	57.301 Hemovigilance Module Monthly Reporting Plan.	500	12	1/60	100
Medical/Clinical Laboratory Technologist.	57.303 Hemovigilance Module Monthly Reporting Denominators.	500	12	1.17	7,020
Medical/Clinical Laboratory Technologist.	57.305 Hemovigilance Incident	500	10	10/60	833
Medical/Clinical Laboratory Technologist.	57.306 Hemovigilance Module Annual Survey—Non-acute care facility.	200	1	35/60	117
Medical/Clinical Laboratory Technologist.	57.307 Hemovigilance Adverse Reaction—Acute Hemolytic Transfusion Reaction.	500	4	20/60	667
Medical/Clinical Laboratory Technologist.	57.308 Hemovigilance Adverse Reaction—Allergic Transfusion Reaction.	500	4	20/60	667
Medical/Clinical Laboratory Technologist.	57.309 Hemovigilance Adverse Reaction—Delayed Hemolytic Transfusion Reaction.	500	1	20/60	167
Medical/Clinical Laboratory Technologist.	57.310 Hemovigilance Adverse Reaction—Delayed Serologic Transfusion Reaction.	500	2	20/60	333
Medical/Clinical Laboratory Technologist.	57.311 Hemovigilance Adverse Reaction—Febrile Non-hemolytic Transfusion Reaction.	500	4	20/60	667
Medical/Clinical Laboratory Technologist.	57.312 Hemovigilance Adverse Reaction—Hypotensive Transfusion Reaction.	500	1	20/60	167
Medical/Clinical Laboratory Technologist.	57.313 Hemovigilance Adverse Reaction—Infection.	500	1	20/60	167
Medical/Clinical Laboratory Technologist.	57.314 Hemovigilance Adverse Reaction—Post Transfusion Purpura.	500	1	20/60	167
Medical/Clinical Laboratory Technologist.	57.315 Hemovigilance Adverse Reaction—Transfusion Associated Dyspnea.	500	1	20/60	167
Medical/Clinical Laboratory Technologist.	57.316 Hemovigilance Adverse Reaction—Transfusion Associated Graft vs. Host Disease.	500	1	20/60	167
Medical/Clinical Laboratory Technologist.	57.317 Hemovigilance Adverse Reaction—Transfusion Related Acute Lung Injury.	500	1	20/60	167

ESTIMATED ANNUALIZED BURDEN HOURS—Continued

Type of respondent	Form No. & name	Number of respondents	Number of responses per respondent	Average burden per response (hours)	Total burden (hours)
Medical/Clinical Laboratory Technologist.	57.318 Hemovigilance Adverse Reaction—Transfusion Associated Circulatory Overload.	500	2	20/60	333
Medical/Clinical Laboratory Technologist.	57.319 Hemovigilance Adverse Reaction—Unknown Transfusion Reaction.	500	1	20/60	167
Medical/Clinical Laboratory Technologist.	57.320 Hemovigilance Adverse Reaction—Other Transfusion Reaction.	500	1	20/60	167
Medical/Clinical Laboratory Technologist.	57.400 Outpatient Procedure Component—Annual Facility Survey.	5,000	1	5/60	417
Staff RN	57.401 Outpatient Procedure Component—Monthly Reporting Plan.	5,000	12	15/60	15,000
Staff RN	57.402—Outpatient Procedure Component Same Day Outcome Measures & Prophylactic Intravenous(IV) Antibiotic Timing Event.	5,000	25	40/60	83,333
Staff RN	57.403—Outpatient Procedure Component—Monthly Denominators for Same Day Outcome Measures & Prophylactic Intravenous(IV) Antibiotic Timing Event.	5,000	12	40/60	40,000
Staff RN	57.404 Outpatient Procedure Component—Annual Facility Survey.	5,000	540	10/60	450,00
Registered Nurse (Infection Preventionist).	57.405 Outpatient Procedure Component—Surgical Site (SSI) Event.	5,000	36	35/60	105,00
Staff RN	57.500 Outpatient Dialysis Center Practices Survey.	7,000	1	2.0	14,000
Registered Nurse (Infection Preventionist).	57.501 Dialysis Monthly Reporting Plan.	7,000	12	5/60	7,000
Staff RN	57.502 Dialysis Event	7,000	60	25/60	175,000
Staff RN	57.503 Denominator for Outpatient Dialysis.	7,000	12	10/60	14,000
Staff RN	57.504 Prevention Process Measures Monthly Monitoring for Dialysis.	2,000	12	1.25	30,000
Staff RN	57.505 Dialysis Patient Influenza Vaccination.	325	75	10/60	4,063
Staff RN	57.506 Dialysis Patient Influenza Vaccination Denominator.	325	5	10/60	271
Staff RN	57.507 Home Dialysis Center Practices Survey.	350	1	30/60	175
Total					5922,953

Leroy A. Richardson,

Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2017–11020 Filed 5–26–17; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Projects:

Title: Form ACF–196R, ''TANF Quarterly Financial Report.''

OMB No.: 0970–0446.

Description: This information collection is authorized under Section 411(a)(3) of the Social Security Act. This request is for continued approval of Form ACF–196R for quarterly financial reporting under the Temporary Assistance for Needy Families (TANF) program. States participating in the TANF program are required by statute to report financial data on a quarterly basis. The forms meet the legal standard and provide essential data on the use of federal TANF funds. Failure to collect the data would seriously compromise ACF's ability to monitor program expenditures, estimate funding needs, and to prepare budget submissions and annual reports required by Congress. Financial reporting under the TANF program is governed by 45 CFR part 265.

Respondents: State agencies administering the TANF program.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
ACF–196R	51	4	14	2,856

Estimated Total Annual Burden Hours: 2,856.

In compliance with the requirements of the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chap 35), the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 330 C Street SW., Washington, DC 20201. Attn: ACF Reports Clearance Officer. Email address: *infocollection@acf.hhs.gov.* All requests should be identified by the title of the information collection.

The Department specifically requests comments 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) 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. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 2017–10990 Filed 5–26–17; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Projects

Title: DRA TANF Final Rule.

OMB No.: 0970–0338.

Description: When the Deficit Reduction Act of 2005 (DRA) reauthorized the Temporary Assistance for Needy Families (TANF) program, it imposed a new data requirement that States prepare and submit data verification procedures and replaced other data requirements with new versions including: the TANF Data Report, the SSP–MOE Data Report, the Caseload Reduction Documentation Process, and the Reasonable Cause/Corrective Compliance Documentation Process. The FY2017 Consolidated Appropriations Act (H.R. 244) provides federal funds to operate Temporary Assistance for Needy Families (TANF) programs in the states, DC, Guam, Puerto Rico, the U.S. Virgin Islands, and for approved federally recognized tribes and Alaskan Native Villages through FY2018. We are proposing to continue these information collections without change.

Respondents: The 50 States of the United States, the District of Columbia, Guam, Puerto Rico, and the Virgin Islands.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Preparation and Submission of Data Verification Procedures §§ 261.60–261.63	54	1	640	34,560
Caseload Reduction Documentation Process, ACF–202 §§ 261.41 & 261.44	54	1	120	6,480
Reasonable Cause/Corrective Compliance Documentation Process §§ 262.4, 262.6, & 262.7; § 261.51	54	2	240	25,920
TANF Data Report Part 265	54	4	2,201	475,416
SSP–MOE Data Report Part 265	29	4	714	82,824

Estimated Total Annual Burden Hours: 625,200.

In compliance with the requirements of Section 506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 330 C Street SW., Washington, DC 20201, Attn: ACF Reports Clearance Officer. Email address: *infocollection@acf.hhs.gov.* All requests should be identified by the title of the information collection.

OMB Comment

OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, *Email: OIRA_SUBMISSION@OMB.EOP.GOV*, Attn: Desk Officer for the Administration for Children and Families.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 2017–11007 Filed 5–26–17; 8:45 am]

BILLING CODE P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2017–N–1095]

Agency Information Collection Activities; Proposed Collection; Comment Request; Electronic Submission Process for Voluntary Allegations to the Center for Devices and Radiological Health

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on information voluntarily submitted to the Center for Devices and Radiological Health (CDRH) on actual or potential health risk concerns about a medical device or radiological product or its use.

DATES: Submit either electronic or written comments on the collection of information by July 31, 2017.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before July 31, 2017. The *https://www.regulations.gov* electronic filing system will accept comments until midnight Eastern Time at the end of July 31, 2017. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov/.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov/* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov/.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Division of Dockets Management, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2017–N–1095 for ''Agency Information Collection Activities; Proposed Collection; Comment Request; Electronic Submission Process for Voluntary Allegations to the Center for Devices and Radiological Health.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov/* or at the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov/.* Submit both copies to the Division of Dockets Management. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.fda.gov/regulatoryinformation/dockets/default.htm.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov/* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: JonnaLynn Capezzuto, Office of Operations, Food and Drug Administration, Three White Flint North, 10A63, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–3794.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance

of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Electronic Submission Process for Voluntary Allegations to the Center for Devices and Radiological Health

OMB Control Number 0910–0769—Extension

This information collection request collects information voluntarily submitted to CDRH on actual or potential health risk concerns about a medical device or radiological product or its use. Because, prior to the establishment of the electronic submission process for voluntary allegations to CDRH, there had been no established guidelines or instructions on how to submit an allegation to CDRH, allegations often contained minimal information and were received via phone calls, emails, or conversationally. CDRH has established a consistent format and process for the submission of device allegations that enhances our timeliness in receiving, assessing, and evaluating voluntary allegations. The information provided in the allegations received by CDRH may be used to clarify the recurrence or emergence of significant device-related risks to the general public and the need to initiate educational outreach or regulatory action to minimize or mitigate identified risks.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Electronic submission of voluntary allegations to CDRH.	700	1	700	.25 (15 minutes)	175

[1]There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: May 23, 2017.

Anna K. Abram,

Deputy Commissioner for Policy, Planning, Legislation, and Analysis.

[FR Doc. 2017–10982 Filed 5–26–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2017–N–0001]

Vaccines and Related Biological Products Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces a forthcoming public advisory committee meeting of the Vaccines and Related Biological Products Advisory Committee (VRBPAC). The general function of the committee is to provide advice and recommendations to the Agency on FDA's regulatory issues. The meeting will be open to the public.

DATES: The meeting will be held on July 28, 2017, from 8:30 a.m. to 5 p.m.

ADDRESSES: FDA White Oak Campus, 10903 New Hampshire Ave., Building 31 Conference Center, the Great Room (Rm. 1503), Silver Spring, MD 20993–0002. For those unable to attend in person, the meeting will also be Web Cast and will be available at the following link: *https://collaboration.fda.gov/vrbpac072817/.* Answers to commonly asked questions including information regarding special accommodations due to a disability, visitor parking, and transportation may be accessed at: *http://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm408555.htm.*

FOR FURTHER INFORMATION CONTACT: CAPT Serina Hunter-Thomas or Rosanna Harvey, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 6307C, Silver Spring, MD 20993–0002, at 240–402–5771 *serina.hunter-thomas@fda.hhs.gov* and 240–402–8072, *rosanna.harvey@fda.hhs.gov,* or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area). A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the Agency's Web site at *http://www.fda.gov/AdvisoryCommittees/default.htm* and scroll down to the appropriate advisory committee meeting link, or call the advisory committee information line to learn about possible modifications before coming to the meeting.

SUPPLEMENTARY INFORMATION:

Agenda: On July 28, 2017, the VRBPAC will meet in an open session to discuss and make recommendations on the safety and efficacy of a Hepatitis B Vaccine manufactured by Dynavax. FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its Web site prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's Web site after the meeting. Background material is available at *http://www.fda.gov/AdvisoryCommittees/Calendar/default.htm.* Scroll down to the appropriate advisory committee meeting link.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before July 21, 2017. Oral presentations from the public will be scheduled between approximately 1:15 p.m. and 2:15 p.m. Those individuals interested in making formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before July 13,

2017. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by July 14, 2017.

Persons attending FDA's advisory committee meetings are advised that the Agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with disabilities. If you require accommodations due to a disability, please contact CAPT Serina Hunter-Thomas at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at: *http://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: May 23, 2017.

Anna K. Abram,

Deputy Commissioner for Policy, Planning, Legislation, and Analysis.

[FR Doc. 2017–10976 Filed 5–26–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No FDA–2010–N–0258]

Agency Information Collection Activities; Proposed Collection; Comment Request; Submission of Petitions: Food Additive, Color Additive (Including Labeling), Submission of Information to a Master File in Support of Petitions; and Electronic Submission Using Food and Drug Administration Form 3503

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA, Agency, or we) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the information collection provisions of FDA's regulations for submission of petitions, including food and color additive petitions (FAPs and CAPs) (including labeling) submission of information to a master file in support of petitions, and electronic submission using FDA Form 3503.

DATES: Submit either electronic or written comments on the collection of information by July 31, 2017. Late, untimely filed comments will not be considered. Electronic comments must be submitted on or before July 31, 2017. The *https://www.regulations.gov* electronic filing system will accept comments until midnight Eastern Time at the end of July 31, 2017. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

ADDRESSES: You may submit comments as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Division of Dockets Management, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2010–N–0258 for ''Agency Information Collection Activities; Proposed Collection; Comment Request; Submission of Petitions: Food Additive, Color Additive (Including Labeling); Submission of Information to a Master File in Support of Petitions; Electronic Submission Using Food and Drug Administration Form 3503.'' Received comments, those filed in a timely manner (see **DATES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Division of Dockets Management. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of

comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Ila S. Mizrachi, Office of Operations, Food and Drug Administration, Three White Flint North, 10A63, 11601 Landsdown St., North Bethesda, MD 20852, *PRAStaff@fda.hhs.gov,* 301–796–7726.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Submission of Petitions: Food Additive, Color Additive (Including Labeling); Submission of Information to a Master File in Support of Petitions; Electronic Submission Using FDA Form 3503—21 CFR 70.25, 71.1, 171.1, 172, 173, 179, and 180; OMB Control Number 0910–0016—Extension

Section 409(a) of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 348(a)) provides that a food additive shall be deemed to be unsafe, unless: (1) The additive and its use, or intended use, are in conformity with a regulation issued under § 409 that describes the condition(s) under which the additive may be safely used; (2) the additive and its use, or intended use, conform to the terms of an exemption for investigational use; or (3) a food contact notification submitted under § 409(h) is effective. FAPs are submitted by individuals or companies to obtain approval of a new food additive or to amend the conditions of use permitted under an existing food additive regulation. Section 171.1 of FDA's regulations (21 CFR 171.1) specifies the information that a petitioner must submit in order to establish that the proposed use of a food additive is safe and to secure the publication of a food additive regulation describing the conditions under which the additive may be safely used. Parts 172, 173, 179, and 180 (21 CFR parts 172, 173, 179, and 180) contain labeling requirements for certain food additives to ensure their safe use.

Section 721(a) of the FD&C Act (21 U.S.C. 379e(a)) provides that a color additive shall be deemed to be unsafe unless the additive and its use are in conformity with a regulation that describes the condition(s) under which the additive may safely be used, or the additive and its use conform to the terms of an exemption for investigational use issued under § 721(f). CAPs are submitted by individuals or companies to obtain approval of a new color additive or a change in the conditions of use permitted for a color additive that is already approved. Section 71.1 of the Agency's regulations (21 CFR 71.1) specifies the information that a petitioner must submit to establish the safety of a color additive and to secure the issuance of a regulation permitting its use. FDA's color additive labeling requirements in § 70.25 (21 CFR 70.25) require that color additives that are to be used in food, drugs, devices, or cosmetics be labeled with sufficient information to ensure their safe use.

FDA scientific personnel reviews FAPs to ensure the safety of the intended use of the additive in or on food, or that may be present in food as a result of its use in articles that contact food. Likewise, FDA personnel review CAPs to ensure the safety of the color additive prior to its use in food, drugs, cosmetics, or medical devices.

Interested persons may transmit FAP or CAP regulatory submissions in electronic format or paper format to the Office of Food Additive Safety in the Center for Food Safety and Applied Nutrition using Form FDA 3503. Form FDA 3503 helps the respondent organize their submission to focus on the information needed for FDA's safety review. Form FDA 3503 can also be used to organize information within a master file submitted in support of petitions according to the items listed on the form. Master files can be used as repositories for information that can be referenced in multiple submissions to the Agency, thus minimizing paperwork burden for food and color additive approvals. FDA estimates that the amount of time for respondents to complete FDA Form 3503 will continue to be 1 hour.

Description of respondents: Respondents are businesses engaged in the manufacture or sale of food, food ingredients, color additives, or substances used in materials that come into contact with food.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

21 CFR section/FDA form	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours	Total operating and maintenance costs
Color Additive Petitions						
70.25, 71.1	2	1	2	1,337	2,674	$5,600

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]—Continued

21 CFR section/FDA form	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours	Total operating and maintenance costs
Food Additive Petitions						
171.1	3	1	3	7,093	21,279	0
FDA Form 3503	6	1	6	1	6	0
Total					23,959	$5,600

[1] There are no capital costs associated with this collection of information.

The estimate of burden for food additive or color additive petitions is based on FDA's experience with the petition process. The burden for this information collection has changed since the last OMB approval because the Generally Recognized as Safe affirmations have been removed pursuant to the implementation of ''Substances Generally Recognized as Safe; Final Rule,'' August 17, 2016 (81 FR 54960), 21 CFR parts 20, 25, 170, 184, 186, and 570. FDA is retaining its prior estimate of the number of petitions received because the average number of petitions received annually has varied little over the past 10 years. The figures for hours per response are based on estimates from experienced persons in the Agency and in industry. Although the estimated hour burden varies with the type of petition submitted, an average petition involves analytical work and appropriate toxicological studies, as well as the work of drafting the petition itself. The burden varies depending on the complexity of the petition, including the amount and types of data needed for scientific analysis.

Color additives are subjected to payment of fees for the petitioning process. The listing fee for a color additive petition ranges from $1,600 to $3,000, depending on the intended use of the color additive and the scope of the requested amendment. A complete schedule of fees is set forth in § 70.19. An average of one Category A and one Category B color additive petition is expected per year. The maximum color additive petition fee for a Category A petition is $2,600 and the maximum color additive petition fee for a Category B petition is $3,000. Because an average of 2 CAPs are expected per calendar year, the estimated total annual cost burden to petitioners for this startup cost would be less than or equal to $5,600 ((1 × $2,600) + (1 × $3,000) listing fees = $5,600). There are no capital costs associated with CAPs. The labeling requirements for food and color additives were designed to specify the minimum information needed for labeling in order that food and color manufacturers may comply with all applicable provisions of the FD&C Act and other specific labeling acts administered by FDA. Label information does not require any additional information gathering beyond what is already required to assure conformance with all specifications and limitations in any given food or color additive regulation. Label information does not have any specific recordkeeping requirements unique to preparing the label. Therefore, because labeling requirements under § 70.25 for a particular color additive involve information required as part of the CAP safety review process, the estimate for number of respondents is the same for § 70.25 and § 71.1, and the burden hours for labeling are included in the estimate for § 71.1. Also, because labeling requirements under parts 172, 173, 179, and 180 for particular food additives involve information required as part of the FAP safety review process under § 171.1, the burden hours for labeling are included in the estimate for § 171.1.

Dated: May 23, 2017.

Anna K. Abram,

Deputy Commissioner for Policy, Planning, Legislation, and Analysis.

[FR Doc. 2017–11009 Filed 5–26–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2017–N–2731]

Pediatric Oncology Subcommittee of the Oncologic Drugs Advisory Committee; Notice of Meeting; Establishment of a Public Docket; Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; establishment of a public docket; request for comments.

SUMMARY: The Food and Drug Administration (FDA or Agency) announces a forthcoming public advisory committee meeting of the Pediatric Oncology Subcommittee of the Oncologic Drugs Advisory Committee. The general function of the committee is to provide advice and recommendations to the Agency on FDA's regulatory issues. The meeting will be open to the public. FDA is establishing a docket for public comment on this document.

DATES: The public meeting will be held on June 21, 2017, from 8 a.m. to 3:15 p.m. and June 22, 2017, from 8 a.m. to 12 noon.

ADDRESSES: FDA White Oak Campus, 10903 New Hampshire Ave., Building 31 Conference Center, the Great Room (Rm. 1503), Silver Spring, MD 20993–0002. Answers to commonly asked questions including information regarding special accommodations due to a disability, visitor parking, and transportation may be accessed at: *https://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm408555.htm.*

FDA is establishing a docket for public comment on this meeting. The docket number is FDA–2017–N–2731. The docket will close on June 20, 2017. Submit either electronic or written comments on this public meeting by June 20, 2017. Late, untimely filed comments will not be considered. Electronic comments must be submitted on or before June 20, 2017. The *https://www.regulations.gov* electronic filing system will accept comments until midnight eastern time, June 20, 2017. Comments received by mail/hand delivery/courier for written/paper submissions will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Comments received on or before June 7, 2017, will be provided to the committee. Comments received after that date will be taken into consideration by the Agency.

You may submit comments as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Division of Dockets Management, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2017–N–2731 for ''Pediatric Oncology Subcommittee of the Oncologic Drugs Advisory Committee; Notice of Meeting; Establishment of a Public Docket; Request for Comments.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Division of Dockets Management. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Lauren D. Tesh, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 31, Rm. 2417, Silver Spring, MD 20993–0002, 301–796–9001, Fax: 301–847–8533, email: *ODAC@fda.hhs.gov,* or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area). A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the Agency's Web site at *https://www.fda.gov/AdvisoryCommittees/default.htm* and scroll down to the appropriate advisory committee meeting link, or call the advisory committee information line to learn about possible modifications before coming to the meeting.

SUPPLEMENTARY INFORMATION:

Agenda: On June 21, 2017, information will be presented to gauge investigator interest in exploring potential pediatric development plans for three products in various stages of development for adult cancer indications. The subcommittee will consider and discuss issues concerning diseases to be studied, patient populations to be included, and possible study designs in the development of these products for pediatric use. The discussion will also provide information to the Agency pertinent to the formulation of written requests for pediatric studies, if appropriate. The products under consideration are: (1) APX–005M, presentation by Apexigen, Inc.; (2) PMO1183 (lurbinectedin), presentation by PharmaMar USA Inc.; and (3) ASP2215 (gilteritinib), presentation by Astellas Pharma Global Development, Inc.

On June 22, 2017, information will be presented to gauge investigator interest in exploring potential pediatric development plans for two products in various stages of development for adult cancer indications. The subcommittee will consider and discuss issues concerning diseases to be studied, patient populations to be included, and possible study designs in the development of these products for pediatric use. The discussion will also provide information to the Agency pertinent to the formulation of written requests for pediatric studies, if appropriate. The products under consideration are: (1) Prexasertib, presentation by Dista Products/Eli Lilly and Company and (2) olaratumab, presentation by Eli Lilly and Company.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its Web site prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's Web site after the meeting. Background material is available at *https://www.fda.gov/AdvisoryCommittees/Calendar/default.htm.* Scroll down to the appropriate advisory committee meeting link.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the subcommittee. All electronic

and written submissions submitted to the Docket (see the **ADDRESSES** section) on or before June 7, 2017, will be provided to the committee. Oral presentations from the public will be scheduled between approximately 8:50 a.m. to 9:10 a.m., 11 a.m. to 11:20 a.m., and 1:55 p.m. to 2:15 p.m. on June 21, 2017. Oral presentations from the public will also be scheduled between approximately 8:50 a.m. to 9:10 a.m. and 11 a.m. to 11:20 a.m. on June 22, 2017. Those individuals interested in making formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before May 30, 2017. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by May 31, 2017.

Persons attending FDA's advisory committee meetings are advised that the Agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with disabilities. If you require special accommodations due to a disability, please contact Lauren D. Tesh at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at *https://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: May 23, 2017.

Anna K. Abram,

Deputy Commissioner for Policy, Planning, Legislation, and Analysis.

[FR Doc. 2017–11030 Filed 5–26–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket Nos. FDA–2016–N–2544; FDA–2013–N–0823; FDA–2013–N–0795; FDA–2013–N–1147; FDA–2013–N–1064; FDA–2008–D–0150; FDA–2013–N–0663; FDA–2010–D–0319; FDA–2013–N–0403; FDA–2012–D–0530; FDA–2016–N–0544]

Agency Information Collection Activities; Announcement of Office of Management and Budget Approvals

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is publishing a list of information collections that have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT: Ila S. Mizrachi, Office of Operations, Food and Drug Administration, Three White Flint North, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–7726, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: The following is a list of FDA information collections recently approved by OMB under § 3507 of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507). The OMB control number and expiration date of OMB approval for each information collection are shown in table 1. Copies of the supporting statements for the information collections are available on the Internet at *http://www.reginfo.gov/public/do/PRAMain.* 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.

TABLE 1—LIST OF INFORMATION COLLECTIONS APPROVED BY OMB

Title of collection	OMB control No.	Date approval expires
Current Good Manufacturing Practice; Quality System Regulation	0910–0073	1/31/2020
Format and Content Requirements for Over-the-Counter Drug Product Labeling	0910–0340	1/31/2020
Medical Devices; Third Party Review Under FDAMA	0910–0375	1/31/2020
Preparing a Claim of Categorical Exclusion or an Environmental Assessment for Submission to the Center for Food Safety and Applied Nutrition	0910–0541	1/31/2020
Application for Participation in the Medical Device Fellowship Program; Form FDA 3608	0910–0551	1/31/2020
GFI: Hypertension Indication; Drug Labeling for Cardiovascular Outcome Claims	0910–0670	1/31/2020
Investigational New Drug Safety Reporting Requirements for Human Drug and Biological Products and Safety Reporting Requirements for Bioavailability and Bioequivalence Studies in Humans	0910–0672	1/31/2020
GFI: Dear Health Care Provider Letters; Improving Communication of Important Safety Information	0910–0754	1/31/2020
Protection of Human Subjects: Informed Consent; Institutional Review Boards	0910–0755	1/31/2020
Requests for Feedback on Medical Device Submissions	0910–0756	1/31/2020
National Direct-to-Consumer Advertising Survey	0910–0828	1/31/2020

Dated: May 23, 2017.

Anna K. Abram,

Deputy Commissioner for Policy, Planning, Legislation, and Analysis.

[FR Doc. 2017–11011 Filed 5–26–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2010–N–0493]

Agency Information Collection Activities; Proposed Collection; Comment Request; Additional Criteria and Procedures for Classifying Over-the-Counter Drugs as Generally Recognized as Safe and Effective and Not Misbranded

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the collection of information associated with the criteria and procedures for classifying over-the-counter (OTC) drugs as generally recognized as safe and effective and not misbranded.

DATES: Submit either electronic or written comments on the collection of information by July 31, 2017. Late, untimely filed comments will not be considered. Electronic comments must be submitted on or before July 31, 2017. The *https://www.regulations.gov* electronic filing system will accept comments until midnight Eastern Time at the end of July 31, 2017. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

ADDRESSES: You may submit comments as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Division of Dockets Management, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2010–N–0493 for ''Agency Information Collection Activities; Proposed Collection; Comment Request; Additional Criteria and Procedures for Classifying Over-the-counter Drugs as Generally Recognized as Safe and Effective and Not Misbranded.'' Received comments, those received in a timely manner (see **DATES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Division of Dockets Management. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: JonnaLynn Capezzuto, Office of Operations, Food and Drug Administration, Three White Flint North, 10A63, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–3794, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information

is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Additional Criteria and Procedures for Classifying OTC Drugs as Generally Recognized as Safe and Effective and Not Misbranded—21 CFR 330.14; OMB Control Number 0910–0688—Revision

FDA regulations at § 330.14 (21 CFR 330.14) establish additional criteria and procedures for classifying OTC drugs as generally recognized as safe and effective and not misbranded. These regulations state that OTC drug products introduced into the U.S. market after the OTC drug review began and OTC drug products without any marketing experience in the United States can be evaluated under the monograph process if the conditions (*e.g.,* active ingredients) meet certain ''time and extent'' criteria outlined in the regulations. The regulations allow a time and extent application (TEA) to be submitted to us by any party for our consideration to include new conditions in the OTC drug monograph system. TEAs must provide evidence described in § 330.14(c) demonstrating that the condition is eligible for inclusion in the monograph system. (Section 330.14(d) specifies the number of copies and address for submission of a TEA.) If a condition is found eligible, any interested parties can submit safety and effectiveness information as explained in § 330.14(f). Safety and effectiveness data includes the data and information listed in § 330.10(a)(2), a listing of all serious adverse drug experiences that may have occurred (§ 330.14(f)(2)), and an official or proposed compendial monograph (§ 330.14(i)).

Based on our experience with submissions we have received under § 330.14, we estimate that we will receive two TEAs and two safety and effectiveness submissions each year, and that it will take approximately 1,525 hours to prepare a TEA and 2,350 hours to prepare a comprehensive safety and effectiveness submission. This information is reflected in rows 1 and 2 of table 1.

Recently FDA revised its regulations at 21 CFR part 330 (81 FR 84465, November 23, 2016), thus adding 6 hours to FDA's estimated annual reporting burden for the information collection. Specifically, § 330.14(j) clarifies the requirements on content and format criteria for a safety and effectiveness data submission, and provides procedures for FDA's review of the submissions and determination of whether a submission is sufficiently complete to permit a substantive review. Section 330.14(j)(3) describes the process for cases in which FDA refuses to file the safety and effectiveness data submission. Under § 330.14(j)(3), if FDA refuses to file the submission, the Agency will notify the sponsor in writing, state the reason(s) for the refusal, and provide the sponsor with 30 days in which to submit a written request for an informal conference with the Agency about whether the Agency should file the submission. We estimate that approximately one respondent will annually submit a request for an informal conference, and that preparing and submitting each request will take approximately 1 hour. This is reflected in row 3 of table 1.

Under § 330.14(j)(4)(iii), the safety and effectiveness data submission must contain a signed statement that the submission represents a complete safety and effectiveness data submission and that the submission includes all the safety and effectiveness data and information available to the sponsor at the time of the submission, whether positive or negative. We estimate that approximately two respondents annually will submit such signed statements, and that preparing and submitting each signed statement will take approximately 1 hour. This is reflected in row 4 of table 1.

Under § 330.14(k)(1), FDA, in response to a written request from a sponsor, may withdraw consideration of a TEA submitted under § 330.14(c) or a safety and effectiveness data submission submitted under § 330.14(f). We estimate that approximately one respondent will annually submit such a request, and that preparing and submitting the request will take approximately 1 hour. This is reflected in row 5 of table 1.

Under § 330.14(k)(2), a sponsor may request that FDA not withdraw consideration of a TEA or safety and effectiveness data submission. We estimate one respondent will annually submit such a request, and that preparing and submitting the request will take approximately 2 hours. This is reflected in row 6 of table 1.

Accordingly, FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

21 CFR part 330; activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
330.14(c) and (d); Time and extent application and submission of information	2	1	2	1,525	3,050
330.14(f) and (i); Safety and effectiveness data	2	1	2	2,350	4,700
330.14(j)(3); sponsor request for informal conference	1	1	1	1	1
330.14(j)(4); sponsor signed statement that submission is complete	2	1	2	1	2
330.14(k)(l); sponsor request for FDA withdraw of TEA consideration	1	1	1	1	1
330.14(k)(2); sponsor request for FDA to not deem submission withdrawn	1	1	1	2	2
Total					7,756

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: May 23, 2017.

Anna K. Abram,

Deputy Commissioner for Policy, Planning, Legislation, and Analysis.

[FR Doc. 2017–11008 Filed 5–26–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; 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 Neurological Disorders and Stroke Initial Review Group; Neurological Sciences and Disorders B.

Date: June 22–23, 2017.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Wyndham Grand Chicago Riverfront Hotel, 71 East Wacker Drive, Chicago, IL 60601.

Contact Person: Birgit Neuhuber, Ph.D., Scientific Review Officer , Scientific Review Branch, NINDS/NIH/DHHS, Neuroscience Center, 6001 Executive Blvd., Suite 3204, MSC 9529, (301) 496–9223, Bethesda, MD 20892–9529, *neuhuber@ninds.nih.gov*.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel; R13 Review.

Date: June 22, 2017.

Time: 9:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Virtual Meeting).

Contact Person: Ernest Lyons, Ph.D., Scientific Review Officer, Scientific Review Branch, NINDS/NIH/DHHS, Neuroscience Center, 6001 Executive Blvd., Suite 3204, MSC 9529, Bethesda, MD 20892–9529, (301) 496–4056, *lyonse@ninds.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS)

Dated: May 24, 2017.

Sylvia L. Neal,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–11097 Filed 5–26–17; 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: Heart, Lung, and Blood Initial Review Group; NHLBI Mentored Clinical and Basic Science Review Committee.

Date: June 22–23, 2017.

Time: 10:30 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The Westin Crystal City, 1800 Jefferson Davis Highway, Arlington, VA 22202.

Contact Person: Keith A. Mintzer, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7186, Bethesda, MD 20892–7924, 301–827–7949, *mintzerk@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: May 23, 2017.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–10994 Filed 5–26–17; 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 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 Heart, Lung, and Blood Institute Special Emphasis Panel; Cardiovascular and Pulmonary Research on E-Cigarettes.

Date: June 20, 2017.

Time: 8:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The Westin Crystal City, 1800 Jefferson Davis Highway, Arlington, VA 22202.

Contact Person: David A. Wilson, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7204, Bethesda, MD 20892–7924, 301–827–7993, *wilsonda2@nhlbi.nih.gov*.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; Grant Review for NHLBI K Award Recipients.

Date: June 20, 2017.

Time: 1:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Room 7202, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Melissa E. Nagelin, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7202, Bethesda, MD 20892, 301–594–8518, *nagelinmh2@nhlbi.nih.gov*.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; Single-Site Clinical Trial Applications.

Date: June 21, 2017.

Time: 8:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Chang Sook Kim, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7188, Bethesda, MD 20892–7924, 301–827–7940, *carolko@mail.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: May 23, 2017.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–10992 Filed 5–26–17; 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; PAR–14–066: Specific Pathogen Free Macaque Colonies.

Date: June 21, 2017.

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, (Telephone Conference Call).

Contact Person: Barna Dey, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3184, Bethesda, MD 20892, 301–451–2796, *bdey@mail.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Health Care Delivery and Methods.

Date: June 21, 2017.

Time: 12:00 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892.

Contact Person: Gabriel B. Fosu, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3108, MSC 7808, Bethesda, MD 20892, (301) 435–3562, *fosug@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Developmental Therapeutics.

Date: June 22, 2017.

Time: 12:00 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: Syed M. Quadri, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6210, MSC 7804, Bethesda, MD 20892, 301–435–1211, *quadris@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Microbiome and Related Sciences.

Date: June 23, 2017.

Time: 11:30 a.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Crowne Plaza Hotel Seattle, 1113 6th Ave., Seattle, WA 98101.

Contact Person: Aiping Zhao, MD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Rm 2188 MSC7818, Bethesda, MD 20892–7818, (301) 435–0682, *zhaoa2@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Topics in Nephrology.

Date: June 23, 2017.

Time: 1:00 p.m. to 4:00 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: Jonathan K. Ivins, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4040A, MSC 7806, Bethesda, MD 20892, (301) 594–1245, *ivinsj@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: May 24, 2017.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–11094 Filed 5–26–17; 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 § 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 § 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: Heart, Lung, and Blood Initial Review Group; Clinical Trials Review Committee.

Date: June 22–23, 2017.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Garden Inn Bethesda, 7301 Waverly Street, Bethesda, MD 20814.

Contact Person: Keary A. Cope, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7190, Bethesda, MD 20892–7924, 301–827–7912, *copeka@mail.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: May 23, 2017.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–10995 Filed 5–26–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Advancing Translational 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 Center for Advancing Translational Sciences Special Emphasis Panel; Conference Grants.

Date: July 17, 2017.

Time: 1:00 p.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, One Democracy Plaza, Room 1066, 6701 Democracy Boulevard, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Barbara J. Nelson, Ph.D., Scientific Review Officer Office of Scientific Review, National Center for Advancing Translational, Sciences (NCATS), National Institutes of Health, 6701 Democracy Blvd., Democracy 1, Room 1080, Bethesda, MD 20892–4874, 301–435–0806, *nelsonbj@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.350, B—Cooperative Agreements; 93.859, Biomedical Research and Research Training, National Institutes of Health, HHS)

Dated: May 23, 2017.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–10991 Filed 5–26–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Dental & Craniofacial Research 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 Dental and Craniofacial Research Special Emphasis Panel; NIDCR SOAR Review.

Date: June 22, 2017.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: DoubleTree by Hilton Hotel Bethesda, 8120 Wisconsin Ave., Bethesda, MD 20814.

Contact Person: Guo He Zhang, MPH, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institute of Dental and Craniofacial Research, National Institutes of Health, 6701 Democracy Boulevard Suite 672, Bethesda, MD 20892, *zhanggu@mail.nih.gov.*

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel.

Date: June 28, 2017.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, One Democracy Plaza, 6701 Democracy Boulevard, Bethesda, MD 20892.

Contact Person: Crina Frincu, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institute of Dental and Craniofacial Research, National Institutes of Health, 6701 Democracy Blvd., Suite 662, Bethesda, MD 20892, *cfrincu@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.121, Oral Diseases and Disorders Research, National Institutes of Health, HHS)

Dated: May 24, 2017.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–11096 Filed 5–26–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Allergy, Immunology, and Transplantation Research Committee.

Date: June 22–23, 2017.

Time: 10:00 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: James T. Snyder, Ph.D., Scientific Review Officer , Scientific Review Program, Division of Extramural Activities/Room 3G31B, National Institutes of Health, NIAID, 5601 Fishers Lane MSC 9834, Bethesda, MD 20892–9834, 240–669–5060, *james.snyder@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: May 24, 2017.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–11095 Filed 5–26–17; 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 section 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: Heart, Lung, and Blood Initial Review Group; NHLBI Mentored Patient-Oriented Research Review Committee.

Date: June 22–23, 2017.

Time: 8:30 a.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The William F. Bolger Center, 9600 Newbridge Drive, Potomac, MD 20854.

Contact Person: Stephanie Johnson Webb, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7196, Bethesda, MD 20892, 301–435–0288, *stephanie.webb@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: May 23, 2017.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–10993 Filed 5–26–17; 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; PAR16–052: Global Noncommunicable Diseases and Injury Across the Lifespan (R21).

Date: June 19–20, 2017.

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.

Contact Person: Fungai Chanetsa, MPH, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3135, MSC 7770, Bethesda, MD 20892, 301–408–9436, *fungai.chanetsa@nih.hhs.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Ocular Surface, Cornea, Anterior Segment Glaucoma and Refractive Error.

Date: June 19–20, 2017.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Kinzie Hotel, 20 West Kinzie Street, Chicago, IL 60654.

Contact Person: Kristin Kramer, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5205, MSC 7846, Bethesda, MD 20892, (301) 437–0911, *kramerkm@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Molecular Targets for Cancer Interventions.

Date: June 19–20, 2017.

Time: 8:00 a.m. to 6:00 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: Careen K. Tang-Toth, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6214, MSC 7804, Bethesda, MD 20892, (301)435–3504, *tothct@csr.nih.gov.*

Name of Committee: Brain Disorders and Clinical Neuroscience Integrated Review Group; Diseases and Pathophysiology of the Visual System Study Section.

Date: June 19–20, 2017.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn, 1199 Vermont Ave. NW., Washington, DC 20005.

Contact Person: Nataliya Gordiyenko, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5202, MSC 7846, Bethesda, MD 20892, 301–435–1265, *gordiyenkon@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Oncological Sciences Fellowship Panel.

Date: June 19–20, 2017.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Ritz-Carlton Hotel, 1700 Tysons Boulevard, McLean, VA 22102.

Contact Person: Jian Cao, MD, Scientific Review Officer, Center for Scientific Review, 6701 Rockledge Drive, Bethesda, MD 20892, 301–827–5902, *caojn@csr.nih.gov.*

Name of Committee: Brain Disorders and Clinical Neuroscience Integrated Review Group; Brain Injury and Neurovascular Pathologies Study Section.

Date: June 19–20, 2017.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Alexander Yakovlev, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5206, MSC 7846, Bethesda, MD 20892, 301–435–1254, *yakovleva@csr.nih.gov.*

Name of Committee: Integrative, Functional and Cognitive Neuroscience Integrated Review Group; Neurobiology of Learning and Memory Study Section.

Date: June 19, 2017.

Time: 8:00 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The Washington Plaza Hotel, 10 Thomas Circle NW., Washington, DC 20005.

Contact Person: Nicholas Gaiano, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5178, MSC 7844, Bethesda, MD 20892–7844, 301–435–1033, *gaianonr@csr.nih.gov.*

Name of Committee: Healthcare Delivery and Methodologies Integrated Review Group; Health Disparities and Equity Promotion Study Section.

Date: June 19–20, 2017.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Lorien Hotel & Spa, 1600 King Street, Alexandria, VA 22314.

Contact Person: Jessica Bellinger, Ph.D., Scientific Review Administrator, Center for Scientific of Review, National Institutes of Health, 6701 Rockledge Drive, Room 3158, Bethesda, MD 20892, 301–827–4446, *bellingerjd@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Orthopedic, Skeletal Muscle and Oral Sciences.

Date: June 19, 2017.

Time: 8:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda North Marriott Hotel & Conference Center, 5701 Marinelli Road, Bethesda, MD 20852.

Contact Person: Aftab A. Ansari, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4108, MSC 7814, Bethesda, MD 20892, 301–237–9931, *ansaria@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Bacteria Gene Expression.

Date: June 19, 2017.

Time: 3:00 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 (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.*

Name of Committee: Bioengineering Sciences & Technologies Integrated Review Group; Instrumentation and Systems Development Study Section.

Date: June 20–21, 2017.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Admiral Fell Inn, 888 South Broadway, Baltimore, MD 21231.

Contact Person: Kathryn Kalasinsky, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5158 MSC 7806, Bethesda, MD 20892, 301–402–1074, *kalasinskyks@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR–15–358-Molecular and Cellular Causal Aspects of Alzheimer's Disease.

Date: June 20, 2017.

Time: 8:00 a.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Crystal City, 2799 Jefferson Davis Highway, Arlington, VA 22202.

Contact Person: Afia Sultana, Ph.D., Scientific Review Officer, National Institutes of Health, Center for Scientific Review, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 827–7083, *sultanaa@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR 17–097: Planning for NCD Research Training Programs in Low and Middle Income Countries (D71).

Date: June 20, 2017.

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.

Contact Person: Fungai Chanetsa, MPH, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3135, MSC 7770, Bethesda, MD 20892, 301–408–9436, *fungai.chanetsa@nih.hhs.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel: Improvement of Animal Models for Stem Cell Based Regenerative Medicine.

Date: June 20, 2017.

Time: 1:00 p.m. to 4:00 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: Jonathan Arias, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5170, MSC 7840, Bethesda, MD 20892, 301–435–2406, *ariasj@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR–17–047-Selective Cell and Network Vulnerability in Aging and Alzheimer's Disease.

Date: June 20, 2017.

Time: 2:30 p.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Crystal City, 2799 Jefferson Davis Highway, Arlington, VA 22202.

Contact Person: Afia Sultana, Ph.D., Scientific Review Officer, National Institutes of Health, Center for Scientific Review, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 827–7083, *sultanaa@mail.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: May 24, 2017.

Sylvia L. Neal,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–11093 Filed 5–26–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Center for Substance Abuse Prevention; Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given that the Substance Abuse and Mental Health Services Administration's (SAMHSA) Center for Substance Abuse Prevention (CSAP) Drug Testing Advisory Board (DTAB) will meet via web conference on June 13, 2017, from 10:00 a.m. to 1:00 p.m. EDT.

The Board will meet in open session to provide updates on the Mandatory Guidelines for Federal Workplace Drug Testing Program, and updates from our federal partners in the Department of Transportation, Nuclear Regulatory Commission, Department of Defense, and the National Laboratory Certification Program (NLCP).

The public is invited to listen via web conference only. There will be no on-site attendance available. Due to the limited call-in capacity, registration is requested. Public comments are welcome. If you intend to provide public comments, please register and provide a summary of your comments to the contact listed below. The Division of Workplace Programs will review public comments to ensure that they address the topics scheduled to be discussed during the meeting and adhere to the meeting's established time limits for public comments. To obtain the web conference call-in numbers and access codes, registration can be completed online at *http://snacregister.samhsa.gov/MeetingList.aspx*.

Meeting information, materials (presentations, meeting summary, transcripts), and a roster of DTAB members may be obtained by accessing the SAMHSA Advisory Committees Web site, *http://www.samhsa.gov/about-us/advisory-councils/drug-testing-advisory-board-dtab.*

Committee Name: Substance Abuse and Mental Health Services Administration's Center for Substance Abuse Prevention Drug Testing Advisory Board.

Dates/Time/Type: June 13, 2017, from 10:00 a.m. to 1:00 p.m., EDT: OPEN.

Place: Parklawn Building, Room 5A03, 5600 Fishers Lane, Rockville, Maryland 20857.

Contact: Brian Makela, Division of Workplace Programs, 5600 Fishers Lane, Room 16N02B, Rockville, Maryland 20857.

Telephone: 240–276–2600.

Fax: 240–276–2610.

Email: brian.makela@samhsa.hhs.gov.

Brian Makela,

Chemist, Substance Abuse and Mental Health Services Administration.

[FR Doc. 2017–10989 Filed 5–26–17; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[Docket No. USCBP–2017–0005]

Request for Applicants for Appointment to the U.S. Customs and Border Protection User Fee Advisory Committee

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

ACTION: Committee management; request for applicants for appointment to the U.S. Customs and Border Protection User Fee Advisory Committee.

SUMMARY: U.S. Customs and Border Protection is requesting individuals who are interested in serving on the U.S. Customs and Border Protection User Fee Advisory Committee to apply for appointment. The U.S. Customs and Border Protection User Fee Advisory Committee is tasked with providing advice to the Secretary of the Department of Homeland Security through the Commissioner of U.S. Customs and Border Protection on matters related to the performance of inspections coinciding with the assessment of an agriculture, customs, or immigration user fee.

DATES: Applications for membership should be submitted to U.S. Customs and Border Protection at the address below on or before July 14, 2017.

ADDRESSES: If you wish to apply for membership, your application should be submitted by one of the following means:

- *Email: Traderelations@dhs.gov*.
- *Fax:* (202) 325–4290.
- *Mail:* Ms. Wanda Tate, Office of Trade Relations, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW., Room 3.5A, Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Ms. Wanda Tate, Office of Trade Relations, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW., Room 3.5A, Washington, DC 20229; telephone (202) 344–1440; facsimile (202) 325–4290.

SUPPLEMENTARY INFORMATION: The U.S. Customs and Border Protection User Fee Advisory Committee is an advisory committee established in accordance with the provisions of the Federal Advisory Committee Act, 5 U.S.C. Appendix.

Balanced Membership Plans: The U.S. Customs and Border Protection User Fee Advisory Committee may consist of up to 20 members. Members are appointed

by and serve at the pleasure of the Secretary of the Department of Homeland Security. Members are selected to represent the point of view of the airline, cruise ship, transportation, and other industries that may be subject to agriculture, customs, or immigration user fees and are not Special Government Employees as defined in 18 U.S.C. 202(a). To achieve a fairly balanced membership, the composition of an advisory committee's membership will depend upon several factors, including the advisory committee's mission; the geographic, ethnic, social, economic, or scientific impact of the advisory committee's recommendations; the types of specific perspectives required, for example, such as those of consumers, technical experts, the public at-large, academia, business, or other sectors; the need to obtain divergent points of view on the issues before the advisory committee; and the relevance of State, local, or tribal governments to the development of the advisory committee's recommendations. The Commissioner of U.S. Customs and Border Protection will consider a cross-section of those directly affected, interested, and qualified, as appropriate to the nature and functions of the U.S. Customs and Border Protection User Fee Advisory Committee (Committee). Members shall not be paid or reimbursed for any travel, lodging expenses, or related costs for their participation on this Committee.

Committee Meetings

The Committee is expected to meet at least once per year. Additional meetings may be held with the approval of the Designated Federal Officer. Committee meetings shall be open to the public unless a determination is made by the appropriate Department of Homeland Security official in accordance with Department of Homeland Security policy and directives that the meeting should be closed in accordance with 5 U.S.C. 552b(c).

Committee Membership

Appointees will serve a two-year term of office to run concurrent with the duration of the charter.

No person who is required to register under the *Foreign Agents Registration Act* as an agent or representative of a foreign principal may serve on this Committee.

Members who are currently serving on the Committee are eligible to re-apply for membership provided that they are not in their second consecutive term and that they have met the attendance requirements. A new application letter is required. Members will not be paid compensation by the Federal Government for their services with respect to the U.S. Customs and Border Protection User Fee Advisory Committee.

Application for Advisory Committee Appointment

Any interested person wishing to serve on the U.S. Customs and Border Protection User Fee Advisory Committee must provide the following:

- Statement of interest and reasons for application;
- Complete professional resume;
- Home address and telephone number;
- Work address, telephone number, and email address; and
- Statement of the industry you represent.

The Department of Homeland Security does not discriminate on the basis of race, color, religion, sex, national origin, sexual orientation, gender identity, marital status, disability and genetic information, age, membership in an employee organization, or other non-merit factor. The Department of Homeland Security strives to achieve a widely diverse candidate pool for all of its recruitment actions.

Dated: May 23, 2017.

Kevin K. McAleenan,

Acting Commissioner, U.S. Customs and Border Protection.

[FR Doc. 2017–10961 Filed 5–26–17; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID: FEMA–2017–0018; OMB No. 1660–0002]

Agency Information Collection Activities: Proposed Collection; Comment Request; Disaster Assistance Registration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: The Federal Emergency Management Agency, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on an extension without change of a currently approved information collection. In accordance with the Paperwork Reduction Act of 1995, this notice seeks comments concerning the Disaster Assistance Registration process.

DATES: Comments must be submitted on or before July 31, 2017.

ADDRESSES: To avoid duplicate submissions to the docket, please use only one of the following means to submit comments:

(1) *Online.* Submit comments at *www.regulations.gov* under Docket ID FEMA–2017–0018. Follow the instructions for submitting comments.

(2) *Mail.* Submit written comments to Docket Manager, Office of Chief Counsel, DHS/FEMA, 500 C Street SW., Room 8NE, Washington, DC 20472–3100.

All submissions received must include the agency name and Docket ID. Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to read the Privacy Act notice that is available via the link in the footer of *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Contact Elizabeth McDowell, Supervisory Program Specialist, FEMA, Recovery Directorate, at (540) 686–3630 for further information. You may contact the Records Management Division for copies of the proposed collection of information at facsimile number (202) 646–3347 or email address: *FEMA-Information-Collections-Management@dhs.gov.*

SUPPLEMENTARY INFORMATION: The Robert T. Stafford Disaster Relief and Emergency Assistance Act (Pub. L. 93–288) (the Stafford Act), as amended, is the legal basis for the Federal Emergency Management Agency (FEMA) to provide financial assistance and services to individuals who apply for disaster assistance benefits in the event of a federally declared disaster. Regulations in title 44 of the Code of Federal Regulations (CFR), Subpart D, ''Federal Assistance to Individuals and Households,'' implement the policy and procedures set forth in section 408 of the Stafford Act, 42 U.S.C. 5174, as amended. This program provides financial assistance and, if necessary, direct assistance to eligible individuals and households who, as a direct result of a major disaster or emergency, have uninsured or under-insured, damage, necessary expenses, and serious needs which are not covered through other means.

Individuals and households may apply for assistance under the Individuals and Households program in person, via telephone or internet. FEMA utilizes paper forms 009–0–1 (English) Disaster Assistance Registration or FEMA Form 009–0–2 (Spanish), Solicitud/Registro Para Asistencia De Resastre to register individuals.

FEMA provides direct assistance to eligible applicants pursuant to the requirements in 44 CFR 206.117. To receive direct assistance for temporary housing (*e.g.,* mobile home or other manufactured housing unit) from FEMA, the applicant is required to acknowledge and accept the conditions for occupying government property. The applicant is also required to acknowledge that he or she has been informed of the conditions for continued direct housing assistance. To accomplish these acknowledgments and notifications, FEMA uses the applicant's household composition data in National Emergency Management Information System to prepare a Manufactured Housing Unit Revocable License and Receipt for Government Property FEMA Form 009–0–5, or Las Casas Manufacturadas Unidad Licencia Revocable y Recibo de la Propiedad del Gobierno FEMA Form 009–0–6.

Federal public benefits are provided to U.S. citizens, non-citizen nationals, or qualified aliens. A parent or guardian of a minor child may be eligible for disaster assistance if, the minor child is a US citizen, Non-citizen national or qualified alien and the minor child lives with the parent or guardian. (*See* 8 U.S.C. 1601–1646).

By signing FEMA Forms 009–0–3, Declaration and Release or 009–0–4, Declaración Y Autorización an applicant or a member of the applicant's household is attesting to being a US citizen, non-citizen national or qualified alien. A parent or guardian of a minor child signing FEMA Forms 009–0–3, Declaration and Release or 009–0–4, Declaración Y Autorización is attesting that the minor child is a US citizen, non-citizen national or qualified alien.

Collection of Information

Title: Disaster Assistance Registration.

Type of Information Collection: Extension without change of a currently approved information collection.

OMB Number: 1660–0002.

FEMA Forms: FEMA Form 009–0–1T (English) Tele-Registration, Disaster Assistance Registration; FEMA Form 009–0–1Int (English) Internet, Disaster Assistance Registration; FEMA Form 009–0–2Int (Spanish) Internet, Registro Para Asistencia De Desastre; FEMA Form 009–0–1 (English) Paper Application/Disaster Assistance Registration; FEMA Form 009–0–2 (Spanish), Solicitud en Papel/Registro Para Asistencia De Desastre; FEMA Form 009–0–1S (English) Smartphone, Disaster Assistance Registration; FEMA Form 009–0–2S (Spanish) Smartphone, Registro Para Asistencia De Desastre; FEMA Form 009–0–3 (English), Declaration and Release; FEMA Form 009–0–4 (Spanish), Declaración Y Autorización; FEMA Form 009–0–5 (English), Manufactured Housing Unit Revocable License and Receipt for Government Property; FEMA Form 009–0–6 (Spanish), Las Casas Manufacturadas Unidad Licencia Revocable y Recibo de la Propiedad del Gobierno.

Abstract: The various forms in this collection are used to collect pertinent information to provide financial assistance, and if necessary, direct assistance to eligible individuals and households who, as a direct result of a disaster or emergency, have uninsured or under-insured, necessary expenses and serious needs that they are unable to meet through other means.

Affected Public: Individuals or Households.

Number of Respondents: 3,264,753.

Number of Responses: 3,264,753.

Estimated Total Annual Burden Hours: 628,036 hours.

Estimated Cost: The estimated annual cost to respondents for the hour burden is $19,255,579. There are no annual costs to respondents operations and maintenance costs for technical services. There is no annual start-up or capital costs. The cost to the Federal Government is $15,618,762.

Comments

Comments may be submitted as indicated in the **ADDRESSES** caption above. Comments are solicited to (a) evaluate whether the proposed data collection is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Dated: May 19, 2017.

Richard Mattison,

Records Management Branch Chief, Mission Support, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. 2017–11088 Filed 5–26–17; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID: FEMA–FEMA–2017–0019; OMB No. 1660–0061]

Agency Information Collection Activities: Proposed Collection; Comment Request, Federal Assistance to Individuals and Households Program, (IHP).

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: The Federal Emergency Management Agency, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on an extension without change of a currently approved information collection. In accordance with the Paperwork Reduction Act of 1995, this notice seeks comments concerning the need to continue collecting information from individuals and States in order to provide and/or administer disaster assistance through the Federal Assistance to Individuals and Households Programs.

DATES: Comments must be submitted on or before July 31, 2017.

ADDRESSES: To avoid duplicate submissions to the docket, please use only one of the following means to submit comments:

(1) *Online.* Submit comments at *www.regulations.gov* under Docket ID FEMA–2017–0019. Follow the instructions for submitting comments.

(2) *Mail.* Submit written comments to Docket Manager, Office of Chief Counsel, DHS/FEMA, 500 C Street SW., Room 8NE, Washington, DC 20472–3100.

(3) *Facsimile.* Submit comments to (703) 483–2999.

All submissions received must include the agency name and Docket ID. Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal

information you provide. Therefore, submitting this information makes it public. You may wish to read the Privacy Act notice that is available via the link in the footer of *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Contact for further information. Elizabeth McDowell, Program Specialist, 540–686–3630. You may contact the Records Management Division for copies of the proposed collection of information at email address: *FEMA-Information-Collections-Management@dhs.gov.*

SUPPLEMENTARY INFORMATION: The Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5207 (the Act) is the legal basis for FEMA to provide disaster related assistance and services to individuals who apply for disaster assistance benefits in the event of a federally declared disaster. The Individuals and Households Program (IHP) (the Act at 5174, Federal Assistance to Individuals and Households) provides financial assistance to eligible individuals and households who, as a direct result of a major disaster or emergency have necessary expenses and serious needs. The ''Other Needs Assistance'' (ONA) provision of IHP provides disaster assistance to address needs other than housing, such as personal property, transportation, etc.

The delivery of the ONA provision of IHP is contingent upon the State/Tribe choosing an administrator for the assistance. States/Tribes satisfy the selection of an administrator of ONA by completing the Administrative Option Agreement (FEMA Form 010–0–11), which establishes a plan for the delivery of ONA. This agreement establishes a partnership with FEMA and inscribes the plan for the delivery of disaster assistance. The agreement is used to identify the State/Tribe's proposed level of support and participation during disaster recovery. In response to Super Storm Sandy (October 2012), Congress added ''child care'' expenses as a category of ONA through the Sandy Recovery Improvement Act of 2013 (SRIA), Pub. L. 113–2. Section 1108 of the SRIA amends section 408(e)(1) of the Stafford Act (42 U.S.C. 5174(e)(1)), giving FEMA the specific authority to pay for ''child care'' expenses as disaster assistance under ONA.

Collection of Information

Title: Federal Assistance to Individuals and Households Program, (IHP).

Type of Information Collection: Revision of a currently approved information collection.

OMB Number: 1660–0061.

Form Titles and Numbers: FEMA Form 010–0–11, Administrative Option Agreement for the Other Needs provision of Individuals and Households Program, (IHP); FEMA Form 010–0–12, Request for Continued Assistance (Application for Continued Temporary Housing Assistance); FEMA Form 010–0–12S (Spanish) Solicitud para Continuar la Asistencia de Vivienda Temporera.

Abstract: The Federal Assistance to Individuals and Households Program (IHP) enhances applicants' ability to request approval of late applications, request continued assistance, and appeal program decisions. Similarly, it allows States to partner with FEMA for delivery of disaster assistance under the ''Other Needs'' provision of the IHP through Administrative Option Agreements and Administration Plans addressing the level of managerial and resource support necessary.

Affected Public: State, Local or Tribal Government.

Number of Respondents: 59,073.

Number of Responses: 78,399.

Estimated Total Annual Burden Hours: 65,267 hours.

Estimated Cost: The estimated annual cost to respondents for the hour burden is $2,043,275.28. There are no annual costs to respondents operations and maintenance costs for technical services. There is no annual start-up or capital costs. The cost to the Federal Government is $213,556.60.

Comments

Comments may be submitted as indicated in the ADDRESSES caption above. Comments are solicited to (a) evaluate whether the proposed data collection is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Dated: May 19, 2017.

Richard Mattison,

Records Management Branch Chief, Mission Support, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. 2017–11089 Filed 5–26–17; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–HQ–MB–2017–N068; FF09M21200–167–FXMB1231099BPP0]

Agency Information Collection Activities: OMB Control Number 1018–0022; Federal Fish and Wildlife Permit Applications and Reports—Migratory Birds and Eagles

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice; request for comments.

SUMMARY: We (U.S. Fish and Wildlife Service) will ask the Office of Management and Budget (OMB) to approve the information collection (IC) described below. As required by the Paperwork Reduction Act of 1995 and as part of our continuing efforts to reduce paperwork and respondent burden, we invite the general public and other Federal agencies to take this opportunity to comment on this IC. This IC is scheduled to expire on May 31, 2017. We 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.

DATES: To ensure that we are able to consider your comments on this IC, we must receive them by July 31, 2017.

ADDRESSES: Send your comments and suggestions on this information collection to the Desk Officer for the Department of the Interior at OMB–OIRA at (202) 395–5806 (fax) or *OIRA_Submission@omb.eop.gov* (email). Please provide a copy of your comments to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS: BPHC, 5275 Leesburg Pike, Falls Church, VA 22041–3803 (mail); or *info_coll@fws.gov* (email). Please include ''1018–0022'' in the subject line of your comments. You may review the ICR online at *http://www.reginfo.gov.* Follow the instructions to review Department of the Interior collections under review by OMB.

FOR FURTHER INFORMATION CONTACT: Service Information Collection Clearance Officer, at *info_coll@fws.gov* (email) or (703) 358–2503 (telephone).

SUPPLEMENTARY INFORMATION:

I. Abstract

Our Regional Migratory Bird Permit Offices use information that we collect on permit applications to determine the eligibility of applicants for permits requested in accordance with the criteria in various Federal wildlife conservation laws and international treaties, including:

(1) Migratory Bird Treaty Act (16 U.S.C. 703 *et seq.*).

(2) Lacey Act (16 U.S.C. 3371 *et seq.*).

(3) Bald and Golden Eagle Protection Act (16 U.S.C. 668).

Service regulations implementing these statutes and treaties are in chapter I, subchapter B of title 50 of the Code of Federal Regulations (CFR). These regulations stipulate general and specific requirements that, when met, allow us to issue permits to authorize activities that are otherwise prohibited.

All Service permit applications are in the 3–200 series of forms, each tailored to a specific activity based on the requirements for specific types of permits. We collect standard identifier information for all permits. The information that we collect on applications and reports is the minimum necessary for us to determine if the applicant meets/continues to meet issuance requirements for the particular activity.

Information collection requirements associated with the Federal fish and wildlife permit applications and reports for migratory birds and eagles are currently approved under two different OMB control numbers, 1018–0022, ''Federal Fish and Wildlife Permit Applications and Reports—Migratory Birds and Eagles; 50 CFR 10, 13, 21, 22,'' and 1018–0167, ''Eagle Take Permits and Fees, 50 CFR 22.'' In this revision of 1018–0022, we are including all of the information collection requirements associated with both OMB Control Numbers. If OMB approves this revision, we will discontinue OMB Control Number 1018–0167.

II. Data

OMB Control Number: 1018–0022.

Title: Federal Fish and Wildlife Permit Applications and Reports—Migratory Birds and Eagles; 50 CFR 10, 13, 21, 22.

Service Form Number(s): FWS Forms 3–186; 3–186a, 3–2480, 3–200–6 through 3–200–9; 3–200–10a through 3–200–10f; 3–200–12 through 3–200–14; 3–200–15a, 3–200–15b, 3–200–16, 3–200–18; 3–200–67; 3–200–71; 3–200–72; 3–200–77 through 3–200–79; 3–200–81, 3–200–82; 3–202–1 through 3–202–17.

Type of Request: Revision of a currently approved collection.

Description of Respondents: Individuals; zoological parks; museums; universities; scientists; taxidermists; businesses; utilities; and Federal, State, tribal, and local governments.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: On occasion for applications; annually or on occasion for reports.

Estimated Number of Annual Responses: 55,673.

Estimated Completion Time per Response: Varies from 15 minutes to 700 hours, depending on activity.

Estimated Annual Burden Hours: 124,496.

Estimated Annual Non-hour Burden Cost: $2,085,125 (primarily associated with application processing fees).

III. Comments

On February 24, 2017, we published in the **Federal Register** (82 FR 11599) a notice of our intent to request that OMB approve this information collection. In that notice, we solicited comments for 60 days, ending on April 25, 2017. We received four comments in response to that Notice:

Comment 1

A respondent feels the Service should not issue permits to kill eagles or other birds and wildlife. She also expressed the need to preserve and protect birds and wildlife.

FWS Response to Comment 1

The Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act prohibit the killing of birds and eagles without a permit and authorize the Secretary of the Interior to establish a permitting program. The regulations implementing these acts (50 CFR parts 21 and 22) and the permitting program established under these regulations define the terms under which a permit to kill birds and eagles can be issued. The Service is obligated by these laws and regulations to issue a permit to anyone who shows a need and meets the requirements to receive one. Permits to kill birds and eagles are limited to specific instances such as for property damage, scientific study or protection of human health and safety. The number of birds and eagles authorized to be killed are strictly controlled based on the specific needs of the applicant, the population status of the birds or eagles applied for, and the direct effects any permit issued would have on these birds or eagles. Only after we establish that the killing of the birds or eagles requested will not affect the population of those birds will we issue a permit. Through this permitting program, we ensure they are protected and preserved for future generations of Americans to enjoy.

Comment 2

The Avian Power Line Interaction Committee (APLIC) provided the following comments:

APLIC Comment 2A

Re. ''*Whether or not the collection of information is necessary, including whether or not the information will have practical utility . . . .*''

Not only is the collection of information from those applying for the permits is necessary for good governance, it is also vital to the calculation of the burden that each agency uses to inform future regulation implementation. The collection of the information will not have practical utility if the Service does not absorb this information and incorporate it into future estimates.

FWS Response to Comment 2A/Action Taken

We collect information from the public for a number of purposes. The information on applications is used to determine the identity of the applicant, the ability of the applicant to successfully conduct the requested activity, and whether the applicant meets all the necessary qualifications to conduct such activities. Reports (annual or other) are used to cumulatively assess the effects of the activities on migratory bird populations to ensure that our management is appropriate and that there are no effects that would significantly impact either the populations' status or jeopardize the continued existence of any particular bird species for use and enjoyment by the American public. Further, not only do we utilize this collected information for management purposes, but we incorporate it into each and every information collection renewal. No action was taken in response to this portion of their comment.

APLIC Comment 2B

Re. ''*The accuracy of the Service's estimate of the burden for this collection of information . . . .*''

APLIC has gathered data from its membership to help the information collection adequately represent the power line Utility sector. The information in Table 1 is an averaged representative estimate from all types of power line companies, from rural cooperatives to investor-owned utilities. The data have been gathered across all

U.S. Fish and Wildlife Service (Service) Regions and therefore represent many types of avian habitat, multiple flyways, and multiple levels of urban development and rural landscapes. The cost/hour estimate is also averaged across the United States.

FWS Response to Comment 2B/Action Taken

We gather information from the public on the burden imposed to apply for a permit and report the results of any issued permit. Because of the broad range of applicants, burden estimates vary widely. As such, the estimated reported burden does not represent any particular class of applicant, but is intended to capture an approximation of the burden in a general manner. It is not unusual for a specific type of applicant to report their burden as much higher than that estimated. No action was taken in response to this portion of their comment. Based on our experience administering this collection of information, we believe our estimates of time burden to be accurate for most respondents.

APLIC Comment 2C

Re. ''Ways to enhance the quality, utility, and clarity of the information to be collected . . . .''

The processes through which the Service determines burden hours and cost estimates are not transparent, nor are the costs per hour realistic of the real-world costs for these types of actions. In addition to relying on public comment and aggregating those costs, working with major permit stakeholders (such as the electric utility industry and/or industry groups like APLIC) to solicit data would be helpful. Perhaps a more detailed report out for the multiple permittees would be more representative.

FWS Response/Action Taken to Comment 2C/Action Taken

Throughout the process of securing renewed approval from the Office of Management and Budget to impose this information collection on the public, we seek input from those affected by the requirement. We use the information provided by the public to calculate and estimate burdens and make every effort to impose only the minimum amount of burden to accomplish the requirements to issue a permit and to assess the permit program's effectiveness in protecting migratory birds while at the same time assisting the public in conducting activities that affect populations of migratory birds. We welcome and appreciate the input from stakeholders to ensure we are not imposing an unrealistic burden to accomplish the goals of the permitting program and are always available to discuss the program with the public on ways to enhance its effectiveness and eliminate unnecessary burden. We will assess the application and reporting forms continually to ensure we only require information from the public that is absolutely necessary to run an efficient permitting program. Further, where necessary, we will continue to reach out to the affected public to enhance our reporting requirements and burden estimates.

APLIC Comment 2D

Re. ''Ways to minimize the burden of the collection of information on respondents . . . .''

The associated reports for the permits are the elements to which it takes the longest to respond. These reports are necessary in order for the permit program to accurately collect information on biological impacts and baseline levels. There may not be a way around the information collection, but the in-print acknowledgement and adjustment of burden hour estimates and costs would be helpful.

FWS Response/Action Taken to Comment 2D/Action Taken

We recognize both the need for the reporting data, as well as the imposition of the burden on the public to report the results of their permit. We have begun an effort to modernize both the issuance of permits as well as the reporting. One such effort has been the change from paper reports for Special Purpose Utility permits to an Excel spreadsheet. The next step in the modernization of this report will be transition to an online Access database type of report. This effort should reduce the level of effort required by a permittee to report to us. As we move forward with this modernization effort, all reports will be updated to allow for online reporting, reducing or eliminating the need for a permittee to generate a paper report. For those permittees that do not have the necessary capabilities to access reports in an online manner, paper reports will remain in place for their convenience. We will continue to modernize the permitting program as resources allow, with the goal of reducing the application and reporting burden on the public as much as possible.

Comments 3 and 4

Comments received from the Energy and Wildlife Action Coalition (EWAC) and the American Wind Energy Association (AWEA) are essentially the same, so a combined response is provided.

EAWC/AWEA Comment 3A, re. Monitoring

EWAC Comment: EWAC questions the need and efficacy of extensive postconstruction monitoring for eagle take permits (ETPs), particularly with the additional requirement that monitoring must be conducted by an independent third party consultant.

AWEA Comment: AWEA believes that, as it stands, the Information Collection in the Eagle Rule provides limited utility for eagle life-of-facility monitoring.

FWS Response/Action Taken to EAWC/AWEA Comment 3A, re. Monitoring

Monitoring is among the most important and essential elements of the Service's eagle permitting program. The Service has acknowledged in its responses to comments on the 2016 Eagle Rule and elsewhere (*e.g.,* the Eagle Conservation Plan Guidance (ECPG), the Proposed Eagle Rule, and the Programmatic Environmental Impact Statement prepared for the Eagle Rule) that considerable uncertainty exists in all aspects of the eagle permitting program, particularly with respect to the accuracy of models used to predict the effects of actions like the operation of wind turbines on eagles. The Service has followed DOI policy and designed the eagle permitting program within a formal adaptive management framework, as described in response to other comments, in the preamble to the final rule, and in detail in Appendix A of the ECPG. Monitoring is an essential and fundamental element of adaptive management; it is absolutely necessary to reduce uncertainty and improve confidence in the permitting process; it is also essential to account for and provide credit to permittees who over-mitigate for their eagle take in the initial years of wind project operation. No action was taken in response to this comment.

EAWC/AWEA Comment 3B, re. Preconstruction Surveys

EWAC Comment: Conducting preconstruction surveys on new electric transmission and distribution systems would be infeasible and highly inefficient; moreover, it has no known relationship between preconstruction data and eagle risk.

AWEA Comment: According to the requirements in Appendix C of the Eagle Plan Conservation Guidance, permit applicants and permittees are not required to conduct preconstruction surveys.

FWS Response/Action Taken to EAWC/AWEA 3B, re. Pre-Construction Surveys

As noted in the response to comments on the final rule, the Service agrees that preconstruction data needed for electric utilities may differ from that for wind facilities. As we stated in the Service's comments on the final rule, we will take these differences into account as we develop guidance for eagle incidental take permits associated with electrical infrastructure. No action was taken in response to this comment.

EAWC/AWEA Comment 3C, re. Local Area Population

EWAC Comment: The applicant cannot plan for compensatory mitigation costs unless and until the Service conducts the LAP analysis, and can then only rely on the results of that analysis without the ability to verify or question it . . . the output of LAP analysis and the delay in learning the results of the LAP analysis creates uncertainty and potentially additional costs that cannot be planned for in advance.

And: The Service should not condition the amount of mitigation and NEPA analyses on the Local Area Population (LAP) results, or it should commit to providing LAP analysis early on in the applicant/Service coordination process and use transparent methods and data when doing so.

AWEA Comment: The manner in which the Service conducts the LAP analysis leaves project applicants and permittees with insufficient information regarding the allowable take limits and the extent of unauthorized take occurring within the LAP . . . .

FWS Response/Action Taken to EAWC/AWEA 3C, re. Local Area Population

The LAP is determined by extrapolating the average density of eagles in the pertinent Eagle Management Unit (EMU) to the LAP area, which is the project area plus an 86-mile (Bald Eagle) or 104-mile (Golden Eagle) buffer; these distances are based on natal dispersal distances of each eagle species. As an example, consider a 1-year Golden Eagle nest disturbance permit application in western Colorado, which is in Bird Conservation Region (BCR) 6 under the current 2009 EMUs. The activity being undertaken could lead to the loss of 1 year of productivity, which has an expected value of 0.59 Golden Eagles removed from the population (the average 1-year productivity of an occupied Golden Eagle territory in BCR 16 at the 80th quantile, as described in the Status Report). This EMU has an estimated Golden Eagle population size of 3,585 at the 20th quantile, and the BCR covers 199,523 square miles, yielding an average Golden Eagle density of 0.018 Golden Eagles per square mile. The local area around a single point (the nest to be disturbed in this case) is a circle with a radius of 109 miles, which yields an LAP area of 37,330 square miles; thus, the estimated number of Golden Eagles in this LAP would be 671 individuals. The 5 percent LAP take limit for this permit under the current 2009 EMUs would be 34. The Service has developed a Geographic Information System (GIS) application that queries spatial databases on existing eagle take permit limits and known unpermitted take within the LAP area, as well as for any other permitted projects whose LAP intersects and overlaps the LAP of the permit under consideration. If this query indicates existing cumulative permitted (*i.e.,* over all existing permits) take for the LAP area is less than 34, and the unpermitted take database and other information available to the Service does not suggest that background take in the LAP is higher than average, then a permit for the take of 0.59 Golden Eagles could be issued without further analysis of the effects on eagles by tiering off this PEIS. If either condition were not true, the permit would require additional NEPA analysis. In either case, if the permit is issued, it would require compensatory mitigation to offset the authorized take, because the EMU take limit for Golden Eagles is zero.

The Service believes the LAP analysis will likely reduce costs for permits. The Service expedites work with project proponents when they approach Service staff to help them understand the potential impacts of their project and related compensatory mitigation ''burden.'' First, the LAP cumulative effects analysis is a relatively simple exercise that is conducted by the Service, so no additional resources are required from the applicant to conduct the analysis other than what would be required otherwise. Second, in cases where the LAP analysis is conducted as analyzed in the PEIS for the Eagle Rule, further project-specific NEPA analyses of the cumulative effects of the activity on eagles will not be necessary when projected take is within LAP take thresholds, thereby reducing overall costs for prospective permittees. No action was taken in response to this comment.

EAWC/AWEA Comment 3D, re. Cost Estimate/Burden

EWAC Comment: Considering the increased hourly rates and hour estimates, the cost estimates provided in the Hours and Cost Table should be doubled, at a minimum, if revised to reflect actual costs. In sum, the Eagle Take Permit (ETP) application process has a far greater cost burden on the regulated community than reflected in the Hours and Cost Table. (Including NEPA, Compensatory Mitigation, and ETP Application)

AWEA Comment: AWEA is concerned that the [burden] numbers are significantly underestimated.

FWS Response/Action Taken to EAWC/AWEA 3D, re. Cost Estimate/Burden

The purpose of establishing such a fee structure is to provide capacity to process permits. OMB Circular No. A–25 requires Federal agencies to recoup the costs of ''special services'' that provide benefits to identifiable recipients. Permits are special services that authorize recipients to engage in activities that are otherwise prohibited. Our ability to provide effectively these special services is dependent upon either general appropriations, which are needed for other agency functions, or on user fees. Accordingly, the permit fees associated with eagles permits are intended to cover the costs the Service incurs processing the average permit.

As described in the fee section of the 1996 Eagle Rule, the application fee for long-term permits was derived from average costs associated with processing these complex permits. Monitoring and mitigation costs, however, are scaled to the project, and would be expected to be lower for smaller-scale projects. The Service intends to involve the public in developing additional guidance for projects that pose a low risk of eagle take, which may be particularly relevant for small projects. Finally, in response to comments on the proposed Eagle Rule, the final regulation adopted an $8,000 administration fee for long-term permits, rather than the proposed $15,000 fee. Initial permit application processing fees for long-term permits did not change from the current $36,000. If a permittee requests the programmatic permit to exceed 5 years, then there will be an $8,000 review fee every 5 years to recoup the Service's review costs. With a 5-year maximum permit duration, renewal of a permit would require a $36,000 permit application processing fee, so the $8,000 administration fee reduces costs to small businesses engaged in long-term activities. The Service acknowledges that some service sectors may have costs and hour estimates that differ from those estimated, and some projects may be inherently complex, but we stand by our original estimates, because the

reasonable amount of time and expenditures project proponents and their contractors may likely expend for an average ETP.

It is not possible for the Service to survey all applicants for information on hourly rates paid for preparation and provision of the information required to make a decision on issuing an ETP and the authorizations in such a permit. Hourly rates for the burden estimate were selected from the average compensation tables published by the Bureau of Labor Statistics and include estimates of benefits. No action was taken in response to this comment.

EAWC/AWEA Comment 3E, re. Low Risk Permit

EWAC Comment: EWAC strongly believes that a low-risk or general permit program for eagles is essential to resolving many of the issues surrounding ETPs.

AWEA Comment: AWEA strongly believes the Service should develop a low-risk permitting option.

FWS Response/Action Taken to EAWC/AWEA Comment 3E, re. Low Risk Permit

In the Eagle Rule PEIS, the Service programmatically analyzes eagle take within certain levels and the effects of complying with compensatory mitigation requirements to allow the Service to tier from the PEIS when conducting project-level NEPA analyses. The PEIS will cover the analysis of effects to eagles under NEPA if: (1) The project will not take eagles at a rate that exceeds (individually or cumulatively) the take limit of the EMU (unless take is offset); (2) the project does not result in Service authorized take (individually or cumulatively) in excess of 5 percent of the LAP; and (3) the applicant will mitigate using an approach the Service has already analyzed (*e.g.,* power pole retrofitting), or the applicant agrees to use a Service-approved third-party mitigation program such as a mitigation bank or in-lieu fee program to accomplish any required offset for the authorized mortality. The PEIS, therefore, should streamline the NEPA process for these projects. We will consider legal mechanisms for streamlining take authorizations to low-risk or lower impact activities in the future.

EAWC/AWEA Comment 3F, re. Third-Party Monitoring

EWAC Comment: Having a blanket requirement for third-party monitoring for all long-term ETPs is of limited utility and significant cost.

AWEA Comment: The practical utility of requiring third-party monitoring of all long-term eagle take permits, as required in the Eagle Rule, is simply not justified in light of the excessive burden such monitoring imposes on permittees.

FWS Response/Action Taken to EAWC/AWEA Comment 3F, re. Third-Party Monitoring

The Service received a large number of comments on the proposed Eagle Rule urging us to require third-party monitoring on long-term permits, and we agreed with these commenters. The final regulations require that for all permits with durations longer than 5 years, monitoring must be conducted by qualified independent entities that report directly to the Service. In the case of permits of 5-year duration or shorter, such third-party monitoring may be required on a case-by-case basis. We do not agree that there will be significant additional costs imposed by the requirement for third-party monitoring. Most companies already rely on and pay for consultants to conduct project monitoring, presumably because it is more cost-effective than supporting those activities in-house. No action was taken in response to this comment.

EAWC/AWEA Comment 3G, re. Waivers

EWAC Comment: Some EWAC members have encountered reluctance from the Service to issue waivers under the Eagle Rule, even where projects have fallen under the listed circumstances when a waiver would be granted. If the Service is unwilling to issue waivers, then as a result many facilities may face delays of several years, the prospect of no permits, additional costs, and/or legal risk.

AWEA Comment: AWEA believes there is value in the waivers of Information Collection pursuant to the Eagle Rule. Waivers should be made for operating facilities where the new requirements for preconstruction surveys are no longer attainable.

FWS Response/Action Taken to EAWC/AWEA Comment 3G, re. Waivers

The final Eagle Rule regulations contain provisions that allow applicants to obtain coverage under all of the provisions of the prior regulations if they submit complete applications satisfying all of the requirements of those regulations within 6 months of the effective date of the final rule. However, we note that the Service guidance since 2011 has recommended 2 or more years of preconstruction eagle surveys, so planners of any prospective wind projects or other industry project conceived since then should have been aware of this. The regulations are not retroactive, and we are incorporating a 6-month ''grandfathering'' period after the effective date of the rule, wherein applicants (persons and entities who have already submitted applications) and project proponents who are in the process of developing permit applications) can choose whether to apply (or re-apply) to be permitted under all the provisions of the 2009 regulations or all the provisions of the final regulations.

The Service is developing policy on when waivers may be appropriate, and we will consider these comments along with the many others received on the proposed rule as part of that process. In the meantime, we recommend that project proponents work closely with Service staff to ascertain when waivers may be applicable. When eagle take has already occurred, projects will need to seek a civil settlement with the Service before a waiver, or a permit may be granted.

EAWC/AWEA Comment 3H, re. Module for Electric Transmission and Distribution

EWAC Comment: The Eagle Rule is strongly focused on the wind energy sector, and, as a result, several aspects of the Eagle Rule are unclear in their application to electric transmission and distribution. The result of this lack of clarity means potential delays, costs, and litigation risks that a non-wind energy applicant must bear. The Service should prioritize the development of guidance for the electric transmission and distribution industry and work collaboratively with the industry to ensure that the guidance is consistent with the practical realities of industry operations.

FWS Response/Action Taken to EAWC/AWEA Comment 3H, re. Module for Electric Transmission and Distribution

At this point, the only such standards were those included in the final Eagle Rule for estimating eagle take at wind facilities. The Service plans to develop standards for other industries in the immediate future, and will seek industry input in the development of those protocols.

IV. Request for and Availability of Public Comments

We again invite comments concerning this information collection on:

- Whether or not the collection of information is necessary, including whether or not the information will have practical utility;

• The accuracy of our estimate of the burden for this collection of information;

• Ways to enhance the quality, utility, and clarity of the information to be collected; and

• Ways to minimize the burden of the collection of information on respondents.

Comments that you submit in response to this notice are a matter of public record. 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 OMB in your comment to withhold your personal identifying information from public review, we cannot guarantee that it will be done.

V. Authorities

The authorities for this action are the Migratory Bird Treaty Act (16 U.S.C. 703, *et seq.*), Lacey Act (16 U.S.C. 3371, *et seq.*), Bald and Golden Eagle Protection Act (16 U.S.C. 668), and the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Dated: May 24, 2017.

Madonna L. Baucum,

Information Collection Clearance Officer, U.S. Fish and Wildlife Service.

[FR Doc. 2017–11063 Filed 5–26–17; 8:45 am]

BILLING CODE 4333–15–P

INTERNATIONAL TRADE COMMISSION

[USITC SE–17–024]

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: June 2, 2017 at 11:00 a.m.

PLACE: Room 101, 500 E Street SW., Washington, DC 20436.

TELEPHONE: (202) 205–2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agendas for future meetings: none
2. Minutes
3. Ratification List
4. Vote in Inv. Nos. 701–TA–576–577 and 731–TA–1362–1367 (Preliminary) (Cold-Drawn Mechanical Tubing from China, Germany, India, Italy, Korea, and Switzerland). The Commission is currently scheduled to complete and file its determinations on June 5, 2017; views of the Commission are currently scheduled to be complete and filed on June 12, 2017.
5. Vote in Inv. No. 731–TA–287 (Second Review) (Raw-in-Shell Pistachios from Iran). The Commission is currently scheduled to complete and file its determination and views of the Commission by June 26, 2017.
6. Outstanding action jackets: None

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission.

Issued: May 25, 2017.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2017–11172 Filed 5–25–17; 11:15 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging Proposed Stipulation and Order

In accordance with Departmental Policy, 28 CFR 50.7, notice is hereby given that a proposed Stipulation and Order in *United States, et al.* v. *NSTAR Electric Co. d/b/a Eversource Energy, Harbor Electric Energy Co., and Massachusetts Water Resources Authority,* Civil Action No. 16–11470–RGS, was lodged with the United States District Court for the District of Massachusetts on May 23, 2017.

This proposed Stipulation and Order concerns a complaint filed by the United States against Defendants NSTAR Electric Co. d/b/a Eversource Energy, Harbor Electric Energy Co., and the Massachusetts Water Resources Authority, for violations of Section 10 of the Rivers and Harbors Act of 1899, 33 U.S.C. 403, and Section 404(s) of the Clean Water Act, 33 U.S.C. 1344(s). The complaint seeks injunctive relief from, and civil penalties against, the Defendants for violating a permit issued in 1989 by the United States Army Corps of Engineers pursuant to the above statutes. The permit allowed a submarine cable to be installed across Boston Harbor, from an electrical substation in South Boston to Deer Island. The complaint alleges that the Defendants are the permittees or successors-in-interest to the permittees. Also, the complaint alleges that, within two federal channels, the Reserved Channel and the Main Ship Channel, the Defendants laid the cable at shallower depths than what the permit required. The proposed Stipulation and Order resolves these allegations by requiring the Defendants to lay a new cable from South Boston to Deer Island and then remove, or partly remove and partly abandon, the existing cable.

The Department of Justice will accept written comments relating to this proposed Stipulation and Order for thirty (30) days from the date of publication of this Notice. Please address comments to Christine Wichers, Assistant United States Attorney, United States Attorney's Office, One Courthouse Way, Suite 9200, Boston, MA 02210, and refer to *United States, et al.* v. *NSTAR Electric Co. d/b/a Eversource Energy, Harbor Electric Energy Co., and Massachusetts Water Resources Authority,* DJ # 90–5–1–1–20730.

The proposed Stipulation and Order may be examined at the Clerk's Office, United States District Court for the District of Massachusetts, One Courthouse Way, Suite 2300, Boston, MA 02210. In addition, the proposed Stipulation and Order may be examined electronically at *http://www.justice.gov/enrd/consent-decrees.*

Cherie L. Rogers,

Assistant Section Chief, Environmental Defense Section, Environment and Natural Resources Division.

[FR Doc. 2017–11032 Filed 5–26–17; 8:45 am]

BILLING CODE 4410–15–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

[NARA–2017–044]

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Once approved by NARA, records schedules provide mandatory instructions on what happens to records when agencies no longer need them for current Government business. The records schedules authorize agencies to preserve records of continuing value in the National Archives of the United States and to destroy, after a specified period, records lacking administrative, legal, research, or other value. NARA publishes notice in the **Federal Register** for records schedules in which agencies

propose to destroy records they no longer need to conduct agency business. NARA invites public comments on such records schedules.

DATES: NARA must receive requests for copies in writing by June 29, 2017. Once NARA finishes appraising the records, we will send you a copy of the schedule you requested. We usually prepare appraisal memoranda that contain additional information concerning the records covered by a proposed schedule. You may also request these. If you do, we will also provide them once we have completed the appraisal. You have 30 days after we send to you these requested documents in which to submit comments.

ADDRESSES: You may request a copy of any records schedule identified in this notice by contacting Records Appraisal and Agency Assistance (ACRA) using one of the following means:

Mail: NARA (ACRA), 8601 Adelphi Road, College Park, MD 20740–6001.

Email: request.schedule@nara.gov.

Fax: 301–837–3698.

You must cite the control number, which appears in parentheses after the name of the agency that submitted the schedule, and a mailing address. If you would like an appraisal report, please include that in your request.

FOR FURTHER INFORMATION CONTACT: Margaret Hawkins, Director, by mail at Records Appraisal and Agency Assistance (ACRA), National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001, by phone at 301–837–1799, or by email at *request.schedule@nara.gov.*

SUPPLEMENTARY INFORMATION: NARA publishes notice in the **Federal Register** for records schedules they no longer need to conduct agency business. NARA invites public comments on such records schedules, as required by 44 U.S.C. 3303a(a).

Each year, Federal agencies create billions of records on paper, film, magnetic tape, and other media. To control this accumulation, agency records managers prepare schedules proposing records retention periods and submit these schedules for NARA's approval. These schedules provide for timely transfer into the National Archives of historically valuable records and authorize the agency to dispose of all other records after the agency no longer needs them to conduct its business. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. Most schedules, however, cover records of only one office or program or a few series of records. Many of these update previously approved schedules, and some include records proposed as permanent.

The schedules listed in this notice are media neutral unless otherwise specified. An item in a schedule is media neutral when an agency may apply the disposition instructions to records regardless of the medium in which it creates or maintains the records. Items included in schedules submitted to NARA on or after December 17, 2007, are media neutral unless the item is expressly limited to a specific medium. (See 36 CFR 1225.12(e).)

Agencies may not destroy Federal records without Archivist of the United States' approval. The Archivist approves destruction only after thoroughly considering the records' administrative use by the agency of origin, the rights of the Government and of private people directly affected by the Government's activities, and whether or not the records have historical or other value.

In addition to identifying the Federal agencies and any subdivisions requesting disposition authority, this notice lists the organizational unit(s) accumulating the records (or notes that the schedule has agency-wide applicability when schedules cover records that may be accumulated throughout an agency); provides the control number assigned to each schedule, the total number of schedule items, and the number of temporary items (the records proposed for destruction); and includes a brief description of the temporary records. The records schedule itself contains a full description of the records at the file unit level as well as their disposition. If NARA staff has prepared an appraisal memorandum for the schedule, it also includes information about the records. You may request additional information about the disposition process at the addresses above.

Schedules Pending

1. Department of Agriculture, Commodity Credit Corporation (DAA–0161–2017–0005, 1 item, 1 temporary item). Master file of an electronic information system used to formulate the agency's budget.

2. Department of Agriculture, Farm Service Agency (DAA–0145–2017–0017, 2 items, 2 temporary items). Records related to social media applications, including web publishing, social networking, and media sharing.

3. Department of Agriculture, Farm Service Agency (DAA–0145–2017–0018, 11 items, 11 temporary items). Records related to electronic information systems containing administrative and financial data regarding the Common Farm, Advisory Services, and Subsidy and Production programs, as well as aerial photography requirements, geographic information systems, cotton management, farm loans, service operations, and conservation.

4. Department of Agriculture, Forest Service (DAA–0095–2017–0001, 2 items, 1 temporary item). Records related to the National Environmental Policy Act, including project files, decision memos, mitigation action plans, cost analysis benefit reports, feasibility studies, and public and external agency correspondence. Proposed for permanent retention are environmental impact statements.

5. Department of Agriculture, Office of the Secretary (DAA–0016–2017–0001, 1 item, 1 temporary item). Records related to social media applications, including web publishing, social networking, and media sharing.

6. Department of the Army, Agency-wide (DAA–AU–2016–0006, 1 item, 1 temporary item). Master files of an electronic information system relating to medical voucher management.

7. Department of the Army, Agency-wide (DAA–AU–2016–0049, 1 item, 1 temporary item). Master files of an electronic information system that contains payment tracking data.

8. Department of Commerce, Office of the Inspector General (DAA–0040–2016–0001, 3 items, 3 temporary items). Routine documents of audits conducted by the Office of the Inspector General. Included are quality reviews, inspection and program evaluation reports, and working papers.

9. Department of Energy, Office of Energy Efficiency and Renewable Energy (DAA–0434–2017–0007, 2 items, 2 temporary items). Records relating to the development of energy efficient vehicles including rule-making supporting files and fleet coverage investigations.

10. Department of Energy, Office of Health, Environment, Safety and Security (DAA–0434–2017–0003, 2 items, 2 temporary items). Records relating to tracking employee compensation claims and related supporting documents.

11. Department of Homeland Security, United States Citizenship and Immigration Services (DAA–0566–2017–0017, 1 item, 1 temporary item). Master files of an electronic information system used to process and adjudicate applications associated with naturalization and/or citizenship benefits.

12. Department of Homeland Security, U.S. Coast Guard (DAA–0026–2016–0001, 4 items, 3 temporary items). Records related to funding of responses

to oil and hazardous material spills, including financial files, vessel certification files, and case files on spills not deemed significant. Proposed for permanent retention are significant case files.

13. Department of Homeland Security, U.S. Secret Service (DAA–0087–2017–0002, 1 item, 1 temporary item). Records of an electronic system that automates routing and implementation of suggestions for improving agency operations.

14. Department of the Interior, U.S. Geological Survey (DAA–0057–2017–0001, 1 item, 1 temporary item). Copies of records derived from technology satellites.

15. Department of the Navy, Agency-wide (DAA–0428–2017–0001, 3 items, 3 temporary items). Records related to contractual, environmental, and civil case files.

16. Department of Transportation, Federal Motor Carrier Safety Administration (DAA–0557–2015–0006, 1 item, 1 temporary item). Master files of an electronic information system relating to receiving and responding to customer inquiries and self-service functions.

17. National Aeronautics and Space Administration, Agency-wide (DAA–0255–2017–0007, 3 items, 2 temporary items). Routine photographs, still pictures, and moving imagery of training classes, meetings, and employee events and activities. Proposed for permanent retention are noteworthy still pictures and moving imagery of significant agency subjects and activities.

18. National Aeronautics and Space Administration, Agency-wide (DAA–0255–2017–0009, 1 item, 1 temporary item). Routine documents of visitors who use the agency's health and first aid facilities.

19. Nuclear Regulatory Commission, Agency-wide (DAA–0431–2013–0001, 3 items, 3 temporary items). Records relating to hearings, including transcripts and supporting materials generated by the adjudicatory process.

20. Securities and Exchange Commission, Agency-wide (DAA–0266–2017–0008, 1 item, 1 temporary item). Copies of employee newsletters published by divisions and offices within the agency.

21. Securities and Exchange Commission, Agency-wide (DAA–0266–2017–0010, 1 item, 1 temporary item). Records of content on the agency's public Web site.

Laurence Brewer,

Chief Records Officer for the U.S. Government.

[FR Doc. 2017–11092 Filed 5–26–17; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

[NARA–2017–040]

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Once approved by NARA, records schedules provide mandatory instructions on what happens to records when agencies no longer need them for current Government business. The records schedules authorize agencies to preserve records of continuing value in the National Archives of the United States and to destroy, after a specified period, records lacking administrative, legal, research, or other value. NARA publishes notice in the **Federal Register** for records schedules in which agencies propose to destroy records they no longer need to conduct agency business. NARA invites public comments on such records schedules.

DATES: NARA must receive requests for copies in writing by June 29, 2017. Once NARA finishes appraising the records, we will send you a copy of the schedule you requested. We usually prepare appraisal memoranda that contain additional information concerning the records covered by a proposed schedule. You may also request these. If you do, we will also provide them once we have completed the appraisal. You have 30 days after we send to you these requested documents in which to submit comments.

ADDRESSES: You may request a copy of any records schedule identified in this notice by contacting Records Appraisal and Agency Assistance (ACRA) using one of the following means:

Mail: NARA (ACRA); 8601 Adelphi Road, College Park, MD 20740–6001.

Email: request.schedule@nara.gov.

Fax: 301–837–3698.

You must cite the control number, which appears in parentheses after the name of the agency that submitted the schedule, and a mailing address. If you would like an appraisal report, please include that in your request.

FOR FURTHER INFORMATION CONTACT: Margaret Hawkins, Director, by mail at Records Appraisal and Agency Assistance (ACRA), National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001, by phone at 301–837–1799, or by email at *request.schedule@nara.gov.*

SUPPLEMENTARY INFORMATION: NARA publishes notice in the **Federal Register** for records schedules they no longer need to conduct agency business. NARA invites public comments on such records schedules, as required by 44 U.S.C. 3303a(a).

Each year, Federal agencies create billions of records on paper, film, magnetic tape, and other media. To control this accumulation, agency records managers prepare schedules proposing records retention periods and submit these schedules for NARA's approval. These schedules provide for timely transfer into the National Archives of historically valuable records and authorize the agency to dispose of all other records after the agency no longer needs them to conduct its business. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. Most schedules, however, cover records of only one office or program or a few series of records. Many of these update previously approved schedules, and some include records proposed as permanent.

The schedules listed in this notice are media neutral unless otherwise specified. An item in a schedule is media neutral when an agency may apply the disposition instructions to records regardless of the medium in which it creates or maintains the records. Items included in schedules submitted to NARA on or after December 17, 2007, are media neutral unless the item is expressly limited to a specific medium. (See 36 CFR 1225.12(e).)

Agencies may not destroy Federal records without Archivist of the United States' approval. The Archivist approves destruction only after thoroughly considering the records' administrative use by the agency of origin, the rights of the Government and of private people directly affected by the Government's activities, and whether or not the records have historical or other value.

In addition to identifying the Federal agencies and any subdivisions

requesting disposition authority, this notice lists the organizational unit(s) accumulating the records (or notes that the schedule has agency-wide applicability when schedules cover records that may be accumulated throughout an agency); provides the control number assigned to each schedule, the total number of schedule items, and the number of temporary items (the records proposed for destruction); and includes a brief description of the temporary records. The records schedule itself contains a full description of the records at the file unit level as well as their disposition. If NARA staff has prepared an appraisal memorandum for the schedule, it also includes information about the records. You may request additional information about the disposition process at the addresses above.

Schedules Pending

1. Department of Agriculture, Farm Service Agency (DAA–0145–2017–0001, 1 item, 1 temporary item). Records related to the Organic Certification Cost Share Program, including participant folders and reports.

2. Department of Agriculture, Farm Service Agency (DAA–0145–2017–0003, 1 item, 1 temporary item). Records related to the Emergency Forest Restoration Program, including producer folders and correspondence.

3. Department of Agriculture, Farm Service Agency (DAA–0145–2017–0004, 4 items, 4 temporary items). Records related to the Conservation Reserve, Grassroots Source Water Protection, Biofuels Infrastructure Partnership, and Geographically Disadvantaged Farmers or Ranchers programs. The records consist of producer folders and correspondence.

4. Department of the Air Force, Agency-wide (DAA–AFU–2017–0006, 1 item, 1 temporary item). Records relating to temperature uniformity surveys and system accuracy tests for heat treatment facilities and metals processing shops.

5. Department of Defense, Defense Logistics Agency (DAA–0361–2017–0003, 1 item, 1 temporary item). Records accounting for small arms from receipt to destruction.

6. Department of Homeland Security, Transportation Security Administration (DAA–0560–2017–0005, 1 item, 1 temporary item). Records related to routine internal audits of purchase card and check transactions.

7. Department of Justice, Executive Office for Immigration Review (DAA–0582–2017–0001, 5 items, 5 temporary items). Records related to immigration fraud and abuse prevention, including complaints, investigative case files, tracking data, internal newsletters, and working files.

8. Department of Justice, Executive Office for Immigration Review (DAA–0582–2017–0002, 7 items, 7 temporary items). Records related to immigration attorney discipline cases and misconduct complaints.

9. Department of the Navy, Agency-wide (DAA–NU–2015–0013, 15 items, 11 temporary items). Aeronautical and astronautical records including routine correspondence, maintenance records, working papers, daily operations, and related matters. Proposed for permanent retention are records relating to policy, engineering drawings, technical reports and publications, and experimental aircraft flight summaries.

10. Commodity Futures Trading Commission, Agency-wide (DAA–0180–2013–0005, 6 items, 3 temporary items). Reparations and enforcement cases involving dispute resolution between futures customers and futures trading professionals from 1989 to 2010 that were not appealed; the master file of an electronic information system used to track cases; and procedural letters and orders, notices of proceeding and appeals, exhibits, transcripts, and other working papers for reparations and enforcement cases starting in October 2010 and ongoing. Proposed for permanent retention are records of reparations and enforcement cases appealed to the Commission from 1989 to 2010; rulings, orders, complaints, sanction letters, and settlement documents for reparations and enforcement cases starting in 2010 and ongoing; and all reparations and enforcement cases from circa 1950 to 1988.

11. Office of the Director of National Intelligence, National Counterterrorism Center (N1–576–15–1, 1 item, 1 temporary item). Source data used to determine whether individuals are engaged in or suspected of involvement in terrorist activities.

12. Office of Government Ethics, Agency-wide (DAA–0522–2017–0001, 4 items, 4 temporary items). Master files of an electronic information system used for collecting and reviewing public financial disclosure reports, including periodic public reports of certain financial transactions, and supporting documentation.

Dated: May 19, 2017.

Laurence Brewer,

Chief Records Officer for the U.S. Government.

[FR Doc. 2017–11104 Filed 5–26–17; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL CREDIT UNION ADMINISTRATION

Sunshine Act Notice; Matter to be Deleted From the Agenda of a Previously Announced Agency Meeting

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: May 22, 2017 (82 FR 23317).

TIME AND DATE: 11:45 a.m., Thursday, May 25, 2017.

PLACE: Board Room, 7th Floor, Room 7047, 1775 Duke Street (All visitors must use Diagonal Road Entrance), Alexandria, VA 22314–3428.

STATUS: Closed.

Pursuant to the provisions of the ''Government in Sunshine Act'' notice is hereby given that the NCUA Board gave notice on May 22, 2017 (82 FR 23317) of the regular meetings of the NCUA Board scheduled for May 25, 2017. Prior to the meeting, on May 24, 2017, the NCUA Board unanimously determined that agency business required the deletion of the fourth item on the closed agenda with less than seven days' notice to the public, and that no earlier notice of the deletion was possible.

MATTER TO BE DELETED:

4. Briefing on Supervisory Matter. Closed pursuant to Exemptions (8), (9)(i)(B), and (9)(ii).

FOR FURTHER INFORMATION CONTACT: Gerard Poliquin, Secretary of the Board, Telephone: 703–518–6564.

Gerard Poliquin,

Secretary of the Board.

[FR Doc. 2017–11190 Filed 5–25–17; 4:15 pm]

BILLING CODE 7535–01–P

NATIONAL SCIENCE FOUNDATION

Health Information Technology Research and Development (HITRD) Interagency Working Group (IWG)

AGENCY: The Networking and Information Technology Research and Development, National Coordination Office, National Science Foundation.

ACTION: Request for public comment.

SUMMARY: With this notice, the Networking and Information Technology Research and Development (NITRD) National Coordination Office (NCO) requests comments from the public regarding the draft Federal Health Information Technology Research and Development Strategic Framework. The draft Strategic Framework is posted at: *https://www.nitrd.gov/drafts/HITRD_StrategicFramework_Draft.pdf.*

DATES: The deadline for submissions under this request for comments (RFC) is June 28, 2017.

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

- *Email: hitrdframework2017@nitrd.gov,* comments submitted by email should be machine-readable and should not be copy-protected;
- *Fax (703) 292–9097,* Attn: Health Information Technology R&D; or
- *Mail:* Attn: Health Information Technology R&D, NCO, Suite II–405, 4201 Wilson Blvd., Arlington, VA 22230.

Submissions must not exceed 3 pages in 12 point or larger font, with a page number provided on each page. Responders should include the name of the person(s) or organization(s) filing the comment.

Responses to this RFC may be posted online at *http://www.nitrd.gov*. Therefore, the Health IT R&D IWG requests that no business proprietary information or copyrighted information be submitted in response to this RFC.

In accordance with FAR 15.202(3), responses to this notice are not offers and cannot be accepted by the Government to form a binding contract. Responders are solely responsible for all expenses associated with responding to this RFC.

FOR FURTHER INFORMATION CONTACT: Beth Linas at *blinas@nsf.gov* or (703) 292–4871. Information about the NITRD Web site may be found at: *https://www.nitrd.gov*.

SUPPLEMENTARY INFORMATION:

Summary of the Draft Strategic Framework

The rapid development of Health Information Technology (health IT) has made it possible to improve human health in ways that were previously unimaginable. For example, imagine a world in which every individual carries a medical identification bracelet or token that enables them to safely and securely share their up-to-date and accurate medical record information as they wish. This will allow people to avoid the danger of not being able to remember or communicate their important health information (*e.g.,* medications, conditions, and treatment history) in times of crisis. This vision for the future will become reality with strategic research and development (R&D) in data management, including data quality and transmission, accessibility, usability, security and privacy, validation, verification, standards, and infrastructure. For data to be useful, advanced analytics, such as machine learning, artificial intelligence, statistics and data mining, and networking, and communications are also required.

Health IT investments will do far more than facilitate ease of access for medical records. This paradigm shift within health and medicine will also allow people to unobtrusively monitor their health, receive the information they want when they need it, and have treatments targeted to their individual profile, prioritizing personal preferences and culture, including those in rural or resource-limited environments. Improvements in health IT will also influence how we prevent, diagnose, and treat disease, as well as how we shift the focus to wellness. These changes should have a cascading effect: People will have increased access to health services and be healthier and more productive. Because of the efficiencies afforded by advanced health IT, this enhanced quality will be realized while reducing cost and adapting to the coming changes in the population and workforce.

This R&D Framework lays out a clear, comprehensive, structured description of the current state of a field of research, organized and explained in a way that facilitates understanding of the field by all stakeholders, and that supports R&D coordination and cooperation by participating Federal agencies. This health IT R&D Strategic Framework will improve medical, functional, and societal health outcomes through R&D in the use of data and IT for advanced health IT applications. Health IT R&D includes, but is not limited to, the use of digital information, data, and technology across the human lifespan in the areas of screening, diagnosis, treatment and surveillance; preventable medical error reduction; disease prevention; self-management of health behavior and wellness; healthcare; and disaster and emergency response that support improved individual and community health outcomes. It does not include research in basic biological sciences (*e.g.,* computational biology) or approaches that enhance health indirectly (*e.g.,* technologies to enhance transportation).

This Strategic Framework is designed to provide an overview of the salient issues, needs and ongoing federal investments in health IT R&D. This Framework aligns with the Office of the National Coordinator for Health Information Technology's (ONC's) Federal Health IT Strategic Plan 2015–2020 by focusing on Federal R&D investments. This Framework summarizes the motivators and challenges, needs, mechanisms of collaboration, and the ongoing research, in order to identify gaps and allow for enhanced coordination and planning of Federal agency health IT R&D.

The Central Goals that motivate this strategy are to:

- Understand motivators and challenges in health IT R&D;
- Accelerate health IT innovation and infrastructure development;
- Facilitate cross-sector collaboration and bridge existing silos;
- Boost innovation and promote U.S. global leadership; and
- Focus on people-centered solutions that support safety and effectiveness and enhance economic competitiveness.

A key objective of this plan is to identify priorities for federally funded research and development (R&D) as well as capacity-building to help transform health IT R&D and improve our Country's health. To do so, the Strategic Priorities identified herein are to:

- Accelerate fundamental R&D for health IT;
- Facilitate accurate, secure and resilient health IT infrastructure, systems, and services;
- Foster health IT R&D innovation through data and knowledge sharing, best practices, and collaboration; and
- Enable evaluation of progress and long-term growth of health IT.

This plan envisions Federal agencies working together and engaging with academia, industry, civil society, and other key stakeholders. The aim is to accelerate the development and implementation of new discoveries and innovations that in turn enable health IT R&D to address our Country's most important challenges. Therefore, the Collaboration Opportunities in Health IT R&D identified in this Strategic Framework include, through the health IT R&D Working Group, promoting interagency coordination and collaboration; and, engaging academic, industry and medical communities to collect feedback on and enable continued refinement of this Strategic Framework and future efforts.

Questions for Commenters

The Health IT Working Group invites comments on the draft strategic framework. In particular, commenters should consider the following questions as they develop their responses:

- Are the central motivations appropriate and/or are there other issues that should be considered?
- Are the strategic needs appropriate and/or are there other priorities that should be considered?
- Are the collaboration opportunities identified in the draft framework appropriate and/or are there others that should be considered?

Submitted by the National Science Foundation in support of the Networking and Information Technology Research and Development (NITRD) National Coordination Office (NCO) on May 24, 2017.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 2017–11072 Filed 5–26–17; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–333; NRC–2017–0128]

Exelon Generation Company, LLC; James A. FitzPatrick Nuclear Power Plant

AGENCY: Nuclear Regulatory Commission.

ACTION: License amendment application; opportunity to comment, request a hearing, and to petition for leave to intervene.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an amendment to Renewed Facility Operating License No. DPR–59, issued to Exelon Generation Company, LLC, for operation of the James A. FitzPatrick Nuclear Power Plant. The proposed amendment would change the Emergency Action Level (EAL) HU1.5.

DATES: Submit comments by June 29, 2017. A request for a hearing or petition for leave to intervene must be filed by July 31, 2017.

ADDRESSES: Please refer to Docket ID NRC–2017–0128 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

• *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2017–0128. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov*. For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

• *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html*. To begin the search, select ''*ADAMS Public Documents*'' and then select ''*Begin Web-based ADAMS Search*.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov*. The ADAMS accession number for each document referenced in this document (if that document is available in ADAMS) is provided the first time that a document is referenced.

• *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Booma Venkataraman, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2934; email: *Booma.Venkataraman@nrc.gov*.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2017–0128 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

• *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2017–0128.

• *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html*. To begin the search, select ''*ADAMS Public Documents*'' and then select ''*Begin Web-based ADAMS Search*.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov*. The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document. The application for amendment, dated May 19, 2016, is available in ADAMS under Accession No. ML17139C739.

• *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC–2017–0128 in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *http://www.regulations.gov* as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Introduction

The NRC is considering issuance of an amendment to Facility Operating License No. DPR–59, issued to Exelon Generation Company, LLC, for operation of the James A. FitzPatrick Nuclear Power Plant, located in Oswego, New York.

The proposed amendment would change the EAL HU1.5, pursuant to section 50.54(q) of title 10 of the *Code of Federal Regulations* (10 CFR).

Before any issuance of the proposed license amendment, the NRC will need to make the findings required by the Atomic Energy Act of 1954, as amended (the Act), and NRC's regulations.

The NRC has made a proposed determination that the license amendment request involves no significant hazards consideration. Under the NRC's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed changes to EAL HU1.5 do not reduce the capability to meet the emergency planning requirements established in 10 CFR 50.47 and 10 CFR 50, Appendix E. The proposed changes do not reduce the functionality, performance, or capability of Exelon's ERO [emergency response organization] to respond in

mitigating the consequences of any design basis accident.

The probability of a reactor accident requiring implementation of Emergency Plan EALs has no relevance in determining whether the proposed changes to the EAL HU1.5 reduce the effectiveness of the Emergency Plans. As discussed in Section D, ''Planning Basis,'' of NUREG–0654, Revision 1, ''Criteria for Preparation and Evaluation of Radiological Emergency Response Plans and Preparedness in Support of Nuclear Power Plants'':

. . . The overall objective of emergency response plans is to provide dose savings (and in some cases immediate life saving) for a spectrum of accidents that could produce offsite doses in excess of Protective Action Guides (PAGs). No single specific accident sequence should be isolated as the one for which to plan because each accident could have different consequences, both in nature and degree. Further, the range of possible selection for a planning basis is very large, starting with a zero point of requiring no planning at all because significant offsite radiological accident consequences are unlikely to occur, to planning for the worst possible accident, regardless of its extremely low likelihood. . . .

Therefore, Exelon did not consider the risk insights regarding any specific accident initiation or progression in evaluating the proposed changes.

The proposed changes do not involve any physical changes to plant equipment or systems, nor do they alter the assumptions of any accident analyses. The proposed changes do not adversely affect accident initiators or precursors nor do they alter the design assumptions, conditions, and configuration or the manner in which the plants are operated and maintained. The proposed changes do not adversely affect the ability of Structures, Systems, or Components (SSCs) to perform their intended safety functions in mitigating the consequences of an initiating event within the assumed acceptance limits.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed changes to EAL HU1.5 do not involve any physical changes to plant systems or equipment. The proposed changes do not involve the addition of any new plant equipment. The proposed changes will not alter the design configuration, or method of operation of plant equipment beyond its normal functional capabilities. All Exelon ERO functions will continue to be performed as required. The proposed changes do not create any new credible failure mechanisms, malfunctions, or accident initiators.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from those that have been previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The proposed changes to EAL HU1.5 do not alter or exceed a design basis or safety limit. There is no change being made to safety analysis assumptions, safety limits, or limiting safety system settings that would adversely affect plant safety as a result of the proposed changes. There are no changes to setpoints or environmental conditions of any SSC or the manner in which any SSC is operated. Margins of safety are unaffected by the proposed changes. The applicable requirements of 10 CFR 50.47 and 10 CFR 50, Appendix E will continue to be met.

Therefore, the proposed changes do not involve any reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the license amendment request involves no significant hazards consideration.

The NRC is seeking public comments on this proposed determination that the license amendment request involves no significant hazards consideration. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of 60 days after the date of publication of this notice. The Commission may issue the license amendment before expiration of the 60-day notice period if the Commission concludes the amendment involves no significant hazards consideration. In addition, the Commission may issue the amendment prior to the expiration of the 30-day comment period if circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example, in prevention of either resumption of operation or of increase in power output up to the plant's licensed power level. If the Commission takes action prior to the expiration of either the comment period or the notice period, it will publish in the **Federal Register** a notice of issuance. If the Commission makes a final no significant hazards consideration determination, any hearing will take place after issuance. The Commission expects that the need to take this action will occur very infrequently.

III. Opportunity To Request a Hearing and Petition for Leave To Intervene

Within 60 days after the date of publication of this notice, any person (petitioner) whose interest may be affected by this action may file a request for a hearing and petition for leave to intervene (petition) with respect to the action. Petitions shall be filed in accordance with the Commission's ''Agency Rules of Practice and Procedure'' in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.309. The NRC's regulations are accessible electronically from the NRC Library on the NRC's Web site at *http://www.nrc.gov/reading-rm/doc-collections/cfr/*. Alternatively, a copy of the regulations is available at the NRC's Public Document Room, located at One White Flint North, Room O1–F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. If a petition is filed, the Commission or a presiding officer will rule on the petition and, if appropriate, a notice of a hearing will be issued.

As required by 10 CFR 2.309(d) the petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements for standing: (1) The name, address, and telephone number of the petitioner; (2) the nature of the petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the petitioner's interest.

In accordance with 10 CFR 2.309(f), the petition must also set forth the specific contentions which the petitioner seeks to have litigated in the proceeding. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner must provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to the specific sources and documents on which the petitioner intends to rely to support its position on the issue. The petition must include sufficient information to show that a genuine dispute exists with the applicant or licensee on a material issue of law or fact. Contentions must be limited to matters within the scope of the proceeding. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to satisfy the requirements at 10 CFR 2.309(f) with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene. Parties have the opportunity

to participate fully in the conduct of the hearing with respect to resolution of that party's admitted contentions, including the opportunity to present evidence, consistent with the NRC's regulations, policies, and procedures.

Petitions must be filed no later than 60 days from the date of publication of this notice. Petitions and motions for leave to file new or amended contentions that are filed after the deadline will not be entertained absent a determination by the presiding officer that the filing demonstrates good cause by satisfying the three factors in 10 CFR 2.309(c)(1)(i) through (iii). The petition must be filed in accordance with the filing instructions in the ''Electronic Submissions (E-Filing)'' section of this document.

If a hearing is requested, and the Commission has not made a final determination on the issue of no significant hazards consideration, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to establish when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, then any hearing held would take place before the issuance of the amendment unless the Commission finds an imminent danger to the health or safety of the public, in which case it will issue an appropriate order or rule under 10 CFR part 2.

A State, local governmental body, Federally-recognized Indian Tribe, or agency thereof, may submit a petition to the Commission to participate as a party under 10 CFR 2.309(h)(1). The petition should state the nature and extent of the petitioner's interest in the proceeding. The petition should be submitted to the Commission by July 31, 2017. The petition must be filed in accordance with the filing instructions in the ''Electronic Submissions (E-Filing)'' section of this document, and should meet the requirements for petitions set forth in this section, except that under 10 CFR 2.309(h)(2) a State, local governmental body, or federally-recognized Indian Tribe, or agency thereof does not need to address the standing requirements in 10 CFR 2.309(d) if the facility is located within its boundaries. Alternatively, a State, local governmental body, Federally-recognized Indian Tribe, or agency thereof may participate as a non-party under 10 CFR 2.315(c).

If a hearing is granted, any person who is not a party to the proceeding and is not affiliated with or represented by a party may, at the discretion of the presiding officer, be permitted to make a limited appearance pursuant to the provisions of 10 CFR 2.315(a). A person making a limited appearance may make an oral or written statement of his or her position on the issues but may not otherwise participate in the proceeding. A limited appearance may be made at any session of the hearing or at any prehearing conference, subject to the limits and conditions as may be imposed by the presiding officer. Details regarding the opportunity to make a limited appearance will be provided by the presiding officer if such sessions are scheduled.

IV. Electronic Submissions (E-Filing)

All documents filed in NRC adjudicatory proceedings, including a request for hearing and petition for leave to intervene (petition), any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities that request to participate under 10 CFR 2.315(c), must be filed in accordance with the NRC's E-Filing rule (72 FR 49139; August 28, 2007, as amended at 77 FR 46562, August 3, 2012). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Detailed guidance on making electronic submissions may be found in the Guidance for Electronic Submissions to the NRC and on the NRC Web site at *http://www.nrc.gov/site-help/e-submittals.html*. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *hearing.docket@nrc.gov,* or by telephone at 301–415–1677, to (1) request a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign submissions and access the E-Filing system for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a petition or other adjudicatory document (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals/getting-started.html*. Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit adjudicatory documents. Submissions must be in Portable Document Format (PDF). Additional guidance on PDF submissions is available on the NRC's public Web site at *http://www.nrc.gov/site-help/electronic-sub-ref-mat.html*. A filing is considered complete at the time the document is submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email notice confirming receipt of the document. The E-Filing system also distributes an email notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before adjudicatory documents are filed so that they can obtain access to the documents via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC's Electronic Filing Help Desk through the ''Contact Us'' link located on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html,* by email to *MSHD.Resource@nrc.gov,* or by a toll-free call at 1–866–672–7640. The NRC Electronic Filing Help Desk is available between 9 a.m. and 6 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing stating why there is good cause for

not filing electronically and requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing adjudicatory documents in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at *https://adams.nrc.gov/ehd,* unless excluded pursuant to an order of the Commission or the presiding officer. If you do not have an NRC-issued digital ID certificate as described above, click cancel when the link requests certificates and you will be automatically directed to the NRC's electronic hearing dockets where you will be able to access any publicly available documents in a particular hearing docket. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or personal phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. For example, in some instances, individuals provide home addresses in order to demonstrate proximity to a facility or site. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

For further details with respect to this action, see the application for license amendment dated May 19, 2017 (ADAMS Accession No. ML17139C739).

Attorney for licensee: Donald P. Ferraro, Assistant General Counsel, Exelon Generation Company, LLC, 200 Exelon Way, Suite 305, Kennett Square, PA 19348.

Dated at Rockville, Maryland, this 24th day of May 2017.

For the Nuclear Regulatory Commission.

James G. Danna,

Chief, Plant Licensing Branch I–1, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2017–11039 Filed 5–26–17; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2017–0094]

Patient Release Program

AGENCY: Nuclear Regulatory Commission.

ACTION: Extension of comment period.

SUMMARY: On April 11, 2017, the U.S. Nuclear Regulatory Commission (NRC) solicited comments on its patient release program. The public comment period was originally scheduled to close on June 12, 2017. The NRC has decided to extend the public comment period to allow more time for members of the public to develop and submit their comments.

DATES: The due date of comments requested in the document published on April 11, 2017 (82 FR 17465), is extended. Comments should be filed no later than June 27, 2017. Comments received after this date will be considered, if it is practical to do so, but the NRC is able to ensure consideration only for comments received on or before this date.

ADDRESSES: You may submit comments by any of the following methods (unless this document describes a different method for submitting comments on a specific subject):

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2017–0094. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Mail comments to:* Cindy Bladey, Office of Administration, Mail Stop: TWFN–8–D36M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Donna-Beth Howe, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–7848; email: *Donna-Beth.Howe@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2017–0094 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2017–0094.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents*'' and then select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in the **SUPPLEMENTARY INFORMATION** section.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC–2017–0094 in your submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC posts all comment submissions at *http://www.regulations.gov* as well as entering the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly

disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment submissions into ADAMS.

II. Discussion

On April 11, 2017, the NRC solicited comments on its patient release program. The purpose of requesting information from the general public on its patient release program was to receive input from the public on whether additional or alternate criteria are needed and whether to clarify NRC's current patient release criteria. The information collected will be used to determine whether significant regulatory changes to NRC's patient release program are warranted. The public comment period was originally scheduled to close on June 12, 2017. The NRC has decided to extend the public comment period on this document until June 27, 2017, to allow more time for members of the public to submit their comments.

Dated at Rockville, Maryland, this 24th day of May 2017.

For the Nuclear Regulatory Commission.

Daniel S. Collins,

Director, Division of Material Safety, State, Tribal and Rulemaking Programs, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 2017–11027 Filed 5–26–17; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards (ACRS) Meeting of the ACRS Subcommittee on APR1400; Notice of Meeting

The ACRS Subcommittee on APR1400 will hold a meeting on June 5, 2017, at 11545 Rockville Pike, Room T–2B1, Rockville, Maryland 20852.

The meeting will be open to public attendance with the exception of portions that may be closed to protect information that is proprietary pursuant to 5 U.S.C. 552b(c)(4). The agenda for the subject meeting shall be as follows:

Monday, June 5, 2017—8:30 a.m. Until 5:00 p.m.

The Subcommittee will review the APR1400 design control document—Chapter 3, ''Design of Structures, Systems, Components, and Equipment;'' and associated safety evaluation report. The Subcommittee will hear presentations by and hold discussions with the NRC staff and Korea Hydro & Nuclear Power Company regarding this matter. The Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the Full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official (DFO), Christopher Brown (Telephone 301–415–7111 or Email: *Christopher.Brown@nrc.gov*) five days prior to the meeting, if possible, so that appropriate arrangements can be made. Thirty-five hard copies of each presentation or handout should be provided to the DFO thirty minutes before the meeting. In addition, one electronic copy of each presentation should be emailed to the DFO one day before the meeting. If an electronic copy cannot be provided within this timeframe, presenters should provide the DFO with a CD containing each presentation at least thirty minutes before the meeting. Electronic recordings will be permitted only during those portions of the meeting that are open to the public. Detailed procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 17, 2016, (81 FR 71543).

Detailed meeting agendas and meeting transcripts are available on the NRC Web site at *http://www.nrc.gov/reading-rm/doc-collections/acrs.* Information regarding topics to be discussed, changes to the agenda, whether the meeting has been canceled or rescheduled, and the time allotted to present oral statements can be obtained from the Web site cited above or by contacting the identified DFO. Moreover, in view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with these references if such rescheduling would result in a major inconvenience.

If attending this meeting, please enter through the One White Flint North building, 11555 Rockville Pike, Rockville, Maryland 20852. After registering with Security, please contact Mr. Theron Brown (Telephone 240–888–9835) to be escorted to the meeting room.

Dated: May 19, 2017.

Mark L. Banks,

Chief, Technical Support Branch, Advisory Committee on Reactor Safeguards.

[FR Doc. 2017–11075 Filed 5–26–17; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–220 and 50–410; NRC–2017–0129]

Exelon Generation Company, LLC; Nine Mile Point Nuclear Station, Units 1 and 2

AGENCY: Nuclear Regulatory Commission.

ACTION: License amendment application; opportunity to comment, request a hearing, and to petition for leave to intervene.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an amendment to Renewed Facility Operating License Nos. DPR–63 and NPF–69, issued to Exelon Generation Company, LLC, for operation of the Nine Mile Point Nuclear Station, Units 1 and 2, respectively. The proposed amendments would change the Emergency Action Level (EAL) HU1.5.

DATES: Submit comments by June 29, 2017. A request for a hearing or petition for leave to intervene must be filed by July 31, 2017.

ADDRESSES: Please refer to Docket ID NRC–2017–0129 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- *Federal Rulemaking Web site*: Go to *http://www.regulations.gov* and search for Docket ID NRC–2017–0129. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS)*: You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents*'' and then select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that a document is referenced.
- *NRC's PDR*: You may examine and purchase copies of public documents at

the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Michael L. Marshall, Jr., Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington DC 20555–0001; telephone: 301–415–2871; email: *Michael.Marshall@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2017–0129 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal Rulemaking Web site*: Go to *http://www.regulations.gov* and search for Docket ID NRC–2017–0129.
- *NRC's Agencywide Documents Access and Management System (ADAMS)*: You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents*'' and then select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document. The application for amendment, dated May 19, 2016, is available in ADAMS under Accession No. ML17139C739.
- *NRC's PDR*: You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC–2017–0129 in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC posts all comment submissions at *http://www.regulations.gov* as well as entering the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment submissions into ADAMS.

II. Introduction

The NRC is considering issuance of amendments to Facility Operating License Nos. DPR–63 andNPF–69, issued to Exelon Generation Company, LLC, for operation of the Nine Mile Point Nuclear Station, Units 1 and 2, located in Scriba, New York.

The proposed amendment would change the EAL HU1.5, pursuant to section 50.54(q) title 10 of the *Code of Federal Regulations* (10 CFR).

Before any issuance of the proposed license amendment, the NRC will need to make the findings required by the Atomic Energy Act of 1954, as amended (the Act), and NRC's regulations.

The NRC has made a proposed determination that the license amendment request involves no significant hazards consideration. Under the NRC's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed changes to EAL HU1.5 do not reduce the capability to meet the emergency planning requirements established in 10 CFR 50.47 and 10 CFR 50, Appendix E. The proposed changes do not reduce the functionality, performance, or capability of Exelon's ERO [emergency response organization] to respond in mitigating the consequences of any design basis accident.

The probability of a reactor accident requiring implementation of Emergency Plan EALs has no relevance in determining whether the proposed changes to the EAL HU1.5 reduce the effectiveness of the Emergency Plans. As discussed in Section D, ''Planning Basis,'' of NUREG–0654, Revision 1, ''Criteria for Preparation and Evaluation of Radiological Emergency Response Plans and Preparedness in Support of Nuclear Power Plants'':

. . . The overall objective of emergency response plans is to provide dose savings (and in some cases immediate life saving) for a spectrum of accidents that could produce offsite doses in excess of Protective Action Guides (PAGs). No single specific accident sequence should be isolated as the one for which to plan because each accident could have different consequences, both in nature and degree. Further, the range of possible selection for a planning basis is very large, starting with a zero point of requiring no planning at all because significant offsite radiological accident consequences are unlikely to occur, to planning for the worst possible accident, regardless of its extremely low likelihood. . . .

Therefore, Exelon did not consider the risk insights regarding any specific accident initiation or progression in evaluating the proposed changes.

The proposed changes do not involve any physical changes to plant equipment or systems, nor do they alter the assumptions of any accident analyses. The proposed changes do not adversely affect accident initiators or precursors nor do they alter the design assumptions, conditions, and configuration or the manner in which the plants are operated and maintained. The proposed changes do not adversely affect the ability of Structures, Systems, or Components (SSCs) to perform their intended safety functions in mitigating the consequences of an initiating event within the assumed acceptance limits.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed changes to EAL HU1.5 do not involve any physical changes to plant systems or equipment. The proposed changes do not involve the addition of any new plant equipment. The proposed changes will not alter the design configuration, or method of operation of plant equipment beyond its normal functional capabilities. All Exelon ERO functions will continue to be performed as required. The proposed changes do not create any new credible failure mechanisms, malfunctions, or accident initiators.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from those that have been previously evaluated

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The proposed changes to EAL HU1.5 do not alter or exceed a design basis or safety limit. There is no change being made to safety analysis assumptions, safety limits, or limiting safety system settings that would adversely affect plant safety as a result of the proposed changes. There are no changes to setpoints or environmental conditions of any SSC or the manner in which any SSC is operated. Margins of safety are unaffected by

the proposed changes. The applicable requirements of 10 CFR 50.47 and 10 CFR 50, Appendix E will continue to be met.

Therefore, the proposed changes do not involve any reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the license amendment request involves no significant hazards consideration.

The NRC is seeking public comments on this proposed determination that the license amendment request involves no significant hazards consideration. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of 60 days after the date of publication of this notice. The Commission may issue the license amendment before expiration of the 60-day notice period if the Commission concludes the amendment involves no significant hazards consideration. In addition, the Commission may issue the amendment prior to the expiration of the 30-day comment period if circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example, in prevention of either resumption of operation or of increase in power output up to the plant's licensed power level. If the Commission takes action prior to the expiration of either the comment period or the notice period, it will publish in the **Federal Register** a notice of issuance. If the Commission makes a final no significant hazards consideration determination, any hearing will take place after issuance. The Commission expects that the need to take this action will occur very infrequently.

III. Opportunity To Request a Hearing and Petition for Leave to Intervene

Within 60 days after the date of publication of this notice, any person (petitioner) whose interest may be affected by this action may file a request for a hearing and petition for leave to intervene (petition) with respect to the action. Petitions shall be filed in accordance with the Commission's ''Agency Rules of Practice and Procedure'' in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.309. The NRC's regulations are accessible electronically from the NRC Library on the NRC's Web site at *http://www.nrc.gov/reading-rm/doc-collections/cfr/.* Alternatively, a copy of the regulations is available at the NRC's Public Document Room, located at One White Flint North, Room O1–F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. If a petition is filed, the Commission or a presiding officer will rule on the petition and, if appropriate, a notice of a hearing will be issued.

As required by 10 CFR 2.309(d) the petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements for standing: (1) The name, address, and telephone number of the petitioner; (2) the nature of the petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the petitioner's interest.

In accordance with 10 CFR 2.309(f), the petition must also set forth the specific contentions which the petitioner seeks to have litigated in the proceeding. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner must provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to the specific sources and documents on which the petitioner intends to rely to support its position on the issue. The petition must include sufficient information to show that a genuine dispute exists with the applicant or licensee on a material issue of law or fact. Contentions must be limited to matters within the scope of the proceeding. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to satisfy the requirements at 10 CFR 2.309(f) with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene. Parties have the opportunity to participate fully in the conduct of the hearing with respect to resolution of that party's admitted contentions, including the opportunity to present evidence, consistent with the NRC's regulations, policies, and procedures.

Petitions must be filed no later than 60 days from the date of publication of this notice. Petitions and motions for leave to file new or amended contentions that are filed after the deadline will not be entertained absent a determination by the presiding officer that the filing demonstrates good cause by satisfying the three factors in 10 CFR 2.309(c)(1)(i) through (iii). The petition must be filed in accordance with the filing instructions in the ''Electronic Submissions (E-Filing)'' section of this document.

If a hearing is requested, and the Commission has not made a final determination on the issue of no significant hazards consideration, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to establish when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, then any hearing held would take place before the issuance of the amendment unless the Commission finds an imminent danger to the health or safety of the public, in which case it will issue an appropriate order or rule under 10 CFR part 2.

A State, local governmental body, Federally-recognized Indian Tribe, or agency thereof, may submit a petition to the Commission to participate as a party under 10 CFR 2.309(h)(1). The petition should state the nature and extent of the petitioner's interest in the proceeding. The petition should be submitted to the Commission by July 31, 2017. The petition must be filed in accordance with the filing instructions in the ''Electronic Submissions (E-Filing)'' section of this document, and should meet the requirements for petitions set forth in this section, except that under 10 CFR 2.309(h)(2) a State, local governmental body, or federally recognized Indian Tribe, or agency thereof does not need to address the standing requirements in 10 CFR 2.309(d) if the facility is located within its boundaries. Alternatively, a State, local governmental body, Federally-recognized Indian Tribe, or agency thereof may participate as a non-party under 10 CFR 2.315(c).

If a hearing is granted, any person who is not a party to the proceeding and is not affiliated with or represented by a party may, at the discretion of the presiding officer, be permitted to make

a limited appearance pursuant to the provisions of 10 CFR 2.315(a). A person making a limited appearance may make an oral or written statement of his or her position on the issues but may not otherwise participate in the proceeding. A limited appearance may be made at any session of the hearing or at any prehearing conference, subject to the limits and conditions as may be imposed by the presiding officer. Details regarding the opportunity to make a limited appearance will be provided by the presiding officer if such sessions are scheduled.

IV. Electronic Submissions (E-Filing)

All documents filed in NRC adjudicatory proceedings, including a request for hearing and petition for leave to intervene (petition), any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities that request to participate under 10 CFR 2.315(c), must be filed in accordance with the NRC's E-Filing rule (72 FR 49139; August 28, 2007, as amended at 77 FR 46562, August 3, 2012). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Detailed guidance on making electronic submissions may be found in the Guidance for Electronic Submissions to the NRC and on the NRC's Web site at *http://www.nrc.gov/site-help/e-submittals.html.* Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *hearing.docket@nrc.gov,* or by telephone at 301–415–1677, to (1) request a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign submissions and access the E-Filing system for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a petition or other adjudicatory document (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals/getting-started.html.* Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit adjudicatory documents. Submissions must be in Portable Document Format (PDF). Additional guidance on PDF submissions is available on the NRC's public Web site at *http://www.nrc.gov/site-help/electronic-sub-ref-mat.html.* A filing is considered complete at the time the document is submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email notice confirming receipt of the document. The E-Filing system also distributes an email notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before adjudicatory documents are filed so that they can obtain access to the documents via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC's Electronic Filing Help Desk through the ''Contact Us'' link located on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html,* by email to *MSHD.Resource@nrc.gov,* or by a toll-free call at 1–866–672–7640. The NRC Electronic Filing Help Desk is available between 9 a.m. and 6 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing stating why there is good cause for not filing electronically and requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing adjudicatory documents in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at *https://adams.nrc.gov/ehd,* unless excluded pursuant to an order of the Commission or the presiding officer. If you do not have an NRC-issued digital ID certificate as described above, click cancel when the link requests certificates and you will be automatically directed to the NRC's electronic hearing dockets where you will be able to access any publicly available documents in a particular hearing docket. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or personal phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. For example, in some instances, individuals provide home addresses in order to demonstrate proximity to a facility or site. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

For further details with respect to this action, see the application for license amendment dated May 19, 2017 (ADAMS Accession No. ML17139C739).

Attorney for licensee: Tamra Domeyer, Associate General Counsel, Exelon Generation Company, LLC, 4300 Winfield Road, Warrenville, IL 60555.

Dated at Rockville, Maryland, this 24th day of May 2017.

For the Nuclear Regulatory Commission.

James G. Danna,

Chief, Plant Licensing Branch I–1, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2017–11040 Filed 5–26–17; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2017–0013]

Information Collection: ''10 CFR Part 35, Medical Use of Byproduct Material''

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of submission to the Office of Management and Budget; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has recently submitted a request for renewal of an existing collection of information to the Office of Management and Budget (OMB) for review. The information collection is entitled, ''10 CFR part 35, Medical Use of Byproduct Material.''

DATES: Submit comments by June 29, 2017.

ADDRESSES: Submit comments directly to the OMB reviewer at: Aaron Szabo, Desk Officer, Office of Information and Regulatory Affairs, OMB clearance number 3150–0010, NEOB–10202, Office of Management and Budget, Washington, DC 20503; telephone: 202–395–3621, email: *oira_submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: David Cullison, NRC Clearance Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *INFOCOLLECTS.Resource@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2017–0013 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2017–0013. A copy of the collection of information and related instructions may be obtained without charge by accessing Docket ID NRC–2017–0013 on this Web site.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents*'' and then select ''*Begin Web-based ADAMS Search*.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The supporting statement is available in ADAMS under Accession No. ML16333A028.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.
- *NRC's Clearance Officer:* A copy of the collection of information and related instructions may be obtained without charge by contacting the NRC's Clearance Officer, David Cullison, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *INFOCOLLECTS.Resource@NRC.GOV.*

B. Submitting Comments

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC posts all comment submissions at *http://www.regulations.gov* as well as entering the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the OMB, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment submissions into ADAMS.

Background

Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the NRC recently submitted a request for renewal of an existing collection of information to OMB for review entitled, ''10 CFR part 35, Medical Use of Byproduct Material.'' The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The NRC published a **Federal Register** notice with a 60-day comment period on this information collection on February 1, 2017 (82 FR 8959).

1. *The title of the information collection:* ''10 CFR part 35, Medical Use of Byproduct Material.''
2. *OMB approval number:* 3150–0010.
3. *Type of submission:* Extension.
4. *The form number if applicable:* N/A.
5. *How often the collection is required or requested:* Reports of medical events, doses to an embryo/fetus or nursing child, or leaking source are reportable on occurrence. A specialty board certifying entity desiring to be recognized by the NRC must submit a one-time request for recognition and infrequently revise the information.
6. *Who will be required or asked to respond:* Physicians and medical institutions holding an NRC license authorizing the administration of byproduct material or radiation from this material to humans for medical use. A specialty board certification entity desiring to have its certifying process and board certificate recognized by the NRC.
7. *The estimated number of annual responses:* 276,359 ((NRC: 36,313 + 962 recordkeepers = 37,275) + (Agreement States: 232,925 + 6,157 recordkeepers + 2 specialty certification entity = 239,084)).
8. *The estimated number of annual respondents:* 7,121(NRC: 962 + Agreement states 6,157 + 2 specialty certification entities).
9. *An estimate of the total number of hours needed annually to comply with the information collection requirement or request:* 1,073,224 hours (NRC Licensees 145,195 hrs. + Agreement States 928,027 hrs. + specialty certifying entities 2 hrs.).
10. *Abstract:* ''10 CFR part 35, Medical Use of Byproduct Material,'' contains NRC's requirements and provisions for the medical use of byproduct material and for issuance of specific licenses authorizing the medical use of this material. These requirements and provisions provide for the radiation safety of workers, the general public, patients, and human research subjects. Part 35 contains mandatory requirements that apply to NRC licensees authorized to administer byproduct material or radiation therefrom to humans for medical use. These requirements also provide voluntary provisions for specialty boards to apply to have their certification processes recognized by the

NRC so that their board certified individuals can use the certifications as proof of training and experience.

Dated at Rockville, Maryland, this 23rd day of May 2017.

For the Nuclear Regulatory Commission.

David Cullison,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 2017–10967 Filed 5–26–17; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80747; File No. SR–GEMX–2017–10]

Self-Regulatory Organizations; Nasdaq GEMX, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Regarding the Opening Process

May 23, 2017.

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 May 10, 2017, Nasdaq GEMX, LLC (''GEMX'' or ''Exchange'') 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 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 Opening Process for foreign currency options and also amend a reference to All-or-None Orders.

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 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 this rule change is to amend GEMX Rule 701, entitled ''Opening,'' to: (i) Conform certain rule text to that of Nasdaq ISE, LLC; (ii) amend the Opening Process for foreign currency options; and (iii) remove a specific rule text reference in Rule 701 related to All-or-None Orders.

Conform Rule Text

ISE recently filed to adopt a new Opening Process.[3] In adopting this rule, certain non-substantive modifications were made to the rule text to further clarify the manner in which the Opening Process occurs. At this time, the Exchange proposes to amend GEMX Rule 701 to conform the text of the rule to ISE Rule 701. Specifically, the Exchange proposes to amend Rule 701(j)(5) to amend the last sentence to make clear that any unexecuted contracts from the imbalance process which are not traded or routed will be cancelled back to the entering participant if they remain unexecuted and priced through the Opening Price, otherwise orders will remain in the Order Book. The additional language adds more detail about the interaction with the Order Book to the rule.

Foreign Currency Options

GEMX Rule 701 provides that Market Maker Valid Width Quotes and Opening Sweeps received starting at 9:25 a.m. Eastern Time, or 7:25 a.m. Eastern Time for U.S. dollar-settled foreign currency options, will be included in the Opening Process. Orders entered at any time before an option series opens are included in the Opening Process. The current Opening Process rule states that the submission of Valid Width Quotes and Opening Sweeps for U.S. dollar-settled foreign currency options may begin at 7:25 a.m. Eastern Time to tie the option Opening Process to quoting in the underlying security[4]; it presumes that option quotes submitted before any indicative quotes have been disseminated for the underlying security may not be reliable or intentional. The Exchange proposes to amend GEMX Rule 701 so that the Opening Process for foreign currency options would initiate on or after 9:30 a.m. Eastern Time and the Market Maker Valid Width Quotes and Opening Sweeps would be considered for the Opening Process starting at 9:25 a.m. Eastern Time for foreign currency options.

All-or-None Orders

The Exchange also proposes to amend Rule 701 to remove a specific reference to the manner in which All-or-None Orders are treated in the Opening Process. The Exchange filed a proposed rule change to amend All-or-None Orders.[5] The Exchange amended Rule 715(c) to provide that an All-or-None Order may only be entered into the System with a time-in-force designation of Immediate-or-Cancel[6] Order in connection with the Exchange's technology migration to INET. Previously, All-or-None Orders could trade as a limit or market order to be executed in its entirety or not at all. With the amendment, an All-or-None Order does not persist in the Order Book. The carve out specified in Rule 701(j)(6)(i) is unnecessary since an All-or-None Order will execute immediately or cancel. The Exchange believes removing this reference will eliminate confusion.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[7] in general, and furthers the objectives of Section 6(b)(5) of the Act,[8] in particular, in that it is designed to promote just and equitable principles of trade, 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 for the reasons stated below.

Conform Rule Text

The Exchange believes that conforming the GEMX rule to the ISE rule will avoid confusion for market participants. The Opening Process is the same on these two markets. By conforming the rule text of these two rules will make clear that there is no difference in the operation of these two Opening Processes.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 80225 (March 13, 2017), 82 FR 14243 (March 17, 2017) (SR–ISE–2017–02).

[4] The underlying security can also be an index.

[5] *See* Securities Exchange Act Release No. 80102 (February 24, 2017, 82 FR 12381 (March 2, 2017) (SR–ISEGemini–2017–08) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change Related to All-or-None Orders).

[6] An Immediate-or-Cancel Order is a limit order that is to be executed in whole or in part upon receipt. Any portion not so executed is to be treated as cancelled.

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

Foreign Currency Options

The Exchange believes that the proposed rule change is consistent with the Act in that it will remove impediments to and perfect the mechanism of a free and open market and a national market system, to initiate the Opening Process for foreign currency options at 9:30 a.m. Eastern Time and accept for the Opening Process the Market Maker Valid Width Quotes and Opening Sweeps starting at 9:25 a.m. Eastern Time for foreign currency options, similar to the manner in which other options trade today. Today, on NASDAQ PHLX, LLC (''Phlx''), foreign currency options trade similar to other options.[9] The Exchange believes that conforming the Opening Process for foreign currency options to that of other options will conform the trading rules so all products would initiate the Opening Process at the same time. The Exchange believes trading all options on the same Opening Process schedule promotes just and equitable principles of trade because all options will continue to be available to participants for trading on GEMX.

All-or-None Orders

The Exchange believes that it is consistent with the Act to remove an unnecessary and confusing reference to Rule 701 in connection with All-or-None Orders, since these orders immediately trade or cancel. The Exchange originally distinguished the manner in which All-or-None Orders would trade in the Opening Process because this order type traded differently at that time as compared to other order types. That distinction has become unnecessary because All-or-None Orders trade the same as other Immediate or Cancel Orders. By updating the rule to remove an unnecessary distinction will protect investors and the public interest by clarifying the rule.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that adding additional detail to Rule 701 will provide market participants with more information concerning the Opening Process. The proposal does not change the intense competition that exists among the options markets for options business including with respect to transacting foreign currency options. In addition, all market participants submitting All-or-None Orders in the Opening Process will receive similar treatment with respect to those orders.

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

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act[10] and subparagraph (f)(6) of Rule 19b–4 thereunder.[11]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–GEMX–2017–10 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–GEMX–2017–10. 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–GEMX–2017–10 and should be submitted on or before June 20, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–10975 Filed 5–26–17; 8:45 am]

BILLING CODE 8011–01–P

[9] *See* Phlx Rules 1014 and 1017. On Phlx, the Specialist assigned in a particular U.S. dollar-settled FCO must enter a Valid Width Quote not later than 30 seconds after the announced market opening. Also, on Phlx, the Opening Process for an option series will be conducted within two minutes of market opening in the case of U.S. dollar-settled FCO or such shorter time as determined by the Exchange and disseminated to membership on the Exchange's Web site.

[10] 15 U.S.C. 78s(b)(3)(A)(iii).

[11] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80744; File No. SR–ISE–2017–47]

Self-Regulatory Organizations; Nasdaq ISE, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Schedule of Fees To Decrease Member Order Routing Program Rebates

May 23, 2017.

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 May 16, 2017, Nasdaq ISE, LLC (''ISE'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II, below, which Items have been prepared by the Exchange.[3] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its Schedule of Fees to decrease rebates for members that participate in the Member Order Routing Program.

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 proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Exchange initially filed the proposed rule change as SR–ISE–2017–38 on April 27, 2017. On May 5, 2017, the Exchange withdrew SR–ISE–2017–38 and submitted SR–ISE–2017–43 as a replacement. On May 16, 2017, the Exchange withdrew SR–ISE–2017–43 and submitted this filing. The Exchange has designated the proposed changes to be operative on May 1, 2017.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange operates the Member Order Routing Program (''MORP''),[4] which is a program that provides enhanced rebates to order routing firms that select the Exchange as the default routing destination for unsolicited Crossing Orders.[5] On March 10, 2017, the Exchange made changes to the program to allow members to opt in to MORP for specific sessions rather than on a member-wide basis, and to increase MORP rebates for members that participate in the program.[6] As described in more detail below, the Exchange now proposes to decrease MORP rebates consistent with the previous rebates provided prior to that proposed rule change.[7] Members will continue to be able to opt in to MORP for specific sessions rather than on a member-wide basis.

Rebate for Unsolicited Crossing Orders

Currently, an EAM that is MORP eligible receives a rebate for all unsolicited Crossing Orders of $0.065 per originating contract side, provided that the member executes a minimum average daily volume (''ADV'') in unsolicited Crossing Orders of at least 30,000 originating contract sides though their MORP designated sessions. This rebate is increased to $0.07 per originating contract side, provided that the member executes a higher ADV in unsolicited Crossing Orders of 100,000 originating contract sides.[8] The Exchange proposes to decrease the MORP rebate for eligible members that execute from 30,000 to 99,999 originating contract sides to $0.05 per originating contract side. The MORP rebate for eligible members that execute 100,000 or more originating contract sides will remain $0.07 per originating contract side.

Facilitation and Solicitation Break-Up Rebate

In addition, any EAM that qualifies for the MORP rebate by executing an ADV of 30,000 originating contract sides or more on their MORP designated sessions is also eligible for increased Facilitation and Solicitation break-up rebates[9] for their Non-ISE Market Maker,[10] Firm Proprietary,[11] Broker-Dealer,[12] Professional Customer,[13] and

[4] *See* Securities Exchange Act Release No. 74706 (April 10, 2016), 80 FR 20522 (April 16, 2016) (SR–ISE–2015–11).

[5] A ''Crossing Order'' is an order executed in the Exchange's Facilitation Mechanism, Solicited Order Mechanism, Price Improvement Mechanism (''PIM'') or submitted as a Qualified Contingent Cross (''QCC'') order. For purposes of the fee schedule, orders executed in the Block Order Mechanism are also considered Crossing Orders.

[6] *See* Securities Exchange Act Release No. 80267 (March 17, 2017), 82 FR 14929 (March 23, 2017) (SR–ISE–2017–24). As provided in the above filing, a member may designate one or more sessions to be eligible for MORP. A session is connection to the exchange over which a member submits orders. *See* Section V.C. of the Schedule of Fees. If a session is designated as eligible for MORP all requirements for the program must be met for that session. To be eligible to participate in MORP an EAM must: (1) Designate, in writing, to the Exchange which sessions are MORP eligible according to the criteria below; (2) provide to its clients, systems that enable the electronic routing of option orders to all of the U.S. options exchanges, including ISE; (3) interface with ISE to access the Exchange's electronic options trading platform; (4) offer to its clients a customized interface and routing functionality such that ISE will be the default destination for all unsolicited Crossing Orders entered by the EAM, provided that market conditions allow the Crossing Order to be executed on ISE; (5) configure its own option order routing functionality such that ISE will be the default destination for all unsolicited Crossing Orders, provided that market conditions allow the Crossing Order to be executed on ISE, with respect to all option orders as to which the EAM has routing discretion; and (6) ensure that the default routing functionality permits users submitting option orders through such system to manually override the ISE as the default destination on an order-by-order basis.

On the Schedule of Fees, the requirement to designate which sessions are MORP eligible ends in a period. As a non-substantive conforming change, the Exchange proposes to change this to a semi-colon.

[7] The Exchange initially filed the proposed pricing changes on April 27, 2017 (SR–ISE–2017–38). On May 5, 2017, the Exchange withdrew that filing and submitted this filing [sic].

[8] The rebate for the highest tier achieved is applied retroactively to all eligible contracts traded in a given month. For purposes of determining whether the member meets the above ADV thresholds, any day that the Exchange 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.

[9] Break-up rebates are provided for contracts that are submitted to the Facilitation and Solicited Order Mechanisms that do not trade with their contra order except when those contracts trade against pre-existing orders and quotes on the Exchange's orderbooks. The applicable fee for Crossing Orders is applied to any contracts for which a rebate is provided.

[10] 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.

[11] A ''Firm Proprietary'' order is an order submitted by a member for its own proprietary account.

[12] A ''Broker-Dealer'' order is an order submitted by a member for a broker-dealer account that is not its own proprietary account.

[13] A ''Professional Customer'' is a person or entity that is not a broker/dealer and is not a Priority Customer.

Priority Customer orders.[14] Currently, MORP eligible members that execute a qualifying ADV in unsolicited Crossing Orders of at least 30,000 originating contract sides, receive a Facilitation and Solicitation break-up rebate that is $0.42 per contract for regular and complex orders in Select Symbols,[15] $0.20 per contract for regular orders in Non-Select Symbols,[16] $1.08 per contract for complex orders in Non-Select Symbols, and $0.15 per contract for regular and complex orders in foreign exchange option classes (''FX Options''). The Exchange proposes to decrease these Facilitation and Solicitation break-up rebates for MORP-eligible members to $0.35 per contract for regular and complex orders in Select Symbols, $0.15 per contract for regular orders in Non-Select Symbols, and $0.80 per contract for complex orders in Non-Select Symbols. Regular and complex orders in FX Options will continue to receive a Facilitation and Solicitation break-up rebate of $0.15 per contract.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[17] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[18] in particular, in that it provides for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes the proposed decreases to MORP rebates, including the rebate for unsolicited Crossing Orders, and the Facilitation and Solicitation break-up rebate, are reasonable and equitable because the proposed rebates are set at amounts previously offered and will continue to be attractive to members that participate in the program.[19] Under MORP, which is a voluntary rebate program, the Exchange currently provides enhanced rebates to EAMs that connect directly to the Exchange and provide their clients with order routing functionality that includes all U.S. options exchanges, including ISE. Although the Exchange proposes to decrease the rebates, the Exchange still believes that members will continue to be incentivized to participate in the program. The Exchange believes that the proposed rebates will be attractive to members to opt in to MORP.

In addition, the Exchange believes that the proposed rebates are not unfairly discriminatory as they apply to all EAMs that meet the program requirements and opt in to the program. Any EAM that participates in the program will be provided the rebates on an equal and non-discriminatory basis based on the order flow executed on the Exchange. While MORP is targeted towards unsolicited Crossing Order flow, the Exchange offers other incentive programs to promote and encourage growth in other business areas, including, for example, rebates for Market Makers that routinely quote at the national best bid or offer,[20] and volume-based Priority Customer complex order rebates.[21] Furthermore, solicited Crossing Orders benefit from the QCC and Solicitation Rebate, which applies to all QCC and/or other solicited Crossing Orders, including solicited orders executed in the Solicitation, Facilitation or Price Improvement Mechanisms. The Exchange believes that MORP is appropriately tailored to the order flow that the Exchange is seeking to attract, and will benefit all market participants that trade on ISE by encouraging additional liquidity.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[22] 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. Order routing firms that participate in MORP and select the Exchange as the default routing destination for unsolicited Crossing Orders will continue to receive enhanced rebates that are set at levels consistent with those previously offered on ISE. 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,[23] and Rule 19b–4(f)(2)[24] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–ISE–2017–47 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–ISE–2017–47. 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

[14] 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).

[15] ''Select Symbols'' are options overlying all symbols listed on the ISE that are in the Penny Pilot Program.

[16] ''Non-Select Symbols'' are options overlying all symbols excluding Select Symbols.

[17] 15 U.S.C. 78f(b).

[18] 15 U.S.C. 78f(b)(4) and (5).

[19] *See* supra note 3.

[20] *See* Schedule of Fees, Section I, Regular Order Fees and Rebates, Market Maker Plus.

[21] *See* Schedule of Fees, Section II, Complex Order Fees and Rebates.

[22] 15 U.S.C. 78f(b)(8).

[23] 15 U.S.C. 78s(b)(3)(A)(ii).

[24] 17 CFR 240.19b–4(f)(2).

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–ISE–2017–47 and should be submitted on or before June 20, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[25]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–10972 Filed 5–26–17; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80745; File No. SR–NASDAQ–2017–033]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Order Granting Approval of a Proposed Rule Change, as Modified by Amendments No. 1 and 2, To List and Trade Shares of the First Trust California Municipal High Income ETF

May 23, 2017.

I. Introduction

On March 24, 2017, The NASDAQ Stock Market LLC (''Exchange'' or ''Nasdaq'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to list and trade shares (''Shares'') of the First Trust California Municipal High Income ETF (''Fund'') of First Trust Exchange-Traded Fund III (''Trust'') under Nasdaq Rule 5735. The proposed rule change was published for comment in the **Federal Register** on April 10, 2017.[3] On May 12, 2017, the Exchange filed Amendment No. 1 to the proposed rule change.[4] On May 16, 2017, the Exchange filed Amendment No. 2 to the proposed rule change.[5] The Commission has received no comments on the proposal. The Commission is granting approval of the proposed rule change, as modified by Amendments No. 1 and 2.

II. Exchange's Description of the Proposed Rule Change

The Exchange proposes to list and trade the Shares of the Fund under Nasdaq Rule 5735, which governs the listing and trading of Managed Fund Shares on the Exchange. The Fund will be an actively-managed exchange-traded fund (''ETF''). The Trust, which was established as a Massachusetts business trust on January 9, 2008 and is registered with the Commission as an investment company, has filed with the Commission a registration statement on Form N–1A (''Registration Statement'').[6] First Trust Advisors L.P. will serve as the investment adviser (''Adviser'') to the Fund. First Trust Portfolios L.P. will serve as the principal underwriter and distributor (''Distributor'') of the Fund's Shares.[7] Brown Brothers Harriman & Co. will act as the administrator, accounting agent, custodian, and transfer agent to the Fund.

The Exchange has made the following representations and statements in describing the Fund and its investment strategies, including the Fund's portfolio holdings and investment restrictions.[8]

A. Exchange's Description of the Fund's Principal Investments

According to the Exchange, the primary investment objective of the Fund will be to seek to provide current income that is exempt from regular federal income taxes and California income taxes, and its secondary objective will be long-term capital appreciation. Under normal market conditions,[9] the Fund will seek to

[25] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 80369 (April 4, 2017), 82 FR 17314.

[4] In Amendment No. 1, which amended and replaced the proposed rule change in its entirety, the Exchange: (a) Clarified the scope and definition of Municipal Securities (defined herein) and other municipal securities in which the Fund may invest; (b) represented that to the extent the Fund invests in Municipal Securities (as defined herein) that are asset-backed and mortgage-backed, those investments will not account, in the aggregate, for more than 20% of the fixed-income portion of the Fund's portfolio; (c) stated that the Fund may invest up to 20% of its net assets in the aggregate in OTC Derivatives (as defined herein) and represented that the Fund will only enter into transactions in OTC Derivatives with counterparties that the Adviser reasonably believes are capable of performing under the applicable contract or agreement; and (d) made certain technical amendments. Because Amendment No. 1 makes clarifying changes and does not unique or novel regulatory issues, it is not subject to notice and comment. Amendment No. 1 to the proposed rule change is available at: *https://www.sec.gov/comments/sr-nasdaq-2017-033/nasdaq2017033-1749423-151718.pdf.*

[5] In Amendment No. 2, which partially amended the proposed rule change, as modified by Amendment No. 1, the Exchange clarified that all statements and representations made in the filing regarding (a) the description of the portfolio or reference assets, (b) limitations on portfolio holdings or reference assets, (c) dissemination and availability of the reference asset or intraday indicative values, or (d) the applicability of Exchange listing rules shall constitute continued listing requirements for listing the Shares on the Exchange. Because Amendment No. 2 does not materially alter the substance of the proposed rule change or raise unique or novel regulatory issues, it is not subject to notice and comment. Amendment No. 2 to the proposed rule change is available at: *https://www.sec.gov/comments/sr-nasdaq-2017-033/nasdaq2017033.htm.*

[6] *See* Post-Effective Amendment No. 65 to the Registration Statement for the Trust, dated March 24, 2017 (File Nos. 333–176976 and 811–22245). The Exchange represents that the Trust has obtained certain exemptive relief from the Commission under the Investment Company Act of 1940 (''1940 Act''). *See* Investment Company Act Release No. 30029 (April 10, 2002) (File No. 812–13795).

[7] The Exchange represents that, while the Adviser is not a broker dealer, it is affiliated with the Distributor, a broker dealer. The Exchange states that the Adviser has implemented and will maintain a fire wall between the Adviser and the Distributor with respect to access to information concerning the composition of, and changes to, the Fund's portfolio. In the event (a) the Adviser or any sub adviser registers as a broker dealer or becomes newly affiliated with a broker dealer, or (b) any new adviser or sub adviser is a registered broker dealer or becomes affiliated with another broker dealer, it will implement and maintain a fire wall with respect to its relevant personnel and/or such broker dealer affiliate, as applicable, regarding access to information concerning the composition of, 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.

[8] The Commission notes that additional information regarding the Trust, the Fund, and the Shares, including investment strategies, risks, net asset value (''NAV'') calculation, creation and redemption procedures, fees, Fund holdings disclosure policies, distributions, and taxes, among other information, is included in the proposed rule change, as modified by Amendments No. 1 and 2, and the Registration Statement, as applicable. *See* Amendments No. 1 and 2 and Registration Statement, *supra* notes 4, 5, and 6, respectively, and accompanying text.

[9] The term ''under normal market conditions'' for purposes of the filing, includes, but is not limited to, the absence of adverse market, economic, political or other conditions, including extreme volatility or trading halts in the fixed income markets or the financial markets generally; operational issues causing dissemination of inaccurate market information; or *force majeure* type events such as systems failure, natural or man-made disaster, act of God, armed conflict, act of terrorism, riot or labor disruption or any similar intervening circumstance. The Exchange represents that, on a temporary basis, including for defensive

Continued

achieve its investment objectives by investing at least 80% of its net assets (including investment borrowings) in municipal debt securities that pay interest that is exempt from regular federal income taxes and California income taxes (collectively, ''Municipal Securities'').[10] Municipal Securities will be issued by or on behalf of the State of California or territories or possessions of the U.S. (including without limitation Puerto Rico, the U.S. Virgin Islands and Guam), and/or the political subdivisions, agencies, authorities, and other instrumentalities of such State, territories, or possessions. Municipal Securities issued by or on behalf of territories or possessions of the U.S. and/or the political subdivisions, agencies, authorities, and other instrumentalities of such territories or possessions (collectively, ''Territorial Obligations'') will pay interest that is exempt from regular federal income taxes and California income taxes. Under normal market conditions, except for the initial invest-up period and periods of high cash inflows or outflows, the Fund will invest at least 80% of its net assets in Municipal Securities that are not Territorial Obligations.

The types of Municipal Securities in which the Fund may invest include municipal lease obligations (and certificates of participation in such obligations), municipal general obligation bonds, municipal revenue bonds, municipal notes, municipal cash equivalents, private activity bonds (including, without limitation, industrial development bonds), and pre-refunded [11] and escrowed to maturity bonds. In addition, Municipal Securities include securities issued by entities (referred to as ''Municipal Entities'') whose underlying assets are municipal bonds (*i.e.,* tender option bond trusts and custodial receipts trusts).

The Fund may invest in Municipal Securities of any maturity. However, under normal market conditions, except for the initial invest-up period and periods of high cash inflows or outflows, the weighted average maturity of the Fund will be less than or equal to 14 years.

Under normal market conditions, except for the initial invest-up period and periods of high cash inflows or outflows, the Fund will invest at least 50% of its net assets in ''investment grade Municipal Securities,'' which are Municipal Securities that are, at the time of investment, rated investment grade (*i.e.,* rated Baa3/BBB− or above) by at least one nationally recognized statistical rating organization (''NRSRO'') rating such securities (or Municipal Securities that are unrated and determined by the Adviser to be of comparable quality) [12] (''Investment Grade Requirement''). The Fund will consider pre-refunded or escrowed to maturity bonds, regardless of rating, to be investment grade Municipal Securities. Under normal market conditions, except for the initial invest-up period and periods of high cash inflows or outflows, the Fund will invest no more than 50% of its net assets in Municipal Securities that are, at the time of investment, not investment grade Municipal Securities (commonly referred to as ''high yield'' or ''junk'' bonds).[13] If, subsequent to purchase by the Fund, a Municipal Security held by the Fund experiences a decrease in credit quality and is no longer an investment grade Municipal Security, the Fund may continue to hold the Municipal Security, and it will not cause the Fund to violate the Investment Grade Requirement; however, the Municipal Security will be taken into account for purposes of determining whether purchases of additional Municipal Securities will cause the Fund to violate the Investment Grade Requirement.

Certain representations included in this filing, described below, will meet or exceed similar requirements set forth in the generic listing standards for actively-managed ETFs (''Generic Listing Standards''). It is not anticipated that the Fund will meet the requirement that components that in the aggregate account for at least 75% of the fixed income weight of the portfolio each have a minimum original principal amount outstanding of $100 million or more.[14] In general terms, as described above, the Fund will operate as an actively-managed ETF that normally invests in a portfolio of Municipal Securities and will be subject to the Investment Grade Requirement. The Adviser notes that debt issuance sizes for municipal obligations are generally smaller than for corporate obligations. Furthermore, as a general matter, municipal borrowers in certain industries with municipal obligations rated in the ''A'' and ''BBB'' categories (in which the Fund currently intends to significantly invest) [15] tend to have less

purposes, during the initial invest-up period (for purposes of this filing, *i.e.,* the six-week period following the commencement of trading of Shares on the Exchange) and during periods of high cash inflows or outflows (for purposes of this filing, *i.e.,* rolling periods of seven calendar days during which inflows or outflows of cash, in the aggregate, exceed 10% of the Fund's net assets as of the opening of business on the first day of such periods), 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. According to the Exchange, 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.

[10] Assuming compliance with the investment requirements and limitations described herein, the Fund may invest up to 100% of its net assets in Municipal Securities that pay interest that generates income subject to the federal alternative minimum tax.

[11] A pre-refunded municipal bond is a municipal bond that has been refunded to a call date on or before the final maturity of principal and remains outstanding in the municipal market. The payment of principal and interest of the pre-refunded municipal bonds held by the Fund will be funded from securities in a designated escrow account that holds U.S. Treasury securities or other obligations of the U.S. government (including its agencies and instrumentalities). As the payment of principal and interest is generated from securities held in a designated escrow account, the pledge of the municipality has been fulfilled and the original pledge of revenue by the municipality is no longer in place. The escrow account securities pledged to pay the principal and interest of the pre-refunded municipal bond do not guarantee the price movement of the bond before maturity. Investment in pre-refunded municipal bonds held by the Fund may subject the Fund to interest rate risk, market risk, and credit risk. In addition, while a secondary market exists for pre-refunded municipal bonds, if the Fund sells pre-refunded municipal bonds prior to maturity, the price received may be more or less than the original cost, depending on market conditions at the time of sale.

[12] Comparable quality of unrated Municipal Securities will be determined by the Adviser based on fundamental credit analysis of the unrated security and comparable rated securities. On a best efforts basis, the Adviser will attempt to make a rating determination based on publicly available data. In making a ''comparable quality'' determination, the Adviser may consider, for example, whether the issuer of the security has issued other rated securities, the nature and provisions of the relevant security, whether the obligations under the relevant security are guaranteed by another entity and the rating of such guarantor (if any), relevant cash flows, macroeconomic analysis, and/or sector or industry analysis.

[13] These Municipal Securities may include Municipal Securities that are currently in default and not expected to pay the current coupon (''Distressed Municipal Securities''). The Fund may invest up to 10% of its net assets in Distressed Municipal Securities. If, subsequent to purchase by the Fund, a Municipal Security held by the Fund becomes a Distressed Municipal Security, the Fund may continue to hold the Distressed Municipal Security, and it will not cause the Fund to violate the 10% limitation; however, the Distressed Municipal Security will be taken into account for purposes of determining whether purchases of additional Municipal Securities will cause the Fund to violate such limitation.

[14] *See* Nasdaq Rule 5735(b)(1)(B)(i).

[15] These industries include charter schools, senior living facilities (*i.e.,* continuing care retirement communities), and special tax districts, among others. *See infra* note 27 and accompanying text (providing additional information regarding the Fund's exposure to different industries). In the case of a municipal conduit financing (in general terms, the issuance of municipal securities by an issuer to finance a project to be used primarily by a third party (''conduit borrower'')), the ''borrower'' is the conduit borrower (*i.e.,* the party on which a

outstanding debt than municipal borrowers in other municipal industries.

Therefore, under normal market conditions, except for the initial invest-up period and periods of high cash inflows or outflows, at least 40% (based on dollar amount invested) of the Municipal Securities in which the Fund invests [16] will be issued by issuers with total outstanding debt issuances that, in the aggregate, have a minimum amount of municipal debt outstanding at the time of purchase of $50 million or more (''40/50 Requirement''). The Adviser believes that the 40/50 Requirement is appropriate in light of the Fund's investment objectives and the manner in which the Fund intends to pursue them. Given the expected availability of Municipal Securities that will satisfy the Fund's investment parameters and the debt issuance profiles of the corresponding issuers and borrowers, the 40/50 Requirement should both provide the Fund with flexibility to construct its portfolio and, when combined with the other representations in this filing (including certain representations set forth below pertaining to fixed income securities weightings and number of non-affiliated issuers that are based on, but more stringent than, the Generic Listing Standards), should support the potential for diversity and liquidity, thereby mitigating the Commission's concerns about manipulation.

Under normal market conditions, except for the initial invest-up period and periods of high cash inflows or outflows, no component fixed income security (excluding the U.S. government securities described in ''Other Investments'' below) will represent more than 15% of the Fund's net assets, and the five most heavily weighted component fixed income securities in the Fund's portfolio (excluding U.S. government securities) will not, in the aggregate, account for more than 25% of the Fund's net assets.[17] Further, under normal market conditions, except for the initial invest-up period and periods of high cash inflows or outflows, the Fund's portfolio of Municipal Securities will include securities from a minimum of 30 non-affiliated issuers.[18] Moreover, under normal market conditions, except for the initial invest-up period and periods of high cash inflows or outflows, component securities that in the aggregate account for at least 90% of the weight of the Fund's portfolio of Municipal Securities will be exempted securities as defined in Section 3(a)(12) of the Act.[19] Additionally, to the extent the Fund invests in Municipal Securities that are mortgage-backed or asset-backed securities, such investments will not account, in the aggregate, for more than 20% of the weight of the fixed income portion of the Fund's portfolio.[20]

B. Exchange's Description of the Fund's Other Investments

The Fund may invest up to an aggregate of 20% of its net assets in the securities and other instruments (including cash) described in this section.

The Fund may invest in the short-term debt instruments described below, money market funds and other cash equivalents, and taxable municipal securities and other municipal securities that are not Municipal Securities, or it may hold cash.

Short-term debt instruments, which do not include Municipal Securities, are issued by issuers having a long-term debt rating of at least A−/A3 (as applicable) by S&P Global Ratings (''S&P''), Moody's Investors Service, Inc. (''Moody's'') or Fitch Ratings (''Fitch'') and have a maturity of one year or less. The Fund may invest in the following short-term debt instruments: (1) Fixed rate and floating rate U.S. government securities, including bills, notes and bonds differing as to maturity and rates of interest, which are either issued or guaranteed by the U.S. Treasury or by U.S. government agencies or instrumentalities; (2) certificates of deposit issued against funds deposited in a bank or savings and loan association; (3) bankers' acceptances, which are short-term credit instruments used to finance commercial transactions; (4) repurchase agreements,[21] which involve purchases of debt securities; (5) bank time deposits, which are monies kept on deposit with banks or savings and loan associations for a stated period of time at a fixed rate of interest; and (6) commercial paper, which is short-term unsecured promissory notes.[22]

The Fund may (i) invest in the securities of other investment companies registered under the 1940 Act, including money market funds, ETFs,[23] open-end funds (other than money market funds and other ETFs), and closed-end funds and (ii) acquire short positions in the securities of the foregoing investment companies.

The Fund may (i) invest in exchange-listed options on U.S. Treasury securities, exchange-listed options on U.S. Treasury futures contracts, and exchange-listed U.S. Treasury futures contracts (collectively, ''Listed Derivatives'') and (ii) acquire short positions in the Listed Derivatives. Transactions in the Listed Derivatives may allow the Fund to obtain net long

bondholder must rely for repayment). In the case of other municipal financings, the ''borrower'' is the issuer of the municipal securities.

[16] For the avoidance of doubt, in the case of Municipal Securities that are issued by Municipal Entities, the underlying municipal bonds will be taken into account.

[17] *See* the Generic Listing Standards requirement set forth in Nasdaq Rule 5735(b)(1)(B)(ii), which provides that that no component fixed income security (excluding U.S. Treasury securities and government-sponsored entity (''GSE'') securities) may represent more than 30% of the fixed income weight of the portfolio, and that the five most heavily weighted component fixed income securities in the portfolio (excluding U.S. Treasury securities and GSE securities) may not in the aggregate account for more than 65% of the fixed income weight of the portfolio. In the case of Municipal Securities that are issued by Municipal Entities, the underlying municipal bonds will be taken into account.

[18] *See* the Generic Listing Standards requirement set forth in Nasdaq Rule 5735(b)(1)(B)(iii), which provides that generally an underlying portfolio (excluding exempted securities) that includes fixed income securities must include a minimum of *13* non-affiliated issuers. In the case of Municipal Securities that are issued by Municipal Entities, the underlying municipal bonds will be taken into account. Additionally, for purposes of this restriction, each separate political subdivision, agency, authority, or instrumentality of the State of California, and each guarantor, if any, will be treated as separate, non-affiliated issuers of Municipal Securities.

[19] *See* the Generic Listing Standards requirement set forth in Nasdaq Rule 5735(b)(1)(B)(iv)(d). For the avoidance of doubt, in the case of Municipal Securities that are issued by Municipal Entities, the underlying municipal bonds will be taken into account.

[20] *See* the Generic Listing Standards requirement set forth in Nasdaq Rule 5735(b)(1)(B)(v).

[21] The Fund intends to enter into repurchase agreements only with financial institutions and dealers believed by the Adviser to present minimal credit risks in accordance with criteria approved by the Board of Trustees of the Trust. The Adviser will review and monitor the creditworthiness of such institutions. The Adviser will monitor the value of the collateral at the time the transaction is entered into and at all times during the term of the repurchase agreement.

[22] The Fund may only invest in commercial paper rated A–3 or higher by S&P, Prime-3 or higher by Moody's, or F3 or higher by Fitch.

[23] An ETF is an investment company registered under the 1940 Act that holds a portfolio of securities. ETFs included in the Fund will be listed and traded in the U.S. on one or more registered exchanges. The Fund may invest in the securities of certain ETFs in excess of the limits imposed under the 1940 Act pursuant to exemptive orders obtained by such ETFs and their sponsors from the Commission. In addition, the Fund may invest in the securities of certain other investment companies in excess of the limits imposed under the 1940 Act pursuant to an exemptive order that the Trust has obtained from the Commission. *See* Investment Company Act Release No. 30377 (February 5, 2013) (File No. 812–13895). The ETFs in which the Fund may invest include Index Fund Shares (as described in Nasdaq Rule 5705), Portfolio Depository Receipts (as described in Nasdaq Rule 5705), and Managed Fund Shares (as described in Nasdaq Rule 5735). While the Fund may invest in inverse ETFs, the Fund will not invest in leveraged or inverse leveraged (*e.g.,* 2X or −3X) ETFs.

or short exposures to selected interest rates. The Listed Derivatives may also be used to hedge risks, including interest rate risks and credit risks, associated with the Fund's portfolio investments. In addition, to hedge interest rate risks associated with the Fund's portfolio investments, the Fund may invest in over-the-counter (''OTC'') forward contracts and OTC swaps (collectively, ''OTC Derivatives'').[24] The Fund will only enter into transactions in OTC Derivatives with counterparties that the Adviser reasonably believes are capable of performing under the applicable contract or agreement.[25] The Fund's investments in derivative instruments will be consistent with the Fund's investment objectives and the 1940 Act and will not be used to seek to achieve a multiple or inverse multiple of the Fund's broad-based securities market index (as defined in Form N–1A).

C. Exchange's Description of the Fund's Investment Restrictions

The Fund may hold up to an aggregate amount of 15% of its net assets in illiquid assets (calculated at the time of investment), including Rule 144A securities deemed illiquid by the Adviser.[26] The Fund will monitor its portfolio liquidity on an ongoing basis to determine whether, in light of current circumstances, an adequate level of liquidity is being maintained, and will consider taking appropriate steps in order to maintain adequate liquidity if, through a change in values, net assets, or other circumstances, more than 15% of the Fund's net assets are held in illiquid assets. Illiquid assets include securities subject to contractual or other restrictions on resale and other instruments that lack readily available markets as determined in accordance with Commission staff guidance.

The Fund may not invest 25% or more of the value of its total assets in securities of issuers in any one industry. This restriction does not apply to (a) municipal securities issued by governments or political subdivisions of governments, (b) obligations issued or guaranteed by the U.S. government, its agencies or instrumentalities, or (c) securities of other investment companies. In addition, under normal market conditions, except for the initial invest-up period and periods of high cash inflows or outflows, the Fund's investments in Municipal Securities will provide exposure (based on dollar amount invested) to at least 10 different industries [27] (with no more than 25% of the value of the Fund's net assets comprised of Municipal Securities that provide exposure to any single industry).[28]

III. Discussion and Commission's Findings

After careful review, the Commission finds that the Exchange's proposal is consistent with the Act and the rules and regulations thereunder applicable to a national securities exchange.[29] In particular, the Commission finds that the proposal is consistent with Section 6(b)(5) of the Act,[30] which requires, among other things, that the Exchange's rules be designed to promote just and equitable principles of trade, 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.

The Commission also finds that the proposal is consistent with Section 11A(a)(1)(C)(iii) of the Act,[31] which sets forth the finding of Congress that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure the availability to brokers, dealers, and investors of information with respect to quotations for, and transactions in, securities. Quotation and last-sale information for the Shares will be available via Nasdaq proprietary quote and trade services, as well as in accordance with the Unlisted Trading Privileges and the Consolidated Tape Association (''CTA'') plans for the Shares. Quotation and last-sale information for exchange-listed equity securities (including other ETFs and closed-end funds) will be available from the exchanges on which they are traded as well as in accordance with any applicable CTA plans. Quotation and last-sale information for U.S. exchange-listed options will be available via the Options Price Reporting Authority. One source of price information for Municipal Securities and taxable and other municipal securities will be the Electronic Municipal Market Access (''EMMA'') of the Municipal Securities Rulemaking Board (''MSRB'').[32] Additionally, the MSRB offers trade data subscription services that permit subscribers to obtain same-day pricing information about municipal securities transactions. Moreover, pricing information for Municipal Securities, as well as for taxable municipal securities and other municipal securities, Short-Term Debt Instruments (including short-term U.S. government securities, commercial paper, and bankers' acceptances), repurchase agreements and OTC Derivatives (including forward contracts and swaps) will be available from major broker-dealer firms and/or major market data vendors and/or Pricing Services. Pricing information for Listed Derivatives (including options on U.S. Treasury securities, options on U.S. Treasury futures contracts, and U.S. Treasury futures contracts), ETFs and closed-end funds will be available from the applicable listing exchange and from major market data vendors. Money market funds and other open-end funds (excluding ETFs) are typically priced once each business day and their prices will be available through the applicable fund's Web site or from major market data vendors.

The Intraday Indicative Value, available on the NASDAQ OMX Information LLC proprietary index data

[24] On both an initial and continuing basis, no more than 20% of the assets in the Fund's portfolio will be invested in the OTC Derivatives and, for purposes of calculating this limitation, the Fund's investment in the OTC Derivatives will be calculated as the aggregate gross notional value of the OTC Derivatives.

[25] The Fund will seek, where possible, to use counterparties, as applicable, whose financial status is such that the risk of default is reduced; however, the risk of losses resulting from default is still possible. The Adviser will evaluate the creditworthiness of counterparties on an ongoing basis. In addition to information provided by credit agencies, the Adviser's analysis will evaluate each approved counterparty using various methods of analysis and may consider the Adviser's past experience with the counterparty, its known disciplinary history and its share of market participation.

[26] In reaching liquidity decisions, the Adviser may consider the following factors: The frequency of trades and quotes for the security; the number of dealers wishing to purchase or sell the security and the number of other potential purchasers; dealer undertakings to make a market in the security; and the nature of the security and the nature of the marketplace in which it trades (*e.g.,* the time needed to dispose of the security, the method of soliciting offers and the mechanics of transfer).

[27] The municipal industry classification system used by the Fund will divide the municipal securities universe into distinct categories that are intended to reflect either the use of proceeds generated by particular subsets of municipal securities or the collateral/sources of repayment securing/backing such municipal securities. For example, municipal bonds associated with the airport industry are issued to construct or expand an airport and/or related facilities and are secured by revenues generated from the use of the airport.

[28] For the avoidance of doubt, in the case of Municipal Securities that are issued by Municipal Entities, the underlying municipal bonds will be taken into account.

[29] In approving this 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).

[30] 15 U.S.C. 78f(b)(5).

[31] 15 U.S.C. 78k–1(a)(1)(C)(iii).

[32] Information available on EMMA includes next-day information regarding municipal securities transactions and par amounts traded. In addition, a source of price information for certain taxable municipal securities is the Trade Reporting and Compliance Engine (''TRACE'') of the Financial Industry Regulatory Authority (''FINRA'').

service,[33] will be based upon the current value for the components of the Disclosed Portfolio (defined below) and will be updated and widely disseminated by one or more major market data vendors and broadly displayed at least every 15 seconds during the Regular Market Session.[34] On each business day, before commencement of trading in Shares in the Regular Market Session on the Exchange, the Fund will disclose on its Web site the identities and quantities of the portfolio of securities and other assets (''Disclosed Portfolio,'' as defined in Nasdaq Rule 5735(c)(2)) [35] held by the Fund that will form the basis for the Fund's calculation of NAV at the end of the business day.[36] 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 and additional data relating to NAV and other applicable quantitative information that may be downloaded.

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. 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. The Fund's disclosure of derivative positions in the Disclosed Portfolio will include sufficient information for market participants to use to value these positions intraday. Additionally, FINRA, on behalf of the Exchange, will communicate as needed regarding trading in the Shares and the exchange-listed securities and instruments held by the Fund (including closed-end funds, ETFs, and Listed Derivatives) with other markets and other entities that are members of the Intermarket Surveillance Group (''ISG''),[37] and FINRA may obtain trading information regarding trading in the Shares and such exchange-listed securities and instruments held by the Fund from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares and the exchange-listed securities and instruments held by the Fund from markets and other entities that are members of ISG, which includes securities and futures exchanges, or with which the Exchange has in place a comprehensive surveillance sharing agreement. Moreover, FINRA, on behalf of the Exchange, will be able to access, as needed, trade information for certain fixed income securities held by the Fund reported to FINRA's TRACE.[38]

The Commission further believes that the proposal to list and trade the Shares is reasonably designed to promote fair disclosure of information that may be necessary to price the Shares appropriately and to prevent trading when a reasonable degree of transparency cannot be assured. 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. Nasdaq will halt trading in the Shares under the conditions specified in Nasdaq Rules 4120 and 4121, including the trading pauses under Nasdaq Rules 4120(a)(11) and (12). In addition, 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 other assets constituting the Disclosed Portfolio of the Fund; or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. Trading in the Shares also will be subject to Rule 5735(d)(2)(D), which sets forth circumstances under which Shares of the Fund may be halted.

The Exchange states that it has a general policy prohibiting the distribution of material, non-public information by its employees. Further, the Commission notes that the Reporting Authority [39] that provides the Disclosed Portfolio must implement and maintain, or be subject to, procedures designed to prevent the use and dissemination of material, non-public information regarding the actual components of the portfolio.[40] In addition, the Exchange states that the Adviser is not a broker-dealer, but it is affiliated with the Distributor, a broker-dealer, and is required to implement and maintain a ''fire wall'' with respect to such broker-dealer affiliate regarding access to information concerning the composition of, and/or changes to, the Fund's portfolio.[41] Moreover, Nasdaq Rule 5735(g) requires that personnel who make decisions on the open-end fund's portfolio composition must be subject to procedures designed to prevent the use and dissemination of material, non-public information regarding the Fund's portfolio.

The Exchange represents that trading in the Shares will be subject to the existing trading surveillances, administered by both the Exchange and FINRA, on behalf of the Exchange, which are designed to detect violations

[33] Currently, the NASDAQ OMX Global Index Data Service (''GIDS'') is the Nasdaq global index data feed service, offering real-time updates, daily summary messages, and access to widely followed indexes and Intraday Indicative Values for ETFs. GIDS provides investment professionals with the daily information needed to track or trade Nasdaq indexes, listed ETFs, or third-party partner indexes and ETFs.

[34] *See* Nasdaq Rule 4120(b)(4) (describing the trading sessions on the Exchange).

[35] Under accounting procedures to be followed by the Fund, trades made on the prior business day (T) will be booked and reflected in NAV on the current business day (T+1). Accordingly, the Fund will be able to disclose at the beginning of the business day the portfolio that will form the basis for the NAV calculation at the end of the business day.

[36] In addition to disclosing the identities and quantities of the portfolio of securities and other assets in the Disclosed Portfolio, the Fund also will disclose on a daily basis on its Web site the following information, as applicable to the type of holding: Ticker symbol, CUSIP number or other identifier, if any; a description of the holding (including the type of holding, such as the type of swap); with respect to holdings in derivatives, the identity of the security, index or other asset upon which the derivative is based; for options, the option strike price; quantity held (as measured by, for example, par value, notional value or number of shares, contracts or units); maturity date, if any; coupon rate, if any; effective date, if any; market value of the holding; and percentage weighting of the holding in the Fund's portfolio. The Web site information will be publicly available at no charge. The Fund's NAV will be determined as of the close of regular trading on the New York Stock Exchange (''NYSE'') on each day the NYSE is open for trading.

[37] For a list of the current members of ISG, *see www.isgportal.org.* The Exchange notes that not all components of the Disclosed Portfolio may trade on markets that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

[38] For Municipal Securities, trade information can generally be found on the MSRB's EMMA.

[39] Nasdaq Rule 5735(c)(4) defines ''Reporting Authority.''

[40] *See* Nasdaq Rule 5735(d)(2)(B)(ii).

[41] *See supra* note 7. The Exchange states an investment adviser to an open-end fund is required to be registered under the Investment Advisers Act of 1940 (''Advisers Act''). As a result, the Adviser and its related personnel are subject to the provisions of Rule 204A–1 under the Advisers Act relating to codes of ethics. This Rule requires investment advisers to adopt a code of ethics that reflects the fiduciary nature of the relationship to clients as well as compliance with other applicable securities laws. Accordingly, procedures designed to prevent the communication and misuse of non-public information by an investment adviser must be consistent with the Advisers Act and Rule 204A–1 thereunder. 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.

of Exchange rules and applicable federal securities laws.[42] The Exchange further 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 applicable federal securities laws. Moreover, the Exchange states that, prior to the commencement of trading, it will inform its members in an Information Circular of the special characteristics and risks associated with trading the Shares.

The Exchange represents that the Shares are deemed to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities. In support of this proposal, the Exchange has made representations, including the following:

(1) The Shares will be subject to Rule 5735, which sets forth the initial and continued listing criteria applicable to Managed Fund Shares.

(2) The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions.

(3) FINRA, on behalf of the Exchange, will communicate as needed regarding trading in the Shares and the exchange-listed securities and instruments held by the Fund (including closed-end funds, ETFs, and Listed Derivatives) with other markets and other entities that are members of ISG, and FINRA may obtain trading information regarding trading in the Shares and such exchange-listed securities and instruments held by the Fund from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares and the exchange-listed securities and instruments held by the Fund from markets and other entities that are members of ISG, which includes securities and futures exchanges, or with which the Exchange has in place a comprehensive surveillance sharing agreement. Moreover, FINRA, on behalf of the Exchange, will be able to access, as needed, trade information for certain fixed income securities held by the Fund reported to FINRA's TRACE, and the MSRB's EMMA will be a source of price information for Municipal Securities and taxable and other municipal securities.

(4) Prior to the commencement of trading, the Exchange will inform its members in an Information Circular of the special characteristics and risks associated with trading the Shares. Specifically, the Information Circular will discuss the following: (a) The procedures for purchases and redemptions of Shares in Creation Units (and that Shares are not individually redeemable); (b) Nasdaq Rule 2111A, which imposes suitability obligations on Nasdaq members with respect to recommending transactions in the Shares to customers; (c) how information regarding the Intraday Indicative Value and the Disclosed Portfolio is disseminated; (d) the risks involved in trading the Shares during the Pre-Market and Post-Market Sessions when an updated Intraday Indicative Value will not be calculated or publicly disseminated; (e) the requirement that members deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (f) trading information.

(5) For initial and continued listing, the Fund must be in compliance with Rule 10A–3 under the Act.[43]

(6) Under normal market conditions, except for the initial invest-up period and periods of high cash inflows or outflows, the Fund will invest at least 80% of its net assets in Municipal Securities that are not Territorial Obligations.

(7) Under normal market conditions, except for the initial invest-up period and periods of high cash inflows or outflows, the Fund will invest at least 50% of its net assets in investment grade Municipal Securities, and the Fund will invest no more than 50% of its net assets in Municipal Securities that are, at the time of investment, not investment grade Municipal Securities.

(8) The Fund may not invest more than 10% of its net assets in Distressed Municipal Securities.

(9) To the extent the Fund invests in Municipal Securities that are mortgage-backed or asset-backed securities, such investments will not account, in the aggregate, for more than 20% of the weight of the fixed income portion of the Fund's portfolio.

(10) At least 40% (based on dollar amount invested) of the Municipal Securities in which the Fund invests will be issued by issuers with total outstanding debt issuances that, in the aggregate, have a minimum amount of municipal debt outstanding at the time of purchase of $50 million or more.

(11) On both an initial and continuing basis, no more than 20% of the assets in the Fund's portfolio will be invested in the OTC Derivatives and, for purposes of calculating this limitation, the Fund's investment in the OTC Derivatives will be calculated as the aggregate gross notional value of the OTC Derivatives. The Fund will only enter into transactions in OTC Derivatives with counterparties that the Adviser reasonably believes are capable of performing under the applicable contract or agreement.

(12) Under normal market conditions, except for the initial invest-up period and periods of high cash inflows or outflows, the Fund's investments in Municipal Securities will provide exposure (based on dollar amount invested) to at least 10 different industries (with no more than 25% of the value of the Fund's net assets comprised of Municipal Securities that provide exposure to any single industry).

(13) ETFs included in the Fund will be listed and traded in the U.S. on one or more registered exchanges. While the Fund may invest in inverse ETFs, the Fund will not invest in leveraged or inverse leveraged (*e.g.,* 2X or 3X) ETFs.

(14) Under normal market conditions, except for the initial invest-up period and periods of high cash inflows or outflows: No component fixed-income security (excluding the U.S. government securities described in ''Other Investments'') will represent more than 15% of the Fund's net assets, and the five most heavily weighted component fixed income securities in the Fund's portfolio (excluding U.S. government securities) will not, in the aggregate, account for more than 25% of the Fund's net assets. Further, under normal market conditions, except for the initial invest-up period and periods of high cash inflows or outflows, the Fund's portfolio of Municipal Securities will include securities from a minimum of 30 non-affiliated issuers. Moreover, under normal market conditions, except for the initial invest-up period and periods of high cash inflows or outflows, component securities that in the aggregate account for at least 90% of the weight of the Fund's portfolio of Municipal Securities will be exempted securities as defined in Section 3(a)(12) of the Act.

(15) The Fund may hold up to an aggregate amount of 15% of its net assets in illiquid assets (calculated at the time of investment), including Rule 144A securities deemed illiquid by the Adviser. The Fund will monitor its portfolio liquidity on an ongoing basis to determine whether, in light of current circumstances, an adequate level of liquidity is being maintained, and will consider taking appropriate steps in order to maintain adequate liquidity if,

[42] The Exchange states that FINRA surveils trading on the Exchange pursuant to a regulatory services agreement. The Exchange is responsible for FINRA's performance under this regulatory services agreement.

[43] *See* 17 CFR 240.10A–3.

through a change in values, net assets, or other circumstances, more than 15% of the Fund's net assets are held in illiquid assets.

(16) The Fund's investments in derivative instruments will be consistent with the Fund's investment objectives and the 1940 Act and will not be used to seek to achieve a multiple or inverse multiple of the Fund's broad-based securities market index (as defined in Form N–1A).

(17) A minimum of 100,000 Shares will be outstanding at the commencement of trading on the Exchange.

The Exchange represents that all statements and representations made in the filing regarding (a) the description of the portfolio or reference assets, (b) limitations on portfolio holdings or reference assets, (c) dissemination and availability of the reference asset or intraday indicative values, or (d) the applicability of Exchange listing rules shall constitute continued listing requirements for listing the Shares on the Exchange. In addition, 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.[44] If the Fund is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under the Nasdaq 5800 Series.

This order is based on all of the Exchange's representations, including those set forth above and in Amendments No. 1 and 2. The Commission notes that the Fund and the Shares must comply with the requirements of Nasdaq Rule 5735 for the Shares to be listed and traded on the Exchange.

For the foregoing reasons, the Commission finds that the proposed rule change, as modified by Amendments No. 1 and 2, is consistent with Section 6(b)(5) of the Act[45] and Section 11A(a)(1)(C)(iii) of the Act[46] and the rules and regulations thereunder applicable to a national securities exchange.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[47] that the proposed rule change (SR–NASDAQ–2017–033), as modified by Amendments No. 1 and 2, be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[48]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–10973 Filed 5–26–17; 8:45 am]

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[44] The Commission notes that certain other proposals for the listing and trading of Managed Fund Shares include a representation that the exchange will ''surveil'' for compliance with the continued listing requirements. *See, e.g.,* Securities Exchange Act Release No. 77499 (April 1, 2016), 81 FR 20428 (April 7, 2016) (SR–BATS–2016–04). In the context of this representation, it is the Commission's view that ''monitor'' and ''surveil'' both mean ongoing oversight of a fund's compliance with the continued listing requirements. Therefore, the Commission does not view ''monitor'' as a more or less stringent obligation than ''surveil'' with respect to the continued listing requirements.

[45] 15 U.S.C. 78f(b)(5).

[46] 15 U.S.C. 78k–1(a)(1)(C)(iii).

[47] *Id.*

[48] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80751; File No. SR–ISE–2017–41]

Self-Regulatory Organizations; Nasdaq ISE, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Regarding the Opening Process

May 23, 2017.

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 May 10, 2017, Nasdaq ISE, LLC (''ISE'' or ''Exchange'') 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.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the trading hours and Opening Process of Foreign Currency Index options and also amend a reference to All-or-None Orders.

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.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this rule change is to amend: (i) The trading hours, including during the Opening Process, of Foreign Currency Index options; and (ii) a specific rule text reference in Rule 701 related to All-or-None Orders.

Foreign Currency Options

ISE Rule 2008, ''Trading Sessions,'' among other things, governs transactions in Foreign Currency Index options. The rule provides that such product may be effected on the Exchange between the hours of 7:30 a.m. Eastern Time and 4:15 p.m. Eastern Time. ISE Rule 2210, ''Trading Sessions,'' notes that ''[e]xcept as otherwise provided in this Rule [2210] or under unusual conditions as may be determined by an Exchange official or his designee, transactions in foreign currency options may be effected on the Exchange between the hours of 7:30 a.m. and 4:15 p.m. Eastern time, except on the last day of trading during expiration week, in which case trading shall cease at 12.00 p.m. Eastern time.''

At this time, the Exchange proposes to amend ISE Rules 2008 and 2010 so that Foreign Currency Index options will start trading at 9:30 AM Eastern Time instead of 7:30 a.m. Eastern Time. The purpose of this rule change is to conform the start time for the trading of Foreign Currency Options to that of other products.

Likewise, ISE Rule 701, ''Opening,'' which was recently approved,[3] provides that Market Maker Valid Width Quotes and Opening Sweeps received starting at 9:25 a.m. Eastern Time, or 7:25 a.m.

[3] *See* Securities Exchange Act Release No. 80225; (March 13, 2017), 82 FR 14243 (March 17, 2017) (SR–ISE–2017–02) (Order Approving Proposed Rule Change, as Modified by Amendment No. 1, To Amend the Exchange Opening Process).

Eastern Time for U.S. dollar-settled foreign currency options, will be included in the Opening Process. Orders entered at any time before an option series opens are included in the Opening Process. The current Opening Process rule states that the submission of Valid Width Quotes and Opening Sweeps for U.S. dollar-settled foreign currency options may begin at 7:25 a.m. Eastern Time to tie the option Opening Process to quoting in the underlying security; [4] it presumes that option quotes submitted before any indicative quotes have been disseminated for the underlying security may not be reliable or intentional. The Exchange proposes to amend ISE Rule 701 so that the Opening Process for foreign currency options would initiate on or after 9:30 a.m. Eastern Time and the Market Maker Valid Width Quotes and Opening Sweeps would be considered for the Opening Process starting at 9:25 a.m. Eastern Time for foreign currency options.

All-or-None Orders

The Exchange also proposes to amend ISE Rule 701 to remove a specific reference to the manner in which All-or-None Orders will be treated in the Opening Process. The Exchange recently filed a proposed rule change to amend All-or-None Orders.[5] The Exchange amended Rule 715(c) to provide that an All-or-None Order may only be entered into the System with a time-in-force designation of Immediate-or-Cancel [6] Order in connection with the Exchange's technology migration to INET. At the time that SR–ISE–2017–02 was filed, All-or-None Orders were not restricted and could trade as a limit or market order to be executed in its entirety or not at all. With this amendment, an All-or-None Order would not persist in the Order Book and would therefore be treated the same as any other Immediate or Cancel Order. The carve out specified in Rule 701(j)(6)(i) is unnecessary since an All-or-None Order would be executed immediately or cancel similar to other orders which trade in the same manner. The Exchange believes removing this reference will eliminate confusion.

Implementation

Both SR–ISE–2017–02 and SR–ISE–2017–03 will be implemented in Q2 2017 in connection with a system migration to INET. The migration will be on a symbol by symbol basis, and the Exchange will issue an alert to Members to provide notification of the symbols that will migrate and the relevant dates. The Exchange proposes these amendments to be operative on the same dates as symbols migrate to INET.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[7] in general, and furthers the objectives of Section 6(b)(5) of the Act,[8] in particular, in that it is designed to promote just and equitable principles of trade, 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 for the reasons stated below.

Foreign Currency Options

The Exchange believes that the proposed rule change is consistent with the Act in that it will remove impediments to and perfect the mechanism of a free and open market and a national market system, to initiate the Opening Process for foreign currency options at 9:30 a.m. Eastern Time and accept Market Maker Valid Width Quotes and Opening Sweeps at 9:25 a.m. Eastern Time for foreign currency options similar to the manner in which other options trade today. Today, on NASDAQ PHLX, LLC (''Phlx''), foreign currency options trade similar to other options.[9] The Exchange believes that conforming the Opening Process and trading hours for foreign currency options to that of other options will conform the trading rules so all products would trade during the same session. The Exchange believes trading all options on the same Opening Process schedule promotes just and equitable principles of trade because all options will continue to be available to participants for trading on ISE.

All-or-None Orders

The Exchange believes that it is consistent with the Act to remove an unnecessary and confusing reference to Rule 701 in connection with All-or-None Orders, since these orders will now immediately trade or cancel. The Exchange originally made clear the manner in which All-or-None Orders would trade in the Opening Process because this order type trades differently as compared to other order types. That distinction has become unnecessary because All-or-None Orders trade the same as other Immediate or Cancel Orders. By updating the rule to remove an unnecessary distinction will protect investors and the public interest by clarifying the rule.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any undue burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposal does not change the intense competition that exists among the options markets for options business including with respect to transacting foreign currency options. In addition, all market participants submitting All-or-None Orders in the Opening Process will receive similar treatment with respect to those orders.

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

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act [10] and subparagraph (f)(6) of Rule 19b–4 thereunder.[11]

[4] The underlying security can also be an index.

[5] *See* Securities Exchange Act Release No. 80432 (April 11, 2017), 82 FR 18191 (April 17, 2017) (SR–ISE–2017–03) (Order Approving Proposed Rule Change, as Modified by Amendment No. 1, to Amend Various Rules in Connection with a System Migration to Nasdaq INET Technology).

[6] An Immediate-or-Cancel Order is a limit order that is to be executed in whole or in part upon receipt. Any portion not so executed is to be treated as cancelled.

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

[9] *See* Phlx Rules 1014 and 1017. On Phlx, the Specialist assigned in a particular U.S. dollar-settled FCO must enter a Valid Width Quote not later than 30 seconds after the announced market opening. Also, on Phlx, the Opening Process for an option series will be conducted within two minutes of market opening in the case of U.S. dollar-settled FCO or such shorter time as determined by the Exchange and disseminated to membership on the Exchange's Web site.

[10] 15 U.S.C. 78s(b)(3)(A)(iii).

[11] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act [12] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii) [13] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest as it will allow the Exchange to implement the proposed rule change in coordination with a symbol by symbol transition to the INET technology in the second quarter of 2017. Accordingly, the Commission hereby waives the operative delay and designates the proposal operative upon filing.[14]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–ISE–2017–41 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–ISE–2017–41. 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–ISE–2017–41 and should be submitted on or before June 20, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Eduardo A. Aleman,

Assistant Secretary.

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[12] 17 CFR 240.19b–4(f)(6).

[13] 17 CFR 240.19b–4(f)(6)(iii).

[14] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80746; File No. SR–NYSEMKT–2016–103]

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Designation of a Longer Period for Commission Action on Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change, as Modified by Amendments No. 1 and 2, Allowing the Exchange To Trade, Pursuant to Unlisted Trading Privileges, Any NMS Stock Listed on Another National Securities Exchange; Establishing Rules for the Trading Pursuant to UTP of Exchange-Traded Products; and Adopting New Equity Trading Rules Relating to Trading Halts of Securities Traded Pursuant to UTP on the Pillar Platform

May 23, 2017.

On November 17, 2016, NYSE MKT LLC (''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to (1) allow the Exchange to trade, pursuant to unlisted trading privileges (''UTP''), any NMS Stock listed on another national securities exchange; (2) establish rules for the trading pursuant to UTP of exchange-traded products; and (3) adopt new equity trading rules relating to trading halts of securities traded pursuant to UTP on the Pillar platform. The proposed rule change was published for comment in the **Federal Register** on December 1, 2016.[3] On January 4, 2017, pursuant to Section 19(b)(2) of the Act,[4] the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.[5] On February 24, 2017, the Commission instituted proceedings under Section 19(b)(2)(B) of the Act [6] to determine whether to approve or disapprove the proposed rule change.[7]

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 79400 (Nov. 25, 2016), 81 FR 86750.

[4] 15 U.S.C. 78s(b)(2).

[5] *See* Securities Exchange Act Release No. 79738, 82 FR 3068 (Jan. 10, 2017).

[6] 15 U.S.C. 78s(b)(2)(B).

[7] *See* Securities Exchange Act Release No. 80097, 82 FR 12251 (Mar. 1, 2017). Specifically, the Commission instituted proceedings to allow for additional analysis of the proposed rule change's consistency with Section 6(b)(5) of the Act, which requires, among other things, that the rules of a

Continued

On March 28, 2017, the Exchange filed Amendment No. 1 to the proposed rule change.[8] Amendment No. 1 was published for comment in the **Federal Register** on April 27, 2017.[9] On April 27, 2017, the Exchange filed Amendment No. 2 to the proposed rule change.[10] The Commission has received no comments on the proposed rule change.

Section 19(b)(2) of the Act [11] provides that, after initiating disapproval proceedings, the Commission shall issue an order approving or disapproving the proposed rule change not later than 180 days after the date of publication of notice of filing of the proposed rule change. The Commission may extend the period for issuing an order approving or disapproving the proposed rule change, however, by not more than 60 days if the Commission determines that a longer period is appropriate and publishes the reasons for such determination. The proposed rule change was published for notice and comment in the **Federal Register** on December 1, 2016. May 30, 2017 is 180 days from that date, and July 29, 2017 is 240 days from that date.

The Commission finds it appropriate to designate a longer period within which to issue an order approving or disapproving the proposed rule change so that it has sufficient time to consider this proposed rule change. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[12] designates July 29, 2017 as the date by which the Commission shall either approve or disapprove the proposed rule change (File No. SR–NYSEMKT–2016–103).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Eduardo A. Aleman,

Assistant Secretary.

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national securities exchange be ''designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade,'' and ''to protect investors and the public interest.'' *See id.* at 12252.

[8] Amendment No. 1 is available at: *https://www.sec.gov/comments/sr-nysemkt-2016-103/nysemkt2016103-1672987-149219.pdf.*

[9] *See* Securities Exchange Act Release No. 80500 (Apr. 21, 2017), 82 FR 19416.

[10] In Amendment No. 2, the Exchange: (1) Corrected the cross-reference in footnote 66 of the filing to read ''*See* supra note 63''; (2) amended proposed Rule 5.2E(j)(6)(B)(V)(2)(a) to read ''may'' instead of ''will''; (3) amended proposed Rule 5.5E(m)(1)(c) to clarify that the regulatory function described therein would be exercised by ''the Exchange'' instead of ''Regulation''; (4) amended Supplementary Material .01 to proposed Rule 8.200E to erase the repetitive words ''are satisfied'' at the end of the introductory paragraph; and (5) amended proposed Rule 8.700E(h) to add at the beginning of the paragraph the sentence ''The Exchange will file separate proposals under Section 19(b) of the Securities Exchange Act of 1934 before listing and trading separate and distinct Managed Trust Securities.'' Amendment No. 2 is available at: *https://www.sec.gov/comments/sr-nysemkt-2016-103/nysemkt2016103-1724667-150689.pdf.* Because Amendment No. 2 to the proposed rule change does not materially alter the substance of the proposed rule change or raise unique or novel regulatory issues, Amendment No. 2 is not subject to notice and comment.

[11] 15 U.S.C. 78s(b)(2).

[12] *Id.*

[13] 17 CFR 200.30–3(a)(57).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80748; File No. SR–NYSEMKT–2017–20]

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Change To Amend the Rules of the Exchange, the NYSE MKT Equities Price List, the NYSE Amex Options Fee Schedule, and the NYSE Amex Options Proprietary Market Data Fees

May 23, 2017.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on May 19, 2017, NYSE MKT LLC (the ''Exchange'' or ''NYSE MKT'') filed with the Securities and Exchange Commission (the ''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, in connection with its name change to NYSE American LLC (''NYSE American''), to rebrand the Exchange's facility for trading options (''Options Market''), from ''NYSE Amex Options'' to ''NYSE American Options'' and to amend the rules of the Exchange, the NYSE MKT Equities Price List (''Price List''), the NYSE Amex Options Fee Schedule (''Fee Schedule''), and the NYSE Amex Options Proprietary Market Data Fees (''Options Market Data Fees'') to reflect that rebranding. The Exchange also proposes to delete obsolete references in the rules and the NYSE MKT LLC Company Guide (''Company Guide''). The proposed change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

NYSE MKT proposes, in connection with its name change to NYSE American LLC (''NYSE American''),[4] to rebrand the Exchange's Options Market from ''NYSE Amex Options'' to ''NYSE American Options.'' Therefore, the Exchange now proposes to amend the rules of the Exchange, Company Guide, Price List, Fee Schedule, and Options Market Data Fees to reflect that rebranding.

The Exchange also proposes to delete obsolete references to a former name from the rules and the Company Guide.[5]

Background

Option contracts may be approved for listing and trading on the Exchange's Options Market, which is referred to as ''NYSE Amex Options.'' [6] On March 16, 2017, NYSE MKT filed rule changes with the Commission in connection with its name change to NYSE American LLC.[7] The Exchange has now determined that for consistency and marketing purposes it would be

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] *See* Securities Exchange Act Release No. 80283 (March 21, 2017), 82 FR 15244 (March 27, 2017) (SR–NYSEMKT–2017–14).

[5] *See* Securities Exchange Act Release No. 67037 (May 21, 2012), 77 FR 31415 (May 25, 2012) (SR–NYSEAmex–2012–32).

[6] *See* Rule 900.2NY(47) (Definitions) (providing that ''[t]he term 'NYSE Amex Options' shall refer to those aspects of the Self-Regulatory Organization and the Trading Facilities business of NYSE MKT LLC licensed to trade Options by the Exchange''). *See also* Section 900 NY (Rules Principally Applicable to Trading of Options Contracts) of the Exchange's Rules.

[7] *See* Securities Exchange Act Release No. 80283, *supra* note 4.

desirable to rebrand the Options Market from ''NYSE Amex Options'' to ''NYSE American Options.'' [8]

The proposed rule changes would become operative upon the effectiveness of the NYSE MKT name change to NYSE American, which is expected to be no later than July 30, 2017.

The Exchange notes that the name change originally was expected to become effective no later than June 30, 2017.[9] Because the Exchange now anticipates that the name change will become effective at a subsequent date, not only the proposed rule changes, discussed below, but also the rule changes filed on March 16, 2017 [10] in connection with the name change to NYSE American, would become operative upon the effectiveness of the NYSE MKT name change to NYSE American, which is expected to be no later than July 30, 2017. The Exchange will announce via Trader Notice the effective date of the name change.

Proposed Changes

In connection with the rebranding of the Options Market, the Exchange proposes to amend the rules as described below:

• The Exchange proposes to change the name of its trading permit from ''Amex Trading Permit'' to ''American Trading Permit.'' Consistent with that change, it proposes to change the terms ''Amex Trading Permits'' and ''Amex Trading Permit Holder'' to ''American Trading Permits'' and ''American Trading Permit Holder,'' respectively. To implement the change, it proposes to replace ''Amex'' with ''American'' in Rule 350 (Ownership Requirements); Rule 353 (Amex Trading Permit Requirements); Rule 353A (Revocable Privilege; Termination of an Amex Trading Permit); Rule 358 (Processing Fees and Other Charges Associated with Amex Trading Permit); Rule 358A (Special Charge and Charge Upon Options Transactions); Rule 359 (Application and Termination Forms); Rule 359B (Limited Transferability); and, where applicable, in the respective title of the aforementioned rules.

• The Exchange proposes to change the term ''NYSE Amex Options Trading Floor'' to ''NYSE American Options Trading Floor''. To implement the change, it proposes to replace ''Amex'' with ''American'' in Rule 6A—Equities ('Trading Floor') and Rule 36—Equities (Communications between Exchange and Members' Offices), Supplementary Material .21, .23, and .70.

• In Rule 70—Equities (Execution of Floor Broker Interest), Supplementary Material .40, the Exchange proposes to replace ''Amex'' with ''American'' in the term ''NYSE Amex option.''

• In Rule 900.2NY (Definitions), the Exchange proposes to amend ''NYSE Amex Options'' to the term ''NYSE American Options'' and ''Amex Trading Permit'' to the term ''American Trading Permit''. To implement the change, the Exchange proposes to replace ''Amex'' with ''American'' throughout the rule.

• In Rule 902NY (Admission and Conduct on the Options Trading Floor), the Exchange proposes to replace ''Amex'' with ''American'' in the terms ''Officer of NYSE Amex Options'', ''NYSE Amex Options automated trading system'', and ''Reserve Floor Market Maker Amex Trading Permit.''

• In Rule 1000—AEMI (Portfolio Depository Receipts), Commentary .03 and .06, and Rule 1000A–AEMI (Index Fund Shares), Commentary .02 and .05, the Exchange proposes to delete ''Amex'' from the term ''Amex Company Guide'', consistent with the definition of ''Company Guide'' in the Exchange's rules.[11]

In addition, the Exchange proposes to amend the following documents as described below:

• *Fee Schedule:* The Exchange proposes to replace ''Amex'' with ''American'' in the references to ''NYSE Amex Options'' in the title and throughout the Fee Schedule. The Exchange also proposes to replace ''Amex'' with ''American'' in the terms ''NYSE Amex Options Market Maker'', ''NYSE Amex'', ''NYSE Amex Options Floor Market Maker'', ''NYSE Amex Options Market Making firm'' and ''Amex Customer Engagement (''ACE'') Program.'' Additionally, the Exchange proposes to make a technical correction to the term ''NYSE Amex Market Maker'' by adding the missing word ''Options'' and updating such reference to ''NYSE American Options Market Maker.''

• *Price List:* Under ''Co-Location Fees,'' the Exchange proposes to replace ''Amex'' with ''American'' in the term ''NYSE Amex Options.''

• *Options Market Data Fees:* The Exchange proposes to replace references to ''Amex'' with ''American'' found in the title, headings, and product names throughout the Options Market Data Fees.

The Exchange also proposes to clean up obsolete references to the Exchange's former name, Amex, as follows:

• When the Exchange's name was changed from NYSE Amex LLC to NYSE MKT LLC, it changed its rule naming convention by replacing ''—NYSE Amex Equities'' with ''—Equities''.[12] However, Rule 5210—Equities (Publication of Transactions and Quotations), Supplementary Material .01, retains cross references using the old naming convention. The Exchange accordingly proposes to update such references to ''—NYSE Amex Equities'' rules to ''—Equities'' rules.

• In Sec.137 (Depository Eligibility) of the Company Guide, the Exchange proposes to replace ''Amex Rule 777'' with ''Rule 777.''

None of the foregoing changes are substantive.[13]

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Exchange Act [14] in general, and with Section 6(b)(1) [15] in particular, in that it enables the Exchange to be so organized as to have the capacity to be able to carry out the purposes of the Exchange Act and to comply, and to enforce compliance by its exchange members and persons associated with its exchange members, with the provisions of the Exchange Act, the rules and regulations thereunder, and the rules of the Exchange.

The proposed rule change is a non-substantive change and does not impact the governance or ownership of the Exchange. The Exchange believes that the proposed rule change would enable the Exchange to continue to be so organized as to have the capacity to carry out the purposes of the Exchange Act and comply and enforce compliance with the provisions of the Exchange Act by its members and persons associated with its members, because ensuring that the Exchange's rules, Price List, Fee Schedule, and Options Market Data Fees accurately reflect the name of the Options Market would contribute to the orderly operation of the Exchange by

[8] NYSE Amex Options LLC, a Delaware limited liability company, operates the Options Market. *See* Securities Exchange Act Release No. 64742 (June 24, 2011), 76 FR 38436 (June 30, 2011) (SR–NYSEAmex–2011–18), at 38436. The Exchange proposes to rebrand the name of the Options Market, but does not propose to change the name of NYSE Amex Options LLC.

[9] *See* Securities Exchange Act Release No. 80283, *supra* note 4, at 15246.

[10] *See* Securities Exchange Act Release No. 80283 (March 21, 2017), 82 FR 15244 (March 27, 2017) (SR–NYSEMKT–2017–14).

[11] *See* Definition 37 (''Company Guide'') in the General and Floor Rules.

[12] *See* Securities Exchange Act Release No. 67037 (May 21, 2012), 77 FR 31415 (May 25, 2012) (SR–NYSEAmex–2012–32), at 31416. For example, Rule 0—NYSE Amex Equities became Rule 0—Equities.

[13] The Exchange will submit subsequent rule filings as necessary to make any technical corrections to proposed rule changes that are pending as of the date of submission of this filing and approved by the Commission thereafter.

[14] 15 U.S.C. 78f(b).

[15] 15 U.S.C. 78f(b)(1).

adding clarity and transparency to such documents and rules.

For similar reasons, the Exchange also believes that the proposed rule change is consistent with Section 6(b)(5) of the Act,[16] 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, 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.

The Exchange believes that the proposed rule change would remove impediments to and perfect the mechanism of a free and open market and a national market system by ensuring that market participants can more easily navigate, understand and comply with the Exchange's rules, Price List, Fee Schedule, and Options Market Data Fees. The Exchange believes that, by ensuring that such documents and rulebook accurately reflect the name of the Options Market, which aligns with the name of the Exchange, the proposed rule change would reduce potential investor or market participant confusion.

The Exchange believes that eliminating obsolete references to the Exchange's previous name would not be inconsistent with the public interest and the protection of investors because investors will not be harmed and in fact would benefit from increased transparency, thereby reducing potential confusion. Removing such obsolete references will also further the goal of transparency and add clarity to the Exchange's rules and Company Guide.

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 proposed rule change is not intended to address competitive issues but rather is concerned solely with updating the Exchange's rules, Company Guide, Price List, Fee Schedule, and Options Market Data Fees to reflect the new name of the Exchange and the subsequent related rebranding of its options business.

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

The proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [17] and Rule 19b–4(f)(3) [18] thereunder in that the proposed rule change is concerned solely with the administration of the Exchange.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may 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 under Section 19(b)(2)(B) [19] of the Act to determine whether the proposed rule change 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–NYSEMKT–2017–20 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–NYSEMKT–2017–20. 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–NYSEMKT–2017–20 and should be submitted on or before June 20, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[20]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–10983 Filed 5–26–17; 8:45 am]

BILLING CODE 8011–01–P

[16] 15 U.S.C. 78f(b)(5).

[17] 15 U.S.C. 78s(b)(3)(A).

[18] 17 CFR 240.19b–4(f)(3).

[19] 15 U.S.C. 78s(b)(2)(B).

[20] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #15132 and #15133]

Oklahoma Disaster #OK–00113

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the State of OKLAHOMA dated 05/22/2017.

Incident: Flooding, Straight-line Winds, Tornadoes, Severe Storms and Snow.

Incident Period: 04/28/2017 through 05/02/2017.

DATES: Effective Date: 05/22/2017.

Physical Loan Application Deadline Date: 07/21/2017.

Economic Injury (EIDL) Loan Application Deadline Date: 02/22/2018.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's disaster declaration, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Cherokee, Haskell

Contiguous Counties:

Oklahoma: Adair, Delaware, Latimer, Le Flore, Mayes, McIntosh, Muskogee, Pittsburg, Sequoyah, Wagoner

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	3.875
Homeowners Without Credit Available Elsewhere	1.938
Businesses With Credit Available Elsewhere	6.430
Businesses Without Credit Available Elsewhere	3.215
Non-Profit Organizations With Credit Available Elsewhere	2.500
Non-Profit Organizations Without Credit Available Elsewhere	2.500
For Economic Injury:	
Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere	3.215
Non-Profit Organizations Without Credit Available Elsewhere	2.500

The number assigned to this disaster for physical damage is 15132 B and for economic injury is 15133 0.

The States which received an EIDL Declaration # are OKLAHOMA.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Dated: May 22, 2017.

Linda E. McMahon,

Administrator.

[FR Doc. 2017–10985 Filed 5–26–17; 8:45 am]

BILLING CODE 8025–01–P

SOCIAL SECURITY ADMINISTRATION

[Docket No: SSA–2017–0029]

Agency Information Collection Activities: Proposed Request and Comment Request

The Social Security Administration (SSA) publishes a list of information collection packages requiring clearance by the Office of Management and Budget (OMB) in compliance with Public Law 104–13, the Paperwork Reduction Act of 1995, effective October 1, 1995. This notice includes revisions of OMB-approved information collections.

SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility, and clarity; and ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology. Mail, email, or fax your comments and recommendations on the information collection(s) to the OMB Desk Officer and SSA Reports Clearance Officer at the following addresses or fax numbers.

(OMB), Office of Management and Budget, Attn: Desk Officer for SSA, Fax: 202–395–6974, Email address: *OIRA_Submission@omb.eop.gov*.

(SSA), Social Security Administration, OLCA, Attn: Reports Clearance Director, 3100 West High Rise, 6401 Security Blvd., Baltimore, MD 21235, Fax: 410–966–2830, Email address: *OR.Reports.Clearance@ssa.gov*.

Or you may submit your comments online through *www.regulations.gov,* referencing Docket ID Number [SSA–2017–0029].

I. The information collections below are pending at SSA. SSA will submit them to OMB within 60 days from the date of this notice. To be sure we consider your comments, we must receive them no later than July 31, 2017. Individuals can obtain copies of the collection instruments by writing to the above email address.

1. State Death Match Collections—20 CFR 404.301, 404.310–404.311, 404.316, 404.330–404.341, 404.350–404.352, 404.371, and 416.912–0960–0700. SSA uses the State Death Match Collections to ensure the accuracy of payment files by detecting unreported or inaccurate deaths of beneficiaries. Under the Social Security Act (Act), entitlement to retirement, disability, wife's, husband's, or parent's benefits terminate when the beneficiary dies. The states furnish death certificate information to SSA via the manual registration process or the Electronic Death Registration Process (EDR). Both death match processes are automated electronic transfers between the states and SSA. The respondents are the states' bureaus of vital statistics.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Number of responses	Average cost per record request	Estimated total annual cost burden
Non-EDR					
State Death Match—CyberFusion/GSO: Non-EDR Records from EDR sites	45	3,700	166,500	$.88	$146,520
State Death Match—CyberFusion/GSO: Non-EDR sites	12	48,000	576,000	.88	506,880
Total	57		742,500		653,400
EDR and Expected EDR					
State Death Match-EDR	45	48,500	2,182,500	3.17	6,918,525
States Expected to Become—State Death Match-EDR Within the Next 3 Years	7	62,600	438,200	3.17	1,389,094
Totals	52		2,620,700		8,307,619

Modality of completion	Number of respondents	Frequency of response	Number of responses	Average cost per record request	Estimated total annual cost burden
Grand Total					
Grand Total	109		3,363,200		*8,961,019

*Please note that both of these data matching processes are electronic and there only a cost burden, and no hourly burden for the respondent to provide this information.

2. Application for Access to SSA Systems—20 CFR 401.45—0960–0791. SSA uses Form SSA–120, Application for Access to SSA Systems, to allow limited access to SSA's information resources for SSA employees and non-Federal employees (contractors). SSA requires supervisory approval, and local or component Security Officer review prior to granting this access. The respondents are SSA employees and non-Federal Employees (contractors) who require access to SSA systems to perform their jobs.

Note: Because SSA employees are Federal workers exempt from the requirements of the Paperwork Reduction Act, the burden below is only for SSA contractors.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–120 (paper)	685	1	2	23
SSA–120 (Internet)	1,482	1	1.5	37
Totals	2,167			60

II. SSA submitted the information collection below to OMB for clearance. Your comments regarding the information collection would be most useful if OMB and SSA receive them 30 days from the date of this publication. To be sure we consider your comments, we must receive them no later than June 29, 2017. Individuals can obtain copies of the OMB clearance package by writing to *OR.Reports.Clearance@ssa.gov.*

RS/DI Quality Review Case Analysis: Sampled Number Holder; Auxiliaries/Survivors; Parent; and Stewardship Annual Earnings Test—0960–0189. Section 205(a) of the Act authorizes the Commissioner of SSA to conduct the quality review process, which entails collecting information related to the accuracy of payments made under the Old-Age, Survivors, and Disability Insurance Program (OASDI). Sections 228(a)(3), 1614(a)(1)(B), and 1836(2) of the Act require a determination of the citizenship or alien status of the beneficiary; this is only one item that we might question as part of the Annual Quality review. SSA uses Forms SSA–2930, SSA–2931, and SSA–2932 to establish a national payment accuracy rate for all cases in payment status, and to serve as a source of information regarding problem areas in the Retirement Survivors Insurance (RSI) and Disability Insurance (DI) programs. We also use the information to measure the accuracy rate for newly adjudicated RSI or DI cases. SSA uses Form SSA–4659 to evaluate the effectiveness of the annual earnings test, and to use the results in developing ongoing improvements in the process. About twenty-five percent of respondents will have in-person reviews and receive one of the following appointment letters: (1) SSA–L8550–U3 (Appointment Letter—Sample Individual); (2) SSA–L8551–U3 (Appointment Letter—Sample Family); or (3) the SSA–L8552–U3 (Appointment Letter—Rep Payee). Seventy-five percent of respondents will receive a notice for a telephone review using the SSA–L8553–U3 (Beneficiary Telephone Contact) or the SSA–L8554–U3 (Rep Payee Telephone Contact). To help the beneficiary prepare for the interview, we include three forms with each notice: (1) SSA–85 (Information Needed to Review Your Social Security Claim) lists the information the beneficiary will need to gather for the interview; (2) SSA–2935 (Authorization to the Social Security Administration to Obtain Personal Information) verifies the beneficiary's correct payment amount, if necessary; and (3) SSA–8552 (Interview Confirmation) confirms or reschedules the interview if necessary. The respondents are a statistically valid sample of all OASDI beneficiaries in current pay status or their representative payees.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–2930	1,500	1	30	750
SSA–2931	850	1	30	425
SSA–4659	325	1	10	54
SSA–L8550–U3	385	1	5	32
SSA–L8551–U3	95	1	5	8
SSA–L8552–U3	35	1	5	3
SSA–L8553–U3	4,970	1	5	414
SSA–L8554–U3	705	1	5	59
SSA–8552	2,350	1	5	196
SSA–85	3,850	1	5	321
SSA–2935	2,350	1	5	196

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–8510 (also saved under OMB No. 0960-0707)	800	1	5	67
Totals	17,700			2,525

Dated: May 23, 2017.

Naomi R. Sipple,

Reports Clearance Officer, Social Security Administration.

[FR Doc. 2017–10969 Filed 5–26–17; 8:45 am]

BILLING CODE 4191–02–P

SOCIAL SECURITY ADMINISTRATION

[Docket No. SSA–2017–0016]

Rescission of Social Security Ruling 91–3p: Policy Interpretation Ruling Title II: Determining Entitlement to Disability Benefits for Months Prior to January 1991 for Widows, Widowers and Surviving Divorced Spouses Claims

AGENCY: Social Security Administration.

ACTION: Notice of rescission of Social Security Ruling, 91–3p.

SUMMARY: In accordance with 20 CFR 402.35(b)(1), the Acting Commissioner of Social Security gives notice of the rescission of Social Security Ruling (SSR) 91–3p.

DATES: *Effective Date:* This rescission will be effective May 30, 2017.

FOR FURTHER INFORMATION CONTACT: Chris Grovich, Office of Disability Policy, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235–6401, (410) 966–1696 or TTY 410–966–5609, for information about this notice. For information on eligibility or filing for benefits, call our national toll-free number, 1–800–772–1213 or TTY 1–800–325–0778, or visit our Internet site, Social Security Online, at *http://www.socialsecurity.gov.*

SUPPLEMENTARY INFORMATION: Through SSRs, we make available to the public precedential decisions relating to the Federal old-age, survivors, disability, supplemental security income, and special veterans benefits programs. We may base SSRs on determinations or decisions made at all levels of administrative adjudication, Federal court decisions, Commissioner's decisions, opinions of the Office of General Counsel, or other interpretations of the law and regulations.

Widows, widowers, and surviving divorced spouses (hereinafter referred to as widows) who are disabled and between age 50 and 60 may be entitled to disability insurance benefits based on a deceased spouse's earnings record. We sometimes refer to these benefits as disabled widows' benefits or widows' disability benefits. Before Congress enacted the Omnibus Budget Reconciliation Act (OBRA) of 1990,[1] we used a special standard to determine disability in claims for disabled widows' benefits that differed from the standard we used in other title II disability claims. Section 5103 of OBRA [2] amended the Social Security Act (Act) by making the standard used to determine disability for disabled widows' benefits payable in months after December 1990 identical to the standard used in other title II disability claims. However, we still used the special pre-OBRA standard to determine disability for disabled widows' benefits payable for months prior to January 1991.[3]

Between 1989 and 1991, several United States Courts of Appeals found that the pre-OBRA standard we used was underinclusive in its adjudicatory criteria, and that the Act required consideration of functional limitations in determining entitlement to disabled widow's benefits. As a result of those court decisions, we revaluated our interpretation of the pre-OBRA standard and published SSR 91–3p, which directed adjudicators to apply the interpretation of the pre-OBRA standard set out in the SSR when determining disability for disabled widows' benefits payable for months prior to January 1991.

By statute, entitlement to disabled widows' benefits cannot be established more than 12 months prior to the filing of an application for such benefits.[4] We are rescinding SSR 91–3p as obsolete because a new application for disabled widows' benefits cannot establish entitlement to these benefits prior to January 1991, and we have no pending applications that involve entitlement to disabled widows' benefits for months prior to January 1991.

[1] Public Law 101–508, 104 Stat. 1388.

[2] 104 Stat. at 1388–251.

[3] Section 5103(e) of Public Law 101–508, 104 Stat. at 1388–253.

[4] 42 U.S.C. 402(j)(1)(A).

(Catalog of Federal Domestic Assistance Program Nos. 96.001, Social Security-Retirement Insurance, and 96.004 Social Security-Survivors Insurance)

Nancy A. Berryhill,

Acting Commissioner of Social Security.

[FR Doc. 2017–10962 Filed 5–26–17; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: Representatives of the Administrator

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew a previously approved information collection. The collection of information is for the purpose of obtaining essential information concerning the applicant's professional and personal qualifications. The FAA uses the information provided to screen and select designees who act as representatives of the FAA Administrator in performing various certification and examination functions under Title VI of Federal Aviation Act.

DATES: Written comments should be submitted by June 29, 2017.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the attention of the Desk Officer, Department of Transportation/FAA, and sent via electronic mail to *oira_submission@omb.eop.gov,* or faxed to (202) 395–6974, or mailed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Ronda Thompson by email at: *Ronda.Thompson@faa.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 2120–0033.

Title: Representatives of the Administrator.

Form Numbers: FAA Forms 8110–14, 8110–28, 8520–2, 8710–6, 8710–10.

Type of Review: Renewal of an information collection.

Background: The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on March 14, 2017 (82 FR 13709). There were no comments. Title 49, United States Code, Section 44702 authorizes the appointment of appropriately qualified persons to be representatives of the Administrator to allow those persons to examine, test and certify other persons for the purpose of issuing them pilot and instructor certificates. The collection of information is for the purpose of obtaining essential information concerning the applicant's professional and personal qualifications. The FAA uses the information provided to screen and select designees who act as representatives of the FAA Administrator in performing various certification and examination functions under Title VI of Federal Aviation Act.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Respondents: Approximately 4515 applicants.

Frequency: Information is collected on occasion.

Estimated Average Burden per Response: 1.5 hours.

Estimated Total Annual Burden: 6,623 hours.

Issued in Washington, DC, on May 24, 2017.

Ronda L. Thompson,

FAA Information Collection Clearance Officer, Performance, Policy & Records Management Branch, ASP–110.

[FR Doc. 2017–11060 Filed 5–26–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Noise Exposure Map Notice for John F. Kennedy International Airport, New York City, New York

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its determination that the noise exposure maps submitted by the Port Authority of New York and New Jersey for John F. Kennedy International Airport under the provisions of the Aviation Safety and Noise Abatement Act and 14 CFR part 150 are in compliance with applicable requirements.

DATES: The effective date of the FAA's determination on the noise exposure maps is May 19, 2017.

FOR FURTHER INFORMATION CONTACT: Eastern Region Airports Division (AEA–600), Andrew Brooks, Environmental Program Manager, Federal Aviation Administration, AEA–600, 1 Aviation Plaza, Jamaica, New York 11434, Telephone: (718) 553–3330.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA finds that the noise exposure maps submitted for John F. Kennedy International Airport are in compliance with applicable requirements of 14 CFR part 150, effective January 13, 2004. Under 49 U.S.C. Section 47503 of the Aviation Safety and Noise Abatement Act (hereinafter referred to as ''the Act''), an airport operator may submit to the FAA noise exposure maps which meet applicable regulations and which depict non-compatible land uses as of the date of submission of such maps, a description of projected aircraft operations during a forecast period that is at least five (5) years in the future, and the ways in which such operations will affect such maps. The Act requires such maps to be developed in consultation with interested and affected parties in the local community, government agencies, and persons using the airport. An airport operator who has submitted noise exposure maps that are found by FAA to be in compliance with the requirements of Federal Aviation Regulations (FAR) Part 150, promulgated pursuant to the Act, may submit a noise compatibility program for FAA approval which sets forth the measures the operator has taken or proposes to take to reduce existing non-compatible uses and prevent the introduction of additional non-compatible uses.

The FAA has completed its review of the noise exposure maps and accompanying documentation submitted by the Port Authority of New York and New Jersey. The documentation that constitutes the ''Noise Exposure Maps'' (NEM) as defined in Section 150.7 of Part 150 includes a 2016 Base Year NEM, Figure 5–1, and a 2021 Future Year NEM, Figure 5–2, located in Chapter 5 of the NEM Report. Details of the NEM contours are provided by Runway end in Figures 5–3 through 5–6 of Chapter 5. The figures contained within Chapter 5 are scaled to fit within the report context; however, the official, to scale, 2016 Base Year NEM and 2021 Future Year NEM are both located in Appendix M of the official NEM Report submittal. The Noise Exposure Maps contain current and forecast information including the depiction of the airport and its boundaries, the runway configurations, land uses such as single and two-family residential; multi-family residential; mixed residential and commercial; commercial and office; industrial and manufacturing; transportation, parking and utilities; public facilities and institutions; unclassified; open space, cemetaries, and outdoor recreation; vacant land; places of worship; schools; historic structures; hospitals; and day care/assisted living facilities and those areas within the Day Night Average Sound Level (DNL) 65, 70 and 75 noise contours. Estimates for the area within these contours for the 2016 Base Year and 2021 Future Year are shown in Table 5–1 and Table 5–4 in Chapter 5 of the NEM Report respectively. Estimates of the residential population within the 2016 Base Year and 2021 Future Year noise contours are also shown in Table 5–1 and Table 5–4 in Chapter 5 of the NEM Report respectively. Figure 4–12, in Chapter 4, displays the location of noise monitoring sites. Flight tracks are found in Figures 4–2 through 4–5 of Chapter 4 and detailed in Appedices E and M. The type and frequency of aircraft operations (including nighttime operations) are found in Chapter 4, Tables 4–1 and 4–2.

As discussed in Chapter 6 of the NEM Report, the Port Authority of New York and New Jersey provided the general public the opportunity to review and comment on the NEMs. This public comment period opened on October 26, 2016 and closed on November 28, 2016. Public workshops for the Draft NEMs were held on November 2 and November 3, 2016. All comments received during the public comment

period and throughout the development of the NEMs, as well as responses to these comments, are contained in Appendix L of the NEM Report.

The FAA has determined that these noise exposure maps and accompanying documentation are in compliance with applicable requirements. This determination is effective on May 19, 2017.

FAA's determination on an airport operator's noise exposure maps is limited to a finding that the maps were developed in accordance with the procedures contained in Appendix A of FAR Part 150. Such determination does not constitute approval of the applicant's data, information or plans, or a commitment to approve a noise compatibility program or to fund the implementation of that program. If questions arise concerning the precise relationship of specific properties to noise exposure contours depicted on a noise exposure map submitted under Section 47503 of the Act, it should be noted that the FAA is not involved in any way in determining the relative locations of specific properties with regard to the depicted noise contours, or in interpreting the noise exposure maps to resolve questions concerning, for example, which properties should be covered by the provisions of Section 47506 of the Act. These functions are inseparable from the ultimate land use control and planning responsibilities of local government. These local responsibilities are not changed in any way under Part 150 or through FAA's review of noise exposure maps. Therefore, the responsibility for the detailed overlaying of noise exposure contours onto the map depicting properties on the surface rests exclusively with the airport operator that submitted those maps, or with those public agencies and planning authorities with which consultation is required under Section 47503 of the Act. The FAA has relied on the certification by the airport operator, under Section 150.21 of FAR Part 150, that the statutorily required consultation has been accomplished.

Copies of the full noise exposure map documentation and of the FAA's evaluation of the maps are available for examination at the following locations:

Federal Aviation Administration, Eastern Region, Airports Division, AEA–600, 1 Aviation Plaza, Jamaica, New York 11434

Federal Aviation Administration, New York Airports District Office, 1 Aviation Plaza, Jamaica, New York 11434

The Port Authority of New York and New Jersey, Aviation Department, 4 World Trade Center, 150 Greenwich Street, 18th Floor, New York, New York 10007

Issued in Jamaica, NY, on May 19, 2017.

Steven M. Urlass,

Director, Airports Division, Eastern Region.

[FR Doc. 2017–11071 Filed 5–26–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: Extended Operations (ETOPS) of Multi-Engine Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew a previously approved information collection. A final rule published on January 16, 2007 codified previous practices that permitted certificated air carriers to operate two-engine airplanes over long-range routes. The FAA uses this information collection to ensure that aircraft for long range flights are equipped to minimize diversions, to preclude and prevent diversions in remote areas, and to ensure that all personnel are trained to minimize any adverse impacts of a diversion.

DATES: Written comments should be submitted by June 29, 2017.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the attention of the Desk Officer, Department of Transportation/FAA, and sent via electronic mail to *oira_submission@omb.eop.gov,* or faxed to (202) 395–6974, or mailed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Ronda Thompson by email at: *Ronda.Thompson@faa.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 2120–0718.

Title: Extended Operations (ETOPS) of Multi-Engine Airplanes.

Form Numbers: None.

Type of Review: Renewal of an information collection.

Background: The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on March 14, 2017 (82 FR 13708). The final rule codified the previous practices that permitted certificated air carriers to operate two-engine airplanes over these long-range routes and extended the procedures for extended operations to all passenger-carrying operations on routes beyond 180 minutes from an alternate airport. This option is voluntary for operators and manufacturers. The FAA uses this information collection to ensure that aircraft for long range flights are equipped to minimize diversions, to preclude and prevent diversions in remote areas, and to ensure that all personnel are trained to minimize any adverse impacts of a diversion.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Respondents: Approximately 21 Operators and Manufacturers.

Frequency: Information is collected on occasion.

Estimated Average Burden per Response: 7 hours.

Estimated Total Annual Burden: 109,382 hours.

Issued in Washington, DC, on May 24, 2017.

Ronda L. Thompson,

FAA Information Collection Clearance Officer, Performance, Policy & Records Management Branch, ASP–110.

[FR Doc. 2017–11082 Filed 5–26–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: Automatic Certification and Operation FAR 125

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew a previously approved information collection. 14 CFR part 125 prescribes requirements for issuing operating certificates and for appropriate operating rules. In addition to the statutory basis, the collection of this information is necessary to issue, reissue, or amend applicant's operating certificates and operations specifications.

DATES: Written comments should be submitted by June 29, 2017.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the attention of the Desk Officer, Department of Transportation/FAA, and sent via electronic mail to *oira_submission@omb.eop.gov,* or faxed to (202) 395–6974, or mailed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Ronda Thompson by email at: *Ronda.Thompson@faa.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 2120–0085.

Title: Certification and Operation FAR 125.

Form Numbers: None.

Type of Review: Renewal of an information collection.

Background: The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on March 14, 2017 (82 FR 13709). 14 CFR part 125 prescribes requirements for leased aircraft, aviation service firms, and air travel. A letter of application and related documents which set forth an applicant's ability to conduct operations in compliance with the provisions of 14 CFR part 125 are submitted to the appropriate Flight Standards District Office (FSDO). Inspectors in FAA FSDO's review the submitted information to determine certificate eligibility.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Respondents: Approximately 163 certificated operators.

Frequency: Information is collected on occasion.

Estimated Average Burden per Response: 1.33 hours.

Estimated Total Annual Burden: 61,388 hours.

Issued in Washington, DC, on May 24, 2017.

Ronda L. Thompson,

FAA Information Collection Clearance Officer, Performance, Policy & Records Management Branch, ASP–110.

[FR Doc. 2017–11059 Filed 5–26–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2017–37]

Petition for Exemption; Summary of Petition Received

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petition for exemption received.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of Federal Aviation Regulations. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of the FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number involved and must be received on or before June 19, 2017.

ADDRESSES: Send comments identified by docket number FAA–2017–0445 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and follow the online instructions for sending your comments electronically.
- *Mail:* Send comments to Docket Operations, M–30; U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE., Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* Fax comments to Docket Operations at 202–493–2251.

Privacy: 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.*

Docket: Background documents or comments received may be read at *http://www.regulations.gov* at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lynette Mitterer, ANM–113, Federal Aviation Administration, 1601 Lind Avenue SW., Renton, WA 98057–3356, email *Lynette.Mitterer@faa.gov,* phone (425) 227–1047; or Alphonso Pendergrass, ARM–200, Office of Rulemaking, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, email *alphonso.pendergrass@faa.gov,* phone (202) 267–4713.

This notice is published pursuant to 14 CFR 11.85.

Issued in Renton, Washington.

Victor Wicklund,

Manager, Transport Standards Staff.

Petition for Exemption

Docket No.: FAA–2017–0445.

Petitioner: Bombardier Aerospace.

Section of 14 CFR Affected: § 25.981(a)(3) .

Description of Relief Sought: The petitioner seeks an exemption from the requirements of 14 CFR 25.981(a)(3) at Amendment 25–125, with respect to fuel tank ignition prevention for Models BD–700–2A12 (Global 7000) and BD–700–2A13 (Global 8000) business jets. This petition is made in accordance with FAA Policy PS–ANM–25.981–02 dated June 24, 2014, providing alternate requirements in lieu of full compliance to ensure that an acceptable level of safety is provided.

[FR Doc. 2017–11015 Filed 5–26–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Aviation Rulemaking Advisory Committee Teleconference on Transport Airplane and Engine Issues

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of public teleconference.

SUMMARY: This notice announces a public teleconference of the FAA's Aviation Rulemaking Advisory Committee (ARAC) to discuss transport airplane and engine (TAE) issues.

DATES: The teleconference is scheduled for Thursday, July 06, 2017, starting at 11:00 a.m. Eastern Daylight Time.

ADDRESSES: This is a public teleconference.

FOR FURTHER INFORMATION CONTACT: Nikeita Johnson, Office of Rulemaking, ARM–024, FAA, 800 Independence Avenue SW., Washington, DC 20591, Telephone (202) 267–4977, Fax (202) 267–5075, or email at *Nikeita.johnson@faa.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to § 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. III), notice is given of an ARAC teleconference to be held July 06, 2017.

The agenda for the teleconference is as follows:

- Opening Remarks, Review of the Agenda and Minutes
- FAA Report
- ARAC Report
- Transport Canada Report
- EASA Report
- Metallic and Composite Structures Working Group
- Crashworthiness and Ditching Working Group
- Engine Harmonization Working Group—Engine Endurance Testing (Final Report Acceptance)
- Flight Test Harmonization Working Group (Phase 2 Final Report Acceptance)
- Action Item Review
- Any Other Business

Attendance is open to the public, but will be limited to the availability of teleconference lines. Participation will be by teleconference only. Please confirm your participation with the person listed in the **FOR FURTHER INFORMATION CONTACT** section no later than June 29, 2017.

To participate, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section by email or phone for the teleconference call-in number and passcode. Anyone calling from outside the Renton, WA, metropolitan area will be responsible for paying long-distance charges.

The public must make arrangements by June 29, 2017, to present oral statements at the teleconference. Copies of the documents to be presented to ARAC may be made available by contacting the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

If you need assistance or require a reasonable accommodation for the meeting or meeting documents, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Issued in Washington, DC on May 23, 2017.

Lirio Liu,

Acting Director, Office of Rulemaking.

[FR Doc. 2017–11067 Filed 5–26–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: Automatic Domestic and International Flight Plans

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew a previously approved information collection. Flight plan information is used to govern the flight of aircraft for the protection and identification of aircraft and property and persons on the ground.

DATES: Written comments should be submitted by June 29, 2017.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the attention of the Desk Officer, Department of Transportation/FAA, and sent via electronic mail to *oira_submission@omb.eop.gov,* or faxed to (202) 395–6974, or mailed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Ronda Thompson by email at: *Ronda.Thompson@faa.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 2120–0026.

Title: Domestic and International Flight Plans.

Form Numbers: FAA Forms 7233–1 & 7233–4.

Type of Review: Renewal of an information collection.

Background: The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on March 14, 2017 (82 FR 13709). There were no comments. Title 49 U.S.C., paragraph 40103(b) authorizes regulations governing the flight of aircraft. 14 CFR 91 prescribes requirements for filing domestic and international flight plans. Information is collected to provide services to aircraft inflight and protection of persons/property on the ground.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Respondents: Approximately 300,000 air carriers, operators and pilots.

Frequency: Information is collected on occasion.

Estimated Average Burden per Response: 1–3 minutes.

Estimated Total Annual Burden: 225,966 hours.

Issued in Washington, DC, on May 24, 2017.

Ronda L. Thompson,

FAA Information Collection Clearance Officer, Performance, Policy & Records Management Branch, ASP–110.

[FR Doc. 2017–11061 Filed 5–26–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No. FHWA–2017–0020]

Agency Information Collection Activities: Request for Comments for a New Information Collection

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice and request for comments.

SUMMARY: The FHWA invites public comments about our intention to request the Office of Management and Budget's (OMB) approval for a new information collection, which is summarized below under **SUPPLEMENTARY INFORMATION**. We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995.

DATES: Please submit comments by July 31, 2017.

ADDRESSES: You may submit comments identified by DOT Docket ID Number 2017–0020 by any of the following methods:

Web site: For access to the docket to read background documents or comments received go to the Federal eRulemaking Portal: Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.

Fax: 1–202–493–2251.

Mail: Docket Management Facility, U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.

Hand Delivery or Courier: U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Victoria Peters, 720–963–3522, or Andy Byra, 720–963–3550, Office of Innovative Program Delivery, Center for Local-Aid Support, Federal Highway Administration, Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590. Office hours are from 8 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Title: Local Public Agencies Training and Technical Assistance Needs Assessment.

Background: The Federal Highway Administration (FHWA) is charged with implementing a local technical assistance program under 23 U.S.C. 504(b). Congress recognized that training and technical assistance to the local public agencies (LPA) to provide access to surface transportation technology, technical assistance and training was necessary and created the Rural Technical Assistance Program (RTAP) in 1982. In 1991, through the Intermodal Surface Transportation Efficiency Act (ISTEA) legislation, this program became the Local Technical Assistance Program (LTAP). There is an LTAP Center in every State and PR/USVI—51 total. The program has launched a strategic planning process and a lack of data directly linking training to improvements in program delivery and innovation deployment outcomes posed a challenge to the Agency.

A needs assessment survey will help inform and identify what areas of knowledge that training needs to accomplish within the local agency community. The results of the assessment will help direct resources to the areas of greatest demand. The survey will be conducted once over a 30 day period. These are surveys to collect training related information and there are no sensitive or personal questions, therefore confidentiality is not guaranteed or necessary.

Respondents: Local Public Agency Public Works Directors and Road Superintendents.

Frequency: This is a one-time collection.

Estimated Average Burden per Response: Approximately 7,800 responses who will each require an average of 15 minutes to respond.

Estimated Total Annual Burden Hours: The total annual public burden hours for this information collection is estimated to be 1,950 hours.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection is necessary for the FHWA's performance; (2) the accuracy of the estimated burdens; (3) ways for the FHWA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized, including the use of electronic technology, without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.48.

Michael Howell,

Information Collection Officer.

[FR Doc. 2017–11065 Filed 5–26–17; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No. FHWA–2017–0019]

Agency Information Collection Activities: Emergency Approval Request for a New Information Collection.

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Emergency Approval Request.

SUMMARY: The FHWA invites public comments about our intention to request the Office of Management and Budget's (OMB) approval for a new information collection, which is summarized below under **SUPPLEMENTARY INFORMATION**. We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT: Jimmy Chu, 202–366–3379 or Robert Rupert, 202–366–2194, Office of Operations, Federal Highway Administration, Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590. Office hours are from 7 a.m. to 4 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Title: Dynamic Highway Messages Signs

Background: Senate Report 114–243 (accompanying the FY 2017 Department of Transportation Appropriations Act) dated May 5, 2017, contained requirements for a new FHWA Report to Congress about Dynamic Highway Message Signs. This report is to include the number of motorists exposed to dynamic highway message signs on a daily basis, the extent to which States use such signs to support safety activities, possible impediment to using such signs for traffic safety, and plans for broader deployment of such signs. In order to ensure that all requirements are met, the Federal Highway Administration (FHWA) has developed a set of surveys that will be distributed to the 51 State Departments of Transportation. This survey will be necessary to complete the Senate's request for a Dynamic Highway Message Signs Report within 120 days.

Respondents: 51 State Department of Transportation.

Frequency: One time.

Estimated Average Burden per Response: Approximately 14 hours per participant.

Estimated Total Annual Burden Hours: Approximately 714 hours.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.48.

Issued On: May 24, 2017.

Michael Howell,

FHWA Information Collections Coordinator.

[FR Doc. 2017–11066 Filed 5–26–17; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

Sunshine Act Meeting; Unified Carrier Registration Plan Board of Directors

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of Unified Carrier Registration Plan board of directors meeting.

TIME AND DATE: The meeting will be held on June 7, 2017, from 8:00 a.m. to 12:00 Noon, Mountain Daylight Time.

PLACE: The meetings will be open to the public at the Drury Plaza Hotel, 828 Paseo de Peralta, Santa Fe, NM 87501, and via conference call. Those not attending the meeting in person may call 1–877–422–1931, passcode 2855443940, to listen and participate in the meeting.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: The Unified Carrier Registration Plan Board of Directors (the Board) will continue its work in developing and implementing the Unified Carrier Registration Plan and Agreement and to that end, may consider matters properly before the Board.

FOR FURTHER INFORMATION CONTACT: Mr. Avelino Gutierrez, Chair, Unified Carrier Registration Board of Directors at (505) 827–4565.

Issued on: May 24, 2017.

Larry W. Minor,

Associate Administrator, Office of Policy, Federal Motor Carrier Safety Administration.

[FR Doc. 2017–11179 Filed 5–25–17; 11:15 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA 2017–0002–N–18]

Agency Request for Regular Processing of Collection of Information by the Office of Management and Budget

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice.

SUMMARY: Under the Paperwork Reduction Act of 1995 (PRA) and its implementing regulations, this document provides notice that FRA is submitting an Information Collection Request (ICR) to the Office of Management and Budget (OMB) to collect information on railroads' implementation of positive train control (PTC) systems on a quarterly form entitled the Quarterly PTC Progress Report Form (Form FRA F 6180.165). On June 20, 2016, following the required notice and comment period, including a public meeting with industry stakeholders, OMB approved the Quarterly PTC Progress Report Form (Form FRA F 6180.165) for a period of 12 months, expiring June 30, 2017. After OMB's initial approval, FRA made three minor modifications to Form FRA F 6180.165, as described below. FRA sought public comment on the proposed revisions during a period of 60 days, ending May 15, 2017. FRA requests regular processing and OMB authorization for 3 years to collect the information on revised Form FRA F 6180.165, as identified below, beginning 30 days after publication of this notice.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Brogan, Office of Railroad Safety, Planning and Evaluation Division, RRS–21, FRA, 1200 New Jersey Avenue SE., Mail Stop 17, Washington, DC 20590 (telephone: (202) 493–6292) or Ms. Kimberly Toone, Office of Information Technology, RAD–20, FRA, 1200 New Jersey Avenue SE., Mail Stop 35, Washington, DC 20590 (telephone: (202) 493–6132). These telephone numbers are not toll-free. Comments or questions about any aspect of this ICR should be directed to OMB's Office of Information and Regulatory Affairs, Attn: FRA OMB Desk Officer.

SUPPLEMENTARY INFORMATION:

I. Public Participation

On March 14, 2017, FRA published a notice in the **Federal Register** seeking public comment on proposed revisions to its Quarterly PTC Progress Report Form (Form FRA F 6180.165 or Form). 82 FR 13717. The PRA and its implementing regulations require Federal agencies to provide 60-days' notice to the public to solicit comment on information collection activities before seeking OMB's approval, reinstatement, or renewal of those activities. *See* 44 U.S.C. 3506(c)(2)(A); 5 CFR 1320.8(d)(1), 1320.10(e)(1), 1320.12(a). The comment period closed on May 15, 2017. FRA did not receive any comments in response to its March 14, 2017 notice.

II. Background on the Quarterly PTC Reporting Requirement

The Positive Train Control Enforcement and Implementation Act of 2015 (PTCEI Act) requires FRA to conduct compliance reviews at least annually to ensure each railroad subject to the statutory mandate to implement a positive train control (PTC) system is complying with its Revised PTC Implementation Plan (PTCIP). 49 U.S.C. 20157(c)(2). To enable FRA to meet this statutory mandate, the PTCEI Act requires railroads to provide information to FRA that FRA determines is necessary to adequately conduct such compliance reviews. 49 U.S.C. 20157(c)(2).

Under its statutory and regulatory investigative authorities, FRA currently requires, and seeks to continue requiring, each railroad subject to the PTC system mandate to submit Quarterly PTC Progress Reports (Form FRA F 6180.165) on its PTC system implementation progress. *See* 49 U.S.C. 20157(c)(2); *see also* 49 U.S.C. 20107; 49 CFR 236.1009(h); 49 CFR 1.89. Specifically, in addition to the Annual PTC Progress Report (Form FRA F 6180.166) due each March 31 under 49 U.S.C. 20157(c)(1), railroads must provide Quarterly PTC Progress Reports covering the preceding three-month period and submit the completed Forms to FRA on the dates in the following table until full PTC system implementation is completed:

Coverage period	Due dates for quarterly reports
Q1 January 1–March 31	April 30.
Q2 April 1–June 30	July 31.
Q3 July 1–September 30	October 31.
Q4 October 1–December 31	January 31.

Each railroad must submit its quarterly progress reports on Form FRA F 6180.165 using FRA's Secure Information Repository (SIR) at *https://sir.fra.dot.gov.*

FRA has determined that quarterly reporting is necessary for FRA to effectively monitor industry's implementation of PTC systems and to meet the statutory mandate to conduct compliance reviews *at least* annually to ensure each railroad is complying with its Revised PTCIP. *See* 49 U.S.C. 20157(c)(2). The annual reports (which contain five more sections than the quarterly reports) are due by March 31 each year under the PTCEI Act and retrospectively describe railroads' PTC system implementation progress for the entire preceding calendar year. The quarterly reports, on the other hand, show FRA individual railroad's PTC system implementation progress in as close to real time as possible for the current calendar year, enabling FRA to identify railroads not on track to meet the core implementation milestones they set in their Revised PTCIPs. FRA specifically chose quarterly reports in

lieu of the monthly reports, which OMB previously approved under OMB Control No. 2130–0553 to monitor industry progress implementing PTC systems, to minimize the burden on industry. *See* 81 FR 28140 (May 9, 2016). The structure of the quarterly report form enables railroads to complete the more comprehensive Annual PTC Progress Reports (Form FRA F 6180.166) in a clear and efficient manner. The frequency of quarterly reporting allows FRA to actively monitor railroads' implementation progress and identify railroad-specific and industry-wide roadblocks and obstacles to full PTC system implementation and to provide technical assistance early enough for such assistance to be effective. The quarterly reports also enable FRA to determine which railroads are at risk of not meeting the statutory deadline for PTC system implementation and the multiple statutory criteria required to obtain FRA approval of a deadline extension beyond December 31, 2018, but no later than December 31, 2020, for certain non-hardware, operational aspects of PTC system implementation. Moreover, the quarterly reports enable FRA to provide the public and Congress with data-driven status reports on industry's progress implementing this critical, life-saving technology four times per year. Because of the quarterly reporting requirement, FRA has been able to respond to urgent requests from members of Congress and the White House about railroads' up-to-date PTC system implementation progress following certain fatal accidents.

Congress made it clear in the PTCEI Act and the Fixing America's Surface Transportation Act that enforcement is FRA's main oversight tool for ensuring each railroad subject to the PTC system statutory mandate implements a PTC system consistent with its Revised PTCIP and by the new statutory deadline. 49 U.S.C. 20157(e)(1)–(4). FRA needs the quarterly reports to conduct the compliance reviews the PTCEI Act mandates and, when necessary, to initiate well-supported enforcement action against a railroad. In the PTCEI Act, Congress required each railroad to provide detailed implementation information in its Revised PTCIP, including milestones for spectrum acquisition, employee training, and hardware installation, with totals separated by each major hardware category. 49 U.S.C. 20157(a)(2)(A)(iii). The PTCEI Act requires each railroad to comply with its Revised PTCIP, including its milestones, and FRA is authorized to assess a civil penalty for any failure to meet those milestones. 49 U.S.C. 20157(a)(2)(D), (e)(2), 49 CFR 1.89.

By statute, railroads are required to provide FRA with any information FRA deems necessary to adequately conduct its compliance reviews. *See* 49 U.S.C. 20157(c)(2). PTC systems are required to be implemented on over 60,000 miles of the 140,000-mile U.S. rail network. And, while FRA will perform random audits of PTC system implementation, FRA inspectors cannot feasibly inspect every mile of the U.S. rail network at different points in time to determine where the hardware of PTC systems, for example, has and has not been installed and to confirm that individual railroads are implementing PTC systems as each stated it would in its statutorily-mandated revised PTCIP. *See* 49 U.S.C. 20157(a)(2)(D), (c)(2), (e). Therefore, FRA has reasonably determined that Quarterly PTC Progress Reports are necessary for FRA to perform the Congressionally-mandated compliance reviews. And, indeed, as discussed further below in the proposed changes to the Quarterly PTC Progress Report Form, Congress has implicitly agreed with FRA's determination this form is necessary by requesting that FRA collect additional information.

II. Proposed Revisions to the Quarterly PTC Progress Report

On June 20, 2016, OMB approved the Quarterly PTC Progress Report (Form FRA F 6180.165) for a period of one year, expiring on June 30, 2017. The current Quarterly PTC Progress Report Form, as approved through June 30, 2017, can be accessed and downloaded in FRA's eLibrary at: *https://www.fra.dot.gov/eLib/details/L17365.* The approved quarterly form took into account the Association of American Railroads' (AAR) written comments on behalf of itself and its member railroads; the American Public Transportation Association's (APTA) written comments on behalf of Northeast Illinois Commuter Rail System (Metra), the Utah Transit Authority, the Tri-County Metropolitan Transportation District of Oregon, and the Fort Worth Transportation Authority; and industry stakeholders' comments during FRA's public meeting on April 19, 2016, which included representatives from, and members of, AAR, APTA, the American Short Line and Regional Railroad Association, and several individual railroad representatives. FRA published minutes from the meeting on *www.regulations.gov* under Docket No. FRA 2016–0002. For a summary of the oral and written comments and FRA's responses to the comments, please see 81 FR 28140 (May 9, 2016).

As FRA described in its March 14, 2017, notice, FRA proposes three minor modifications to the Quarterly PTC Progress Report Form (Form FRA F 6180.165, OMB Control No. 2130–0553; OMB Approval Expires June 30, 2017).

First, FRA proposes removing a now inapplicable instruction from page 1 of the quarterly form, which stated,

* Please note that FRA did not require a Q1 progress report to be submitted in April 2016. For 2016, the Q1 and Q2 reports are both due in the same form on July 31, 2016.

FRA delayed the due date for submitting the first 2016 quarterly report to allow time for the normal 60 days of notice and public comment to FRA and additional 30 days of public comment to OMB while it underwent OMB review as the PRA and its concomitant regulations require. Because that due date extension applied only in 2016, FRA proposes removing that note from page 1 of the form and retaining the standard quarterly due dates below:

Coverage period		Due dates for quarterly reports
Q1	January 1–March 31	April 30.
Q2	April 1–June 30	July 31.
Q3	July 1–September 30	October 31.
Q4	October 1–December 31	January 31.

In addition, FRA proposes making the following two changes to Section 1 of the form (Summary Section) to clarify the section and respond to a Congressional request that FRA collect certain additional information:

(i) To ensure clarity and consistent interpretations by respondents, FRA proposes adding instructions to the existing Summary Section row entitled, ''Route Miles in Testing or Revenue Service Demonstration,'' as a footnote. The current Summary Section in the Quarterly PTC Progress Report requires railroads to provide the following information:

Category	Cumulative quantity completed to date	Total quantity required for PTC implementation
Locomotives Fully Equipped and PTC Operable.		
Installation/Track Segments Completed.		
Radio Towers Fully Installed and Equipped.		
Employees Trained.		
Route Miles in Testing or Revenue Service Demonstration.		
Route Miles in PTC Operation.		

In the Summary Section of the Quarterly PTC Progress Reports railroads have submitted to date, some railroads have improperly listed the same number of miles in the ''Route Miles in Testing or Revenue Service Demonstration'' and ''Route Miles in PTC Operation'' fields, under the heading ''Cumulative Quantity Completed To Date.'' This makes it impossible for FRA to know if the railroad is still conducting PTC testing (*i.e.,* field testing or Revenue Service Demonstration (RSD)) on those route miles or if the railroad is operating the PTC system in revenue service on those route miles. This prevents FRA from compiling data in its database and using it for the statutorily mandated compliance reviews. To clarify the scope of those two rows and simplify the reporting process, FRA proposes adding the following explanatory instructions as a footnote to the row entitled, ''Route Miles in Testing or Revenue Service Demonstration'':

Enter the cumulative number of route miles where PTC technology is *currently* undergoing field testing or Revenue Service Demonstration. Railroads must only identify in the ''Route Miles in Testing or Revenue Service Demonstration'' field any route miles that are still currently undergoing PTC field testing or Revenue Service Demonstration (*e.g.,* in a case where FRA granted a railroad provisional revenue service operations authorization for only a portion of its network but the railroad is still conducting field testing or Revenue Service Demonstration elsewhere in its network). Once a railroad has received written authorization from FRA to operate its PTC system in revenue service (through either provisional operations authorization under 49 U.S.C. 20157(h)(2) or PTC System Certification under 49 U.S.C. 20157(h)(1)), the railroad must identify any miles where a PTC system is being operated in revenue service in the ''Route Miles in PTC Operation'' field. If a railroad is operating the PTC system in revenue service and has completed all field testing and Revenue Service Demonstration, it may write ''Complete'' in the ''Route Miles in Testing or Revenue Service Demonstration'' fields.

(ii) In September 2016, when reviewing data collected in the OMB-approved Quarterly PTC Progress Report (Form FRA F 6180.165), staff from the United States Senate Committee on Commerce, Science, and Transportation requested that FRA also collect information to directly show each railroad's progress towards completing the RSD criteria under 49 U.S.C. 20157(a)(3)(B)(vi)–(vii). Specifically, to receive an extension beyond December 31, 2018, but no later than December 31, 2020, for certain non-hardware, operational aspects of PTC system implementation, a railroad must complete each of the statutory prerequisites under 49 U.S.C. 20157(a)(3)(B), including one prerequisite that differs depending on whether a railroad is or is not a Class I railroad or Amtrak. 49 U.S.C. 20157(a)(3)(B)(vi)–(vii). For Class I railroads and Amtrak, one of the statutory prerequisites is that the railroad must have ''implemented a [PTC] system or initiated [RSD] on the majority of territories, such as subdivisions or districts, or route miles'' the railroad owns or controls that are required to have operations governed by a PTC system. 49 U.S.C. 20157(a)(3)(B)(vi). For other railroads (railroads that are not Class I railroads or Amtrak), one of the statutory prerequisites is that the entity must have initiated RSD on at least 1 territory required to have PTC-governed operations, or met any other criteria FRA established. 49 U.S.C. 20157(a)(3)(B)(vii). To be clear, by law, Congress authorizes FRA to establish alternative RSD criteria only for entities that are not Class I railroads or Amtrak. *Id.* At this time, FRA has established alternative RSD criteria for only one commuter railroad.

The Summary Section in the current Quarterly PTC Progress Report, approved through June 30, 2017, asks railroads to report route miles in ''Testing or Revenue Service Demonstration.'' However, that does not directly indicate whether or not the railroad has satisfied the above criteria because, for example, those route miles might refer to a combination of route miles in field testing and route miles in RSD, and also it does not provide any information about the number of territories where the railroad has initiated RSD and how many territories are required to have operations governed by a PTC system. Similarly, the drop-down menu in Section 4 regarding the overall current status of track segments has a ''Testing'' option, which provides only an overview of whether that railroad is currently doing either field testing or RSD in the track segment, but does not differentiate between field testing and RSD, as there might be various stages of testing occurring in a particular track segment.

Rather than substantially changing the existing Summary Section and Section 4 of the form, and thus requiring railroads to deviate from the procedures and formulas they already have in place for quarterly reporting, FRA proposes simply adding one new row to the Summary Section and leaving the rest of the form and fields unchanged.

Specifically, to address the request from Congressional staff, FRA proposes adding a new row in the Summary Section entitled, ''Territories Where Revenue Service Demonstration Has Been Initiated.'' The table headings, ''Cumulative Quantity Completed To Date'' and ''Total Quantity Required for PTC Implementation'' would remain in place in the Summary Section. FRA proposes adding a footnote after the word ''Territories'' in the new row to define a territory as ''an entire installation/track segment as identified in the railroad's PTCIP (*e.g.,* a track segment, territory, subdivision, district, etc.),'' consistent with 49 U.S.C. 20157(a)(3)(B)(vi), 49 CFR part 236, subpart I, and other footnotes in the quarterly form. FRA estimates the additional burden for this new row would be approximately thirty minutes on average for Class I, Class II, large

passenger, and medium passenger railroads and approximately fifteen minutes on average for Class III, terminal, and small passenger railroads. The burden is low because it is a high-level question that would require a railroad to state only the number of territories where it has initiated RSD and the number of territories required to have operations governed by a PTC system, both of which are readily known by and available to respondent railroads.

Finally, FRA has made one additional formatting change, which reduces the length of the form. FRA removed the final page from the 10-page Appendix B, entitled ''Additional Rows for Installation/Track Segment Progress—Current Status,'' as that page was not necessary for any of the 41 reporting railroads to complete based on the number of railroads' track segments.

III. Overview of Information Collection

The associated collection of information is summarized below.

Title: Quarterly Positive Train Control Progress Report Form.

OMB Control Number: 2130–0553.

Form Number(s): FRA F 6180.165.

Affected Public: Businesses.

Frequency of Submission: On occasion.

Respondent Universe: 41 Railroad Carriers.

Reporting Burden:

Quarterly PTC progress report	Respondent universe	Total annual responses	Average time per response (in hours)	Total annual burden hours
Form FRA F 6180.165	41 Railroads	164 Reports/Forms	21.60	3,543

FRA notes that the 21.60-hour estimate is an average for all railroads. FRA estimated the quarterly reporting burden is approximately 40.5 hours for the 11 Class I and large passenger railroads per quarterly form, approximately 27.5 hours for the 11 Class II and medium passenger railroads per quarterly form, and approximately 7.25 hours for the 19 Class III, terminal, and small passenger railroads per quarterly form.

Total Estimated Annual Responses for Form FRA F 6180.165: 164.

Total Estimated Annual Burden for Form FRA F 6180.165: 3,543 hours.

Total Estimated Annual Responses for Entire Information Collection: 147,776.

Total Estimated Annual Burden for Entire Information Collection: 3,126,102.

Status: Regular Review.

For the reasons outlined above, FRA requests regular processing and OMB authorization to collect the information on the revised Quarterly PTC Progress Report Form (Form FRA F 6180.165), 30 days after publication of this notice for a period of 3 years.

Under 44 U.S.C. 3507(a) and 5 CFR 1320.5(b) and 1320.8(b)(3)(vi), FRA informs all interested parties that it may not conduct or sponsor, and a respondent is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Authority: 44 U.S.C. 3501–3520, 49 U.S.C. 20157(c)(2).

John Seguin,

Acting Chief Counsel.

[FR Doc. 2017–11090 Filed 5–26–17; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2017–0092]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel TWANOH; Invitation for Public Comments

AGENCY: Maritime Administration.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before June 29, 2017.

ADDRESSES: Comments should refer to docket number MARAD–2017–0092. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Bianca Carr, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W23–453, Washington, DC 20590. Telephone 202–366–9309, Email *Bianca.carr@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel TWANOH is:

—*Intended Commercial Use of Vessel:* ''Take up to 6 guests on short excursions on Hood Canal explaining the geographic, history and wildlife of the surrounding area''

—*Geographic Region:* ''Washington State''

The complete application is given in DOT docket MARAD–2017–0092 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

Privacy Act

In accordance with 5 U.S.C. 553(c), DOT/MARAD solicits comments from the public to better inform its rulemaking process. DOT/MARAD posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through

www.dot.gov/privacy. In order to facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

By Order of the Maritime Administrator.

Date: May 24, 2017.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2017–11025 Filed 5–26–17; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2017–0094]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel SOMEWHERE; Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before June 29, 2017.

ADDRESSES: Comments should refer to docket number MARAD–2017–0094. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Bianca Carr, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W23–453, Washington, DC 20590. Telephone 202–366–9309, Email *Bianca.carr@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel SOMEWHERE is:

—*Intended Commercial Use of Vessel:* ''Sailboat rides''

—*Geographic Region:* ''Wisconsin, Illinois, Missouri, Mississippi, Georgia, Kentucky, Tennessee, Alabama, Florida, South Carolina, North Carolina, Virginia, Maryland, New Jersey, New York, Ohio, Michigan, Indiana''

The complete application is given in DOT docket MARAD–2017–0094 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

Privacy Act

In accordance with 5 U.S.C. 553(c), DOT/MARAD solicits comments from the public to better inform its rulemaking process. DOT/MARAD posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* In order to facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121

By Order of the Maritime Administrator.

Dated: May 24, 2017.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2017–11024 Filed 5–26–17; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2017–0093]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel COYOTE; Invitation for Public Comments

AGENCY: Maritime Administration.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before June 29, 2017.

ADDRESSES: Comments should refer to docket number MARAD–2017–0093. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Bianca Carr, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W23–453, Washington, DC 20590. Telephone 202–366–9309, Email *Bianca.carr@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel COYOTE is:

—*Intended Commercial Use of Vessel:* Sailing charters, sailing school, weddings at sea

—*Geographic Region:* ''Hawaii''

The complete application is given in DOT docket MARAD–2017–0093 at

http://www.regulations.gov. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

Privacy Act

In accordance with 5 U.S.C. 553(c), DOT/MARAD solicits comments from the public to better inform its rulemaking process. DOT/MARAD posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* In order to facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121.

By Order of the Maritime Administrator.

Dated: May 24, 2017.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2017–11021 Filed 5–26–17; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2017–0095]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel SEDNA; Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before June 29, 2017.

ADDRESSES: Comments should refer to docket number MARAD–2017–0095. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Bianca Carr, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W23–453, Washington, DC 20590. Telephone 202–366–9309, Email *Bianca.carr@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel SEDNA is:

—*Intended Commercial Use of Vessel:* ''Day sails, sightseeing, sailing instruction''

—*Geographic Region:* ''South Carolina, Georgia, Florida''

The complete application is given in DOT docket MARAD–2017–0095 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

Privacy Act

In accordance with 5 U.S.C. 553(c), DOT/MARAD solicits comments from the public to better inform its rulemaking process. DOT/MARAD posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* In order to facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121.

By Order of the Maritime Administrator.

Dated: May 24, 2017.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2017–11023 Filed 5–26–17; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2017–0096]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel RESOLUTE; Invitation for Public Comments

AGENCY: Maritime Administration

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before June 29, 2017.

ADDRESSES: Comments should refer to docket number MARAD–2017–0096. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the

Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Bianca Carr, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W23–453, Washington, DC 20590. Telephone 202–366–9309, Email *Bianca.carr@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel RESOLUTE is:

—INTENDED COMMERCIAL USE OF VESSEL: Sailing charters

—GEOGRAPHIC REGION: ''California''

The complete application is given in DOT docket MARAD–2017–0096 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

Privacy Act

In accordance with 5 U.S.C. 553(c), DOT/MARAD solicits comments from the public to better inform its rulemaking process. DOT/MARAD posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* In order to facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

* * * * *

By Order of the Maritime Administrator.
Date: May 24, 2017.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2017–11022 Filed 5–26–17; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF VETERANS AFFAIRS

Solicitation of Nominations for Appointment to the Veterans' Family, Caregiver, and Survivor Advisory Committee

ACTION: Notice.

SUMMARY: The Department of Veterans Affairs (VA) is seeking nominations of qualified candidates to be considered for appointment to the Veterans' Family, Caregiver, and Survivor Advisory Committee (hereinafter in this section referred to as ''the Committee'').

DATES: Nominations for membership on the Committee must be received no later than 5:00 p.m. EST on June 15, 2017.

ADDRESSES: All nominations should be mailed to Veterans Experience Office, Department of Veterans Affairs, 810 Vermont Avenue NW. (30), Washington, DC 20420.

FOR FURTHER INFORMATION CONTACT: Christine Merna, Designated Federal Officer, Veterans Experience Office, Department of Veterans Affairs, 810 Vermont Avenue NW. (30), Washington, DC 20420, telephone (202) 632–8692.

SUPPLEMENTARY INFORMATION: The Veterans' Family, Caregiver, and Survivor Advisory Committee is being established to advise the Secretary of VA on issues related to:

(1) Veterans' families, caregivers, and survivors across all generations, relationships, and Veteran status;

(2) The use of VA care and benefits services by Veteran's families, caregivers, and survivors, and possible adjustments to such care and benefits services;

(3) Veterans' family, caregiver, and survivor experiences, and VA policies, regulations, and administrative requirements related to the transition of Service members from the Department of Defense to enrollment in VA that impact Veterans' families, caregivers, and survivors; and

(4) Factors that influence access to, quality of, and accountability for services and benefits for Veterans' families, caregivers, and survivors.

The Committee responsibilities include:

(1) Advising the Secretary on how VA can assist and represent Veterans' families, caregivers, and survivors, including recommendations regarding expanding services and benefits to Veterans' family members, caregivers, and survivors who are not currently served by VA, and related policy. Administrative, legislative, and/or regulatory actions;

(2) Advising the Secretary on incorporating lessons learned from current, and previous, successful family research and outreach efforts that measure the impact of provided care and benefits services on Veterans' family, caregivers, and/or survivors;

(3) Advising the Secretary on collaborating with family support programs within VA and engaging with other VA and non-VA advisory committees focused on specific demographics of Veterans and their families, caregivers, and survivors;

(4) Advising the Secretary on working with interagency, intergovernmental, private/non-profit, community, and faith-based organizations to identify and address gaps in services;

(5) Advising the Secretary on utilizing journey mapping or other means to depict the experience life cycle of families, caregivers, and survivors of Veterans to create a more holistic understanding of important life cycle events, moments that matter, and their impacts, and to ensure accountability;

(6) Advising the Secretary on Veterans' family, caregiver, and survivor experiences, and the impact of VA policies, regulations, and administrative requirements related to the transition of Service members from the Department of Defense to the enrollment of Veterans;

(7) Advising the Secretary on integrating Veterans' families, caregivers, and survivors into key VA initiatives such as access to care, suicide prevention, and homelessness; and

(8) Providing such reports as the Committee deems necessary, but not less than one report per year, to the Secretary, through the Chief Veterans Experience Officer, Veterans Experience Office to describe the Committee's activities, deliberations, and findings, which may include but are not limited to: (1) Identification of current challenges and recommendations for remediation related to access to care and benefits services of Veterans' families, caregivers, and survivors; and (2) identification of current best practices in care and benefits delivery to Veterans' families, caregivers, and

survivors, and the impact of such best practices.

Membership Criteria and Qualifications: VA is requesting nominations for Committee membership. The Committee is composed of up to 20 members and several ex-officio members.

The members of the Committee are appointed by the Secretary of Veteran Affairs from the general public, from various sectors and organizations, including but not limited to:

(1) Veteran's family members, caregivers, and survivors

(2) Veteran-focused organizations;

(3) Military history and academic communities;

(4) National Association of State Directors of Veterans Affairs;

(5) The Federal Executive Branch;

(6) Research experts and service providers; and

(7) Leaders of key stakeholder associations and organizations.

In accordance with the Committee Charter, the Secretary shall determine the number (up to 20), terms of service, and pay and allowances of Committee members, except that a term of service of any such member may not exceed two years. The Secretary may reappoint any Committee member for additional terms of service.

To the extent possible, the Secretary seeks members who have diverse professional and personal qualifications including but not limited to subject matter experts in the areas described above. We ask that nominations include any relevant experience information so that VA can ensure diverse Committee membership.

Requirements for Nomination Submission: Nominations should be typed (one nomination per nominator). Nomination package should include:

(1) A letter of nomination that clearly states the name and affiliation of the nominee, the basis for the nomination (*i.e.,* specific attributes which qualify the nominee for service in this capacity), and a statement from the nominee indicating the willingness to serve as a member of the Committee;

(2) The nominee's contact information, including name, mailing address, telephone numbers, and email address;

(3) The nominee's curriculum vitae; and

(4) A summary of the nominee's experience and qualifications relative to the membership considerations described above.

Individuals selected for appointment to the Committee shall be invited to serve a two-year term. Committee members will receive a stipend for attending Committee meetings, including per diem and reimbursement for eligible travel expenses incurred.

The Department makes every effort to ensure that the membership of VA Federal advisory committees is diverse in terms of points of view represented and the committee's capabilities. Appointments to this Committee shall be made without discrimination because of a person's race, color, religion, sex, sexual orientation, gender identify, national origin, age, disability, or genetic information. Nominations must state that the nominee is willing to serve as a member of the Committee and appears to have no conflict of interest that would preclude membership. An ethics review is conducted for each selected nominee.

Authority: The Committee is being established by the directive of the Secretary of VA, in accordance with the provisions of the Federal Advisory Committee Act (FACA), as amended, 5 U.S.C., App. 2.

Dated: May 23, 2017.

Jelessa M. Burney,

Federal Advisory Committee Management Officer.

[FR Doc. 2017–10956 Filed 5–26–17; 8:45 am]

BILLING CODE P

DEPARTMENT OF VETERANS AFFAIRS

Solicitation of Nominations for Appointment to the MyVA Advisory Committee

ACTION: Notice.

SUMMARY: The Department of Veterans Affairs (VA), Office of Enterprise Integration—MyVA Task Force, is seeking nominations of qualified candidates to be considered for appointment as a member of the MyVA Advisory Committee (Committee). The Committee provides advice to the Secretary of Veterans Affairs related to the Department's MyVA initiative and VA's ability to rebuild trust with Veterans and other stakeholders, improve service delivery with a focus on Veteran outcomes, and set the course for longer-term excellence and reform of VA. Nominations of qualified candidates are being sought to fill upcoming vacancies on the Committee.

DATES: Nominations for membership on the Committee must be received no later than 5:00 p.m. on June 16, 2017. Packages received after this time will not be considered for the current membership cycle. All nomination packages should be sent to the Advisory Committee Management Office by email (recommended) or mail.

ADDRESSES: Advisory Committee Management Office (00AC), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, *vaadvisorycmte@va.gov.*

SUPPLEMENTARY INFORMATION: The Committee's responsibilities include:

(1) Periodic reviews of the Department's progress on the MyVA efforts identified by the Secretary to address and improve Veteran engagement and experience, streamline internal processes to enhance the delivery of services, and reorganize to integrate services across VA business lines.

(2) Advise on completing short-term and long-range plans, priorities, and strategies to improve the operational functions, services, processes, and outputs of the Department to achieve the outcomes outlined above.

(3) Advice on appropriate levels of support and funding to develop those plans, priorities and strategies, and to help maintain appropriate balance between competing elements of the Department.

(4) Advice on implementation of recommended improvements. Management and support services for the Committee are provided by the MyVA Task Force.

Membership Criteria and Qualifications

VA is requesting nominations for Committee membership. The Committee is comprised of up to 20 members. The members of the Committee are appointed by the Secretary from the general public.

The Secretary shall determine the number, terms of service, and pay and allowances of members of the Committee appointed by the Secretary. Individuals selected for appointment to the Committee shall be invited to serve a two-year term. The Secretary may reappoint any member for additional terms of service. Committee members will receive per diem and reimbursement for travel expenses incurred.

Requirements for Nomination Submission

Nominations should be typed (one nomination per nominator). Nomination package should include:

(1) A letter of nomination that clearly states the name and affiliation of the nominee, the basis for the nomination (*i.e.* specific attributes which qualify the nominee for service in this capacity), and a statement from the nominee indicating a willingness to serve as a member of the Committee;

(2) The nominee's contact information, including name, mailing

address, telephone numbers, and email address;

(3) The nominee's curriculum vitae, no more than three pages and a one page cover letter; and

(4) A summary of the nominee's experience and qualifications.

The Department shall make every effort to ensure that the membership of its Federal advisory committees is fairly balanced in terms of points of view represented and the committee's function. Appointments to this Committee shall be made without discrimination because of a person's race, color, religion, sex, sexual orientation, gender identity, national origin, age, disability, or genetic information. Nominations must state that the nominee is willing to serve as a member of the Committee and appears to have no conflict of interest that would preclude membership. An ethics review is conducted for each selected nominee.

Authority: The Committee is established by the directive of the Secretary of VA, in accordance with the provisions of the Federal Advisory Committee Act (FACA), as amended, 5 U.S.C., App. 2.

Dated: May 24, 2017.

Jelessa M. Burney,

Federal Advisory Committee Management Officer.

[FR Doc. 2017–11054 Filed 5–26–17; 8:45 am]

BILLING CODE P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0786]

Agency Information Collection Activity: Vocational Rehabilitation and Employment (VR&E) Longitudinal Study Survey

AGENCY: Vocational Rehabilitation & Employment Service, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: Vocational Rehabilitation & Employment Service, Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before July 31, 2017.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov*, or to Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: VA Desk Officer; 725 17th St. NW., Washington, DC 20503 or sent through electronic mail to *oira_submission@omb.eop.gov.* Please refer to ''OMB Control No. 2900–0786'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Cynthia Harvey-Pryor, Enterprise Records Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 461–5870 or email *cynthia.harvey-pryor@va.gov.* Please refer to ''OMB Control No. 2900–0786'' in any correspondence.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Authority: Public Law (Pub. L.) 110–389, Sec 334.

Title: Vocational Rehabilitation and Employment (VR&E) Longitudinal Study Survey.

OMB Control Number: 2900–0786.

Type of Review: Extension of a currently approved collection.

Abstract: As part of Public Law 110–389, Vocational Rehabilitation & Employment (VR&E) VetSuccess Program is conducting a Longitudinal Study of veterans participating in VR&E. This study will take place over the next 20 years.

Affected Public: Individuals and households.

Estimated Annual Burden: $570,830.

Estimated Average Burden per Respondent: 20 minutes.

Frequency of Response: yearly over the course of 20 years.

Estimated Number of Respondents: 7,000.

By direction of the Secretary.

Cynthia Harvey-Pryor,

Department Clearance Officer, Office of Privacy and Records Management, Department of Veterans Affairs.

[FR Doc. 2017–11016 Filed 5–26–17; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL REGISTER

Vol. 82 Tuesday,
No. 102 May 30, 2017

Part II

Department of the Interior

Fish and Wildlife Service

50 CFR Part 20
Migratory Bird Hunting; Final Frameworks for Migratory Bird Hunting Regulations; Final Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

[Docket No. FWS–HQ–MB–2016–0051; FF09M21200–178–FXMB1231099BPP0]

RIN 1018–BB40

Migratory Bird Hunting; Final Frameworks for Migratory Bird Hunting Regulations

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service or we) prescribes final frameworks from which States may select season dates, limits, and other options for the 2017–18 migratory bird hunting seasons. The effect of this final rule is to facilitate the States' selection of hunting seasons and to further the annual establishment of the migratory bird hunting regulations. We annually prescribe frameworks, or outer limits, for dates and times when hunting may occur and the number of birds that may be taken and possessed in hunting seasons. These frameworks are necessary to allow State selections of seasons and limits and to allow recreational harvest at levels compatible with population and habitat conditions.

DATES: This rule takes effect on May 30, 2017.

ADDRESSES: States should send their season selections to: Chief, Division of Migratory Bird Management, U.S. Fish and Wildlife Service, MS: MB, 5275 Leesburg Pike, Falls Church, VA 22041–3803. You may inspect comments received on the migratory bird hunting regulations during normal business hours at the Service's office at 5275 Leesburg Pike, Falls Church, VA 22041–3803 or at *http://www.regulations.gov* at Docket No. FWS–HQ–MB–2016–0051. You may obtain copies of referenced reports from the street address above, or from the Division of Migratory Bird Management's Web site at *http://www.fws.gov/migratorybirds/,* or at *http://www.regulations.gov* at Docket No. FWS–HQ–MB–2016–0051.

FOR FURTHER INFORMATION CONTACT: Ron W. Kokel, U.S. Fish and Wildlife Service, Department of the Interior, MS: MB, 5275 Leesburg Pike, Falls Church, VA 22041–3803; (703) 358–1967.

SUPPLEMENTARY INFORMATION:

Regulations Schedule for 2017

On June 10, 2016, we published a proposal to amend title 50 of the Code of Federal Regulations (CFR) at part 20 (81 FR 38050). The proposal provided a background and overview of the migratory bird hunting regulations process, and addressed the establishment of seasons, limits, and other regulations for hunting migratory game birds under §§ 20.101 through 20.107, 20.109, and 20.110 of subpart K. Major steps in the 2017–18 regulatory cycle relating to open public meetings and **Federal Register** notifications were also identified in the June 10, 2016, proposed rule. Further, we explained that all sections of subsequent documents outlining hunting frameworks and guidelines were organized under numbered headings. Those headings are:

1. Ducks
   A. General Harvest Strategy
   B. Regulatory Alternatives
   C. Zones and Split Seasons
   D. Special Seasons/Species Management
   i. September Teal Seasons
   ii. September Teal/Wood Duck Seasons
   iii. Black ducks
   iv. Canvasbacks
   v. Pintails
   vi. Scaup
   vii. Mottled ducks
   viii. Wood ducks
   ix. Youth Hunt
   x. Mallard Management Units
   xi. Other
2. Sea Ducks
3. Mergansers
4. Canada Geese
   A. Special Early Seasons
   B. Regular Seasons
   C. Special Late Seasons
5. White-fronted Geese
6. Brant
7. Snow and Ross's (Light) Geese
8. Swans
9. Sandhill Cranes
10. Coots
11. Moorhens and Gallinules
12. Rails
13. Snipe
14. Woodcock
15. Band-tailed Pigeons
16. Doves
17. Alaska
18. Hawaii
19. Puerto Rico
20. Virgin Islands
21. Falconry
22. Other

Subsequent sections of this document refer only to the numbered items requiring attention. Therefore, the numbered items discussed below will be discontinuous and appear incomplete.

The June 10, 2016, proposed rule also provided detailed information on the proposed 2017–18 regulatory schedule and announced the Service Regulations Committee (SRC) and Flyway Council meetings.

On August 12, 2016, we published in the **Federal Register** (81 FR 53391) a second document providing supplemental proposals for migratory bird hunting regulations. The August 12 supplement also provided detailed information on the 2017–18 regulatory schedule and re-announced the SRC and Flyway Council meetings.

On October 25–26, 2016, we held open meetings with the Flyway Council Consultants, at which the participants reviewed information on the current status of migratory game birds and developed recommendations for the 2017–18 regulations for these species.

On February 9, 2017, we published in the **Federal Register** (82 FR 10222) the proposed frameworks for the 2017–18 season migratory bird hunting regulations. This document establishes final frameworks for migratory bird hunting regulations for the 2017–18 season. There are no substantive changes from the February 9 proposed rule. We will publish State selections in the **Federal Register** as amendments to §§ 20.101 through 20.107 and 20.109 of title 50 CFR part 20.

Population Status and Harvest

Each year we publish various species status reports that provide detailed information on the status and harvest of migratory game birds, including information on the methodologies and results. These reports are available at the address indicated under **FOR FURTHER INFORMATION CONTACT** or from our Web site at *https://www.fws.gov/birds/surveys-and-data/reports-and-publications/population-status.php.*

We used the following reports: Adaptive Harvest Management, 2017 Hunting Season (August 2016); American Woodcock Population Status, 2016 (August 2016); Band-tailed Pigeon Population Status, 2016 (September 2016); Migratory Bird Hunting Activity and Harvest During the 2014–15 and 2015–16 Hunting Seasons (October 2016); Mourning Dove Population Status, 2016 (August 2016); Status and Harvests of Sandhill Cranes, Mid-continent, Rocky Mountain, Lower Colorado River Valley and Eastern Populations, 2016 (September 2016); and Waterfowl Population Status, 2016 (August 2016).

Review of Public Comments and Flyway Council Recommendations

The preliminary proposed rulemaking, which appeared in the June 10, 2016, **Federal Register**, opened the public comment period for migratory game bird hunting regulations and discussed the regulatory alternatives for the 2017–18 duck hunting season. The February 9, 2017, **Federal Register** publication discussed and proposed the

frameworks for the 2017–18 season migratory bird hunting regulations. Comments and recommendations are summarized below and numbered in the order from the above list of topics.

We received recommendations from all four Flyway Councils. Some recommendations supported continuation of last year's frameworks. Due to the comprehensive nature of the annual review of the frameworks performed by the Councils, support for continuation of last year's frameworks is assumed for items for which no recommendations were received. Council recommendations for changes in the frameworks are summarized below. We have included only the numbered items pertaining to issues for which we received recommendations. Consequently, the issues do not follow in successive numerical order.

General

Written Comments: A commenter provided several comments that protested the entire migratory bird hunting regulations process, the killing of all migratory birds, and status and habitat data on which the migratory bird hunting regulations are based. Another commenter opposed the use of the term ''sport'' and taxpayer funds to either increase the number of birds taken or monitor hunters in Idaho and Washington. Several other commenters expressed support for the proposed regulations.

A commenter expressed general support for moving the March 10 framework ending date for all waterfowl to an April closing date.

A commenter requested that the rule address lead ammunition and potential concerns about lead contamination.

A commenter requested that the regulation of migratory bird hunting be left to the individual States rather than the Federal Government.

Service Response: Our long-term objectives continue to include providing opportunities to harvest portions of certain migratory game bird populations and to limit harvests to levels compatible with each population's ability to maintain healthy, viable numbers. Having taken into account the zones of temperature and the distribution, abundance, economic value, breeding habits, and times and lines of flight of migratory birds, we conclude that the hunting seasons provided for herein are compatible with the current status of migratory bird populations and long-term population goals. Additionally, we are obligated to, and do, give serious consideration to all information received as public comment. While there are problems inherent with any type of representative management of public-trust resources, the Flyway-Council system of migratory game bird management has been a longstanding example of State-Federal cooperative management since its establishment in 1952. However, as always, we continue to seek new ways to streamline and improve the process.

In regard to the request for a later framework closing date, we note that the March 10 date is the latest date for migratory bird hunting specified in the Migratory Bird Treaty with Canada.

In regard to lead ammunition, the regulations pertaining to the use of nontoxic shot are contained in 50 CFR 20.21(j) and are not the subject of this rule.

In regard to turning over the establishment of these regulations to the individual States, we note that, due to the migratory nature of certain species of birds, and for the protection and management of these birds, the Federal Government has been given responsibility over these species by the Migratory Bird Treaty Act. Under the Migratory Bird Treaty Act (16 U.S.C. 703–712), the Secretary of the Interior is authorized to determine when ''hunting, taking, capture, killing, possession, sale, purchase, shipment, transportation, carriage, or export of any * * * bird, or any part, nest, or egg'' of migratory game birds can take place, and to adopt regulations for this purpose. These regulations are written after giving due regard to ''the zones of temperature and to the distribution, abundance, economic value, breeding habits, and times and lines of migratory flight of such birds'' and are updated annually (16 U.S.C. 704(a)). However, migratory game bird management is a cooperative effort of State, Tribal, and Federal governments. Annually, the Service, the Canadian Wildlife Service, and State and Provincial wildlife-management agencies gather, analyze, and interpret biological survey data and provide this information to all those involved in the process through a series of published status reports and presentations to Flyway Councils and other interested parties. We then cooperatively develop migratory game bird hunting regulations by establishing the frameworks, or outside limits, for season lengths, bag limits, and areas for migratory game bird hunting in a cooperative process with the States and the Flyway Councils. This process allows States to participate in the development of frameworks from which they will make selections, thereby having an influence on their own regulations. After frameworks are established, States may select season dates, bag limits, and other regulatory options for the hunting seasons. This process preserves the ability of the States to determine which seasons meet their individual needs.

1. Ducks

A. General Harvest Strategy

Council Recommendations: The Atlantic, Mississippi, Central, and Pacific Flyway Councils recommended the adoption of the ''liberal'' regulatory alternative.

The Mississippi Flyway Council recommended that regulation changes be restricted to one step per year, both when restricting as well as liberalizing hunting regulations.

Service Response: We propose to continue using adaptive harvest management (AHM) to help determine appropriate duck-hunting regulations for the 2017–18 season. AHM allows sound resource decisions in the face of uncertain regulatory impacts and provides a mechanism for reducing that uncertainty over time. We use AHM to evaluate four alternative regulatory levels for duck hunting based on the population status of mallards. (We enact other hunting regulations for species of special concern, such as canvasbacks, scaup, and pintails).

The prescribed regulatory alternative for the Atlantic, Mississippi, Central, and Pacific Flyways is based on the status of mallard populations that contribute primarily to each Flyway. In the Atlantic Flyway, we set hunting regulations based on the population status of mallards breeding in eastern North America (Federal survey strata 51–54 and 56, and State surveys in New England and the mid-Atlantic region). In the Central and Mississippi Flyways, we set hunting regulations based on the status and dynamics of mid-continent mallards. Mid-continent mallards are those breeding in central North America (Federal survey strata 13–18, 20–50, and 75–77, and State surveys in Minnesota, Wisconsin, and Michigan). In the Pacific Flyway, we set hunting regulations based on the status and dynamics of western mallards. Western mallards are those breeding in Alaska and the northern Yukon Territory (as based on Federal surveys in strata 1–12), and in British Columbia, Washington, Oregon, and California (as based on Canadian Wildlife Service and State-conducted surveys).

For the 2017–18 season, we recommend continuing to use independent optimization to determine the optimal regulatory choice for each mallard stock. This means that we would develop regulations for eastern mallards, mid-continent mallards, and

western mallards independently, based upon the breeding stock that contributes primarily to each Flyway. We detailed implementation of this AHM decision framework for western and mid-continent mallards in the July 24, 2008, **Federal Register** (73 FR 43290) and for eastern mallards in the July 20, 2012, **Federal Register** (77 FR 42920). We further documented how adjustments were made to these decision frameworks in order to be compatible with the new regulatory schedule (*https://www.fws.gov/migratorybirds/pdf/management/AHM/SEIS&AHMReportFinal.pdf*).

As we stated in the August 12, 2016, proposed rule, for the 2017–18 hunting season, we are continuing to consider the same regulatory alternatives as those used last year. The nature of the ''restrictive,'' ''moderate,'' and ''liberal'' alternatives has remained essentially unchanged since 1997, except that extended framework dates have been offered in the ''moderate'' and ''liberal'' regulatory alternatives since 2002 (67 FR 47224; July 17, 2002).

The optimal AHM strategies for mid-continent, eastern, and western mallards for the 2017–18 hunting season were calculated using: (1) Harvest-management objectives specific to each mallard stock; (2) the 2017–18 regulatory alternatives (see further discussion below under B. Regulatory Alternatives); and (3) current population models and associated weights. Based on ''liberal'' regulatory alternatives selected for the 2016 hunting season, the 2016 survey results of 11.89 million mid-continent mallards (traditional survey area minus Alaska and the Old Crow Flats area of the Yukon Territory, plus Minnesota, Wisconsin, and Michigan) and 3.49 million ponds in Prairie Canada, 0.72 million eastern mallards, and 1.07 million western mallards (0.48 million in California-Oregon and 0.58 million in Alaska), the optimal regulatory choice for all four Flyways is the ''liberal'' alternative. Therefore, we concur with the recommendations of the Atlantic, Mississippi, Central, and Pacific Flyway Councils regarding selection of the ''liberal'' regulatory alternative for the 2017–18 season and propose to adopt the ''liberal'' regulatory alternative, as described in the August 12, 2016, **Federal Register**.

Regarding the Mississippi Flyway Council recommendation to limit regulatory changes to one step per year, as we stated in the August 12, 2016, **Federal Register**, we recognize the longstanding interest by the Council to impose a one-step constraint on regulatory changes. We note that the Central and Mississippi Flyways have worked with Service staff over the past 2 years to re-visit the AHM protocol for managing harvest of mid-continent mallards (*i.e.,* ''double-looping''). This effort has included a discussion of appropriate management objectives, regulatory packages, and management of non-mallard stocks. These discussions are the appropriate venue to discuss what role, if any, a one-step constraint might play in management of waterfowl in the Central and Mississippi Flyways. Such discussions should include the potential impact of a one-step constraint on the frequency of when the liberal, moderate, and restrictive packages would be recommended. On a final note, while we recognize the Council's concern about potentially communicating a large regulatory change to hunters, we have concerns about the appropriateness of a one-step constraint in situations when the status of the waterfowl resource may warrant a different measure. We look forward to continued work with the Flyway Councils on this issue.

B. Regulatory Alternatives

Council Recommendations: The Mississippi Flyway Council recommended changing the framework closing date to January 31 during ''moderate'' and ''liberal'' seasons.

Written Comments: A commenter disagreed with South Dakota's selected season dates for duck hunting in certain zones in recent years.

Service Response: As we stated in the August 12, 2016, **Federal Register**, we do not support the Council's recommendation to extend the duck season framework closing date to January 31 at this time. We note that the current framework opening and closing dates were developed through a cooperative effort between all four Flyway Councils and that framework dates are only one of several components that comprise the regulatory packages utilized in AHM. Regulatory packages also consider season length, daily bag limits, and shooting hours. We conclude the current regulatory packages should remain unchanged until revisions to the AHM protocols have been completed. Those efforts will include examination of duck harvest management objectives, model updates, and revisions to regulatory packages, including framework dates. We prefer that the issue of framework dates and any other component of the regulatory packages be addressed through this cooperative process and would prefer a comprehensive approach to revising regulatory packages rather than making incremental changes.

Regarding season dates in South Dakota, the State of South Dakota has the prerogative to select any season dates they desire within the overall frameworks. We assume South Dakota is weighing the concerns and wishes of all their hunters and other affected interests when doing so.

D. Special Seasons/Species Management

i. September Teal Seasons

Council Recommendations: The Atlantic Flyway Council requested granting operational status for the pre-sunrise portion of Maryland's September teal season. They further requested that we allow an additional year of the experimental teal-only season in Florida, as Florida needs another year to increase sample size to properly assess the effects of the experimental season on nontarget species.

The Mississippi Flyway Council recommended that States with ongoing experimental teal seasons in the Mississippi Flyway be allowed an additional year (2017–18 seasons) to evaluate impacts to nontarget species.

The Central Flyway Council recommended that we allow an experimental September teal season in the northern portion of Nebraska to continue for the 2017–18 hunting season.

Service Response: For the 2017–18 season, we will utilize the 2016 breeding population estimate of 6.6 million blue-winged teal from the traditional survey area and the criteria developed for the teal season harvest strategy. Thus, a 16-day September teal season in the Atlantic, Central, and Mississippi Flyways is appropriate for the 2017 season.

We agree with the Atlantic Flyway's request to grant operation status to Maryland's pre-sunrise portion of their season. Available information collected during the 2013–16 seasons indicates that both nontarget harvest and attempt rates were well below the maximum allowed rates.

We also agree with the Councils' requests to extend the current experimental seasons for another season in order to collect additional data. Sample size requirement criteria are specified in the memorandums of agreement (MOAs) between the various States and the Service, and the MOAs allow for an extension of the experimental seasons to meet these data needs, with concurrence by both the Service and the State.

iii. Black Ducks

Council Recommendations: The Atlantic and Mississippi Flyway Councils recommended that the Service continue to follow the International Black Duck AHM Strategy for the 2017–18 season.

Service Response: In 2012, we adopted the International Black Duck AHM Strategy (77 FR 49868; August 17, 2012). The formal strategy is the result of 14 years of technical and policy decisions developed and agreed upon by both Canadian and U.S. agencies and waterfowl managers. The strategy clarifies what harvest levels each country will manage for and reduces conflicts over country-specific regulatory policies. Further, the strategy allows for attainment of fundamental objectives of black duck management: Resource conservation; perpetuation of hunting tradition; and equitable access to the black duck resource between Canada and the United States while accommodating the fundamental sources of uncertainty, partial controllability and observability, structural uncertainty, and environmental variation. The underlying model performance is assessed annually, with a comprehensive evaluation of the entire strategy (objectives and model set) planned after 6 years.

A copy of the strategy is available at the address indicated under **FOR FURTHER INFORMATION CONTACT**, or from our Web site at *https://www.fws.gov/migratorybirds/pdf/management/AHM/BlackDuckInternationalHarvestStrategy.pdf.*

For the 2017–18 season, the optimal country-specific regulatory strategies were calculated using: (1) The black duck harvest objective (98 percent of long-term cumulative harvest); (2) 2017–18 country-specific regulatory alternatives; (3) current parameter estimates describing the effects of mallard competition on black duck productivity and additive mortality on black duck annual survival; and (4) 2016 survey results of 0.61 million breeding black ducks and 0.41 million breeding mallards in the core survey area. The optimal regulatory choices for the 2017–18 season are the ''liberal'' package in Canada and the ''moderate'' package in the United States.

iv. Canvasbacks

Council Recommendations: The Atlantic, Mississippi, Central, and Pacific Flyway Councils recommended a full season for canvasbacks with a 2-bird daily bag limit. Season lengths would be 60 days in the Atlantic and Mississippi Flyways, 74 days in the Central Flyway (with an additional 23 days in High Plains Mallard Management Unit areas), and 107 days in the Pacific Flyway.

Service Response: As we discussed in the March 28, 2016, final rule (81 FR 17302), the canvasback harvest strategy that we had relied on until 2015 was not viable under our new regulatory process because it required biological information that was not yet available at the time a decision on season structure needed to be made. We do not yet have a new harvest strategy to propose for use in guiding canvasback harvest management in the future. However, we have worked with technical staff of the four Flyway Councils to develop a decision framework that relies on the best biological information available to make a harvest management proposal for the 2017–18 season. This framework utilized available information (1994–2014) on canvasback population size, growth rate, survival, and harvest to derive an optimal harvest policy with an objective of maximum sustained yield. The resulting policy suggests a 2-bird daily bag limit whenever the most recent canvasback population estimate is above 480,000 birds. Given that the 2016 canvasback breeding population estimate was 736,500 birds, we support the Flyways' recommendations for a 2-canvasback daily bag limit for the 2017–18 season.

v. Pintails

Council Recommendations: The Atlantic, Mississippi, Central, and Pacific Flyway Councils recommended a full season for pintails, consisting of a 1-bird daily bag limit and a 60-day season in the Atlantic and Mississippi Flyways, a 74-day season in the Central Flyway (with an additional 23 days in High Plains Mallard Management Unit areas), and a 107-day season in the Pacific Flyway.

Service Response: The current derived pintail harvest strategy was adopted by the Service and Flyway Councils in 2010 (75 FR 44856; July 29, 2010). For the 2017–18 season, an optimal regulatory strategy for pintails was calculated with: (1) An objective of maximizing long-term cumulative harvest, including a closed-season constraint of 1.75 million birds; (2) the regulatory alternatives and associated predicted harvest; and (3) current population models and their relative weights. Based on a ''liberal'' regulatory alternative with a 2-bird daily bag limit in 2016, and the 2016 survey results of 2.62 million pintails observed at a mean latitude of 58.6 degrees, the optimal regulatory choice for all four Flyways for the 2017–18 hunting season is the ''liberal'' alternative with a 1-bird daily bag limit.

vi. Scaup

Council Recommendations: The Atlantic, Mississippi, Central, and Pacific Flyway Councils recommended use of the ''moderate'' regulation package, consisting of a 60-day season with a 2-bird daily bag in the Atlantic Flyway and a 3-bird daily bag in the Mississippi Flyway, a 74-day season (with an additional 23 days in High Plains Mallard Management Unit areas) with a 3-bird daily bag limit in the Central Flyway, and an 86-day season with a 3-bird daily bag limit in the Pacific Flyway.

Service Response: In 2008, we adopted and implemented a new scaup harvest strategy (73 FR 43290 on July 24, 2008, and 73 FR 51124 on August 29, 2008) with initial ''restrictive,'' ''moderate,'' and ''liberal'' regulatory packages adopted for each Flyway.

For scaup, optimal regulatory strategies for the 2017–18 season were calculated using: (1) An objective to achieve 95 percent of long-term cumulative harvest, (2) current scaup regulatory alternatives, and (3) updated model parameters and weights. Based on a ''moderate'' regulatory alternative selected in 2016, and the 2016 survey results of 4.99 million scaup, the optimal regulatory choice for the 2017–18 season for all four Flyways is the ''moderate'' regulatory alternative.

4. Canada Geese

A. Special Early Seasons

Council Recommendations: The Central Flyway Council recommended an extension of North Dakota's September early Canada goose season framework to September 22.

Service Response: We agree with the Central Flyway Council's request. When September Canada goose seasons were established in 1999 to allow harvest of primarily resident Canada geese, the Service established a limit that no more than 10 percent of the geese harvested could be migrant birds. Data collected in North Dakota at that time indicated that their harvest of migrants exceeded 10 percent after September 15, so their season was restricted to the middle of the month. An analysis of data from recent hunting seasons shows that the harvest of migrants from September 15–25 now is below 10 percent, so we support the extension.

B. Regular Seasons

Council Recommendations: The Pacific Flyway Council recommended

increasing the daily bag limit from 3 to 4 for Canada geese and brant in the aggregate in Wyoming and New Mexico.

Written Comments: The State of Idaho requested modifications to their goose zones effective for the 2017–18 seasons. They state that the requested changes are a result of an extensive waterfowl hunter opinion survey conducted in an effort to better align duck and goose zones with hunter preferences. Further, the changes will better align with existing duck hunting zones, improve hunter opportunity, and reduce regulatory complexity in State and Federal regulations.

An individual from Wisconsin expressed desire for a longer early season (September 1–15) targeting resident geese, a regular season that can run into January, and an increase in the daily bag limit from 2 to 3 birds.

Service Response: We agree with the Pacific Flyway Council's recommendation to increase the daily bag limit from 3 to 4 Canada geese and brant in the aggregate in Wyoming and New Mexico. The basic daily bag limit is 4 for Canada geese and brant in the aggregate for Interior States within the Pacific Flyway. State restrictions have been imposed in many States in the Pacific Flyway to help establish and build breeding population segments (flocks) identified by State reference areas in the Flyway management plan. The current 3-year average breeding population estimate (2014–16) for the Rocky Mountain Population of western Canada geese is 195,320, which is substantially above the Flyway population objective of 117,000 geese and thresholds for restriction (<88,000 geese) and liberalization (<146,000 geese). Removal of the States' daily bag limit restrictions in Wyoming and New Mexico will result in Canada goose bag limits that are the same in all Pacific Flyway States, and result in greater consistency throughout the Flyway.

In the Mississippi Flyway, we note that during the past several years the Mississippi Flyway has moved from State-specific frameworks to a general flyway-wide framework for Canada goose regulations. At the same time, population monitoring programs have been modified to become more cost-efficient and have focused on obtaining general subarctic goose population estimates rather than separate estimates for the Mississippi Valley Population (MVP), the Eastern Prairie Population (EPP), and the Southern James Bay Population (SJBP). We have allowed changes to Mississippi Flyway Canada goose frameworks with the expectation that a new Canada goose management plan would be developed. Because the Atlantic and Mississippi Flyway Councils currently share a joint management plan for the SJBP population, we conclude the Atlantic Flyway must be included in the development of the new Canada goose management plan in the Mississippi Flyway. Thus, we urge the Mississippi Flyway to complete the Canada goose management plan this winter and collaborate with the Atlantic Flyway where appropriate. The final plan should be presented at the June 2017 SRC meeting. We will not entertain further changes to Mississippi Flyway Canada goose frameworks in the absence of a final management plan.

We agree with Idaho's requested modifications to their goose zones for the 2017–18 seasons. Since the changes are an outgrowth of an extensive waterfowl hunter opinion survey and will better align with existing duck hunting zones, we support their request.

Lastly, in regard to the comments concerning Wisconsin's goose season, we point out that the current frameworks for Canada geese in Wisconsin allow that ''States may select seasons for Canada geese not to exceed 107 days with a 5-bird daily bag limit September 1–30 (except in the Intensive Harvest Zone in Minnesota, which may have up to a 10-bird daily bag limit) and a 3-bird daily bag limit for the remainder of the season. Seasons may be held between September 1 and February 15 and may be split into 4 segments.''

5. White-fronted Geese

Council Recommendations: The Mississippi Flyway Council recommended that the number of segments available for non-Canada geese should be increased from 3 to 4 for the Mississippi Flyway.

The Pacific Flyway Council recommended allowing a 3-segment split hunting season for white-fronted geese in the Northeast Zone of California.

Written Comments: The State of Idaho requested modifications to their goose zones effective for the 2017–18 seasons. They state that the requested changes are a result of an extensive waterfowl hunter opinion survey conducted in an effort to better align duck and goose zones with hunter preferences. Further, the changes will better align with existing duck hunting zones, improve hunter opportunity, and reduce regulatory complexity in State and Federal regulations.

Service Response: We agree with the Mississippi Flyway Council's request to increase the number of segments available for non-Canada geese from 3 to 4 for the Mississippi Flyway. Increasing the number of segments for other geese (snow geese, white-fronted geese, and brant) will allow States flexibility to open and/or close all goose seasons on the same date. Since the numbers of white-fronted geese present in the Mississippi Flyway in September are low, we expect no impacts from this change.

We agree with the Pacific Flyway Council's recommendation to allow a 3-segment split hunting season for white-fronted geese in the Northeast Zone of California. Current frameworks allow a 3-segment split for Canada geese and greater white-fronted geese; but this arrangement requires Pacific Flyway Council and Service approval and a 3-year evaluation by each participating State. The current 3-year average predicted fall population estimate (2014–16) for the Pacific Population of greater white-fronted geese is 600,592, which is substantially above the Flyway population objective of 300,000. Agricultural complaints have increased in the Northeastern Zone of California and there have been requests to allow more days during the late part of the season, in addition to days during the early part of the season. White-fronted geese use the Northeastern Zone as a fall and spring staging area, but otherwise winter primarily in the Sacramento Valley. A 3-segment season would allow hunting to coincide with white-fronted goose occurrence in this zone, and would be consistent with the frameworks for splitting the light goose season in the same zone. California proposed to evaluate the three-segment split season for greater white-fronted geese in the Northeastern Zone by monitoring the harvest of Tule greater white-fronted geese that are known to occur in that zone in late winter and early spring. Morphometric measurements will be obtained from hunters who allow their harvested birds to be measured, and band recovery data will be reviewed to identify subspecies harvest of white-fronted geese.

Regarding Idaho's requested modifications to their goose zones, see our response above under 4. Canada Geese, B. Regular Seasons.

6. Brant

Council Recommendations: The Atlantic Flyway Council recommends that the 2017–18 season for Atlantic brant follow the Atlantic Flyway Brant Hunt plan pending the results of the 2017 Atlantic Flyway mid-winter waterfowl survey. The Council also recommended that if the results of the 2017 mid-winter survey are not available, then the results of the most

recent mid-winter survey should be used.

The Mississippi Flyway Council recommended that the number of segments available for non-Canada geese should be increased from 3 to 4 for the Mississippi Flyway.

The Pacific Flyway Council recommended increasing the daily bag limit from 3 to 4 for Canada geese and brant in the aggregate in Wyoming and New Mexico.

Written Comments: The State of Idaho requested modifications to their goose zones effective for the 2017–18 seasons. They state that the requested changes are a result of an extensive waterfowl hunter opinion survey conducted in an effort to better align duck and goose zones with hunter preferences. Further, the changes will better align with existing duck hunting zones, improve hunter opportunity, and reduce regulatory complexity in State and Federal regulations.

Service Response: As we discussed in the March 28, 2016, final rule (81 FR 17302), the current harvest strategy used to determine the Atlantic brant season frameworks does not fit well within the new regulatory process, similar to the RMP sandhill crane issue discussed below under 9. Sandhill Cranes. In developing the annual proposed frameworks for Atlantic brant in the past, the Atlantic Flyway Council and the Service used the number of brant counted during the Mid-winter Waterfowl Survey (MWS) in the Atlantic Flyway, and took into consideration the brant population's expected productivity that summer. The MWS is conducted each January, and expected brant productivity is based on early-summer observations of breeding habitat conditions and nesting effort in important brant nesting areas. Thus, the data under consideration were available before the annual Flyway and SRC decision-making meetings took place in late July. Although the former regulatory alternatives for Atlantic brant were developed by factoring together long-term productivity rates (observed during November and December productivity surveys) with estimated observed harvest under different framework regulations, the primary decision-making criterion for selecting the annual frameworks was the MWS count.

Under the new regulatory schedule, neither the expected 2017 brant production information (available summer 2017) nor the 2017 MWS count (conducted in January 2017) is yet available. However, the 2017 MWS will be completed and winter brant data will be available by the expected publication of the final frameworks (late February 2017). Therefore, in the September 24, 2015, **Federal Register** (80 FR 57664), we adopted the Atlantic Flyway's changes to the then-current Atlantic brant hunt plan strategies. Current harvest packages (strategies) for Atlantic brant hunting seasons are now as follows:

- If the mid-winter waterfowl survey (MWS) count is <100,000 Atlantic brant, the season would be closed.
- If the MWS count is between 100,000 and 115,000 brant, States could select a 30-day season with a 1-bird daily bag limit.
- If the MWS count is between 115,000 and 130,000 brant, States could select a 30-day season with a 2-bird daily bag limit.
- If the MWS count is between 130,000 and 150,000 brant, States could select a 50-day season with a 2-bird daily bag limit.
- If the MWS count is between 150,000 and 200,000 brant, States could select a 60-day season with a 2-bird daily bag limit.
- If the MWS count is >200,000 brant, States could select a 60-day season with a 3-bird daily bag limit.

Under all the above open-season alternatives, seasons would be between the Saturday nearest September 24 and January 31. Further, States could split their seasons into 2 segments.

The recently completed 2017 MWS Atlantic brant count was 161,661 brant. Thus, utilizing the above Atlantic brant hunt strategies, the appropriate Atlantic brant hunting season for the 2017–18 season is a 60-day season with a 2-bird daily bag limit.

As we stated above under 5. White-fronted Geese, we agree with the Mississippi Flyway Council's recommendation request to increase the number of segments available for non-Canada geese from 3 to 4 for the Mississippi Flyway. Increasing the number of segments for other geese (snow geese, white-fronted geese, and brant) will allow States flexibility to open and/or close all goose seasons on the same date. Since the numbers of brant present in the Mississippi Flyway in September are low, we expect no impacts from this change.

As we stated above under 4. Canada Geese, B. Regular Seasons, we agree with the Pacific Flyway Council's request to increase the daily bag limit from 3 to 4 for Canada geese and brant in the aggregate in Wyoming and New Mexico. We expect no impacts to brant from this change.

Regarding Idaho's requested modifications to their goose zones, see our response above under 4. Canada Geese, B. Regular Seasons.

7. Snow and Ross's (Light) Geese

Council Recommendations: The Mississippi Flyway Council recommended that the number of segments available for non-Canada geese should be increased from 3 to 4 for the Mississippi Flyway.

The Pacific Flyway Council recommended two changes to the light goose season frameworks. Specifically, the Council recommended:

1. In Washington, removing the daily bag limit restriction of not more than 4 geese per day, and adding that the daily bag limit for light geese is 6.

2. In Idaho, eliminating the requirement to monitor the snow goose hunt that occurs after the last Sunday in January in the American Falls Reservoir/Fort Hall Bottoms and surrounding areas at 3-year intervals.

Written Comments: The State of Idaho requested modifications to their goose zones effective for the 2017–18 seasons. They state that the requested changes are a result of an extensive waterfowl hunter opinion survey conducted in an effort to better align duck and goose zones with hunter preferences. Further, the changes will better align with existing duck hunting zones, improve hunter opportunity, and reduce regulatory complexity in State and Federal regulations.

Service Response: As we stated above under 5. White-fronted Geese, we agree with the Mississippi Flyway Council's recommendation request to increase the number of segments available for non-Canada geese from 3 to 4 for the Mississippi Flyway. Increasing the number of segments for other geese (snow geese, white-fronted geese, and brant) will allow States flexibility to open and/or close all goose seasons on the same date. We expect no impacts from this change.

We agree with the Pacific Flyway Council's recommendation to remove the daily bag limit restriction of not more than 4 geese per day, and add that the daily bag limit for light geese is 6 in Washington. Current frameworks already limit the daily bag limit to 4 Canada geese for States within the western Pacific Flyway, but do allow a daily bag limit of 10 greater white-fronted geese for States within the Pacific Flyway except Washington. The current 3-year average predicted fall population estimate (2014–16) for the Pacific Population of greater white-fronted geese is 600,592, which is substantially above the Flyway population objective of 300,000. This change would allow a daily bag limit of 10 greater white-fronted geese in Washington similar to other States in

the Pacific Flyway. In regard to light geese, three populations occur in the Pacific Flyway, and all are above Flyway management plan objectives based on the most recent breeding population indices. The population estimate for the Western Arctic Population (WAP) of lesser snow geese was 419,000 in 2013 (most recent estimate) on Banks Island, which is above the objective of 200,000 geese. Ross's geese were estimated at 625,100 in 2015 (most recent estimate) at Karrak Lake and are above the objective of 100,000 geese. The 2016 population estimate for Wrangel Island snow geese is 300,000, which is above the objective of 120,000 geese. Current evidence suggests most light geese in Washington during fall and early winter are primarily Wrangel Island snow geese, but an influx of WAP lesser snow and Ross's geese may occur during late winter as birds begin to move north toward breeding areas. The current 4-bird daily bag limit for geese in Washington was intended to minimize harvest of Wrangel Island snow geese when Wrangel Island geese were below the population objective. A 6-bird daily bag limit for light geese in Washington will simplify regulations by matching the 6-bird bag limit currently allowed for light geese in Oregon on or before the last Sunday in January.

We also agree with the Pacific Flyway Council's recommendation to eliminate the requirement that Idaho monitor the snow goose hunt that occurs after the last Sunday in January in the American Falls Reservoir/Fort Hall Bottoms and surrounding areas at 3-year intervals. Since the inception of the late-winter light goose hunt in 2010, Idaho has conducted ground surveys in 2010, 2011, 2012, and 2015, to evaluate the effects of light goose hunting on trumpeter swans. To date, no obvious negative trends in trumpeter swan use, distribution, or abundance have been documented. We note that this program was designed to identify changes in swan distribution and swan field-feeding during the late winter light goose hunt in order to help assess if changes in that hunt were warranted. The importance of the Fort Hall Reservation to swans for field-feeding was unknown prior to the surveys conducted in 2011 and 2012. Previously, it was assumed that a majority of the field-feeding occurred on the northwestern side of the American Falls Reservoir. However, surveys indicate that the Fort Hall Reservation is an important and viable site for field-feeding swans in late winter. While there is no definitive evidence indicating that swans are disturbed and displaced by hunting pressure, if negative interactions between hunting activities and swan behavior occur, the Fort Hall Reservation provides ample field-feeding opportunities where hunting is prohibited. Thus, given no compelling concerns or issues associated with trumpeter swans wintering in eastern Idaho, and no negative impacts associated with the current late-winter light goose hunt, we see no reason to repeat monitoring efforts annually or every 3 years.

Regarding Idaho's requested modifications to their goose zones, see our response above under 4. Canada Geese, B. Regular Seasons.

8. Swans

Council Recommendations: The Atlantic, Central, and Pacific Flyway Councils recommended increasing the 2017–18 swan hunting permits for Eastern Population tundra swans by 25 percent. The total allowable harvest increase would be 2,400 swans (from 9,600 to 12,000).

Service Response: We agree with the Councils' request to increase the number of available swan hunting permits by 25 percent. The 2016 combined Atlantic and Mississippi Flyway tundra swan count was 113,593 swans with a 3-year running average of 111,892. Further, the Eastern Population tundra swan population has trended upward in recent years and is currently 40 percent above the population objective of 80,000 swans. Under the approved joint Flyway Management Plan for Eastern Population Tundra Swans, a 25 percent increase in hunting permits is allowed when the 3-year running average of the combined Atlantic and Mississippi Flyway mid-winter survey exceeds 110,000 swans.

9. Sandhill Cranes

Council Recommendations: The Atlantic and Mississippi Flyway Councils recommended that Tennessee's experimental sandhill crane hunting season be granted operational status for the 2017–18 season. Tennessee's sandhill crane season would consist of a maximum length of 60 days (no split) to be held between the outside dates of September 1 and January 31, a daily bag limit of 3 birds, and a season limit of 3 birds. Hunting would occur between sunrise and 3 p.m. daily. Per guidelines in the Eastern Population of Sandhill Cranes Management Plan (EP Plan) and based on the State's 5-year peak average of 23,193 birds, Tennessee would be allowed to issue a maximum of 2,319 tags during the 2017–18 season. Hunters will be required to take mandatory crane identification training, utilize Service-approved nontoxic shot shells, report harvest and tag birds, and complete a post-season survey.

The Central and Pacific Flyway Councils recommended (1) expansion of the existing sandhill crane hunting unit in southwestern Montana (Gallatin and Madison Counties and the Dillon/Twin Bridges/Cardwell hunt area) to include all of Beaverhead and Jefferson Counties, and (2) that allowable harvest be determined based on the formula described in the Pacific and Central Flyway Management Plan for the Rocky Mountain Population (RMP) of sandhill cranes.

Written Comments: A commenter opposed the hunting of sandhill cranes.

Service Response: We agree with the Mississippi Flyway Council to allow Tennessee's experimental sandhill crane hunting season be granted operational status for the 2017–18 season. The Eastern Population (EP) of sandhill cranes continues to increase and expand its range. The most recent 3-year average population estimate of 80,890 cranes, as determined by the 2015 EP crane fall survey, is the highest 3-year estimate since the survey began in 1979. Data collected from Tennessee's 3-year experimental season indicate an average annual harvest of 301 cranes, a harvest 75 percent below the annual maximum harvest threshold of 1,200 cranes set by Tennessee. The harvest also represents substantially less than 1 percent of the EP sandhill cranes and fell well within objectives set in the EP Plan. Additionally, the Council notes that the experimental season did not negatively impact distribution or peak abundance of EP sandhill cranes in Tennessee as EP crane numbers, as recorded by the fall survey, have increased during the 3 years of Tennessee's experimental season. Under the guidelines of the EP Plan, Tennessee will continue to issue permits, require mandatory harvest reporting, require a post-season hunter participation survey, and have mandatory crane identification training. These mechanisms will provide an accurate way to monitor EP crane harvest and ensure protection of the EP sandhill cranes.

Regarding the RMP crane harvest, we agree with the Central and Pacific Flyway Council's recommendation for expanding the RMP sandhill crane hunting areas in Montana to include all of Beaverhead and Jefferson Counties. The new hunt areas are consistent with the Pacific and Central Flyway Council's RMP sandhill crane management plan hunting area requirements.

Regarding the RMP crane harvest, as we discussed in the March 28, 2016, final rule (81 FR 17302), the current harvest strategy used to calculate the allowable harvest of the RMP of sandhill cranes does not fit well within the new regulatory process, similar to the Atlantic brant issue discussed above under 6. Brant. Currently, results of the fall abundance and recruitment surveys of RMP sandhill cranes, upon which the annual allowable harvest is based, will continue to be released between December 1 and January 31 each year, which is after the date for which proposed frameworks will be formulated in the new regulatory process. If the usual procedures for determining allowable harvest were used, data 2 to 4 years old would be used to determine the annual allocation for RMP sandhill cranes. Due to the variability in fall abundance and recruitment for this population, and their impact on the annual harvest allocations, we agree that relying on data that is 2 to 4 years old is not ideal. Thus, we agree that the formula to determine the annual allowable harvest for RMP sandhill cranes published in the March 28, 2016, final rule should be used under the new regulatory schedule and propose to utilize it as such.

The formula uses information on abundance and recruitment collected annually through operational monitoring programs, as well as constant values based on past research or monitoring for survival of fledglings to breeding age and harvest retrieval rate. The formula is:

$H = C \times P \times R \times L \times f$

Where:

H = total annual allowable harvest;
C = the average of the three most recent, reliable fall population indices;
P = the average proportion of fledged chicks in the fall population in the San Luis Valley during the most recent 3 years for which data are available;
R = estimated recruitment of fledged chicks to breeding age (current estimate is 0.5);
L = retrieval rate of 0.80 (allowance for an estimated 20 percent crippling loss based on hunter interviews); and
$f = (C/16{,}000)^3$ (a variable factor used to adjust the total harvest to achieve a desired effect on the entire population)

The 2016 fall RMP sandhill crane abundance estimate was 22,264 cranes, resulting in a 3-year (2014–16) average of 22,087 cranes, an increase from the previous 3-year average, which was 21,453 cranes. The RMP crane recruitment estimate was 8.84 percent young in the fall population, resulting in a 3-year (2014–16) average of 10.16 percent, an increase from the previous 3-year average, which was 9.41 percent. Using the above formula and the above most recent 3-year average abundance and recruitment estimates, the allowable harvest for the 2017–18 season is 2,362 cranes.

Regarding the hunting of sandhill cranes, we have annually established frameworks for the hunting of sandhill cranes since 1961. Currently, 16 States in the Mississippi, Central, and Pacific Flyways hold a sandhill crane season. Given the current population status, we conclude the final frameworks are commensurate with the population status.

14. Woodcock

In 2011, we implemented a harvest strategy for woodcock (76 FR 19876, April 8, 2011). The harvest strategy provides a transparent framework for making regulatory decisions for woodcock season length and bag limit while we work to improve monitoring and assessment protocols for this species. Utilizing the criteria developed for the strategy, the 3-year average for the Singing Ground Survey indices and associated confidence intervals fall within the ''moderate package'' for both the Eastern and Central Management Regions. As such, a ''moderate season'' for both management regions for the 2017–18 season is appropriate.

Specifics of the harvest strategy can be found at *https://www.fws.gov/migratorybirds/pdf/surveys-and-data/Webless%20Migratory%20Game%20Birds/American%20Woodcock%20pdf%20files/Interim%20Woodcock%20Harvest%20strategy%20-%20Feb%202,2010.pdf.*

16. Doves

Council Recommendations: The Atlantic and Mississippi Flyway Councils recommended use of the ''standard'' season framework comprising a 90-day season and 15-bird daily bag limit for States within the Eastern Management Unit (EMU). The daily bag limit could be composed of mourning doves and white-winged doves, singly or in combination. They also recommended that the closing framework date for the EMU be changed from January 15 to January 31.

The Mississippi and Central Flyway Councils recommended the use of the ''standard'' season package of a 15-bird daily bag limit and a 90-day season for the 2017–18 mourning dove season in the States within the Central Management Unit. They further recommended that the South Zone in Texas opening framework date be changed from ''the Friday nearest September 20th, but no earlier than September 17th'' to a fixed date of September 14 and that the Special White-winged Dove Area boundary be expanded from its current boundary to include the entire South Zone.

The Pacific Flyway Council recommended use of the ''standard'' season framework for States in the Western Management Unit (WMU) population of mourning doves. In Idaho, Nevada, Oregon, Utah, and Washington, the season length would be no more than 60 consecutive days with a daily bag limit of 15 mourning and white-winged doves in the aggregate. In Arizona and California, the season length would be no more than 60 consecutive days, which could be split between two periods, September 1–15 and November 1–January 15. In Arizona, during the first segment of the season, the daily bag limit would be 15 mourning and white-winged doves in the aggregate, of which no more than 10 could be white-winged doves. During the remainder of the season, the daily bag limit would be 15 mourning doves. In California, the daily bag limit would be 15 mourning and white-winged doves in the aggregate, of which no more than 10 could be white-winged doves. The Pacific Flyway Council also recommended allowing a 2-segment split season in Idaho, Nevada, Oregon, Utah, and Washington.

Written Comments: A commenter supported the proposed frameworks for dove hunting in California and Arizona. Another commenter supported extending the framework closing date to January 31 due to the general lack of hunting pressure.

Service Response: Based on the harvest strategies and current population status, we agree with the recommended selection of the ''standard'' season frameworks for doves in the Eastern, Central, and Western Management Units for the 2017–18 season.

We do not support the recommendation from the Atlantic and Mississippi Flyways to change the closing framework date for dove seasons in the EMU to January 31. We note that when this recommendation was presented to us in June, we requested information on the expected biological impacts of this change. That information has not been provided. We are also unclear as to what the EMU is trying to achieve with this recommendation, given that no additional harvest is expected. While we recognize that conducting a study to evaluate the biological impacts would be prohibitively expensive, we will work with the EMU to develop a feasible biological assessment.

We support the Central and Mississippi Flyways' recommendations to change the opening framework date for the South Dove Zone of Texas to a fixed date of September 14, to be implemented in the 2018–19 hunting season. Based on the statements made by the Flyways at the October SRC meeting, we understand that this proposed change meets all the needs of dove hunters in that zone. Thus, we will not entertain earlier dove opening framework dates in the South Zone unless data are provided that show the impacts on the biology and harvest of doves.

We agree with the Central and Mississippi Flyways' recommendations to expand the boundary of Texas' Special White-winged Dove Area to match that of the South Dove Zone for the 2017–18 season. Available evidence indicates that white-winged dove abundance continues to increase, and this change will allow additional harvest opportunities on this species, with minimal impacts to mourning and white-tipped doves.

We also agree with the Pacific Flyway Council's recommendation to allow a 2-segment split season in Idaho, Nevada, Oregon, Utah, and Washington. Estimated abundance of the Western Management Unit Population (WMU) of mourning doves was 37,044,000 in 2015, and was predicted to be 45,220,000 in 2016 (2016 actual abundance estimates are not yet available). The 2015 observed and 2016 predicted abundance estimates are well above the thresholds that would result in a closed (<11,600,000 doves) or restrictive (<19,300,000 doves) hunting season as prescribed in the National Mourning Dove Harvest Strategy. The estimated annual harvest rates during 2003–2015 for WMU hatch-year and after-hatch-year doves was 4.4 percent and 3.7 percent, respectively. Mourning dove harvest may increase under this proposal; however, any increase is expected to constitute a small percentage of the overall mourning dove harvest among the northern States in the WMU. Harvest Information Program data indicate 85 percent of the mourning dove harvest in the northern States of the WMU occurs during the first 2 weeks of September, a pattern that is similar to most other States in the United States. The option to split the dove season in Idaho, Nevada, Oregon, Utah, and Washington provides more flexibility to the States in setting doves seasons, considering that dove season length increased to 60 days starting in 2015, compared to 30 days during 1987–2014. Currently, all States in the Eastern Management Unit, the Central Management Unit, and southern States in the Western Management Unit are allowed to split their dove seasons into two or three segments. Thus, this change will make regulations regarding split dove seasons similar in all States within the Pacific Flyway, and result in greater consistency throughout all three dove management units.

17. Alaska

Council Recommendations: The Pacific Flyway Council recommended an open season for the emperor goose with a quota of 1,000 geese allotted to the State of Alaska.

Service Response: We agree with the Pacific Flyway Council's recommendation to open the season for the emperor goose with a quota of 1,000 geese allotted to the State of Alaska. The Emperor goose hunting season has been closed since 1986, and the population has shown a relatively steady population increase since that time. In 2016, the emperor goose breeding index from the Yukon-Kuskokwim Delta Coastal Zone survey was 34,100 geese, which was 30 percent greater than the count of 26,200 in 2015. During the past 10 years, the index increased 5 percent per year. The Pacific Flyway Council's management plan for this species was revised in 2016, and specifies a population objective of 34,100 geese (2016 abundance level). The plan allows for an open season with an allowable harvest quota of 1,000 emperor geese when the breeding index is above 23,000 geese, and provides that harvest restrictions will be considered if the breeding population index is between 23,000 and 28,000 geese. If the population index declines below 23,000 emperor geese, the hunting season will be closed.

Additionally, we prepared an environmental assessment (EA) on the hunting of emperor geese in Alaska as allowed under the Pacific Flyway Council and Alaska Migratory Bird Co-management Council's management plan. A copy of the EA and specifics of the two alternatives we analyzed can be found at either *http://www.regulations.gov* or on our Web site at *https://www.fws.gov/birds/index.php*. The EA concluded that the hunt is expected to result in a limited increase (≤1,000) in emperor goose harvest, but have negligible impact to habitat and overall population status. The action also is not expected to have any significant impacts on other wildlife species and their habitats, including endangered and threatened species. However, the action is expected to have positive impacts on the socioeconomic environment in localized areas where emperor geese occur and are hunted. We conclude the preferred action will allow continued positive growth of the emperor goose population. We have fulfilled our National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*) obligation with the preparation of an EA, and, therefore, an environmental impact statement (EIS) is not required.

Required Determinations

Executive Order 13771—Reducing Regulation and Controlling Regulatory Costs

This action is not subject to Executive Order (E.O.) 13771 (82 FR 9339, February 3, 2017) because it is issued with respect to routine hunting and fishing activities.

National Environmental Policy Act (NEPA) Consideration

The programmatic document, ''Second Final Supplemental Environmental Impact Statement: Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (EIS 20130139),'' filed with the Environmental Protection Agency (EPA) on May 24, 2013, addresses NEPA compliance by the Service for issuance of the annual framework regulations for hunting of migratory game bird species. We published a notice of availability in the **Federal Register** on May 31, 2013 (78 FR 32686), and our Record of Decision on July 26, 2013 (78 FR 45376). We also address NEPA compliance for waterfowl hunting frameworks through the annual preparation of separate environmental assessments, the most recent being ''Duck Hunting Regulations for 2017–18,'' with its corresponding April 7, 2017, finding of no significant impact. The programmatic document as well the separate environmental assessments are available on our Web site at *https://www.fws.gov/birds/index.php.* or from the address indicated under the caption **FOR FURTHER INFORMATION CONTACT**.

Endangered Species Act Consideration

Section 7 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), provides that, ''The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act'' (and) shall ''insure that any action authorized, funded, or carried out * * * is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of [critical] habitat. * * *.'' Consequently, we conducted formal consultations to ensure that actions resulting from these regulations would

not likely jeopardize the continued existence of endangered or threatened species or result in the destruction or adverse modification of their critical habitat. Findings from these consultations are included in a biological opinion, which concluded that the regulations are not likely to jeopardize the continued existence of any endangered or threatened species. Additionally, these findings may have caused modification of some regulatory measures previously proposed, and the final frameworks reflect any such modifications. Our biological opinions resulting from this section 7 consultation are public documents available for public inspection at the address indicated under **ADDRESSES**.

Regulatory Planning and Review (Executive Orders 12866 and 13563)

E.O. 12866 provides that the Office of Information and Regulatory Affairs (OIRA) will review all significant rules. OIRA has reviewed this rule and has determined that this rule is significant because it would have an annual effect of $100 million or more on the economy.

E.O. 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The executive order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements.

An economic analysis was prepared for the 2013–14 season. This analysis was based on data from the 2011 National Hunting and Fishing Survey, the most recent year for which data are available (see discussion in Regulatory Flexibility Act section below). We used this analysis again for the 2017–18 season. This analysis estimated consumer surplus for three alternatives for duck hunting (estimates for other species are not quantified due to lack of data). The alternatives are (1) issue restrictive regulations allowing fewer days than those issued during the 2012–13 season, (2) issue moderate regulations allowing more days than those in alternative 1, and (3) issue liberal regulations identical to the regulations in the 2012–13 season. For the 2013–14 season, we chose Alternative 3, with an estimated consumer surplus across all flyways of $317.8–$416.8 million. We also chose alternative 3 for the 2009–10, the 2010–11, the 2011–12, the 2012–13, the 2014–15, the 2015–16, the 2016–17, and the 2017–18 seasons. The 2013–14 analysis is part of the record for this rule and is available at *http://www.regulations.gov* at Docket No. FWS–HQ–MB–2016–0051.

Regulatory Flexibility Act

The annual migratory bird hunting regulations have a significant economic impact on substantial numbers of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). We analyzed the economic impacts of the annual hunting regulations on small business entities in detail as part of the 1981 cost-benefit analysis. This analysis was revised annually from 1990–95. In 1995, the Service issued a Small Entity Flexibility Analysis (Analysis), which was subsequently updated in 1996, 1998, 2004, 2008, and 2013. The primary source of information about hunter expenditures for migratory game bird hunting is the National Hunting and Fishing Survey, which is conducted at 5-year intervals. The 2013 Analysis was based on the 2011 National Hunting and Fishing Survey and the U.S. Department of Commerce's County Business Patterns, from which it was estimated that migratory bird hunters would spend approximately $1.5 billion at small businesses in 2013. Copies of the Analysis are available upon request from the Division of Migratory Bird Management (see **FOR FURTHER INFORMATION CONTACT**) or from *http://www.regulations.gov* at Docket No. FWS–HQ–MB–2016–0051.

Small Business Regulatory Enforcement Fairness Act

This final rule is a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. For the reasons outlined above, this rule would have an annual effect on the economy of $100 million or more. However, because this rule would establish hunting seasons, we do not plan to defer the effective date under the exemption contained in 5 U.S.C. 808(1).

Paperwork Reduction Act

This rule does not contain any new information collection that requires approval under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). We may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number. OMB has reviewed and approved the information collection requirements associated with migratory bird surveys and assigned the following OMB control numbers:

- 1018–0019—North American Woodcock Singing Ground Survey (expires 5/31/2018).
- 1018–0023—Migratory Bird Surveys (expires 6/30/2017; in accordance with 5 CFR 1320.10, the agency may continue to conduct or sponsor this collection of information while the submission is pending at OMB). Includes Migratory Bird Harvest Information Program, Migratory Bird Hunter Surveys, Sandhill Crane Survey, and Parts Collection Survey.

Unfunded Mandates Reform Act

We have determined and certify, in compliance with the requirements of the Unfunded Mandates Reform Act, 2 U.S.C. 1502 *et seq.,* that this rulemaking would not impose a cost of $100 million or more in any given year on local or State government or private entities. Therefore, this rule is not a ''significant regulatory action'' under the Unfunded Mandates Reform Act.

Civil Justice Reform—Executive Order 12988

The Department, in promulgating this rule, has determined that this rule will not unduly burden the judicial system and that it meets the requirements of sections 3(a) and 3(b)(2) of E.O. 12988.

Takings Implication Assessment

In accordance with E.O. 12630, this rule, authorized by the Migratory Bird Treaty Act, does not have significant takings implications and does not affect any constitutionally protected property rights. This rule would not result in the physical occupancy of property, the physical invasion of property, or the regulatory taking of any property. In fact, this rule would allow hunters to exercise otherwise unavailable privileges and, therefore, reduce restrictions on the use of private and public property.

Energy Effects—Executive Order 13211

E.O. 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. While this rule is a significant regulatory action under E.O. 12866, it is not expected to adversely affect energy supplies, distribution, or use. Therefore, this action is not a significant energy action and no Statement of Energy Effects is required.

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951), E.O. 13175, and 512 DM 2, we have evaluated possible effects on Federally recognized Indian tribes and have determined that there are no effects on Indian trust resources. We have consulted with Tribes affected by this rule.

Federalism Effects

Due to the migratory nature of certain species of birds, the Federal Government has been given responsibility over these species by the Migratory Bird Treaty Act. We annually prescribe frameworks from which the States make selections regarding the hunting of migratory birds, and we employ guidelines to establish special regulations on Federal Indian reservations and ceded lands. This process preserves the ability of the States and tribes to determine which seasons meet their individual needs. Any State or Indian tribe may be more restrictive than the Federal frameworks at any time. The frameworks are developed in a cooperative process with the States and the Flyway Councils. This process allows States to participate in the development of frameworks from which they will make selections, thereby having an influence on their own regulations. These rules do not have a substantial direct effect on fiscal capacity, change the roles or responsibilities of Federal or State governments, or intrude on State policy or administration. Therefore, in accordance with E.O. 13132, these regulations do not have significant federalism effects and do not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

Regulations Promulgation

The rulemaking process for migratory game bird hunting, by its nature, operates under a time constraint as seasons must be established each year or hunting seasons remain closed. However, we intend that the public be provided extensive opportunity for public input and involvement in compliance with Administrative Procedure Act requirements. Thus, when the preliminary proposed rulemaking was published, we established what we concluded were the longest periods possible for public comment and the most opportunities for public involvement. We also provided notification of our participation in multiple Flyway Council meetings, opportunities for additional public review and comment on all Flyway Council proposals for regulatory change, and opportunities for additional public review during the SRC meeting. Therefore, sufficient public notice and opportunity for involvement have been given to affected persons regarding the migratory bird hunting frameworks for the 2017–18 hunting seasons.

Further, after establishment of the final frameworks, States need sufficient time to conduct their own public processes to select season dates and limits; to communicate those selections to us; and to establish and publicize the necessary regulations and procedures to implement their decisions Thus, if there were a delay in the effective date of these regulations after this final rulemaking, States might not be able to meet their own administrative needs and requirements.

For the reasons cited above, we find that ''good cause'' exists, within the terms of 5 U.S.C. 553(d)(3) of the Administrative Procedure Act, and these frameworks will take effect immediately upon publication.

Therefore, under authority of the Migratory Bird Treaty Act (July 3, 1918), as amended (16 U.S.C. 703–711), we prescribe final frameworks setting forth the species to be hunted, the daily bag and possession limits, the shooting hours, the season lengths, the earliest opening and latest closing season dates, and hunting areas, from which State conservation agency officials will select hunting season dates and other options. Upon receipt of season selections from these officials, we will publish a final rulemaking amending 50 CFR part 20 to reflect seasons, limits, and shooting hours for the United States for the 2017–18 seasons. The rules that eventually will be promulgated for the 2017–18 hunting season are authorized under 16 U.S.C. 703–712 and 16 U.S.C. 742 a–j.

List of Subjects in 50 CFR Part 20

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

Dated: May 17, 2017.

Maureen D. Foster,

Assistant Secretary for Fish and Wildlife and Parks.

Final Regulations Frameworks for 2017–18 Hunting Seasons on Certain Migratory Game Birds

Pursuant to the Migratory Bird Treaty Act and delegated authorities, the Department of the Interior approved the following frameworks for season lengths, shooting hours, bag and possession limits, and outside dates within which States may select seasons for hunting migratory game birds between the dates of September 1, 2017, and March 10, 2018. These frameworks are summarized below.

General

Dates: All outside dates noted below are inclusive.

Shooting and Hawking (taking by falconry) Hours: Unless otherwise specified, from one-half hour before sunrise to sunset daily.

Possession Limits: Unless otherwise specified, possession limits are three times the daily bag limit.

Permits: For some species of migratory birds, the Service authorizes the use of permits to regulate harvest or monitor their take by sport hunters, or both. In many cases (*e.g.,* tundra swans, some sandhill crane populations), the Service determines the amount of harvest that may be taken during hunting seasons during its formal regulations-setting process, and the States then issue permits to hunters at levels predicted to result in the amount of take authorized by the Service. Thus, although issued by States, the permits would not be valid unless the Service approved such take in its regulations.

These Federally authorized, State-issued permits are issued to individuals, and only the individual whose name and address appears on the permit at the time of issuance is authorized to take migratory birds at levels specified in the permit, in accordance with provisions of both Federal and State regulations governing the hunting season. The permit must be carried by the permittee when exercising its provisions and must be presented to any law enforcement officer upon request. The permit is not transferrable or assignable to another individual, and may not be sold, bartered, traded, or otherwise provided to another person. If the permit is altered or defaced in any way, the permit becomes invalid.

Flyways and Management Units

Waterfowl Flyways

Atlantic Flyway: Includes Connecticut, Delaware, Florida, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, and West Virginia.

Mississippi Flyway: Includes Alabama, Arkansas, Illinois, Indiana, Iowa, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Ohio, Tennessee, and Wisconsin.

Central Flyway: Includes Colorado (east of the Continental Divide), Kansas, Montana (Counties of Blaine, Carbon, Fergus, Judith Basin, Stillwater, Sweetgrass, Wheatland, and all counties east thereof), Nebraska, New Mexico (east of the Continental Divide except the Jicarilla Apache Indian Reservation), North Dakota, Oklahoma, South Dakota, Texas, and Wyoming (east of the Continental Divide).

Pacific Flyway: Includes Alaska, Arizona, California, Idaho, Nevada, Oregon, Utah, Washington, and those portions of Colorado, Montana, New Mexico, and Wyoming not included in the Central Flyway.

Duck Management Units

High Plains Mallard Management Unit: Roughly defined as that portion of the Central Flyway that lies west of the 100th meridian.

Columbia Basin Mallard Management Unit: In Washington, all areas east of the Pacific Crest Trail and east of the Big White Salmon River in Klickitat County; and in Oregon, the counties of Gilliam, Morrow, and Umatilla.

Mourning Dove Management Units

Eastern Management Unit: All States east of the Mississippi River, and Louisiana.

Central Management Unit: Arkansas, Colorado, Iowa, Kansas, Minnesota, Missouri, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, and Wyoming.

Western Management Unit: Arizona, California, Idaho, Nevada, Oregon, Utah, and Washington.

Woodcock Management Regions

Eastern Management Region: Connecticut, Delaware, Florida, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, and West Virginia.

Central Management Region: Alabama, Arkansas, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Nebraska, North Dakota, Ohio, Oklahoma, South Dakota, Tennessee, Texas, and Wisconsin.

Other geographic descriptions are contained in a later portion of this document.

Definitions

For the purpose of the hunting regulations listed below, the collective terms ''dark'' and ''light'' geese include the following species:

Dark geese: Canada geese, white-fronted geese, brant (except in Alaska, California, Oregon, Washington, and the Atlantic Flyway), and all other goose species except light geese.

Light geese: Snow (including blue) geese and Ross's geese.

Area, Zone, and Unit Descriptions: Geographic descriptions related to regulations are contained in a later portion of this document.

Area-Specific Provisions: Frameworks for open seasons, season lengths, bag and possession limits, and other special provisions are listed below by Flyway.

Waterfowl Seasons in the Atlantic Flyway

In the Atlantic Flyway States of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Jersey, North Carolina, and Pennsylvania, where Sunday hunting is prohibited Statewide by State law, all Sundays are closed to all take of migratory waterfowl (including mergansers and coots).

Special Youth Waterfowl Hunting Days

Outside Dates: States may select 2 days per duck-hunting zone, designated as ''Youth Waterfowl Hunting Days,'' in addition to their regular duck seasons. The days must be held outside any regular duck season on weekends, holidays, or other non-school days when youth hunters would have the maximum opportunity to participate. The days may be held up to 14 days before or after any regular duck-season frameworks or within any split of a regular duck season, or within any other open season on migratory birds.

Daily Bag Limits: The daily bag limits may include ducks, geese, tundra swans, mergansers, coots, moorhens, and gallinules and would be the same as those allowed in the regular season. Flyway species and area restrictions would remain in effect.

Shooting Hours: One-half hour before sunrise to sunset.

Participation Restrictions: States may use their established definition of age for youth hunters. However, youth hunters may not be over the age of 17. In addition, an adult at least 18 years of age must accompany the youth hunter into the field. This adult may not duck hunt but may participate in other seasons that are open on the special youth day. Youth hunters 16 years of age and older must possess a Federal Migratory Bird Hunting and Conservation Stamp (also known as Federal Duck Stamp). Tundra swans may only be taken by participants possessing applicable tundra swan permits.

Special September Teal Season

Outside Dates: Between September 1 and September 30, an open season on all species of teal may be selected by the following States in areas delineated by State regulations:

Atlantic Flyway: Delaware, Florida, Georgia, Maryland, North Carolina, South Carolina, and Virginia.

Mississippi Flyway: Alabama, Arkansas, Illinois, Indiana, Iowa, Kentucky, Louisiana, Michigan, Mississippi, Missouri, Ohio, Tennessee, and Wisconsin. The seasons in Iowa, Michigan, and Wisconsin are experimental.

Central Flyway: Colorado (part), Kansas, Nebraska, New Mexico (part), Oklahoma, and Texas. The season in the northern portion of Nebraska is experimental.

Hunting Seasons and Daily Bag Limits: Not to exceed 16 consecutive hunting days in the Atlantic, Mississippi, and Central Flyways. The daily bag limit is 6 teal.

Shooting Hours

Atlantic Flyway: One-half hour before sunrise to sunset, except in South Carolina, where the hours are from sunrise to sunset.

Mississippi and Central Flyways: One-half hour before sunrise to sunset, except in the States of Arkansas, Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio, and Wisconsin, where the hours are from sunrise to sunset.

Special September Duck Seasons

Florida, Kentucky, and Tennessee: In lieu of a special September teal season, a 5-consecutive-day teal/wood duck season may be selected in September. The daily bag limit may not exceed 6 teal and wood ducks in the aggregate, of which no more than 2 may be wood ducks. In addition, a 4-consecutive-day experimental teal-only season may be selected in September either immediately before or immediately after the 5-consecutive-day teal/wood duck season. The daily bag limit is 6 teal.

Iowa: In lieu of an experimental special September teal season, Iowa may hold up to 5 days of its regular duck hunting season in September. All ducks that are legal during the regular duck season may be taken during the September segment of the season. The September season segment may commence no earlier than the Saturday nearest September 20 (September 23). The daily bag and possession limits will be the same as those in effect during the remainder of the regular duck season. The remainder of the regular duck season may not begin before October 10.

Waterfowl

Atlantic Flyway

Ducks, Mergansers, and Coots

Outside Dates: Between the Saturday nearest September 24 (September 23) and the last Sunday in January (January 28).

Hunting Seasons and Duck Limits: 60 days. The daily bag limit is 6 ducks, including no more than 4 mallards (no more than 2 of which can be females), 2 black ducks, 1 pintail, 1 mottled duck, 1 fulvous whistling duck, 3 wood ducks, 2 redheads, 2 scaup, 2 canvasbacks, 4 scoters, 4 eiders, and 4 long-tailed ducks.

Closures: The season on harlequin ducks is closed.

Merganser Limits: The daily bag limit of mergansers is 5, only 2 of which may be hooded mergansers. In States that include mergansers in the duck bag limit, the daily limit is the same as the duck bag limit, only 2 of which may be hooded mergansers.

Coot Limits: The daily bag limit is 15 coots.

Lake Champlain Zone, New York: The waterfowl seasons, limits, and shooting hours should be the same as those selected for the Lake Champlain Zone of Vermont.

Connecticut River Zone, Vermont: The waterfowl seasons, limits, and shooting hours should be the same as those selected for the Inland Zone of New Hampshire.

Zoning and Split Seasons: Delaware, Florida, Georgia, Maryland, North Carolina, Rhode Island, South Carolina, Virginia, and West Virginia may split their seasons into three segments; Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, and Vermont may select hunting seasons by zones and may split their seasons into two segments in each zone.

Scoters, Eiders, and Long-tailed Ducks

Special Sea Duck Seasons

Connecticut, Delaware, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Rhode Island, South Carolina, and Virginia may select a Special Sea Duck Season in designated Special Sea Duck Areas. If a Special Sea Duck Season is selected, scoters, eiders, and long-tailed ducks may be taken in the designated Special Sea Duck Area(s) only during the Special Sea Duck Season dates; scoters, eiders, and long-tailed ducks may be taken outside of Special Sea Duck Area(s) during the regular duck season, in accordance with the frameworks for ducks, mergansers, and coots specified above.

Outside Dates: Between September 15 and January 31.

Special Sea Duck Seasons and Daily Bag Limits: 60 consecutive hunting days, or 60 days that are concurrent with the regular duck season, with a daily bag limit of 5, singly or in the aggregate, of the listed sea duck species, including no more than 4 scoters, 4 eiders, and 4 long-tailed ducks. Within the special sea duck areas, during the regular duck season in the Atlantic Flyway, States may choose to allow the above sea duck limits in addition to the limits applying to other ducks during the regular season. In all other areas, sea ducks may be taken only during the regular open season for ducks and are part of the regular duck season daily bag (not to exceed 4 scoters, 4 eiders, and 4 long-tailed ducks) and possession limits.

Special Sea Duck Areas: In all coastal waters and all waters of rivers and streams seaward from the first upstream bridge in Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, and New York; in New Jersey, all coastal waters seaward from the International Regulations for Preventing Collisions at Sea (COLREGS) Demarcation Lines shown on National Oceanic and Atmospheric Administration (NOAA) Nautical Charts and further described in 33 CFR 80.165, 80.501, 80.502, and 80.503; in any waters of the Atlantic Ocean and in any tidal waters of any bay that are separated by at least 1 mile of open water from any shore, island, and emergent vegetation in South Carolina and Georgia; and in any waters of the Atlantic Ocean and in any tidal waters of any bay that are separated by at least 800 yards of open water from any shore, island, and emergent vegetation in Delaware, Maryland, North Carolina, and Virginia; and provided that any such areas have been described, delineated, and designated as special sea duck hunting areas under the hunting regulations adopted by the respective States.

Canada Geese

Special Early Canada Goose Seasons

A Canada goose season of up to 15 days during September 1–15 may be selected for the Eastern Unit of Maryland. Seasons not to exceed 30 days during September 1–30 may be selected for Connecticut, Florida, Georgia, New Jersey, New York (Long Island Zone only), North Carolina, Rhode Island, and South Carolina. Seasons may not exceed 25 days during September 1–25 in the remainder of the Flyway. Areas open to the hunting of Canada geese must be described, delineated, and designated as such in each State's hunting regulations.

Daily Bag Limits: Not to exceed 15 Canada geese.

Shooting Hours: One-half hour before sunrise to sunset, except that during any special early Canada goose season, shooting hours may extend to one-half hour after sunset if all other waterfowl seasons are closed in the specific applicable area.

Regular Canada Goose Seasons

Season Lengths, Outside Dates, and Limits: Specific regulations for Canada geese are shown below by State. These seasons may also include white-fronted geese in an aggregate daily bag limit. Unless specified otherwise, seasons may be split into two segments.

Connecticut

North Atlantic Population (NAP) Zone: Between October 1 and February 15, a 70-day season may be held with a 3-bird daily bag limit.

Atlantic Population (AP) Zone: A 50-day season may be held between October 10 and February 5, with a 3-bird daily bag limit.

South Zone: A special season may be held between January 15 and February 15, with a 5-bird daily bag limit.

Resident Population (RP) Zone: An 80-day season may be held between October 1 and February 15, with a 5-bird daily bag limit. The season may be split into 3 segments.

Delaware: A 50-day season may be held between November 15 and February 5, with a 2-bird daily bag limit.

Florida: An 80-day season may be held between October 1 and March 10, with a 5-bird daily bag limit. The season may be split into 3 segments.

Georgia: An 80-day season may be held between October 1 and March 10, with a 5-bird daily bag limit. The season may be split into 3 segments.

Maine: A 70-day season may be held Statewide between October 1 and February 15, with a 3-bird daily bag limit.

Maryland

RP Zone: An 80-day season may be held between November 15 and March 10, with a 5-bird daily bag limit. The season may be split into 3 segments.

AP Zone: A 50-day season may be held between November 15 and February 5, with a 2-bird daily bag limit.

Massachusetts

NAP Zone: A 70-day season may be held between October 1 and February

15, with a 3-bird daily bag limit. Additionally, a special season may be held from January 15 to February 15, with a 5-bird daily bag limit.

AP Zone: A 50-day season may be held between October 10 and February 5, with a 3-bird daily bag limit.

New Hampshire: A 70-day season may be held Statewide between October 1 and February 15, with a 3-bird daily bag limit.

New Jersey

AP Zone: A 50-day season may be held between the fourth Saturday in October (October 28) and February 5, with a 3-bird daily bag limit.

RP Zone: An 80-day season may be held between the fourth Saturday in October (October 28) and February 15, with a 5-bird daily bag limit. The season may be split into 3 segments.

Special Late Goose Season Area: A special season may be held in designated areas of North and South New Jersey from January 15 to February 15, with a 5-bird daily bag limit.

New York

NAP Zone: Between October 1 and February 15, a 70-day season may be held, with a 3-bird daily bag limit in both the High Harvest and Low Harvest areas.

AP Zone: A 50-day season may be held between the fourth Saturday in October (October 28), except in the Lake Champlain Area where the opening date is October 10, through February 5, with a 3-bird daily bag limit.

Western Long Island RP Zone: A 107-day season may be held between the Saturday nearest September 24 (September 23) and March 10, with an 8-bird daily bag limit. The season may be split into 3 segments.

Rest of State RP Zone: An 80-day season may be held between the fourth Saturday in October (October 28) and March 10, with a 5-bird daily bag limit. The season may be split into 3 segments.

North Carolina

SJBP Zone: A 70-day season may be held between October 1 and December 31, with a 5-bird daily bag limit.

RP Zone: An 80-day season may be held between October 1 and March 10, with a 5-bird daily bag limit. The season may be split into 3 segments.

Northeast Hunt Unit: A 14-day season may be held between the Saturday prior to December 25 (December 23) and January 31, with a 1-bird daily bag limit.

Pennsylvania

SJBP Zone: A 78-day season may be held between the first Saturday in October (October 7) and February 15, with a 3-bird daily bag limit.

RP Zone: An 80-day season may be held between the fourth Saturday in October (October 28) and March 10, with a 5-bird daily bag limit. The season may be split into 3 segments.

AP Zone: A 50-day season may be held between the fourth Saturday in October (October 28) and February 5, with a 3-bird daily bag limit.

Rhode Island: A 70-day season may be held between October 1 and February 15, with a 3-bird daily bag limit. A special late season may be held in designated areas from January 15 to February 15, with a 5-bird daily bag limit.

South Carolina: In designated areas, an 80-day season may be held between October 1 and March 10, with a 5-bird daily bag limit. The season may be split into 3 segments.

Vermont

Lake Champlain Zone and Interior Zone: A 50-day season may be held between October 10 and February 5 with a 3-bird daily bag limit.

Connecticut River Zone: A 70-day season may be held between October 1 and February 15, with a 3-bird daily bag limit.

Virginia

SJBP Zone: A 40-day season may be held between November 15 and January 14, with a 3-bird daily bag limit. Additionally, a special late season may be held between January 15 and February 15, with a 5-bird daily bag limit.

AP Zone: A 50-day season may be held between November 15 and February 5, with a 2-bird daily bag limit.

RP Zone: An 80-day season may be held between November 15 and March 10, with a 5-bird daily bag limit. The season may be split into 3 segments.

West Virginia: An 80-day season may be held between October 1 and March 10, with a 5-bird daily bag limit. The season may be split into 3 segments in each zone.

Light Geese

Season Lengths, Outside Dates, and Limits: States may select a 107-day season between October 1 and March 10, with a 25-bird daily bag limit and no possession limit. States may split their seasons into three segments.

Brant

Season Lengths, Outside Dates, and Limits: States may select a 60-day season between the Saturday nearest September 24 (September 23) and January 31, with a 2-bird daily bag limit. States may split their seasons into two segments.

Mississippi Flyway

Ducks, Mergansers, and Coots

Outside Dates: Between the Saturday nearest September 24 (September 23) and the last Sunday in January (January 28).

Hunting Seasons and Duck Limits: The season may not exceed 60 days, with a daily bag limit of 6 ducks, including no more than 4 mallards (no more than 2 of which may be females), 1 mottled duck, 2 black ducks, 1 pintail, 3 wood ducks, 2 canvasbacks, 3 scaup, and 2 redheads.

Merganser Limits: The daily bag limit is 5, only 2 of which may be hooded mergansers. In States that include mergansers in the duck bag limit, the daily limit is the same as the duck bag limit, only 2 of which may be hooded mergansers.

Coot Limits: The daily bag limit is 15 coots.

Zoning and Split Seasons: Illinois, Indiana, Iowa, Kentucky, Louisiana, Michigan, Minnesota, Missouri, Ohio, Tennessee, and Wisconsin may select hunting seasons by zones.

In Indiana, Iowa, Kentucky, Louisiana, Michigan, Minnesota, Missouri, Ohio, Tennessee, and Wisconsin, the season may be split into two segments in each zone.

In Alabama, Arkansas, and Mississippi, the season may be split into three segments.

Geese

Season Lengths, Outside Dates, and Limits

Canada Geese: States may select seasons for Canada geese not to exceed 107 days with a 5-bird daily bag limit September 1–30 (except in the Intensive Harvest Zone in Minnesota, which may have up to a 10-bird daily bag limit) and a 3-bird daily bag limit for the remainder of the season. Seasons may be held between September 1 and February 15 and may be split into 4 segments.

White-fronted Geese and Brant: Arkansas, Illinois, Louisiana, Kentucky, Missouri, Mississippi, and Tennessee may select a season for white-fronted geese not to exceed 74 days with 3 geese daily, or 88 days with 2 geese daily, or 107 days with 1 goose daily between September 1 and February 15; Alabama, Iowa, Indiana, Michigan, Minnesota, Ohio, and Wisconsin may select a season for white-fronted geese not to exceed 107 days with 5 geese daily, in aggregate with dark geese between September 1 and February 15. States

may select a season for brant not to exceed 70 days with 2 brant daily, or 107 days with 1 brant daily with outside dates the same as for Canada geese; alternately, States may include brant in an aggregate goose bag limit with either Canada geese, white-fronted geese, or dark geese.

Light Geese: States may select seasons for light geese not to exceed 107 days, with 20 geese daily between September 1 and February 15. There is no possession limit for light geese.

Shooting Hours: One-half hour before sunrise to sunset, except that during September 1–15 shooting hours may extend to one-half hour after sunset for Canada geese if all other waterfowl and crane seasons are closed in the specific applicable area.

Split Seasons: Seasons for geese may be split into four segments unless otherwise indicated.

Central Flyway

Ducks, Mergansers, and Coots

Outside Dates: Between the Saturday nearest September 24 (September 23) and the last Sunday in January (January 28).

Hunting Seasons

High Plains Mallard Management Unit (roughly defined as that portion of the Central Flyway that lies west of the 100th meridian): 97 days. The last 23 days must run consecutively and may start no earlier than the Saturday nearest December 10 (December 9).

Remainder of the Central Flyway: 74 days.

Duck Limits: The daily bag limit is 6 ducks, with species and sex restrictions as follows: 5 mallards (no more than 2 of which may be females), 3 scaup, 2 redheads, 3 wood ducks, 1 pintail, and 2 canvasbacks. In Texas, the daily bag limit on mottled ducks is 1, except that no mottled ducks may be taken during the first 5 days of the season. In addition to the daily limits listed above, the States of Montana, North Dakota, South Dakota, and Wyoming, in lieu of selecting an experimental September teal season, may include an additional daily bag and possession limit of 2 and 6 blue-winged teal, respectively, during the first 16 days of the regular duck season in each respective duck hunting zone. These extra limits are in addition to the regular duck bag and possession limits.

Merganser Limits: The daily bag limit is 5 mergansers, only 2 of which may be hooded mergansers. In States that include mergansers in the duck daily bag limit, the daily limit may be the same as the duck bag limit, only two of which may be hooded mergansers.

Coot Limits: The daily bag limit is 15 coots.

Zoning and Split Seasons: Colorado, Kansas (Low Plains portion), Montana, Nebraska, New Mexico, Oklahoma (Low Plains portion), South Dakota (Low Plains portion), Texas (Low Plains portion), and Wyoming may select hunting seasons by zones.

In Colorado, Kansas, Montana, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, and Wyoming, the regular season may be split into two segments.

Geese

Special Early Canada Goose Seasons: In Kansas, Nebraska, Oklahoma, South Dakota, and Texas, Canada goose seasons of up to 30 days during September 1–30 may be selected. In Colorado, New Mexico, Montana, and Wyoming, Canada goose seasons of up to 15 days during September 1–15 may be selected. In North Dakota, Canada goose seasons of up to 22 days during September 1–22 may be selected. The daily bag limit may not exceed 5 Canada geese, except in Kansas, Nebraska, and Oklahoma, where the daily bag limit may not exceed 8 Canada geese and in North Dakota and South Dakota, where the daily bag limit may not exceed 15 Canada geese. Areas open to the hunting of Canada geese must be described, delineated, and designated as such in each State's hunting regulations.

Shooting Hours: One-half hour before sunrise to sunset, except that during September 1–15 shooting hours may extend to one-half hour after sunset if all other waterfowl and crane seasons are closed in the specific applicable area.

Regular Goose Seasons

Split Seasons: Seasons for geese may be split into three segments. Three-way split seasons for Canada geese require Central Flyway Council and U.S. Fish and Wildlife Service approval, and a 3-year evaluation by each participating State.

Outside Dates: For dark geese, seasons may be selected between the outside dates of the Saturday nearest September 24 (September 23) and the Sunday nearest February 15 (February 18). For light geese, outside dates for seasons may be selected between the Saturday nearest September 24 (September 23) and March 10. In the Rainwater Basin Light Goose Area (East and West) of Nebraska, temporal and spatial restrictions that are consistent with the late-winter snow goose hunting strategy cooperatively developed by the Central Flyway Council and the Service are required.

Season Lengths and Limits

Light Geese: States may select a light goose season not to exceed 107 days. The daily bag limit for light geese is 50 with no possession limit.

Dark Geese: In Kansas, Nebraska, North Dakota, Oklahoma, South Dakota, and the Eastern Goose Zone of Texas, States may select a season for Canada geese (or any other dark goose species except white-fronted geese) not to exceed 107 days with a daily bag limit of 8. For white-fronted geese, these States may select either a season of 74 days with a bag limit of 3, or an 88-day season with a bag limit of 2, or a season of 107 days with a bag limit of 1.

In Colorado, Montana, New Mexico, and Wyoming, States may select seasons not to exceed 107 days. The daily bag limit for dark geese is 5 in the aggregate.

In the Western Goose Zone of Texas, the season may not exceed 95 days. The daily bag limit for Canada geese (or any other dark goose species except white-fronted geese) is 5. The daily bag limit for white-fronted geese is 2.

Pacific Flyway

Ducks, Mergansers, and Coots

Outside Dates: Between the Saturday nearest September 24 (September 23) and the last Sunday in January (January 28).

Hunting Seasons and Duck and Merganser Limits: 107 days. The daily bag limit is 7 ducks and mergansers, including no more than 2 female mallards, 1 pintail, 2 canvasbacks, 3 scaup, and 2 redheads. For scaup, the season length is 86 days, which may be split according to applicable zones and split duck hunting configurations approved for each State.

Coot, Common Moorhen, and Purple Gallinule Limits: The daily bag limit of coots, common moorhens, and purple gallinules is 25, singly or in the aggregate.

Zoning and Split Seasons: Arizona, California, Colorado, Idaho, Nevada, Oregon, Utah, Washington, and Wyoming may select hunting seasons by zones and may split their seasons into two segments.

Montana and New Mexico may split their seasons into three segments.

Colorado River Zone, California: Seasons and limits should be the same as seasons and limits selected in the adjacent portion of Arizona (South Zone).

Geese

Special Early Canada Goose Seasons: A Canada goose season of up to 15 days during September 1–20 may be selected. The daily bag limit may not exceed 5

Canada geese, except in Pacific County, Washington, where the daily bag limit may not exceed 15 Canada geese. Areas open to hunting of Canada geese in each State must be described, delineated, and designated as such in each State's hunting regulations.

Regular Goose Seasons

Season Lengths, Outside Dates, and Limits

Canada geese and brant: Except as subsequently noted, 107-day seasons may be selected with outside dates between the Saturday nearest September 24 (September 23) and the last Sunday in January (January 28). In Arizona, Colorado, Idaho, Montana, Nevada, New Mexico, Utah, and Wyoming, the daily bag limit is 4 Canada geese and brant in the aggregate. In California, Oregon, and Washington, the daily bag limit is 4 Canada geese. For brant, Oregon and Washington may select a 16-day season and California a 37-day season. Days must be consecutive. Washington and California may select hunting seasons for up to two zones. The daily bag limit is 2 brant and is in addition to other goose limits. In Oregon and California, the brant season must end no later than December 15.

White-fronted geese: Except as subsequently noted, 107-day seasons may be selected with outside dates between the Saturday nearest September 24 (September 23) and March 10. The daily bag limit is 10.

Light geese: Except as subsequently noted, 107-day seasons may be selected with outside dates between the Saturday nearest September 24 (September 23) and March 10. The daily bag limit is 20.

Split Seasons: Unless otherwise specified, seasons for geese may be split into up to 3 segments. Three-way split seasons for Canada geese and white-fronted geese require Pacific Flyway Council and U.S. Fish and Wildlife Service approval and a 3-year evaluation by each participating State.

California: The daily bag limit for Canada geese is 10.

Balance of State Zone: A Canada goose season may be selected with outside dates between the Saturday nearest September 24 (September 23) and March 10. In the Sacramento Valley Special Management Area, the season on white-fronted geese must end on or before December 28, and the daily bag limit is 3 white-fronted geese. In the North Coast Special Management Area, hunting days that occur after the last Sunday in January (January 28) should be concurrent with Oregon's South Coast Zone.

Oregon: The daily bag limit for light geese is 6 on or before the last Sunday in January (January 28).

Harney and Lake County Zone: For Lake County only, the daily white-fronted goose bag limit is 1.

Northwest Permit Zone: A Canada goose season may be selected with outside dates between the Saturday nearest September 24 (September 23) and March 10. Goose seasons may be split into 3 segments. The daily bag limit of light geese is 6. In the Tillamook County Management Area, the hunting season is closed on geese.

South Coast Zone: A Canada goose season may be selected with outside dates between the Saturday nearest September 24 (September 23) and March 10. The daily bag limit of Canada geese is 6. Hunting days that occur after the last Sunday in January (January 28) should be concurrent with California's North Coast Special Management Area. Goose seasons may be split into 3 segments.

Utah: A Canada goose and brant season may be selected in the Wasatch Front Zone with outside dates between the Saturday nearest September 24 (September 23) and the first Sunday in February (February 4).

Washington: The daily bag limit for light geese is 6.

Area 1: Goose season outside dates are between the Saturday nearest September 24 (September 23) and the last Sunday in January (January 28).

Areas 2A and 2B (Southwest Permit Zone): A Canada goose season may be selected with outside dates between the Saturday nearest September 24 (September 23) and March 10. Goose seasons may be split into 3 segments.

Area 4: Goose seasons may be split into 3 segments.

Permit Zones: In Oregon and Washington permit zones, the hunting season is closed on dusky Canada geese. A dusky Canada goose is any dark-breasted Canada goose (Munsell 10 YR color value five or less) with a bill length between 40 and 50 millimeters. Hunting of geese will only be by hunters possessing a State-issued permit authorizing them to do so. Shooting hours for geese may begin no earlier than sunrise. Regular Canada goose seasons in the permit zones of Oregon and Washington remain subject to the Memorandum of Understanding entered into with the Service regarding monitoring the impacts of take during the regular Canada goose season on the dusky Canada goose population.

Swans

In portions of the Pacific Flyway (Montana, Nevada, and Utah), an open season for taking a limited number of swans may be selected. Permits will be issued by the State and will authorize each permittee to take no more than 1 swan per season with each permit. Nevada may issue up to 2 permits per hunter. Montana and Utah may issue only 1 permit per hunter. Each State's season may open no earlier than the Saturday nearest October 1 (September 30). These seasons are also subject to the following conditions:

Montana: No more than 500 permits may be issued. The season must end no later than December 1. The State must implement a harvest-monitoring program to measure the species composition of the swan harvest and should use appropriate measures to maximize hunter compliance in reporting bill measurement and color information.

Utah: No more than 2,000 permits may be issued. During the swan season, no more than 10 trumpeter swans may be taken. The season must end no later than the second Sunday in December (December 10) or upon attainment of 10 trumpeter swans in the harvest, whichever occurs earliest. The Utah season remains subject to the terms of the Memorandum of Agreement entered into with the Service in August 2003, regarding harvest monitoring, season closure procedures, and education requirements to minimize the take of trumpeter swans during the swan season.

Nevada: No more than 650 permits may be issued. During the swan season, no more than 5 trumpeter swans may be taken. The season must end no later than the Sunday following January 1 (January 7) or upon attainment of 5 trumpeter swans in the harvest, whichever occurs earliest.

In addition, the States of Utah and Nevada must implement a harvest-monitoring program to measure the species composition of the swan harvest. The harvest-monitoring program must require that all harvested swans or their species-determinant parts be examined by either State or Federal biologists for the purpose of species classification. The States should use appropriate measures to maximize hunter compliance in providing bagged swans for examination. Further, the States of Montana, Nevada, and Utah must achieve at least an 80-percent hunter compliance rate, or subsequent permits will be reduced by 10 percent. All three States must provide to the Service by June 30, 2018, a report detailing harvest, hunter participation, reporting compliance, and monitoring of swan populations in the designated hunt areas.

Tundra Swans

In portions of the Atlantic Flyway (North Carolina and Virginia) and the Central Flyway (North Dakota, South Dakota [east of the Missouri River], and that portion of Montana in the Central Flyway), an open season for taking a limited number of tundra swans may be selected. Permits will be issued by the States that authorize the take of no more than 1 tundra swan per permit. A second permit may be issued to hunters from unused permits remaining after the first drawing. The States must obtain harvest and hunter participation data. These seasons are also subject to the following conditions:

In the Atlantic Flyway

—The season may be 90 days, between October 1 and January 31.
—In North Carolina, no more than 6,250 permits may be issued.
—In Virginia, no more than 750 permits may be issued.

In the Central Flyway

—The season may be 107 days, between the Saturday nearest October 1 (September 30) and January 31.
—In the Central Flyway portion of Montana, no more than 625 permits may be issued.
—In North Dakota, no more than 2,500 permits may be issued.
—In South Dakota, no more than 1,875 permits may be issued.

Sandhill Cranes

Regular Seasons in the Mississippi Flyway

Outside Dates: Between September 1 and February 28 in Minnesota, and between September 1 and January 31 in Kentucky and Tennessee.

Hunting Seasons: A season not to exceed 37 consecutive days may be selected in the designated portion of northwestern Minnesota (Northwest Goose Zone), and a season not to exceed 60 consecutive days in Kentucky and Tennessee.

Daily Bag Limit: 2 sandhill cranes in Kentucky and Minnesota, 3 sandhill cranes in Tennessee. In Kentucky and Tennessee, the seasonal bag limit is 3 sandhill cranes.

Permits: Each person participating in the regular sandhill crane seasons must have a valid Federal or State sandhill crane hunting permit.

Other Provisions: The number of permits (where applicable), open areas, season dates, protection plans for other species, and other provisions of seasons must be consistent with the management plans and approved by the Mississippi Flyway Council.

Regular Seasons in the Central Flyway

Outside Dates: Between September 1 and February 28.

Hunting Seasons: Seasons not to exceed 37 consecutive days may be selected in designated portions of Texas (Area 2). Seasons not to exceed 58 consecutive days may be selected in designated portions of the following States: Colorado, Kansas, Montana, North Dakota, South Dakota, and Wyoming. Seasons not to exceed 93 consecutive days may be selected in designated portions of the following States: New Mexico, Oklahoma, and Texas.

Daily Bag Limits: 3 sandhill cranes, except 2 sandhill cranes in designated portions of North Dakota (Area 2) and Texas (Area 2).

Permits: Each person participating in the regular sandhill crane season must have a valid Federal or State sandhill crane hunting permit.

Special Seasons in the Central and Pacific Flyways

Arizona, Colorado, Idaho, Montana, New Mexico, Utah, and Wyoming may select seasons for hunting sandhill cranes within the range of the Rocky Mountain Population (RMP) subject to the following conditions:

Outside Dates: Between September 1 and January 31.

Hunting Seasons: The season in any State or zone may not exceed 30 consecutive days.

Bag limits: Not to exceed 3 daily and 9 per season.

Permits: Participants must have a valid permit, issued by the appropriate State, in their possession while hunting.

Other Provisions: Numbers of permits, open areas, season dates, protection plans for other species, and other provisions of seasons must be consistent with the management plan and approved by the Central and Pacific Flyway Councils, with the following exceptions:

A. In Utah, 100 percent of the harvest will be assigned to the RMP quota;

B. In Arizona, monitoring the racial composition of the harvest must be conducted at 3-year intervals;

C. In Idaho, 100 percent of the harvest will be assigned to the RMP quota; and

D. In New Mexico, the season in the Estancia Valley is experimental, with a requirement to monitor the level and racial composition of the harvest; greater sandhill cranes in the harvest will be assigned to the RMP quota.

Common Moorhens and Purple Gallinules

Outside Dates: Between September 1 and the last Sunday in January (January 28) in the Atlantic, Mississippi, and Central Flyways. States in the Pacific Flyway have been allowed to select their hunting seasons between the outside dates for the season on ducks, mergansers, and coots; therefore, frameworks for common moorhens and purple gallinules are included with the duck, merganser, and coot frameworks.

Hunting Seasons and Daily Bag Limits: Seasons may not exceed 70 days in the Atlantic, Mississippi, and Central Flyways. Seasons may be split into 2 segments. The daily bag limit is 15 common moorhens and purple gallinules, singly or in the aggregate of the two species.

Zoning: Seasons may be selected by zones established for duck hunting.

Rails

Outside Dates: States included herein may select seasons between September 1 and the last Sunday in January (January 28) on clapper, king, sora, and Virginia rails.

Hunting Seasons: Seasons may not exceed 70 days, and may be split into 2 segments.

Daily Bag Limits

Clapper and King Rails: In Connecticut, Delaware, Maryland, New Jersey, and Rhode Island, 10, singly or in the aggregate of the two species. In Alabama, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Texas, and Virginia, 15, singly or in the aggregate of the two species.

Sora and Virginia Rails: In the Atlantic, Mississippi, and Central Flyways and the Pacific Flyway portions of Colorado, Montana, New Mexico, and Wyoming, 25 rails, singly or in the aggregate of the two species. The season is closed in the remainder of the Pacific Flyway.

Snipe

Outside Dates: Between September 1 and February 28, except in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island, Vermont, and Virginia, where the season must end no later than January 31.

Hunting Seasons and Daily Bag Limits: Seasons may not exceed 107 days and may be split into two segments. The daily bag limit is 8 snipe.

Zoning: Seasons may be selected by zones established for duck hunting.

American Woodcock

Outside Dates: States in the Eastern Management Region may select hunting seasons between October 1 and January 31. States in the Central Management

Region may select hunting seasons between the Saturday nearest September 22 (September 23) and January 31.

Hunting Seasons and Daily Bag Limits: Seasons may not exceed 45 days in the Eastern and Central Regions. The daily bag limit is 3. Seasons may be split into two segments.

Zoning: New Jersey may select seasons in each of two zones. The season in each zone may not exceed 36 days.

Band-tailed Pigeons

Pacific Coast States (California, Oregon, Washington, and Nevada)

Outside Dates: Between September 15 and January 1.

Hunting Seasons and Daily Bag Limits: Not more than 9 consecutive days, with a daily bag limit of 2.

Zoning: California may select hunting seasons not to exceed 9 consecutive days in each of two zones. The season in the North Zone must close by October 3.

Four-Corners States (Arizona, Colorado, New Mexico, and Utah)

Outside Dates: Between September 1 and November 30.

Hunting Seasons and Daily Bag Limits: Not more than 14 consecutive days, with a daily bag limit of 2.

Zoning: New Mexico may select hunting seasons not to exceed 14 consecutive days in each of two zones. The season in the South Zone may not open until October 1.

Doves

Outside Dates: Between September 1 and January 15, except as otherwise provided, States may select hunting seasons and daily bag limits as follows:

Eastern Management Unit

Hunting Seasons and Daily Bag Limits: Not more than 90 days, with a daily bag limit of 15 mourning and white-winged doves in the aggregate.

Zoning and Split Seasons: States may select hunting seasons in each of two zones. The season within each zone may be split into not more than three periods. Regulations for bag and possession limits, season length, and shooting hours must be uniform within specific hunting zones.

Central Management Unit

For All States Except Texas

Hunting Seasons and Daily Bag Limits: Not more than 90 days, with a daily bag limit of 15 mourning and white-winged doves in the aggregate.

Zoning and Split Seasons: States may select hunting seasons in each of two zones. The season within each zone may be split into not more than three periods.

Texas

Hunting Seasons and Daily Bag Limits: Not more than 90 days, with a daily bag limit of 15 mourning, white-winged, and white-tipped doves in the aggregate, of which no more than 2 may be white-tipped doves.

Zoning and Split Seasons: Texas may select hunting seasons for each of three zones subject to the following conditions:

A. The hunting season may be split into not more than two periods, except in that portion of Texas in which the special white-winged dove season is allowed, where a limited take of mourning and white-tipped doves may also occur during that special season (see Special White-winged Dove Area).

B. A season may be selected for the North and Central Zones between September 1 and January 25; and for the South Zone between the Friday nearest September 20 (September 22), but not earlier than September 17, and January 25.

C. Except as noted above, regulations for bag and possession limits, season length, and shooting hours must be uniform within each hunting zone.

Special White-winged Dove Area in Texas: In addition, Texas may select a hunting season of not more than 4 days for the Special White-winged Dove Area of the South Zone between September 1 and September 19. The daily bag limit may not exceed 15 white-winged, mourning, and white-tipped doves in the aggregate, of which no more than 2 may be mourning doves and no more than 2 may be white-tipped doves.

Western Management Unit

Hunting Seasons and Daily Bag Limits

Idaho, Nevada, Oregon, Utah, and Washington: Not more than 60 days, which may be split between two periods. The daily bag limit is 15 mourning and white-winged doves in the aggregate.

Arizona and *California:* Not more than 60 days, which may be split between two periods, September 1–15 and November 1–January 15. In Arizona, during the first segment of the season, the daily bag limit is 15 mourning and white-winged doves in the aggregate, of which no more than 10 could be white-winged doves. During the remainder of the season, the daily bag limit is 15 mourning doves. In California, the daily bag limit is 15 mourning and white-winged doves in the aggregate, of which no more than 10 could be white-winged doves.

Alaska

Outside Dates: Between September 1 and January 26.

Hunting Seasons: Alaska may select 107 consecutive days for waterfowl, sandhill cranes, and common snipe in each of 5 zones. The season may be split without penalty in the Kodiak Zone. The seasons in each zone must be concurrent.

Closures: The hunting season is closed on spectacled eiders and Steller's eiders.

Daily Bag and Possession Limits

Ducks: Except as noted, a basic daily bag limit of 7 ducks. Daily bag limits in the North Zone are 10, and in the Gulf Coast Zone, they are 8. The basic limits may include no more than 2 canvasbacks daily and may not include sea ducks.

In addition to the basic duck limits, Alaska may select sea duck limits of 10 daily, singly or in the aggregate, including no more than 6 each of either harlequin or long-tailed ducks. Sea ducks include scoters, common and king eiders, harlequin ducks, long-tailed ducks, and common and red-breasted mergansers.

Light Geese: The daily bag limit is 6.

Canada Geese: The daily bag limit is 4 with the following exceptions:

A. In Units 5 and 6, the taking of Canada geese is permitted from September 28 through December 16.

B. On Middleton Island in Unit 6, a special, permit-only Canada goose season may be offered. A mandatory goose identification class is required. Hunters must check in and check out. The bag limit is 1 daily and 1 in possession. The season will close if incidental harvest includes 5 dusky Canada geese. A dusky Canada goose is any dark-breasted Canada goose (Munsell 10 YR color value five or less) with a bill length between 40 and 50 millimeters.

C. In Units 9, 10, 17, and 18, the daily bag limit is 6 Canada geese.

White-fronted Geese: The daily bag limit is 4 with the following exceptions:

A. In Units 9, 10, and 17, the daily bag limit is 6 white-fronted geese.

B. In Unit 18, the daily bag limit is 10 white-fronted geese.

Emperor Geese: Open seasons for emperor geese may be selected subject to the following conditions:

A. All seasons are by permit only.

B. No more than 1 emperor goose may be authorized per permit.

C. Total harvest may not exceed 1,000 emperor geese.

D. In State Game Management Unit 18, the Kodiak Island Road Area is

closed to hunting. The Kodiak Island Road Area consists of all lands and water (including exposed tidelands) east of a line extending from Crag Point in the north to the west end of Saltery Cove in the south and all lands and water south of a line extending from Termination Point along the north side of Cascade Lake extending to Anton Larsen Bay. Marine waters adjacent to the closed area are closed to harvest within 500 feet from the water's edge. The offshore islands are open to harvest, for example: Woody, Long, Gull, and Puffin islands.

Brant: The daily bag limit is 3.

Snipe: The daily bag limit is 8.

Sandhill cranes: The daily bag limit is 2 in the Southeast, Gulf Coast, Kodiak, and Aleutian Zones, and Unit 17 in the North Zone. In the remainder of the North Zone (outside Unit 17), the daily bag limit is 3.

Tundra Swans: Open seasons for tundra swans may be selected subject to the following conditions:

A. All seasons are by permit only.

B. All season framework dates are September 1–October 31.

C. In Unit 17, no more than 200 permits may be issued during this operational season. No more than 3 tundra swans may be authorized per permit, with no more than 1 permit issued per hunter per season.

D. In Unit 18, no more than 500 permits may be issued during the operational season. No more than 3 tundra swans may be authorized per permit. No more than 1 permit may be issued per hunter per season.

E. In Unit 22, no more than 300 permits may be issued during the operational season. No more than 3 tundra swans may be authorized per permit. No more than 1 permit may be issued per hunter per season.

F. In Unit 23, no more than 300 permits may be issued during the operational season. No more than 3 tundra swans may be authorized per permit. No more than 1 permit may be issued per hunter per season.

Hawaii

Outside Dates: Between October 1 and January 31.

Hunting Seasons: Not more than 65 days (75 under the alternative) for mourning doves.

Bag Limits: Not to exceed 15 (12 under the alternative) mourning doves.

Note: Mourning doves may be taken in Hawaii in accordance with shooting hours and other regulations set by the State of Hawaii, and subject to the applicable provisions of 50 CFR part 20.

Puerto Rico

Doves and Pigeons

Outside Dates: Between September 1 and January 15.

Hunting Seasons: Not more than 60 days.

Daily Bag and Possession Limits: Not to exceed 20 Zenaida, mourning, and white-winged doves in the aggregate, of which not more than 10 may be Zenaida doves and 3 may be mourning doves. Not to exceed 5 scaly-naped pigeons.

Closed Seasons: The season is closed on the white-crowned pigeon and the plain pigeon, which are protected by the Commonwealth of Puerto Rico.

Closed Areas: There is no open season on doves or pigeons in the following areas: Municipality of Culebra, Desecheo Island, Mona Island, El Verde Closure Area, and Cidra Municipality and adjacent areas.

Ducks, Coots, Moorhens, Gallinules, and Snipe

Outside Dates: Between October 1 and January 31.

Hunting Seasons: Not more than 55 days may be selected for hunting ducks, common moorhens, and common snipe. The season may be split into two segments.

Daily Bag Limits

Ducks: Not to exceed 6.

Common moorhens: Not to exceed 6.

Common snipe: Not to exceed 8.

Closed Seasons: The season is closed on the ruddy duck, white-cheeked pintail, West Indian whistling duck, fulvous whistling duck, and masked duck, which are protected by the Commonwealth of Puerto Rico. The season also is closed on the purple gallinule, American coot, and Caribbean coot.

Closed Areas: There is no open season on ducks, common moorhens, and common snipe in the Municipality of Culebra and on Desecheo Island.

Virgin Islands

Doves and Pigeons

Outside Dates: Between September 1 and January 15.

Hunting Seasons: Not more than 60 days for Zenaida doves.

Daily Bag and Possession Limits: Not to exceed 10 Zenaida doves.

Closed Seasons: No open season is prescribed for ground or quail doves or pigeons.

Closed Areas: There is no open season for migratory game birds on Ruth Cay (just south of St. Croix).

Local Names for Certain Birds: Zenaida dove, also known as mountain dove; bridled quail-dove, also known as Barbary dove or partridge; common ground-dove, also known as stone dove, tobacco dove, rola, or tortolita; scaly-naped pigeon, also known as red-necked or scaled pigeon.

Ducks

Outside Dates: Between December 1 and January 31.

Hunting Seasons: Not more than 55 consecutive days.

Daily Bag Limits: Not to exceed 6.

Closed Seasons: The season is closed on the ruddy duck, white-cheeked pintail, West Indian whistling duck, fulvous whistling duck, and masked duck.

Special Falconry Regulations

Falconry is a permitted means of taking migratory game birds in any State meeting Federal falconry standards in 50 CFR 21.29. These States may select an extended season for taking migratory game birds in accordance with the following:

Extended Seasons: For all hunting methods combined, the combined length of the extended season, regular season, and any special or experimental seasons must not exceed 107 days for any species or group of species in a geographical area. Each extended season may be divided into a maximum of 3 segments.

Framework Dates: Seasons must fall between September 1 and March 10.

Daily Bag Limits: Falconry daily bag limits for all permitted migratory game birds must not exceed 3 birds, singly or in the aggregate, during extended falconry seasons, any special or experimental seasons, and regular hunting seasons in all States, including those that do not select an extended falconry season.

Regular Seasons: General hunting regulations, including seasons and hunting hours, apply to falconry in each State listed in 50 CFR 21.29. Regular season bag limits do not apply to falconry. The falconry bag limit is not in addition to gun limits.

Area, Unit, and Zone Descriptions

Ducks (Including Mergansers) and Coots

Atlantic Flyway

Connecticut

North Zone: That portion of the State north of I–95.

South Zone: Remainder of the State.

Maine

North Zone: That portion north of the line extending east along Maine State Highway 110 from the New Hampshire-Maine State line to the intersection of Maine State Highway 11 in Newfield;

then north and east along Route 11 to the intersection of U.S. Route 202 in Auburn; then north and east on Route 202 to the intersection of I–95 in Augusta; then north and east along I–95 to Route 15 in Bangor; then east along Route 15 to Route 9; then east along Route 9 to Stony Brook in Baileyville; then east along Stony Brook to the U.S. border.

Coastal Zone: That portion south of a line extending east from the Maine-New Brunswick border in Calais at the Route 1 Bridge; then south along Route 1 to the Maine-New Hampshire border in Kittery.

South Zone: Remainder of the State.

Maryland

Special Teal Season Area: Calvert, Caroline, Cecil, Dorchester, Harford, Kent, Queen Anne's, St. Mary's, Somerset, Talbot, Wicomico, and Worcester Counties; that part of Anne Arundel County east of Interstate 895, Interstate 97, and Route 3; that part of Prince George's County east of Route 3 and Route 301; and that part of Charles County east of Route 301 to the Virginia State Line.

Massachusetts

Western Zone: That portion of the State west of a line extending south from the Vermont State line on I–91 to MA 9, west on MA 9 to MA 10, south on MA 10 to U.S. 202, south on U.S. 202 to the Connecticut State line.

Central Zone: That portion of the State east of the Berkshire Zone and west of a line extending south from the New Hampshire State line on I–95 to U.S. 1, south on U.S. 1 to I–93, south on I–93 to MA 3, south on MA 3 to U.S. 6, west on U.S. 6 to MA 28, west on MA 28 to I–195, west to the Rhode Island State line; except the waters, and the lands 150 yards inland from the high-water mark, of the Assonet River upstream to the MA 24 bridge, and the Taunton River upstream to the Center St.-Elm St. bridge shall be in the Coastal Zone.

Coastal Zone: That portion of Massachusetts east and south of the Central Zone.

New Hampshire

Northern Zone: That portion of the State east and north of the Inland Zone beginning at the Jct. of Rte. 10 and Rte. 25–A in Orford, east on Rte. 25–A to Rte. 25 in Wentworth, southeast on Rte. 25 to Exit 26 of Rte. I–93 in Plymouth, south on Rte. I–93 to Rte. 3 at Exit 24 of Rte. I–93 in Ashland, northeast on Rte. 3 to Rte. 113 in Holderness, north on Rte. 113 to Rte. 113–A in Sandwich, north on Rte. 113–A to Rte. 113 in Tamworth, east on Rte. 113 to Rte. 16 in Chocorua, north on Rte. 16 to Rte. 302 in Conway, east on Rte. 302 to the Maine-New Hampshire border.

Inland Zone: That portion of the State south and west of the Northern Zone, west of the Coastal Zone, and includes the area of Vermont and New Hampshire as described for hunting reciprocity. A person holding a New Hampshire hunting license that allows the taking of migratory waterfowl or a person holding a Vermont resident hunting license that allows the taking of migratory waterfowl may take migratory waterfowl and coots from the following designated area of the Inland Zone: The State of Vermont east of Rte. I–91 at the Massachusetts border, north on Rte. I–91 to Rte. 2, north on Rte. 2 to Rte. 102, north on Rte. 102 to Rte. 253, and north on Rte. 253 to the border with Canada and the area of New Hampshire west of Rte. 63 at the Massachusetts border, north on Rte. 63 to Rte. 12, north on Rte. 12 to Rte. 12–A, north on Rte. 12–A to Rte 10, north on Rte. 10 to Rte. 135, north on Rte. 135 to Rte. 3, north on Rte. 3 to the intersection with the Connecticut River.

Coastal Zone: That portion of the State east of a line beginning at the Maine-New Hampshire border in Rollinsford, then extending to Rte. 4 west to the city of Dover, south to the intersection of Rte. 108, south along Rte. 108 through Madbury, Durham, and Newmarket to the junction of Rte. 85 in Newfields, south to Rte. 101 in Exeter, east to Interstate 95 (New Hampshire Turnpike) in Hampton, and south to the Massachusetts border.

New Jersey

Coastal Zone: That portion of the State seaward of a line beginning at the New York State line in Raritan Bay and extending west along the New York State line to NJ 440 at Perth Amboy; west on NJ 440 to the Garden State Parkway; south on the Garden State Parkway to NJ 109; south on NJ 109 to Cape May County Route 633 (Lafayette Street); south on Lafayette Street to Jackson Street; south on Jackson Street to the shoreline at Cape May; west along the shoreline of Cape May beach to COLREGS Demarcation Line 80.503 at Cape May Point; south along COLREGS Demarcation Line 80.503 to the Delaware State line in Delaware Bay.

North Zone: That portion of the State west of the Coastal Zone and north of a line extending west from the Garden State Parkway on NJ 70 to the New Jersey Turnpike, north on the turnpike to U.S. 206, north on U.S. 206 to U.S. 1 at Trenton, west on U.S. 1 to the Pennsylvania State line in the Delaware River.

South Zone: That portion of the State not within the North Zone or the Coastal Zone.

New York

Lake Champlain Zone: That area east and north of a continuous line extending along U.S. 11 from the New York-Canada International boundary south to NY 9B, south along NY 9B to U.S. 9, south along U.S. 9 to NY 22 south of Keesville; south along NY 22 to the west shore of South Bay, along and around the shoreline of South Bay to NY 22 on the east shore of South Bay; southeast along NY 22 to U.S. 4, northeast along U.S. 4 to the Vermont State line.

Long Island Zone: That area consisting of Nassau County, Suffolk County, that area of Westchester County southeast of I–95, and their tidal waters.

Western Zone: That area west of a line extending from Lake Ontario east along the north shore of the Salmon River to I–81, and south along I–81 to the Pennsylvania State line.

Northeastern Zone: That area north of a continuous line extending from Lake Ontario east along the north shore of the Salmon River to I–81, south along I–81 to NY 31, east along NY 31 to NY 13, north along NY 13 to NY 49, east along NY 49 to NY 365, east along NY 365 to NY 28, east along NY 28 to NY 29, east along NY 29 to NY 22, north along NY 22 to Washington County Route 153, east along CR 153 to the New York-Vermont boundary, exclusive of the Lake Champlain Zone.

Southeastern Zone: The remaining portion of New York.

Pennsylvania

Lake Erie Zone: The Lake Erie waters of Pennsylvania and a shoreline margin along Lake Erie from New York on the east to Ohio on the west extending 150 yards inland, but including all of Presque Isle Peninsula.

Northwest Zone: The area bounded on the north by the Lake Erie Zone and including all of Erie and Crawford Counties and those portions of Mercer and Venango Counties north of I–80.

North Zone: That portion of the State east of the Northwest Zone and north of a line extending east on I–80 to U.S. 220, Route 220 to I–180, I–180 to I–80, and I–80 to the Delaware River.

South Zone: The remaining portion of Pennsylvania.

Vermont

Lake Champlain Zone: The U.S. portion of Lake Champlain and that area north and west of the line extending

from the New York border along U.S. 4 to VT 22A at Fair Haven; VT 22A to U.S. 7 at Vergennes; U.S. 7 to VT 78 at Swanton; VT 78 to VT 36; VT 36 to Maquam Bay on Lake Champlain; along and around the shoreline of Maquam Bay and Hog Island to VT 78 at the West Swanton Bridge; VT 78 to VT 2 in Alburg; VT 2 to the Richelieu River in Alburg; along the east shore of the Richelieu River to the Canadian border.

Interior Zone: That portion of Vermont east of the Lake Champlain Zone and west of a line extending from the Massachusetts border at Interstate 91; north along Interstate 91 to U.S. 2; east along U.S. 2 to VT 102; north along VT 102 to VT 253; north along VT 253 to the Canadian border.

Connecticut River Zone: The remaining portion of Vermont east of the Interior Zone.

Mississippi Flyway

Illinois

North Zone: That portion of the State north of a line extending west from the Indiana border along Peotone-Beecher Road to Illinois Route 50, south along Illinois Route 50 to Wilmington-Peotone Road, west along Wilmington-Peotone Road to Illinois Route 53, north along Illinois Route 53 to New River Road, northwest along New River Road to Interstate Highway 55, south along I–55 to Pine Bluff-Lorenzo Road, west along Pine Bluff-Lorenzo Road to Illinois Route 47, north along Illinois Route 47 to I–80, west along I–80 to I–39, south along I–39 to Illinois Route 18, west along Illinois Route 18 to Illinois Route 29, south along Illinois Route 29 to Illinois Route 17, west along Illinois Route 17 to the Mississippi River, and due south across the Mississippi River to the Iowa border.

Central Zone: That portion of the State south of the North Duck Zone line to a line extending west from the Indiana border along I–70 to Illinois Route 4, south along Illinois Route 4 to Illinois Route 161, west along Illinois Route 161 to Illinois Route 158, south and west along Illinois Route 158 to Illinois Route 159, south along Illinois Route 159 to Illinois Route 3, south along Illinois Route 3 to St. Leo's Road, south along St. Leo's Road to Modoc Road, west along Modoc Road to Modoc Ferry Road, southwest along Modoc Ferry Road to Levee Road, southeast along Levee Road to County Route 12 (Modoc Ferry entrance Road), south along County Route 12 to the Modoc Ferry route and southwest on the Modoc Ferry route across the Mississippi River to the Missouri border.

South Zone: That portion of the State south and east of a line extending west from the Indiana border along Interstate 70, south along U.S. Highway 45, to Illinois Route 13, west along Illinois Route 13 to Greenbriar Road, north on Greenbriar Road to Sycamore Road, west on Sycamore Road to N. Reed Station Road, south on N. Reed Station Road to Illinois Route 13, west along Illinois Route 13 to Illinois Route 127, south along Illinois Route 127 to State Forest Road (1025 N), west along State Forest Road to Illinois Route 3, north along Illinois Route 3 to the south bank of the Big Muddy River, west along the south bank of the Big Muddy River to the Mississippi River, west across the Mississippi River to the Missouri border.

South Central Zone: The remainder of the State between the south border of the Central Zone and the North border of the South Zone.

Indiana

North Zone: That part of Indiana north of a line extending east from the Illinois border along State Road 18 to U.S. 31; north along U.S. 31 to U.S. 24; east along U.S. 24 to Huntington; southeast along U.S. 224; south along State Road 5; and east along State Road 124 to the Ohio border.

Central Zone: That part of Indiana south of the North Zone boundary and north of the South Zone boundary.

South Zone: That part of Indiana south of a line extending east from the Illinois border along U.S. 40; south along U.S. 41; east along State Road 58; south along State Road 37 to Bedford; and east along U.S. 50 to the Ohio border.

Iowa

North Zone: That portion of Iowa north of a line beginning on the South Dakota-Iowa border at Interstate 29, southeast along Interstate 29 to State Highway 175, east along State Highway 175 to State Highway 37, southeast along State Highway 37 to State Highway 183, northeast along State Highway 183 to State Highway 141, east along State Highway 141 to U.S. Highway 30, and along U.S. Highway 30 to the Illinois border.

Missouri River Zone: That portion of Iowa west of a line beginning on the South Dakota-Iowa border at Interstate 29, southeast along Interstate 29 to State Highway 175, and west along State Highway 175 to the Iowa-Nebraska border.

South Zone: The remainder of Iowa.

Kentucky

West Zone: All counties west of and including Butler, Daviess, Ohio, Simpson, and Warren Counties.

East Zone: The remainder of Kentucky.

Louisiana

East Zone: That area of the State between the Mississippi State line and a line going south on Hwy 79 from the Arkansas border to Homer, then south on Hwy 9 to Arcadia, then south on Hwy 147 to Hodge, then south on Hwy 167 to Turkey Creek, then south on Hwy 13 to Eunice, then west on Hwy 190 to Kinder, then south on Hwy 165 to Iowa, then west on I–10 to its junction with Hwy 14 at Lake Charles, then south and east on Hwy 14 to its junction with Hwy 90 in New Iberia, then east on Hwy 90 to the Mississippi State line.

West Zone: That area between the Texas State line and a line going east on I–10 from the Texas border to Hwy 165 at Iowa, then north on Hwy 165 to Kinder, then east on Hwy 190 to Eunice, then north on Hwy 13 to Turkey Creek, then north on Hwy 167 to Hodge, then north on Hwy 147 to Arcadia, then north on Hwy 9 to Homer, then north on Hwy 79 to the Arkansas border.

Coastal Zone: Remainder of the State.

Michigan

North Zone: The Upper Peninsula.

Middle Zone: That portion of the Lower Peninsula north of a line beginning at the Wisconsin State line in Lake Michigan due west of the mouth of Stony Creek in Oceana County; then due east to, and easterly and southerly along the south shore of Stony Creek to Scenic Drive, easterly and southerly along Scenic Drive to Stony Lake Road, easterly along Stony Lake and Garfield Roads to Michigan Highway 20, east along Michigan 20 to U.S. Highway 10 Business Route (BR) in the city of Midland, easterly along U.S. 10 BR to U.S. 10, easterly along U.S. 10 to Interstate Highway 75/U.S. Highway 23, northerly along I–75/U.S. 23 to the U.S. 23 exit at Standish, easterly along U.S. 23 to the centerline of the Au Gres River, then southerly along the centerline of the Au Gres River to Saginaw Bay, then on a line directly east 10 miles into Saginaw Bay, and from that point on a line directly northeast to the Canadian border.

South Zone: The remainder of Michigan.

Minnesota

North Duck Zone: That portion of the State north of a line extending east from the North Dakota State line along State Highway 210 to State Highway 23 and

east to State Highway 39 and east to the Wisconsin State line at the Oliver Bridge.

South Duck Zone: The portion of the State south of a line extending east from the South Dakota State line along U.S. Highway 212 to Interstate 494 and east to Interstate 94 and east to the Wisconsin State line.

Central Duck Zone: The remainder of the State.

Missouri

North Zone: That portion of Missouri north of a line running west from the Illinois border at Lock and Dam 25; west on Lincoln County Hwy. N to Mo. Hwy. 79; south on Mo. Hwy. 79 to Mo. Hwy. 47; west on Mo. Hwy. 47 to I–70; west on I–70 to the Kansas border.

Middle Zone: The remainder of Missouri not included in other zones.

South Zone: That portion of Missouri south of a line running west from the Illinois border on Mo. Hwy. 74 to Mo. Hwy. 25; south on Mo. Hwy. 25 to U.S. Hwy. 62; west on U.S. Hwy. 62 to Mo. Hwy. 53; north on Mo. Hwy. 53 to Mo. Hwy. 51; north on Mo. Hwy. 51 to U.S. Hwy. 60; west on U.S. Hwy. 60 to Mo. Hwy. 21; north on Mo. Hwy. 21 to Mo. Hwy. 72; west on Mo. Hwy. 72 to Mo. Hwy. 32; west on Mo. Hwy. 32 to U.S. Hwy. 65; north on U.S. Hwy. 65 to U.S. Hwy. 54; west on U.S. Hwy. 54 to U.S. Hwy. 71; south on U.S. Hwy. 71 to Jasper County Hwy. M (Base Line Blvd.); west on Jasper County Hwy. M (Base Line Blvd.) to CRD 40 (Base Line Blvd.); west on CRD 40 (Base Line Blvd.) to the Kansas border.

Ohio

Lake Erie Marsh Zone: Includes all land and water within the boundaries of the area bordered by a line beginning at the intersection of Interstate 75 at the Ohio-Michigan State line and continuing south to Interstate 280, then south on I–280 to the Ohio Turnpike (I–80/I–90), then east on the Ohio Turnpike to the Erie-Lorain County line, then north to Lake Erie, then following the Lake Erie shoreline at a distance of 200 yards offshore, then following the shoreline west toward and around the northern tip of Cedar Point Amusement Park, then continuing from the westernmost point of Cedar Point toward the southernmost tip of the sand bar at the mouth of Sandusky Bay and out into Lake Erie at a distance of 200 yards offshore continuing parallel to the Lake Erie shoreline north and west toward the northernmost tip of Cedar Point National Wildlife Refuge, then following a direct line toward the southernmost tip of Wood Tick Peninsula in Michigan to a point that intersects the Ohio-Michigan State line, then following the State line back to the point of the beginning.

North Zone: That portion of the State, excluding the Lake Erie Marsh Zone, north of a line extending east from the Indiana State line along U.S. Highway (U.S.) 33 to State Route (SR) 127, then south along SR 127 to SR 703, then south along SR 703 and including all lands within the Mercer Wildlife Area to SR 219, then east along SR 219 to SR 364, then north along SR 364 and including all lands within the St. Mary's Fish Hatchery to SR 703, then east along SR 703 to SR 66, then north along SR 66 to U.S. 33, then east along U.S. 33 to SR 385, then east along SR 385 to SR 117, then south along SR 117 to SR 273, then east along SR 273 to SR 31, then south along SR 31 to SR 739, then east along SR 739 to SR 4, then north along SR 4 to SR 95, then east along SR 95 to SR 13, then southeast along SR 13 to SR 3, then northeast along SR 3 to SR 60, then north along SR 60 to U.S. 30, then east along U.S. 30 to SR 3, then south along SR 3 to SR 226, then south along SR 226 to SR 514, then southwest along SR 514 to SR 754, then south along SR 754 to SR 39/60, then east along SR 39/60 to SR 241, then north along SR 241 to U.S. 30, then east along U.S. 30 to SR 39, then east along SR 39 to the Pennsylvania State line.

South Zone: The remainder of Ohio not included in the Lake Erie Marsh Zone or the North Zone.

Tennessee

Reelfoot Zone: All or portions of Lake and Obion Counties.

Remainder of State: That portion of Tennessee outside of the Reelfoot Zone.

Wisconsin

North Zone: That portion of the State north of a line extending east from the Minnesota State line along U.S. Highway 10 into Portage County to County Highway HH, east on County Highway HH to State Highway 66 and then east on State Highway 66 to U.S. Highway 10, continuing east on U.S. Highway 10 to U.S. Highway 41, then north on U.S. Highway 41 to the Michigan State line.

Mississippi River Zone: That area encompassed by a line beginning at the intersection of the Burlington Northern & Santa Fe Railway and the Illinois State line in Grant County and extending northerly along the Burlington Northern & Santa Fe Railway to the city limit of Prescott in Pierce County, then west along the Prescott city limit to the Minnesota State line.

South Zone: The remainder of Wisconsin.

Central Flyway

Colorado (Central Flyway Portion)

Special Teal Season Area: Lake and Chaffee Counties and that portion of the State east of Interstate Highway 25.

Northeast Zone: All areas east of Interstate 25 and north of Interstate 70.

Southeast Zone: All areas east of Interstate 25 and south of Interstate 70, and all of El Paso, Pueblo, Huerfano, and Las Animas Counties.

Mountain/Foothills Zone: All areas west of Interstate 25 and east of the Continental Divide, except El Paso, Pueblo, Huerfano, and Las Animas Counties.

Kansas

High Plains Zone: That portion of the State west of U.S. 283.

Low Plains Early Zone: That part of Kansas bounded by a line from the Federal highway U.S.–283 and State highway U.S.–96 junction, then east on Federal highway U.S.–96 to its junction with Federal highway U.S.–183, then north on Federal highway U.S.–183 to its junction with Federal highway U.S.–24, then east on Federal highway U.S.–24 to its junction with Federal highway U.S.–281, then north on Federal highway U.S.–281 to its junction with Federal highway U.S.–36, then east on Federal highway U.S.–36 to its junction with State highway K–199, then south on State highway K–199 to its junction with Republic County 30th Road, then south on Republic County 30th Road to its junction with State highway K–148, then east on State highway K–148 to its junction with Republic County 50th Road, then south on Republic County 50th Road to its junction with Cloud County 40th Road, then south on Cloud County 40th Road to its junction with State highway K–9, then west on State highway K–9 to its junction with Federal highway U.S.–24, then west on Federal highway U.S.–24 to its junction with Federal highway U.S.–181, then south on Federal highway U.S.–181 to its junction with State highway K–18, then west on State highway K–18 to its junction with Federal highway U.S.–281, then south on Federal highway U.S.–281 to its junction with State highway K–4, then east on State highway K–4 to its junction with interstate highway I–135, then south on interstate highway I–135 to its junction with State highway K–61, then southwest on State highway K–61 to its junction with McPherson County 14th Avenue, then south on McPherson County 14th Avenue to its junction with McPherson County Arapaho Rd, then west on McPherson County Arapaho Rd to its junction with State highway K–61,

then southwest on State highway K–61 to its junction with State highway K–96, then northwest on State highway K–96 to its junction with Federal highway U.S.–56, then southwest on Federal highway U.S.–56 to its junction with State highway K–19, then east on State highway K–19 to its junction with Federal highway U.S.–281, then south on Federal highway U.S.–281 to its junction with Federal highway U.S.–54, then west on Federal highway U.S.–54 to its junction with Federal highway U.S.–183, then north on Federal highway U.S.–183 to its junction with Federal highway U.S.–56, then southwest on Federal highway U.S.–56 to its junction with North Main Street in Spearville, then south on North Main Street to Davis Street, then east on Davis Street to Ford County Road 126 (South Stafford Street), then south on Ford County Road 126 to Garnett Road, then east on Garnett Road to Ford County Road 126, then south on Ford County Road 126 to Ford Spearville Road, then west on Ford Spearville Road to its junction with Federal highway U.S.–400, then northwest on Federal highway U.S.–400 to its junction with Federal highway U.S.–283, and then north on Federal highway U.S.–283 to its junction with Federal highway U.S.–96.

Low Plains Late Zone: That part of Kansas bounded by a line from the Federal highway U.S.–283 and Federal highway U.S.–96 junction, then north on Federal highway U.S.–283 to the Kansas-Nebraska State line, then east along the Kansas-Nebraska State line to its junction with the Kansas-Missouri State line, then southeast along the Kansas-Missouri State line to its junction with State highway K–68, then west on State highway K–68 to its junction with interstate highway I–35, then southwest on interstate highway I–35 to its junction with Butler County NE 150th Street, then west on Butler County NE 150th Street to its junction with Federal highway U.S.–77, then south on Federal highway U.S.–77 to its junction with the Kansas–Oklahoma State line, then west along the Kansas-Oklahoma State line to its junction with Federal highway U.S.–283, then north on Federal highway U.S.–283 to its junction with Federal highway U.S.–400, then east on Federal highway U.S.–400 to its junction with Ford Spearville Road, then east on Ford Spearville Road to Ford County Road 126 (South Stafford Street), then north on Ford County Road 126 to Garnett Road, then west on Garnett Road to Ford County Road 126, then north on Ford County Road 126 to Davis Street, then west on Davis Street to North Main Street, then north on North Main Street to its junction with Federal highway U.S.–56, then east on Federal highway U.S.–56 to its junction with Federal highway U.S.–183, then south on Federal highway U.S.–183 to its junction with Federal highway U.S.–54, then east on Federal highway U.S.–54 to its junction with Federal highway U.S.–281, then north on Federal highway U.S.–281 to its junction with State highway K–19, then west on State highway K–19 to its junction with Federal highway U.S.–56, then east on Federal highway U.S.–56 to its junction with State highway K–96, then southeast on State highway K–96 to its junction with State highway K–61, then northeast on State highway K–61 to its junction with McPherson County Arapaho Road, then east on McPherson County Arapaho Road to its junction with McPherson County 14th Avenue, then north on McPherson County 14th Avenue to its junction with State highway K–61, then east on State highway K–61 to its junction with interstate highway I–135, then north on interstate highway I–135 to its junction with State highway K–4, then west on State highway K–4 to its junction with Federal highway U.S.–281, then north on Federal highway U.S.–281 to its junction with State highway K–18, then east on State highway K–18 to its junction with Federal highway U.S.–181, then north on Federal highway U.S.–181 to its junction with Federal highway U.S.–24, then east on Federal highway U.S.–24 to its junction with State highway K–9, then east on State highway K–9 to its junction with Cloud County 40th Road, then north on Cloud County 40th Road to its junction with Republic County 50th Road, then north on Republic County 50th Road to its junction with State highway K–148, then west on State highway K–148 to its junction with Republic County 30th Road, then north on Republic County 30th Road to its junction with State highway K–199, then north on State highway K–199 to its junction with federal highway U.S.–36, then west on Federal highway U.S.–36 to its junction with Federal highway U.S.–281, then south on Federal highway U.S.–281 to its junction with Federal highway U.S.–24, then west on Federal highway U.S.–24 to its junction with Federal highway U.S.–183, then south on Federal highway U.S.–183 to its junction with Federal highway U.S.–96, and then west on Federal highway U.S.–96 to its junction with Federal highway U.S.–283.

Southeast Zone: That part of Kansas bounded by a line from the Missouri-Kansas State line west on K–68 to its junction with I–35, then southwest on I–35 to its junction with Butler County, NE 150th Street, then west on NE 150th Street to its junction with Federal highway U.S.–77, then south on Federal highway U.S.–77 to the Oklahoma-Kansas State line, then east along the Kansas-Oklahoma State line to its junction with the Kansas-Missouri State line, then north along the Kansas-Missouri State line to its junction with State highway K–68.

Montana (Central Flyway Portion)

Zone 1: The Counties of Blaine, Carter, Daniels, Dawson, Fallon, Fergus, Garfield, Golden Valley, Judith Basin, McCone, Musselshell, Petroleum, Phillips, Powder River, Richland, Roosevelt, Sheridan, Stillwater, Sweet Grass, Valley, Wheatland, and Wibaux.

Zone 2: The Counties of Big Horn, Carbon, Custer, Prairie, Rosebud, Treasure, and Yellowstone.

Nebraska

Special Teal Season Area (south): That portion of the State south of a line beginning at the Wyoming State line; east along U.S. 26 to Nebraska Highway L62A east to U.S. 385; south to U.S. 26; east to NE 92; east along NE 92 to NE 61; south along NE 61 to U.S. 30; east along U.S. 30 to the Iowa border.

Special Teal Season Area (north): The remainder of the State.

High Plains: That portion of Nebraska lying west of a line beginning at the South Dakota-Nebraska border on U.S. Hwy. 183; south on U.S. Hwy. 183 to U.S. Hwy. 20; west on U.S. Hwy. 20 to NE Hwy. 7; south on NE Hwy. 7 to NE Hwy. 91; southwest on NE Hwy. 91 to NE Hwy. 2; southeast on NE Hwy. 2 to NE Hwy. 92; west on NE Hwy. 92 to NE Hwy. 40; south on NE Hwy. 40 to NE Hwy. 47; south on NE Hwy. 47 to NE Hwy. 23; east on NE Hwy. 23 to U.S. Hwy. 283; and south on U.S. Hwy. 283 to the Kansas-Nebraska border.

Zone 1: Area bounded by designated Federal and State highways and political boundaries beginning at the South Dakota-Nebraska border west of NE Hwy. 26E Spur and north of NE Hwy. 12; those portions of Dixon, Cedar, and Knox Counties north of NE Hwy. 12; that portion of Keya Paha County east of U.S. Hwy. 183; and all of Boyd County. Both banks of the Niobrara River in Keya Paha and Boyd counties east of U.S. Hwy. 183 shall be included in Zone 1.

Zone 2: The area south of Zone 1 and north of Zone 3.

Zone 3: Area bounded by designated Federal and State highways, County Roads, and political boundaries beginning at the Wyoming-Nebraska

border at the intersection of the Interstate Canal; east along northern borders of Scotts Bluff and Morrill Counties to Broadwater Road; south to Morrill County Rd 94; east to County Rd 135; south to County Rd 88; southeast to County Rd 151; south to County Rd 80; east to County Rd 161; south to County Rd 76; east to County Rd 165; south to County Rd 167; south to U.S. Hwy 26; east to County Rd 171; north to County Rd 68; east to County Rd 183; south to County Rd 64; east to County Rd 189; north to County Rd 70; east to County Rd 201; south to County Rd 60A; east to County Rd 203; south to County Rd 52; east to Keith County Line; east along the northern boundaries of Keith and Lincoln Counties to NE Hwy 97; south to U.S. Hwy 83; south to E Hall School Rd; east to N Airport Road; south to U.S. Hwy 30; east to NE Hwy 47; north to Dawson County Rd 769; east to County Rd 423; south to County Rd 766; east to County Rd 428; south to County Rd 763; east to NE Hwy 21 (Adams Street); south to County Rd 761; east to the Dawson County Canal; south and east along the Dawson County Canal to County Rd 444; south to U.S. Hwy 30; east to U.S. Hwy 183; north to Buffalo County Rd 100; east to 46th Avenue; north to NE Hwy 40; south and east to NE Hwy 10; north to Buffalo County Rd 220 and Hall County Husker Hwy; east to Hall County Rd 70; north to NE Hwy 2; east to U.S. Hwy 281; north to Chapman Rd; east to 7th Rd; south to U.S. Hwy 30; east to Merrick County Rd 13; north to County Rd O; east to NE Hwy 14; north to NE Hwy 52; west and north to NE Hwy 91; west to U.S. Hwy 281; south to NE Hwy 22; west to NE Hwy 11; northwest to NE Hwy 91; west to U.S. Hwy 183; south to Round Valley Rd; west to Sargent River Rd; west to Drive 443; north to Sargent Rd; west to NE Hwy S21A; west to NE Hwy 2; west and north to NE Hwy 91; north and east to North Loup Spur Rd; north to North Loup River Rd; east to Pleasant Valley/Worth Rd; east to Loup County Line; north to Loup–Brown County line; east along northern boundaries of Loup and Garfield Counties to Cedar River Rd; south to NE Hwy 70; east to U.S. Hwy 281; north to NE Hwy 70; east to NE Hwy 14; south to NE Hwy 39; southeast to NE Hwy 22; east to U.S. Hwy 81; southeast to U.S. Hwy 30; east to U.S. Hwy 75; north to the Washington County line; east to the Iowa-Nebraska border; south to the Missouri-Nebraska border; south to Kansas-Nebraska border; west along Kansas-Nebraska border to Colorado-Nebraska border; north and west to Wyoming-Nebraska border; north to intersection of Interstate Canal; and excluding that area in Zone 4.

Zone 4: Area encompassed by designated Federal and State highways and County Roads beginning at the intersection of NE Hwy 8 and U.S. Hwy 75; north to U.S. Hwy 136; east to the intersection of U.S. Hwy 136 and the Steamboat Trace (Trace); north along the Trace to the intersection with Federal Levee R–562; north along Federal Levee R–562 to the intersection with Nemaha County Rd 643A; south to the Trace; north along the Trace/Burlington Northern Railroad right-of-way to NE Hwy 2; west to U.S. Hwy 75; north to NE Hwy 2; west to NE Hwy 50; north to U.S. Hwy 34; west to NE Hwy 63; north to NE Hwy 66; north and west to U.S. Hwy 77; north to NE Hwy 92; west to NE Hwy Spur 12F; south to Butler County Rd 30; east to County Rd X; south to County Rd 27; west to County Rd W; south to County Rd 26; east to County Rd X; south to County Rd 21 (Seward County Line); west to NE Hwy 15; north to County Rd 34; west to County Rd H; south to NE Hwy 92; west to U.S. Hwy 81; south to NE Hwy 66; west to Polk County Rd C; north to NE Hwy 92; west to U.S. Hwy 30; west to Merrick County Rd 17; south to Hordlake Road; southeast to Prairie Island Road; southeast to Hamilton County Rd T; south to NE Hwy 66; west to NE Hwy 14; south to County Rd 22; west to County Rd M; south to County Rd 21; west to County Rd K; south to U.S. Hwy 34; west to NE Hwy 2; south to U.S. Hwy I–80; west to Gunbarrel Rd (Hall/Hamilton county line); south to Giltner Rd; west to U.S. Hwy 281; south to Lochland Rd; west to Holstein Avenue; south to U.S. Hwy 34; west to NE Hwy 10; north to Kearney County Rd R and Phelps County Rd 742; west to U.S. Hwy 283; south to U.S. Hwy 34; east to U.S. Hwy 136; east to U.S. Hwy 183; north to NE Hwy 4; east to NE Hwy 10; south to U.S. Hwy 136; east to NE Hwy 14; south to NE Hwy 8; east to U.S. Hwy 81; north to NE Hwy 4; east to NE Hwy 15; south to U.S. Hwy 136; east to Jefferson County Rd 578 Avenue; south to PWF Rd; east to NE Hwy 103; south to NE Hwy 8; east to U.S. Hwy 75.

New Mexico (Central Flyway Portion)

North Zone: That portion of the State north of I–40 and U.S. 54.

South Zone: The remainder of New Mexico.

North Dakota

High Plains Unit: That portion of the State south and west of a line from the South Dakota State line along U.S. 83 and I–94 to ND 41, north to U.S. 2, west to the Williams-Divide County line, then north along the County line to the Canadian border.

Low Plains Unit: The remainder of North Dakota.

Oklahoma

High Plains Zone: The Counties of Beaver, Cimarron, and Texas.

Low Plains Zone 1: That portion of the State east of the High Plains Zone and north of a line extending east from the Texas State line along OK 33 to OK 47, east along OK 47 to U.S. 183, south along U.S. 183 to I–40, east along I–40 to U.S. 177, north along U.S. 177 to OK 33, east along OK 33 to OK 18, north along OK 18 to OK 51, west along OK 51 to I–35, north along I–35 to U.S. 412, west along U.S. 412 to OK 132, then north along OK 132 to the Kansas State line.

Low Plains Zone 2: The remainder of Oklahoma.

South Dakota

High Plains Zone: That portion of the State west of a line beginning at the North Dakota State line and extending south along U.S. 83 to U.S. 14, east on U.S. 14 to Blunt, south on the Blunt-Canning Rd to SD 34, east and south on SD 34 to SD 50 at Lee's Corner, south on SD 50 to I–90, east on I–90 to SD 50, south on SD 50 to SD 44, west on SD 44 across the Platte-Winner bridge to SD 47, south on SD 47 to U.S. 18, east on U.S. 18 to SD 47, south on SD 47 to the Nebraska State line.

North Zone: That portion of northeastern South Dakota east of the High Plains Unit and north of a line extending east along U.S. 212 to the Minnesota State line.

South Zone: That portion of Gregory County east of SD 47 and south of SD 44; Charles Mix County south of SD 44 to the Douglas County line; south on SD 50 to Geddes; east on the Geddes Highway to U.S. 281; south on U.S. 281 and U.S. 18 to SD 50; south and east on SD 50 to the Bon Homme County line; the Counties of Bon Homme, Yankton, and Clay south of SD 50; and Union County south and west of SD 50 and I–29.

Middle Zone: The remainder of South Dakota.

Texas

High Plains Zone: That portion of the State west of a line extending south from the Oklahoma State line along U.S. 183 to Vernon, south along U.S. 283 to Albany, south along TX 6 to TX 351 to Abilene, south along U.S. 277 to Del Rio, then south along the Del Rio International Toll Bridge access road to the Mexico border.

Low Plains North Zone: That portion of northeastern Texas east of the High Plains Zone and north of a line beginning at the International Toll Bridge south of Del Rio, then extending east on U.S. 90 to San Antonio, then continuing east on I–10 to the Louisiana State line at Orange, Texas.

Low Plains South Zone: The remainder of Texas.

Wyoming (Central Flyway Portion)

Zone C1: Big Horn, Converse, Goshen, Hot Springs, Natrona, Park, Platte, and Washakie Counties; and Fremont County excluding the portions west or south of the Continental Divide.

Zone C2: Campbell, Crook, Johnson, Niobrara, Sheridan, and Weston Counties.

Zone C3: Albany and Laramie Counties; and that portion of Carbon County east of the Continental Divide.

Pacific Flyway

Arizona

North Zone: Game Management Units 1–5, those portions of Game Management Units 6 and 8 within Coconino County, and Game Management Units 7, 9, and 12A.

South Zone: Those portions of Game Management Units 6 and 8 in Yavapai County, and Game Management Units 10 and 12B–45.

California

Northeastern Zone: In that portion of California lying east and north of a line beginning at the intersection of Interstate 5 with the California-Oregon line; south along Interstate 5 to its junction with Walters Lane south of the town of Yreka; west along Walters Lane to its junction with Easy Street; south along Easy Street to the junction with Old Highway 99; south along Old Highway 99 to the point of intersection with Interstate 5 north of the town of Weed; south along Interstate 5 to its junction with Highway 89; east and south along Highway 89 to Main Street Greenville; north and east to its junction with North Valley Road; south to its junction of Diamond Mountain Road; north and east to its junction with North Arm Road; south and west to the junction of North Valley Road; south to the junction with Arlington Road (A22); west to the junction of Highway 89; south and west to the junction of Highway 70; east on Highway 70 to Highway 395; south and east on Highway 395 to the point of intersection with the California-Nevada State line; north along the California-Nevada State line to the junction of the California-Nevada-Oregon State lines; west along the California-Oregon State line to the point of origin.

Colorado River Zone: Those portions of San Bernardino, Riverside, and Imperial Counties east of a line extending from the Nevada State line south along U.S. 95 to Vidal Junction; south on a road known as ''Aqueduct Road'' in San Bernardino County through the town of Rice to the San Bernardino-Riverside County line; south on a road known in Riverside County as the ''Desert Center to Rice Road'' to the town of Desert Center; east 31 miles on I–10 to the Wiley Well Road; south on this road to Wiley Well; southeast along the Army-Milpitas Road to the Blythe, Brawley, Davis Lake intersections; south on the Blythe-Brawley paved road to the Ogilby and Tumco Mine Road; south on this road to U.S. 80; east 7 miles on U.S. 80 to the Andrade-Algodones Road; south on this paved road to the Mexican border at Algodones, Mexico.

Southern Zone: That portion of southern California (but excluding the Colorado River Zone) south and east of a line extending from the Pacific Ocean east along the Santa Maria River to CA 166 near the City of Santa Maria; east on CA 166 to CA 99; south on CA 99 to the crest of the Tehachapi Mountains at Tejon Pass; east and north along the crest of the Tehachapi Mountains to CA 178 at Walker Pass; east on CA 178 to U.S. 395 at the town of Inyokern; south on U.S. 395 to CA 58; east on CA 58 to I–15; east on I–15 to CA 127; north on CA 127 to the Nevada State line.

Southern San Joaquin Valley Zone: All of Kings and Tulare Counties and that portion of Kern County north of the Southern Zone.

Balance of State Zone: The remainder of California not included in the Northeastern, Colorado River, Southern, and the Southern San Joaquin Valley Zones.

Colorado (Pacific Flyway Portion)

Eastern Zone: Routt, Grand, Summit, Eagle, and Pitkin Counties, those portions of Saguache, San Juan, Hinsdale, and Mineral in the Pacific Flyway (*i.e.,* west of the Continental Divide), and Gunnison County except the following area: the portion of Gunnison County west of Curecanti Creek, west of the Gunnison River-North Fork of Gunnison River divide to Kebler Pass, west of Kebler Pass and the Ruby Range summit, and west and south of the Pitkin/Gunnison County line west of the Ruby Range. This area corresponds to the North Fork of Gunnison River Valley, and is already established by Colorado Division of Parks and Wildlife as the Gunnison County portions of Game Management Unit (GMU) 521, 53, and 63.

Western Zone: The remainder of the Pacific Flyway portion of Colorado not included in the Eastern Zone.

Idaho

Zone 1: All lands and waters within the Fort Hall Indian Reservation, including private in-holdings; Bannock County; Bingham County except that portion within the Blackfoot Reservoir drainage; Caribou County within the Fort Hall Indian Reservation; and Power County east of State Highway 37 and State Highway 39.

Zone 2: Bear Lake, Bonneville, Butte, Clark, Fremont, Jefferson, Madison, and Teton Counties; Bingham County within the Blackfoot Reservoir drainage; and Caribou County except within the Fort Hall Indian Reservation.

Zone 3: Ada, Adams, Benewah, Blaine, Boise, Bonner, Boundary, Camas, Canyon, Cassia, Clearwater, Custer, Elmore, Franklin, Gem, Gooding, Idaho, Jerome, Kootenai, Latah, Lemhi, Lewis, Lincoln, Minidoka, Nez Perce, Oneida, Owyhee, Payette, Shoshone, Twin Falls, and Washington Counties; and Power County west of State Highway 37 and State Highway 39.

Zone 4: Valley County.

Nevada

Northeast Zone: Elko and White Pine Counties.

Northwest Zone: Carson City, Churchill, Douglas, Esmeralda, Eureka, Humboldt, Lander, Lyon, Mineral, Nye, Pershing, Storey, and Washoe Counties.

South Zone: Clark and Lincoln Counties.

Moapa Valley Special Management Area: That portion of Clark County including the Moapa Valley to the confluence of the Muddy and Virgin Rivers.

Oregon

Zone 1: Benton, Clackamas, Clatsop, Columbia, Coos, Curry, Douglas, Gilliam, Hood River, Jackson, Josephine, Lane, Lincoln, Linn, Marion, Morrow, Multnomah, Polk, Sherman, Tillamook, Umatilla, Wasco, Washington, and Yamhill, Counties.

Zone 2: The remainder of Oregon not included in Zone 1.

Utah

Zone 1: Box Elder, Cache, Daggett, Davis, Duchesne, Morgan, Rich, Salt Lake, Summit, Uintah, Utah, Wasatch, and Weber Counties, and that part of Toole County north of I–80.

Zone 2: The remainder of Utah not included in Zone 1.

Washington

East Zone: All areas east of the Pacific Crest Trail and east of the Big White Salmon River in Klickitat County.

West Zone: The remainder of Washington not included in the East Zone.

Wyoming (Pacific Flyway Portion)

Snake River Zone: Beginning at the south boundary of Yellowstone National Park and the Continental Divide; south along the Continental Divide to Union Pass and the Union Pass Road (U.S.F.S. Road 600); west and south along the Union Pass Road to U.S.F.S. Road 605; south along U.S.F.S. Road 605 to the Bridger–Teton National Forest boundary; along the national forest boundary to the Idaho State line; north along the Idaho State line to the south boundary of Yellowstone National Park; east along the Yellowstone National Park boundary to the Continental Divide.

Balance of State Zone: The remainder of the Pacific Flyway portion of Wyoming not included in the Snake River Zone.

Geese

Atlantic Flyway

Connecticut

Early Canada Goose Seasons:
South Zone: Same as for ducks.
North Zone: Same as for ducks.

Regular Seasons

AP Unit: Litchfield County and the portion of Hartford County west of a line beginning at the Massachusetts border in Suffield and extending south along Route 159 to its intersection with Route 91 in Hartford, and then extending south along Route 91 to its intersection with the Hartford–Middlesex County line.

Atlantic Flyway Resident Population (AFRP) Unit: Starting at the intersection of I–95 and the Quinnipiac River, north on the Quinnipiac River to its intersection with I–91, north on I–91 to I–691, west on I–691 to the Hartford County line, and encompassing the rest of New Haven County and Fairfield County in its entirety.

NAP H–Unit: All of the rest of the State not included in the AP or AFRP descriptions above.

South Zone: Same as for ducks.

Maine

Same zones as for ducks.

Maryland

Early Canada Goose Seasons

Eastern Unit: Calvert, Caroline, Cecil, Dorchester, Harford, Kent, Queen Anne's, St. Mary's, Somerset, Talbot, Wicomico, and Worcester Counties; and that part of Anne Arundel County east of Interstate 895, Interstate 97, and Route 3; that part of Prince George's County east of Route 3 and Route 301; and that part of Charles County east of Route 301 to the Virginia State line.

Western Unit: Allegany, Baltimore, Carroll, Frederick, Garrett, Howard, Montgomery, and Washington Counties and that part of Anne Arundel County west of Interstate 895, Interstate 97, and Route 3; that part of Prince George's County west of Route 3 and Route 301; and that part of Charles County west of Route 301 to the Virginia State line.

Regular Seasons

Resident Population (RP) Zone: Allegany, Frederick, Garrett, Montgomery, and Washington Counties; that portion of Prince George's County west of Route 3 and Route 301; that portion of Charles County west of Route 301 to the Virginia State line; and that portion of Carroll County west of Route 31 to the intersection of Route 97, and west of Route 97 to the Pennsylvania line.

AP Zone: Remainder of the State.

Massachusetts

NAP Zone: Central and Coastal Zones (see duck zones).

AP Zone: The Western Zone (see duck zones).

Special Late Season Area: The Central Zone and that portion of the Coastal Zone (see duck zones) that lies north of the Cape Cod Canal, north to the New Hampshire line.

New Hampshire

Same zones as for ducks.

New Jersey

AP Zone: North and South Zones (see duck zones).

RP Zone: The Coastal Zone (see duck zones).

Special Late Season Area: In northern New Jersey, that portion of the State within a continuous line that runs east along the New York State boundary line to the Hudson River; then south along the New York State boundary to its intersection with Route 440 at Perth Amboy; then west on Route 440 to its intersection with Route 287; then west along Route 287 to its intersection with Route 206 in Bedminster (Exit 18); then north along Route 206 to its intersection with Route 94: then west along Route 94 to the toll bridge in Columbia; then north along the Pennsylvania State boundary in the Delaware River to the beginning point. In southern New Jersey, that portion of the State within a continuous line that runs west from the Atlantic Ocean at Ship Bottom along Route 72 to Route 70; then west along Route 70 to Route 206; then south along Route 206 to Route 536; then west along Route 536 to Route 322; then west along Route 322 to Route 55; then south along Route 55 to Route 553 (Buck Road); then south along Route 553 to Route 40; then east along Route 40 to route 55; then south along Route 55 to Route 552 (Sherman Avenue); then west along Route 552 to Carmel Road; then south along Carmel Road to Route 49; then east along Route 49 to Route 555; then south along Route 555 to Route 553; then east along Route 553 to Route 649; then north along Route 649 to Route 670; then east along Route 670 to Route 47; then north along Route 47 to Route 548; then east along Route 548 to Route 49; then east along Route 49 to Route 50; then south along Route 50 to Route 9; then south along Route 9 to Route 625 (Sea Isle City Boulevard); then east along Route 625 to the Atlantic Ocean; then north to the beginning point.

New York

Lake Champlain Goose Area: The same as the Lake Champlain Waterfowl Hunting Zone, which is that area of New York State lying east and north of a continuous line extending along Route 11 from the New York–Canada International boundary south to Route 9B, south along Route 9B to Route 9, south along Route 9 to Route 22 south of Keeseville, south along Route 22 to the west shore of South Bay along and around the shoreline of South Bay to Route 22 on the east shore of South Bay, southeast along Route 22 to Route 4, northeast along Route 4 to the New York–Vermont boundary.

Northeast Goose Area: The same as the Northeastern Waterfowl Hunting Zone, which is that area of New York State lying north of a continuous line extending from Lake Ontario east along the north shore of the Salmon River to Interstate 81, south along Interstate Route 81 to Route 31, east along Route 31 to Route 13, north along Route 13 to Route 49, east along Route 49 to Route 365, east along Route 365 to Route 28, east along Route 28 to Route 29, east along Route 29 to Route 22 at Greenwich Junction, north along Route 22 to Washington County Route 153, east along CR 153 to the New York–Vermont boundary, exclusive of the Lake Champlain Zone.

East Central Goose Area: That area of New York State lying inside of a continuous line extending from Interstate Route 81 in Cicero, east along Route 31 to Route 13, north along Route 13 to Route 49, east along Route 49 to

Route 365, east along Route 365 to Route 28, east along Route 28 to Route 29, east along Route 29 to Route 147 at Kimball Corners, south along Route 147 to Schenectady County Route 40 (West Glenville Road), west along Route 40 to Touareuna Road, south along Touareuna Road to Schenectady County Route 59, south along Route 59 to State Route 5, east along Route 5 to the Lock 9 bridge, southwest along the Lock 9 bridge to Route 5S, southeast along Route 5S to Schenectady County Route 58, southwest along Route 58 to the NYS Thruway, south along the Thruway to Route 7, southwest along Route 7 to Schenectady County Route 103, south along Route 103 to Route 406, east along Route 406 to Schenectady County Route 99 (Windy Hill Road), south along Route 99 to Dunnsville Road, south along Dunnsville Road to Route 397, southwest along Route 397 to Route 146 at Altamont, west along Route 146 to Albany County Route 252, northwest along Route 252 to Schenectady County Route 131, north along Route 131 to Route 7, west along Route 7 to Route 10 at Richmondville, south on Route 10 to Route 23 at Stamford, west along Route 23 to Route 7 in Oneonta, southwest along Route 7 to Route 79 to Interstate Route 88 near Harpursville, west along Route 88 to Interstate Route 81, north along Route 81 to the point of beginning.

West Central Goose Area: That area of New York State lying within a continuous line beginning at the point where the northerly extension of Route 269 (County Line Road on the Niagara–Orleans County boundary) meets the International boundary with Canada, south to the shore of Lake Ontario at the eastern boundary of Golden Hill State Park, south along the extension of Route 269 and Route 269 to Route 104 at Jeddo, west along Route 104 to Niagara County Route 271, south along Route 271 to Route 31E at Middleport, south along Route 31E to Route 31, west along Route 31 to Griswold Street, south along Griswold Street to Ditch Road, south along Ditch Road to Foot Road, south along Foot Road to the north bank of Tonawanda Creek, west along the north bank of Tonawanda Creek to Route 93, south along Route 93 to Route 5, east along Route 5 to Crittenden–Murrays Corners Road, south on Crittenden–Murrays Corners Road to the NYS Thruway, east along the Thruway 90 to Route 98 (at Thruway Exit 48) in Batavia, south along Route 98 to Route 20, east along Route 20 to Route 19 in Pavilion Center, south along Route 19 to Route 63, southeast along Route 63 to Route 246, south along Route 246 to Route 39 in Perry, northeast along Route 39 to Route 20A, northeast along Route 20A to Route 20, east along Route 20 to Route 364 (near Canandaigua), south and east along Route 364 to Yates County Route 18 (Italy Valley Road), southwest along Route 18 to Yates County Route 34, east along Route 34 to Yates County Route 32, south along Route 32 to Steuben County Route 122, south along Route 122 to Route 53, south along Route 53 to Steuben County Route 74, east along Route 74 to Route 54A (near Pulteney), south along Route 54A to Steuben County Route 87, east along Route 87 to Steuben County Route 96, east along Route 96 to Steuben County Route 114, east along Route 114 to Schuyler County Route 23, east and southeast along Route 23 to Schuyler County Route 28, southeast along Route 28 to Route 409 at Watkins Glen, south along Route 409 to Route 14, south along Route 14 to Route 224 at Montour Falls, east along Route 224 to Route 228 in Odessa, north along Route 228 to Route 79 in Mecklenburg, east along Route 79 to Route 366 in Ithaca, northeast along Route 366 to Route 13, northeast along Route 13 to Interstate Route 81 in Cortland, north along Route 81 to the north shore of the Salmon River to shore of Lake Ontario, extending generally northwest in a straight line to the nearest point of the international boundary with Canada, south and west along the international boundary to the point of beginning.

Hudson Valley Goose Area: That area of New York State lying within a continuous line extending from Route 4 at the New York–Vermont boundary, west and south along Route 4 to Route 149 at Fort Ann, west on Route 149 to Route 9, south along Route 9 to Interstate Route 87 (at Exit 20 in Glens Falls), south along Route 87 to Route 29, west along Route 29 to Route 147 at Kimball Corners, south along Route 147 to Schenectady County Route 40 (West Glenville Road), west along Route 40 to Touareuna Road, south along Touareuna Road to Schenectady County Route 59, south along Route 59 to State Route 5, east along Route 5 to the Lock 9 bridge, southwest along the Lock 9 bridge to Route 5S, southeast along Route 5S to Schenectady County Route 58, southwest along Route 58 to the NYS Thruway, south along the Thruway to Route 7, southwest along Route 7 to Schenectady County Route 103, south along Route 103 to Route 406, east along Route 406 to Schenectady County Route 99 (Windy Hill Road), south along Route 99 to Dunnsville Road, south along Dunnsville Road to Route 397, southwest along Route 397 to Route 146 at Altamont, southeast along Route 146 to Main Street in Altamont, west along Main Street to Route 156, southeast along Route 156 to Albany County Route 307, southeast along Route 307 to Route 85A, southwest along Route 85A to Route 85, south along Route 85 to Route 443, southeast along Route 443 to Albany County Route 301 at Clarksville, southeast along Route 301 to Route 32, south along Route 32 to Route 23 at Cairo, west along Route 23 to Joseph Chadderdon Road, southeast along Joseph Chadderdon Road to Hearts Content Road (Greene County Route 31), southeast along Route 31 to Route 32, south along Route 32 to Greene County Route 23A, east along Route 23A to Interstate Route 87 (the NYS Thruway), south along Route 87 to Route 28 (Exit 19) near Kingston, northwest on Route 28 to Route 209, southwest on Route 209 to the New York–Pennsylvania boundary, southeast along the New York–Pennsylvania boundary to the New York–New Jersey boundary, southeast along the New York–New Jersey boundary to Route 210 near Greenwood Lake, northeast along Route 210 to Orange County Route 5, northeast along Orange County Route 5 to Route 105 in the Village of Monroe, east and north along Route 105 to Route 32, northeast along Route 32 to Orange County Route 107 (Quaker Avenue), east along Route 107 to Route 9W, north along Route 9W to the south bank of Moodna Creek, southeast along the south bank of Moodna Creek to the New Windsor–Cornwall town boundary, northeast along the New Windsor–Cornwall town boundary to the Orange–Dutchess County boundary (middle of the Hudson River), north along the county boundary to Interstate Route 84, east along Route 84 to the Dutchess–Putnam County boundary, east along the county boundary to the New York–Connecticut boundary, north along the New York–Connecticut boundary to the New York–Massachusetts boundary, north along the New York–Massachusetts boundary to the New York–Vermont boundary, north to the point of beginning.

Eastern Long Island Goose Area (NAP High Harvest Area): That area of Suffolk County lying east of a continuous line extending due south from the New York–Connecticut boundary to the northernmost end of Roanoke Avenue in the Town of Riverhead; then south on Roanoke Avenue (which becomes County Route 73) to State Route 25; then west on Route 25 to Peconic Avenue; then south on Peconic Avenue to County Route (CR) 104 (Riverleigh Avenue); then south on CR 104 to CR 31

(Old Riverhead Road); then south on CR 31 to Oak Street; then south on Oak Street to Potunk Lane; then west on Stevens Lane; then south on Jessup Avenue (in Westhampton Beach) to Dune Road (CR 89); then due south to international waters.

Western Long Island Goose Area (RP Area): That area of Westchester County and its tidal waters southeast of Interstate Route 95 and that area of Nassau and Suffolk Counties lying west of a continuous line extending due south from the New York–Connecticut boundary to the northernmost end of Sound Road (just east of Wading River Marsh); then south on Sound Road to North Country Road; then west on North Country Road to Randall Road; then south on Randall Road to Route 25A, then west on Route 25A to the Sunken Meadow State Parkway; then south on the Sunken Meadow Parkway to the Sagtikos State Parkway; then south on the Sagtikos Parkway to the Robert Moses State Parkway; then south on the Robert Moses Parkway to its southernmost end; then due south to international waters.

Central Long Island Goose Area (NAP Low Harvest Area): That area of Suffolk County lying between the Western and Eastern Long Island Goose Areas, as defined above.

South Goose Area: The remainder of New York State, excluding New York City.

North Carolina

SJBP Hunt Zone: Includes the following counties or portions of counties: Anson, Cabarrus, Chatham, Davidson, Durham, Halifax (that portion east of NC 903), Montgomery (that portion west of NC 109), Northampton, Richmond (that portion south of NC 73 and west of U.S. 220 and north of U.S. 74), Rowan, Stanly, Union, and Wake.

RP Hunt Zone: Includes the following counties or portions of counties: Alamance, Alleghany, Alexander, Ashe, Avery, Beaufort, Bertie (that portion south and west of a line formed by NC 45 at the Washington Co. line to U.S. 17 in Midway, U.S. 17 in Midway to U.S. 13 in Windsor, U.S. 13 in Windsor to the Hertford Co. line), Bladen, Brunswick, Buncombe, Burke, Caldwell, Carteret, Caswell, Catawba, Cherokee, Clay, Cleveland, Columbus, Craven, Cumberland, Davie, Duplin, Edgecombe, Forsyth, Franklin, Gaston, Gates, Graham, Granville, Greene, Guilford, Halifax (that portion west of NC 903), Harnett, Haywood, Henderson, Hertford, Hoke, Iredell, Jackson, Johnston, Jones, Lee, Lenoir, Lincoln, McDowell, Macon, Madison, Martin, Mecklenburg, Mitchell, Montgomery (that portion that is east of NC 109), Moore, Nash, New Hanover, Onslow, Orange, Pamlico, Pender, Person, Pitt, Polk, Randolph, Richmond (all of the county with exception of that portion that is south of NC 73 and west of U.S. 220 and north of U.S. 74), Robeson, Rockingham, Rutherford, Sampson, Scotland, Stokes, Surry, Swain, Transylvania, Vance, Warren, Watauga, Wayne, Wilkes, Wilson, Yadkin, and Yancey.

Northeast Hunt Unit: Includes the following counties or portions of counties: Bertie (that portion north and east of a line formed by NC 45 at the Washington County line to U.S. 17 in Midway, U.S. 17 in Midway to U.S. 13 in Windsor, U.S. 13 in Windsor to the Hertford Co. line), Camden, Chowan, Currituck, Dare, Hyde, Pasquotank, Perquimans, Tyrrell, and Washington.

Pennsylvania

Resident Canada Goose Zone: All of Pennsylvania except for SJBP Zone and the area east of route SR 97 from the Maryland State Line to the intersection of SR 194, east of SR 194 to intersection of U.S. Route 30, south of U.S. Route 30 to SR 441, east of SR 441 to SR 743, east of SR 743 to intersection of I–81, east of I–81 to intersection of I–80, and south of I–80 to the New Jersey State line.

SJBP Zone: The area north of I–80 and west of I–79 including in the city of Erie west of Bay Front Parkway to and including the Lake Erie Duck zone (Lake Erie, Presque Isle, and the area within 150 yards of the Lake Erie Shoreline).

AP Zone: The area east of route SR 97 from Maryland State Line to the intersection of SR 194, east of SR 194 to intersection of U.S. Route 30, south of U.S. Route 30 to SR 441, east of SR 441 to SR 743, east of SR 743 to intersection of I–81, east of I–81 to intersection of I–80, south of I–80 to New Jersey State line.

Rhode Island

Special Area for Canada Geese: Kent and Providence Counties and portions of the towns of Exeter and North Kingston within Washington County (see State regulations for detailed descriptions).

South Carolina

Canada Goose Area: Statewide except for the following area:

East of U.S. 301: That portion of Clarendon County bounded to the North by S–14–25, to the East by Hwy 260, and to the South by the markers delineating the channel of the Santee River. West of U.S. 301: That portion of Clarendon County bounded on the North by S–14–26 extending southward to that portion of Orangeburg County bordered by Hwy 6.

Vermont

Same zones as for ducks.

Virginia

AP Zone: The area east and south of the following line—the Stafford County line from the Potomac River west to Interstate 95 at Fredericksburg, then south along Interstate 95 to Petersburg, then Route 460 (SE) to City of Suffolk, then south along Route 32 to the North Carolina line.

SJBP Zone: The area to the west of the AP Zone boundary and east of the following line: the ''Blue Ridge'' (mountain spine) at the West Virginia–Virginia Border (Loudoun County–Clarke County line) south to Interstate 64 (the Blue Ridge line follows county borders along the western edge of Loudoun–Fauquier–Rappahannock–Madison–Greene–Albemarle and into Nelson Counties), then east along Interstate Rt. 64 to Route 15, then south along Rt. 15 to the North Carolina line.

RP Zone: The remainder of the State west of the SJBP Zone.

Mississippi Flyway

Arkansas

Northwest Zone: Baxter, Benton, Boone, Carroll, Conway, Crawford, Faulkner, Franklin, Johnson, Logan, Madison, Marion, Newton, Perry, Pope, Pulaski, Searcy, Sebastian, Scott, Van Buren, Washington, and Yell Counties.

Illinois

Early Canada Goose Seasons:

North September Canada Goose Zone: That portion of the State north of a line extending west from the Indiana border along Interstate 80 to I–39, south along I–39 to Illinois Route 18, west along Illinois Route 18 to Illinois Route 29, south along Illinois Route 29 to Illinois Route 17, west along Illinois Route 17 to the Mississippi River, and due south across the Mississippi River to the Iowa border.

Central September Canada Goose Zone: That portion of the State south of the North September Canada Goose Zone line to a line extending west from the Indiana border along I–70 to Illinois Route 4, south along Illinois Route 4 to Illinois Route 161, west along Illinois Route 161 to Illinois Route 158, south and west along Illinois Route 158 to Illinois Route 159, south along Illinois Route 159 to Illinois Route 3, south along Illinois Route 3 to St. Leo's Road, south along St. Leo's road to Modoc Road, west along Modoc Road to Modoc Ferry Road, southwest along Modoc Ferry Road to Levee Road, southeast

along Levee Road to County Route 12 (Modoc Ferry entrance Road), south along County Route 12 to the Modoc Ferry route and southwest on the Modoc Ferry route across the Mississippi River to the Missouri border.

South September Canada Goose Zone: That portion of the State south and east of a line extending west from the Indiana border along Interstate 70, south along U.S. Highway 45, to Illinois Route 13, west along Illinois Route 13 to Greenbriar Road, north on Greenbriar Road to Sycamore Road, west on Sycamore Road to N. Reed Station Road, south on N. Reed Station Road to Illinois Route 13, west along Illinois Route 13 to Illinois Route 127, south along Illinois Route 127 to State Forest Road (1025 N), west along State Forest Road to Illinois Route 3, north along Illinois Route 3 to the south bank of the Big Muddy River, west along the south bank of the Big Muddy River to the Mississippi River, west across the Mississippi River to the Missouri border.

South Central September Canada Goose Zone: The remainder of the State between the south border of the Central September Canada Goose Zone and the North border of the South September Canada Goose Zone.

Regular Seasons

North Zone: That portion of the State north of a line extending west from the Indiana border along Interstate 80 to I–39, south along I–39 to Illinois Route 18, west along Illinois Route 18 to Illinois Route 29, south along Illinois Route 29 to Illinois Route 17, west along Illinois Route 17 to the Mississippi River, and due south across the Mississippi River to the Iowa border.

Central Zone: That portion of the State south of the North Goose Zone line to a line extending west from the Indiana border along I–70 to Illinois Route 4, south along Illinois Route 4 to Illinois Route 161, west along Illinois Route 161 to Illinois Route 158, south and west along Illinois Route 158 to Illinois Route 159, south along Illinois Route 159 to Illinois Route 3, south along Illinois Route 3 to St. Leo's Road, south along St. Leo's road to Modoc Road, west along Modoc Road to Modoc Ferry Road, southwest along Modoc Ferry Road to Levee Road, southeast along Levee Road to County Route 12 (Modoc Ferry entrance Road), south along County Route 12 to the Modoc Ferry route and southwest on the Modoc Ferry route across the Mississippi River to the Missouri border.

South Zone: Same zone as for ducks.

South Central Zone: Same zone as for ducks.

Indiana

Same zones as for ducks but in addition:

Late Canada Goose Season Zone: That part of the State encompassed by the following counties: Adams, Allen, Boone, Clay, De Kalb, Elkhart, Greene, Hamilton, Hancock, Hendricks, Huntington, Johnson, Kosciusko, Lagrange, La Porte, Madison, Marion, Marshall, Morgan, Noble, Parke, Shelby, Starke, Steuben, St. Joseph, Sullivan, Vermillion, Vigo, Wells, and Whitley.

Iowa

Early Canada Goose Seasons

Cedar Rapids/Iowa City Goose Zone: Includes portions of Linn and Johnson Counties bounded as follows: Beginning at the intersection of the west border of Linn County and Linn County Road E2W; then south and east along County Road E2W to Highway 920; then north along Highway 920 to County Road E16; then east along County Road E16 to County Road W58; then south along County Road W58 to County Road E34; then east along County Road E34 to Highway 13; then south along Highway 13 to Highway 30; then east along Highway 30 to Highway 1; then south along Highway 1 to Morse Road in Johnson County; then east along Morse Road to Wapsi Avenue; then south along Wapsi Avenue to Lower West Branch Road; then west along Lower West Branch Road to Taft Avenue; then south along Taft Avenue to County Road F62; then west along County Road F62 to Kansas Avenue; then north along Kansas Avenue to Black Diamond Road; then west on Black Diamond Road to Jasper Avenue; then north along Jasper Avenue to Rohert Road; then west along Rohert Road to Ivy Avenue; then north along Ivy Avenue to 340th Street; then west along 340th Street to Half Moon Avenue; then north along Half Moon Avenue to Highway 6; then west along Highway 6 to Echo Avenue; then north along Echo Avenue to 250th Street; then east on 250th Street to Green Castle Avenue; then north along Green Castle Avenue to County Road F12; then west along County Road F12 to County Road W30; then north along County Road W30 to Highway 151; then north along the Linn–Benton County line to the point of beginning.

Des Moines Goose Zone: Includes those portions of Polk, Warren, Madison, and Dallas Counties bounded as follows: Beginning at the intersection of Northwest 158th Avenue and County Road R38 in Polk County; then south along R38 to Northwest 142nd Avenue; then east along Northwest 142nd Avenue to Northeast 126th Avenue; then east along Northeast 126th Avenue to Northeast 46th Street; then south along Northeast 46th Street to Highway 931; then east along Highway 931 to Northeast 80th Street; then south along Northeast 80th Street to Southeast 6th Avenue; then west along Southeast 6th Avenue to Highway 65; then south and west along Highway 65 to Highway 69 in Warren County; then south along Highway 69 to County Road G24; then west along County Road G24 to Highway 28; then southwest along Highway 28 to 43rd Avenue; then north along 43rd Avenue to Ford Street; then west along Ford Street to Filmore Street; then west along Filmore Street to 10th Avenue; then south along 10th Avenue to 155th Street in Madison County; then west along 155th Street to Cumming Road; then north along Cumming Road to Badger Creek Avenue; then north along Badger Creek Avenue to County Road F90 in Dallas County; then east along County Road F90 to County Road R22; then north along County Road R22 to Highway 44; then east along Highway 44 to County Road R30; then north along County Road R30 to County Road F31; then east along County Road F31 to Highway 17; then north along Highway 17 to Highway 415 in Polk County; then east along Highway 415 to Northwest 158th Avenue; then east along Northwest 158th Avenue to the point of beginning.

Cedar Falls/Waterloo Goose Zone: Includes those portions of Black Hawk County bounded as follows: Beginning at the intersection of County Roads C66 and V49 in Black Hawk County, then south along County Road V49 to County Road D38, then west along County Road D38 to State Highway 21, then south along State Highway 21 to County Road D35, then west along County Road D35 to Grundy Road, then north along Grundy Road to County Road D19, then west along County Road D19 to Butler Road, then north along Butler Road to County Road C57, then north and east along County Road C57 to U.S. Highway 63, then south along U.S. Highway 63 to County Road C66, then east along County Road C66 to the point of beginning.

Regular Seasons

Same zones as for ducks.

Kentucky

Northeast Goose Zone: Bath, Menifee, Morgan (except the portion that lies within the Paintsville Lake Wildlife Management Area) and Rowan Counties except that no goose hunting is permitted on public land (U.S. Forest Service) and water within the block of land lying inside the boundaries of Hwy

801, Hwy 1274, Hwy 36, Hwy 211, Hwy 60, and Hwy 826.

Remainder of State: The remainder of Kentucky outside the Northeast Goose Zone.

Louisiana

North Zone: That portion of the State north of the line from the Texas border at Hwy 190/12 east to Hwy 49, then south on Hwy 49 to I–10, then east on I–10 to I–12, then east on I–12 to I–10, then east on I–10 to the Mississippi State line.

South Zone: Remainder of the State.

Michigan

North Zone: Same as North duck zone.

Middle Zone: Same as Middle duck zone.

South Zone: Same as South duck zone.

Allegan County GMU: That area encompassed by a line beginning at the junction of 136th Avenue and Interstate Highway 196 in Lake Town Township and extending easterly along 136th Avenue to Michigan Highway 40, southerly along Michigan 40 through the city of Allegan to 108th Avenue in Trowbridge Township, westerly along 108th Avenue to 46th Street, northerly along 46th Street to 109th Avenue, westerly along 109th Avenue to I–196 in Casco Township, then northerly along I–196 to the point of beginning.

Muskegon Wastewater GMU: That portion of Muskegon County within the boundaries of the Muskegon County wastewater system, east of the Muskegon State Game Area, in sections 5, 6, 7, 8, 17, 18, 19, 20, 29, 30, and 32, T10N R14W, and sections 1, 2, 10, 11, 12, 13, 14, 24, and 25, T10N R15W, as posted.

Minnesota

Same zones as for ducks.

Missouri

Same zones as for ducks.

Ohio

Same zones as for ducks.

Tennessee

Northwest Goose Zone: Lake, Obion, and Weakley Counties, and Dyer County, excluding that portion south of State Highway 104; and Gibson County, excluding that portion south of State Highway 104 and west of U.S. Highways 45 and 45W.

Remainder of State: That portion of Tennessee outside of the Northwest Goose Zone.

Wisconsin

Early Canada Goose Seasons

Early-Season Subzone A: That portion of the State encompassed by a line beginning at the intersection of U.S. Highway 141 and the Michigan border near Niagara, then south along U.S. 141 to State Highway 22, west and southwest along State 22 to U.S. 45, south along U.S. 45 to State 22, west and south along State 22 to State 110, south along State 110 to U.S. 10, south along U.S. 10 to State 49, south along State 49 to State 23, west along State 23 to State 73, south along State 73 to State 60, west along State 60 to State 23, south along State 23 to State 11, east along State 11 to State 78, then south along State 78 to the Illinois border.

Early-Season Subzone B: The remainder of the State.

Regular Seasons

Same zones as for ducks but in addition:

Horicon Zone: That portion of the State encompassed by a boundary beginning at the intersection of State 23 and State 73 and moves south along State 73 until the intersection of State 73 and State 60, then moves east along State 60 until the intersection of State 60 and State 83, and then moves north along State 83 until the intersection of State 83 and State 33 at which point it moves east until the intersection of State 33 and U.S. 45, then moves north along U.S. 45 until the intersection of U.S. 45 and State 23, at which point it moves west along State 23 until the intersection of State 23 and State 73.

Central Flyway

Colorado (Central Flyway Portion)

Northern Front Range Area: All areas in Boulder, Larimer, and Weld Counties from the Continental Divide east along the Wyoming border to U.S. 85, south on U.S. 85 to the Adams County line, and all lands in Adams, Arapahoe, Broomfield, Clear Creek, Denver, Douglas, Gilpin, and Jefferson Counties.

North Park Area: Jackson County.

South Park and San Luis Valley Area: All of Alamosa, Chaffee, Conejos, Costilla, Custer, Fremont, Lake, Park, Rio Grande, and Teller Counties, and those portions of Saguache, Mineral and Hinsdale Counties east of the Continental Divide.

Remainder: Remainder of the Central Flyway portion of Colorado.

Eastern Colorado Late Light Goose Area: That portion of the State east of Interstate Highway 25.

Montana (Central Flyway Portion)

Zone 1: Same as Zone 1 for ducks and coots.

Zone 2: Same as Zone 2 for ducks and coots.

Nebraska

Dark Geese

Niobrara Unit: That area contained within and bounded by the intersection of the South Dakota State line and the eastern Cherry County line, south along the Cherry County line to the Niobrara River, east to the Norden Road, south on the Norden Road to U.S. Hwy 20, east along U.S. Hwy 20 to NE Hwy 14, north along NE Hwy 14 to NE Hwy 59 and County Road 872, west along County Road 872 to the Knox County Line, north along the Knox County Line to the South Dakota State line. Where the Niobrara River forms the boundary, both banks of the river are included in the Niobrara Unit.

East Unit: That area north and east of U.S. 81 at the Kansas–Nebraska State line, north to NE Hwy 91, east to U.S. 275, south to U.S. 77, south to NE 91, east to U.S. 30, east to Nebraska–Iowa State line.

Platte River Unit: That area north and west of U.S. 81 at the Kansas–Nebraska State line, north to NE Hwy 91, west along NE 91 to NE 11, north to the Holt County line, west along the northern border of Garfield, Loup, Blaine and Thomas Counties to the Hooker County line, south along the Thomas–Hooker County lines to the McPherson County line, east along the south border of Thomas County to the western line of Custer County, south along the Custer–Logan County line to NE 92, west to U.S. 83, north to NE 92, west to NE 61, south along NE 61 to NE 92, west along NE 92 to U.S. Hwy 26, south along U.S. Hwy 26 to Keith County Line, south along Keith County Line to the Colorado State line.

Panhandle Unit: That area north and west of Keith–Deuel County Line at the Nebraska–Colorado State line, north along the Keith County Line to U.S. Hwy 26, west to NE Hwy 92, east to NE Hwy 61, north along NE Hwy 61 to NE Hwy 2, west along NE 2 to the corner formed by Garden–Grant–Sheridan Counties, west along the north border of Garden, Morrill, and Scotts Bluff Counties to the intersection of the Interstate Canal, west to the Wyoming State line.

North-Central Unit: The remainder of the State.

Light Geese

Rainwater Basin Light Goose Area: The area bounded by the junction of NE

Hwy. 92 and NE Hwy. 15, south along NE Hwy. 15 to NE Hwy. 4, west along NE Hwy. 4 to U.S. Hwy. 34, west along U.S. Hwy. 34 to U.S. Hwy. 283, north along U.S. Hwy. 283 to U.S. Hwy. 30, east along U.S. Hwy. 30 to NE Hwy. 92, east along NE Hwy. 92 to the beginning.

Remainder of State: The remainder portion of Nebraska.

New Mexico (Central Flyway Portion)

Dark Geese

Middle Rio Grande Valley Unit: Sierra, Socorro, and Valencia Counties.

Remainder: The remainder of the Central Flyway portion of New Mexico.

North Dakota

Missouri River Canada Goose Zone: The area within and bounded by a line starting where ND Hwy 6 crosses the South Dakota border; then north on ND Hwy 6 to I–94; then west on I–94 to ND Hwy 49; then north on ND Hwy 49 to ND Hwy 200; then west on ND Hwy 200; then north on ND Hwy 8 to the Mercer/McLean County line; then east following the county line until it turns south toward Garrison Dam; then east along a line (including Mallard Island) of Lake Sakakawea to U.S. Hwy 83; then south on U.S. Hwy 83 to ND Hwy 200; then east on ND Hwy 200 to ND Hwy 41; then south on ND Hwy 41 to U.S. Hwy 83; then south on U.S. Hwy 83 to I–94; then east on I–94 to U.S. Hwy 83; then south on U.S. Hwy 83 to the South Dakota border; then west along the South Dakota border to ND Hwy 6.

Rest of State: Remainder of North Dakota.

South Dakota

Early Canada Goose Seasons

Special Early Canada Goose Unit: The Counties of Campbell, Marshall, Roberts, Day, Clark, Codington, Grant, Hamlin, Deuel, Walworth; that portion of Perkins County west of State Highway 75 and south of State Highway 20; that portion of Dewey County north of Bureau of Indian Affairs Road 8, Bureau of Indian Affairs Road 9, and the section of U.S. Highway 212 east of the Bureau of Indian Affairs Road 8 junction; that portion of Potter County east of U.S. Highway 83; that portion of Sully County east of U.S. Highway 83; portions of Hyde, Buffalo, Brule, and Charles Mix counties north and east of a line beginning at the Hughes–Hyde County line on State Highway 34, east to Lees Boulevard, southeast to State Highway 34, east 7 miles to 350th Avenue, south to Interstate 90 on 350th Avenue, south and east on State Highway 50 to Geddes, east on 285th Street to U.S. Highway 281, and north on U.S. Highway 281 to the Charles Mix–Douglas County boundary; that portion of Bon Homme County north of State Highway 50; those portions of Yankton and Clay Counties north of a line beginning at the junction of State Highway 50 and 306th Street/County Highway 585 in Bon Homme County, east to U.S. Highway 81, then north on U.S. Highway 81 to 303rd Street, then east on 303rd Street to 444th Avenue, then south on 444th Avenue to 305th Street, then east on 305th Street/Bluff Road to State Highway 19, then south to State Highway 50 and east to the Clay/Union County Line; McPherson, Edmunds, Kingsbury, Brookings, Lake, Moody, Miner, Faulk, Hand, Jerauld, Douglas, Hutchinson, Turner, Aurora, Beadle, Davison, Hanson, Sanborn, Spink, Brown, Harding, Butte, Lawrence, Meade, Oglala Lakota (formerly Shannon), Jackson, Mellette, Todd, Jones, Haakon, Corson, Ziebach, and McCook Counties; and those portions of Minnehaha and Lincoln counties outside of an area bounded by a line beginning at the junction of the South Dakota–Minnesota State line and Minnehaha County Highway 122 (254th Street) west to its junction with Minnehaha County Highway 149 (464th Avenue), south on Minnehaha County Highway 149 (464th Avenue) to Hartford, then south on Minnehaha County Highway 151 (463rd Avenue) to State Highway 42, east on State Highway 42 to State Highway 17, south on State Highway 17 to its junction with Lincoln County Highway 116 (Klondike Road), and east on Lincoln County Highway 116 (Klondike Road) to the South Dakota–Iowa State line, then north along the South Dakota–Iowa and South Dakota–Minnesota border to the junction of the South Dakota–Minnesota State line and Minnehaha County Highway 122 (254th Street).

Regular Seasons

Unit 1: Same as that for the September Canada goose season.

Unit 2: Remainder of South Dakota.

Unit 3: Bennett County.

Texas

Northeast Goose Zone: That portion of Texas lying east and north of a line beginning at the Texas–Oklahoma border at U.S. 81, then continuing south to Bowie and then southeasterly along U.S. 81 and U.S. 287 to I–35W and I–35 to the juncture with I–10 in San Antonio, then east on I–10 to the Texas–Louisiana border.

Southeast Goose Zone: That portion of Texas lying east and south of a line beginning at the International Toll Bridge at Laredo, then continuing north following I–35 to the juncture with I–10 in San Antonio, then easterly along I–10 to the Texas–Louisiana border.

West Goose Zone: The remainder of the State.

Wyoming (Central Flyway Portion)

Dark Geese

Zone G1: Big Horn, Converse, Hot Springs, Natrona, Park, and Washakie Counties; and Fremont County excluding those portions south or west of the Continental Divide.

Zone G1A: Goshen and Platte Counties.

Zone G2: Campbell, Crook, Johnson, Niobrara, Sheridan, and Weston Counties.

Zone G3: Albany and Laramie Counties; and that portion of Carbon County east of the Continental Divide.

Pacific Flyway

Arizona

Same zones as for ducks.

California

Northeastern Zone: In that portion of California lying east and north of a line beginning at the intersection of Interstate 5 with the California–Oregon line; south along Interstate 5 to its junction with Walters Lane south of the town of Yreka; west along Walters Lane to its junction with Easy Street; south along Easy Street to the junction with Old Highway 99; south along Old Highway 99 to the point of intersection with Interstate 5 north of the town of Weed; south along Interstate 5 to its junction with Highway 89; east and south along Highway 89 to main street Greenville; north and east to its junction with North Valley Road; south to its junction of Diamond Mountain Road; north and east to its junction with North Arm Road; south and west to the junction of North Valley Road; south to the junction with Arlington Road (A22); west to the junction of Highway 89; south and west to the junction of Highway 70; east on Highway 70 to Highway 395; south and east on Highway 395 to the point of intersection with the California–Nevada State line; north along the California–Nevada State line to the junction of the California–Nevada–Oregon State lines west along the California–Oregon State line to the point of origin.

Colorado River Zone: Those portions of San Bernardino, Riverside, and Imperial Counties east of a line extending from the Nevada border south along U.S. 95 to Vidal Junction; south on a road known as ''Aqueduct Road'' in San Bernardino County through the town of Rice to the San Bernardino–

Riverside County line; south on a road known in Riverside County as the ''Desert Center to Rice Road'' to the town of Desert Center; east 31 miles on I–10 to the Wiley Well Road; south on this road to Wiley Well; southeast along the Army–Milpitas Road to the Blythe, Brawley, Davis Lake intersections; south on the Blythe–Brawley paved road to the Ogilby and Tumco Mine Road; south on this road to U.S. 80; east 7 miles on U.S. 80 to the Andrade–Algodones Road; south on this paved road to the Mexican border at Algodones, Mexico.

Southern Zone: That portion of southern California (but excluding the Colorado River Zone) south and east of a line extending from the Pacific Ocean east along the Santa Maria River to CA 166 near the City of Santa Maria; east on CA 166 to CA 99; south on CA 99 to the crest of the Tehachapi Mountains at Tejon Pass; east and north along the crest of the Tehachapi Mountains to CA 178 at Walker Pass; east on CA 178 to U.S. 395 at the town of Inyokern; south on U.S. 395 to CA 58; east on CA 58 to I–15; east on I–15 to CA 127; north on CA 127 to the Nevada border.

Imperial County Special Management Area: The area bounded by a line beginning at Highway 86 and the Navy Test Base Road; south on Highway 86 to the town of Westmoreland; continue through the town of Westmoreland to Route S26; east on Route S26 to Highway 115; north on Highway 115 to Weist Road; north on Weist Road to Flowing Wells Road; northeast on Flowing Wells Road to the Coachella Canal; northwest on the Coachella Canal to Drop 18; a straight line from Drop 18 to Frink Road; south on Frink Road to Highway 111; north on Highway 111 to Niland Marina Road; southwest on Niland Marina Road to the old Imperial County boat ramp and the water line of the Salton Sea; from the water line of the Salton Sea, a straight line across the Salton Sea to the Salinity Control Research Facility and the Navy Test Base Road; southwest on the Navy Test Base Road to the point of beginning.

Balance of State Zone: The remainder of California not included in the Northeastern, Colorado River, and Southern Zones.

North Coast Special Management Area: Del Norte and Humboldt Counties.

Sacramento Valley Special Management Area: That area bounded by a line beginning at Willows south on I–5 to Hahn Road; easterly on Hahn Road and the Grimes–Arbuckle Road to Grimes; northerly on CA 45 to the junction with CA 162; northerly on CA 45/162 to Glenn; and westerly on CA 162 to the point of beginning in Willows.

Colorado (Pacific Flyway Portion)

Same zones as for ducks.

Idaho

Canada Geese and Brant

Zone 1: All lands and waters within the Fort Hall Indian Reservation, including private in-holdings; Bannock County; Bingham County, except that portion within the Blackfoot Reservoir drainage; Caribou County within the Fort Hall Indian Reservation; and Power County east of State Highway 37 and State Highway 39.

Zone 2: Bonneville, Butte, Clark, Fremont, Jefferson, Madison, and Teton Counties.

Zone 3: Ada, Adams, Benewah, Blaine, Boise, Bonner, Boundary, Camas, Canyon, Cassia, Clearwater, Custer, Elmore, Franklin, Gem, Gooding, Idaho, Jerome, Kootenai, Latah, Lemhi, Lewis, Lincoln, Minidoka, Nez Perce, Oneida, Owyhee, Payette, Shoshone, Twin Falls, and Washington Counties; and Power County west of State Highway 37 and State Highway 39.

Zone 4: Bear Lake County; Bingham County within the Blackfoot Reservoir drainage; and Caribou County, except that portion within the Fort Hall Indian Reservation.

Zone 5: Valley County.

White-Fronted Geese

Zone 1: All lands and waters within the Fort Hall Indian Reservation, including private in-holdings; Bannock County; Bingham County except that portion within the Blackfoot Reservoir drainage; Caribou County within the Fort Hall Indian Reservation; and Power County east of State Highway 37 and State Highway 39.

Zone 2: Bear Lake, Bonneville, Butte, Clark, Fremont, Jefferson, Madison, and Teton Counties; Bingham County within the Blackfoot Reservoir drainage; and Caribou County except within the Fort Hall Indian Reservation.

Zone 3: Adams, Benewah, Blaine, Bonner, Boundary, Camas, Clearwater, Custer, Franklin, Idaho, Kootenai, Latah, Lemhi, Lewis, Nez Perce, Oneida, and Shoshone Counties; and Power County west of State Highway 37 and State Highway 39.

Zone 4: Ada, Boise, Canyon, Cassia, Elmore, Gem, Gooding, Jerome, Lincoln, Minidoka, Owyhee, Payette, Twin Falls, and Washington Counties.

Zone 5: Valley County.

Light Geese

Zone 1: All lands and waters within the Fort Hall Indian Reservation, including private in-holdings; Bannock County; Bingham County east of the west bank of the Snake River, west of the McTucker boat ramp access road, and east of the American Falls Reservoir bluff, except that portion within the Blackfoot Reservoir drainage; Caribou County within the Fort Hall Indian Reservation; and Power County below the American Falls Reservoir bluff, and within the Fort Hall Indian Reservation.

Zone 2: Franklin and Oneida Counties; Bingham County west of the west bank of the Snake River, east of the McTucker boat ramp access road, and west of the American Falls Reservoir bluff; Power County, except below the American Falls Reservoir bluff and those lands and waters within the Fort Hall Indian Reservation.

Zone 3: Ada, Boise, Canyon, Cassia, Elmore, Gem, Gooding, Jerome, Lincoln, Minidoka, Owyhee, Payette, Twin Falls, and Washington Counties.

Zone 4: Adams, Benewah, Blaine, Bonner, Boundary, Camas, Clearwater, Custer, Idaho, Kootenai, Latah, Lemhi, Lewis, Nez Perce, and Shoshone Counties.

Zone 5: Bear Lake, Bonneville, Butte, Clark, Fremont, Jefferson, Madison, and Teton Counties; Bingham County within the Blackfoot Reservoir drainage; and Caribou County except within the Fort Hall Indian Reservation.

Zone 6: Valley County.

Nevada

Same zones as for ducks.

New Mexico (Pacific Flyway Portion)

North Zone: The Pacific Flyway portion of New Mexico located north of I–40.

South Zone: The Pacific Flyway portion of New Mexico located south of I–40.

Oregon

Northwest Permit Zone: Benton, Clackamas, Clatsop, Columbia, Lane, Lincoln, Linn, Marion, Multnomah, Polk, Tillamook, Washington, and Yamhill Counties.

Lower Columbia/N. Willamette Valley Management Area: Those portions of Clatsop, Columbia, Multnomah, and Washington Counties within the Northwest Special Permit Zone.

Tillamook County Management Area: That portion of Tillamook County beginning at the point where Old Woods Rd crosses the south shores of Horn Creek, north on Old Woods Rd to Sand Lake Rd at Woods, north on Sand Lake Rd to the intersection with McPhillips Dr, due west (~200 yards) from the intersection to the Pacific coastline, south on the Pacific coastline to

Neskowin Creek, east along the north shores of Neskowin Creek and then Hawk Creek to Salem Ave, east on Salem Ave in Neskowin to Hawk Ave, east on Hawk Ave to Hwy 101, north on Hwy 101 to Resort Dr, north on Resort Dr to a point due west of the south shores of Horn Creek at its confluence with the Nestucca River, due east (~80 yards) across the Nestucca River to the south shores of Horn Creek, east along the south shores of Horn Creek to the point of beginning.

Southwest Zone: Those portions of Douglas, Coos, and Curry Counties east of Highway 101, and Josephine and Jackson Counties.

South Coast Zone: Those portions of Douglas, Coos, and Curry Counties west of Highway 101.

Eastern Zone: Baker, Crook, Deschutes, Gilliam, Grant, Hood River, Jefferson, Morrow, Sherman, Umatilla, Union, Wallowa, Wasco, and Wheeler Counties.

Klamath County Zone: Klamath County.

Harney and Lake County Zone: Harney and Lake Counties.

Malheur County Zone: Malheur County.

Utah

East Box Elder County Zone: Boundary begins at the intersection of the eastern boundary of Public Shooting Grounds Waterfowl Management Area and SR–83 (Promontory Road); east along SR–83 to I–15; south on I–15 to the Perry access road; southwest along this road to the Bear River Bird Refuge boundary; west, north, and then east along the refuge boundary until it intersects the Public Shooting Grounds Waterfowl Management Area boundary; east and north along the Public Shooting Grounds Waterfowl Management Area boundary to SR–83.

Wasatch Front Zone: Boundary begins at the Weber–Box Elder County line at I–15; east along Weber County line to US–89; south on US–89 to I–84; east and south on I–84 to I–80; south on I–80 to US–189; south and west on US–189 to the Utah County line; southeast and then west along this line to the Tooele County line; north along the Tooele County line to I–80; east on I–80 to Exit 99; north from Exit 99 along a direct line to the southern tip of Promontory Point and Promontory Road; east and north along this road to the causeway separating Bear River Bay from Ogden Bay; east on this causeway to the southwest corner of Great Salt Lake Mineral Corporations (GSLMC) west impoundment; north and east along GSLMC's west impoundment to the northwest corner of the impoundment; north from this point along a direct line to the southern boundary of Bear River Migratory Bird Refuge; east along this southern boundary to the Perry access road; northeast along this road to I–15; south along I–15 to the Weber–Box Elder County line.

Southern Zone: boundary includes Beaver, Carbon, Emery, Garfield, Grand, Iron, Juab, Kane, Millard, Piute, San Juan, Sanpete, Sevier, Wayne, and Washington Counties, and that part of Tooele County south of I–80.

Northern Zone: The remainder of Utah not included in the East Box Elder County, Wasatch Front, and Southern Zones.

Washington

Area 1: Skagit, Island, and Snohomish Counties.

Area 2A (Southwest Permit Zone): Clark, Cowlitz, and Wahkiakum Counties.

Area 2B (Southwest Permit Zone): Grays Harbor and Pacific Counties.

Area 3: All areas west of the Pacific Crest Trail and west of the Big White Salmon River that are not included in Areas 1, 2A, and 2B.

Area 4: Adams, Benton, Chelan, Douglas, Franklin, Grant, Kittitas, Lincoln, Okanogan, Spokane, and Walla Walla Counties.

Area 5: All areas east of the Pacific Crest Trail and east of the Big White Salmon River that are not included in Area 4.

Brant

Pacific Flyway

California

Northern Zone: Del Norte, Humboldt, and Mendocino Counties.

Balance of State Zone: The remainder of the State not included in the Northern Zone.

Washington

Puget Sound Zone: Clallam, Skagit, and Whatcom Counties.

Coastal Zone: Pacific County.

Swans

Central Flyway

South Dakota: Aurora, Beadle, Brookings, Brown, Brule, Buffalo, Campbell, Clark, Codington, Davison, Day, Deuel, Edmunds, Faulk, Grant, Hamlin, Hand, Hanson, Hughes, Hyde, Jerauld, Kingsbury, Lake, Marshall, McCook, McPherson, Miner, Minnehaha, Moody, Potter, Roberts, Sanborn, Spink, Sully, and Walworth Counties.

Pacific Flyway

Montana (Pacific Flyway Portion)

Open Area: Cascade, Chouteau, Hill, Liberty, and Toole Counties and those portions of Pondera and Teton Counties lying east of U.S. 287–89.

Nevada

Open Area: Churchill, Lyon, and Pershing Counties.

Utah

Open Area: Those portions of Box Elder, Weber, Davis, Salt Lake, and Toole Counties lying west of I–15, north of I–80, and south of a line beginning from the Forest Street exit to the Bear River National Wildlife Refuge boundary; then north and west along the Bear River National Wildlife Refuge boundary to the farthest west boundary of the Refuge; then west along a line to Promontory Road; then north on Promontory Road to the intersection of SR 83; then north on SR 83 to I–84; then north and west on I–84 to State Hwy 30; then west on State Hwy 30 to the Nevada–Utah State line; then south on the Nevada–Utah State line to I–80.

Doves

Alabama

South Zone: Baldwin, Barbour, Coffee, Covington, Dale, Escambia, Geneva, Henry, Houston, and Mobile Counties.

North Zone: Remainder of the State.

Florida

Northwest Zone: The Counties of Bay, Calhoun, Escambia, Franklin, Gadsden, Gulf, Holmes, Jackson, Liberty, Okaloosa, Santa Rosa, Walton, Washington, Leon (except that portion north of U.S. 27 and east of State Road 155), Jefferson (south of U.S. 27, west of State Road 59 and north of U.S. 98), and Wakulla (except that portion south of U.S. 98 and east of the St. Marks River).

South Zone: Remainder of State.

Louisiana

North Zone: That portion of the State north of a line extending east from the Texas border along State Highway 12 to U.S. Highway 190, east along U.S. 190 to Interstate Highway 12, east along Interstate Highway 12 to Interstate Highway 10, then east along Interstate Highway 10 to the Mississippi border.

South Zone: The remainder of the State.

Mississippi

North Zone: That portion of the State north and west of a line extending west from the Alabama State line along U.S. Highway 84 to its junction with State

Highway 35, then south along State Highway 35 to the Louisiana State line.

South Zone: The remainder of Mississippi.

Texas

North Zone: That portion of the State north of a line beginning at the International Bridge south of Fort Hancock; north along FM 1088 to TX 20; west along TX 20 to TX 148; north along TX 148 to I–10 at Fort Hancock; east along I–10 to I–20; northeast along I–20 to I–30 at Fort Worth; northeast along I–30 to the Texas–Arkansas State line.

Central Zone: That portion of the State lying between the North and South Zones.

South Zone: That portion of the State south and west of a line beginning at the International Bridge south of Del Rio, proceeding east on U.S. 90 to State Loop 1604 west of San Antonio; then south, east, and north along Loop 1604 to I–10 east of San Antonio; then east on I–10 to Orange, Texas.

Special White-winged Dove Area in the South Zone: Same as the South Zone.

Band-Tailed Pigeons

California

North Zone: Alpine, Butte, Del Norte, Glenn, Humboldt, Lassen, Mendocino, Modoc, Plumas, Shasta, Sierra, Siskiyou, Tehama, and Trinity Counties.

South Zone: The remainder of the State not included in the North Zone.

New Mexico

North Zone: North of a line following U.S. 60 from the Arizona State line east to I–25 at Socorro and then south along I–25 from Socorro to the Texas State line.

South Zone: The remainder of the State not included in the North Zone.

Washington

Western Washington: The State of Washington excluding those portions lying east of the Pacific Crest Trail and east of the Big White Salmon River in Klickitat County.

Woodcock

New Jersey

North Zone: That portion of the State north of NJ 70.

South Zone: The remainder of the State.

Sandhill Cranes

Mississippi Flyway

Minnesota

Northwest Zone: That portion of the State encompassed by a line extending east from the North Dakota border along U.S. Highway 2 to State Trunk Highway (STH) 32, north along STH 32 to STH 92, east along STH 92 to County State Aid Highway (CSAH) 2 in Polk County, north along CSAH 2 to CSAH 27 in Pennington County, north along CSAH 27 to STH 1, east along STH 1 to CSAH 28 in Pennington County, north along CSAH 28 to CSAH 54 in Marshall County, north along CSAH 54 to CSAH 9 in Roseau County, north along CSAH 9 to STH 11, west along STH 11 to STH 310, and north along STH 310 to the Manitoba border.

Tennessee

Southeast Crane Zone: That portion of the State south of Interstate 40 and east of State Highway 56.

Remainder of State: That portion of Tennessee outside of the Southeast Crane Zone.

Central Flyway

Colorado: The Central Flyway portion of the State except the San Luis Valley (Alamosa, Conejos, Costilla, Hinsdale, Mineral, Rio Grande, and Saguache Counties east of the Continental Divide) and North Park (Jackson County).

Kansas: That portion of the State west of a line beginning at the Oklahoma border, north on I–35 to Wichita, north on I–135 to Salina, and north on U.S. 81 to the Nebraska border.

Montana

Regular Season Open Area: The Central Flyway portion of the State except for that area south and west of Interstate 90, which is closed to sandhill crane hunting.

Special Season Open Area: Carbon County.

New Mexico

Regular-Season Open Area: Chaves, Curry, De Baca, Eddy, Lea, Quay, and Roosevelt Counties.

Special Season Open Areas

Middle Rio Grande Valley Area: The Central Flyway portion of New Mexico in Socorro and Valencia Counties.

Estancia Valley Area: Those portions of Santa Fe, Torrance, and Bernallilo Counties within an area bounded on the west by New Mexico Highway 55 beginning at Mountainair north to NM 337, north to NM 14, north to I–25; on the north by I–25 east to U.S. 285; on the east by U.S. 285 south to U.S. 60; and on the south by U.S. 60 from U.S. 285 west to NM 55 in Mountainair.

Southwest Zone: Area bounded on the south by the New Mexico–Mexico border; on the west by the New Mexico–Arizona border north to Interstate 10; on the north by Interstate 10 east to U.S. 180, north to N.M. 26, east to N.M. 27, north to N.M. 152, and east to Interstate 25; on the east by Interstate 25 south to Interstate 10, west to the Luna County line, and south to the New Mexico–Mexico border.

North Dakota

Area 1: That portion of the State west of U.S. 281.

Area 2: That portion of the State east of U.S. 281.

Oklahoma: That portion of the State west of I–35.

South Dakota: That portion of the State west of U.S. 281.

Texas

Zone A: That portion of Texas lying west of a line beginning at the international toll bridge at Laredo, then northeast along U.S. Highway 81 to its junction with Interstate Highway 35 in Laredo, then north along Interstate Highway 35 to its junction with Interstate Highway 10 in San Antonio, then northwest along Interstate Highway 10 to its junction with U.S. Highway 83 at Junction, then north along U.S. Highway 83 to its junction with U.S. Highway 62, 16 miles north of Childress, then east along U.S. Highway 62 to the Texas–Oklahoma State line.

Zone B: That portion of Texas lying within boundaries beginning at the junction of U.S. Highway 81 and the Texas–Oklahoma State line, then southeast along U.S. Highway 81 to its junction with U.S. Highway 287 in Montague County, then southeast along U.S. Highway 287 to its junction with Interstate Highway 35W in Fort Worth, then southwest along Interstate Highway 35 to its junction with Interstate Highway 10 in San Antonio, then northwest along Interstate Highway 10 to its junction with U.S. Highway 83 in the town of Junction, then north along U.S. Highway 83 to its junction with U.S. Highway 62, 16 miles north of Childress, then east along U.S. Highway 62 to the Texas–Oklahoma State line, then south along the Texas–Oklahoma State line to the south bank of the Red River, then eastward along the vegetation line on the south bank of the Red River to U.S. Highway 81.

Zone C: The remainder of the State, except for the closed areas.

Closed Areas

(A) That portion of the State lying east and north of a line beginning at the junction of U.S. Highway 81 and the Texas–Oklahoma State line, then southeast along U.S. Highway 81 to its junction with U.S. Highway 287 in Montague County, then southeast along U.S. Highway 287 to its junction with I–

35W in Fort Worth, then southwest along I–35 to its junction with U.S. Highway 290 East in Austin, then east along U.S. Highway 290 to its junction with Interstate Loop 610 in Harris County, then south and east along Interstate Loop 610 to its junction with Interstate Highway 45 in Houston, then south on Interstate Highway 45 to State Highway 342, then to the shore of the Gulf of Mexico, and then north and east along the shore of the Gulf of Mexico to the Texas–Louisiana State line.

(B) That portion of the State lying within the boundaries of a line beginning at the Kleberg–Nueces County line and the shore of the Gulf of Mexico, then west along the County line to Park Road 22 in Nueces County, then north and west along Park Road 22 to its junction with State Highway 358 in Corpus Christi, then west and north along State Highway 358 to its junction with State Highway 286, then north along State Highway 286 to its junction with Interstate Highway 37, then east along Interstate Highway 37 to its junction with U.S. Highway 181, then north and west along U.S. Highway 181 to its junction with U.S. Highway 77 in Sinton, then north and east along U.S. Highway 77 to its junction with U.S. Highway 87 in Victoria, then south and east along U.S. Highway 87 to its junction with State Highway 35 at Port Lavaca, then north and east along State Highway 35 to the south end of the Lavaca Bay Causeway, then south and east along the shore of Lavaca Bay to its junction with the Port Lavaca Ship Channel, then south and east along the Lavaca Bay Ship Channel to the Gulf of Mexico, and then south and west along the shore of the Gulf of Mexico to the Kleberg–Nueces County line.

Wyoming

Regular Season Open Area: Campbell, Converse, Crook, Goshen, Laramie, Niobrara, Platte, and Weston Counties.

Special Season Open Areas

Riverton–Boysen Unit: Portions of Fremont County.

Park and Big Horn County Unit: All of Big Horn, Hot Springs, Park, and Washakie Counties.

Johnson, Natrona, and Sheridan County Unit: All of Johnson, Natrona, and Sheridan Counties.

Pacific Flyway

Arizona

Zone 1: Beginning at the junction of the New Mexico State line and U.S. Hwy 80; south along the State line to the U.S.-Mexico border; west along the border to the San Pedro River; north along the San Pedro River to the junction with Arizona Hwy 77; northerly along Arizona Hwy 77 to the Gila River; northeast along the Gila River to the San Carlos Indian Reservation boundary; south then east and north along the reservation boundary to U.S. Hwy 70; southeast on U.S. Hwy 70 to U.S. Hwy 191; south on U.S. Hwy 191 to the 352 exit on I–10; east on I–10 to Bowie-Apache Pass Road; southerly on the Bowie-Apache Pass Road to Arizona Hwy 186; southeasterly on Arizona Hwy 186 to Arizona Hwy 181; south on Arizona Hwy 181 to the West Turkey Creek-Kuykendall cutoff road; southerly on the Kuykendall cutoff road to Rucker Canyon Road; easterly on Rucker Canyon Road to the Tex Canyon Road; southerly on Tex Canyon Road to U.S. Hwy 80; northeast on U.S. Hwy 80 to the New Mexico State line.

Zone 2: Beginning at I–10 and the New Mexico State line; north along the State line to Arizona Hwy 78; southwest on Arizona Hwy 78 to U.S. Hwy 191; northwest on U.S. Hwy 191 to Clifton; westerly on the Lower Eagle Creek Road (Pump Station Road) to Eagle Creek; northerly along Eagle Creek to the San Carlos Indian Reservation boundary; southerly and west along the reservation boundary to U.S. Hwy 70; southeast on U.S. Hwy 70 to U.S. Hwy 191; south on U.S. Hwy 191 to I–10; easterly on I–10 to the New Mexico State line.

Idaho

Area 1: All of Bear Lake County and all of Caribou County except that portion lying within the Grays Lake Basin.

Area 2: All of Teton County except that portion lying west of State Highway 33 and south of Packsaddle Road (West 400 North) and north of the North Cedron Road (West 600 South) and east of the west bank of the Teton River.

Area 3: All of Fremont County except the Chester Wetlands Wildlife Management Area.

Area 4: All of Jefferson County.

Area 5: All of Bannock County east of Interstate-15 and south of U.S. Highway 30; and all of Franklin County.

Montana

Zone 1 (Warm Springs Portion of Deer Lodge County): Those portions of Deer Lodge County lying within the following described boundary: beginning at the intersection of I–90 and Highway 273, then westerly along Highway 273 to the junction of Highway 1, then southeast along said highway to Highway 275 at Opportunity, then east along said highway to East Side County road, then north along said road to Perkins Lake, then west on said lane to I–90, then north on said interstate to the junction of Highway 273, the point of beginning. Except for sections 13 and 24, T5N, R10W; and Warm Springs Pond number 3.

Zone 2 (Ovando–Helmville Area): That portion of the Pacific Flyway, located in Powell County lying within the following described boundary: beginning at the junction of State Routes 141 and 200, then west along Route 200 to its intersection with the Blackfoot River at Russell Gates Fishing Access Site (Powell–Missoula County line), then southeast along said river to its intersection with the Ovando–Helmville Road (County Road 104) at Cedar Meadows Fishing Access Site, then south and east along said road to its junction with State Route 141, then north along said route to its junction with State Route 200, the point of beginning.

Zone 3 (Dillon/Twin Bridges/Cardwell Areas): Beaverhead, Gallatin, Jefferson, and Madison Counties.

Zone 4 (Broadwater County): Broadwater County.

Utah

Cache County: Cache County.

East Box Elder County: That portion of Box Elder County beginning on the Utah–Idaho State line at the Box Elder–Cache County line; west on the State line to the Pocatello Valley County Road; south on the Pocatello Valley County Road to I–15; southeast on I–15 to SR–83; south on SR–83 to Lamp Junction; west and south on the Promontory Point County Road to the tip of Promontory Point; south from Promontory Point to the Box Elder–Weber County line; east on the Box Elder–Weber County line to the Box Elder–Cache County line; north on the Box Elder–Cache County line to the Utah–Idaho State line.

Rich County: Rich County.

Uintah County: Uintah County.

Wyoming

Area 1 (Bear River): All of the Bear River and Ham's Fork River drainages in Lincoln County.

Area 2 (Salt River Area): All of the Salt River drainage in Lincoln County south of the McCoy Creek Road.

Area 3 (Eden Valley Area): All lands within the Bureau of Reclamation's Eden Project in Sweetwater County.

Area 5 (Uintah County Area): Uinta County.

All Migratory Game Birds in Alaska

North Zone: State Game Management Units 11–13 and 17–26.

Gulf Coast Zone: State Game Management Units 5–7, 9, 14–16, and 10 (Unimak Island only).

Southeast Zone: State Game Management Units 1–4.

Pribilof and Aleutian Islands Zone: State Game Management Unit 10 (except Unimak Island).

Kodiak Zone: State Game Management Unit 8.

All Migratory Game Birds in the Virgin Islands

Ruth Cay Closure Area: The island of Ruth Cay, just south of St. Croix.

All Migratory Game Birds in Puerto Rico

Municipality of Culebra Closure Area: All of the municipality of Culebra.

Desecheo Island Closure Area: All of Desecheo Island.

Mona Island Closure Area: All of Mona Island.

El Verde Closure Area: Those areas of the municipalities of Rio Grande and Loiza delineated as follows: (1) All lands between Routes 956 on the west and 186 on the east, from Route 3 on the north to the juncture of Routes 956 and 186 (Km 13.2) in the south; (2) all lands between Routes 186 and 966 from the juncture of 186 and 966 on the north, to the Caribbean National Forest Boundary on the south; (3) all lands lying west of Route 186 for 1 kilometer from the juncture of Routes 186 and 956 south to Km 6 on Route 186; (4) all lands within Km 14 and Km 6 on the west and the Caribbean National Forest Boundary on the east; and (5) all lands within the Caribbean National Forest Boundary whether private or public.

Cidra Municipality and adjacent areas: All of Cidra Municipality and portions of Aguas Buenas, Caguas, Cayey, and Comerio Municipalities as encompassed within the following boundary: beginning on Highway 172 as it leaves the municipality of Cidra on the west edge, north to Highway 156, east on Highway 156 to Highway 1, south on Highway 1 to Highway 765, south on Highway 765 to Highway 763, south on Highway 763 to the Rio Guavate, west along Rio Guavate to Highway 1, southwest on Highway 1 to Highway 14, west on Highway 14 to Highway 729, north on Highway 729 to Cidra Municipality boundary to the point of the beginning.

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LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws**.

Last List May 19, 2017

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