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Rules and Regulations

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SPECIAL INSPECTOR GENERAL FOR AFGHANISTAN RECONSTRUCTION

5 CFR Part 9301

RIN 3460–AA04

Freedom of Information Act and Privacy Act Procedures

AGENCY: Special Inspector General for Afghanistan Reconstruction.

ACTION: Final rule.

SUMMARY: The Special Inspector General for Afghanistan Reconstruction (SIGAR) published an interim final rule enacting changes to its Freedom of Information Act regulation to comply with the FOIA Improvement Act of 2016 on January 4th, 2017. SIGAR is now adopting those amendments as final with changes.

DATES: This final rule is effective July 24, 2017.

FOR FURTHER INFORMATION CONTACT: William Gaertner, Associate General Counsel, Special Inspector General for Afghanistan Reconstruction, 2530 Crystal Drive, Arlington, VA 22202, (703) 545–5994.

SUPPLEMENTARY INFORMATION: On January 28, 2008, the President signed into law the National Defense Authorization Act for Fiscal Year 2008 (Pub. L. 110–181), which created SIGAR to conduct independent and objective audits, investigations and analysis to promote economy and efficiency, and to detect and deter waste, fraud, and abuse in the reconstruction of Afghanistan. The Freedom of Information Act (FOIA), as amended, provides for access by the public to records of executive branch agencies, subject to certain restrictions and exemptions. In order to establish procedures to facilitate public interaction with SIGAR, the agency published 5 CFR part 9301 setting forth SIGAR's regulations governing the access provisions of those statutes and Executive Order 12958. On June 30, 2016 the President signed into law the FOIA Improvement Act of 2016 (Pub. L. 114–185). SIGAR published an interim final rule amending its FOIA regulations based on the changes made in the FOIA Improvements Act of 2016 on January 4th, 2017.

SIGAR received comments on its interim final rule from two government agencies. SIGAR reviewed these comments and is making changes to the interim final rule based on those comments.

II. The Final Rule

This final rule amends portions of SIGAR's existing regulation implementing provisions of the FOIA (5 U.S.C. 552). The provisions of this amendment shall apply to all components of SIGAR. The FOIA provides for the disclosure of agency records and information to the public, unless that information is exempted under delineated statutory exemptions under the FOIA. The procedures established here are intended to ensure that SIGAR fully satisfies its responsibility to the public to disclose agency information, but continues to safeguard sensitive information properly.

Procedural Requirements

This Final Rule amends SIGAR's regulations implementing the FOIA to facilitate the interaction of the public with SIGAR. SIGAR's policy of disclosure follows the Presidential Memorandum of January 21, 2009, ''Transparency and Open Government,'' 74 FR 4685, and the Attorney General's March 19, 2009 FOIA policy guidance, advising Federal agencies to apply a presumption of disclosure in FOIA decision making. This Final Rule incorporates portions the FOIA Improvement Act of 2016, signed into law by the President on June 30, 2016. This amendment maintains SIGAR's compliance with the FOIA and those amendments to the FOIA adopted in the FOIA Improvement Act of 2016.

Finally, notice of proposed rulemaking is not required, because the provisions of the Regulatory Flexibility Act (5 U.S.C. Chapter 6) do not apply. It has been determined that this rulemaking is not a significant regulatory action for the purposes of Executive Order 12866. Accordingly, a regulatory impact analysis is not required.

Dated: June 16, 2017.

John F. Sopko,

Inspector General.

List of Subjects in 5 CFR Part 9301

Administrative practice and procedure, Freedom of information.

Authority and Issuance

Accordingly, as stated in the preamble, SIGAR is adopting the interim rule published January 4, 2017, at 82 FR 711, as final with the following changes:

PART 9301—[AMENDED]

■ 1. The authority citation for part 9301 continues to read as follows:

Authority: 5 U.S.C. 552; Pub. L. 110–175, 121 Stat. 2524 (2007); 5 U.S.C. 301 and 552; Exec. Order 12600, 52 FR 23781, 3 CFR, 1987 Comp., p. 235; Exec. Order No. 13392, 70 FR 75373–75377, 3 CFR, 2006 Comp., pp. 216–200.

■ 2. In § 9301.6, paragraphs (c)(1)(ii) and (d)(3) are revised to read as follows:

§ 9301.6 Requesting records.

* * * * *

(c) * * *

(1) * * *

(ii) *Adverse determinations.* If the FOIA Officer denies the request, in full or part, or applies exemptions to withhold requested documents, the FOIA Officer shall provide the requester written notice of the adverse determination together with the approximate number of pages of information withheld and the exemption under which the information was withheld. SIGAR will indicate, if technically feasible, the amount of information deleted and the exemption under which the deletion is made at the place in the record where the deletion was made. SIGAR will also indicate the exemption under which a deletion is made on the released portion of the record, unless including that indication would harm an interest protected by the exemptions. The notice shall also describe the procedure for filing an appeal. SIGAR will further notify the requester of their right to seek assistance from SIGAR's FOIA Public Liaison or dispute resolution services from the FOIA Public Liaison or the Office of Government Information Services in the case of an adverse determination.

* * * * *

(d) * * *

(3) *Dispute Resolution.* A response to an appeal will advise the requester that the 2007 FOIA amendments created the Office of Government Information Services (OGIS) to offer dispute resolution services to resolve disputes between FOIA requesters and Federal agencies as a nonexclusive alternative to litigation. Dispute resolution is a voluntary process. A requester may contact OGIS in any of the following ways: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740; Email: *ogis@nara.gov;* Telephone: 202–741–5770; Facsimile: 202–741–5769; Toll-free: 1–877–684–6448.

■ 3. In § 9301.8, paragraph (f)(3) is revised to read as follows:

§ 9301.8 Fees in general.

* * * * *

(f) * * *

(3) SIGAR determines that unusual circumstances apply to the processing of a request, provides timely notice to the requester, and delay is excused for an additional ten days, but SIGAR still fails to respond within the timeframe established by the additional delay. This provision applies only to search fees or duplication fees for educational institution, non-commercial scientific institution, or representative of the news media requesters. However, the following exceptions shall apply:

(i) Notwithstanding § 9301.8(f)(3), if SIGAR determines that unusual circumstances apply and that more than 5000 pages are necessary to respond to the request, SIGAR may continue to charge search fees, or duplication fees for requesters in preferred status, for as long as necessary, after timely written notice has been made to the requester and SIGAR has discussed with the requester how the requester could effectively limit the scope of the request via written mail, electronic mail, or telephone, or made three good-faith attempts to do so.

[FR Doc. 2017–13056 Filed 6–22–17; 8:45 am]

BILLING CODE 3710–L9–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 945

[Doc. No. AMS–SC–16–0111; SC17–945–1 FR]

Irish Potatoes Grown in Certain Designated Counties in Idaho, and Malheur County, Oregon; Decreased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule implements a recommendation from the Idaho-Eastern Oregon Potato Committee (Committee) to decrease the assessment rate established for the 2017–2018 and subsequent fiscal periods from $0.0025 to $0.002 per hundredweight of potatoes handled. The Committee locally administers the marketing order which regulates the handling of potatoes grown in certain designated counties in Idaho, and Malheur County, Oregon. Assessments upon potato handlers are used by the Committee to fund reasonable and necessary expenses of the program. The fiscal period begins August 1 and ends July 31. The assessment rate will remain in effect indefinitely unless modified, suspended, or terminated.

DATES: Effective August 1, 2017.

FOR FURTHER INFORMATION CONTACT: Barry Broadbent, Senior Marketing Specialist, or Gary D. Olson, Regional Director, Northwest Marketing Field Office, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA; Telephone: (503) 326–2724, Fax: (503) 326–7440, or Email: *Barry.Broadbent@ams.usda.gov* or *GaryD.Olson@ams.usda.gov.*

Small businesses may request information on complying with this regulation by contacting Richard Lower, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, Fax: (202) 720–8938, or Email: *Richard.Lower@ams.usda.gov.*

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 98 and Order No. 945, both as amended (7 CFR part 945), regulating the handling of Irish potatoes grown in certain designated counties in Idaho, and Malheur County, Oregon, hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

The Department of Agriculture (USDA) is issuing this final rule in conformance with Executive Orders 12866, 13771, 13563, and 13175.

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).

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, Idaho-Eastern Oregon potato handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as established herein will be applicable to all assessable potatoes beginning August 1, 2017, and continue until amended, suspended, or terminated.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the hearing, USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This rule decreases the assessment rate established for the Committee for the 2017–2018 and subsequent fiscal periods from $0.0025 to $0.002 per hundredweight of potatoes handled.

The Idaho-Eastern Oregon potato marketing order provides authority for the Committee, with the approval of USDA, to formulate an annual budget of expenses and collect assessments from handlers to cover the expenses of administering the program. The members of the Committee are

producers and handlers of Idaho-Eastern Oregon potatoes. They are familiar with the Committee's needs and with the costs for goods and services in their local area and are thus in a position to formulate an appropriate budget and assessment rate. The assessment rate is formulated and discussed in a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

For the 2014–2015 and subsequent fiscal periods, the Committee recommended, and USDA approved, an assessment rate of $0.0025 per hundredweight of potatoes that would continue in effect from fiscal period to fiscal period unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Committee or other information available to USDA.

The Committee met on November 9, 2016, to consider the Committee's projected 2017–2018 financial requirements, the size of the Committee's operating reserve, and the order's continuing assessment rate. The Committee unanimously recommended an assessment rate of $0.002 per hundredweight of potatoes for the 2017–2018 fiscal period. The assessment rate of $0.002 is $0.0005 lower than the rate currently in effect. The assessment rate decrease is necessary to reduce the funds held in reserve to less than approximately one fiscal period's budgeted expenses, the maximum level allowed by the order.

The Committee adopted a budget of $119,075 for the 2016–2017 fiscal period. It expects to recommend a similar level of budgeted expenditures for the 2017–2018 fiscal period at its next scheduled meeting in June 2017. The Committee expects its budget for major expenditures for the 2017–2018 fiscal period to be close to the budgeted amounts for the 2016–2017 fiscal period. These expenditures include $68,638 for administrative expenses, $35,437 for travel/office expenses, and $15,000 for marketing order contingency.

The assessment rate recommended by the Committee was derived by dividing anticipated expenses by expected shipments of Idaho-Eastern Oregon potatoes. Potato shipments for 2017–2018 are estimated at 32 million hundredweight which should provide $64,000 in assessment income at the proposed assessment rate. Income derived from handler assessments, along with other income, interest earned, and funds from the Committee's authorized reserve, will be adequate to cover budgeted expenses. Funds in the reserve (projected to be $158,275 on July 31, 2017) are expected to be reduced to comply with the maximum permitted by the order of approximately one fiscal period's expenses.

The assessment rate will continue in effect indefinitely unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Committee or other available information.

Although this assessment rate will be in effect for an indefinite period, the Committee will continue to meet prior to or during each fiscal period to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Committee meetings are available from the Committee or USDA. Committee meetings are open to the public and interested persons may express their views at these meetings. USDA will evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking will be undertaken as necessary. The Committee's 2017–2018 budget, and those for subsequent fiscal periods, will be reviewed and, as appropriate, approved by USDA.

Final Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities. Accordingly, AMS has prepared this final regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf.

There are approximately 450 producers of potatoes in the production area and approximately 32 handlers subject to regulation under the marketing order. Small agricultural producers are defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts less than $750,000, and small agricultural service firms are defined as those whose annual receipts are less than $7,500,000.

During the 2015–2016 fiscal period, the most recent full year of statistics available, 33,606,000 hundredweight of Idaho-Eastern Oregon potatoes were inspected under the order and sold into the fresh market. Based on information provided by the National Agricultural Statistics Service, the average producer price for the 2015 Idaho potato crop (the most recent full marketing year recorded) was $7.00 per hundredweight. Multiplying $7.00 by the shipment quantity of 33,606,000 hundredweight yields an annual crop revenue estimate of $235,242,000. The average annual fresh potato revenue for each of the 450 producers is therefore calculated to be $522,760 ($235,242,000 divided by 450), which is less than the Small Business Administration threshold of $750,000. Consequently, on average, a majority of the Idaho-Eastern Oregon potato producers may be classified as small entities.

In addition, based on information reported by USDA's Market News Service, the average free-on-board (f.o.b.) shipping point price for the 2015 Idaho potato crop was $7.47 per hundredweight. Multiplying $7.47 by the shipment quantity of 33,606,000 hundredweight yields an annual crop revenue estimate of $251,036,820. The average annual fresh potato revenue for each of the 32 handlers is therefore calculated to be $7,844,900 ($251,036,820 divided by 32), which is slightly more than the Small Business Administration threshold of $7,500,000. Given the likelihood that there may be several large handlers, some of the Idaho-Eastern Oregon potato handlers may be classified as small entities.

This rule decreases the assessment rate established for the Committee and collected from handlers for the 2017–2018 and subsequent fiscal periods from $0.0025 to $0.002 per hundredweight of potatoes handled. The Committee unanimously recommended an assessment rate of $0.002 per hundredweight of potatoes for the 2017–2018 fiscal period. The assessment rate of $0.002 per hundredweight is $0.0005 lower than the rate for the 2016–2017 fiscal period. The quantity of assessable potatoes for the 2017–2018 fiscal period is estimated at 32 million hundredweight. Thus, the $0.002 rate should provide $64,000 in assessment income. Income derived from handler assessments, along with other income, interest earned, and funds from the Committee's authorized reserve, will be adequate to cover budgeted expenses.

The Committee adopted a budget of $119,075 for the 2016–2017 fiscal period and expects to recommend a similar amount in budgeted expenditures for the 2017–2018 fiscal period at its next scheduled meeting in June 2017. The major budgeted expenditures for the 2016–2017 year

include $68,638 for administrative expenses, $35,437 for travel/office expenses, and $15,000 for marketing order contingency. Budgeted expenses for these items in 2015–2016 were $64,901, $37,340, and $15,000, respectively.

The lower assessment rate is necessary to reduce the reserve balance to less than approximately one fiscal period's budgeted expenses. The reserve balance on July 31, 2017, is projected to be $158,275. Assessment income for the 2017–2018 fiscal period is estimated at $64,000, while expenses are estimated to be $119,075. The Committee anticipates compensating for the reduced assessment revenue with $5,100 from miscellaneous income, $100 from interest income, and $49,875 from its reserve fund. The reserve fund is projected to be under the maximum authorized level at the end of the 2017–2018 fiscal period.

The Committee discussed alternatives to this change, including suspending assessments for one year, recommending other assessment rate levels, and leaving the current rate in place. Prior to arriving at this assessment rate recommendation, the Committee considered information from the Board's Executive Committee on the cost savings resulting from recent administrative changes in the Committee office and the level of anticipated Committee expenses moving forward. The Committee debated between suspending assessments for one year and recommending the assessment rate be lowered to $0.002 per hundredweight of potatoes. Based on the market and shipping quantities, the Committee recommended the rate of $0.002 per hundredweight. The Committee believes this assessment rate, in combination with other income, interest earned, and funds utilized from the Committee's financial reserve, will provide sufficient funds to meet its expenses.

A review of historical information and preliminary information pertaining to the upcoming fiscal period indicates that the producer price for the 2017 crop could range between $6.00 and $9.00 per hundredweight of potatoes. Therefore, the estimated assessment revenue for the 2017–2018 fiscal period as a percentage of total producer revenue could range between 0.022 and 0.033 percent.

This action decreases the assessment obligation imposed on handlers. Assessments are applied uniformly on all handlers, and some of the costs may be passed on to producers. However, decreasing the assessment rate will reduce the burden on handlers, and may reduce the burden on producers. In addition, the Committee's meeting was widely publicized throughout the Idaho-Eastern Oregon potato industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the November 9, 2016, meeting was a public meeting and all entities, both large and small, were able to express views on this issue.

In accordance with the Paperwork Reduction Act of 1995, (44 U.S.C. Chapter 35), the order's information collection requirements have been previously approved by OMB and assigned OMB No. 0581–0178 (Generic Vegetable and Specialty Crops). No changes in those requirements as a result of this action are necessary. Should any changes become necessary, they would be submitted to OMB for approval.

This rule imposes no additional reporting or recordkeeping requirements on either small or large Idaho-Eastern Oregon potato handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies. As noted in the initial regulatory flexibility analysis, USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this final rule.

AMS 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.

A proposed rule concerning this action was published in the **Federal Register** on March 21, 2017 (82 FR 14485). Copies of the proposed rule were also mailed or sent via facsimile to all Idaho-E. Oregon potato handlers. Finally, the proposal was made available through the internet by USDA and the Office of the Federal Register. A 30-day comment period ending April 20, 2017, was provided for interested persons to respond to the proposal.

Two comments were received during the comment period in response to the proposal. Both comments were received from outside of the regulated production area. One comment supported the proposed assessment decrease. The other comment did not support the proposal, however, it did not address the merits of the proposed rule. Accordingly, no changes have been made to the rule as proposed, based on the comments received.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: *http://www.ams.usda.gov/rules-regulations/moa/small-businesses.* Any questions about the compliance guide should be sent to Richard Lower at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

After consideration of all relevant material presented, including the information and recommendation submitted by the Committee and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 945

Marketing agreements, Potatoes, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 945 is amended as follows:

PART 945—IRISH POTATOES GROWN IN CERTAIN DESIGNATED COUNTIES IN IDAHO, AND MALHEUR COUNTY, OREGON

■ 1. The authority citation for 7 CFR part 945 continues to read as follows:

Authority: 7 U.S.C. 601–674.

■ 2. Section 945.249 is revised to read as follows:

§ 945.249 Assessment rate.

On and after August 1, 2017, an assessment rate of $0.002 per hundredweight is established for Idaho-Eastern Oregon potatoes.

Dated: June 20, 2017.

Erin Morris,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2017–13174 Filed 6–22–17; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2017–0517]

Drawbridge Operation Regulation; Thames River, New London, CT

AGENCY: Coast Guard, DHS.

ACTION: Notice of deviation from drawbridge regulation.

SUMMARY: The Coast Guard has issued a temporary deviation from the operating

schedule that governs the Amtrak Bridge across Thames River, mile 3.0, at New London, CT. This action is necessary to complete installation of an emergency generator. This deviation allows the bridge to require a two hour advance notice for openings during nighttime hours.

DATES: This deviation is effective from 9 p.m. on July 31, 2017 to 7 a.m. on September 12, 2017.

ADDRESSES: The docket for this deviation, USCG–2017–0517 is available at *http://www.regulations.gov.* Type the docket number in the ''SEARCH'' box and click ''SEARCH''. Click on Open Docket Folder on the line associated with this deviation.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary deviation, call or email James L. Rousseau, Bridge Management Specialist, First District Bridge Branch, U.S. Coast Guard; telephone 617–223–8619, email *james.l.rousseau2@uscg.mil.*

SUPPLEMENTARY INFORMATION: Amtrak, the owner of the bridge, requested a temporary deviation in order to facilitate installation of a lift span emergency generator. The Amtrak Bridge across the Thames River, mile 3.0 at New London, Connecticut has a horizontal clearance of 150 feet and a vertical clearance of 29 feet at mean high water and 31 feet at mean low water in the closed position. The bridge has a vertical clearance of 75 feet in the intermediate raised position and 135 feet in the fully open position at mean high water. The existing drawbridge operating regulations are listed at 33 CFR 117.224.

This temporary deviation will allow the Amtrak Bridge to require a 2 hour advance notice between 9 p.m. and 7 a.m. from July 31, 2017 to September 12, 2017, while a crane barge is present next to the lift span. The presence of the crane barge reduces the horizontal clearance to 70 feet. Additionally, between July 31, 2017 and September 10, 2017 the lift span will be in the down position during daytime hours but will be able to open when requested.

The waterway is transited by recreational traffic, commercial vessels, ferries, and military vessels. Vessels that can pass under the bridge without an opening may do so at all times. When the barge is located next to the lift span, the bridge will not be able to open immediately for emergencies. There is no alternate route for vessels unable to pass through the bridge when in the closed position.

The Coast Guard will also inform the users of the waterways through our Local and Broadcast Notices to Mariners of the change in operating schedule for the bridge so that vessel operators can arrange their transits to minimize any impact caused by this temporary deviation.

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

Dated: June 20, 2017.

C.J. Bisignano,

Supervisory Bridge Management Specialist, First Coast Guard District.

[FR Doc. 2017–13165 Filed 6–22–17; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2017–0279]

RIN 1625–AA00

Safety Zone, Delaware River; Dredging

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing temporary safety zones in portions of Marcus Hook Range, Deepwater Point Range, and New Castle Range, on the Delaware River, to facilitate the annual maintenance dredging of the Federal Navigation Channel. The safety zones will be established for the waters in the vicinity of the dredge and associated pipeline, including dredge pipe which is located in Marcus Hook Anchorage No. 7 and Pea Patch Island Anchorage No. 5. This regulation is necessary to provide for the safety of life on navigable waters of the Delaware River, in the vicinity of dredging activity, and is intended to protect mariners from the hazards associated with pipe-laying and dredging operations.

DATES: This rule is effective without actual notice from June 26, 2017 until September 1, 2017. For purposes of enforcement, actual notice will be used from June 17, 2017 through June 26, 2017.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type USCG–2017–0279 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 about this rulemaking, call or email Petty Officer Amanda Boone, U.S. Coast Guard, Sector Delaware Bay, Waterways Management Division, Coast Guard; telephone (215) 271–4814, email *Amanda.N.Boone@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
DHS Department of Homeland Security
E.O. Executive order
FR Federal Register
Pub. L. Public Law
§ Section
U.S.C. United States Code
COTP Captain of the Port

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 impractical and contrary to the public interest. Final details for the dredging operation were not received by the Coast Guard until June 15, 2017. Vessels transiting through New Castle Range, Deepwater Point Range, Marcus Hook Range or attempting to enter the waters of Marcus Hook Anchorage No. 7 and Pea Patch Island Anchorage No. 5 during pipe-laying or dredging operations may be at risk. Delaying this rule for the purpose of providing a notice and comment period would be contrary to the public interest as it would inhibit the Coast Guard's ability to protect the public from the hazards associated with pipe-laying and dredging operations. We are issuing this rule, and, under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making it effective less than 30 days after publication in the **Federal Register** because doing so would be contrary to the public interest. Allowing this dredging and pipe laying operation to go forward without safety zones in place would expose mariners and the public to unnecessary dangers.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1231; 33 CFR 1.05–1 and 160.5; and Department of Homeland Security Delegation No. 0170.1. The Captain of the Port (COTP), Delaware Bay, has determined that potential hazards associated with dredging and pipe laying operations, beginning June 17, 2017, will be a safety concern for vessels attempting to transit the Delaware River, along New Castle Range, Deepwater Point Range, Marcus Hook Range or attempting to enter the waters of Marcus Hook Anchorage No. 7 and Pea Patch Island Anchorage No. 5. This rule is needed to protect personnel, vessels, and the marine environment on the navigable waters within the safety zones while dredging is being conducted.

IV. Discussion of the Rule

The Coast Guard Captain of the Port is temporarily establishing safety zones on portions of the Delaware River from June 17, 2017 until September 1, 2017, unless cancelled earlier by the Captain of the Port, to facilitate maintenance dredging being conducted in New Castle Range, Deepwater Point Range and Marcus Hook Range. Maintenance dredging in the channel will be conducted with the cutter suction dredge ILLINOIS and associated pipeline. Pipeline will be a combination of floating hoses immediately behind the dredge and submerged pipeline leading to upland disposal areas. Due to the hazards related to cutter suction dredging, the associated pipeline, and the location of the submerged pipeline, safety zones will be established in the following areas:

(1) Safety zone one includes all waters within 150 yards of the dredge and all related dredge equipment. The safety zone will be established for the duration of the maintenance project. Vessels requesting to transit shall contact the dredge ILLINOIS on VHF channel 13 or 16, at least 1 hour, as well as 30 minutes, prior to arrival.

(2) Safety zone two includes all the waters of Pea Patch Island Anchorage No. 5 found in 33 CFR 110.157(a)(6), where submerged pipeline will be located which poses a risk to anchored vessels. The safety zone will be in place only during the time in which the dredge ILLINOIS is conducting dredging operations in New Castle Range. Vessels requesting to transit shall contact the dredge ILLINOIS on VHF channel 13 or 16, at least 1 hour, as well as 30 minutes, prior to arrival.

(3) Safety zone three includes all the waters of Marcus Hook Anchorage No. 7 found in 33 CFR 110.157(a)(8). Vessels requesting to transit Marcus Hook Range shall contact the dredge ILLINOIS on VHF channel 13 or 16, at least 1 hour, as well as 30 minutes, prior to arrival. Vessels shall then transit around the dredge project area, utilizing Marcus Hook Anchorage, while operating at the minimum safe speed necessary to maintain steerage and reduced wake. Vessels wishing to anchor in Marcus Hook Anchorage No. 7 must obtain permission from the COTP at least 24 hours in advance by calling 215–271–4807. The COTP will permit one vessel at a time to anchor on a ''first-come, first-served'' basis. Vessels will only be allowed to anchor for a 12 hour period. Vessels that require an examination by the Public Health Service, Customs or Immigration authorities will be directed to an anchorage for the required inspection by the COTP. Vessels are encouraged to use Mantua Creek Anchorage No.9, Naval Base Philadelphia Anchorage No. 10, and Deepwater Point Anchorage No. 6 as alternative anchorages.

Entry into, transiting, or anchoring within the safety zones is prohibited unless vessels obtain permission from the Captain of the Port or make satisfactory passing arrangements with the dredge ILLINOIS per this rule and the Rules of the Road (33 CFR chapter I, subchapter E).

The Captain of the Port will implement and terminate the safety zones individually once all submerged pipeline has been recovered and dredging operations are completed in each range respectively. Notice of the implementation and the termination of the safety zone will be made in accordance with 33 CFR 165.7.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has not been designated a ''significant regulatory action,'' under Executive Order 12866. Accordingly, it has not been reviewed by the Office of Management and Budget.

This regulatory action determination is based on the size, location, and duration of the safety zones. Although this regulation will restrict access to regulated areas, the effect of this rule will not be significant because there are a number of alternate anchorages available for vessels to anchor. Furthermore, vessels may be permitted to transit through the safety zone with the permission of the Captain of the Port or make satisfactory passing arrangements with the dredge ILLINOIS in accordance with this rule and the Rules of the Road (33 CFR chapter I, subchapter E). Extensive notification of the safety zones to the maritime public will be made via maritime advisories allowing mariners to alter their plans accordingly.

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.

While some owners or operators of vessels intending to transit the safety zone may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

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 adjusts rates in accordance with applicable statutory and regulatory mandates. It is categorically excluded under section 2.B.2, figure 2–1, paragraph 34(g) of the Instruction, which pertains to minor regulatory changes that are editorial or procedural in nature. 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 temporary § 165.T05–0279 to read as follows:

§ 165.T05–0279 Safety Zone, Delaware River; Dredging..

(a) *Location.* The following areas are safety zones:

(1) Safety zone one includes all waters within 150 yards of the dredge ILLINOIS and all related dredge equipment.

(2) Safety zone two includes all the waters of Pea Patch Island Anchorage No. 5 found in 33 CFR 110.157(a)(6), where submerged pipeline will be located causing a hazard to anchoring vessels. The safety zone will be in place only during the time in which the dredge ILLINOIS is conducting dredging operations in New Castle Range.

(3) Safety zone three includes all the waters of Marcus Hook Anchorage No. 7 found in 33 CFR 110.157(a)(8). The safety zone will be in place only during the time in which the dredge ILLINOIS is conducting dredging operations in Marcus Hook Range.

(b) *Definitions.* (1) The *Captain of the Port* (COTP) means the Commander Sector Delaware Bay or any Coast Guard commissioned, warrant, or petty officer who has been authorized by the Captain of the Port to act on their behalf.

(2) *Designated representative* means any Coast Guard commissioned, warrant or petty officer who has been authorized by the Captain of the Port, Delaware Bay, to assist with the enforcement of safety zones described in paragraph (a) of this section.

(c) *Regulations.* The general safety zone regulations found in subpart C of this part apply to the safety zone created by this section.

(1) Safety zone two will be in place only during the time that dredge ILLINOIS is conducting dredging operations in New Castle Range. Safety zone three will be in place only during time in which the dredge ILLINOIS is conducting dredging operations in Marcus Hook Range.

(2) Vessels requesting to transit Marcus Hook Range shall contact the dredge ILLINOIS on VHF channel 13 or 16, at least 1 hour, as well as 30 minutes, prior to arrival. Vessels shall then transit around the dredge project, utilizing Marcus Hook Anchorage, while operating at the minimum safe speed necessary to maintain steerage and reduced wake.

(3) Vessels wishing to anchor in Marcus Hook Anchorage No. 7 during the time in which the dredge ILLINOIS is conducting dredging operations in Marcus Hook Range, must obtain permission from the COTP at least 24 hours in advance by calling 215–271–4807. The COTP will permit one vessel at a time to anchor on a ''first-come, first-served'' basis. Vessel will only be allowed to anchor for a 12 hour period. Vessels that require an examination by the Public Health Service, Customs or Immigration authorities will be directed to an anchorage by the COTP for the required inspection. Vessels are encouraged to use Mantua Creek Anchorage No. 9, Naval Base Philadelphia Anchorage No. 10, and Deepwater Point Anchorage No. 6 as alternative anchorages.

(4) The Captain of the Port will implement and terminate the safety zones individually once all submerged pipeline has been recovered and dredging operations are completed in each range respectively. Notice of the

implementation and the termination of the safety zone will be made in accordance with § 165.7.

(5) Entry into, transiting, or anchoring within the safety zone is prohibited unless vessels obtain permission from the Captain of the Port or make satisfactory passing arrangements, via VHF–FM channel 16, with the dredge ILLINOIS per this rule and the Rules of the Road (33 CFR chapter I, subchapter E).

(6) To request permission to enter the safety zone, the Captain of the Port's representative can be contact via VHF–FM channel 16. Vessels granted permission to enter and transit through the safety zone must do so in accordance with the directions provided by the Captain of the Port or designated representative. No person or vessel may enter or remain in a safety zone without permission from the Captain of the Port. All persons and vessels within a safety zone shall obey the directions or orders of the Captain of the Port or their designated representative.

(7) At least one side of the main navigational channel will be kept clear for safe passage of vessels in the vicinity of the safety zones. At no time will the main navigational channel be closed to vessel traffic. Vessels requesting to transit shall contact the dredge ILLINOIS on VHF channel 13 or 16, at least 1 hour, as well as 30 minutes, prior to arrival.

(8) This section applies to all vessels that intend to transit through the safety zones except vessels that are engaged in the following operations: enforcement of laws; service of aids to navigation, and emergency response.

(d) *Enforcement.* These safety zones will be enforced with actual notice by the U.S. Coast Guard representatives on scene, as well as other methods listed in § 165.7.

Dated: June 16, 2017.

Benjamin A. Cooper,

Captain, U.. S. Coast Guard, Captain of the Port, Delaware Bay.

[FR Doc. 2017–13064 Filed 6–22–17; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2017–0149]

RIN 1625–AA00

Safety Zones; Annual Fireworks Displays Within the Sector Columbia River Captain of the Port Zone

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing safety zones at various locations in the Sector Columbia River Captain of the Port zone. This action is necessary to provide for the safety of life on these navigable waters during fireworks displays. This regulation prohibits persons and vessels from being in the safety zone unless authorized by the Captain of the Port Sector Columbia River or a designated representative.

DATES: This rule is effective July 4, 2017.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type USCG–2017–0149 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 LCDR Laura Springer, Waterways Management Division, Marine Safety Unit Portland, Coast Guard; telephone 503–240–9319, email *msupdxwwm@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 establishing five new fireworks displays to be conducted during the 2017 season. These new safety zones are listed in existing 33 CFR 164.1315. Additionally, the Coast Guard is consolidating two fireworks display safety zones into the table in § 165.1315.

On April 7, 2017, the Coast Guard published a notice of proposed rulemaking (NPRM) titled, ''Safety Zone; Annual Fireworks Displays within the Sector Columbia River Captain of the Port Zone'' (82 FR 16976). There we stated why we issued the NPRM, and invited comments on our proposed regulatory action related to this fireworks display. During the comment period that ended May 8, 2017, we received one comment. There are no changes in the regulatory text of this rule from the proposed rule in the NPRM.

We are issuing this rule, and under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making it effective less than 30 days after publication in the **Federal Register**, due to the first newly added fireworks display covered under this rule being conducted on July 4, 2017. Delaying this rule would be impractical as it would prevent the Coast Guard from ensuring the safety of spectators and vessels during the fireworks displays and immediate action is necessary to prevent possible loss of life and property.

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 Sector Columbia River has determined that fireworks displays create hazardous conditions for the maritime public because of the large number of vessels near the displays, as well as the noise, falling debris, and explosions that occur during the event. Because firework discharge sites pose a potential hazard to the maritime public, these safety zones are necessary in order to restrict vessel movement and reduce vessel congregation in the proximity of the firework discharge sites.

IV. Discussion of Comments, Changes, and the Rule

As noted above, we received one comment stating, ''The Coast Guard should establish five new fireworks display safety zones at various locations in the Sector Columbia River Captain of the Port zone. In addition to adding new fireworks display safety zones, this proposed rule making would consolidate existing safety zones into one regulation and eliminate one safety zone listed in two regulations.'' In essence, this comment restates what the rule is seeking to accomplish. There are no changes in the regulatory text of this rule from the proposed rule in the NPRM.

The rule establishes five new fireworks display safety zones to revise 33 CFR 165.1315 to include multiple locations in the Sector Columbia River COTP Zone. The added safety zones would cover all waters of the Oregon

coast, Tillamook Bay, the Columbia River and its tributaries, and the Clatskanie River, within a 450 yard radius of the launch site at the approximate locations listed in the table located in 33 CFR 165.1315. The safety zones will be enforced at least 1 hour before and 1 hour after the duration of the scheduled event. The duration of the zone is intended to ensure the safety of vessels and these navigable waters before, during, and after the scheduled fireworks display. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has not been designated a ''significant regulatory action,'' under Executive Order 12866. Accordingly, it has not been reviewed by the Office of Management and Budget.

This regulatory action determination is based on the size, location, duration, and time-of-day of the safety zones. Vessel traffic would be able to safely transit around these safety zones which would impact small designated areas of the Oregon coast, Tillamook Bay, the Columbia River and its tributaries, and the Clatskanie River for less than 1 hour during the evening when commercial vessel traffic is normally low. Moreover, the Coast Guard would issue a Broadcast Notice to Mariners via VHF–FM marine channel 16 about the zone, and the rule would allow vessels to seek permission to enter the zone.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard received no comments from the Small Business Administration on this rulemaking. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the safety zone may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

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

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

C. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this rule has implications for federalism or Indian tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves safety zones that are approximately 3 hours in duration and would prohibit entry within 450 yards of the launch sites. Normally such actions are categorically excluded from further review under paragraph 34(g) of Figure 2–1 of Commandant Instruction M16475.lD. A preliminary environmental analysis checklist and Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to

coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

List of Subjects in 33 CFR Part 165

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

§ 165.1314 [Removed]

■ 2. Remove § 165.1314.

■ 3. Revise § 165.1315 to read as follows:

§ 165.1315 Safety Zone; Annual Fireworks Displays within the Sector Columbia River Captain of the Port Zone.

(a) *Safety zones.* The following areas are designated safety zones: Waters of the Columbia River and its tributaries, waters of the Siuslaw River, Yaquina River, Umpqua River, Clatskanie River, Tillamook Bay and waters of the Washington and Oregon Coasts, within a 450 yard radius of the launch site at the approximate locations listed in the following table:

Event name (typically)	Event location	Date of event	Latitude	Longitude
Cinco de Mayo Fireworks	Portland, OR	One day in May	45°30′58″ N	122°40′12″ W.
Portland Rose Festival Fireworks	Portland, OR	One day in May or June	45°30′58″ N	122°40′12″ W.
Newport High School Graduation Fireworks	Newport, OR	One day in June	44°36′48″ N	124°04′10″ W.
Tri-City Chamber of Commerce Fireworks/River of Fire Festival.	Kennewick, WA	One day in July	46°13′37″ N	119°08′47″ W.
Astoria-Warrenton 4th of July Fireworks	Astoria, OR	One day in July	46°11′34″ N	123°49′28″ W.
Waterfront Blues Festival Fireworks	Portland, OR	One day in July	45°30′42″ N	122°40′14″ W.
Florence Independence Day Celebration	Florence, OR	One day in July	43°58′09″ N	124°05′50″ W.
Oaks Park Association 4th of July	Portland, OR	One day in July	45°28′22″ N	122°39′59″ W.
City of Rainier/Rainier Days	Rainier, OR	One day in July	46°05′46″ N	122°56′18″ W.
Ilwaco July 4th Committee Fireworks/Independence Day at the Port.	Ilwaco, OR	One day in July	46°18′17″ N	124°02′00″ W.
Celebrate Milwaukie	Milwaukie, OR	One day in July	45°26′33 N	122°38′44″ W.
Splash Aberdeen Waterfront Festival	Aberdeen, WA	One day in July	46°58′40″ N	123°47′45″ W.
City of Coos Bay July 4th Celebration/Fireworks Over the Bay.	Coos Bay, OR	One day in July	43°22′06″ N	124°12′24″ W.
Arlington 4th of July	Arlington, OR	One day in July	45°43′23″ N	120°12′11 W.
East County 4th of July Fireworks	Gresham, OR	One day in July	45°33′32″ N	122°27′10″ W.
Port of Cascade Locks 4th of July Fireworks	Cascade Locks, OR	One day in July	45°40′15″ N	121°53′43″ W.
Clatskanie Heritage Days Fireworks	Clatskanie, OR	One Day in July	46°6′17″ N	123°12′02″ W.
Washougal 4th of July	Washougal, WA	One day in July	45°34′32″ N	122°22′53″ W.
City of St. Helens 4th of July Fireworks	St. Helens, OR	One day in July	45°51′54″ N	122°47′26″ W.
Waverly Country Club 4th of July Fireworks	Milwaukie, OR	One day in July	45°27′03″ N	122°39′18″ W.
Hood River 4th of July	Hood River, OR	One day in July	45°42′58″ N	121°30′32″ W.
Rufus 4th of July Fireworks	Rufus, OR	One day in July	45°41′39″ N	120°45′16″ W.
Winchester Bay 4th of July Fireworks	Winchester Bay, OR	One day in July	43°40′56″ N	124°11′13″ W.
Brookings, OR July 4th Fireworks	Brookings, OR	One day in July	42°02′39″ N	124°16′14″ W.
Maritime Heritage Festival	St. Helens, OR	One day in July	45°51′54″ N	122°47′26″ W.
Lynch Picnic	West Linn, OR	One day in July	45°23′37″ N	122°37′52″ W.
Yachats 4th of July	Yachats, OR	One day in July	44°18′38″ N	124°06′27″ W.
Lincoln City 4th of July	Lincoln City, OR	One day in July	44°55′28″ N	124°01′31″ W.
July 4th Party at the Port of Gold Beach	Gold Beach, OR	One day in July	42°25′30″ N	124°25′03″ W.
Gardiner 4th of July	Gardiner, OR	One day in July	43°43′55″ N	124°06′48″ W.
Huntington 4th of July	Huntington, OR	One day in July	44°18′02″ N	117°13′33″ W.
Toledo Summer Festival	Toledo, OR	One day in July	44°37′08″ N	123°56′24″ W.
Port Orford 4th of July	Port Orford, OR	One day in July	42°44′31″ N	124°29′30″ W.
The Dalles Area Fourth of July	The Dalles, OR	One day in July	45°36′18″ N	121°10′23″ W.
Roseburg Hometown 4th of July	Roseburg, OR	One day in July	43°12′58″ N	123°22′10″ W.
Newport 4th of July	Newport, OR	One day in July	44°37′40″ N	124°02′45″ W.
Cedco Inc./The Mill Casino Independence Day	North Bend, OR	One day in July	43°23′42″ N	124°12′55″ W.
Waldport 4th of July	Waldport, OR	One day in July	44°25′31″ N	124°04′44″ W.
Westport 4th of July	Westport, WA	One day in July	46°54′17″ N	124°05′59″ W.
The 4th of July at Pekin Ferry	Ridgefield, WA	One day in July	45°52′07″ N	122°43′53″ W.
Bandon 4th of July	Bandon, OR	One day in July	43°07′29″ N	124°25′05″ W.
Garibaldi Days Fireworks	Garibaldi, OR	One day in July	45°33′13″ N	123°54′56″ W.
Bald Eagle Days	Cathlamet, WA	One day in July	46°12′14″ N	123°23′17″ W.
Independence Day at the Fort Vancouver	Vancouver, WA	One Day in July	45°36′57″ N	122°40′09″ W.
Oregon Symphony Concert Fireworks	Portland, OR	One day in August or September.	45°30′42″ N	122°40′14″ W.
Astoria Regatta	Astoria, OR	One day in August	46°11′34″ N	123°49′28″ W.
First Friday Milwaukie	Milwaukie, OR	One day in September	45°26′33″ N	122°38′44″ W.
Leukemia and Lymphoma Light the Night Fireworks.	Portland, OR	One day in October	45°31′14″ N	122°40′06″ W.
Willamette Falls Heritage Festival	Oregon City, OR	One day in October	45°21′44″ N	122°36′21″ W.
Veterans Day Celebration	The Dalles, OR	One day in November	45°36′18″ N	121°10′34″ W.

(b) *Special requirements.* Fireworks barges or launch sites on land used in locations stated in this section must display a sign. The sign will be affixed to the port and starboard side of the barge or mounted on a post 3 feet above ground level when on land and in close proximity to the shoreline facing the water labeled ''FIREWORKS—DANGER—STAY AWAY.'' This will provide on-scene notice that the safety zone is, or will, be enforced on that day. This notice will consist of a diamond shaped sign, 4-foot by 4-foot, with a 3-inch orange retro-reflective border. The word ''DANGER'' will be 10-inch black block letters centered on the sign with the words ''FIREWORKS'' and ''STAY AWAY'' in 6-inch black block letters placed above and below the word ''DANGER'' respectively on a white background. An on-scene patrol vessel may enforce these safety zones at least 1 hour prior to the start and 1 hour after the conclusion of the fireworks display.

(c) *Notice of enforcement.* These safety zones will be activated and thus subject to enforcement, under the following conditions: The Coast Guard must receive an Application for Marine Event for each fireworks display; and, the Captain of the Port will cause notice of the enforcement of these safety zones to be made by all appropriate means to provide notice to the affected segments of the public as practicable, in accordance with § 165.7(a). The Captain of the Port will issue a Local Notice to Mariners notifying the public of activation and suspension of enforcement of these safety zones. Additionally, an on-scene Patrol Commander may be appointed to enforce the safety zones by limiting the transit of non-participating vessels in the designated areas described in paragraph (a) of this section.

(d) *Enforcement period*s. This section will be enforced at least 1 hour before and 1 hour after the duration of the event each day a barge or launch site with a ''FIREWORKS—DANGER—STAY AWAY'' sign is located within any of the safety zones identified in paragraph (a) of this section and meets the criteria established in paragraphs (b) and (c) of this section.

(e) *Regulations.* In accordance with the general regulations in subpart C of this part no person may enter or remain in the safety zone created in this section or bring, cause to be brought, or allow to remain in the safety zone created in this section any vehicle, vessel, or object unless authorized by the Captain of the Port or his designated representative. The Captain of the Port may be assisted by other Federal, State, or local agencies with the enforcement of the safety zone.

(f) *Authorization.* All vessel operators who desire to enter the safety zone must obtain permission from the Captain of the Port or Designated Representative by contacting either the on-scene patrol craft on VHF Ch 13 or Ch 16 or the Coast Guard Sector Columbia River Command Center via telephone at (503) 861–6211.

§ 165.1316 [Removed]

■ 4. Remove § 165.1316.

Dated: June 16, 2017.

D.F. Berliner,

Captain, U.S. Coast Guard, Acting Captain of the Port, Sector Columbia River.

[FR Doc. 2017–13117 Filed 6–22–17; 8:45 am]

BILLING CODE 9110–04–P

POSTAL SERVICE

39 CFR Part 111

Domestic Mail Manual; Incorporation by Reference

AGENCY: Postal Service™.

ACTION: Final rule.

SUMMARY: The Postal Service announces the issuance of the *Mailing Standards of the United States Postal Service, Domestic Mail Manual* (DMM®) dated January 22, 2017, and its incorporation by reference in the *Code of Federal Regulations.*

DATES: This final rule is effective on June 23, 2017. The incorporation by reference of the DMM dated January 22, 2017, is approved by the Director of the **Federal Register** as of June 23, 2017.

FOR FURTHER INFORMATION CONTACT: Lizbeth Dobbins (202) 268–3789.

SUPPLEMENTARY INFORMATION: The most recent issue of the *Domestic Mail Manual* (DMM) is dated January 22, 2017. This issue of the DMM contains all Postal Service domestic mailing standards, and continues to: (1) Increase the user's ability to find information; (2) increase confidence that users have found all the information they need; and (3) reduce the need to consult multiple chapters of the Manual to locate necessary information. The issue dated January 22, 2017, sets forth specific changes, including new standards throughout the DMM to support the standards and mail preparation changes implemented since the version issued on July 11, 2016.

Changes to mailing standards will continue to be published through **Federal Register** notices and the *Postal Bulletin,* and will appear in the next online version available via the Postal Explorer® Web site at: *http://pe.usps.com.*

List of Subjects in 39 CFR Part 111

Administrative practice and procedure, Incorporation by reference.

In view of the considerations discussed above, the Postal Service hereby amends 39 CFR part 111 as follows:

PART 111—GENERAL INFORMATION ON POSTAL SERVICE

■ 1. The authority citation for 39 CFR part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 13 U.S.C. 301–307; 18 U.S.C. 1692–1737; 39 U.S.C. 101, 401, 403, 404, 414, 416, 3001–3011, 3201–3219, 3403–3406, 3621, 3622, 3626, 3632, 3633, and 5001.

■ 2. In § 111.3 amend paragraph (f) by revising the last two entries in the table for ''DMM 300'' and adding an entry at the end of the table to read as follows:

§ 111.3 Amendment to the Mailing Standards of the United States Postal Service, Domestic Mail Manual.

* * * * *

(f) * * *

Transmittal letter for issue	Dated	**Federal Register** publication
* *	* *	* *
DMM 300	January 25, 2015	80 FR 13492.
DMM 300	July 11, 2016	81 FR 66822.
DMM	January 22, 2017	[INSERT **Federal Register** CITATION FOR THIS RULE].

§ 111.4 [Amended]

■ 3. Amend § 111.4 by removing ''September 29, 2016'' and adding ''June 23, 2017''.

Stanley F. Mires,

Attorney, Federal Compliance.

[FR Doc. 2017–13085 Filed 6–22–17; 8:45 am]

BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2017–0028; FRL–9963–86–Region 9]

Approval of California Air Plan Revisions, Western Mojave Desert, Rate of Progress Demonstration

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a state implementation plan revision submitted by the State of California to meet Clean Air Act requirements applicable to the Western Mojave Desert ozone nonattainment area. Specifically, the EPA is approving the initial six-year 15 percent rate of progress demonstration to address requirements for the 1997 8-hour ozone national ambient air quality standards.

DATES: This final rule is effective on July 24, 2017.

ADDRESSES: The EPA has established docket number EPA–R09–OAR–2017–0028 for this action. Generally, documents in the docket for this action are available electronically at *http://www.regulations.gov* or in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California 94105–3901. While all documents in the docket are listed at *http://www.regulations.gov,* some information may be publicly available only at the hard copy location (*e.g.,* copyrighted material, large maps, multi-volume reports), and some may not be available in either location (*e.g.,* confidential business information (CBI)). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Tom Kelly, Air Planning Office (AIR–2), EPA Region IX, (415) 972–3856, *kelly.thomasp@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, the terms ''we,'' ''us,'' and ''our'' refer to the EPA.

Table of Contents

I. Summary of Proposed Action

On March 9, 2017, the EPA proposed to approve, under section 110(k)(3) of the Clean Air Act (CAA or the Act), the initial six-year 15 percent rate of progress (ROP) demonstration to address requirements for the 1997 8-hour ozone national ambient air quality standards (NAAQS) for the Western Mojave Desert (WMD) nonattainment area. 82 FR 13086. This demonstration is contained in a state implementation plan (SIP) submittal from the California Air Resources Board entitled ''Proposed Updates to the 1997 8-Hour Ozone Standard, State Implementation Plans: Coachella Valley and Western Mojave Desert 8-hour Ozone Nonattainment Areas'' (''2014 SIP Update'').[1] As explained in the proposal, the ROP demonstration is an element of the reasonable further progress demonstration contained at Table C–2 of the 2014 SIP Update and discussed at page 10 of the 2014 SIP Update. It is supported by a detailed VOC emissions inventory at Table A–2 of the 2014 SIP Update.

The WMD is classified as Severe-15 with an attainment date no later than June 15, 2019.[2] The relevant CAA requirements appear at Title I, Part D of the CAA, under which states must implement the primary and secondary 1997 8-hour ozone standards. For areas classified as Moderate or above—including the WMD—CAA section 182(b)(1) requires a SIP revision providing for ROP, defined as a one time, 15 percent actual VOC emission reduction during the six years following the baseline year 1990, for an average reduction of 3 percent per year. As discussed further in the March 9, 2017 proposal, although the EPA revoked the 1997 8-hour ozone NAAQS in 2015,[3] the ROP demonstration requirement is a continuing applicable requirement for the WMD under the EPA's anti-backsliding rules that apply once a NAAQS has been revoked. Thus, the WMD remains subject to the requirement to make the ROP demonstration. *See* 40 CFR 51.1105(a)(1) and 51.1100(o)(4). In the proposal, the EPA proposed to find that the 2014 SIP Update fulfills the ROP demonstration requirement because it meets the requirements of CAA section 182(b)(1) and 40 CFR 51.1105(a)(1) and 51.1100(o)(4).[4]

II. Public Comments

The EPA's proposed action provided a 30-day public comment period. We received one comment, which was submitted anonymously. The comment did not address the EPA's proposed action and did not provide specific information relevant to the basis for EPA's proposed approval. We are not revising any portion of the proposed rule based on this comment.

III. Final Action

For the reasons discussed in our March 9, 2017 proposal and summarized above, the EPA is approving, under CAA section 110(k)(3), the ROP demonstration contained in the 2014 SIP Update as meeting the requirements of CAA section 182(b)(1) and 40 CFR 51.1105(a)(1) and 51.1100(o)(4).

IV. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. 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 Clean Air Act. 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.*);

[1] *See* ''Proposed Updates to the 1997 8-Hour Ozone Standard, State Implementation Plans: Coachella Valley and Western Mojave Desert 8-hour Ozone Nonattainment Areas,'' California Air Resources Board, September 22, 2014.

[2] 77 FR 26950 (May 8, 2012). The proposal for this action contains additional information about the WMD's classification. *See* 82 FR 13086, 13087.

[3] 80 FR 12264 (March 6, 2015).

[4] *See* 82 FR 13086, 13087–88. The EPA proposed to approve the ROP demonstration although the state did not demonstrate the necessary reductions within the six-year period set out in the CAA, because it showed that all necessary reductions were achieved in the earliest subsequent reporting period. *Id.* at 13088.

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

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

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

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

• is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and

• does not provide the 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 the 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. 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 Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 22, 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, Incorporation by reference, Intergovernmental regulations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: May 31, 2017.

Alexis Strauss,

Acting Regional Administrator, Region IX.

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

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart F—California

■ 2. Section 52.220 is amended by adding paragraph (c)(486)(ii)(A)(*2*) to read as read as follows:

§ 52.220 Identification of plan—in part.

* * * * *

(c) * * *

(486) * * *

(ii) * * *

(A) * * *

(*2*) California Air Resources Board, Staff Report, Proposed Updates to the 1997 8-Hour Ozone Standard, State Implementation Plans; Coachella Valley and Western Mojave Desert, adopted on October 24, 2014: ''Reasonable Further Progress Demonstration Update,'' at p. 10 (excluding those portions that pertain to reasonable further progress targets after 2011); Table A–2 (excluding pp. A–10 through A–12, and those portions that pertain to reasonable further progress targets after 2011); Table C–2 (excluding those portions that pertain to reasonable further progress targets after 2011).

* * * * *

[FR Doc. 2017–12966 Filed 6–22–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[EPA–HQ–OAR–2014–0292; FRL–9963–67–OAR]

Correction to Incorporations by Reference

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; technical amendment.

SUMMARY: The Environmental Protection Agency (EPA) is taking action to correct paragraph numbering in the Incorporations by Reference (IBR) section of our regulations that specifically lists material that can be purchased from the American Society for Testing and Materials (ASTM). This action assigns the appropriate IBR paragraph numbers by correcting paragraph ordering errors.

DATES: *Effective:* June 23, 2017.

FOR FURTHER INFORMATION CONTACT: Mrs. Lula H. Melton, Air Quality Assessment Division, Office of Air Quality Planning and Standards (E143–02), Environmental Protection Agency, Research Triangle Park, NC 27711; telephone number: (919) 541–2910; fax number: (919) 541–0516; email address: *melton.lula@epa.gov.*

SUPPLEMENTARY INFORMATION: This action corrects paragraph ordering errors in 40 CFR 60.17(h) as highlighted in the editorial note at the end of § 60.17. The editorial note mentions that amendments could not be incorporated into § 60.17(h) as requested in a final rule published August 30, 2016 (Revisions to Test Methods, Performance Specifications, and Testing Regulations for Air Emission Sources (81 FR 59799)), because paragraph (h)(207) already existed as of the effective date. This issue occurred when two rules that both added incorporation by reference paragraphs in § 60.17(h) published out of order.

Section 553 of the Administrative Procedure Act (APA), 5 U.S.C. 553(b)(3)(B), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary, or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. We have determined that there is good cause for making this technical amendment final without prior proposal and opportunity for public amendment because only simple publication errors are being corrected that do not

substantially change the agency actions taken in the final rule. Thus, notice and public procedure are unnecessary. (See *also* the final sentence of section 307(d)(1) of the Clean Air Act (CAA), 42 U.S.C. 307(d)(1)), indicating that the good cause provisions in subsection 553(b) of the APA continue to apply to this type of rulemaking under section 307(d) of the CAA.)

List of Subjects in 40 CFR Part 60

Environmental protection, Administrative practice and procedure, Air pollution control, Incorporation by reference.

Dated: June 2, 2017.

Sarah Dunham,

Acting Assistant Administrator.

For the reasons stated in the preamble, the Environmental Protection Agency amends title 40, chapter I of the Code of Federal Regulations as follows:

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

■ 1. The authority citation for part 60 continues to read as follows:

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

■ 2. In § 60.17:

■ a. Redesignate paragraphs (h)(191) through (202), (204), (205), and (207) as follows:

Old paragraph	New paragraph
(h)(191)	(h)(192)
(h)(192)	(h)(193)
(h)(193)	(h)(194)
(h)(194)	(h)(195)
(h)(195)	(h)(196)
(h)(196)	(h)(197)
(h)(197)	(h)(198)
(h)(198)	(h)(199)
(h)(199)	(h)(200)
(h)(200)	(h)(201)
(h)(201)	(h)(204)
(h)(202)	(h)(209)
(h)(204)	(h)(205)
(h)(205)	(h)(207)
(h)(207)	(h)(208)

■ b. Add paragraphs (h)(191) and (h)(202).

The additions read as follows:

§ 60.17 Incorporations by reference.

* * * * *

(h) * * *

(191) ASTM D6911–15, Standard Guide for Packaging and Shipping Environmental Samples for Laboratory Analysis, approved January 15, 2015, IBR approved for appendix A–8: Method 30B.

* * * * *

(202) ASTM E617–13, Standard Specification for Laboratory Weights and Precision Mass Standards, approved May 1, 2013, IBR approved for appendix A–3: Methods 4, 5, 5H, 5I, and appendix A–8: Method 29.

* * * * *

[FR Doc. 2017–12968 Filed 6–22–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA–HQ–OAR–2016–0442; FRL–9964–14–OAR]

RIN 2060–AT57

National Emission Standards for Hazardous Air Pollutants From the Portland Cement Manufacturing Industry: Alternative Monitoring Method

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA is taking direct final action to amend the National Emission Standards for Hazardous Air Pollutants From the Portland Cement Manufacturing Industry. This direct final rule provides a compliance alternative for sources that would otherwise be required to use a hydrogen chloride (HCl) continuous emissions monitoring system (CEMS) to demonstrate compliance with the HCl emissions limit. This compliance alternative is needed due to the current unavailability of the HCl calibration gases used for CEMS quality assurance purposes.

DATES: This rule is effective on July 5, 2017 without further notice, unless the EPA receives significant adverse comment by July 3, 2017. If the EPA receives significant adverse comment, we will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2016–0442, at *http://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 submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the Web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Mr. Brian Storey, Sector Policies and Programs Division (D243–04), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–1103; fax number: (919) 541–5450; and email address: *storey.brian@epa.gov.*

SUPPLEMENTARY INFORMATION:

Organization of This Document. The information in this preamble is organized as follows:

I. General Information

A. Why is the EPA using a direct final rule?

The EPA is publishing this direct final rule without a prior proposed rule because we view this as a noncontroversial action and do not anticipate significant adverse comment. However, in the ''Proposed Rules''

section of this **Federal Register**, we are publishing a separate document that will serve as the proposed rule to amend the National Emission Standards for Hazardous Air Pollutants From the Portland Cement Manufacturing Industry, if the EPA receives significant adverse comments on this direct final rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. For further information about commenting on this rule, see the **ADDRESSES** section of this document.

If the EPA receives significant adverse comment on all or a distinct portion of this direct final rule, we will publish a timely withdrawal in the **Federal Register** informing the public that some or all of this direct final rule will not take effect. We would address all public comments in any subsequent final rule based on the proposed rule.

B. Does this direct final rule apply to me?

Categories and entities potentially regulated by this direct final rule include:

Category	NAICS code [1]
Portland cement manufacturing facilities.	327310

[1] North American Industry Classification System.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this direct final rule. To determine whether your facility is affected, you should examine the applicability criteria in 40 CFR 63.1340. If you have questions regarding the applicability of any aspect of this action to a particular entity, consult either the air permitting authority for the entity or your EPA Regional representative as listed in 40 CFR 63.13.

C. What should I consider as I prepare my comments for the EPA?

Do not submit information containing CBI to the EPA through *http://www.regulations.gov* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information on a disk or CD–ROM that you mail to the EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comments that includes information claimed as CBI, a copy of the comments that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. Send or deliver information identified as CBI only to the following address: OAQPS Document Control Officer (C404–02), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, Attention Docket ID No. EPA–HQ–OAR–2016–0442.

II. What are the amendments made by this direct final rule?

Under the rule published in 2013 (78 FR 10006, February 12, 2013), the owner or operator of a kiln subject to the emission limits for HCl in 40 CFR 63.1343 may demonstrate compliance by one of the following methods:

- Option 1—An owner or operator of a kiln may demonstrate compliance by operating a CEMS meeting the requirements of performance specification (PS) 15, PS–18, or any other PS for HCl CEMS in appendix B to part 60, with compliance based on a 30-kiln operating day rolling average.
- Option 2—If the kiln is controlled using a wet scrubber, tray tower, or dry scrubber, the owner or operator, as an alternative to using a CEMS, may demonstrate compliance with the HCl limit using one of two options, described below.

Under Option 2, a performance test must be conducted by the owner or operator using Method 321. While conducting the Method 321 performance test (note Method 321 is the HCl stack testing performance method required by this rule), the owner or operator must simultaneously measure a control device parameter in order to establishe a site-specific parameter limit that must be continuously monitored to determine compliance. If the kiln is controlled using a wet scrubber or tray tower, the owner or operator must also monitor the pressure drop across the scrubber and/or liquid flow rate and pH during the HCl performance test. If the kiln is controlled using a dry scrubber, the sorbent injection rate must be monitored during the performance test. As an alternative under Option 2, the owner or operator may establish sulfur dioxide (SO_2) as the operating parameter by measuring SO_2 emissions using a CEMS simultaneously with the Method 321 test and establishing the site-specific SO_2 limit that must then be continuously monitored to determine compliance with the HCl limit.

The 2013 rule requires that if a source chooses to (or is required to) monitor HCl emissions using a CEMS (Option 1), they must do so in accordance with PS–15, PS–18, or any other PS for HCl CEMS in appendix B to part 60 of this chapter. (See 40 CFR part 60, appendix B.) Quality assurance procedures for HCl CEMS require that they be capable of reading HCl concentrations that span a range of possible emission levels below as well as above expected HCl emission concentrations. These quality assurance procedures require the use of National Institute of Standards and Technology (NIST)-traceable calibration gases for HCl.

Following our decision to create PS–18 and Procedure 6 for HCl continuous monitoring in 2012, the EPA worked with NIST and commercial gas vendors on development of NIST-traceable HCl gas standards to support the PS–18 in the 2013 rulemaking. While some of the low HCl concentration (<10 parts per million, or ppm) NIST-traceable gases have been available on a limited basis since 2013, the full range of HCl concentrations required to support all HCl emissions monitoring technologies (including integrated path that requires concentrations 100 times higher) are not widely available at this time.

The approach used by NIST in 2013 was to certify the Research Gas Material (RGM) cylinders as primary gas standards. These cylinders contain HCl gas and are provided to NIST by vendors for NIST certification, and subsequently used by the vendors as transfer standards to prepare the Gas Manufacturer Intermediate Standards (GMIS). The GMIS cylinders are then used to produce NIST-traceable gas cylinders that are sold commercially.[1] The initial approach used by NIST to certify the RGM cylinders was not viable in the long term as the instrumentation used by NIST largely depleted the HCl RGM gas volume, leaving little gas in the cylinder for the vendors to use in preparing GMIS materials. Because of this concern, NIST initiated development of an improved RGM certification procedure. The development has been hampered by the challenges presented in handling HCl gas. HCl gas is extremely reactive and difficult to handle in both gas cylinders and analytically. As such, it has taken considerable time for NIST to optimize the analytical equipment and approach to achieve the necessary uncertainty requirements (*e.g.,* <1 percent uncertainty).

In addition, the commercial establishment of NIST-traceable gases is dependent on collaboration between

[1] *EPA Traceability Protocol for Assay and Certification of Gaseous Calibration Standards,* U.S. EPA, Office of Research and Development, EPA/600/R–12/531, May 2012.

NIST and the specialty gas vendors. There are a limited number of vendors providing the stable, accurate, low and high concentration cylinder gases to NIST to certify as RGMs. Once the RGMs are available, the specialty gas vendors must complete a series of procedures to establish the certainty of their products which adds to the time to achieve wide commercial availability.

As a result, on July 25, 2016 (81 FR 48356), the EPA provided an additional compliance alternative for sources that would otherwise be required to use an HCl CEMS (Option 1). The alternative was provided for a period of 1 year. In the alternative, the HCl CEMS was still required to be installed and operated, but actual compliance with the HCl emissions limit was determined by a three-run stack test. The HCl CEMS still provided a continuous readout of HCl emissions, but because the CEMS was not calibrated with the required NIST-traceable calibration gases, the HCl measurement was not considered to be sufficiently accurate on an absolute basis for compliance. However, it was found to be sufficient to indicate any relative change in HCl emissions occurring subsequent to the compliance test. Therefore, the HCl CEMS under the compliance alternative functioned as a continuous parameter monitoring system (CPMS), as in the case of the particulate matter (PM) CPMS requirement (see 78 FR 10014–10015, 10019–10020, February 12, 2013).

It is the EPA's understanding that the availability of NIST-traceable calibration gases for HCl has not changed since the compliance alternative approval in 2016. Thus, the EPA intends to extend the use of this compliance alternative until such time as the NIST-traceable calibration gases for HCl become readily available.

Under this extension of the compliance alternative, the owner or operator will demonstrate initial compliance by conducting a performance test using Method 321 and will monitor compliance with an operating parameter limit through use of the HCl CEMS operating as a HCl CPMS. For the HCl CPMS, the owner or operator will use the average HCl CPMS indicated output, typically displayed as parts per million by volume (ppmv), wet basis HCl recorded at in-stack oxygen concentration during the HCl performance test to establish the operating limit. To determine continuous compliance with the operating limit, the owner or operator will record the indicated HCl CPMS output data for all periods when the process is operating and use all the HCl CPMS data, except data obtained during times of monitor malfunctions. Thus, continuous compliance with the operating limit will be demonstrated by using all valid hourly average data collected by the HCl CPMS for all operating hours to calculate the arithmetic average operating parameter in units of the operating limit (indicated ppm) on a 30-kiln operating day rolling average basis, updated at the end of each new kiln operating day. An exceedance of the kiln 30-day operating limit would trigger evaluation of the control system operation and resetting the operating limit based on a new correlation with performance testing. For kilns with inline raw mills, performance testing and monitoring HCl to establish the site specific operating limit must be conducted during both raw mill on and raw mill off conditions.

As is the case for the PM CPMS requirements (see 40 CFR 63.1349(b)(1)(i)), this alternative for HCl compliance monitoring includes a scaling factor of 75 percent of the emission standard as a benchmark (2.25 ppmv, dry basis at 7-percent oxygen). Sources that choose this option will conduct a Method 321 test to determine compliance with the HCl emissions standard and during this testing will also monitor their HCl CPMS output in indicated ppm to determine where their HCl CPMS output would intersect 75 percent of their allowed HCl emissions, and set their operating level at that ppm output. This scaling procedure alleviates re-testing concerns for sources that operate well below the emission limit and provides greater operational flexibility while assuring continuous compliance with the HCl emission standard. For sources whose Method 321 compliance tests place them at or above 75 percent of the emission standard, their operating limit is determined by the average of three Method 321 test runs (for sources with no inline raw mill) or the time weighted average of six Method 321 test runs (for kilns with inline raw mills). By adopting a scaling factor as well as the use of 30 days of averaged HCl CPMS measurements, the parametric limit in no way imposes a stringency level higher than the level of the HCl emissions standard and will avoid triggering unnecessary retests for many facilities, especially for the lower-emitting sources.

III. Statutory and Executive Order Reviews

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

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

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

B. Paperwork Reduction Act (PRA)

This action does not impose any new information collection burden under the PRA. OMB has previously approved the information collection activities contained in the existing regulation (40 CFR part 63, subpart LLL) and has assigned OMB control number 2060–0416. This action does not change the information collection requirements.

C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. This action will not impose any requirements on small entities. This action does not create any new requirements or burdens and no costs are associated with this direct final action.

D. Unfunded Mandates Reform Act (UMRA)

This action does not contain an unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. The action imposes no enforceable duty on any state, local, or tribal governments or the private sector.

E. Executive Order 13132: Federalism

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

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications, as specified in Executive Order 13175. It will neither impose substantial direct compliance costs on federally recognized tribal governments, nor preempt tribal law. The EPA is aware of one tribally owned Portland cement facility currently subject to 40 CFR part 63, subpart LLL that will be subject to this direct final rule. However, the provisions of this direct final rule are not expected to impose new or substantial direct compliance costs on tribal governments since the provisions in this direct final rule are

extending the use of an alternative to the HCl monitoring provisions, including an option which provides operational flexibility. Thus, Executive Order 13175 does not apply to this action.

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

The EPA interprets Executive Order 13045 as applying to those regulatory actions that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of ''covered regulatory action'' in section 2–202 of the Executive Order. This action is not subject to Executive Order 13045 because it does not concern an environmental health risk or safety risk.

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

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

I. National Technology Transfer and Advancement Act (NTTAA)

This rulemaking does not involve technical standards.

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

The EPA believes that this action does not have disproportionately high and adverse human health or environmental effects on minority populations, low-income populations, and/or indigenous peoples, as specified in Executive Order 12898 (59 FR 7629, February 16, 1994). This action does not affect the level of protection provided to human health or the environment.

K. Congressional Review Act (CRA)

This action is subject to the CRA, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 63

Environmental protection, Administrative practice and procedures, Air pollution control, Hazardous substances, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: June 19, 2017.

E. Scott Pruitt,

Administrator.

For the reasons stated in the preamble, the Environmental Protection Agency is amending title 40, chapter I, part 63 of the Code of Federal Regulations (CFR), as follows:

PART 63—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR SOURCE CATEGORIES

■ 1. The authority citation for part 63 continues to read as follows:

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

Subpart LLL—National Emission Standards for Hazardous Air Pollutants From the Portland Cement Manufacturing Industry

§ 63.1349 [Amended]

■ 2. Section 63.1349 is amended by removing paragraph (b)(6)(v)(H).

■ 3. Section 63.1350 is amended by revising paragraph (l)(4) to read as follows:

§ 63.1350 Monitoring requirements.

* * * * *

(l) * * *

(4) If you monitor continuous performance through the use of an HCl CPMS according to § 63.1349(b)(6)(v)(A) through (G), for any exceedance of the 30-kiln operating day HCl CPMS average value from the established operating limit, you must:

* * * * *

[FR Doc. 2017–13185 Filed 6–22–17; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 64

[Docket ID FEMA–2017–0002: Internal Agency Docket No. FEMA–8485]

Suspension of Community Eligibility

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final rule.

SUMMARY: This rule identifies communities where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP) that are scheduled for suspension on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If the Federal Emergency Management Agency (FEMA) receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will not occur and a notice of this will be provided by publication in the **Federal Register** on a subsequent date. Also, information identifying the current participation status of a community can be obtained from FEMA's Community Status Book (CSB). The CSB is available at *https://www.fema.gov/national-flood-insurance-program-community-status-book.*

DATES: The effective date of each community's scheduled suspension is the third date (''Susp.'') listed in the third column of the following tables.

FOR FURTHER INFORMATION CONTACT: If you want to determine whether a particular community was suspended on the suspension date or for further information, contact Patricia Suber, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 400 C Street SW., Washington, DC 20472, (202) 646–4149.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase Federal flood insurance that is not otherwise generally available from private insurers. In return, communities agree to adopt and administer local floodplain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits the sale of NFIP flood insurance unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed in this document no longer meet that statutory requirement for compliance with program regulations, 44 CFR part 59. Accordingly, the communities will be suspended on the effective date in the third column. As of that date, flood insurance will no longer be available in the community. We recognize that some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue to be eligible for the sale of NFIP flood insurance. A notice withdrawing the suspension of such communities will be published in the **Federal Register**.

In addition, FEMA publishes a Flood Insurance Rate Map (FIRM) that identifies the Special Flood Hazard Areas (SFHAs) in these communities. The date of the FIRM, if one has been published, is indicated in the fourth column of the table. No direct Federal financial assistance (except assistance pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act not in connection with a flood) may be provided for construction or acquisition of buildings in identified SFHAs for communities not participating in the NFIP and identified for more than a year on FEMA's initial FIRM for the community as having flood-prone areas (section 202(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4106(a), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column. The Administrator finds that notice and public comment procedures under 5 U.S.C. 553(b), are impracticable and unnecessary because communities listed in this final rule have been adequately notified.

Each community receives 6-month, 90-day, and 30-day notification letters addressed to the Chief Executive Officer stating that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. Since these notifications were made, this final rule may take effect within less than 30 days.

National Environmental Policy Act. FEMA has determined that the community suspension(s) included in this rule is a non-discretionary action and therefore the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) does not apply.

Regulatory Flexibility Act. The Administrator has determined that this rule is exempt from the requirements of the Regulatory Flexibility Act because the National Flood Insurance Act of 1968, as amended, Section 1315, 42 U.S.C. 4022, prohibits flood insurance coverage unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed no longer comply with the statutory requirements, and after the effective date, flood insurance will no longer be available in the communities unless remedial action takes place.

Regulatory Classification. This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 13132, Federalism. This rule involves no policies that have federalism implications under Executive Order 13132.

Executive Order 12988, Civil Justice Reform. This rule meets the applicable standards of Executive Order 12988.

Paperwork Reduction Act. This rule does not involve any collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

Accordingly, 44 CFR part 64 is amended as follows:

PART 64—[AMENDED]

■ 1. The authority citation for Part 64 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.;* Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp.; p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp.; p. 376.

§ 64.6 [Amended]

■ 2. The tables published under the authority of § 64.6 are amended as follows:

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in SFHAs
		Region VIII		
Montana: Carbon County, Unincorporated Areas.	300139	March 23, 1978, Emerg; November 4, 1981, Reg; July 5, 2017, Susp.	July 5, 2017	July 5, 2017.

* -do- = Ditto.
Code for reading third column: Emerg.—Emergency; Reg.—Regular; Susp.—Suspension.

Dated: June 14, 2017.

Michael M. Grimm,

Assistant Administrator for Mitigation, Federal Insurance and Mitigation Administration, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2017–12991 Filed 6–22–17; 8:45 am]

BILLING CODE 9110–12–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CG Docket Nos. 10–51 and 03–123; FCC 17–26]

Structure and Practices of the Video Relay Services Program

AGENCY: Federal Communications Commission.

ACTION: Final rule; delay of compliance date.

SUMMARY: In this document, the Commission sets aside the effectiveness, in part, of the *VRS Interoperability Order,* in which the Consumer and Governmental Affairs Bureau (CGB) incorporated certain technical standards on video relay service (VRS) interoperability into the Commission's telecommunications relay service (TRS) rules, pending the Commission's consideration of server-based routing.

DATES: Effective June 23, 2017 the compliance date for the VRS Provider Interoperability Profile, 47 CFR 64.621(b), as published at 82 FR 19322, April 27, 2017 is delayed indefinitely.

ADDRESSES: Federal Communications Commission, 445 12th Street SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Bob Aldrich, Consumer and Governmental Affairs Bureau, (202) 418–0996, email *Robert.Aldrich@fcc.gov,* or Eliot Greenwald, Consumer and Governmental Affairs Bureau, (202) 418–2235, email *Eliot.Greenwald@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Structure and Practices of the Video Relay Service Program; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities,* Order, document FCC 17–26, adopted on March 23, 2017, and released on March 23, 2017 in CG Docket Nos. 10–51 and 03–123. The Notice of Inquiry and Further Notice of Proposed Rulemaking, FCC 17–26, adopted on March 23, 2017, and released on March 23, 2017, was published at 82 FR 17613, April 12, 2017; and the Report and Order, FCC 17–26, adopted on March 23, 2017, and released on March 23, 2017, was published at 82 FR 17754, April 13, 2017. The full text of these documents are available for public inspection and copying via ECFS, and during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street SW., Room CY–A257, Washington, DC 20554. To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (844) 432–2272 (videophone), or (202) 418–0432 (TTY).

Congressional Review Act

The Commission sent a copy of document FCC 17–26 to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

Final Paperwork Reduction Act of 1995 Analysis

FCC 17–26 Report and Order contains a modified information collection. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public to comment on the modified information collection requirements contained in FCC 17–26 Report and Order, as required by the Paperwork Reduction Act (PRA), Public Law 104–13, in a separate published **Federal Register** Notice (Notice). Public and agency comments are due on or before August 11, 2017. *See* Information Collection Being Reviewed by the Federal Communications Commission, Notice, published at 82 FR 26927, June 12, 2017. In addition, this document 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).

Synopsis

Order on Server Based Routing

1. By way of background, in the *VRS Interoperability Order,* DA 17–76, the VRS Provider Interoperability Profile that was incorporated into the Commission's rules provides for the routing of inter-provider VRS and point-to-point video calls to a server of the terminating VRS provider that serves multiple VRS users and devices, rather than directly to a specific device. The technical standard specifies the inclusion of call routing information in the TRS Numbering Directory that contains, in addition to the call recipient's telephone number, a VRS provider domain name, rather than a user-specific IP address. However, 47 CFR 64.613(a) currently requires that the URI for a VRS user's telephone number ''shall contain the IP address of the user's device.''

2. The Commission has determined that until it acts on the *Further Notice of Proposed Rulemaking* in document FCC 17–26, which proposes to amend 47 CFR 64.613 to allow such server-based routing, 47 CFR 64.613 does not authorize VRS providers to provide to and retrieve from the TRS Numbering Directory the routing information specified by the VRS Provider Interoperability Profile.

3. Document DA 17–76 sets August 25, 2017 as the deadline for compliance with the VRS Provider Interoperability Profile. 47 CFR 64.621(b)(1). To avoid the possibility of subjecting VRS providers to conflicting obligations pending Commission action on the *Further Notice of Proposed Rulemaking,* in document FCC 17–26 Order, the Commission sets aside on its own motion the effectiveness of document DA 17–76 and 47 CFR 64.621(b)(1) with respect to the August 25, 2017 deadline for compliance with the VRS Provider Interoperability Profile.

Ordering Clauses

Pursuant to sections 1, 2, 225, and 251 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 225, 251, document FCC 17–26 is *adopted.*

The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *has sent* a copy of document FCC 17–26 to the Chief Counsel for Advocacy of the Small Business Administration.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 2017–12957 Filed 6–22–17; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R1–ES–2016–0102; FXES11130900000 178 FF09E42000]

RIN 1018–BB74

Endangered and Threatened Wildlife and Plants; Establishment of a Nonessential Experimental Population of the Oregon Silverspot Butterfly in Northwestern Oregon

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service or USFWS), with the support of the State of Oregon Parks and Recreation Department (OPRD), will reestablish the Oregon silverspot butterfly (*Speyeria zerene hippolyta*)—a threatened species under the U.S. Endangered Species Act, as amended (Act)—within its historical range at two sites in northwestern Oregon: Saddle Mountain State Natural Area (SNA) in Clatsop County, and Nestucca Bay National Wildlife Refuge (NWR) in Tillamook County. This final rule classifies the reintroduced populations as a nonessential experimental population (NEP) under the authority of section 10(j) of the Act and provides for allowable legal incidental taking of the Oregon silverspot butterfly within the defined NEP areas.

DATES: This final rule is effective June 23, 2017.

ADDRESSES: This final rule is available on *http://www.regulations.gov* at Docket No. FWS–R1–ES–2016–0102 and on our Web site at *https://www.fws.gov/oregonfwo/.* Comments and materials we received, as well as supporting documentation we used in preparing this rule, are also available for public inspection at *http://www.regulations.gov.* All comments, materials, and documentation that we considered in this rulemaking are available for public inspection, by appointment, during normal business hours, at the Newport Field Office, U.S. Fish and Wildlife Service, 2127 SE Marine Science Drive, Newport, OR 97365; telephone 541–867–4558. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339.

FOR FURTHER INFORMATION CONTACT: Laura Todd, Field Supervisor, at the Newport Field Office, U.S. Fish and

Wildlife Service, 2127 SE Marine Science Drive, Newport, OR 97365; telephone 541–867–4558. Persons who use a TDD may call the Federal Relay Service (FRS) at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

Background

Statutory and Regulatory Framework

We listed the Oregon silverspot butterfly as a threatened species under the Act (16 U.S.C. 1531 *et seq.*) on October 15, 1980 (45 FR 44935, July 2, 1980). We designated critical habitat for the Oregon silverspot butterfly at the time of listing (45 FR 44935, July 2, 1980). On December 23, 2016, we published in the **Federal Register** a proposed rule to establish a nonessential experimental population of the Oregon silverspot butterfly in northwestern Oregon (81 FR 94296). The comment period on the proposed rule was open for 60 days, through February 21, 2017. Comments on the proposed rule are addressed below, under Summary of Comments and Recommendations.

Species listed as endangered or threatened are afforded protection primarily through the prohibitions of section 9 of the Act and the requirements of section 7 of the Act. Section 9 of the Act, among other things, prohibits the take of endangered wildlife. ''Take'' is defined by the Act as harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or attempt to engage in any such conduct. Our regulations in title 50 of the Code of Federal Regulations (50 CFR 17.31) generally extend the prohibition of take to threatened wildlife species. Section 7 of the Act outlines the procedures for Federal interagency cooperation to conserve federally listed species and protect designated critical habitat. It mandates that all Federal agencies use their existing authorities to further the purposes of the Act by carrying out programs for the conservation of listed species. It also states that Federal agencies must, in consultation with the Service, ensure that any action they authorize, fund, or carry out is not likely to jeopardize the continued existence of a listed species or result in the destruction or adverse modification of designated critical habitat. Section 7 of the Act does not affect activities undertaken on private land unless they are authorized, funded, or carried out by a Federal agency.

The 1982 amendments to the Act (16 U.S.C. 1531 *et seq.*) included the addition of section 10(j), which allows for the designation of reintroduced populations of listed species as ''experimental populations.'' The provisions of section 10(j) were enacted to ameliorate concerns that reintroduced populations will negatively impact landowners and other private parties, by giving the Secretary greater regulatory flexibility and discretion in managing the reintroduction of listed species to encourage recovery in collaboration with partners, especially private landowners. Under section 10(j) of the Act and our regulations at 50 CFR 17.81, the Service may designate an endangered or threatened species that has been or will be released into suitable natural habitat outside the species' current natural range (but within its probable historical range, absent a finding by the Director of the Service in the extreme case that the primary habitat of the species has been unsuitably and irreversibly altered or destroyed) as an experimental population.

As discussed below (see Relationship of the NEP to Recovery Efforts), we intend to reintroduce the Oregon silverspot butterfly into areas of suitable habitat within its historical range for the purpose of restoring populations to meet recovery goals. Oregon silverspot butterfly populations have been reduced from at least 20 formerly known locations to only 5, thus reintroductions are important to achieve biological redundancy in populations and to broaden the distribution of populations within the geographic range of the subspecies. The restoration of multiple populations of the Oregon silverspot butterfly distributed across its range is one of the recovery criteria identified for the subspecies (USFWS 2001, pp. 39–41).

When we establish experimental populations under section 10(j) of the Act, we must determine whether such a population is essential or nonessential to the continued existence of the species. This determination is based solely on the best scientific and commercial data available. Our regulations (50 CFR 17.80(b)) state that an experimental population is considered essential if its loss would be likely to appreciably reduce the likelihood of survival of that species in the wild. All other populations are considered nonessential. We find the experimental population of Oregon silverspot butterfly in northwestern Oregon to be nonessential for the following reasons:

(1) Oregon silverspot butterflies are currently found at five locations, from the central Oregon coast to northern California (see Biological Information, below).

(2) There are ongoing management efforts, including captive rearing and release, to maintain or expand Oregon silverspot butterfly populations at these five locations (VanBuskirk 2010, entire; USFWS 2012, entire).

(3) The experimental population will not provide demographic support to the existing wild populations (see Location and Boundaries of the NEP, below).

(4) The experimental population will not possess any unique genetic or adaptive traits that differ from those in the wild populations because it will be established using donor stock from extant wild populations of Oregon silverspot butterflies (see Donor Stock Assessment and Effects on Donor Populations, below).

(5) Loss of the experimental population will not preclude other recovery options, including future efforts to reestablish Oregon silverspot butterfly populations elsewhere. Therefore, we conclude the reintroduced populations of Oregon silverspot butterfly at two sites in northwest Oregon are appropriately established as a nonessential experimental population (NEP) under section 10(j) of the Act.

With the NEP designation, the relevant population is treated as if it were listed as a threatened species for the purposes of establishing protective regulations, regardless of the species' designation elsewhere in its range. This approach allows us to develop tailored take prohibitions that are necessary and advisable to provide for the conservation of the species. In these situations, the general regulations that extend most section 9 prohibitions to threatened species do not apply to that species. The protective regulations adopted for an experimental population in a section 10(j) rule contain the applicable prohibitions and exceptions for that population. These section 9 prohibitions and exceptions apply on all lands within the NEP.

For the purposes of section 7 of the Act, which addresses Federal cooperation, we treat an NEP as a threatened species when the NEP is located within a National Wildlife Refuge or unit of the National Park Service, and Federal agency conservation requirements under section 7(a)(1) and the Federal agency consultation requirements of section 7(a)(2) of the Act apply. Section 7(a)(1) of the Act requires all Federal agencies to use their authorities to carry out programs for the conservation of listed species. Section 7(a)(2) requires that Federal agencies, in consultation with the Service, ensure that any action they authorize, fund, or carry out is not likely

to jeopardize the continued existence of a listed species or adversely modify its critical habitat. When NEPs are located outside a National Wildlife Refuge or National Park Service unit, then, for the purposes of section 7, we treat the population as proposed for listing and only section 7(a)(1) and section 7(a)(4) of the Act apply. In these instances, NEPs provide additional flexibility because Federal agencies are not required to consult with us under section 7(a)(2). Section 7(a)(4) requires Federal agencies to confer (rather than consult) with the Service on actions that are likely to jeopardize the continued existence of a species proposed to be listed. The results of a conference are in the form of conservation recommendations that are optional to the agencies carrying out, funding, or authorizing activities. In this case, the NEP area within Nestucca Bay NWR will still be subject to the provisions of section 7(a)(2), and intra-agency consultation would be required on the refuge. Section 7(a)(2) consultation would not be required outside of the refuge.

Before authorizing the release as an experimental population (including eggs, propagules, or individuals) of an endangered or threatened species, and before authorizing any necessary transportation to conduct the release, the Service must find, by regulation, that such release will further the conservation of the species. In making such a finding, the Service uses the best scientific and commercial data available to consider the following factors (see 49 FR 33893, August 27, 1984): (1) Any possible adverse effects on extant populations of a species as a result of removal of individuals, eggs, or propagules for introduction elsewhere (see Donor Stock Assessment and Effects on Donor Populations, below); (2) the likelihood that any such experimental population will become established and survive in the foreseeable future (see Likelihood of Population Establishment and Survival, below); (3) the relative effects that establishment of an experimental population will have on the recovery of the species (see Relationship of the NEP to Recovery Efforts, below); and (4) the extent to which the introduced population may be affected by existing or anticipated Federal or State actions or private activities within or adjacent to the experimental population area (see Extent to Which the Reintroduced Population May Be Affected by Land Management Within the NEP, below).

Furthermore, as set forth at 50 CFR 17.81(c), all regulations designating experimental populations under section 10(j) must provide: (1) Appropriate means to identify the experimental population, including, but not limited to, its actual or proposed location, actual or anticipated migration, number of specimens released or to be released, and other criteria appropriate to identify the experimental population(s) (see Location and Boundaries of the NEP, below); (2) a finding, based solely on the best scientific and commercial data available, and the supporting factual basis, on whether the experimental population is, or is not, essential to the continued existence of the species in the wild (see discussion in this section, above); (3) management restrictions, protective measures, or other special management concerns of that population, which may include but are not limited to, measures to isolate and/or contain the experimental population designated in the regulation from natural populations (see Extent to Which the Reintroduced Population May Be Affected by Land Management Within the NEP, below); and (4) a process for periodic review and evaluation of the success or failure of the release and the effect of the release on the conservation and recovery of the species (see Reintroduction Effectiveness Monitoring and Donor Population Monitoring, below).

Under 50 CFR 17.81(d), the Service must consult with appropriate State fish and wildlife agencies, local governmental entities, affected Federal agencies, and affected private landowners in developing and implementing experimental population rules. To the maximum extent practicable, section 10(j) rules represent an agreement between the Service, the affected State and Federal agencies, and persons holding any interest in land that may be affected by the establishment of an experimental population.

Section 10(j)(2)(C)(ii) of the Act states that critical habitat shall not be designated for any experimental population that is determined to be nonessential. Accordingly, we cannot designate critical habitat in areas where we establish an NEP.

Biological Information

The Oregon silverspot butterfly is a small, darkly marked coastal subspecies of the Zerene fritillary, a widespread butterfly species in montane western North America (USFWS 2001, p. 1). Historically, the Oregon silverspot butterfly was documented at 20 locations, from the border of northern California to the southern coast of Washington (McCorkle *et al.* 1980, p. 7). Its current distribution is limited to five locations, one near Lake Earl, along the coast of Del Norte County, California; two on the central Oregon coast in Lane County, Oregon; and two in Tillamook County, Oregon. With the exception of the two populations on the central Oregon coast that are only about 5 miles (mi) (8 kilometers (km)) apart, all remaining populations are geographically isolated from one another (USFWS 2001, pp. 8–10).

The Oregon silverspot butterfly has a 1-year life cycle, which begins when female adults lay eggs on or near early blue violets (*Viola adunca*) during their flight period from mid-August through September. The eggs hatch within 10 days. The tiny first-instar caterpillars eat their eggshells and then go into diapause, a hibernation-like state, until late spring the following year when violets begin growing. Caterpillars are cryptic in habits and feed on early blue violets and a few other *Viola* species until pupation in the summer. Adult emergence starts in July and extends into September.

The Oregon silverspot butterfly occupies three types of grassland habitat: marine terrace and coastal headland meadows, stabilized dunes, and montane grasslands. Key resources needed by the Oregon silverspot butterfly in all of these habitats include: (1) The early blue violet, which is the primary host plant for Oregon silverspot caterpillars; (2) a variety of nectar plants that bloom during the butterfly flight period, including, but not limited to, yarrow (*Achillea millefolium*), pearly everlasting (*Anaphalis margaritacea*), Pacific aster (*Symphyotrichum chilense*), Canada goldenrod (*Solidago canadensis*), tansy ragwort (*Senecio jacobaea*), and edible thistle (*Cirsium edule*); (3) grasses and forbs in which the larvae find shelter; and (4) trees surrounding occupied meadows, which provide shelter for adult butterflies (45 FR 44935, July 2, 1980, p. 44939; USFWS 2001, p. 12).

Habitat quality is largely determined by violet densities and the abundance and availability of nectar plants during the flight season. Field studies have demonstrated that female Oregon silverspot butterflies select areas with high violet densities for egg-laying (Damiani 2011, p. 7). Based on laboratory studies, from 200 to 300 violet leaves are needed to allow an Oregon silverspot butterfly to develop from caterpillar to pupae (Andersen *et al.* 2009, p. 7). The caterpillars have limited foraging ability beyond a 3.3-foot (ft) (1-meter (m)) distance (Bierzychudek *et al.* 2009, p. 636). In the wild, a caterpillar would require a clump of approximately 16 violet plants for development, assuming each violet

could provide about 12 to 20 leaves (USFWS 2012, p. 8). Based on studies of other butterflies, nectar abundance and quality are also important to adult survival and particularly fecundity (Boggs and Ross 1993, p. 436; Schultz and Dlugosch 1999, p. 231; Mevi-Schutz and Erhard 2005, p. 411). Therefore, we consider high-quality Oregon silverspot butterfly habitat to have large numbers of violets distributed in dense patches for caterpillar forging and an abundance of nectar plants of differing species, blooming throughout the butterfly flight period (USFWS 2012, p. 8).

Historically, habitats with these key resources were likely widely distributed along the Oregon and Washington coasts (Hammond and McCorkle 1983, p. 222). Loss of habitat and key resources occurred as a result of human development and due to ecological succession and invasion of shrubs, trees, and tall introduced grasses, which crowd-out the subspecies' host plants and nectar resources (Hammond and McCorkle 1983, p. 222). Loss of habitat was the primary threat to the subspecies identified in our 2001 Revised Recovery Plan for the Oregon Silverspot Butterfly (USFWS 2001, entire). More recently, during a periodic review of the subspecies' status, we identified the reduced size, number, and isolation of Oregon silverspot butterfly populations as additional severe and imminent threats to the subspecies (USFWS 2012, pp. 24–25).

Additional information on the biology, habitat, and life history of the butterfly can be found in our Revised Recovery Plan for the Oregon Silverspot Butterfly *(Speyeria zerene hippolyta*) (USFWS 2001, pp. 11–19), which is available online at *http://www.regulations.gov* under Docket No. FWS–R1–ES–2016–0102 or by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**, above.

Relationship of the NEP to Recovery Efforts

We are establishing an NEP to promote the conservation and recovery of the Oregon silverspot butterfly. The recovery strategy for the Oregon silverspot butterfly, as detailed in our 2001 revised recovery plan, is to protect and manage habitat, and to augment and restore populations (USFWS 2001, pp. 39–41). Recovery criteria for the Oregon silverspot butterfly are (USFWS 2001, p. 42):

1. At least two viable Oregon silverspot butterfly populations exist in protected habitat in each of the following areas: Coastal Mountains, Cascade Head, and Central coast in Oregon; and Del Norte County in California; and at least one viable Oregon silverspot butterfly population exists in protected habitat in each of the following areas: Long Beach Peninsula, Washington, and Clatsop Plains, Oregon. This criterion includes the development of comprehensive management plans.

2. Habitats are managed long term to maintain native, early successional grassland communities. Habitat management maintains and enhances early blue violet abundance, provides a minimum of five native nectar species dispersed abundantly throughout the habitat and flowering throughout the entire flight-period, and reduces the abundance of invasive, nonnative plant species.

3. Managed habitat at each population site supports a minimum viable population of 200 to 500 butterflies for at least 10 years.

The reintroduction of Oregon silverspot butterflies within the NEP area will help address the limited number of populations and the subspecies' diminished geographic range. In addition, it is likely to contribute to meeting recovery criteria, as both NEP areas have the biological attributes to support a viable population of butterflies and will be managed consistent with the subspecies' biological needs.

Location and Boundaries of the NEP

Section 10(j) of the Act requires that an experimental population be geographically separate from other populations of the same species. We identified the boundary of the NEP as those Public Land Survey System sections intersecting with a 4.25-mi (6.8-km) radius around the release locations. This boundary was selected to encompass all likely movements of Oregon silverspot butterflies away from the release areas while maintaining geographic separation from existing populations. This 4.25-mi (6.8-km) radius is greater than the longest known flight distance of the Oregon silverspot butterfly (4.1 mi (6.6 km)) (VanBuskirk and Pickering 1999, pp. 3–4, Appendix 1). Although this flight distance had previously been reported as ''5 miles'' (VanBuskirk and Pickering 1999, p. 4; USFWS 2010, p. 10), a more precise measurement using the locations where the individual butterfly in question was marked and recaptured (rather than the general distance between the populations) resulted in a distance of 4.1 mi (6.8 km).

The NEP areas are geographically isolated from existing Oregon silverspot butterfly populations by a sufficient distance to preclude significant contact between populations. There is an extremely small potential that butterflies dispersing 4.1 mi (6.8 km) from the release site on Nestucca Bay NWR may interact with butterflies dispersing 4.1 mi (6.8 km) from Cascade Head, because these locations are 8 mi (13 km) apart. Nevertheless, the likelihood of butterflies from these two sites interbreeding is remote because of the distance between the sites and the fact that there is little or no suitable habitat with appropriate larval host plants and adult nectar sources between Nestucca Bay NWR and Cascade Head. Even if butterflies dispersed and were present within the same area, we do not believe the occasional presence of a few individual butterflies meets a minimal biological definition of a population.

As with definitions of ''population'' used in other experimental population rules (*e.g.,* 59 FR 60252, November 22, 1994; 71 FR 42298, July 26, 2006), we believe that a determination that a population is not geographically separate from the NEP area would require the presence of sufficient suitable habitat in the intervening area to support successfully reproducing Oregon silverspot butterflies over multiple years. Because there is little to no suitable habitat between Nestucca Bay NWR and Cascade Head, we conclude that although an occasional individual may move into this area, population establishment is unlikely to occur. Biologically, the term ''population'' is not normally applied to dispersing individuals, and any individual butterflies would be considered emigrants from the Cascade Head population. Finally, a few butterflies would not be considered a self-sustaining population. Self-sustaining populations need a sufficient number of individuals to avoid inbreeding depression and occurrences of chance local extinction; a general rule of thumb is that the effective population size needs to be at least 50 to reduce the likelihood of extinction in the short term because of harmful effects of inbreeding depression on demographic rates, and at least 500 to retain sufficient genetic variation to allow for future adaptive change (Jamieson and Allendorf 2012, p. 578).

Saddle Mountain State Natural Area

Saddle Mountain SNA, managed by OPRD, is located in central Clatsop County, in northwest Oregon. Saddle Mountain was historically occupied by the Oregon silverspot butterfly, which was last documented at this site in 1973 (McCorkle *et al.* 1980, p. 8). Butterfly surveys in 1980 and more recent surveys during the butterfly flight

period—in 2003, 2006, and 2010—did not document the species at Saddle Mountain (Mike Patterson, pers. comm. 2016), and the population there is presumed to be extirpated (VanBuskirk 2010, p. 27). The nearest extant Oregon silverspot butterfly population is 50 miles (80 km) south at Mount Hebo.

Saddle Mountain SNA is a 3,225-acre (ac) (1,305-hectare (ha)) park known for its unique botanical community, which thrives on the thin rocky soils, with few invasive weeds. Habitat suitable for the Oregon silverspot butterfly consists of approximately 60 ac (24 ha) of meadows on the slopes of Saddle Mountain near its upper peaks at 3,288 ft (1,002 m) above sea-level. Based on recent plant surveys (OPRD 2012, p. 2), the release site contains high-quality butterfly habitat with sufficient densities of the requisite species (*Viola adunca* and native nectar plants) to support an Oregon silverspot butterfly population (USFWS 2001, pp. 13–14). Habitat quality has been maintained through natural processes including vertical drainage patterns associated with steep ridges, thin rocky soils, elevation, and winter snow cover within the forb-rich Roemer fescue (*Festuca roemeri*) montane grassland community (ONHIC 2004, p. 2). In a letter to the Service dated October 15, 2011, and a follow up letter dated February 12, 2016, OPRD expressed their desire to have an NEP of Oregon silverspot butterfly and to return this native pollinator to the ecosystem (OPRD *in litt.,* 2011; OPRD *in litt.,* 2016).

We will reintroduce the Oregon silverspot butterfly at the Saddle Mountain NEP area, centered on the coastal prairie habitat on top of Saddle Mountain. The NEP encompasses all the Public Land Survey System sections that intersect with a 4.25-mi (6.8-km) radius around the release area. The subspecies is generally sedentary within habitat areas, and the reintroduced butterflies are expected to stay in or near meadows on top of Saddle Mountain, which have an abundance of the plant species they need to survive. The Saddle Mountain butterfly population will be released into permanently protected suitable habitat. Reintroduction of the Oregon silverspot butterfly as an NEP in this area will address OPRD's concerns regarding potential impacts to park management activities, such as trail maintenance, and potential opposition from surrounding landowners to the reintroduction of a federally listed species without an NEP. Surrounding land cover is primarily forest (OPRD 2014, pers. comm.) and is not suitable Oregon silverspot butterfly habitat; therefore, we do not expect butterflies to use areas outside of Saddle Mountain SNA.

Nestucca Bay National Wildlife Refuge

The Nestucca Bay NWR, managed by the Service, is located in the southwest corner of Tillamook County, along the northern Oregon coast. Although the Oregon silverspot butterfly was never documented at this site, it is within the historical range of the subspecies along the coast, and a small amount of remnant coastal prairie occurred on the site prior to commencement of restoration efforts in 2011. Therefore, it is reasonable to assume that the Oregon silverspot butterfly once inhabited the area, but no surveys were conducted to document its presence. Currently occupied Oregon silverspot butterfly sites nearest to the NEP area are 10 mi (16 km) to the east at Mount Hebo and 8 mi (13 km) south at Cascade Head, with little or no suitable habitat in between. There are currently no known extant Oregon silverspot butterfly populations to the north of the release site, but the subspecies was historically documented near Cape Meares, 20 mi (32 km) to the north of Nestucca Bay NWR, where it was last observed in 1968 (McCorkle *et al.* 1980, p. 7).

The Nestucca Bay National Wildlife Refuge Comprehensive Conservation Plan includes a goal to promote the recovery of the Oregon silverspot butterfly by establishing an NEP on the refuge (USFWS 2013, p. 2–4). The approximately 1,203-ac (487-ha) refuge has 25 to 30 ac (10 to 12 ha) of coastal prairie habitat in varying stages of restoration, including the conversion of degraded grasslands on the Cannery Hill Unit from nonnative pasture grasses to native coastal grasses and forbs with an emphasis on the plant species and structure required to support the Oregon silverspot butterfly. Since 2011, invasive weed abundance has been minimized, and thousands of violet and nectar plants have been planted to enhance and restore the coastal prairie ecosystem. Funding acquired by the refuge in 2015 is now being used to complete habitat restoration on the remaining acreage prior to the release of Oregon silverspot butterflies.

The NEP area is centered on coastal prairie habitat on the Cannery Hill Unit of the refuge, where we will release Oregon silverspot butterflies. The NEP encompasses all Public Land Survey System sections that intersect with a 4.25-mi (6.8-km) radius around the release area. We will release Oregon silverspot butterflies into permanently protected suitable habitat at Nestucca Bay NWR, which will be managed to provide the plant community needed for the butterfly to become established and to support a population. Reintroduction of the Oregon silverspot butterfly as an NEP in this area will address adjacent landowner concerns regarding the impact a federally listed species might have on the sale or development of their property. As little or no suitable habitat is currently available on adjacent properties, and Oregon silverspot butterflies are sedentary and non-migratory, we consider the likelihood of butterflies moving on to these adjacent lands to be low. Despite a few adjacent properties through which Oregon silverspot butterflies might occasionally move, the primary surrounding land cover is agriculture and forest (USFWS 2013, p. 4–3), which are not suitable habitat for the subspecies; therefore, occurrence of Oregon silverspot butterflies in surrounding areas, if any, is expected to be limited.

Likelihood of Population Establishment and Survival

The best available scientific data indicate that the reintroduction of Oregon silverspot butterflies into suitable habitat is biologically feasible and would promote the conservation of the species. Oregon silverspot butterfly population augmentations have been conducted on the central Oregon coast from 2000 through 2015 (USFWS 2012, p. 10; Engelmeyer 2015, p. 4). Based on the knowledge gained from these efforts, we anticipate the NEP areas will become successfully established. Butterflies will be released into high-quality habitat in sufficient amounts to support large butterfly populations, and no unaddressed threats to the species are known to exist at these sites.

The coastal headland meadows of the Nestucca Bay NWR are being restored with the specific intent of providing high densities of the plant species needed by the Oregon silverspot butterfly. Ongoing habitat enhancement and management will maintain suitable habitat and minimize the abundance and distribution of invasive, nonnative plant species, which degrade habitat quality. The Nestucca Bay NWR has committed to the management required to restore and maintain suitable habitat specifically for a population of the Oregon silverspot butterfly. The upper meadows of the Saddle Mountain SNA have an abundance of the key resources, including an intact plant community with an abundance of plants needed to support the Oregon silverspot butterfly. Habitat quality has been maintained through natural processes, including vertical drainage patterns associated with steep ridges, thin rocky soils,

elevation, and winter snow cover within the forb-rich Roemer fescue montane grassland community (ONHIC 2004, p. 2). The habitat at Saddle Mountain is self-sustaining, does not require active management (see Addressing Causes of Extirpation, below), and is adequately protected. Additionally, within both NEP areas, large trees surrounding the meadows provide needed cover for sheltering Oregon silverspot butterflies.

Based on all of these considerations, we anticipate that reintroduced Oregon silverspot butterflies are likely to become established and persist at Nestucca Bay NWR and Saddle Mountain SNA.

Addressing Causes of Extirpation

The largest threat to Oregon silverspot butterfly populations is a lack of suitable habitat. Without regular disturbance, coastal prairie habitat is vulnerable to plant community succession, resulting in loss of prairie habitat to brush and tree invasion. Invasive, nonnative plants also play a significant role in the degradation of habitat quality and quantity for this butterfly.

The reasons for the extirpation of the original population of Oregon silverspot butterflies on Saddle Mountain between 1973 and 1980 are unknown. The habitat on top of Saddle Mountain is currently suitable for supporting a population of the butterfly. The grassland habitat at this location has been self-sustaining likely due to the 3,000-ft (914-m) elevation, thin rocky soil type, steep slopes, primarily native composition of the plant community, and lack of human disturbance to the ecosystem. The Saddle Mountain SNA, protected as a special botanical area, has an annual day-use rate of 68,928 visitors per year. OPRD maintains a trail, accessible only by foot, which leads to the top of the mountain. The extremely steep grade on either side of the trail discourages visitors from straying off trail and into the adjacent meadow areas. Park rules do not allow collection of plants or animals (OPRD 2010). Continuance of this management regime is expected to protect the reintroduced population and contribute to its successful establishment. We acknowledge there is some uncertainty regarding population establishment and long-term viability at this site given that we have not identified the original cause of local extirpation. Nevertheless, this site has been identified as one of the most promising for a reintroduction effort given the lack of identifiable threats, density of host plants, and overall quality of habitat (VanBuskirk 2010, p. 27).

The Nestucca Bay NWR will address habitat threats by monitoring and maintaining habitat quality for the benefit of the Oregon silverspot butterfly, in accordance with the Nestucca Bay National Wildlife Refuge Comprehensive Conservation Plan, which sets specific targets for abundance of violet and nectar species. All management actions taken in the vicinity of the reintroduced population will defer to the habitat needs of the butterfly (USFWS 2013, pp. 4–37–4–43). As described above, the Nestucca Bay NWR is actively working to restore habitat specifically for the benefit of the Oregon silverspot butterfly in anticipation of a potential reintroduction. Restoration efforts have proven successful in establishing high-quality habitat that is likely to support all life stages of the subspecies. Nestucca Bay NWR's demonstrated commitment to reestablishing and maintaining high-quality habitat suitable for the Oregon silverspot butterfly is expected to contribute to the successful establishment of the NEP at this site.

Release Procedures

We will use captive-reared butterflies to populate the NEP areas using proven release methods developed by the Oregon silverspot butterfly population augmentation program from 2000 to 2015 (USFWS 2012, p. 10; Engelmeyer 2015, p. 2). We will release captive-reared caterpillars or pupae into suitable habitat within the NEP areas, following the guidance in the Captive Propagation and Reintroduction Plan for the Oregon Silverspot Butterfly (VanBuskirk 2010, entire). We will determine the number of individuals to release based on the number of available healthy offspring and the amount of suitable habitat available, with violet densities as the primary measure of habitat suitability. The ultimate goal is the establishment of self-sustaining populations of between 200 to 500 butterflies for 10 years at each NEP area, similar to the recovery criteria for the other habitat conservation areas.

Based on guidance from the Captive Propagation and Reintroduction Plan for the Oregon Silverspot Butterfly (VanBuskirk 2010, entire), we will establish populations in each NEP area from offspring of at least 50 mated females. Because the number of female butterflies available for collection for the captive-rearing program is limited to 5 percent of the donor population per year, it may be necessary to release caterpillars or pupae incrementally over a period of a few years. We will use annual butterfly counts during the flight period to monitor population establishment success. Butterfly survey methods used at the occupied sites (Pollard 1977, p. 116; Pickering 1992, p. 3) will also be used to assess population establishment success in the NEP areas.

Donor Stock Assessment and Effects on Donor Populations

Individual Oregon silverspot butterflies used to establish populations at both NEP areas will most likely come from the offspring of the Mount Hebo population. Additional genetic research on the subspecies is in progress and may suggest that butterflies from other populations should be included in the captive-rearing program to enhance genetic diversity. If populations other than the Mount Hebo population are used as donor stock, we will evaluate the impact of taking females from those populations on the survival and recovery of the subspecies prior to issuing a recovery permit for such take.

The Mount Hebo Oregon silverspot butterfly population has historically been the largest and most stable population, averaging an annual index count of 1,457 butterflies per year between 2000 to 2014 (USFWS 2012, p. 10; Patterson 2014, p. 11); therefore, it is the least likely to be impacted by the removal of up to 5 percent of the population. Demographic modeling indicates that the optimal strategy for captive-rearing of Oregon silverspot butterflies to increase the probability of persistence is to take females from larger donor populations (Crone *et al.* 2007, p. 108). Regional persistence can be increased with captive-rearing, with negligible effects on the donor population (Crone *et al.* 2007, pp. 107–108). Measurable increases in regional persistence are predicted when one assumes each donor female produces four adult butterflies for release to the wild (*i.e.,* four adults/female). In reality, the number of adult butterflies produced per female captured from the donor population has been much higher in recent years. For example, during 2007–2009, between 24 and 29 females were captured, producing between 875 and 2,391 adults for release (31–83 adults/female) (VanBuskirk 2010, p. 12). In 2015, 14 females produced 815 adults for release (58 adults/female) (Engelmeyer 2015, p. 5). These rates of production far exceed what is needed to have a positive impact on regional persistence, even if all the females were removed from small donor populations (see Crone *et al.* 2007, p. 109). As an additional protective measure, we will release some caterpillars and pupae from the captive-rearing program back into the donor population each year,

concurrent with the reintroductions to the NEP areas. This process will further minimize any potential effects from the removal of a small number of adult females in the prior year.

The Mount Hebo population occurs in an environment similar to the Saddle Mountain NEP area (*i.e.,* similar elevation, native plant community, and distance from the coast). Therefore, offspring of butterflies from Mount Hebo will likely be well-adapted to the environment in the meadows on top of Saddle Mountain. The Mount Hebo population may also serve as the best donor population for the Nestucca Bay NEP area because it is genetically most similar to the existing population closest to the refuge (*i.e.,* the Cascade Head population) (VanBuskirk 2000, p. 27; McHugh *et al.* 2013, p. 8). We will consider all new scientific information when making annual decisions on an appropriate donor population; therefore, it is possible that we will use donor populations other than Mount Hebo.

The Captive Propagation and Reintroduction Plan for the Oregon Silverspot Butterfly (VanBuskirk 2010, entire) contains further information on the captive-rearing program, release procedures, genetic considerations, population dynamics, effects of releases on population viability of the Oregon silverspot butterfly, and the potential for reintroduction to Saddle Mountain SNA and Nestucca Bay NWR (copies of this document are available online at *http://www.regulations.gov* under Docket No. FWS–R1–ES–2016–0102 or by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**, above).

Legal Status of Reintroduced Populations

Based on the current legal and biological status of the subspecies and the need for management flexibility, and in accordance with section 10(j) of the Act, we are designating all Oregon silverspot butterflies released within the boundaries of the NEP areas as members of the NEP. Such designation allows us to establish special protective regulations for management of Oregon silverspot butterflies.

With the experimental population designation, the relevant population is treated as threatened for purposes of section 9 of the Act, regardless of the species' designation elsewhere in its range. Treating the experimental population as threatened allows us the discretion to devise management programs and specific regulations for such a population. When designating an experimental population, the general regulations that extend most section 9 prohibitions to threatened species do not apply to that species, and the section 10(j) rule contains the prohibitions and exemptions necessary and advisable to conserve that species.

The 10(j) rule will further the conservation of the subspecies by facilitating its reintroduction into two areas of suitable habitat within its historical range. The rule provides assurances to landowners and development interests that the reintroduction of Oregon silverspot butterflies will not interfere with natural resource developments or with human activities (although the Act's section 7(a)(2) consultation requirements would still apply on Nestucca Bay NWR). Without such assurances, some landowners and developers, as well as the State, would object to the reintroduction of Oregon silverspot butterflies to these two areas. Except as described in this NEP rule, take of any member of the Oregon silverspot butterfly NEP will continue to be prohibited under the Act.

Extent to Which the Reintroduced Population May Be Affected by Land Management Within the NEP

We conclude that the effects of Federal, State, or private actions and activities will not pose a threat to Oregon silverspot butterfly establishment and persistence at Saddle Mountain SNA or the Nestucca Bay NWR because the best information, including activities currently occurring in Oregon silverspot butterfly populations rangewide, indicates that activities currently occurring, or likely to occur, at prospective reintroduction sites within NEP areas are compatible with the species' recovery. The reintroduced Oregon silverspot butterfly populations will be managed by OPRD and the Service, and protected from major development activities through the following mechanisms:

(1) Development activities and timber harvests are not expected to occur in the Saddle Mountain SNA, which is protected as a special botanical area. Trail maintenance and other park maintenance activities will continue to occur within the NEP area, but are expected to have minimal impact on the butterfly meadow habitat areas due to the terrain and steepness of the slopes. Because of the rugged nature of the area, and also to protect the important botanical resources at this site, maintenance activities in this area are generally limited to trail maintenance by hand crews, with minimal impacts on the meadow areas. Additionally, the Oregon silverspot butterfly NEP area at Saddle Mountain SNA will be protected by the Oregon State regulations prohibiting collection of animals on State lands (Oregon Administrative Rule (OAR) 736–010–0055(2)(d)). Private timberlands surrounding the SNA do not contain suitable butterfly habitat, and, therefore, activities on adjacent lands are not expected to impact the butterfly.

(2) In accordance with the Nestucca Bay NWR Comprehensive Conservation Plan, all refuge management actions taken in the vicinity of the reintroduced population will defer to the habitat needs of the butterfly (USFWS 2013, pp. 4-37–4-43). In addition, the refuge must complete section 7(a)(2) consultation on all actions that may affect the butterfly. Oregon silverspot butterflies may occasionally visit or fly within adjacent properties near the NEP area, which may be subject to future development. However, given the lack of suitable habitat for this subspecies on adjacent properties, as well as the butterfly's sedentary and non-migratory nature, we consider negative impacts to the Oregon silverspot butterfly from development on adjacent sites to be unlikely, as there is little likelihood of individuals moving to these sites.

Management issues related to the Oregon silverspot butterfly NEP that have been considered include:

(a) *Incidental take:* The regulations implementing the Act define ''incidental take'' as take that is incidental to, and not the purpose of, carrying out an otherwise lawful activity (50 CFR 17.3), such as agricultural activities and other rural development, and other activities that are in accordance with Federal, Tribal, State, and local laws and regulations. Experimental population rules contain specific prohibitions and exceptions regarding the taking of individual animals. Under this 10(j) rule, take of the Oregon silverspot butterfly anywhere within the NEP areas is not prohibited, provided that the take is unintentional, not due to negligent conduct, and is in accordance with this 10(j) rule; however, the section 7(a)(2) consultation requirement still applies on refuge lands. We expect levels of incidental take to be low because the reintroduction is compatible with ongoing activities and anticipated future actions in the NEP areas.

(b) *Special handling:* In accordance with 50 CFR 17.32, any person with a valid permit issued by the Service may take the Oregon silverspot butterfly for educational purposes, scientific purposes, the enhancement of propagation or survival of the species, zoological exhibition, and other conservation purposes consistent with the Act. Additionally, any employee or

agent of the Service, any other Federal land management agency, or a State conservation agency, who is designated by the agency for such purposes, may, when acting in the course of official duties, take an Oregon silverspot butterfly in the wild in the NEP area without a permit if such action is necessary for scientific purposes, to aid a law enforcement investigation, to euthanize an injured individual, to dispose of or salvage a dead individual for scientific purposes, or to relocate an Oregon silverspot butterfly to avoid conflict with human activities, to improve Oregon silverspot butterfly survival and recovery prospects or for genetic purposes, to move individuals into captivity or from one population in the NEP to the other, or to retrieve an Oregon silverspot butterfly that has moved outside the NEP area. Non-Service or other non-authorized personnel need a permit from the Service for these activities.

(c) *Coordination with landowners and land managers:* We have coordinated with landowners likely to be affected by the reintroduction. During this coordination we identified issues and concerns associated with reintroducing Oregon silverspot butterflies in the absence of an NEP designation. We also discussed the possibility of NEP designation. Affected State agencies, landowners, and land managers indicated support for, or no opposition to, the reintroduction if the reintroduced populations were designated an NEP and if the 10(j) rule allowed incidental take of Oregon silverspot butterflies in the NEP areas.

(d) *Public awareness and cooperation:* The NEP designation is necessary to secure needed cooperation of the States, landowners, agencies, and other interests in the affected area. We will work with our partners to continue public outreach on our effort to restore Oregon silverspot butterflies to parts of their historical range and the importance of these restoration efforts to the overall recovery of the subspecies.

(e) *Potential impacts to other federally listed species:* No federally listed species occur in the NEP areas that would be affected by the reintroductions.

(f) *Monitoring and evaluation:* Annual monitoring will be performed by qualified personnel with the cooperation of the OPRD Saddle Mountain SNA and Nestucca Bay NWR. Oregon silverspot butterflies will be counted on designated survey transects or public trails. We do not anticipate that surveys will disrupt or hamper public use and would likely be perceived by the public as normal activities in the context of a natural area.

Reintroduction Effectiveness Monitoring

Oregon silverspot butterfly surveys will be conducted annually within Oregon silverspot butterfly habitat at Nestucca Bay NWR and Saddle Mountain SNA using a modified Pollard walk methodology (Pickering *et al.* 1992, p. 7). This survey method is currently used at all occupied Oregon silverspot butterfly sites. The surveys will be conducted weekly during the butterfly flight period, July through September, on designated survey transects or public trails. The surveys produce an index of Oregon silverspot butterfly relative abundance that will be used to assess annual population trends to provide information on reintroduction effectiveness. We will prepare annual progress reports.

Habitat quality monitoring will also be conducted to ensure the resources needed by an Oregon silverspot butterfly population are maintained in large enough quantities to sustain the reintroduced populations. Violet density counts and other habitat quality parameters will be measured periodically, in conjunction with the butterfly population counts. Reintroduction efforts will be fully evaluated after 5 years to determine whether to continue or terminate the reintroduction efforts.

Donor Population Monitoring

We will conduct annual Oregon silverspot butterfly surveys within the populations where donor stock is obtained using a modified Pollard walk methodology (Pickering *et al.* 1992, p. 7). Our annual monitoring will be used to adaptively manage the captive-rearing program to ensure that the removal of donor stock will not jeopardize the continued existence of the population or the species as a whole.

Monitoring Impacts to Other Listed Species

We do not anticipate impacts to other listed species by the reintroduction of the Oregon silverspot butterfly.

Summary of Comments and Recommendations

In the proposed rule published on December 23, 2016 (81 FR 94296), we requested that all interested parties submit written comments on the proposal by February 21, 2017. We also contacted appropriate Federal and State agencies, scientific experts and organizations, and other interested parties and invited them to comment on the proposal. Newspaper notices inviting general public comment were published in the Daily Astorian, Lincoln County News Guard, and the Tillamook Headlight Herald. During the public comment period, we received public comments from six individuals or organizations, including three submissions by individuals asked to serve as peer reviewers. We did not receive any comments from Federal or State agencies or Tribes. We did not receive any requests for a public meeting.

We reviewed all comments received from the public and peer reviewers for substantive issues and new information regarding the establishment of an experimental population of Oregon silverspot butterfly in northwestern Oregon. Substantive comments are addressed in the following summary, and have been incorporated into the final rule as appropriate. Any substantive changes incorporated into the final rule are summarized in the Summary of Changes from the Proposed Rule section, below.

Peer Review Comments

In accordance with our peer review policy published on July 1, 1994 (59 FR 34270), we solicited expert opinion from five knowledgeable individuals with scientific expertise in the species' biology, habitat, and butterfly reintroductions in general. We received responses from three of the peer reviewers.

All three peer reviewers expressed strong support for the reintroduction with an associated 10(j) rule and agreed the action is likely to contribute to the conservation of the subspecies. Two peer reviewers specifically stated that, in their judgment, we used the best available science. We incorporated specific updated information, comments, and suggestions from peer reviewers into the final rule as described in our responses, below.

(1) Comment: One peer reviewer suggested we change our description of the Oregon silverspot butterfly as being ''territorial'' to ''sedentary'' to convey the species as being unlikely to move away from areas of suitable habitat.

Our Response: We agree this terminology more accurately depicts the life history of the butterfly and have changed all references in the document from territorial to sedentary.

(2) Comment: Two peer reviewers suggested we monitor not only the butterfly populations following the reintroductions, but that we monitor habitat quality in conjunction with our population counts.

Our Response: We agree and we will monitor vegetation components needed by the butterfly in conjunction with our population counts following the reintroduction, with violet densities and blooming nectar plant abundance as our primary measures of habitat quality.

(3) Comment: One peer reviewer suggested we describe in greater detail how we define high-quality habitat for the Oregon silverspot butterfly.

Our Response: We agree and have updated the Biological Information section, above, to more clearly define what we mean by ''high-quality habitat.'' High-quality Oregon silverspot butterfly habitat has large numbers of violets distributed in dense patches for caterpillar forging and an abundance of nectar plants of differing species, blooming throughout the butterfly flight period (USFWS 2012, p. 8).

(4) Comment: One peer reviewer commented that we should not remove nonnative species such as tansy ragwort, which is also a nectar source for the Oregon silverspot butterfly, unless alternative native nectar sources are available.

Our Response: We agree and will assess the availability of alternative nectar sources prior to initiating the removal of nonnative nectar plants used by the Oregon silverspot butterfly.

(5) Comment: One peer reviewer commented that we should add stochastic weather and climatic events as a threat to the species and suggested the additional 10(j) populations may provide a ''survival cushion'' for the taxon.

Our Response: We agree that climatic events impact butterfly populations and additional populations may help to reduce the risk of extinction; increasing the redundancy of populations to ensure the persistence of the Oregon silverspot butterfly in the face of such events is one of the primary reasons for undertaking the establishment of this NEP of the subspecies.

Public Comments

(6) Comment: One nongovernmental organization commented that they support the reintroductions to achieve redundancy in populations and to broaden the butterfly's geographic range. The organization also urged the Service to establish protective rules that treat these populations as if they were listed.

Our Response: Please see the Legal Status of Reintroduced Populations section above, where section 10(j) of the Act is discussed in detail. Also see the section Extent to Which the Reintroduced Population May Be Affected by Land Management within the NEP, where the Saddle Mountain SNA is discussed as a protected site. An NEP designation allows us to tailor ESA protections in specific areas to increase public acceptance of a reintroduction effort that might not otherwise be achievable without such a designation. While the NEP rules are generally not as stringent as the protections afforded to threatened or endangered species, they are designed to ensure the effort will contribute to conservation of the species. Ultimately, the establishment of an NEP allows us to take important steps toward the recovery of a listed species while encouraging the support and engagement of the public and our conservation partners, and, as described above, this NEP will continue to receive legal protections in both of the NEP areas slated for reintroductions.

(7) Comment: One commenter expressed concern that the proposed reintroduction program may place the subspecies at risk.

Our Response: We carefully considered whether the removal of individuals from the potential source population (most likely Mount Hebo) might have a negative effect on that population, and by extension, the subspecies as a whole. We adhere to a strict limit on the number of individuals that may be removed, based on population monitoring (restricted to a maximum of 5 percent of the population), and our data from past years of removals for captive-propagation purposes indicate the small proportion of individuals removed is sustainable (see Donor Stock Assessment and Effects on Donor Populations, above). Our peer reviewers specifically considered this question as well and agreed with our conclusion that the limited removal of individuals, under the restrictions and protocol described here, are unlikely to result in a negative impact to the donor population.

(8) Comment: One commenter questioned whether it was wise to expend resources on the recovery of a nonessential species.

Our Response: We did not determine that the Oregon silverspot butterfly is a nonessential species. Our determination is that the populations proposed for reintroduction are a nonessential experimental population. An NEP is defined in our regulations as an experimental population whose loss is not likely to appreciably reduce the likelihood of the species' survival in the wild. Although we do not consider the experimental population essential to the species' survival in the wild, it is expected to meaningfully contribute to the conservation and recovery of the subspecies.

Summary of Changes From Proposed Rule

In response to peer review comments, in this final rule we have:

- Clarified the definition of ''high-quality habitat'' in our Biological Information section;
- Changed all references of the Oregon silverspot butterfly from being ''territorial'' to ''sedentary;'' and
- Clarified our intent to monitor habitat quality as well as Oregon silverspot butterfly population counts, following the reintroductions (see Reintroduction Effectiveness Monitoring, above, and Regulation Promulgation, below).

Findings

Based on the above information, and using the best scientific and commercial data available (in accordance with 50 CFR 17.81), we find that reintroducing the Oregon silverspot butterfly into the Saddle Mountain SNA and the Nestucca Bay NWR and the associated protective measures and management practices under this rulemaking will further the conservation of the subspecies. The nonessential experimental population status is appropriate for the reintroduction areas because we have determined that these populations are not essential to the continued existence of the subspecies in the wild.

Need for Immediate Effective Date

As set forth above in **DATES**, this rule is effective upon the date of publication in the **Federal Register**. We are making this rule effective in less than the 30 days usually required by the Administrative Procedure Act at 5 U.S.C. 553(d) as we have good cause in accordance with 5 U.S.C. 553(d)(3). There is a narrow window of opportunity to implement the provisions of this rule and begin the reintroduction process this year, imposed by the timing of the development of the larvae (caterpillars) that have been raised in captivity and are now nearing the appropriate stage for release. After the caterpillars hatch and begin feeding, development proceeds rapidly and there is a short 2-week window during which maximum survivorship is anticipated for released individuals. A date later in the summer would require release during the pupation stage, which significantly reduces the chances of survival.

Required Determinations

Regulatory Planning and Review (Executive Orders 12866 and 13563)

Executive Order 12866 provides that the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget will review all significant rules. OIRA has determined that this rule is not significant.

Executive Order 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.

Executive Order 13771

Executive Order 13771 (''Reducing Regulation and Controlling Regulatory Costs''), signed on January 30, 2017 (82 FR 9339, February 3, 2017), 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.'' Office of Management and Budget (OMB) guidance clarifies that Executive Order 13771 only applies to rules designated by OMB as significant pursuant to Executive Order 12866. OMB has not designated this final rule a significant regulatory action under section 3(f) of Executive Order 12866. As this rule is not a significant regulatory action, the requirements of Executive Order 13771 are not applicable to it. 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).

Regulatory Flexibility Act (5 U.S.C. 601 et seq.)

Under the Regulatory Flexibility Act (as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996; 5 U.S.C. 60 *et seq.*), whenever a Federal agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare, and make available for public comment, a regulatory flexibility analysis that describes the effect of the rule on small entities (small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head of an agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. SBREFA amended the Regulatory Flexibility Act to require Federal agencies to provide a statement of the factual basis for certifying that a rule will not have a significant economic impact on a substantial number of small entities. We are certifying that this rule will not have a significant economic effect on a substantial number of small entities. The following discussion explains our rationale.

The area that would be affected under this rule includes the release areas at Saddle Mountain SNA and Nestucca Bay NWR and adjacent areas into which individual Oregon silverspot butterflies may disperse. Because of the regulatory flexibility for Federal agency actions provided by the NEP designation and the exemption for incidental take in the rule, we do not expect this rule to have significant effects on any activities within Federal, State, or private lands within the NEP. In regard to section 7(a)(2) of the Act, the population would be treated as proposed for listing, and Federal action agencies are not required to consult on their activities, except on National Wildlife Refuge and National Park land where the subspecies is managed as a threatened species. Section 7(a)(4) of the Act requires Federal agencies to confer (rather than consult) with the Service on actions that are likely to jeopardize the continued existence of a proposed species. However, because the NEP is, by definition, not essential to the survival of the species, conferring will likely never be required for the Oregon silverspot butterfly populations within the NEP areas. Furthermore, the results of a conference are advisory in nature and do not restrict agencies from carrying out, funding, or authorizing activities. In addition, section 7(a)(1) of the Act requires Federal agencies to use their authorities to carry out programs to further the conservation of listed species, which would apply on any lands within the NEP areas. Within the boundaries of the Nestucca Bay NWR, the subspecies would be treated as a threatened species for the purposes of section 7(a)(2) of the Act. As a result, and in accordance with these regulations, some modifications to proposed Federal actions within Nestucca Bay NWR may occur to benefit the Oregon silverspot butterfly, but we do not expect projects to be substantially modified because these lands are already being administered in a manner that is compatible with Oregon silverspot butterfly recovery.

This rule broadly authorizes incidental take of the Oregon silverspot butterfly within the NEP areas. The regulations implementing the Act define ''incidental take'' as take that is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity such as, agricultural activities and other rural development, camping, hiking, hunting, vehicle use of roads and highways, and other activities in the NEP areas that are in accordance with Federal, Tribal, State, and local laws and regulations. Intentional take for purposes other than authorized data collection or recovery purposes would not be authorized. Intentional take for research or recovery purposes would require a section 10(a)(1)(A) recovery permit under the Act.

The principal activities on private property near the NEP areas are timber production, agriculture, and activities associated with private residences. We believe the presence of the Oregon silverspot butterfly will not affect the use of lands for these purposes because there will be no new or additional economic or regulatory restrictions imposed upon States, non-Federal entities, or private landowners due to the presence of the Oregon silverspot butterfly, and Federal agencies would have to comply with sections 7(a)(1) and 7(a)(4) of the Act only in these areas, except on Nestucca Bay NWR lands where section 7(a)(2) of the Act applies. Therefore, this rulemaking is not expected to have any significant adverse impacts to activities on private lands within the NEP areas.

Unfunded Mandates Reform Act (2 U.S.C. 1501 et seq.)

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*):

(1) This rule will not ''significantly or uniquely'' affect small governments. We have determined and certify under 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 governments or private entities. A Small Government Agency Plan is not required. As explained above, small governments would not be affected

because the NEP designation would not place additional requirements on any city, county, or other local municipalities.

(2) This rule will not produce a Federal mandate of $100 million or greater in any year (*i.e.,* it is not a ''significant regulatory action'' under the Unfunded Mandates Reform Act). The NEP area designations for the Oregon silverspot butterfly would not impose any additional management or protection requirements on the States or other entities.

Takings (E.O. 12630)

In accordance with Executive Order 12630, the rule does not have significant takings implications. This rule allows for the take of reintroduced Oregon silverspot butterflies when such take is incidental to an otherwise legal activity, such as recreation (*e.g.,* hiking, birdwatching), forestry, agriculture, and other activities that are in accordance with Federal, State, and local laws and regulations. Therefore, we do not believe that the NEP will conflict with existing or proposed human activities.

A takings implication assessment is not required because this rule (1) will not effectively compel a property owner to suffer a physical invasion of property, and (2) will not deny all economically beneficial or productive use of the land or aquatic resources. This rule will substantially advance a legitimate government interest (conservation and recovery of a listed species) and will not present a barrier to all reasonable and expected beneficial use of private property.

Federalism (E.O. 13132)

In accordance with Executive Order 13132, we have considered whether this rule has significant Federalism effects and have determined that a federalism summary impact statement is not required. This rule will not have substantial direct effects on the States, on the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government. In keeping with Department of the Interior policy, we requested information from and coordinated development of this rule with the affected resource agencies in Oregon. Achieving the recovery goals for this subspecies will contribute to its eventual delisting and its return to State management. No intrusion on State policy or administration is expected; roles or responsibilities of Federal or State governments will not change; and fiscal capacity will not be substantially directly affected. The rule maintains the existing relationship between the State and the Federal Government, and is undertaken in coordination with the State of Oregon. Therefore, this rule does not have significant Federalism effects or implications to warrant the preparation of a federalism summary impact statement under the provisions of Executive Order 13132.

Civil Justice Reform (E.O. 12988)

In accordance with Executive Order 12988, the Office of the Solicitor has determined that this rule will not unduly burden the judicial system and meets the requirements of sections (3)(a) and (3)(b)(2) of the Order.

Paperwork Reduction Act

This rule does not contain any new collection of information that requires approval by OMB under the PRA of 1995. OMB has previously approved the information collection requirements associated with Service permit application forms and activities associated with native endangered and threatened species and assigned OMB Control Number 1018–0094. That approval expired May 31, 2017; however, the Service is currently seeking new approval. 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. We estimate the annual burden associated with this information collection to be 17,166 hours per year. 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.

National Environmental Policy Act

The reintroduction of native species into suitable habitat within their historical or established range is categorically excluded from NEPA documentation requirements consistent with the Department of Interior's Department Manual (516 DM 8.5B(6)).

Government-to-Government Relationship With Tribes

In accordance with the presidential memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951; May 4, 1994), Executive Order 13175 (65 FR 67249; November 9, 2000), and the Department of the Interior Manual Chapter 512 DM 2, we have considered possible effects on federally recognized Indian tribes and have determined that there are no tribal lands affected by this rule.

Energy Supply, Distribution, or Use (E.O. 13211)

Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. This rule is not expected to significantly affect energy supplies, distribution, or use. Because this action is not a significant energy action, no Statement of Energy Effects is required.

References Cited

A complete list of all references cited in this final rule is available at *http://www.regulations.gov* at Docket No. FWS–R1–ES–2016–0102 or upon request from the Newport Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Authors

The primary authors of this rule are staff members of the Service's Newport Field Office (see **FOR FURTHER INFORMATION CONTACT**).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Regulation Promulgation

Accordingly, we amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—ENDANGERED AND THREATENED WILDLIFE

■ 1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 1531–1544; and 4201–4245, unless otherwise noted.

■ 2. Amend § 17.11(h) by revising the entry for ''Butterfly, Oregon silverspot'' under INSECTS in the List of Endangered and Threatened Wildlife to read as follows:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Common name	Scientific name	Where listed	Status	Listing citations and applicable rules
*	*	* * *	*	*
INSECTS				
*	*	* * *	*	*
Butterfly, Oregon silverspot.	*Speyeria zerene hippolyta*.	Wherever found, except where listed as an experimental population.	T	45 FR 44935, 7/2/1980; 50 CFR 17.95(i)[CH].
Butterfly, Oregon silverspot.	*Speyeria zerene hippolyta*.	U.S.A. (OR—specified portions of Clatsop and Tillamook Counties; see § 17.85(d)).	XN	82 FR [Insert **Federal Register** page where the document begins]; 06/23/2017.
*	*	* * *	*	*

■ 3. Amend § 17.85 by adding paragraph (d) to read as follows:

§ 17.85 Special rules—invertebrates.

* * * * *

(d) Oregon Silverspot Butterfly (*Speyeria zerene hippolyta*).

(1) *Where is the Oregon silverspot butterfly designated as a nonessential experimental population (NEP)?* (i) The NEP areas for the Oregon silverspot butterfly are within the subspecies' historical range in Tillamook and Clatsop Counties, Oregon. The boundary of the NEP includes those Public Land Survey System sections intersecting with a 4.25-mile (6.8-kilometer) radius around the release locations. This boundary was selected to encompass all likely movements of Oregon silverspot butterflies away from the release areas while maintaining geographic separation from existing populations.

(A) The Nestucca Bay NEP area, centered on the coastal prairie habitat on the Cannery Hill Unit of the Nestucca Bay National Wildlife Refuge (Nestucca Bay NEP area), includes Township 4 South, Range 10 West, Sections 15 through 36; Township 4 South, Range 11 West, Sections 13, 24, 25, and 36; Township 5 South, Range 10 West, Sections 2 through 11, 14 through 23, 27 through 30; and Township 5 South, Range 11 West, Sections 12, 13, 24, and 25.

(B) The Saddle Mountain NEP area, centered on the coastal prairie habitat on top of Saddle Mountain State Natural Area (Saddle Mountain NEP area), includes Township 6 North, Range 7 West, Sections 7, 17 through 20, 29 through 32; Township 6 North, Range 8 West, Sections 1 through 36; Township 6 North, Range 9 West, Sections 1, 11 through 14, 23 through 26, 35, and 36; Township 5 North, Range 7 West, Sections 5 through 8, 17, 18, and 19; Township 5 North, Range 8 West, Sections 1 through 24; and Township 5 North, Range 9 West, Sections 1, 2, 3, 11, 12, 13, and 14.

(ii) The nearest known extant population to the Nestucca Bay NEP area is 8 miles (13 kilometers) to the south, beyond the longest known flight distance of the butterfly (4.1 miles (6.6 kilometers)) and with little or no suitable habitat between them. The nearest known extant population to the Saddle Mountain NEP area is 50 miles (80 kilometers) to the south, well beyond the longest known flight distance of the butterfly (4.1 miles (6.6 kilometers)). Given its habitat requirements, movement patterns, and distance from extant populations, the NEP is wholly separate from extant populations, and we do not expect the reintroduced Oregon silverspot butterflies to become established outside the NEP areas. Oregon silverspot butterflies outside of the NEP boundaries will assume the status of Oregon silverspot butterflies within the geographic area in which they are found.

(iii) We will not change the NEP designations to ''essential experimental,'' ''threatened,'' or ''endangered'' within the NEP areas without engaging in notice-and-comment rulemaking. Additionally, we will not designate critical habitat for this NEP, as provided by 16 U.S.C. 1539(j)(2)(C)(ii).

(2) *What take of the Oregon silverspot butterfly is allowed in the NEP areas?* (i) Oregon silverspot butterflies may be taken within the NEP area, provided that such take is not willful, knowing, or due to negligence, and is incidental to carrying out an otherwise lawful activity, such as agriculture, forestry and wildlife management, land development, recreation, and other activities that are in accordance with Federal, State, Tribal, and local laws and regulations.

(ii) Any person with a valid permit issued by the Service under 50 CFR 17.32 may take the Oregon silverspot butterfly for educational purposes, scientific purposes, the enhancement of propagation or survival of the species, zoological exhibition, and other conservation purposes consistent with the Act. Additionally, any employee or agent of the Service, any other Federal land management agency, or a State conservation agency, who is designated by the agency for such purposes, may, when acting in the course of official duties, take an Oregon silverspot butterfly in the wild in the NEP area if such action is necessary:

(A) For scientific purposes;

(B) To relocate Oregon silverspot butterflies to avoid conflict with human activities;

(C) To relocate Oregon silverspot butterflies within the NEP area to improve Oregon silverspot butterfly survival and recovery prospects or for genetic purposes;

(D) To relocate Oregon silverspot butterflies from one population in the NEP into another in the NEP, or into captivity;

(E) To euthanize an injured Oregon silverspot butterfly;

(F) To dispose of a dead Oregon silverspot butterfly, or salvage a dead Oregon silverspot butterfly for scientific purposes;

(G) To relocate an Oregon silverspot butterfly that has moved outside the NEP area back into the NEP area; or

(H) To aid in law enforcement investigations involving the Oregon silverspot butterfly.

(3) *What take of Oregon silverspot butterfly is not allowed in the NEP area?* (i) Except as expressly allowed in paragraph (d)(2) of this section, all of the provisions of 50 CFR 17.31(a) and (b) apply to the Oregon silverspot butterfly in areas identified in paragraph (d)(1) of this section.

(ii) A person may not possess, sell, deliver, carry, transport, ship, import, or export by any means, Oregon silverspot butterflies, or parts thereof, that are taken or possessed in a manner not expressly allowed in paragraph (d)(2) of this section or in violation of applicable State fish and wildlife laws or regulations or the Act.

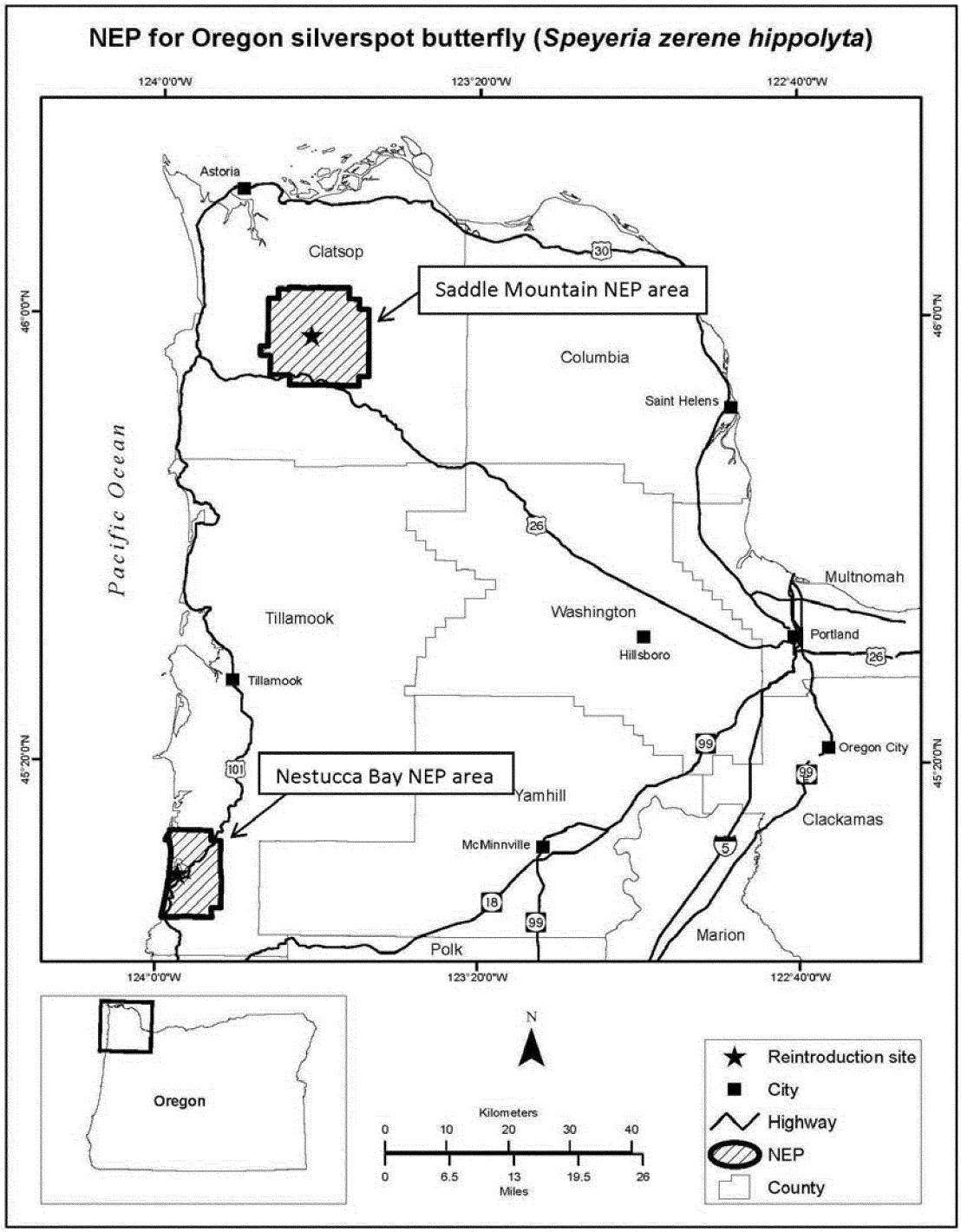
(iii) Any manner of take not described under paragraph (d)(2) of this section is prohibited in the NEP areas.

(iv) A person may not attempt to commit, solicit another to commit, or cause to be committed any take of the Oregon silverspot butterfly, except as expressly allowed in paragraph (d)(2) of this section.

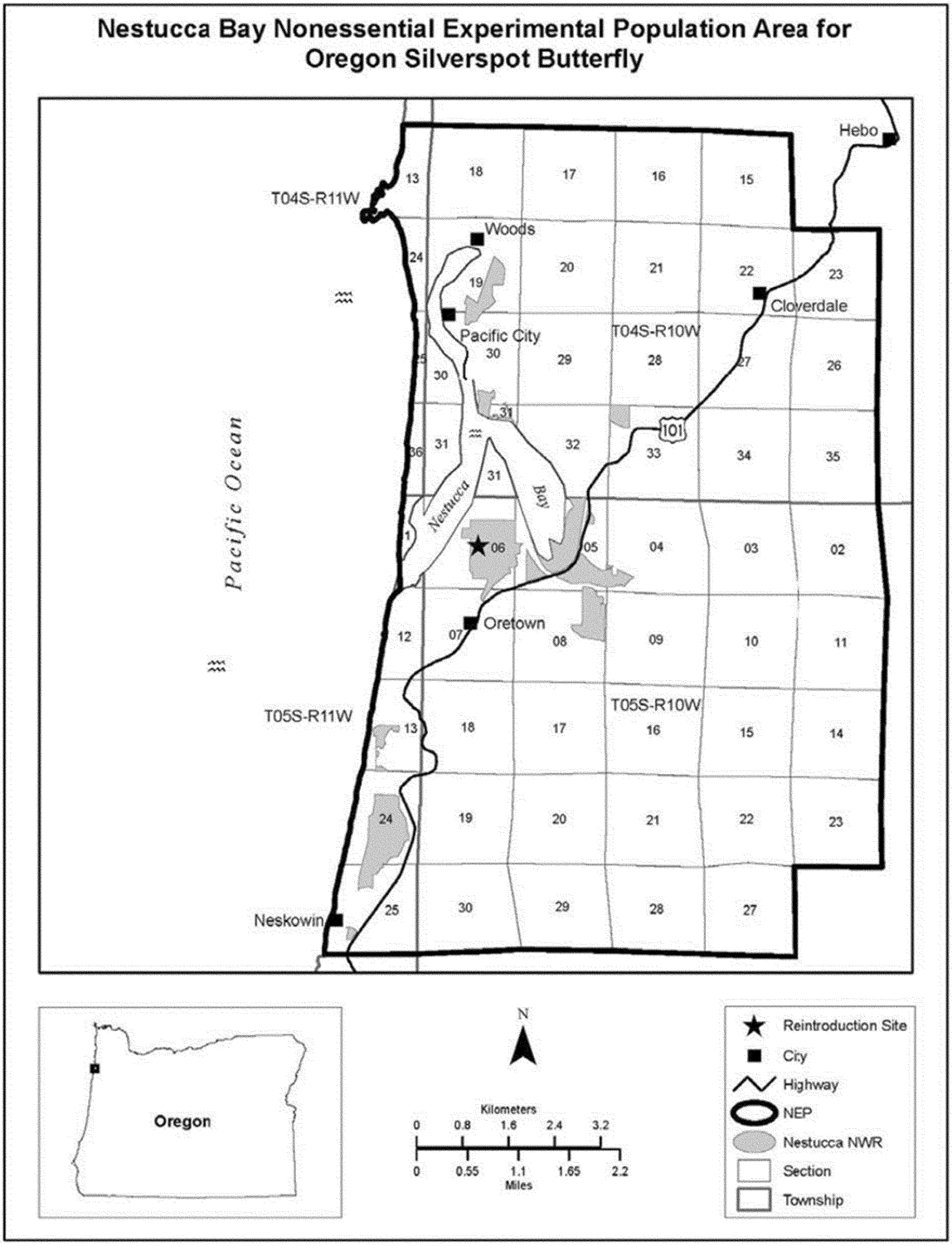
(4) *How will the effectiveness of these reintroductions be monitored?* We will monitor populations annually for trends in abundance in cooperation with partners, monitor habitat quality, and prepare annual progress reports. We will fully evaluate reintroduction efforts after 5 years to determine whether to continue or terminate the reintroduction efforts.

(5) *Maps of the NEP areas for the Oregon silverspot butterfly in Northwest Oregon.*

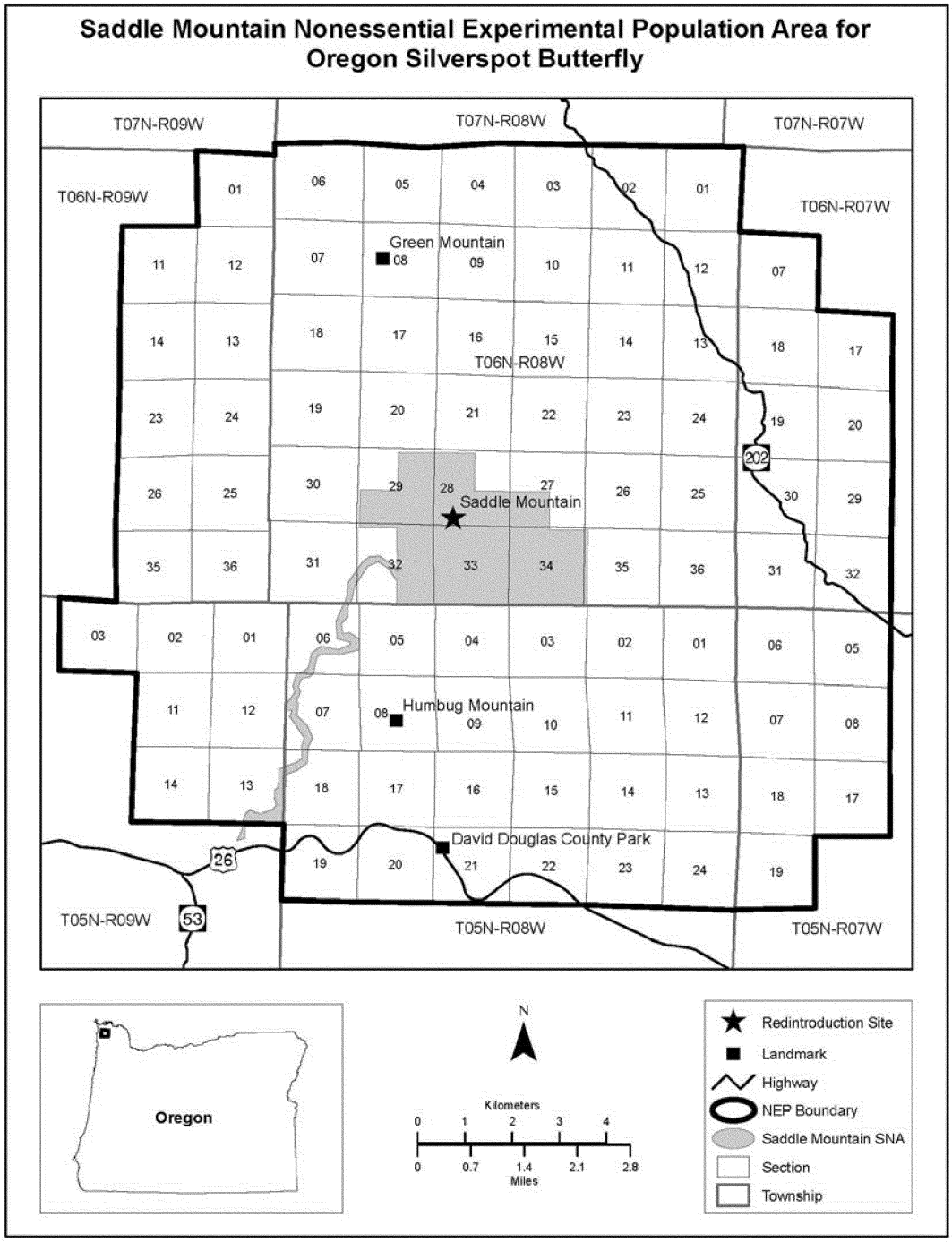
(i) *Note:* Map of the Oregon silverspot butterfly NEP follows:



(ii) *Note:* Map of Nestucca Bay NEP area for the Oregon silverspot butterfly follows:



(iii) *Note:* Map of Saddle Mountain NEP area for the Oregon silverspot butterfly follows:



* * * * *

Dated: June 13, 2017.

Virginia H. Johnson,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2017–13163 Filed 6–22–17; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R2–ES–2015–0028; FXES11130900000–178–FF09E42000]

RIN 1018–AX99

Endangered and Threatened Wildlife and Plants; Removal of the Hualapai Mexican Vole From the Federal List of Endangered and Threatened Wildlife

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: Under the authority of the Endangered Species Act of 1973, as amended (Act), we, the U.S. Fish and Wildlife Service (Service), are removing the Hualapai Mexican vole (*Microtus mexicanus hualpaiensis*) from the Federal List of Endangered and Threatened Wildlife due to recent data indicating that the original classification is now erroneous. This action is based on a thorough review of the best available scientific and commercial information, which indicates that the currently listed subspecies is not a valid taxonomic entity. Therefore, we are removing the entry for the Hualapai Mexican vole from the Federal List of Endangered and Threatened Wildlife because subsequent investigations have shown that the best scientific or commercial data available when the subspecies was listed were in error.

DATES: This rule is effective July 24, 2017.

ADDRESSES: This final rule is available on the Internet at *http://www.regulations.gov* under Docket No. FWS–R2–ES–2015–0028 and at the Service's Web sites at *http://www.fws.gov/southwest/es/arizona* and *http://www.fws.gov/endangered.* Comments and materials received, as well as supporting documentation used in the preparation of this rule, are available for public inspection, by appointment, during normal business hours at: U.S. Fish and Wildlife Service, Arizona Ecological Services Field Office, 9828 North 31st Avenue, Phoenix, AZ 85051; telephone 602–242–0210. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service at 800–877–8339.

FOR FURTHER INFORMATION CONTACT: Steven Spangle, Field Supervisor, U.S. Fish and Wildlife Service, Arizona Ecological Services Field Office (see **ADDRESSES**), telephone 602–242–0210. Individuals who are hearing impaired or speech-impaired may call the Federal Relay Service at 800–877–8339 for TTY assistance.

SUPPLEMENTARY INFORMATION:

Background

Under the Endangered Species Act of 1973, as amended (Act; 16 U.S.C. 1531 *et seq.*), we administer the Federal Lists of Endangered and Threatened Wildlife and Plants, which are set forth in title 50 of the Code of Federal Regulations at part 17 (50 CFR 17.11 and 17.12). The factors for listing, delisting, or reclassifying species are described at 50 CFR 424.11. According to section 3(16) of the Act, we may list any of three categories of vertebrate animals: A species, subspecies, or a distinct population segment of a vertebrate species of wildlife. We refer to each of these categories as a ''listable entity.'' If we determine that there is a species, or ''listable entity,'' for the purposes of the Act, our status review next evaluates whether the species meets the definitions of an ''endangered species'' or a ''threatened species'' because of any of the five listing factors established under section 4(a)(1) of the Act. Delisting may be warranted as a result of: (1) Extinction; (2) recovery; or (3) a determination that the original scientific data used at the time the species was listed, or interpretation of that data, were in error. We examine whether the Hualapai Mexican vole is a valid subspecies, and thus a ''species'' (or listable entity) as defined in section 3 of the Act.

Previous Federal Actions

We listed the Hualapai Mexican vole as an endangered subspecies on October 1, 1987, without critical habitat (52 FR 36776). At the time of listing, the primary threats to the Hualapai Mexican vole were degraded habitat due to drought, elimination of ground cover from grazing by livestock and elk (*Cervus elaphus*), and human recreation. A recovery plan for the Hualapai Mexican vole was completed in August 1991 (Service 1991, pp. 1–28). At that time, grazing, mining, road construction, recreational uses, erosion, and nonnative wildlife were attributed as the reasons for the decline in Hualapai Mexican vole populations (Service 1991, pp. iv-6). The recovery plan outlined recovery objectives and dictated management and research priorities, but did not contain recovery criteria for changing the subspecies' status from endangered to threatened (*i.e.,* downlisting) or for removing the subspecies from the List of Endangered and Threatened Wildlife (*i.e.,* delisting) because of lack of biological information in order to develop objective, measurable criteria (Service 1991, p. iv).

Petition History

On August 23, 2004, we received a petition dated August 18, 2004, from the Arizona Game and Fish Department (AGFD) requesting that the Hualapai Mexican vole be removed from the Federal List of Endangered and Threatened Wildlife (List) under the Act. The petition clearly identified itself as such and included the requisite identification information for the petitioners, as required at 50 CFR 424.14(a). Included in the petition was information in support of delisting the Hualapai Mexican vole based on an error in original classification due to evidence that the Hualapai Mexican vole is not a valid subspecies.

The petition asserts that the original scientific data used at the time the subspecies was classified were in error and that the best available scientific data do not support the taxonomic recognition of the Hualapai Mexican vole as a distinguishable subspecies (AGFD 2004, p. 4). The petition's assertions are primarily based on the results of an unpublished genetic analysis (Busch *et al.* 2001) and on taxonomic and genetic reviews of Busch *et al.*'s 2001 report. The petition did not claim that the Hualapai Mexican vole is extinct or has been recovered (no longer an endangered or threatened species), nor do we have information in our files indicating such. However, the petition did indicate that ''fieldwork and genetic analyses have documented at least seven, but likely 14, populations (including one in Utah) of *M. m. hualpaiensis.*'' Only one population was known at the time of listing.

On May 15, 2008, we announced a 90-day finding in the **Federal Register** (73 FR 28094) that the petition presented substantial information to indicate that the petitioned action may be warranted. On June 4, 2015, we published a warranted 12-month finding on the petition and a proposed rule to remove the Hualapai Mexican vole from the List because the original scientific classification is no longer the appropriate determination for the subspecies (80 FR 31875), meaning that

current data indicate that the original classification is now erroneous. On December 22, 2016, we reopened the comment period on the proposed rule to remove the Hualapai Mexican vole from the List (81 FR 93879). We published a summary of the proposed rule in the Kingman Daily Miner newspaper on January 29, 2017.

Species Description

Taxonomy

Goldman (1938, pp. 493–494) described and named the Hualapai Mexican vole as *Microtus mexicanus hualapaiensis* in 1938 based on four specimens. Cockrum (1960, p. 210), Hall (1981, p. 481), and Hoffmeister (1986, pp. 444–445) all recognized Goldman's description of the subspecies, and Hoffmeister (1986, pp. 444–445) further recognized the *Microtus mexicanus hualapaiensis* subspecies based on an examination of morphological characteristics from seven additional specimens collected in two areas (*i.e.,* Hualapai Mountains and the lower end of Prospect Valley).

Based on morphological measurements, the Hualapai Mexican vole was previously considered one of three subspecies of Mexican voles (*Microtus mexicanus*) in Arizona (Kime *et al.* 1995, p. 1). The three subspecies of Mexican voles were the Hualapai Mexican vole (*M. m. hualapaiensis*), Navajo Mexican vole (*M. m. navaho*), and Mogollon Mexican vole (*M. m. mogollonensis*). The Hualapai Mexican vole differed from the Navajo Mexican vole subspecies by a slightly longer body, longer tail, and longer and broader skull (Hoffmeister 1986, p. 443). Additionally, the Navajo Mexican vole's range was farther to the northeast. The Hualapai Mexican vole was also differentiated from the Mogollon Mexican vole subspecies, located farther to the east, by a longer body, shorter tail, and longer and narrower skull (Hoffmeister 1986, p. 443).

The final rule listing the Hualapai Mexican vole as an endangered species (52 FR 36776; October 1, 1987) stated that this subspecies occupied the Hualapai Mountains, but also acknowledged that Spicer *et al.* (1985, p. 10) had found similar voles from the Music Mountains, which are located farther to the north in Arizona. The final listing rule (52 FR 36776; October 1, 1987) also stated that Hoffmeister (1986, p. 445) had tentatively assigned specimens from Prospect Valley to the Hualapai Mexican vole subspecies, pending a larger sample size. In addition, the final listing rule (52 FR 36776; October 1, 1987) stated that if future taxonomic evaluation of voles from the Music Mountains and Prospect Valley should confirm that they are indeed the Hualapai Mexican vole subspecies, then they would be considered part of the federally listed entity. However, we never recognized Hualapai Mexican voles outside of the Hualapai Mountains. Mountains due to insufficient data to support recognition of additional populations.

In May 1998, we reviewed Frey and Yates' 1995 unpublished report, ''Hualapai Vole (*Microtus mexicanus hualapaiensis*) Genetic Study,'' to determine if Hualapai Mexican voles occur in additional areas outside of the Hualapai Mountains. We found that the report did not provide sufficient data for us to conclude that populations outside the Hualapai Mountains were Hualapai Mexican voles. On May 29, 1998, the Southwest Regional Director's Office issued a memo to the Arizona Ecological Services Field Office stating that the Service would only consult on voles in the Hualapai Mountains until further investigations result in data definitive enough to establish that the Hualapai Mexican vole has a wider distribution than recognized at the time of listing. Thus, we referenced the memo in all requests for consultations on Federal projects outside the Hualapai Mountains. For these reasons, we have only considered the Hualapai Mexican vole's range to be the Hualapai Mountains.

Since the Hualapai Mexican vole was listed in 1987 (52 FR 36776; October 1, 1987), several focused surveys of the subspecies' distribution, habitat requirements, and genetic relationships to other Mexican vole subspecies were undertaken. We briefly describe these studies below. Researchers did not collect or analyze samples from the same locations, so locations and analyses across studies do not necessarily correlate fully. These studies represent the best scientific information available for the Service to analyze the Hualapai Mexican vole's distribution and taxonomic classification.

At the time of listing, we recognized the Hualapai Mexican vole as one of three subspecies of Mexican voles in Arizona based on Goldman (1938, pp. 493–494), Hall (1981, p. 481), and Hoffmeister (1986, p. 443). Since that time, Frey and LaRue (1993, pp. 176–177) referred to voles in Arizona, New Mexico, and Texas as *Microtus mogollonensis* rather than *Microtus mexicanus.* In an unpublished genetic analysis study on the Hualapai Mexican vole, Frey and Yates (1995) referred to the Hualapai Mexican vole subspecies as *Microtus mogollonensis hualpaiensis.* Also, in a study of montane voles, Frey (2009, p. 219) supported the earlier study conducted by Frey and LaRue (1993, pp. 176–177), which separated the vole species *Microtus mogollonensis* and *Microtus mexicanus.* The Integrated Taxonomic Information System [1] (ITIS) indicates that *Microtus mexicanus hualpaiensis* (Goldman, 1938) is an invalid taxon and indicates that the valid taxon is *Microtus mexicanus* for the Hualapai Mexican vole (*http://www.itis.gov/servlet/SingleRpt/SingleRpt?search_topic=TSN&search_value=202377*). For consistency with all previous Federal actions, including the scientific name that appears on the Federal List of Endangered and Threatened Wildlife, we refer to the Hualapai Mexican vole subspecies as *Microtus mexicanus hualpaiensis* in this rule because that is the entity we listed in 1987. However, many of the reviewers and documents that are referenced refer to voles in Arizona as *Microtus mogollonensis.* The ITIS indicates that *Microtus mogollonensis* (Frey and LaRue 1993, pp. 176–177) is an invalid taxon; and indicates that the valid taxon is *Microtus mexicanus* for the Hualapai Mexican vole (*http://www.itis.gov/servlet/SingleRpt/SingleRpt?search_topic=TSN&search_value=202377*).

In a 1989 unpublished Master's thesis, Frey conducted an extensive study of geographic variation of specimens from throughout the range of the *Microtus mexicanus* group, which included populations in the United States and Mexico. Frey (1989) analyzed 44 external and 19 cranial characters from 1,775 vole specimens. Based on morphological analysis, Frey (1989, p. 50) recommended that specimens from the Bradshaw Mountains (Coconino County, AZ), which was formerly considered the Mogollon Mexican vole subspecies, be reassigned to the Hualapai Mexican vole subspecies. Frey (1989, p. 50) concluded that two specimens that had been discovered from the Music Mountains (Mohave County, AZ) were morphologically distinct from other recognized subspecies, and these two specimens represented a previously unrecognized taxonomy. Frey's (1989) study did not include specimens from Prospect Valley.

Frey and Yates (1993, pp. 1–23) conducted a genetic analyses of

[1] ITIS is the result of a partnership of Federal agencies formed to satisfy their mutual needs for scientifically credible taxonomic information. An overriding goal of the ITIS project is to provide accurate, scientifically credible, and current taxonomic data that meet the needs of the ITIS partners and the user public.

Hualapai Mexican vole tissue samples taken from 83 specimens across 13 populations using electrophoresis and mitochondrial DNA. The 13 populations represented all 3 subspecies in Arizona and 1 population from Mexico (Frey and Yates 1993, p. 20). Their results showed that three populations (*i.e.,* Hualapai Mountains, Hualapai Indian Reservation, and Music Mountains) form a closely related group distinct from other populations in Arizona (Frey and Yates 1993, p. 10). According to their analysis, populations in the Hualapai Mountains, Hualapai Indian Reservation, and Music Mountains could be regarded as the Hualapai Mexican vole subspecies. Further, Frey and Yates (1993, p. 10) found that the Navajo Mexican vole subspecies populations for San Francisco Peaks and the Grand Canyon occurred in a clade (*i.e.,* related by a common ancestor) with the Mogollon Mexican vole subspecies populations along the Mogollon Rim. Frey and Yates (1993, p. 10) suggested that this grouping questions the validity of Navajo Mexican vole as a separate subspecies. However, in order to verify this suggestion, specimens would need to be examined from the type locality of the Navajo Mexican vole subspecies, which is Navajo Mountain, Utah (Frey and Yates 1993, p. 10). The authors recommended additional analyses, including larger sample sizes, to clarify the arrangement in three separate subspecies (Frey and Yates 1993, p. 10). At that time, we continued to recognize the Hualapai Mexican vole subspecies as occurring in the Hualapai Mountains.

Frey and Yates (1995) continued their genetic work on Mexican vole subspecies and analyzed 173 specimens from 28 populations (16 from Arizona, 10 from New Mexico, 1 from Utah, and 1 from Mexico) using protein electrophoresis and mitochondrial DNA. They found that six populations (Hualapai Mountains, Hualapai Indian Reservation, Music Mountains, Aubrey Cliffs/Chino Wash, Santa Maria Mountains, and Bradshaw Mountains) could be the Hualapai Mexican vole subspecies (Frey and Yates 1995, p. 9). The authors found unique alleles at two loci in these six populations, which identified them as being closely related (Frey and Yates 1995, p. 9). Based on geographic proximity, Frey and Yates (1995, p. 8) suspected that two other populations (Round Mountain and Sierra Prieta) could also be the Hualapai Mexican vole subspecies, but they did not have adequate samples for genetic verification.

Additional genetic analyses were conducted by Busch *et al.* (2001). Busch *et al.* (2001, p. 4) examined nuclear genetic markers from 42 specimens across 6 populations in northwestern Arizona (Hualapai Mountains, Prospect Valley, Bradshaw Mountains, Sierra Prieta, Prescott, and Mingus Mountains) using Amplified Fragment Length Polymorphis (AFLP). Additionally, they examined mitochondrial (D-Loop) DNA from 83 specimens across 13 populations in Arizona (Hualapai Mountains, Prospect Valley, Bradshaw Mountains, Sierra Prieta, Prescott, Mingus Mountains, South Rim Grand Canyon, San Francisco Mountain, Mogollon Rim, White Mountains, Chuska Mountains, Aubrey Cliffs, and Navajo Mountain). Results from their study did not support the separation of Mexican voles into three distinct subspecies based on nuclear and mitochondrial genetic analyses (Busch *et al.* 2001, p. 12). Populations referred to as the Navajo Mexican vole subspecies from Navajo Mountain, Mingus Mountain, San Francisco Peaks, and the Grand Canyon South Rim and populations referred to as the Mogollon Mexican vole subspecies from the Mogollon Rim, Chuska Mountains, and White Mountains were genetically similar to Mexican voles in the Hualapai Mountains, Hualapai Indian Reservation, Aubrey Cliffs, Bradshaw Mountains, Watson Woods, and Sierra Prieta (Busch *et al.* 2001, p. 12). In summary, the analyses conducted by Busch *et al.* (2001, p. 12) did not support the separation of Arizona populations of *M. mogollonensis* into three subspecies (*i.e., M. m. mogollonensis, M. m. navajo,* and *M. m. hualapaiensis*) as recognized by Frey and Yates (1993, 1995). According to Busch *et al.* (2001), populations of *M. mogollonensis* and *M. m. navajo* were not clearly differentiated from *M. m. hualapaiensis* (*i.e.,* the Hualapai Mexican vole).

Busch *et al.* (2001, p. 12) suggested that only one subspecies of Mexican vole occurs in Arizona, but they did not suggest a new subspecies name to which the currently named subspecies of Mexican voles should be reclassified as. Further, Busch *et al.* (2001, p. 12) suggested that voles from the White Mountains and Chuska Mountains could be a different subspecies or may simply show some genetic differentiation due to geographic separation; however, their analysis was inconclusive. Even though Busch *et al.* (2001, p. 12) did not suggest a name to assign to the only subspecies of Mexican voles in Arizona, the AGFD's petition (2004, p. 4) referred to Busch *et al.*'s (2001) single subspecies as *Microtus mexicanus hualpaiensis.*

In 2003, AGFD sent the Busch *et al.* (2001) report to five genetic experts representing the U.S. Geological Survey's Arizona Cooperative Fish and Wildlife Research Unit, the Conservation Breeding Specialist Group, the University of Colorado at Boulder, Oklahoma State University, and New Mexico State University for peer review. Four of the five reviewers concurred with the conclusions of Busch *et al.* (2001) that all populations in Arizona could be referred to as *M. m. hualpaiensis.* One of the five reviewers concluded that populations from the Hualapai Mountains, Music Mountains, and Hualapai Reservation form a closely related group distinct from other populations in Arizona based on the reviewer's work in 1993 and 1995. This reviewer further stated that *M. m. hualpaiensis* is a valid subspecies based on morphologic, genetic, and biogeographical data.

Busch *et al.*'s (2001) genetic report and reviews by the genetic experts were then sent to two mammalian taxonomy experts familiar with the research surrounding voles for additional review. One of the taxonomic reviewers agreed with the one dissenting genetic reviewer from 2003, who believed the data supported *M. m. hualpaiensis* in five locations. The other taxonomic reviewer concluded that there is no basis to consider the three subspecies of Mexican voles (Hualapai, Navajo, and Mogollon) separately. This second taxonomic reviewer stated that data used by Hoffmeister (1986) were insufficient to recognize three subspecies based on morphology, and that the genetic analyses conducted by Frey and Yates (1993; 1995) and Busch *et al.* (2001) were subject to methodological problems (AGFD 2004, p. 4). The second taxonomic reviewer asserted that all three subspecies should be considered as one subspecies, *Microtus mogollonensis mogollonensis* (common name not suggested).

According to AGFD, the field and laboratory studies concluded that *M. m. hualaiensis* exists in at least seven populations and perhaps as many as 14 populations (one is in Utah), whereas only one population was known prior to listing. Field surveys demonstrated that the Hualapai Mexican vole is not as rare as it was once thought to be. Prior to listing, only 15 specimens from seven locations (all within the Hualapai Mountains) were known. The genetic studies mentioned above, in conjunction with trapping success, demonstrate that *M. m. hualpaiensis* populations are widespread and not

restricted to a single mountain range (AGFD 2004, p. 9).

The AGFD provided a summary of factors affecting the Hualapai Mexican vole in their 2004 status assessment and petition. AGFD stated that the species is found in more xeric and mesic habitats than other vole species, so trampling of seeps and spring areas by cattle is no longer considered a threat to Hualapai Mexican voles as previously thought when the subspecies was listed (AGFD 2004, pp. 5–6). Further, AGFD stated that because the Hualapai Mexican voles' range is not as restricted as once thought, grazing and recreational uses are no longer threats to the subspecies (AGFD 2004, p 7). Finally, based on five genetic and two taxonomic reviews, the AGFD stated that all 14 populations analyzed by Busch *et al.* (2001) could be considered a single species, rather than three subspecies (AGFD 2004; p. 4).

In summary, the various analyses and reviews present multiple interpretations of the taxonomy and distribution of Hualapai Mexican voles in Arizona, none of which correlates to that of our original listing. The 1987 final listing rule for the Hualapai Mexican vole (52 FR 36776; October 1, 1987) relied on the best available information at the time, and only included Hualapai Mexican voles found in the Hualapai Mountains. The various published and unpublished reports all offer different conclusions about which populations may or may not be Hualapai Mexican voles. At this time, the best available scientific information presents conflicting information on the taxonomy of Mexican voles in general. The majority (*i.e.,* five out of seven) of scientists who reviewed the ''Hualapai vole (*Microtus mogollonensis hualapaiensis*) Genetic Analysis'' report by Busch *et al.* (2001) determined that Hualapai Mexican voles (*Microtus mexicanus hualpaiensis*) are not genetically distinct from other vole subspecies in Arizona. The best available science no longer supports the recognition of a separate Hualapai Mexican vole subspecies. Although the Hualapai Mexican vole subspecies is no longer considered a valid taxonomic entity, the scientific community agrees that the populations that were previously identified as the Hualapai Mexican vole subspecies are part of the larger Mexican vole species (*Microtus mexicanus*).

The Mexican vole is recognized by the scientific community as a species, including the International Union for Conservation of Nature (IUCN) and ITIS. The Mexican vole is listed as least concern by IUCN in view of its wide distribution, presumed large population, occurrence in a number of protected areas, and because it is unlikely to be declining at nearly the rate required to qualify for listing in a threatened category (Álvarez-Castañeda, S.T. & Reid, F. 2016). The Mexican vole species occurs from the southern Rocky Mountains southward in the Sierra Madre of Mexico to central Oaxaca Mexico (Tamarin 1985 p. 99). The existence of several populations improves the ability of the species to withstand environmental and demographic stochasticity (for example, wet or dry, warm or cold years); the ability of the species to adapt over time to long-term changes in the environment (for example, climate changes); and the ability of the species to withstand catastrophic events (for example, droughts, hurricanes). In general, the more populations there are, the more likely the species is to sustain populations over time, even under changing environmental conditions. The distribution of the Mexican vole populations allows for sustained populations into the future. Based on the best available scientific and commercial data at this time, we find that the original data for classification were in error, and we are removing the Hualapai Mexican vole (*Microtus mexicanus hualpaiensis*) from the List under the Act.

Summary of Comments and Recommendations

In our June 4, 2015, combined 12-month finding and proposed rule (80 FR 31875), we requested that all interested parties submit comments or information concerning the proposed delisting of the Hualapai Mexican vole. We provided notification of this document through email, letters, and news releases to the appropriate Federal, State, and local agencies; county governments; elected officials; media outlets; local jurisdictions; scientific organizations; interested groups; and other interested parties. We also posted the document on our Web site (*https://www.fws.gov/news/ShowNews.cfm?ref=service-proposes-delisting-the-hualapai-mexcian-vole&_ID=35074*).

In accordance with our peer review policy published on July 1, 1994 (59 FR 34270), we solicited expert opinions from five knowledgeable individuals with scientific expertise that included genetics, conservation biology, and ecology of voles and the ecosystems upon which they depend. We received comments from two peer reviewers associated with academic research institutions. One researcher noted that the data gathered and analyzed to date do not appear to support an integrative approach to taxonomy. For example, using a current genome-side marker like single nucleotide polymorphisms (or SNPs) would be preferable. The same researcher stated that there is a strong reliance on mitochondrial DNA and lack of a thorough study of morphology, behavior, and ecology of this subspecies. The other peer reviewer noted that in the case of *M. m. hualpaiensis,* there is little morphologic and genetic evidence to distinguish it from its nearby conspecifics (*i.e.,* other vole subspecies). This reviewer concluded that the current data are not sufficient to support the subspecific recognition of *M. m. hualpaiensis.* Both reviewers recommended continued studies.

We reviewed all comments we received from the peer reviewers and the public for substantive issues and new informative regarding the proposed delisting of the Hualapai Mexican vole. We received four comments on the proposed rule. Two were in favor of delisting the Hualapai Mexican vole. One commenter provided a conservation status review to support the proposed delisting by documenting the current conservation status of the Hualapai Mexican vole and its likely synonymous populations, as well as an evaluation of potential threats to the larger, taxonomically valid subspecies. One commenter opposed the delisting of the Hualapai Mexican vole. Substantive comments we received during the comment period are addressed below.

(1) *Comment:* There is a concern that delisting the vole is based on conflicting scientific information instead of a peer review based on the five delisting factors (see section 4(a)(1) of the Act). In order to delist the subspecies, the Service must evaluate this erroneous classification by seeking a peer review pursuant to the five factors.

Our Response: The removal of the vole from the Federal List of Endangered and Threatened Wildlife is based on recent peer reviewed data indicating the original data for classification were in error. Our June 4, 2015, proposed rule (80 FR 31875) was based on peer reviewed studies and has separately undergone peer review, as explained below. The regulations at 50 CFR 424.11(d) state that a species may be delisted if (1) it becomes extinct, (2) it recovers, or (3) the original classification data were in error. Our finding is that the original classification data were in error. Further, it is the policy of the Service to incorporate independent peer review in listing (and recovery) activities by soliciting the expert opinions relating to taxonomy, population models, and supportive biological and ecological information for

species or subspecies under consideration of a listing decision (59 FR 34270; July 1, 1994). We sought the expert opinions of five appropriate independent specialists regarding the science in the June 4, 2015, proposed rule to delist the Hualapai Mexican vole. The purpose of peer review was to ensure that our delisting decision is based on scientifically sound data, assumptions, and analyses. We sent copies of the proposed rule and supporting documents to the peer reviewers immediately following publication in the **Federal Register**.

We received reviews from two peer reviewers. One of the peer reviewers stated that although it is still unclear exactly what the numbers are, it is clear that the numbers of these voles in the mountains of western Arizona are larger than was earlier suspected. Kime *et al.* (1995) found 21 locations harboring voles. The species is not tied to rare, moist habitats the way other species of *Microtus* are, and thus gene flow may be greater than expected earlier. The other peer reviewer stated that in the case of *M. m. hualpaiensis,* there is little morphologic and genetic evidence to distinguish it from its nearby conspecifics (*i.e.,* other species of voles). Also, the 12-month finding found no natural history or biologically significant information on *M. m. hualpaiensis* to distinguish individuals from the Hualapai Mountains from other populations in the region. Although voles from the Hualapai Mountains may be on an evolutionary trajectory in the direction of a ''subspecies,'' this trajectory is mostly likely very recent and insufficient to warrant description as an independent subspecies at this time. Given our review of the scientific and commercial data available for the Hualapai Mexican vole subspecies (*M. m. hualpaiensis*), we conclude that it is not a valid taxonomic entity for listing.

(2) *Comment:* The Service should conduct a detailed study and analysis on the vole's genetics prior to taking any action to reclassify the subspecies. Conflicting data on genetics should be resolved prior to agency action and should not be used as a justification to delist. Further the Service must rationally explain why the uncertainty counsels in favor of delisting now, rather than, for example, more study.

Our Response: While we recognize that more studies are always beneficial, our action is based on a thorough review of the best available scientific and commercial data, which indicates that the currently listed subspecies was listed in error as it is not a valid taxonomic entity. One of the peer reviewers stated that both AFLP and D-loop sequences are appropriate genetic markers for the level of taxonomy in question, and both markers lack support for individuals from the Hualapai Mountains forming an independent, genetic lineage. Further, the peer reviewer also stated that the current data are not sufficient to support the subspecific recognition of voles from the Hualapai Mountains, *M. m. hualpaiensis.* While both peer reviewers suggested that more genetic studies be conducted, the Service has relied on the best available scientific and commercial data at this time, as required under the Act.

(3) *Comment:* The Service is unable to show by the best scientific or commercial data available that classifying the Hualapai Mexican vole as an endangered subspecies of the greater Mexican vole species was in error.

Our Response: According to our regulations at 50 CFR 424.11(d), we may delist a species if the best available scientific and commercial data indicate that the species is neither endangered or threatened for the following reasons: (1) The species is extinct; (2) the species has recovered and is no longer endangered or threatened; and/or (3) the original scientific data used at the time the species was classified were in error. We determine that the original classification is in error because there is sufficient evidence that the currently listed entity for the Hualapai Mexican vole is not a valid taxonomic subspecies. This evidence was not available to the Service at the time we listed the subspecies in 1987. The various analyses and reviews present multiple interpretations of the taxonomy and distribution of Mexican voles in Arizona, none of which correlates to that of our original listing. The final listing rule for the Hualapai Mexican vole (52 FR 36776; October 1, 1987) relied on the best available information at the time, and only included Mexican voles found in the Hualapai Mountains. The various published and unpublished reports we have used to make this decision all offer different conclusions about which populations may or may not be Hualapai Mexican voles. At this time, the best available scientific information presents conflicting information on the taxonomy of Mexican voles in general, and no longer supports the recognition of a separate Hualapai Mexican vole subspecies. Although reviews of the published and unpublished reports have inconsistent conclusions because of differences in data sets and genetic analyses, the Service and each of the peer reviewers agreed that the currently listed entity for the Hualapai Mexican vole is no longer a valid taxonomic subspecies. However, the populations that were previously identified as the Hualapai Mexican vole subspecies are recognized by the majority of the scientific community, including IUCN and ITIS, as part of a larger taxonomic species level of Mexican voles (*Microtus mexicanus*). Therefore, the original scientific data used at the time the subspecies was classified as an endangered subspecies were in error.

Listable Entity Determination

The petition asserts that the Hualapai Mexican vole should be delisted. Working within the framework of the regulations for making delisting determinations, as discussed above, the petition asserts that the original data we used in our recognition of the Hualapai Mexican vole as a subspecies, and thus a listable entity under the Act, were in error. In determining whether to recognize the Hualapai Mexican vole as a valid (distinguishable) subspecies, we must base our decision on the best available scientific and commercial data. Additionally, we must provide transparency in application of the Act's definition of a species through careful review and analyses of all the relevant data.

Under section 3 of the Act and our implementing regulations at 50 CFR 424.02, a ''species'' includes any subspecies of fish or wildlife or plants, and any distinct population segment of any species of vertebrate fish or wildlife which interbreeds when mature. As such, a ''species'' under the Act may include any taxonomically defined species of fish, wildlife, or plant; any taxonomically defined subspecies of fish, wildlife, or plant; or any distinct population segment of any vertebrate species as determined by us per our Policy Regarding the Recognition of District Vertebrate Population Segments [DPSs] Under the Endangered Species Act (61 FR 4722; February 7, 1996). We note that Congress has instructed the Secretary to exercise this authority with regard to DPS's ''* * * sparingly and only when the biological evidence indicates that such action is warranted.''

Our implementing regulations provide further guidance on determining whether a particular taxon or population is a species or subspecies for the purposes of the Act: ''the Secretary shall rely on standard taxonomic distinctions and the biological expertise of the Department and the scientific community concerning the relevant taxonomic group'' (50 CFR 424.11(a)). For each species, section 4(b)(1)(A) of the Act

mandates that we use the best scientific and commercial data available for each individual species under consideration. Given the wide range of taxa and the multitude of situations and types of data that apply to species under review, the application of a single set of criteria that would be applicable to all taxa is not practical or useful. In addition, because of the wide variation in kinds of available data for a given circumstance, we do not assign a priority or weight to any particular type of data, but must consider it in the context of all the available data for a given species.

For purposes of being able to determine what is a listable entity under the Act, we must necessarily follow a more operational approach and evaluate and consider all available types of data, which may or may not include genetic information, to determine whether a taxon is a distinguishable species or subspecies. As a matter of practice, and in accordance with our regulations, in deciding which alternative taxonomic interpretations to recognize, the Service will rely on the professional judgment available within the Service and the scientific community to evaluate the most recent taxonomic studies and other relevant information available for the subject species. Therefore, we continue to make listing decisions based solely on the basis of the best scientific and commercial data available for each species under consideration on a case-specific basis.

In making our determination whether we recognize the Hualapai Mexican vole as a distinguishable subspecies and, thus, whether the petitioned action is warranted, we considered all available data that may inform the taxonomy of the Hualapai Mexican vole, such as ecology, morphology, and genetics.

In determining whether to recognize the Hualapai Mexican vole as a distinguishable subspecies, we must first define the criteria used to make this decision given the available information. Within the taxonomic literature, there are no universally agreed-upon criteria for delineating, defining, or diagnosing subspecies boundaries. Each possible subspecies has been subject to unique evolutionary forces, different methods of selection will act on each subspecies (genetic drift versus allopatric speciation), and the potential divergence time (recent versus more distant) will, therefore, lead to different signals, particularly genetically; as such, the methods for detecting each will be different (Amec 2015, pp. 101–102). Therefore, we conclude that the best scientific and commercial information available indicate that the Hualapai Mexican vole is not a distinguishable subspecies, and we, therefore, do not recognize it as a listable entity under the Act. (A ''listable entity'' is one that qualifies as a ''species'' under the definition in section 3 of the Act and is thus eligible to be listed as an endangered species or a threatened species.) Because we found that the Hualapai Mexican vole is not a valid listable entity, conducting a distinct population segment (DPS) analysis would be inappropriate.

Delisting Analysis

After a review of all information available, we are removing the Hualapai Mexican vole from the List of Endangered and Threatened Wildlife (List). Section 4(a)(1) of the Act and regulations (50 CFR part 424) issued to implement the listing provisions of the Act set forth the procedures for adding species to or removing them from the List. The regulations at 50 CFR 424.11(d) state that a species may be delisted if (1) it becomes extinct, (2) it recovers, or (3) the original classification data were in error.

At this time, the best available scientific information presents conflicting information on the taxonomy of Mexican voles in general, and no longer supports the recognition of a separate Hualapai Mexican vole subspecies. Reviews of the published and unpublished reports have inconsistent conclusions because of different genetic analyses and data sets. However, there is sufficient evidence to indicate that the currently listed entity for the Hualapai Mexican vole is no longer a valid taxonomic subspecies. Additionally, the Mexican vole is listed as least concern by IUCN in view of its wide distribution, presumed large population, occurrence in a number of protected areas, and because it is unlikely to be declining at nearly the rate required to qualify for listing in a threatened category (Álvarez-Castañeda, S.T. & Reid, F. 2016). We consider the entity that was previously described as Hualapai Mexican vole (*Microtus mexicanus hualpaiensis*) to be part of the Mexican vole species (*Microtus mexicanus*). The Mexican vole species ranges from the southern Rocky Mountains in southern Utah and Colorado, through central Arizona and New Mexico, and throughout the interior of north and central México in the Sierra Madre Mountains, as far south as central Oaxaca, Mexico (Tamarin 1985, p. 99).

Based on the best available scientific and commercial data, we have determined that the Hualapai Mexican vole is not a valid taxonomic subspecies, and therefore, is not a listable entity under the Act. In conclusion, we find that the Hualapai Mexican vole (*Microtus mexicanus hualpaiensis*) must be removed as a listed subspecies under the Act because the original scientific data used at the time the subspecies was classified were in error.

Effects of the Rule

This final rule revises 50 CFR 17.11(h) to remove the Hualapai Mexican vole from the Federal List of Endangered and Threatened Wildlife. Because no critical habitat was ever designated for this subspecies, this rule will not affect 50 CFR 17.95.

On the effective date of this rule (see **DATES**, above), the prohibitions and conservation measures provided by the Act, particularly through sections 7 and 9, no longer apply to this subspecies. Federal agencies are no longer required to consult with the Service under section 7 of the Act in the event that activities they authorize, fund, or carry out may affect the Hualapai Mexican vole.

Required Determinations

National Environmental Policy Act

We have determined that environmental assessments and environmental impact statements, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Act. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244).

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), Executive Order 13175, and the Department of Interior's manual at 512 DM 2, we readily acknowledge our responsibility to communicate meaningfully with recognized Federal Tribes on a government-to-government basis. Therefore, we solicited information from Native American Tribes during the proposed rule's comment periods to determine potential effects on them or their resources that may result from the delisting of the Hualapai Mexican vole. No comments were received from Native American Tribes.

References Cited

A complete list of all references cited in this rule is available on *http://*

www.regulations.gov, or upon request from the Field Supervisor, Arizona Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Authors

The primary authors of this rule are the staff members of the Arizona Ecological Services Field Office, U.S. Fish and Wildlife Service (see **ADDRESSES**).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Regulation Promulgation

Accordingly, we amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

■ 1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 1531–1544; and 4201–4245, unless otherwise noted.

§ 17.11 [Amended]

■ 2. Amend § 17.11(h) by removing the entry for ''Vole, Hualapai Mexican'' from the List of Endangered and Threatened Wildlife.

Dated: May 25, 2017.

James W. Kurth,

Acting Director, Fish and Wildlife Service.

[FR Doc. 2017–13162 Filed 6–22–17; 8:45 am]

BILLING CODE 4333–15–P

Proposed Rules

Federal Register
Vol. 82, No. 120
Friday, June 23, 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.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 925 and 944

[Doc. No. AMS–SC–16–0009, SC16–925–2 PR]

Grapes Grown in a Designated Area of Southeastern California and Imported Table Grapes; Removing Varietal Exemptions

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would implement a recommendation from the California Desert Grape Administrative Committee (Committee) to remove varietal exemptions from the regulations established under the California table grape marketing order (order) and the table grape import regulation (import regulation). The order regulates the handling of table grapes grown in a designated area of southeastern California and is administered locally by the Committee. The import regulation is authorized under section 8e of the Agricultural Marketing Agreement Act of 1937, as amended, and regulates the importation of table grapes into the United States. In conjunction with this proposed rule, administrative exemptions that were previously granted for other varieties of imported grapes, including those that are genetically related to the four varieties exempted under the order's regulations and import regulation, would be removed.

DATES: Comments must be received by August 22, 2017.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposal. Comments must be sent to the Docket Clerk, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW., Stop 0237, Washington, DC 20250–0237; Fax: (202) 720–8938; or Internet: *http://www.regulations.gov.* All comments should reference the document number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the office of the Docket Clerk during regular business hours, or can be viewed at: *http://www.regulations.gov.* All comments submitted in response to this proposal will be included in the record and will be made available to the public. Please be advised that the identity of the individuals or entities submitting the comments will be made public on the Internet at the address provided above.

FOR FURTHER INFORMATION CONTACT: Kathie Notoro, Marketing Specialist, or Jeffrey Smutny, Regional Director, California Marketing Field Office, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA; Telephone: (559) 487–5901; Fax: (559) 487–5906, or Email: *Kathie.Notoro@ams.usda.gov* or *Jeffrey.Smutny@ams.usda.gov.*

Small businesses may request information on complying with this regulation by contacting Richard Lower, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, Fax: (202) 720–8938, or Email: *Richard.Lower@ams.usda.gov.*

SUPPLEMENTARY INFORMATION: This proposed rule is issued under Marketing Order No. 925, as amended (7 CFR part 925), regulating the handling of grapes grown in a designated area of southeastern California, hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

This proposed rule is also issued under section 8e of the Act, which provides that whenever certain specified commodities, including table grapes, are regulated under a Federal marketing order, imports of those commodities into the United States are prohibited unless they meet the same or comparable quality, grade, size, and maturity requirements as those in effect for the domestically produced commodities.

The Department of Agriculture (USDA) is issuing this proposed rule in conformance with Executive Orders 12866, 13563, and 13175. 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 the Office of Management and Budget's (OMB) 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).

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

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file a petition with USDA stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing, USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of import regulations issued under section 8e of the Act.

Under the terms of the order, fresh market shipments of *Vitis vinifera* table grape varieties, including hybrids, from the production area are required to be inspected and are subject to grade, size, quality, maturity, pack, and container requirements during the period April 10 through July 10 (regulatory period) each year. Such shipments must be certified as meeting the order's requirements. Pursuant to section 8e of the Act, table grapes imported into the United States during the regulatory period must also be inspected and certified as meeting the grade, size, quality, and maturity standards contained in the import regulation.

Historically, four varieties of grapes have been exempted from requirements

established under the order and the import regulation because these varieties were not grown within the regulated production area. The Emperor, Calmeria, Almeria, and Ribier varieties were first exempted from regulation under the order for the 1983 marketing period (48 FR 16025; April 4, 1983). The import regulation provides that imported grapes must meet the same or comparable grade, size, quality, and maturity requirements as domestic grapes regulated under the order.

The varietal exemptions were made effective in both the order's regulations and the import regulation on a continuing basis in 1985 (50 FR 18849; May 3, 1985). Subsequently, sixteen other grape varieties genetically related to one or more of the four exempted varieties were subject to administrative exemptions from regulation under the import regulation because they were not grown in the production area.

The order regulates all vinifera species of table grapes, including the exempted varieties. Accordingly, the proposed rule would update the order's regulations to remove all varietal exemptions including the original varietal exemptions and subsequent administrative exemptions. Pursuant to section 8(e), corresponding updates would also be made to the import regulations.

The Committee believes it is important that table grapes marketed in the U.S. during the regulatory period are of a consistently high quality, grade, size, and maturity. Updating the regulations to remove outdated varietal exemptions will improve the marketing of table grapes; better meet the needs of consumers; increase returns to growers, handlers, and importers; and foster repeat purchases by consumers.

Section 925.6 of the order defines varieties to mean and to include all classifications or subdivisions of *Vitis vinifera* table grapes.

Section 925.52(a)(1) of the order provides authority to regulate the handling of any grade, size, quality, maturity, or pack of any and all grape varieties during any period. Section 925.53 provides authority for the Committee to recommend to USDA changes to regulations issued pursuant to § 925.52.

Section 925.55 of the order specifies that when grapes are regulated pursuant to § 925.52, such grapes must be inspected by the Federal or Federal-State Inspection Service and certified to ensure they meet applicable requirements.

Section 925.304 of the order's administrative rules and regulations specifies the grade, size, quality, maturity, pack, and container requirements for shipments of all varieties of *Vitis vinifera* table grapes from the production area from April 10 through July 10 each year. Section 925.304 also contains the regulatory exemption for the Emperor, Calmeria, Almeria, and Ribier varieties.

The corresponding grade, size, quality, and maturity requirements for imported table grapes are contained in 7 CFR 944.503, which also specifies the regulatory exemption for the Emperor, Calmeria, Almeria, and Ribier varieties.

In the early 1980s, when the order and import regulation were established, there were fewer grape varieties grown in the production area. The distinct characteristics of individual table grape varieties were recognized by consumers, and grapes were marketed accordingly. Regulatory exemptions were provided for the handling of certain varieties that were not grown in the production area but imported into the United States to satisfy market demand. Progeny and genetically-related hybrids of those exempted varieties were also exempted administratively because they were not being grown in the production area.

As a result of extensive breeding programs, the number of different grape varieties cultivated in the production area has expanded. Now, varieties administratively exempted from the import regulation, such as the Red Globe variety, are being grown in the production area.

In addition, as a result of the extensive breeding programs introducing new hybrids, the distinguishing characteristics of each variety have become less pronounced. Table grapes are now typically marketed by color and presence or absence of seeds, rather than by specific variety, such as ''red seedless'' instead of ''Emperor'', ''green seeded'' instead of ''Calmeria'' or ''Almeria'', or ''black seeded'' grapes instead of ''Ribier''.

According to a March 2011 consumer research study sponsored by the Desert Grape Growers League of California entitled, ''Consumer Awareness of Grape Varieties Online Study,'' the presence or absence of seeds, overall appearance, and price are the dominant factors in grape purchases by retail customers. Most customers surveyed could not name a single grape variety without prompting. A copy of this study can be obtained by contacting the Committee or the USDA contact persons listed in the **FOR FURTHER INFORMATION CONTACT** section of this proposed rule.

To update the regulations to reflect changes in production in the production area, as well as changes in consumer understanding about table grapes and consumer considerations when purchasing them, the Committee recommended at its meeting on November 12, 2015, that the order's administrative rules and regulations be updated to remove exemptions provided for the Emperor, Calmeria, Almeria, and Ribier varieties. Under the proposed rule, all table grapes handled in the production area during the regulatory period would be subject to the grade, size, quality, maturity, pack, and container requirements specified in the order and would be subject to inspection and certification requirements, regardless of variety. The Committee believes that ensuring consistently high quality grade, size, and maturity, as verified through inspection and certification, would encourage repeat purchases by consumers, thereby increasing returns to producers and handlers.

As required under section 8e of the Act, varietal exemptions would likewise no longer apply to imported grapes. Accordingly, all table grapes offered for importation into the United States during the regulatory period would be subject to the grade, size, quality, and maturity regulations specified in the import regulation and would be subject to inspection and certification requirements.

The proposed rule would modify the introductory paragraph of § 925.304—California Desert Grape Regulation 6—of the order's regulations by removing the four historically exempt varieties: Emperor, Calmeria, Almeria, and Ribier. Additionally, § 944.503(a)(1) of the import regulation would be modified by removing the exemptions for Emperor, Calmeria, Almeria, and Ribier varieties from the import regulation. In conjunction with these actions, administrative exemptions for imported varieties, including Italia Pirovano (Blanca Italia), Christmas Rose, Muscatel, Barlinka, Dauphine, Kyoho, Waltham Cross, Alphonse Lavallee, Bien Donne, Bonnoir (Bonheur), La Rochelle, Queen, Rouge, Sonita, Tokay and Red Globe, would be removed.

Initial Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), the Agricultural Marketing Service (AMS) has considered the economic impact of this proposed rule on small entities. Accordingly, AMS has prepared this initial regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses will not be unduly or disproportionately burdened.

Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Import regulations issued under the Act are based on those established under Federal marketing orders.

Currently, there are approximately 12 handlers of southeastern California grapes who are subject to regulation under the order and about 38 table grape producers in the production area. Additionally, there are approximately 135 importers of grapes. Small agricultural service firms are defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts of less than $7,500,000, and small agricultural producers are defined as those whose annual receipts are less than $750,000. According to the Committee's inspection reports, seven of the 12 handlers subject to regulation have annual grape sales of less than $7.5 million. In addition, the Committee estimates that at least nine of the 38 producers have annual receipts of less than $750,000 and would be considered small businesses under the Small Business Administration threshold of $750,000. Based on the foregoing, it may be concluded that slightly more than half of the grape handlers and a minority of the grape producers could be classified as small entities.

Chile, Mexico, and Peru are the major countries that export table grapes to the United States. According to the 2015 data from the U.S. Department of Agriculture, Foreign Agricultural Service, shipments of table grapes imported into the United States from Chile were valued at $805,226,000; from Mexico were valued at $329,494,000; and those from Peru were valued at $204,349,000. The total value of table grapes imported into the United States in 2015 was $1,344,077,000. When this value is divided by the total number of importers (135), it is estimated that the average grape importer received over $9.9 million in revenue from the sale of grapes. Therefore, it may be concluded that the average table grape importer is not classified as a small entity.

This rule would remove the varietal exemptions from the introductory paragraph of § 925.304 of the regulations of the California desert grape marketing order and from § 944.503(a)(1) of the table grape import regulation. Authority for the change to the California desert grape order is provided in §§ 925.52(a)(1) and 925.53. Authority for the change to the table grape import regulation is provided in section 8e of the Act.

In conjunction with this action, administrative regulatory exemptions previously granted for other imported *Vitis vinifera* table grapes, including any varieties that are genetically related to the four exempted varieties, such as Italia Pirovano (Blanca Italia), Christmas Rose, Muscatel, Barlinka, Dauphine, Kyoho, Waltham Cross, Alphonse Lavallee, Bien Donne, Bonnoir (Bonheur), La Rochelle, Queen, Rouge, Sonita, Tokay and Red Globe, would also be removed. Removing the exemptions is expected to ensure that all table grapes marketed during the regulatory period are of consistent high quality, grade, size, and maturity, which is expected to improve returns for domestic producers, handlers, and importers due to increased purchases by consumers.

The majority of grapes imported into the United States are from Chile. Recent data indicate total imports of grapes from Chile average approximately 352,102.2 metric tons annually. Of this amount, the quantity of exempt varieties of Chilean grapes imported during the regulatory period averages approximately 8,164.7 metric tons, which represents less than four percent of the grapes imported from Chile. Of these exempt shipments, the majority (81 percent, based on a ten-year average) are of the Red Globe variety, which is now grown in the production area. All other exempt varieties are of the varietal types also grown in the production area.

As a result of the proposed changes, all table grapes grown in the production area or imported into the United States during the regulatory period would be subject to inspection and certification requirements, as established under the order. Fees for inspection and certification, which are performed by USDA's Federal or Federal-State Inspection Service, are typically 3.8 cents per package. This estimated increase in costs would represent only a small percentage of the value of the grapes. Grape prices can vary significantly, ranging from $6 to $44 per package. The inspection cost per package represents less than two-tenths of one percent of the midpoint of the range of prices per package ($25).

In addition, some of the exempted varieties are currently being inspected on a voluntary basis to meet buyer requirements, but the quantity is unknown. For those products, the proposed changes would result in no increased cost.

The benefits of removing the exemptions, as discussed below, are expected to outweigh any additional costs incurred by handlers and importers.

According to industry research, table grape consumers make purchases based upon the quality characteristics of the grapes. Consumers are more likely to make repeat purchases following satisfactory experiences with previous purchases. Rather than selecting grapes by variety, consumers purchase varietal types that will meet their needs, such as ''red seedless'' or ''black seeded'' grapes. Therefore, the Committee believes that it is important to ensure that all table grapes shipped or imported during the regulatory period are of consistent high quality, regardless of variety. It is expected that removing the regulatory exemptions will ensure that all table grapes marketed in the United States during the regulatory period will be of a consistent quality, better meeting the needs of consumers and fostering repeat purchases, thus increasing the demand for grapes and increasing returns to producers, handlers, and importers.

The Committee considered alternatives to this action, including maintaining the current varietal exemptions. However, the Committee anticipates that subjecting all grape varieties and variety types grown in the production area to the requirements under the order and the import regulation would best ensure that consumers receive quality grapes, which in turn would provide producers, handlers, and importers with higher returns.

AMS 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.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the order's information collection requirements have been previously approved by OMB and assigned OMB No. 0581–0189. No changes in those requirements as a result of this action are necessary. Should any changes become necessary, they would be submitted to OMB for approval.

This proposed rule would not impose any additional reporting or recordkeeping requirements on either small or large grape handlers or importers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies. In addition, USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

Further, the Committee's meeting was widely publicized throughout the table grape industry, and all interested persons were invited to attend the meeting and participate in Committee deliberations. Like all Committee meetings, the November 12, 2015, meeting was a public meeting. All entities, both large and small, were able to express their views on this issue. Interested persons are invited to submit comments on this proposed rule, including the regulatory and informational impacts of this action on small businesses.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: *http://www.ams.usda.gov/rules-regulations/moa/small-businesses.* Any questions about the compliance guide should be sent to Richard Lower at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

In accordance with section 8e of the Act, the United States Trade Representative has concurred with the issuance of this proposed rule.

A 60-day comment period is provided to allow interested persons to respond to this proposal. All written comments received in a timely manner will be considered before a final determination is made on this matter.

List of Subjects

7 CFR Part 925

Grapes, Marketing agreements, Reporting and recordkeeping requirements.

7 CFR Part 944

Avocados, Food grades and standards, Grapefruit, Grapes, Imports, Kiwifruit, Limes, Olives, Oranges.

For the reasons set forth above, 7 CFR parts 925 and 944 are proposed to be amended as follows:

PART 925—GRAPES GROWN IN A DESIGNATED AREA OF SOUTHEASTERN CALIFORNIA

■ 1. The authority citation for 7 CFR parts 925 and 944 continues to read as follows:

Authority: 7 U.S.C. 601–674.

■ 2. In § 925.304, the introductory text is revised to read as follows:

§ 925.304 California Desert Grape Regulation 6.

During the period April 10 through July 10 each year, no person shall pack or repack any variety of grapes on any Saturday, Sunday, Memorial Day, or the observed Independence Day holiday, unless approved in accordance with paragraph (e) of this section, nor handle any variety of grapes unless such grapes meet the requirements specified in this section.

* * * * *

PART 944—FRUITS; IMPORT REGULATIONS

■ 3. In § 944.503, revise the introductory text of paragraph (a)(1) to read as follows:

§ 944.503 Table Grape Import Regulation.

(a)(1) Pursuant to section 8e of the Act and Part 944—Fruits, Import Regulations, and except as provided in paragraphs (a)(1)(iii) and (iv) of this section, the importation into the United States of any variety of *Vinifera* species table grapes is prohibited unless such grapes meet the minimum grade and size requirements established in paragraphs (a)(1)(i) or (ii) of this section.

* * * * *

Dated: June 20, 2017.

Erin Morris,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2017–13173 Filed 6–22–17; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2017–0639; Directorate Identifier 2017–CE–016–AD]

RIN 2120–AA64

Airworthiness Directives; British Aerospace Regional Aircraft Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for British Aerospace Regional Aircraft Jetstream Series 3101 and Jetstream Model 3201 airplanes that would supersede AD 2014–07–09. This proposed AD results from mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as inadequate instructions for inspection for corrosion on the rudder upper hinge bracket and certain internal wing and drainage paths. We are issuing this proposed AD to require actions to address the unsafe condition on these products.

DATES: We must receive comments on this proposed AD by August 7, 2017.

ADDRESSES: You may send comments by any of the following methods:

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

For service information identified in this proposed AD, contact BAE Systems (Operations) Limited, Customer Information Department, Prestwick International Airport, Ayrshire, KA9 2RW, Scotland, United Kingdom; telephone: +44 1292 675207; fax: +44 1292 675704; email: *RApublications@baesystems.com;* Internet: *http://www.baesystems.com/Businesses/RegionalAircraft/*. You may review copies of the referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0639; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2017–0639; Directorate Identifier 2017–CE–016–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

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

Discussion

On April 4, 2014, we issued AD 2014–07–09, Amendment 39–17823 (79 FR 22367; April 22, 2014). That AD required actions intended to address an unsafe condition on British Aerospace Regional Aircraft Model Jetstream Series 3101 and Jetstream Model 3201 airplanes and was based on mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country.

Since we issued AD 2014–07–09, more extensive reports of corrosion have been received, resulting in the need to inspect additional areas.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA AD No.: 2017–0073, dated April 27, 2017 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

> Maintenance instructions for BAE Jetstream 3100 and 3200 aeroplanes, which are approved by EASA, are currently defined and published in the BAE Systems (Operations) Ltd Jetstream Series 3100 & 3200 Corrosion Prevention and Control Programme (CPCP) document, JS/CPCP/01. These instructions have been identified as mandatory for continued airworthiness.
>
> Failure to accomplish these instructions could result in an unsafe condition.
>
> EASA issued AD 2012–0036 to require operators to comply with the inspection instructions as contained in the CPCP at Revision 6.
>
> Since that AD was issued, reports have been received of finding extensive corrosion. While affected areas are covered by an existing zonal inspection, it has been determined that this inspection is inadequate to identify the corrosion in those areas. Consequently, new inspection items 52–11–002 C1, 200/EX/01 C2, 500/IN/02 C1, 600/IN/04 C1 and 700/IN/04 C1 have been added to the CPCP at Revision 8.
>
> For the reason described above, this [EASA] AD retains the requirements of EASA AD 2012–0036, which is superseded, and requires accomplishment of the actions specified in BAE Systems (Operations) Ltd Jetstream Series 3100 & 3200 CPCP, JS/CPCP/01, Revision 8 (hereafter referred to as 'the CPCP' in this AD).

You may examine the MCAI on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0639.

Related Service Information Under 1 CFR Part 51

BAE Systems (Operations) Limited has issued British Aerospace Jetstream Series 3100 & 3200 Corrosion Prevention and Control Programme, Manual Ref: JS/CPCP/01, Revision 8, dated October 15, 2016. The service information describes procedures for a comprehensive corrosion prevent and control program. 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 NPRM.

FAA's Determination and Requirements of the Proposed AD

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

Costs of Compliance

We estimate that this proposed AD will affect 42 products of U.S. registry. We also estimate that it would take about 100 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 the proposed AD on U.S. operators to be $357,000, or $8,500 per product.

The scope of damage found in the required inspection could vary significantly from airplane to airplane. We have no way of determining how much damage may be found on each airplane or the cost to repair damaged parts on each airplane or the number of airplanes that may require repair.

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 Amendment 39–17823 (79 FR 22367; April 22, 2014), and adding the following new AD:

British Aerospace Regional Aircraft: Docket No. FAA–2017–0639; Directorate Identifier 2017–CE–016–AD.

(a) Comments Due Date

We must receive comments by August 7, 2017.

(b) Affected ADs

This AD replaces AD 2014–07–09, Amendment 39–17823 (79 FR 22367; April 22, 2014) (''2014–07–09'').

(c) Applicability

This AD applies to British Aerospace Regional Aircraft Jetstream Series 3101 and Jetstream Model 3201 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 inadequate instructions for inspection for corrosion on the rudder upper hinge bracket and certain internal wing stations and drainage paths. We are issuing this AD to detect and correct corrosion on the rudder upper hinge bracket and internal wing, areas of the passenger/crew door hinges and supporting structure, the main spar joint, and the engine support attachment bolts, which could lead to reduced structural integrity of the airplane with consequent loss of control.

(f) Actions and Compliance

Comply with paragraphs (f)(1) through (3) of this AD within the compliance times specified, unless already done:

(1) Before further flight after the effective date of this AD, incorporate BAE Systems (Operations) Limited Jetstream Series 3100 & 3200 Corrosion Prevention and Control Programme, Manual Ref. JS/CPCP/01, Revision 8, dated October 15, 2016, into the Limitations of your FAA-approved maintenance program (instructions for continued airworthiness) on the basis of which the operator or the owner ensures the continuing airworthiness of each operated airplane, as applicable to the airplane model.

(2) Do all tasks at the times specified in BAE Systems (Operations) Limited Jetstream Series 3100 & 3200 Corrosion Prevention and Control Programme, Manual Ref. JS/CPCP/01, Revision 8, dated October 15, 2016, or within the next 12 months after the effective date of this AD, whichever occurs later, except for the following, which must be done within 12 months after the effective date of this AD: 52–11–002 C1, 200/EX/01 C2, 500/IN/02 C1, 600/IN/04 C1, and 700/IN/04 C1.

(3) If any discrepancy, particularly corrosion, is found during any inspections or tasks required by paragraphs (f)(1) or (2) of this AD, within the compliance time specified, repair or replace, as applicable, all damaged structural parts and components and do the maintenance procedures for corrective action following BAE Systems (Operations) Limited Jetstream Series 3100 & 3200 Corrosion Prevention and Control Programme, Manual Ref. JS/CPCP/01, Revision 8, dated October 15, 2016. If no compliance time is defined, do the applicable corrective action before further flight.

(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.

(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.

(h) Related Information

Refer to MCAI European Aviation Safety Agency (EASA) AD No.: 2017–0073, dated April 27, 2017; and BAE Systems (Operations) Limited Jetstream Series 3100 & 3200 Corrosion Prevention and Control Programme, Manual Ref. JS/CPCP/01, Revision 8, dated October 15, 2016; for related information. You may examine the MCAI on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0639. For service information related to this AD, contact BAE Systems (Operations) Limited, Customer Information Department, Prestwick International Airport, Ayrshire, KA9 2RW, Scotland, United Kingdom; telephone: +44 1292 675207; fax: +44 1292 675704; email: *RApublications@baesystems.com;* Internet: *http://www.baesystems.com/Businesses/RegionalAircraft/.* 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.

Issued in Kansas City, Missouri, on June 19, 2017.

Pat Mullen,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2017–13130 Filed 6–22–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2017–0638; Directorate Identifier 2017–CE–018–AD]

RIN 2120–AA64

Airworthiness Directives; Diamond Aircraft Industries GmbH Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain Diamond Aircraft Industries GmbH Models DA 42, DA 42 M–NG, and DA 42 NG airplanes. This proposed AD results from mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as crack formation on the flap bell crank, which could cause the flap bell crank to fail. We are issuing this proposed AD to require actions to address the unsafe condition on these products.

DATES: We must receive comments on this proposed AD by August 7, 2017.

ADDRESSES: You may send comments by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* (202) 493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–

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

• *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Diamond Aircraft Industries GmbH, N.A. Otto-Straße 5, A–2700 Wiener Neustadt, Austria, telephone: +43 2622 26700; fax: +43 2622 26780; email: *office@diamond-air.at;* Internet: *http://www.diamondaircraft.com.* You may review this referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

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–2017–0638; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Mike Kiesov, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4144; fax: (816) 329–4090; email: *mike.kiesov@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–2017–0638; Directorate Identifier 2017–CE–018–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

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

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued AD No. 2017–0074, dated April 28, 2017 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

> Cracks and deformation have been found on the flap bell crank Part Number (P/N) D60–2757–11–00. Frequent high load conditions have been identified as the root cause.
>
> This condition, if not detected and corrected, could lead to failure of the flap bell crank and consequent reduced control of the aeroplane.
>
> To address this potential unsafe condition, Diamond Aircraft Industries (DAI) issued Mandatory Service Bulletin (MSB) 42–126/MSB 42NG–066 and the corresponding Work Instruction (WI) MSB 42–126/WI–MSB 42NG–066 (single document), hereafter referred to as 'the applicable MSB' in this [EASA] AD, providing inspection and modification instructions.
>
> For the reason described above, this [EASA] AD requires modification of the flap control system by installing two spacers to replace a single long spacer, repetitive inspections of the flap bell crank, and, depending on findings, replacement of the flap bell crank with an improved part. Installation of an improved flap bell crank constitutes terminating action for the repetitive inspections required by this [EASA] AD.

You may examine the MCAI on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0638.

Related Service Information Under 1 CFR Part 51

Diamond Aircraft Industries GmbH has issued Mandatory Service Bulletin MSB 42–126 MSB/42NG–066, dated March 27, 2017 (single document), and Work Instruction WI–MSB 42–126/WI–MSB 42NG–066, dated March 27, 2017 (single document). In combination, this service information describes procedures for repetitively inspecting the flap bell crank for cracks, replacing the flap bell crank if cracks are found, and modification of the flap control system. 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 NPRM.

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 this State of Design Authority, they have notified us of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all information and determined the unsafe condition exists and is likely to exist or develop on other products of the same type design.

Costs of Compliance

We estimate that this proposed AD will affect 190 products of U.S. registry. We also estimate that it would take about 4 work-hours per product to comply with the initial inspection requirement of this proposed AD. The average labor rate is $85 per work-hour.

Based on these figures, we estimate the cost of the initial inspection requirement of this proposed AD on U.S. operators to be $64,000, or $340 per product.

We also estimate that it would take about 2 work-hours per product to comply with the repetitive inspection requirement of this proposed AD. The average labor rate is $85 per work-hour.

Based on these figures, we estimate the cost of the repetitive inspection requirement of this proposed AD on U.S. operators to be $32,300, or $170 per product.

In addition, we estimate that any necessary replacement action would take about 1 work-hour and require parts costing $430, for a cost of $515 per product. We have no way of determining the number of products that may need these actions.

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 AD:

Diamond Aircraft Industries GmbH: Docket No. FAA–2017–0638; Directorate Identifier 2017–CE–018–AD.

(a) Comments Due Date

We must receive comments by August 7, 2017.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Diamond Aircraft Industries GmbH Model DA 42, DA 42 M–NG, and DA 42 NG airplanes, serial numbers 42.004 through 42.427, 42.AC001 through 42.AC151, 42.M001 through 42.M026, 42.N001 through 42.N067, 42.N100 through 42.N129, 42.NC001 through 42.NC008, and 42.MN001 through 42.MN033, certificated in any category.

(d) Subject

Air Transport Association of America (ATA) Code 27: Flight Controls.

(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 crack formation on the flap bell crank. We are issuing this AD to prevent failure of the flap bell crank, which could result in reduced control.

(f) Actions and Compliance

Unless already done, do the following actions:

(1) Inspect the flap bell crank, part number (P/N) D60–2757–11–00, and modify the flap control system by installing two spacers, P/N DS BU2–10–06–0065–C, where the flap actuator rod end bearing is connected to the flap bell crank, following the Instructions section in Diamond Aircraft Industries GmbH (DAI) Work Instruction WI–MSB 42–126/WI–MSB 42NG–066, dated March 27, 2017 (single document), as specified in DAI Mandatory Service Bulletin MSB 42–126/MSB 42NG–066, dated March 27, 2017 (single document), at whichever of the following compliance times occurs later:

(i) Before exceeding 600 hours time-in-service (TIS), and repetitively thereafter at intervals not to exceed 200 hours TIS.

(ii) Within the next 100 hours TIS after the effective date of this AD or within the next 6 months after the effective date of this AD, whichever occurs first, and repetitively thereafter at intervals not to exceed 200 hours TIS.

(2) If any discrepancies are found during any inspection required in paragraph (f)(1) of this AD, before further flight, replace the flap bell crank with an improved part, P/N D60–2757–11–00_01, following the Instructions section in DAI Work Instruction WI–MSB 42–126/WI–MSB 42NG–066, dated March 27, 2017 (single document), as specified in DAI Mandatory Service Bulletin MSB 42–126/MSB 42NG–066, dated March 27, 2017 (single document). Installing P/N D60–2757–11–00_01 terminates the repetitive inspections required in paragraph (f)(1) of this AD. This installation as terminating action may be done in lieu of the inspections required in paragraph (f)(1) of this AD.

(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: Mike Kiesov, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4144; fax: (816) 329–4090; email: *mike.kiesov@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. 2017–0074, dated April 28, 2017. You may examine the MCAI on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0638. For service information related to this AD, contact Diamond Aircraft Industries GmbH, N.A. Otto-Straße 5, A–2700 Wiener Neustadt, Austria, telephone: +43 2622 26700; fax: +43 2622 26780; email: *office@diamond-air.at;* Internet: *http://www.diamondaircraft.com*. You may review this referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

Issued in Kansas City, Missouri, on June 19, 2017.

Pat Mullen,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2017–13139 Filed 6–22–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2017–0622; Directorate Identifier 2016–NM–192–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 certain Airbus Model A318 and A319 series airplanes; Model A320–211, –212, –214, –231, –232, and –233 airplanes; and Model A321–111, –112, –131, –211,

–212, –213, –231, and –232 airplanes. This proposed AD was prompted by reports of a vertical strut penetrating through the cabin floor during an emergency water landing and on airframe ground contact at certain speeds/accelerations. This proposed AD would require modification of the fuselage structure at frame (FR) 65. We are proposing this AD to address the unsafe condition on these products.

DATES: We must receive comments on this proposed AD by August 7, 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, Airworthiness Office–EIAS, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com;* Internet *http://www.airbus.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

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–2017–0622; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2017–0622; Directorate Identifier 2016–NM–192–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 2016–0212, dated October 25, 2016 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Airbus Model A318 and A319 series airplanes; Model A320–211, –212, –214, –231, –232, and –233 airplanes; and Model A321–111, –112, –131, –211, –212, –213, –231, and –232 airplanes. The MCAI states:

> In service occurrences were reported where, as a consequence [during an emergency water landing and] of an airframe ground contact above certified vertical speed/vertical acceleration, the vertical strut at Frame (FR) 65 penetrated through the cabin floor.
>
> This condition, if not corrected, could lead to injury of occupants and/or delays during emergency evacuation.
>
> To address this potential unsafe condition, Airbus developed mod 153724, a structural change which prevents the central vertical strut at FR65 to pass through the cabin floor, and issued Service Bulletin (SB) A320–53–1262 to provide instructions for installation of this modification on aeroplanes in service. After SB A320–53–1262 was issued, incorrect MSN [manufacturer serial number] allocations and configuration definitions were identified in it. Consequently Airbus revised that SB, and in addition issued SB A320–53–1333 and SB A320–53–1334.
>
> For the reason described above, this [EASA] AD requires modification of the fuselage structure at FR65.

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–2017–0622.

Related Service Information Under 1 CFR Part 51

Airbus has issued the following Airbus service information:

- Airbus Service Bulletin A320–53–1262, excluding Appendix 01 and including Appendix 02, Revision 01, dated July 29, 2016;
- Airbus Service Bulletin A320–53–1333, excluding Appendix 01 and including Appendix 02, dated July 29, 2016; and
- Airbus Service Bulletin A320–53–1334, excluding Appendix 01 and including Appendixes 02 and 03, dated July 29, 2016.

The service information describes procedures for modifying the fuselage structure at FR 65. These documents are distinct since they apply to different airplane configurations. 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 1,123 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	18 work-hours × $85 per hour = $1,530	$16,600	$18,130	$20,359,990

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–2017–0622; Directorate Identifier 2016–NM–192–AD.

(a) Comments Due Date

We must receive comments by August 7, 2017.

(b) Affected ADs

None.

(c) Applicability

This AD applies to the airplanes identified in paragraphs (c)(1), (c)(2), (c)(3), and (c)(4) of this AD, certificated in any category, all manufacturer serial numbers, except those on which Airbus Modification 153724 was embodied in production.

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

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

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

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

(d) Subject

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

(e) Reason

This proposed AD was prompted by reports of a vertical strut penetrating through the cabin floor during an emergency water landing and on airframe ground contact at certain speeds/accelerations. We are issuing this AD to prevent the central vertical strut at frame (FR) 65 from penetrating through the cabin floor in certain conditions, which could lead to injury of occupants and delays during an emergency evacuation.

(f) Compliance

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

(g) Modification

Within 72 months after the effective date of this AD, modify the fuselage structure at FR 65, in accordance with the Accomplishment Instructions of the applicable service bulletin specified in paragraph (g)(1), (g)(2), or (g)(3) of this AD.

(1) For Model A318 and A319 series airplanes; Model A320–211, –212, –214, –231, –232, and –233 airplanes; and Model A321–111, –112, –131, –211, –212, –213, –231, and –232 airplanes, as identified in Airbus Service Bulletin A320–53–1262, Revision 01, dated July 29, 2016: Airbus Service Bulletin A320–53–1262, excluding Appendix 01 and including Appendix 02, Revision 01, dated July 29, 2016.

(2) For Model A320–211, –212, –214, –232, and –233 airplanes, as identified in Airbus Service Bulletin A320–53–1333, dated July 29, 2016: Airbus Service Bulletin A320–53–1333, excluding Appendix 01 and including Appendix 02, dated July 29, 2016.

(3) For Model A321–211, –213, and –231 airplanes as identified in Airbus Service Bulletin A320–53–1334, dated July 29, 2016: Airbus Service Bulletin A320–53–1334, excluding Appendix 01 and including Appendixes 02 and 03, dated July 29, 2016.

(h) 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 (i)(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) *Required for Compliance (RC):* 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.

(i) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA Airworthiness Directive 2016–0212, dated October 25, 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–2017–0622.

(2) For more information about this AD, contact Sanjay Ralhan, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1405; fax 425–227–1149. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.*

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

Issued in Renton, Washington, on June 2, 2017.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2017–13129 Filed 6–22–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2017–0556; Directorate Identifier 2016–NM–098–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to supersede Airworthiness Directive (AD) 2012–23–10, which applies to all Airbus Model A318 series airplanes; Model A319 series airplanes; Model A320–211, –212, –214, –231, –232, and –233 airplanes; and Model A321–111, –112, –131, –211, –212, –213, –231, and –232 airplanes. AD 2012–23–10 requires modifying the affected slide rafts. Since we issued AD 2012–23–10, we received a report that Air Cruisers developed a modification of the slide and slide/raft, which is part of the escape slide pack assembly, to improve its deployment. This proposed AD would retain the requirements of AD 2012–23–10. This proposed AD would also require replacing each escape slide pack assembly having a certain part number with a new escape slide pack assembly. We are proposing this AD to address the unsafe condition on these products.

DATES: We must receive comments on this proposed AD by August 7, 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 Airbus service information identified in this NPRM, contact Airbus, Airworthiness Office—EIAS, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com;* Internet *http://www.airbus.com.* For Zodiac Aerospace service information identified in this NPRM, contact Air Cruisers, Cage Code 70167, 1747 State Route 34, Wall Township, NJ 07727–3935; telephone: (732) 681–3527; Internet: *http://www.zodiacaerospace.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–2017–0556; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2017–0556; Directorate Identifier 2016–NM–098–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 November 13, 2012, we issued AD 2012–23–10, Amendment 39–17266 (77 FR 70369, November 26, 2012) (''AD 2012–23–10''). AD 2012–23–10 requires actions intended to correct an unsafe condition for all Airbus Model A318, A319, A320, and A321 series airplanes.

Since we issued AD 2012–23–10, we have determined that it may no longer address the unsafe condition, and that it is necessary to replace each escape slide pack assembly having a certain part number with a new escape slide pack assembly having a certain part number, or modify the escape slide pack.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2016–0043, dated March 4, 2016 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for all Airbus Model A318, A319, A320, and A321 series airplanes. The MCAI states:

> Two occurrences were reported on Airbus A320 family aeroplanes where the escape slide raft inflation system did not deploy when activated. This was due to the rotation of the cable guide in a direction, which resulted in jamming of the inflation control cable. Additionally, one case was reported where the system did not deploy properly due to a cracked inflation hose fitting. Investigation conducted by Air Cruisers

Company [Zodiac Aero Evacuation Systems], the slide raft manufacturer, showed that the hose fitting could be subject to a bending moment, if improperly packed. Consequently, the hose fitting could separate from the reservoir and the inflation of the slide raft would be impaired.

This condition, if not corrected, could delay the evacuation from the aeroplane in case of emergency, possibly resulting in injury to the occupants.

To address this potential unsafe condition, DGAC France issued AD F–2004–072 [which correlates with FAA AD 2004–26–07, Amendment 39–13919 (70 FR 1176, January 6, 2005)], to introduce an inflation hose retainer preventing an incomplete inflation of emergency escape slides, which could delay passenger evacuation, and EASA issued AD 2011–0160 (later revised twice) to require modification of the affected slide rafts or replacement thereof with modified units.

Since EASA AD 2011–0160R2 [which correlates with FAA AD 2012–23–10 and issued as a stand-alone, non-superseding AD] was issued, Air Cruisers [Zodiac Aero Evacuation Systems] developed a modification of the slide and slide/raft, part of the escape slide pack assemblies, to improve its deployment. Modified slides and slide/rafts are identified by a different Part Number (P/N); consequently, also the escape slide pack assemblies are identified by a different P/N.

For the reasons described above, this [EASA] AD retains the requirements of DGAC France AD F–2004–072 (EASA approval 2004–5335) and EASA AD 2011–0160R2, which are superseded, and requires installation of modified escape slide pack assemblies.

Appendix 1 of this [EASA] AD provides a comprehensive list of escape slide pack assemblies P/N that, at the issue date of the [EASA] AD, are not approved for further installation on any aeroplane.

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–2017–0556.

Related Service Information Under 1 CFR Part 51

Airbus has issued the following service information, which describes procedures for replacing certain escape slide pack assemblies. These documents are distinct since they apply to different airplane models in different configurations.

- Service Bulletin A320–25–1B81, Revision 01, dated December 10, 2015.
- Service Bulletin A320–25–1B82, Revision 01, dated December 10, 2015.
- Service Bulletin A320–25–1B83, Revision 01, dated December 10, 2015.
- Service Bulletin A320–25–1B84, Revision 01, dated December 10, 2015.

Zodiac Aerospace has issued Zodiac Aero Evacuation Systems Service Bulletin S.B. A320 004–25–96, Revision 1, dated September 18, 2015; and Zodiac Aero Evacuation Systems Service Bulletin S.B. A320 004–25–97, Revision 1, dated September 18, 2015. The service information describes modification of the escape slide pack. These documents are distinct since they apply to different airplane models in different configurations.

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 959 airplanes of U.S. registry.

The actions required by AD 2012–23–10, and retained in this proposed AD take about 19 work-hours per product, at an average labor rate of $85 per work-hour. Required parts cost about $341 per product. Based on these figures, the estimated cost of the actions that are required by AD 2012–23–10 is $1,956 per product.

We also estimate that it would take about 6 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is $85 per work-hour. Required parts would cost about $0 per product. Based on these figures, we estimate the cost of this proposed AD on U.S. operators to be $489,090, or $510 per product.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. ''Subtitle VII: Aviation Programs,'' describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in ''Subtitle VII, Part A, Subpart III, Section 44701: General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

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

For the reasons discussed above, I certify this proposed regulation:

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

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

3. Will not affect intrastate aviation in Alaska; and

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2012–23–10, Amendment 39–17266 (77 FR 70369, November 26, 2012), and adding the following new AD:

Airbus: Docket No. FAA–2017–0556; Directorate Identifier 2016–NM–098–AD.

(a) Comments Due Date

We must receive comments by August 7, 2017.

(b) Affected ADs

This AD replaces AD 2012–23–10, Amendment 39–17266 (77 FR 70369, November 26, 2012) (''AD 2012–23–10'').

(c) Applicability

This AD applies to all Airbus Model A318–111, –112, –121, and –122 airplanes; Model A319–111, –112, –113, –114, –115, –131, –132, and –133 airplanes; Model A320–211, –212, –214, –231, –232, and –233 airplanes; and Model A321–111, –112, –131, –211, –212, –213, –231, and –232 airplanes; certificated in any category; all manufacturer serial numbers.

(d) Subject

Air Transport Association (ATA) of America Code 25, Equipment/Furnishings.

(e) Reason

This AD was prompted by reports of the escape raft inflation system not deploying when activated due to the rotation of the cable guide in a direction which resulted in jamming of the inflation control cable. We are issuing this AD to prevent non-deployment of the escape slide raft, which could result in delayed evacuation from the airplane during an emergency and consequent injury to the passengers.

(f) Compliance

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

(g) Retained: Modification, With No Changes

This paragraph restates the requirements of paragraph (g) of AD 2012–23–10, with no changes. Except as provided by paragraph (i) of this AD, within 36 months after December 31, 2012 (the effective date of AD 2012–23–10): Modify the escape slide rafts that have a part number (P/N) specified in figure 1 to paragraphs (g), (j)(1), and (j)(2) of this AD, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320–25–1723, dated December 17, 2010 (for Model A319, A320, and A321 series airplanes); or Airbus Service Bulletin A320–25–1724, dated December 17, 2010 (for Model A318 series airplanes).

FIGURE 1 TO PARAGRAPHS (g), (j)(1), AND (j)(2) OF THIS AD—ESCAPE SLIDE RAFT

Air Cruisers and Aerazur Escape Slide Rafts part number if fitted with a reservoir and valve assembly P/N D18309–105 or P/N D18309–205
D30664–105
D30664–107
D30664–109
D30664–305
D30664–307
D30664–309
D30664–311
D30665–105
D30665–107
D30665–109
D30665–305
D30665–307
D30665–309
D30665–311

(h) Retained: Replacement in Accordance With Air Cruisers Service Bulletin, With No Changes

This paragraph restates the requirements of paragraph (h) of AD 2012–23–10, with no changes. Replacement of all affected escape slide rafts on any affected airplane with slide rafts that have been modified in accordance with the Accomplishment Instructions of Air Cruisers Service Bulletin S.B.A320 004–25–85, Revision 2, dated January 3, 2012, is acceptable for compliance with the requirements of paragraph (g) of this AD, provided that prior to or concurrently with accomplishing the modification, the installation of the cable guide assembly is done in accordance with the Accomplishment Instructions of Air Cruisers Service Bulletin S.B.A320 004–25–56, dated November 12, 1999.

(i) Retained: Airplanes Not Affected by Paragraph (g) of This AD, With No Changes

This paragraph restates the requirements of paragraph (i) of AD 2012–23–10, with no changes. Before the effective date of this AD: Airplanes on which Airbus Modification 151459 or Modification 151502 has been embodied in production, and on which no escape slide raft replacements have been made since first flight, are not affected by the requirement specified in paragraph (g) of this AD.

(j) Retained: Parts Installation Limitations, With No Changes

This paragraph restates the requirements of paragraph (j) of AD 2012–23–10, with no changes.

(1) For airplanes other than those identified in paragraph (i) of this AD: After accomplishment of the modification required by paragraph (g) of this AD or after accomplishment of the alternative modification specified in paragraph (h) of this AD, no person may install, on any airplane, an escape slide raft specified in figure 1 to paragraphs (g), (j)(1), and (j)(2) of this AD, unless it has been modified in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320–25–1723, dated December 17, 2010 (for Model A319, A320, and A321 series airplanes); Airbus Service Bulletin A320–25–1724, dated December 17, 2010 (for Model A318 series airplanes); or Air Cruisers Service Bulletin S.B.A320 004–25–85, Revision 2, dated January 3, 2012 (for Model A318, A319, A320, and A321 series airplanes), including the installation of the cable guide assembly in accordance with the Accomplishment Instructions of Air Cruisers Service Bulletin S.B.A320 004–25–56, dated November 12, 1999.

(2) For airplanes identified in paragraph (i) of this AD: As of December 31, 2012 (the effective date of AD 2012–23–10), no person may install, on any airplane, an escape slide raft specified in figure 1 to paragraphs (g), (j)(1), and (j)(2) of this AD, unless it has been modified in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320–25–1723, dated December 17, 2010 (for Model A319, A320, and A321 series airplanes); Airbus Service Bulletin A320–25–1724, dated December 17, 2010 (for Model A318 series airplanes); or Air Cruisers Service Bulletin S.B.A320 004–25–85, Revision 2, dated January 3, 2012 (for Model A318, A319, A320, and A321 series airplanes), including the installation of the cable guide assembly in accordance with the Accomplishment Instructions of Air Cruisers Service Bulletin S.B.A320 004–25–56, dated November 12, 1999.

(k) Retained: Credit for Previous Actions, With No Changes

This paragraph restates the requirements of paragraph (k) of AD 2012–23–10, with no changes. This paragraph provides credit for the actions required by paragraphs (h) and (j) of this AD, if those actions were performed before December 31, 2012 (the effective date of AD 2012–23–10), using Air Cruisers Service Bulletin S.B.A320 004–25–85, dated November 30, 2010; or Air Cruisers Service Bulletin S.B.A320 004–25–85, Revision 1, dated September 30, 2011; which are not incorporated by reference in this AD.

(l) New: Replacement

Within 36 months after the effective date of this AD, replace each escape slide pack assembly having a part number identified as ''old'' in table 1 to paragraphs (l), (m)(2), (n)(2), and (o)(1) of this AD, with a new escape slide pack assembly having the corresponding part number identified as ''new'' in table 1 to paragraphs (l), (m)(2), (n)(2), and (o)(1) of this AD, 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).

TABLE 1 TO PARAGRAPHS (l), (m)(2), (n)(2), AND (o)(1) OF THIS AD—AIR CRUISERS AND AERAZUR ESCAPE SLIDE PACK ASSEMBLIES AFFECTED BY PARAGRAPH (1) OF THIS AD

Escape slide pack assembly part No.—old	Escape slide pack assembly part No.—new
D30664–405	D30664–605
D30664–407	D30664–607
D30664–409	D30664–609
D30664–505	D30664–705
D30664–507	D30664–707
D30664–509	D30664–709
D30664–511	D30664–711
D30665–405	D30665–605
D30665–407	D30665–607
D30665–409	D30665–609
D30665–505	D30665–705
D30665–507	D30665–707
D30665–509	D30665–709
D30665–511	D30665–711
D31516–119	D31516–619
D31516–121	D31516–621
D31516–123	D31516–623
D31516–125	D31516–625
D31516–315	D31516–615
D31516–317	D31516–617
D31516–415	D31516–715
D31516–417	D31516–717
D31516–519	D31516–719
D31516–521	D31516–721
D31516–523	D31516–723

TABLE 1 TO PARAGRAPHS (l), (m)(2), (n)(2), AND (o)(1) OF THIS AD—AIR CRUISERS AND AERAZUR ESCAPE SLIDE PACK ASSEMBLIES AFFECTED BY PARAGRAPH (1) OF THIS AD—Continued

Escape slide pack assembly part No.—old	Escape slide pack assembly part No.—new
D31516–525	D31516–725
D31517–119	D31517–619
D31517–121	D31517–621
D31517–123	D31517–623
D31517–125	D31517–625
D31517–315	D31517–615
D31517–317	D31517–617
D31517–415	D31517–715
D31517–417	D31517–717
D31517–519	D31517–719
D31517–521	D31517–721
D31517–523	D31517–723
D31517–525	D31517–725

(m) New: Modification

(1) Modification of an airplane in accordance with the Accomplishment Instructions of the applicable service information specified in paragraphs (m)(1)(i) through (m)(1)(iv) of this AD, as applicable to the airplane model and escape slide pack assembly part number, is an acceptable method of compliance with the requirements of paragraph (l) of this AD for that airplane.

(i) Airbus Service Bulletin A320–25–1B81, Revision 01, dated December 10, 2015 (for airplanes equipped with slide/rafts having P/Ns D30664–405, D30664–407, D30664–409, D30664–505, D30664–507, D30664–509, D30664–511 D30665–405, D30665–407, D30665–409, D30665–505, D30665–507, D30665–509, and D30665–511).

(ii) Airbus Service Bulletin A320–25–1B82, Revision 01, dated December 10, 2015 (for airplanes equipped with slide/rafts having P/Ns D31516–121, D31516–125, D31516–317, D31516–417 or D31516–525, D31517–121, D31517–125, D31517–317, D31517–417, and D31517–525).

(iii) Airbus Service Bulletin A320–25–1B83, Revision 01, dated December 10, 2015 (for airplanes equipped with slides with re-entry line P/Ns D31516–119, D31516–123, D31516–519, D31516–523, D31516–315, D31516–415, D31517–119, D31517–123, D31517–519, D31517–523, D31517–315 and D31517–415).

(iv) Airbus Service Bulletin A320–25–1B84, Revision 01, dated December 10, 2015 (for airplanes equipped with slides with Dual Fastener P/N D31516–521 and D31517–521).

(2) An escape slide pack assembly not installed on an airplane and having a part number identified as ''old'' in table 1 to paragraphs (l), (m)(2), (n)(2), and (o)(1) of this AD can be modified to the corresponding part number identified as ''new'' in table 1 to paragraphs (l), (m)(2), (n)(2), and (o)(1) of this AD, in accordance with Zodiac Aero Evacuation Systems Service Bulletin S.B. A320 004–25–96, Revision 1, dated September 18, 2015; and Zodiac Aero Evacuations Systems Service Bulletin S.B. A320 04–25–97, Revision 1, dated September 18, 2015; as applicable.

(n) New: Airplanes Not Affected

(1) An airplane on which Airbus Modification 151459 or Modification 151502 has been embodied in production is not affected by the requirements of paragraph (g) of this AD, provided it is determined that no escape slide pack assembly having a part number specified in figure 2 to paragraphs (n) and (o)(2) of this AD, figure 3 to paragraphs (n) and (o)(2) of this AD, and figure 4 to paragraphs (n) and (o)(2) of this AD, is installed on that airplane as of the effective date of this AD.

(2) An airplane on which Airbus Modification 156766, Modification 156767, Modification 156768, Modification 156769, or Modification 156770, has been embodied in production is not affected by the requirements of paragraphs (g) and (l) of this AD, provided that it is determined that no escape slide raft, having a part number identified in figure 2 to paragraphs (n) and (o)(2) of this AD, figure 3 to paragraphs (n) and (o)(2) of this AD, and figure 4 to paragraphs (n) and (o)(2) of this AD, or having a part number identified as ''old'' in table 1 to paragraphs (l), (m)(2), (n)(2), and (o)(1) of this AD, is installed on that airplane as of the effective date of this AD.

FIGURE 2 TO PARAGRAPHS (n) AND (o)(2) OF THIS AD—AIR CRUISERS AND AERAZUR ESCAPE SLIDE PACK ASSEMBLIES AFFECTED BY PARAGRAPH (1) OF THIS AD

Part No.	
D31516–111	D31517–111
D31516–113	D31517–113
D31516–115	D31517–115
D31516–117	D31517–117
D31516–311	D31517–311
D31516–313	D31517–313

FIGURE 3 TO PARAGRAPHS (n) AND (o)(2) OF THIS AD—AIR CRUISERS AND AERAZUR ESCAPE SLIDE PACK ASSEMBLIES AFFECTED BY PARAGRAPHS (g) AND (h) OF THIS AD (IF FITTED WITH A RESERVOIR AND VALVE ASSEMBLY P/N D18309–105 OR P/N D18309–205)

Part No.	
D30664–105	D30665–105
D30664–107	D30665–107
D30664–109	D30665–109
D30664–305	D30665–305
D30664–307	D30665–307
D30664–309	D30665–309
D30664–311	D30665–311

FIGURE 4 TO PARAGRAPHS (n) AND (o)(2) OF THIS AD—AIR CRUISERS AND AERAZUR ESCAPE SLIDE PACK ASSEMBLIES NOT APPROVED FOR FURTHER INSTALLATION ON ANY AIRPLANE

Part No.	
D30664–101	D30665–101
D30664–103	D30665–103
D31516–101	D31517–101
D31516–103	D31517–103
D31516–105	D31517–105
D31516–107	D31517–107
D31516–109	D31517–109

(o) New: Parts Installation Prohibition

(1) As of the effective date of this AD, do not install on any airplane any escape slide pack assembly having a part number identified as ''old'' in table 1 to paragraphs (l), (m)(2), (n)(2), and (o)(1) of this AD.

(2) As of the effective date of this AD, do not install on any airplane an escape slide pack assembly having a part number identified in figure 2 to paragraphs (n) and (o)(2) of this AD, figure 3 to paragraphs (n) and (o)(2) of this AD, and figure 4 to paragraphs (n) and (o)(2) of this AD.

(3) Installation of an escape slide pack assembly having a part number approved after March 18, 2016 (the effective date of EASA AD 2016–0043), constitutes compliance with the requirements of paragraph (l) of this AD, provided the conditions as specified in paragraphs (o)(3)(i) and (o)(3)(ii) of this AD are met.

(i) The part number must be approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the EASA; or Airbus's EASA DOA; and

(ii) The installation must be accomplished in accordance with airplane modification instructions approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the EASA; or Airbus's EASA DOA.

(p) Credit for Previous Actions

(1) This paragraph provides credit for actions required by paragraph (m)(1) of this AD, if those actions were performed before the effective date of this AD using the applicable service information in paragraphs (p)(1)(i) through (p)(1)(iv) of this AD.

(i) Airbus Service Bulletin A320–25–1B81, dated August 13, 2015.

(ii) Airbus Service Bulletin A320–25–1B82, dated August 13, 2015.

(iii) Airbus Service Bulletin A320–25–1B83, dated July 31, 2015.

(iv) Airbus Service Bulletin A320–25–1B84, dated July 31, 2015.

(2) This paragraph provides credit for actions required by paragraph (m)(2) of this AD, if those actions were performed before the effective date of this AD using Zodiac Aero Evacuation Systems Service Bulletin S.B. A320 004–25–96, dated July 9, 2015; and Zodiac Aero Evacuation Systems Service Bulletin S.B. A320 004–25–97, dated July 9, 2015; as applicable.

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

(3) *Required for Compliance (RC):* 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.

(r) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA AD 2016–0043, dated March 4, 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–2017–0556.

(2) For more information about this AD, contact: Sanjay Ralhan, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1405; fax 425–227–1149.

(3) For Airbus service information identified in this AD, contact Airbus, Airworthiness Office—EIAS, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com;* Internet *http://www.airbus.com.* For Zodiac Aerospace service information identified in this AD, contact Air Cruisers, Cage Code 70167, 1747 State Route 34, Wall Township, NJ 07727–3935; telephone: (732) 681–3527; Internet: *http://www.zodiacaerospace.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 June 6, 2017.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2017–12251 Filed 6–22–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2017–0390; Airspace Docket No. 17–ANM–11]

Proposed Amendment of Class D and Class E Airspace; Redmond, OR

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This action proposes to modify Class E airspace designated as an extension to a Class D or Class E surface area at Roberts Field, Redmond, OR, by removing the Notice to Airmen (NOTAM) part-time status, and would modify Class E airspace extending upward from 700 feet above the surface at the airport. The geographic coordinates for Roberts Field in the associated Class D and E airspace areas also would be amended to match the FAA's aeronautical database. These changes are necessary to accommodate airspace redesign for the safety and management of Instrument Flight Rules (IFR) operations within the National Airspace System. Also, an editorial change would be made to the Class D and Class E airspace legal descriptions replacing Airport/Facility Directory with the term Chart Supplement.

DATES: Comments must be received on or before August 7, 2017.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590; telephone: 1–800–647–5527, or (202) 366–9826. You must identify FAA Docket No. FAA–2017–0390; Airspace Docket No. 17–ANM–11, at the beginning of your comments. You may also submit comments through the Internet at *http://www.regulations.gov.*

FAA Order 7400.11A, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *http://www.faa.gov/air_traffic/publications/.* For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267–8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.11A at NARA, call (202) 741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal-regulations/ibr_locations.html.*

FAA Order 7400.11, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

FOR FURTHER INFORMATION CONTACT: Tom Clark, Federal Aviation Administration, Operations Support Group, Western Service Center, 1601 Lind Avenue SW., Renton, WA 98057; telephone (425) 203–4511.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would amend Class D and Class E airspace at Roberts Field, Redmond, OR to accommodate airspace redesign for the safety and management of Instrument Flight Rules (IFR) operations within the National Airspace System.

Comments Invited

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

environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Persons wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2017–0390/Airspace Docket No. 17–ANM–11''. The postcard will be date/time stamped and returned to the commenter.

All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

An electronic copy of this document may be downloaded through the Internet at *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov/air_traffic/publications/airspace_amendments/.*

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

Availability and Summary of Documents Proposed for Incorporation by Reference

This document proposes to amend FAA Order 7400.11A, Airspace Designations and Reporting Points, dated August 3, 2016, and effective September 15, 2016. FAA Order 7400.11A is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11A lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Proposal

The FAA is proposing an amendment to Title 14 Code of Federal Regulations (14 CFR) part 71 by modifying Class E airspace designated as an extension to a Class D or Class E surface area at Roberts Field, Redmond, OR, by shortening the segment to within 8.5 miles (from 13.5 miles) of the airport. Also, this action would eliminate the following language from the legal description of Class E airspace designated as an extension to a Class D or Class E surface area at the airport, ''This Class E airspace is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.''

Additionally, this action would modify Class E airspace extending upward from 700 feet above the surface to reduce the area east (to within 9.6 miles, from 11.5 miles) and southeast (to within 13.1 miles, from 15 miles) of the airport, and expand the area southwest (to within 10.5 miles, from 7.6 miles) of the airport. Also, this action would update the geographic coordinates for Roberts Field and replace the outdated term Airport/Facility Directory with the term Chart Supplement in the Class D and Class E airspace legal descriptions. This proposed airspace redesign is necessary for the safety and management of IFR operations at the airport.

Class D and Class E airspace designations are published in paragraph 5000, 6002, 6004, and 6005, respectively, of FAA Order 7400.11A, dated August 3, 2016, and effective September 15, 2016, which is incorporated by reference in 14 CFR 71.1. The Class D and E airspace designations listed in this document will be published subsequently in the Order.

Regulatory Notices and Analyses

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

Environmental Review

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11A, Airspace Designations and Reporting Points, dated August 3, 2016, and effective September 15, 2016, is amended as follows:

Paragraph 5000 Class D Airspace.

* * * * *

ANM OR D Redmond, OR [Amended]

Roberts Field, OR
(Lat. 44°15′15″ N., long. 121°09′00″ W.)

That airspace extending upward from the surface to and including 5,600 feet within a 5.1-mile radius of Roberts Field. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Chart Supplement.

Paragraph 6002 Class E Airspace Designated as Surface Areas.

* * * * *

ANM OR E2 Redmond, OR [Amended]

Roberts Field, OR
(Lat. 44°15′15″ N., long. 121°09′00″ W.)

That airspace within a 5.1 mile radius of Roberts Field. This Class E airspace is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Chart Supplement.

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

* * * * *

ANM OR E4 Redmond, OR [Amended]

Roberts Field, OR
(Lat. 44°15′15″ N., long. 121°09′00″ W.)

That airspace extending upward from the surface within 1 mile each side of the 122° bearing of Roberts Field extending from the 5.1-mile radius to 8.5 miles southeast of the airport.

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

* * * * *

ANM OR E5 Redmond, OR [Modified]

Roberts Field, OR
(Lat. 44°15′15″ N., long. 121°09′00″ W.)

That airspace extending upward from 700 feet above the surface within a 7.6 mile radius of Roberts Field from a 270° bearing from the airport clockwise to a 195° bearing from the airport, and within a 10.5-mile radius of Roberts Field from a 195° bearing from the airport clockwise to a 270° bearing from the airport, and within 2.6 miles each side of a 085° bearing from Roberts Field extending to 9.6 miles east of the airport, and within 4 miles northeast and 3 miles southwest of a 122° bearing from Roberts Field extending to 13.1 miles southeast of the airport.

Issued in Seattle, Washington, on June 15, 2017.

Sam S.L. Shrimpton,

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

[FR Doc. 2017–13049 Filed 6–22–17; 8:45 am]

BILLING CODE 4910–13–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R07–OAR–2017–0251; FRL–9963–75–Region 7]

Approval of Missouri Air Quality Implementation Plans; Determination of Attainment for the 2010 1-Hour Primary Sulfur Dioxide National Ambient Air Quality Standard; Jefferson County Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to determine that the Jefferson County nonattainment area, in Missouri, has attained the 2010 1-hour primary Sulfur Dioxide (SO_2) National Ambient Air Quality Standard (NAAQS) per the EPA's Clean Data Policy. This proposed determination of attainment is based upon complete, quality assured, and certified ambient air monitoring data from the 2014–2016 monitoring period, associated dispersion modeling, and supplemental emissions inventory information, which demonstrate that the Jefferson County area attained the 2010 1-hour primary SO_2 NAAQS.

DATES: Comments must be received on or before July 24, 2017.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R07–OAR–2017–0251, to *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 submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www2.epa.gov/dockets/commenting-epa-dockets*.

FOR FURTHER INFORMATION CONTACT: Ms. Tracey Casburn, Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219 at (913) 551–7016, or by email at *casburn.tracey@epa.gov*.

SUPPLEMENTARY INFORMATION: Throughout this document ''we,'' ''us,'' and ''our'' refer to the EPA. This section provides additional information by addressing the following:

I. What action is the EPA proposing?

The EPA is proposing to determine that the Jefferson County 2010 1-hour primary SO_2 nonattainment area (hereby referred to as ''the nonattainment area''), in Missouri, has attained the 2010 1-hour primary SO_2 NAAQS.[1] This proposed determination of attainment is based on a February 2016 request from the state (as later supplemented) that the EPA consider information—including complete, quality assured, and certified ambient air monitoring data from the 2013–2015 monitoring period, with additional certified monitoring data from 2016, associated dispersion modeling for the 2013–2015 emission years, as well as supplemental 2016 emissions inventory information—which show that the nonattainment area has attained the 2010 1-hour primary SO_2 NAAQS.[2] [3]

The EPA has made the monitoring data, the modeling data, the supplemental emissions inventory information and additional information submitted by the state to support this proposed action available in the docket to this rulemaking through *www.regulations.gov* and/or at the EPA Region 7 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

II. What is the background of this action?

a. Nonattainment Designation

On June 2, 2010 (75 FR 35520), the EPA established a health-based 1-hour primary SO_2 NAAQS at 75 ppb. Upon promulgation of a new or revised NAAQS, section 107(d) of the Clean Air

[1] In accordance with Appendix T to 40 CFR part 50, the 1-hour primary SO_2 NAAQS is met at an ambient air quality monitoring site when the valid 1-hour primary standard design value is less than or equal to 75 parts per billion (ppb). 40 CFR 50.17(b).

[2] In accordance with Appendix T to 40 CFR part 50, a 1-hour primary SO_2 NAAQS design value is valid if it encompasses three consecutive calendar years of complete data. A year meets data completeness requirements when all 4 quarters are complete. A quarter is complete when at least 75 percent of the sampling days for each quarter have complete data. A sampling day has complete data if 75 percent of the hourly concentration values, including state-flagged data affected by exceptional events which have been approved for exclusion by the Administrator, are reported.

[3] Monitoring data must be reported, quality assured, and certified in accordance with the requirements set forth in 40 CFR part 58.

Act (CAA) requires the EPA to designate any area that does not meet (or that contributes to ambient air quality in a nearby area that does not meet) the NAAQS as nonattainment. On August 5, 2013, the EPA designated a portion of Jefferson County, Missouri, as nonattainment for the 2010 1-hour primary SO_2 NAAQS, effective October 4, 2013.[4] The designation was based on 2008–2010 monitoring data in Herculaneum, Missouri, which monitored violations of the standard (see section III of this document for additional monitoring information). The effective date of the nonattainment designation was October 4, 2013. This action established an attainment date five years after the effective date for the areas designated as nonattainment for the 2010 SO_2 NAAQS (*i.e.,* by October 4, 2018). The state was also required to submit a State Implementation Plan (SIP) for the nonattainment area to the EPA that meets the requirements of CAA sections 110, 172(c) and 191–192 within 18 months following the October 4, 2013, effective date of designation (*i.e.,* by April 4, 2015). The State of Missouri submitted the ''Nonattainment Area Plan for the 2010 1-Hour Sulfur Dioxide National Ambient Air Quality Standard Jefferson County Sulfur Dioxide Nonattainment Area'' on June 5, 2015.

b. Clean Data Policy

Where states request a clean data determination of a designated SO_2 NAAQS nonattainment area, the EPA will determine whether or not an area has attained the NAAQS based on air quality monitoring data (when available) and air quality dispersion modeling information for the affected area as necessary. The EPA issued ''Clean Data'' policy memoranda for SO_2 and other NAAQS describing reduced attainment planning requirements for nonattainment areas that attain the NAAQS, but have not yet been redesignated as attainment.[5] [6] Additionally, the EPA has issued national rulemakings that have codified this policy for ozone and fine particulate matter ($PM_{2.5}$) NAAQS.[7] Under the Clean Data policy, the EPA interprets the requirements of the CAA that are specifically designed to help an area achieve attainment, such as attainment demonstrations and implementation of reasonably available control measures (including reasonably available control technology), reasonable further progress (RFP) demonstrations, and contingency measures, to be suspended as long as air quality continues to meet the standard.

In the memorandum of April 23, 2014, from Steve Page, Director, EPA Office of Air Quality Planning and Standards to the EPA Air Division Directors ''Guidance for 1-hr SO_2 Nonattainment Area SIP Submissions'' (2014 SO_2 Nonattainment Area Guidance), the EPA explained its intention to extend the Clean Data Policy to 1-hour SO_2 nonattainment areas that attained the standard. As noted therein, the legal bases set forth in the various guidance documents and regulations establishing the Clean Data Policy for other pollutants are equally pertinent to all NAAQS.[8] This proposed rule is also consistent with prior actions of the EPA applying the Clean Data Policy to two other nonattainment areas under the 2010 SO_2 NAAQS.[9]

Clean data determinations are not redesignations to attainment. For the EPA to redesignate an area to attainment, a state must submit and receive full approval of a redesignation request that satisfies all of the statutory criteria for redesignation to attainment, including a demonstration that the improvement in the area's air quality is due to permanent and enforceable reductions; have a fully approved SIP that meets all of the applicable requirements under CAA section 110 and CAA part D; and have a fully approved maintenance plan.

c. How does a nonattainment area achieve ''clean data'' for the 2010 1-hour primary SO_2 NAAQS?

Generally, the EPA relies on ambient air quality monitoring data alone in order to make determinations of attainment for areas designated nonattainment for a particular NAAQS. However, given the Agency's historical approach toward SO_2, the source-specific nature of SO_2 emissions, and the localized effect of those emissions, in the preamble to the 2010 1-hour primary SO_2 NAAQS rulemaking, the EPA stated that it did not expect to rely solely on monitored air quality data in all areas when determining if an area has attained the 2010 1-hour primary SO_2 NAAQS (75 FR 35551). As the EPA noted in the preamble, in order for the EPA to determine that an area is attaining the 2010 1-hour primary SO_2 NAAQS, dispersion modeling may be needed to show no violating receptors even if a monitoring site showed no violations.[10] This was because, as the EPA explained in the preamble, the Agency did not expect that most existing SO_2 monitors were well sited to record maximum 1-hour ambient SO_2 concentrations under the new NAAQS. The 2014 SO_2 Nonattainment Area Guidance states that, in order for a nonattainment area that was designated based on air quality monitoring data to be determined as attaining the NAAQS, the state would need to meet a series of criteria. First, the state would need to demonstrate that the area is meeting the standard based on three consecutive calendar years of air quality monitoring that is complete and quality-assured (consistent with 40 CFR part 58 requirements). Second, the state would need to either (1) provide modeling of the most recent three years of actual

[4] 78 FR 47191 (August 5, 2013), codified at 40 CFR 81.326.

[5] Memorandum of December 14, 2004, from Steve Page, Director, EPA Office of Air Quality Planning and Standards to the EPA Air Division Directors, ''Clean Data Policy for the Fine Particle National Ambient Air Quality Standards.'' This document is available at: *http://www.epa.gov/pmdesignations/guidance.htm.*

[6] The memorandum of April 23, 2014, from Steve Page, Director, EPA Office of Air Quality Planning and Standards to the EPA Air Division Directors ''Guidance for 1-hr SO_2 Nonattainment Area SIP Submissions'' provides guidance for the application of the clean data policy to the 2010 1-hour primary SO_2 NAAQS. This document is available at *https://www.epa.gov/sites/production/files/2016-06/documents/20140423guidance_nonattainment_sip.pdf.*

[7] *See, e.g.,* 81 FR 58010, 81 FR 58127–58129 (August 24, 2016) (promulgating 40 CFR 51.1015); 80 FR 12264, 80 FR 12296 (promulgating 51.1118). *See also* 70 FR 71612, 70 FR 71664–46 (November 29, 2005); 72 FR 20585, 72 FR 20603–20605 (April 25, 2007).

[8] See court cases upholding legal basis for the EPA's Clean Data Determination Policy, *NRDC* v. *EPA*, 571 F.3d at 1258–61 (D.C. Cir. 2009); *Sierra Club* v. *EPA*, 99 F.3d 1551 (10th Cir. 1996); *Latino Issues Forum* v. *EPA*, 315 Fed. App. 651, 652 (9th Cir. 2009).

[9] 82 FR 13227 (March 10, 2016) and 81 FR 28718 (May 10, 2016).

[10] As noted in the preamble to the 2010 1-hour primary SO_2 NAAQS (75 FR 35551), this has been the EPA's general position throughout the history of implementation of the SO_2 NAAQS program. *See, e.g.,* ''Air Quality Control Regions, Criteria, and Control techniques; Attainment Status Designations,'' 43 FR 40412, 43 FR 40415–43 FR 40416 (September 11, 1978); ''Air Quality Control Regions, Criteria, and Control Techniques,'' 43 FR 45993, 43 FR 46000–43 FR 46002 (October 5, 1978); ''Air Quality Implementation Plans: State Implementation Plans; General Preamble,'' 57 FR 13498, 57 FR 13545, 57 FR 13547–57 FR 13557, 57 FR 13548 (April 16, 1992); ''Approval and Promulgation of State Implementation Plans; Call for Sulfur Dioxide SIP Revisions for Billings/Laurel, MT,'' 58 FR 41430 (August 4, 1993); ''Designation of Areas for Air Quality Planning Purposes; Ohio,'' 59 FR 12886, 59 FR 12887 (March 18, 1994); ''Ambient Air Quality Standards, National and Implementation Plans for Sulfur Oxides (Sulfur Dioxide),'' 60 FR 12492, 60 FR 12494–60 FR 12495 (March 7, 1995); ''Air Quality Implementation Plans; Approval and Promulgation: Various States: Montana,'' 67 FR 22167, 67 FR 22170–67 FR 22171, 67 FR 22183–67 FR 22887 (May 2, 2002).

emissions for the area or (2) provide a demonstration that the affected monitor(s) is or are located in the area of maximum concentration. As explained in more detail later in this section, the EPA believes that it is permissible to substitute current source-specific allowable emissions for actual emissions for the purpose of demonstrating (1) in this paragraph.

If a demonstration shows that the monitor(s) is or are located in the area of maximum concentration, the EPA believes that it may be appropriate to determine that the nonattainment area is attaining the standard based on monitoring data alone. The state did not submit a demonstration that the monitor was located in the area of maximum concentration, therefore its submittal needed to provide a modeling demonstration in support of a clean data determination.

The 2014 SO_2 Nonattainment Area Guidance states that, when air agencies provide monitoring and/or modeling to support clean data determinations, the monitoring data provided by the state should follow the EPA's ''SO_2 NAAQS Designations Source-Oriented Monitoring Technical Assistance Document'' (SO_2 monitoring TAD) and the modeling provided by the state should follow the EPA's ''SO_2 NAAQS Designations Modeling Technical Assistance Document'' (SO_2 Modeling TAD).[11] [12] The SO_2 Modeling TAD outlines modeling approaches for future SO_2 NAAQS attainment status designations and states that, for the purposes of modeling to characterize air quality for use in SO_2 designations, the EPA recommends using a minimum of the most recent three years of actual emissions data and concurrent meteorological data to allow the modeling to simulate what a monitor would observe. Additionally, the SO_2 Modeling TAD indicates that it is acceptable to use allowable emission rates instead of actual emission rates. Although past actual emissions could have been higher than those under the most recent allowable rate, the SO_2 Modeling TAD reflects the EPA's belief that it is reasonable to account for any lower allowable limits currently in place when determining if an area is attaining the NAAQS. In addition, the SO_2 Modeling TAD indicates that, where an allowable emissions limit has been lowered during the relevant three-year period (such as through the implementation of emissions controls), the air agency may rely on the new limit in demonstrating that the modeled limit assures attainment. In this fashion, the most recent permitted or potential to emit rate should be used along with a minimum of the most recent three years of meteorological data.[13]

The EPA believes that modeling a mix of current allowable emissions and actual emissions would be permissible in such an analysis as long as the same type of emissions are used for each source for all three years. For instance, if a state decided to use current allowables for a facility in a modeling analysis, the state would need to use current allowables for all three years of the analysis for that facility. The state would not necessarily need to use current allowables for the other sources in the analysis (*i.e.,* actuals would be permissible for all three years for other sources in the area). The EPA believes this kind of analysis is appropriate for both designations and clean data determinations, both of which use the analysis to determine whether the area is currently meeting the NAAQS.

The EPA recognizes that its 2014 SO_2 Nonattainment Area Guidance does not on its face suggest that modeling allowable emissions would be an acceptable alternative to modeling actual emissions in the clean data determination or redesignations contexts. However, the Agency considers it to have been an oversight on its part not to have addressed this alternative possibility in the 2014 SO_2 Nonattainment Area Guidance, as the Agency clearly has endorsed the use of both actual emissions and allowable emissions in the SO_2 Modeling TAD in general and in the recent rounds of area designations under the SO_2 NAAQS, in contexts where, as here, the Agency is making a factual judgment about whether an area has attained the NAAQS. Moreover, the 2014 guidance also suggests that modeling of allowables emissions, combined with other information, could also be used to determine whether, after the attainment deadline has passed, areas in fact timely attained the NAAQS under CAA section 179. Therefore, although the SO_2 Nonattainment Area Guidance was silent on using allowable emissions in the clean data determination and redesignations contexts, the EPA believes it is not inconsistent with the guidance to endorse that practice now, provided the allowables-based modeling is conducted appropriately pursuant to the SO_2 Modeling TAD and applicable EPA regulations such as those governing stack heights and dispersion techniques at 40 CFR 51.100 and 40 CFR 51.118.

d. What information did the state provide to the EPA to demonstrate that the area attained the NAAQS?

On February 2, 2016, the state submitted a request asking the EPA to determine that the nonattainment area attained the 2010 1-hour primary SO_2 NAAQS per the EPA's Clean Data Policy. The request included the most recent three years of complete, quality assured, and certified ambient air monitoring data from the 2013–2015 monitoring period; the design value for 2013–2015 was 66.0 ppb. In a response letter, dated March 4, 2016, the EPA stated that, because the request did not include a modeling demonstration showing attainment utilizing the most recent three years of actual emissions or a demonstration that the monitor was located in the area of maximum concentration for the nonattainment area, the state's request did not contain the necessary supporting information as outlined in the EPA's 2014 SO_2 Nonattainment Area Guidance. In a letter dated August 4, 2016, the state provided modeling of the most recent three years of actual emissions (2013–2015) for the nonattainment area. However, in the provided modeling, the Doe Run Herculaneum facility was zeroed out despite the fact that the facility was still operating in 2013.[14] On November 9, 2016, the EPA asked the state (via email) to provide additional information regarding the exclusion of emissions from the Doe Run Herculaneum facility for the 2013–2015 emission years from the modeling demonstration as well as additional information regarding its selection of the 2014 emissions data year as a surrogate for the interactive sources' emissions.[15] The state submitted supporting information to the EPA on November 21, 2016. In its November

[11] The SO_2 NAAQS Designations Source-Oriented Monitoring Draft Technical Assistance Document, Office of Air Quality Planning and Standards, Air Quality Assessment Division, May 2013, can be found at *https://www.epa.gov/sites/production/files/2016-06/documents/so2monitoringtad.pdf.*

[12] The SO_2 NAAQS Designations Modeling Technical Assistance Document, Office of Air Quality Planning and Standards, Air Quality Assessment Division, May 2013, can be found at *https://www.epa.gov/sites/production/files/2016-06/documents/so2modelingtad.pdf.*

[13] See page 10 of the SO_2 Modeling TAD.

[14] The Doe Run Herculaneum (Herculaneum) facility was a lead smelting facility identified by the state and the EPA as the largest source of SO_2 emissions in Jefferson County at the time of the promulgation of nonattainment designations in 2013. The facility ceased operations in December 2013. Although the source operated in 2013, emitting 11,477 tons of SO_2, the state zeroed out its emissions in each of the 2013–2015 emission years in the modeling information.

[15] The state modeled all interactive sources utilizing the sources' 2014 emission limits (essentially modeling the 2014 emissions input three times). The EPA requested that the state confirm that utilizing 2014 as a surrogate for 2013 and 2015 was appropriate.

2016 submittal the state spoke to the complexity of modeling fugitive emissions from the Doe Run Herculaneum facility and the appropriateness of utilizing 2014 emissions as a surrogate for the interactive sources. On February 22, 2017, the state provided additional supplemental information that consisted of available 2016 emissions inventory information. On May 1, 2017, the EPA received email notification from the state that its 2016 ambient air quality data was certified as complete and continues to show attainment of the standard; the design value for 2014–2016 is 23.0 ppb. These communications are available in the docket for this action.

e. What is the EPA's rationale for proposing this action?

The EPA is proposing to issue a determination of attainment for the nonattainment area based on the area's 2013–2015 modeling demonstration, which is supported by monitoring data from the Mott Street monitor. The 2014 SO_2 Nonattainment Area Guidance and the accompanying 2016 SO_2 Modeling TAD allow for nonattainment areas to model a mix of actual emissions and current allowable emissions, and as noted previously, we interpret that document to also allow this approach for a clean data determination.

The state modeled actual emissions for all sources except for the Doe Run Herculaneum facility, which was modeled at zero emissions, since the facility shut down in December 2013.[16] This treatment of the Doe Run Herculaneum facility is appropriate because the demonstration includes emissions for Doe Run Herculaneum using the most recent allowable emissions rate, which has been permanently and enforceably lowered during the relevant period. The maximum modeled impact from the model scenario is 172.8 μg/m3, or 66 ppb, which complies with the 1-hour standard of 75 ppb. The model results satisfy the criteria for determinations of attainment according to the EPA's guidance and policy.

III. What is the EPA's analysis of the state's air quality monitoring and modeling data, and the state's supplemental emissions inventory information?

a. Ambient Air Quality Monitoring Data Evaluation

According to the 2014 SO_2 Nonattainment Area Guidance, to support a clean data determination based on monitoring, the state needs to demonstrate that the area is meeting the standard based on three consecutive calendar years of complete and quality-assured air quality monitoring data (consistent with 40 CFR part 58 requirements). The EPA has determined that three complete consecutive calendar years of quality-assured air quality monitoring data from the Mott Street monitor have been recorded in the EPA's Air Quality System (AQS), and the data meets the requirements of Appendix T to 40 CFR part 50 and 40 CFR part 58. This data suggests improved air quality in the nonattainment area. As shown in Table 1, the 99th percentile 1-hour average (in ppb) at the Mott Street Monitor has decreased after 2013, when the Doe Run Herculaneum facility ceased primary smelting operations. As shown in Table 2, during the 2014–2016 monitoring period, the nonattainment area met the 2010 1-hour primary SO_2 NAAQS. The certified annual design value for the nonattainment area for the 2014–2016 monitoring period is 23.0 ppb. Although clean data at a monitor sited in the area of maximum concentration could be sufficient for purposes of a clean data determination under the EPA's guidance, the state did not submit a demonstration showing that the Mott Street monitor is located in the area of maximum concentration. Thus, the monitoring data on its own is not sufficient to support a clean data determination in this case, and, as such, the state submitted modeling to support the clean data determination.

TABLE 1—99TH PERCENTILE 1-HOUR AVERAGE IN PARTS PER BILLION (PPB) AT THE MOTT STREET MONITOR

[2013–2016]

Monitor	Site name	2013	2014	2015	2016
29–099–0027	Mott Street	143	18	38	13

TABLE 2—1-HOUR PRIMARY SO_2 NAAQS DESIGN VALUE (DV) FOR THE MOTT STREET MONITOR 99TH PERCENTILE 1-HOUR AVERAGE IN PARTS PER BILLION (PPB) AT THE MOTT STREET MONITOR

[2014–2016]

State	County	Monitor	Site name	dv
MO	Jefferson	29–099–0027	Mott Street	23.0

b. Modeling Data and Supplemental 2016 Emissions Information Evaluation

As noted earlier, the 2014 SO_2 Nonattainment Area Guidance states that, in order for the EPA to make a clean data determination, the state may need to submit information in addition to monitoring data if the area was designated nonattainment based on air quality monitoring data. In August 2016, the state submitted modeling data for the most recent three years (2013–2015).[17] In February 2017, the state submitted supplemental preliminary 2016 emissions data in support of assumptions made in the 2013–2015 modeling demonstration.[18] The EPA reviewed the submitted modeling data

[16] The Doe Run was limited to the terms of a consent decree applicable to the Herculaneum facility entered into by Doe Run, Missouri, and EPA in the United States District Court in the Eastern District of Missouri, Case No. 4:10–cv–01895–JCH on December 21, 2011 (2011 Consent Decree). On December 31, 2013, pursuant to the terms of the 2011 Consent Decree, Doe Run permanently ceased operations of the sintering plant. The 2011 Consent Decree also required Doe Run to permanently cease smelting operations and retire the blast furnaces by April 30, 2014; Doe Run ceased operation of the blast furnaces on December 31, 2013, concurrently with the cessation of operation of the sintering plant.

[17] The state's submittal included 2013–2015 emissions data as it was the complete and quality assured data set at the time of the submittal. The submittal includes a table of the sources included in the model and the emission rates used in the model. This information is provided in the docket.

[18] 2016 emissions data submitted by the state in February 2017 included only data quality assured as of September 2016.

and supporting 2016 preliminary emissions data information for the nonattainment area to determine consistency with the EPA's Clean Data Policy, the 2014 SO_2 Nonattainment Area Guidance and the 2016 SO_2 Modeling TAD.

The EPA reviewed the August 2016 submittal to determine if the appropriate meteorological inputs were utilized. The state determined that the 2013–2015 meteorological data collected at the Doe Run Herculaneum meteorological sites were inappropriate for use in the model analysis as the data were disjointed. The data were disjointed due to a 2013 Consent Judgment between the state and Doe Run that allowed Doe Run Herculaneum to cease meteorological measurements at certain towers and to move the remaining tower to allow for site remediation. The state elected to use the most recent full three-year period (2013–2015) of data as measured at a spatially representative NWS airport site. The state utilized the St. Louis, Missouri downtown airport (Cahokia) for surface data and the Lincoln, Illinois site for upper air data. The meteorological data from the time period of 2013–2015 was processed and paired with the emissions data as discussed later in this preamble. The EPA believes that the utilization of meteorological data from these sites was appropriate.[19]

The EPA finds that the state sufficiently considered all significant sources of SO_2 emissions for inclusion in the modeling demonstration, including permitted sources of SO_2 emissions inside of the nonattainment area boundary, nearby sources (located within 20 kilometers (km) of the nonattainment area boundary and emitting greater than 1 ton per year (tpy) of SO_2) outside the nonattainment area boundary, and large sources (sources that emit greater than 2,000 tpy of SO_2) located within 50 km of the nonattainment boundary. The EPA finds the modeled source inventory was created in accordance with the 2014 SO_2 Nonattainment Area Guidance and the 2016 SO_2 Modeling TAD.

To characterize the emissions from the sources in the modeling inventory, the state used hourly varying emissions, as reported to the EPA's Clean Air Markets Division (CAMD) program database, for three of the fifteen sources, and the 2014 actual emissions, as reported in the Missouri Emission Inventory System (MoEIS), for the remaining twelve sources. For the remaining twelve sources, the state converted the annual emissions to hourly emission rates utilizing operational hours reported by the facilities (as hourly emissions were not available for these twelve sources). The state's November 2016 supplemental information indicated that the state evaluated actual emissions for each year in the three-year period (2013–2015) separately. As can be expected, there were variations in hourly emissions during the modeled time period (2013–2015); emissions from either 2013 or 2015 were slightly higher than the 2014 emissions for six of the twelve sources. As such, in the November 2016 supplemental information, the state revised the modeling to reflect the highest hourly emissions (either reported to CAMD or converted to hourly emission rates by the State) for each interactive source during the three-year period. The variation in emissions resulted in only a 0.02 percent increase on the model-predicted concentrations; the highest modeled impact increased from 172.82 $\mu g/m^3$ to 172.85 $\mu g/m^3$. Considering the variation resulted in only a 0.02 percent increase on the predicted modeling concentrations, the EPA agrees with the state's assertion that the use of hourly emission data (either reported to CAMD or converted to hourly emission rates by the State) from 2014 for the interactive sources was a reasonable representation of the time period.

The state did not include emissions from Doe Run Herculaneum in the modeling demonstration for any of the 2013–2015 emission years. The state modeled the facility at zero emissions from 2013–2015 even though the facility's primary smelting operation was active during 2013.[20] The EPA believes that this modeling analysis supports the rationale outlined in section II.e. for proposing the clean data determination. The EPA believes that modeling the Doe Run Herculaneum facility at zero emissions is in accordance with the 2016 SO_2 Modeling TAD as it is representative of current allowable emissions at the source. Because the EPA is interpreting that the 2016 SO_2 Modeling TAD's provision for modeling a mix of current allowables and actuals for area designations is also appropriate for purposes of a clean data determination, the EPA finds that the emissions from all modeled sources were characterized appropriately in the model.

As previously described, the state submitted additional information to the EPA in February 2017. In this submittal, the state acknowledged that that emissions data for the 4th quarter of 2016 was not yet available nor quality assured for modeling purposes. Most of the modeled source inventory data will not be available until at least mid-2017. However, the state compared ''data elements of 2016'' to 2013 to determine whether the 2013 data could serve as a surrogate for 2016 data.[21] The state asserted that, because the August 2016 modeling demonstration used actual emissions for the period 2013–2015 for all sources except Doe Run Herculaneum, a modeling demonstration for the period 2014–2016 would likely yield similar results because Doe Run Herculaneum was not operational in any of those three years.

The supplemental information submitted by the state included an examination of variations in meteorology and in modeled source inventory emissions. This included a qualitative climatological comparison between the years 2013 and 2016 for the St. Louis, Missouri downtown airport location and highlighted the similarities and differences observed in those years. The state asserted that the meteorological information indicates that the differences in meteorological conditions from 2013 to 2016 are insignificant.

The state also provided 2016 emissions information, as reported to CAMD, for the three EGUs (Ameren's Labadie, Meramec and Rush Island facilities) and compared them to the modeled 2013 emissions data. Partial data for 2016 (through September 30, 2016) emissions data was provided in CAMD; the state compared available 2016 emissions data (January 1, 2016–September 30, 2016) to 2013 emissions data for these three sources.[22] [23] For 2016, the three reported quarters were extrapolated to a full year for an annual comparison.[24] This extrapolation assumed a continuation of comparable

[19] See the state's August 2016 modeling demonstration, provided in the docket to this action, for model selection information (*i.e.,* receptor grid selection).

[20] Herculaneum emitted an estimated 11,477 tons of SO_2 in 2013 prior to it ceasing operations in December of 2013.

[21] Key data elements included meteorological data, available emission data and monitoring data.

[22] Ameren's Labadie and Meramec facilities are not in the nonattainment area but are within 50 km of the nonattainment area and emit greater than 2,000 tpy of SO_2. Therefore, they were included in the state's modeling demonstration and subsequent supplemental information.

[23] All emissions data used in the analysis are available through the EPA's CAMD database online. *https://www.epa.gov/airmarkets/clean-air-markets-data-resources.*

[24] The first three quarters of 2016 were extrapolated to a full year for annual comparison by multiplying by 75 percent (×/0.75).

emission levels. The extrapolated 2016 data indicated that the Labadie facility's SO_2 emissions decreased 21 percent, the Meramec facility's SO_2 emissions decreased 23 percent and the Rush Island facility's SO_2 emissions decreased 3 percent from 2013 annual emission rates. The state also asserted that updating the modeling data to include 2014–2016 emissions and meteorological information would not change the outcome of the previously submitted modeling information (which utilized 2013–2015 data) that modeled attainment of the NAAQS. Essentially, the state claimed, the maximum modeled impact from the model scenario (172.8 μg/m^3 or 66 ppb in the northwest portion of the nonattainment area) utilizing 2013–2015 emission data without Doe Run Herculaneum emissions, is indicative of 2014–2016 air quality without contributions from the Doe Run Herculaneum facility and demonstrates that the nonattainment area has attained the standard of 75 ppb.

While the state's analysis of available 2016 emissions and meteorology data is informative, the EPA interprets that the 2014 SO_2 Nonattainment Area Guidance and the 2016 SO_2 Modeling TAD allows for modeling of a mix of actual emissions and current allowable emissions to support a clean data determination, and therefore the state's 2013–2015 modeling demonstration is sufficient to allow an assessment as to whether the area has achieved clean data.

The EPA acknowledges the Doe Run Herculaneum facility's primary smelting operation is permanently shut down and recognizes the corresponding relationship between the decrease in the emissions from Doe Run Herculaneum and the decreased monitored concentrations at the Mott Street monitor as seen in table 3. The maximum hourly SO_2 concentration was reduced by 87 percent from 2013 (143 ppb) to 2014 (18 ppb) after the Doe Run Herculaneum facility closed. A comparison of the 99th percentile 1-hr average from the last full production year (2012) to the first post-shutdown year (2014) shows a 93 percent reduction in monitored SO_2 concentrations.

TABLE 3—DECREASE IN DOE RUN HERCULANEUM SO_2 EMISSIONS VS. THE DECREASE IN MONITORED 99TH PERCENTILE 1-HOUR AVERAGES

[2012–2015]

Year	99th percentile 1-hour average (ppb)	Herculaneum SO_2 emissions (tpy)
2012	268	17,894
2013	143	11,477
2014	18	<1
2015	38	<1

The maximum modeled impact from the 2013–2015 model scenario is 172.8 μg/m^3 or 66 ppb which complies with the 1-hour standard of 75 ppb. The model results, along with monitored attainment of the NAAQS at the Mott Street monitor for the same time period, satisfies the criteria for clean data according to the EPA's guidance. Certified and quality assured 2016 air quality monitoring data is indicative of a substantial improvement in SO_2 air quality in the nonattainment area; the design value for 2014–2016 is 23.0 ppb. Missouri's monitoring data, technical modeling analysis and supplemental information all support an EPA determination, consistent with its Clean Data Policy, that the nonattainment area has clean data and warrants a clean data determination.

VI. What would be the effects of this action, if promulgated?

If this proposed determination is made final, the requirements for the state to submit an attainment demonstration, a reasonable further progress plan, contingency measures, and other planning SIPs revisions related to attainment of the 2010 1-hour primary SO_2 NAAQS shall be suspended until such time, if any, that the EPA subsequently determines, after notice-and-comment rulemaking in the **Federal Register**, that the area has violated the 2010 1-hour primary SO_2 NAAQS. If this were to occur, the basis for the suspension of the specific SIP requirements would no longer exist, and the state would thereafter have to address the pertinent requirements. If finalized, this determination of attainment would not shield the area from other required actions, such as provisions to address pollution transport, which could require emission reductions at sources or other types of emission activities contributing significantly to nonattainment in other areas or states, or interfering with maintenance in those areas. The EPA has the authority to require emissions reductions as necessary and appropriate to deal with transported air pollution situations. See CAA sections 110(a)(2)(D), 110(a)(2)(A), and 126.

If, after considering any comments received on this proposal, the EPA finalizes a clean data determination for this area, the state would need to continue to monitor and/or model air quality to verify continued attainment. The air agency would be expected to continue to operate an appropriate air quality monitoring network in the affected area, in accordance with the EPA regulations, to verify the attainment status of the area (see 40 CFR part 58).

This proposed clean data determination is limited to a determination that the area attained the 2010 1-hour primary SO_2 NAAQS as evidenced by the state's monitoring data and modeling analysis; this proposed action, if finalized, would not constitute a redesignation to attainment under section 107(d)(3) of the CAA. The designation status of the nonattainment area will remain nonattainment for the 2010 1-hour primary SO_2 NAAQS until such time as the state submits an approvable redesignation request and maintenance plan, and the EPA takes final rulemaking action to determine that such submission meets the CAA requirements for redesignation to attainment.

V. Statutory and Executive Order Reviews

This action proposes to make a determination based on air quality monitoring data and modeling and would, if finalized, result in the suspension of certain Federal requirements and would not impose any additional requirements. 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 the 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 action does not apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. 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).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Sulfur dioxide, attainment determination.

Dated: June 5, 2017.

Edward H, Chu,

Acting Regional Administrator, Region 7.

[FR Doc. 2017–13190 Filed 6–22–17; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R01–OAR–2013–0089; FRL–9963–87–Region 1]

Air Plan Approval; ME; New Motor Vehicle Emission Standards

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a State Implementation Plan (SIP) revision submitted by the State of Maine on August 18, 2015. This SIP revision includes Maine's revised regulation for new motor vehicle emission standards. Maine has updated its rule to be consistent with various updates made to California's low emission vehicle (LEV) program. Maine has adopted these revisions to reduce emissions of volatile organic compounds (VOC) and nitrogen oxides (NO_X) in accordance with the requirements of the Clean Air Act (CAA), as well as to reduce greenhouse gases. The intended effect of this action is to propose approval of Maine's August 18, 2015 SIP revision. This action is being taken under the Clean Air Act.

DATES: Written comments must be received on or before July 24, 2017.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R01–OAR–2013–0089 at *http://www.regulations.gov,* or via email to *arnold.anne@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, the EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the Web, cloud, or other file sharing system). For additional submission methods, 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: Eric Rackauskas, Air Quality Planning Unit, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square, Suite 100 (mail code: OEP05–2), Boston, MA 02109–3912, telephone number (617) 918–1628, fax number (617) 918–0628, email *rackauskas.eric@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA.

Organization of this document. The following outline is provided to aid in locating information in this preamble.

I. Background and Purpose

On August 18, 2015, the Maine Department of Environmental Protection (DEP) submitted a revision to its SIP consisting of Maine's amended Chapter 127 ''New Motor Vehicle Emission Standards.'' The regulation establishes motor vehicle emission standards for new gasoline powered passenger cars, light-duty trucks, medium-duty vehicles, as well as for heavy-duty diesel vehicles.

A prior version of Maine's Chapter 127 is currently in the Maine SIP. It was effective in the State of Maine on December 31, 2000 and approved by EPA into the SIP on April 28, 2005 (70 FR 21959). The SIP-approved version of Chapter 127 includes California's LEV I and LEV II standards, effective for model years 1994–2003 and 2004–2010, respectively. It does not include the California zero emission vehicle (ZEV) mandate for Maine.

Since that time, Maine has made several revisions to Chapter 127. The version included in Maine's August 18, 2015 SIP revision includes the following requirements, beyond those previously approved into the SIP. The SIP revision includes California's 2007 heavy-duty diesel engine (HDDE) emission standards. This was phased in from 2007 through 2009, with full compliance required for model year 2010 and subsequent engines. The California regulations were identical to EPA's HDDE rule that requires engines to emit 95% less NO_X and 90% less particulate matter (PM) than the previous standards.

Maine's revised regulation also includes requirements for diesel fueled auxiliary power units (APUs). APUs are engines, other than the main vehicle engine, that could be used for heating or cooling a sleeper truck, or powering a refrigerator unit while the main vehicle engine is powered down. The amended Chapter 127 allows truck owners to install either a California certified or a Federal Tier 4 certified APU.[1]

Maine's revised rule also includes the California ZEV program. In 2003, the California Air Resources Board (CARB) finalized modifications to the ZEV program that better aligned the requirements with the status of then-available technology development. The updated CARB regulations require that 10% of vehicles be ZEVs starting in

[1] For information on the Federal Tier 4 diesel program see 40 CFR part 1039.

2005, and allow manufacturers to earn and bank credits for those types of vehicles produced before 2005. The program also includes an ''alternative compliance path'' that allowed advanced technology partial ZEVs (AT PZEVs) (gasoline electric hybrids) to be used to meet ZEV requirements, provided that manufacturers meet a requirement that a portion of the motor vehicle fleet be fueled by hydrogen fuel cells. The modifications to the ZEV program also broadened the scope of vehicles that qualified for meeting a portion of the ZEV sales requirement.

Maine's amended Chapter 127 also reflects changes to California's LEV II program that incorporated motor vehicle greenhouse gas (GHG) emission standards. These standards apply to model year 2009–2016 passenger cars, light-duty trucks, and medium-duty passenger vehicles, and maintain identical standards with California for all vehicle weight classes as required by Section 177 of the CAA. Maine originally adopted the vehicle GHG emission standards as part of their overall goal to reduce GHG emissions to 1990 levels by 2010, with a further reduction of another 10% by 2020.

Additionally, Maine's revised rule includes California's LEV III, updated GHG, and updated ZEV standards and sales requirements. These three items were 'packaged' together by California as part of its Advanced Clean Cars (ACC) program. LEV III standards apply to 2015 and subsequent model year vehicles. The LEV III standards will increase the stringency of PM and evaporative emission standards, and reduce the fleet average hydrocarbon and NO_X emissions to achieve super ultra-low emissions vehicle (SULEV) standards by 2022. The updated GHG rule extends GHG emission standards for all new vehicles up to 10,000 pounds through 2025 and subsequent model years. The updated ZEV regulations apply to any 2018 and subsequent model year passenger cars and light-duty trucks.

Maine's revised rule also requires that vehicles display an environmental performance label. Furthermore, the rule requires that aftermarket catalytic converters be certified to CARB standards as of June 1, 2018.

II. The California LEV Program

CARB adopted the first generation of LEV regulations (LEV I) in 1990, which impacted vehicles through the 2003 model year. CARB adopted California's second generation LEV regulation (LEV II) following a November 1998 hearing. Subsequent to the adoption of the California LEV II program in February 2000, EPA adopted separate Federal standards known as the Tier 2 regulations (February 10, 2000; 65 FR 6698). In December 2000, CARB modified the California LEV II program to take advantage of some elements of the Federal Tier 2 regulations to ensure that only the cleanest vehicle models would continue to be sold in California. EPA granted California a waiver for its LEV II program on April 22, 2003 (68 FR 19811). In 2012, CARB 'packaged' the third generation LEV program (LEV III) with updated GHG emission standards and ZEV requirements as part of the ACC program. EPA granted California a waiver for the ACC program on January 9, 2013 (78 FR 2112).

The LEV II and LEV III regulations expanded the scope of LEV I regulations by setting strict fleet-average emission standards for light-duty, medium-duty (including sport utility vehicles) and heavy-duty vehicles. The standards for LEV II began with the 2004 model year and increased in stringency with each vehicle model year. The LEV III standards began in 2015 and continue to increase emission stringency with each progressive vehicle model year through 2025 and beyond.

The manufacturer must show that the overall fleet for a given model year meets the specified phase-in requirements according to the fleet average non-methane hydrocarbon requirement for that year. The fleet average non-methane hydrocarbon emission limits are progressively lower with each model year. The program also requires auto manufacturers to include a ''smog index'' label on each vehicle sold, which is intended to inform consumers about the amount of pollution produced by that vehicle relative to other vehicles.

In addition to meeting the LEV II and LEV III requirements, large or intermediate volume manufacturers must ensure that a certain percentage of the passenger cars and light-duty trucks that they market in California are ZEVs. This is referred to as the ZEV mandate. California has modified the ZEV mandate several times since it took effect. One modification allowed an alternative compliance program (ACP) to provide auto manufacturers with several options to meet the ZEV mandate. The ACP established ZEV credit multipliers to allow auto manufacturers to take credit for meeting the ZEV mandate by selling more partial ZEVs (PZEVs) and AT PZEVs than they are otherwise required to sell. On December 28, 2006, EPA granted California's request for a waiver of Federal preemption to enforce provisions of the ZEV regulations through 2011 vehicle model year. In a letter dated June 27, 2012, CARB requested that EPA grant a waiver of preemption that allowed updated ZEV regulations as part of the ACC program. These updated ZEV regulations will require manufacturers to produce increasing numbers of ZEVs and plug-in hybrid electric vehicles in 2018 and subsequent years. EPA granted this waiver on January 9, 2013 (78 FR 2112).

On October 15, 2005, California amended its LEV II program to include GHG emission standards for passenger cars, light-duty trucks, and medium-duty passenger vehicles. On December 21, 2005, California requested that EPA grant a waiver of preemption under CAA section 209(b) for its GHG regulations. On June 30, 2009, EPA granted CARB's request for a waiver of CAA preemption to enforce its GHG emission standards for new model year 2009 and later motor vehicles (July 8, 2009; 74 FR 32744–32784). Approval for updated and extended GHG emissions was granted by EPA as part of the January 9, 2013 ACC waiver (78 FR 2112), which includes regulations that incrementally reduce GHG emissions though 2025 and beyond.

III. Relevant EPA and CAA Requirements

Section 209(a) of the CAA prohibits states from adopting or enforcing standards relating to the control of emissions from new motor vehicles or new motor vehicle engines. However, under section 209(b) of the CAA, EPA shall grant a waiver of the section 209(a) prohibition to the State of California if EPA makes specified findings, thereby allowing California to adopt its own motor vehicle emission standards. Furthermore, other states may adopt California's motor vehicle emission standards under section 177 of the CAA.

For additional information regarding California's motor vehicle emission standards and adoption by other states, please see EPA's ''California Waivers and Authorizations'' Web page at URL address: *http://www.epa.gov/otaq/cafr.htm.* This Web site also lists relevant **Federal Register** notices that have been issued by EPA in response to California waiver and authorization requests.

A. Waiver Process

The CAA allows California to seek a waiver of the preemption which prohibits states from enacting emission standards for new motor vehicles. EPA must grant this waiver before California's rules may be enforced. When California files a waiver request, EPA publishes a notice for public

hearing and written comment in the **Federal Register**. The written comment period remains open for a period of time after the public hearing. Once the comment period expires, EPA reviews the comments and the Administrator determines whether the requirements for obtaining a waiver have been met.

According to CAA section 209—State Standards, EPA shall grant a waiver unless the Administrator finds that California:

—Was arbitrary and capricious in its finding that its standards are in the aggregate at least as protective of public health and welfare as applicable Federal standards;
—Does not need such standards to meet compelling and extraordinary conditions; or
—Proposes standards and accompanying enforcement procedures that are not consistent with section 202(a) of the CAA.

The most recent EPA waiver relevant to EPA's proposed approval of Maine's LEV program is ''California State Motor Vehicle Pollution Control Standards; Notice of Decision Granting a Waiver of Clean Air Act Preemption for California's Advanced Clean Car Program and a Within the Scope confirmation for California's Zero Emissions Vehicle Amendments for 2017 and Earlier Model Years'' (January 9, 2013; 78 FR 2112–2145). This final rulemaking allows California to strengthen standards for LEV regulations and GHG emissions from passenger cars, light-duty trucks and medium-duty vehicles. It also allows for continuing ZEV regulations by requiring more ZEV manufacturing and sales through 2025 and subsequent years.

B. State Adoption of California Standards

Section 177 of the CAA allows other states to adopt and enforce California's standards for the control of emissions from new motor vehicles, provided that, among other things, such state standards are identical to the California standards for which a waiver has been granted under CAA section 209(b). In addition, the state must adopt such standards at least two years prior to the commencement of the model year to which the standards will apply. EPA issued guidance (CISD–07–16) [2] regarding its cross-border sales policy for California-certified vehicles. This guidance includes a list and map of states that have adopted California standards, specific to the 2008–2010 model years. All SIP revisions submitted to EPA for approval must also meet the requirements of CAA section 110(l).

The provisions of section 177 of the CAA require Maine to amend the Maine LEV program at such time as the State of California amends its California LEV program. Maine has demonstrated its commitment to maintain a LEV program through the continued adoption of regulatory amendments to Maine's Chapter 127.

In addition, Maine's August 18, 2015 SIP submittal meets the anti-backsliding requirements of section 110(l) of the CAA. This SIP revision sets new requirements, the California LEV III standards, that are more stringent than the California LEV I and LEV II standards previously approved into the Maine SIP, and expands program coverage to model year vehicles not covered by the California LEV I and LEV II standards, and by extension, not previously included in the Maine SIP. Maine's revised Chapter 127 also includes increasingly stringent GHG emissions and LEV sales requirements that are not currently part of the Maine SIP.

IV. Proposed Action

EPA is proposing to approve, and incorporate into the Maine SIP, Maine's revised Chapter 127 ''New Motor Vehicle Standards,'' effective in the State of Maine on May 19, 2015, and submitted to EPA on August 18, 2015. The Maine Vehicle Emission Standards program amendments adopted by Maine include: the California LEV II GHG program beginning with model year 2009; the California LEV III program beginning with the 2015 model year; the updated California GHG emission standards beginning with model year 2017; and the California ZEV provision (updated in 2012). In addition, Maine's amendments include updated HDDE and diesel APU emission regulations, and the requirement that all aftermarket catalytic converters be CARB certified as of June 1, 2018. EPA is proposing to approve Maine's revised Chapter 127 into the Maine SIP because EPA has found that the requirements are consistent with the CAA.

In addition, EPA is proposing to remove 40 CFR 52.1035, which was promulgated on January 24, 1995 (60 FR 4737). This section states that Maine must comply with the requirements of 40 CFR 51.120, which are to implement the Ozone Transport Commission (OTC) LEV program. As noted above, Maine subsequently adopted the California LEV and LEV II program, that was approved by EPA into the SIP on April 28, 2005 (70 FR 21959). Furthermore, this proposed approval of Maine's revised Chapter 127, if finalized, will add the even more stringent California LEV III standards into Maine's SIP. Thus, Maine has satisfied 40 CFR 52.1035, and therefore, EPA is proposing to remove 40 CFR 52.1035 from the CFR. In addition, on March 11, 1997, the U.S. Court of Appeals for the District of Columbia Circuit vacated the provisions of 40 CFR. 51.120. *See Virginia* v. *EPA,* 108 F.3d 1397. Because of the vacatur, EPA concludes that 40 CFR 52.1035 is, in any event, obsolete.

EPA is soliciting public comments on the issues discussed in this notice or on other relevant matters. These comments will be considered before taking final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to this proposed rule by following the instructions listed in the **ADDRESSES** section of this **Federal Register** document.

V. Incorporation by Reference

In this rule, the 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, the EPA is proposing to incorporate by reference Maine's Chapter 127, ''New Motor Vehicle Emission Standards,'' effective in the State of Maine on May 19, 2015. The EPA has made, and will continue to make, these documents generally available electronically through *http://www.regulations.gov* and/or in hard copy at the appropriate EPA office.

VI. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 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 Clean Air Act. Accordingly, this proposed 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);

[2] See EPA's October 29, 2007 letter to Manufacturers regarding ''Sales of California-certified 2008–2010 Model Year Vehicles (Cross-Border Sales Policy),'' with attachments. *https://iaspub.epa.gov/otaqpub/display_file.jsp?docid=16888&flag=1.*

• Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

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

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

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

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

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

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

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: June 5, 2017.

Deborah A. Szaro,

Acting Regional Administrator, EPA New England.

[FR Doc. 2017–13059 Filed 6–22–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2016–0576; FRL–9963–72–Region 3]

Approval and Promulgation of Air Quality Implementation Plans; Maryland; Permits, Approvals, and Registrations

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 Maryland's administrative procedures for the issuance, denial, and appeal of permits issued by the Maryland Department of the Environment (MDE). This action is being taken under the Clean Air Act (CAA).

DATES: Written comments must be received on or before July 24, 2017.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R03–OAR–2016–0576 at *https://www.regulations.gov,* or via email to *miller.linda@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: David Talley, (215) 814–2117, or by email at *talley.david@epa.gov.*

SUPPLEMENTARY INFORMATION: On February 22, 2016, the State of Maryland through the MDE formally submitted amendments to Maryland's general administrative provisions related to CAA permitting as a revision to Maryland's SIP.

I. Background

The CAA's New Source Review (NSR) programs are preconstruction review and permitting programs applicable to new and modified stationary sources of air pollutants regulated under the CAA. The NSR programs of the CAA include a combination of air quality planning and air pollution control technology program requirements. Briefly, section 109 of the CAA requires EPA to promulgate primary national ambient air quality standards (NAAQS) to protect public health and secondary NAAQS to protect public welfare. Once EPA sets those standards, states must develop, adopt, and submit to EPA for approval a SIP that contains emissions limitations and other control measures to attain and maintain the NAAQS. Pursuant to section 110, each SIP is required to contain a preconstruction review program for the construction and modification of any stationary source of air pollution to assure that the NAAQS are achieved and maintained; to protect areas of clean air; to protect air quality-related values (such as visibility) in national parks and other areas; to assure that appropriate emissions controls are applied; to maximize opportunities for economic development consistent with the preservation of clean air resources; and, to ensure that any decision to increase air pollution is made only after full public consideration of the consequences of the decision. Section 172 of the CAA requires a permit program in areas which are not attaining the NAAQS, and section 173 provides the specific requirements for that permit program.

MDE's February 22, 2016 SIP submittal consists of revisions to regulations under section 26.11.02 (Permits, Approvals, and Registration) of the Code of Maryland Regulations (COMAR) which EPA has previously approved into the Maryland SIP. The purpose of the revisions is to incorporate amended state statutory requirements [1] into the Maryland SIP. The revisions are related to MDE's administrative processes for permit issuance and denial. Specifically, the revisions eliminate the ''contested case'' process and the Office of Administrative Hearings' (OAH) adjudicatory hearing

[1] *See* S.B. 1065, Acts of 2009; H.B. 554 and H.B. 95, Acts of 2013.

process for major permits, and substitute direct judicial review. Additionally, the revisions expand standing for challenges to those major permits, and include additional public notice requirements for certain sources. The Maryland statutory requirements were incorporated into MDE's implementing regulations under COMAR 26.11.02 as described below, and submitted to EPA for approval into the Maryland SIP.

II. Summary of SIP Revision and EPA Analysis

Maryland's SIP revision includes several amended administrative provisions under COMAR 26.11.02 (Permits, Approvals, and Registration). Specifically, 26.11.02.07 (Procedures for Denying, Revoking, or Reopening and Revising a Permit or Approval), 26.11.02.11 (Procedures for Obtaining Permits to Construct Certain Significant Sources), and 26.11.02.12 (Procedures for Obtaining Approvals of PSD Sources and NSR Sources, Certain Permits to Construct, and Case-by-Case MACT Determinations in Accordance with 40 CFR part 63, subpart B) have been revised as follows.

Under the currently approved SIP, COMAR 26.11.02.07, denials and approvals of permits to construct, State operating permits, and State-only enforceable portions of title V operating permits are considered ''final actions'' subject to judicial review if the permittee did not request a hearing before the OAH and MDE pursuant to the ''contested case process.'' In MDE's February 22, 2016 SIP submittal, MDE submitted for inclusion in the Maryland SIP a revised version of COMAR 26.11.02.07 which provides for a separate process for denials of permits to construct. Under the revised 26.11.02.07, denials of permits to construct immediately constitute ''final determinations'' which are subject to direct judicial review (without requiring permittees to seek review through the OAH), pursuant to the revised procedures for major permits in the revised COMAR 26.11.02.11 described below.

MDE's February 22, 2016 SIP submittal also includes a number of revisions MDE made to COMAR 26.11.02.11, which contains the procedures for processing permits to construct for ''significant'' sources. This section applies to modifications at sources: (a) For which a state operating permit is required; (b) which are subject to new source performance standards (NSPS) at 40 CFR part 60, national emission standards for hazardous air pollutants (NESHAPS) at 40 CFR part 61, or Prevention of Significant Deterioration (PSD) requirements at 40 CFR part 52.21; (c) which, after control, will discharge 25 tons per year or more of a pollutant regulated under Environment Article, Title 2, of the Annotated Code of Maryland; and (d) of lead which will discharge 5 or more tons of elemental lead per year. *See* COMAR 26.11.02.11A(1,2). COMAR 26.11.02.11 was previously in the Maryland SIP. The revisions made include a minor change to the public participation processes for sources that trigger NSPS under 40 CFR part 60 but do not trigger NSR requirements, enhanced public notification provisions which require MDE to notify elected officials within a 1-mile radius of a source subject to the expanded public participation requirements of permit proceedings, eliminated the contested case process for significant permits, and instituted direct judicial review in circuit court for parties wishing to contest such permits. Additionally, MDE also included a revised version of COMAR 26.11.02.12 which included minor revisions, clarifying that Regulation .12 only applies to NSR and PSD permit approvals, case-by-case approvals pursuant to 40 CFR part 63 for air toxic sources, and permits to construct which are not subject to COMAR 26.11.02.11.

EPA's review of MDE's February 22, 2016 SIP submittal finds it consistent with all applicable requirements of the CAA and its implementing regulations. The COMAR public notice requirements meet or exceed the requirements of 40 CFR 51.160 and 51.161. Additionally, the revisions are approvable under section 110 of the CAA (specifically section 110(a)(2)(A) and (C) and section 173 for NSR programs). Under section 110(a)(2)(C), the SIP must include a program to enforce the emission limits and control measures in a state's SIP (as required by section 110(a)(2)(A)) and must also contain a program to regulate modification/construction of sources so that the NAAQS are achieved. Section 173 requires the permits program for nonattainment NSR and requires states to have a SIP with a permit program that ensures sources are required to comply with certain things like stringent emission limitations (*i.e.,* lowest achievable emission rates) and offsets. While having a permits program in the SIP that addresses denial or revocation of permits and addresses permit appeals does not address the required substance of a NSR program, these provisions do make the NSR program enforceable, and therefore EPA finds the SIP submission and revisions to COMAR 26.11.02 approvable under CAA sections 173 and 110(a)(2)(A) and (C). In addition, because none of the revisions to COMAR 26.11.02 will affect emissions of pollutants from sources and are largely administrative in nature, EPA finds that none of the revisions to COMAR 26.11.02 will interfere with reasonable further progress, any NAAQS, or any other applicable requirements in the CAA. Thus, EPA finds the submittal is approvable for section 110(l) of the CAA.

III. Proposed Action

EPA is proposing to approve MDE's February 22, 2016 SIP submittal as a revision to the Maryland SIP as the SIP submittal meets requirements in the CAA under sections 110 and 173. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

IV. 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 MDE rules regarding permit issuance and denial as described in Section II of this preamble. EPA has made, and will continue to make, these materials generally available through *https://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, related to Maryland's administrative processes for preconstruction permitting, 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, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

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

Dated: June 2, 2017.

Cecil Rodrigues,

Acting Regional Administrator, Region III.

[FR Doc. 2017–13189 Filed 6–22–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA–HQ–OAR–2016–0442; FRL–9964–13–OAR]

RIN 2060–AT57

National Emission Standards for Hazardous Air Pollutants From the Portland Cement Manufacturing Industry: Alternative Monitoring Method

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to amend the National Emission Standards for Hazardous Air Pollutants From the Portland Cement Manufacturing Industry. In the ''Rules and Regulations'' section of this issue of the **Federal Register**, we are publishing a direct final rule, without a prior proposed rule, that temporarily revises the testing and monitoring requirements for hydrochloric acid (HCl) due to the current unavailability of HCl calibration gases used for quality assurance purposes. If we receive no adverse comment, we will not take further action on this proposed rule.

DATES: Written comments must be received by July 3, 2017.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2016–0442, at *http://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 submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the Web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Mr. Brian Storey, Sector Policies and Programs Division (D243–04), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina, 27711; telephone number: (919) 541–1103; fax number: (919) 541–5450; and email address: *storey.brian@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Why is the EPA issuing this proposed rule?

This document proposes to take action on amendments to the National Emission Standards for Hazardous Pollutants From the Portland Cement Manufacturing Industry. We have published a direct final rule to amend 40 CFR part 63, subpart LLL, by revising the testing and monitoring requirements for HCl in the ''Rules and Regulations'' section of this issue of the **Federal Register** because we view this as a noncontroversial action and anticipate no adverse comment. We have explained our reasons for this action in the preamble to the direct final rule.

If we receive no adverse comment, we will not take further action on this proposed rule. If we receive adverse comment on a distinct portion of the direct final rule, we will withdraw that portion of the rule and it will not take effect. In this instance, we would address all public comments in any subsequent final rule based on this proposed rule.

If we receive adverse comment on a distinct provision of the direct final rule, we will publish a timely withdrawal in the **Federal Register** indicating which provisions we are withdrawing. The provisions that are not withdrawn will become effective on the date set out in the direct final rule, notwithstanding adverse comment on any other provision. We do not intend to institute a second comment period on this action. Any parties interested in commenting must do so at this time.

The regulatory text for this proposal is identical to that for the direct final rule published in the ''Rules and Regulations'' section of this issue of the **Federal Register**. For further supplementary information, the detailed rationale for this proposal and the regulatory revisions, see the direct final rule published in the ''Rules and Regulations'' section of this issue of the **Federal Register**.

II. Does this action apply to me?

Categories and entities potentially regulated by this proposed rule include:

Category	NAICS code [1]
Portland cement manufacturing facilities	327310

[1] North American Industry Classification System.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this proposed rule. To determine whether your facility is affected, you should examine the applicability criteria in 40 CFR 63.1340. If you have any questions regarding the applicability of any aspect of this action to a particular entity, consult either the air permitting authority for the entity or your EPA Regional representative as listed in 40 CFR 63.13.

III. Statutory and Executive Orders

For a complete discussion of the administrative requirements applicable to this action, see the direct final rule in the ''Rules and Regulations'' section of this issue of the **Federal Register**.

Dated: June 19, 2017.

E. Scott Pruitt,

Administrator.

[FR Doc. 2017–13186 Filed 6–22–17; 8:45 am]

BILLING CODE 6560–50–P

AGENCY FOR INTERNATIONAL DEVELOPMENT

48 CFR Parts 701 and 722 and Appendix J

RIN 0412–AA80

Agency for International Development Acquisition Regulation (AIDAR): Agency Warrant Program for Individual Cooperating Country National Personal Services Contractors (CCNPSCs)

AGENCY: U.S. Agency for International Development.

ACTION: Proposed rule; withdrawal.

SUMMARY: The U.S. Agency for International Development (USAID) has decided not to implement the Agency Warrant Program for individual Cooperating Country National Personal Services Contractors and is therefore withdrawing the August 19, 2016 proposed rule amending the Agency for International Development Acquisition Regulation (AIDAR) to incorporate this warrant program into the regulation.

DATES: USAID is withdrawing the proposed rule published on August 19, 2016 (81 FR 55405) as of June 23, 2017.

FOR FURTHER INFORMATION CONTACT: Lyudmila Bond, Telephone: 202–567–4753 or Email: *lbond@usaid.gov.*

SUPPLEMENTARY INFORMATION: On August 19, 2016 USAID published a proposed rule at 81 FR 55405 revising the Agency for International Development Acquisition Regulation (AIDAR) to incorporate USAID Cooperating Country National Warrant Program into the regulation. The warrant program was intended to address a shortage of U.S. direct-hire contracting officers by delegating limited contracting officer authorities to a select number of Cooperating Country National Personal Services Contractors.

The purpose of this rule withdrawal is to inform the public that USAID will not be publishing a final rule to implement this warrant program.

Dated: June 6, 2017.

Mark Walther,

Acting Chief Acquisition Officer.

[FR Doc. 2017–13297 Filed 6–21–17; 4:15 pm]

BILLING CODE 6116–01–P

SURFACE TRANSPORTATION BOARD

49 CFR Chapter X

[Docket No. EP 738]

Regulatory Reform Task Force

AGENCY: Surface Transportation Board.

ACTION: Announcement of Regulatory Reform Task Force listening session.

SUMMARY: Notice is hereby given of a listening session for the Regulatory Reform Task Force (RRTF).

DATES: The listening session will be held on Tuesday, July 25, 2017, at 10 a.m. E.D.T.

ADDRESSES: The listening session will be held in the Hearing Room on the first floor of the Board's headquarters at 395 E Street SW., Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Rachel D. Campbell (202) 245–0357; *Rachel.Campbell@stb.gov.* [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at: (800) 877–8339].

SUPPLEMENTARY INFORMATION: The RRTF was established to comply with the spirit of Exec. Order No. 13,777, 82 FR 12285 (Mar. 1, 2017), and to move forward ongoing agency regulatory and process review initiatives. The RRTF's mission is to identify rules and practices that are burdensome, unnecessary, or outdated, and to recommend how they should be addressed. On May 25, 2017, the RRFT submitted its first status report, which is available for viewing on the Board's Web site at *https://www.stb.gov/stb/about/RRTF.html.* As detailed in that memo, the RRTF has identified some initial actions to pursue. However, given the direct impact of the Board's regulations upon its stakeholders, the RRTF believes that reviewing its regulations is best conducted with input from its stakeholders.

For that reason, the RRTF will hold a listening session that will be open to the public. Members of the RRTF will be present at the listening session, which will be on the record with a transcript prepared. The RRTF will release the transcript following the listening session. Interested persons not able to attend may provide written comments by July 25, 2017. Written comments should reference Docket No. EP 738, and should be addressed to: Regulatory Reform Task Force, Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001. Submitted comments will become part of the record.

Decided: June 20, 2017.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Brendetta S. Jones,

Clearance Clerk.

[FR Doc. 2017–13131 Filed 6–22–17; 8:45 am]

BILLING CODE 4915–01–P

Notices

Federal Register
Vol. 82, No. 120
Friday, June 23, 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

Council for Native American Farming and Ranching

AGENCY: Office of Tribal Relations, USDA.

ACTION: Notice of public meeting.

SUMMARY: This notice announces a forthcoming meeting of The Council for Native American Farming and Ranching (CNAFR), a public advisory committee of the Office of Tribal Relations (OTR). Notice of the meetings are provided in accordance with section 10(a)(2) of the Federal Advisory Committee Act, as amended. This will be the second meeting held during fiscal year 2017 and will consist of, but not be limited to: Hearing public comments, update of USDA programs and activities, and discussion of committee priorities. This meeting will be open to the public.

DATES: The meeting will be held on July 20–21, 2017. The meeting will be open to the public on both days with time set aside for public comment on July 20 at approximately 2:00–4:00 p.m. The OTR will make the agenda available to the public via the OTR Web site (*http://www.usda.gov/tribalrelations*) no later than 10 business days before the meeting and at the meeting.

ADDRESSES: The meeting will be held in Carnall Hall's ''The Classroom'' at the University of Arkansas, 465 N. Arkansas Ave., Fayetteville, AR 72701. Written comments may be submitted to the CNAFR Contact Person: Abby Cruz, Designated Federal Officer and Senior Policy Advisor for the Office of Tribal Relations, 1400 Independence Ave. SW., Whitten Bldg., 501–A, Washington, DC 20250; by Fax: (202) 720–1058; or by email: *Abigail.Cruz@osec.usda.gov.*

FOR FURTHER INFORMATION CONTACT: Questions should be directed to the CNAFR Contact Person: Abby Cruz, Designated Federal Officer and Senior Policy Advisor for the Office of Tribal Relations, 1400 Independence Ave. SW., Whitten Bldg., 501–A, Washington, DC 20250; by Fax: (202) 720–1058; or by email: *Abigail.Cruz@osec.usda.gov.*

SUPPLEMENTARY INFORMATION: In accordance with the provisions of the Federal Advisory Committee Act (FACA), as amended (5 U.S.C. App. 2), USDA established an advisory council for Native American farmers and ranchers. The CNAFR is a discretionary advisory committee established under the authority of the Secretary of Agriculture, in furtherance of the *Keepseagle* v. *Vilsack* settlement agreement that was granted final approval by the District Court for the District of Columbia on April 28, 2011.

The CNAFR will operate under the provisions of the FACA and report to the Secretary of Agriculture. The purpose of the CNAFR is (1) to advise the Secretary of Agriculture on issues related to the participation of Native American farmers and ranchers in USDA programs; (2) to transmit recommendations concerning any changes to USDA regulations or internal guidance or other measures that would eliminate barriers to program participation for Native American farmers and ranchers; (3) to examine methods of maximizing the number of new farming and ranching opportunities created by USDA programs through enhanced extension and financial literacy services; (4) to examine methods of encouraging intergovernmental cooperation to mitigate the effects of land tenure and probate issues on the delivery of USDA programs; (5) to evaluate other methods of creating new farming or ranching opportunities for Native American producers; and (6) to address other related issues as deemed appropriate.

The Secretary of Agriculture selected a diverse group of members representing a broad spectrum of persons interested in providing solutions to the challenges of the aforementioned purposes. Equal opportunity practices were considered in all appointments to the CNAFR in accordance with USDA policies. The Secretary selected the members in December 2016.

Interested persons may present views, orally or in writing, on issues relating to agenda topics before the CNAFR. Written submissions may be submitted to the CNAFR Contact Person on or before July 14, 2017. Oral presentations from the public will be heard approximately 2:00 p.m. to 4:00 p.m. on July 20, 2017. Individuals interested in making formal oral presentations should also notify the CNAFR Contact Person and submit a brief statement of the general nature of the issue they wish to present and the names, tribal affiliations, and addresses of proposed participants by July 14, 2017. All oral presentations will be given three (3) to five (5) minutes depending on the number of participants.

The OTR will also make the agenda available to the public via the OTR Web site (*http://www.usda.gov/tribalrelations*) no later than 10 business days before the meeting and at the meeting. The minutes from the meeting will be posted on the OTR Web site. OTR welcomes the attendance of the public at the CNAFR meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Abby Cruz at least 10 business days in advance of the meeting.

Dated: June 19, 2017.

Linda Cronin,

Acting Director, Office of Tribal Relations.

[FR Doc. 2017–13169 Filed 6–22–17; 8:45 am]

BILLING CODE 3410–01–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

June 20, 2017.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested regarding (1) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of burden 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 through the use of appropriate automated,

electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments regarding this information collection received by July 24, 2017 will be considered. Written comments should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), New Executive Office Building, 725 17th Street NW., Washington, DC 20502. Commenters are encouraged to submit their comments to OMB via email to: *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Copies of the submission(s) may be obtained by calling (202) 720–8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Animal and Plant Health Inspection Service

Title: Citrus Canker; Interstate Movement of Regulated Nursery Stock and Fruit from Quarantined Areas.

OMB Control Number: 0579–0317.

Summary of Collection: Under the Plant Protection Act (7 U.S.C. 7701, *et seq.*), the Secretary of Agriculture, either independently or in cooperation with the Sates, is authorized to carry out operations or measures to detect, eradicate, suppress, control, prevent, or retard the spread of plant pests (such as citrus canker) new to or widely distributed throughout the United States. The Animal and Plant Health Inspection Service (APHIS) has regulations in place to prevent the interstate spread of citrus canker. These regulations, contained in 7 CFR 301.75, restrict the interstate movement of regulated articles from and through areas quarantined because of citrus canker. APHIS' citrus canker quarantine regulations prohibit the interstate movement of regulated nursery stock from a quarantined area. The interstate movement of nursery stock from an area quarantined for citrus canker poses an extremely high risk of spreading citrus canker outside the quarantined area.

Need and Use of the Information: APHIS will collect information through compliance agreements and limited permits. Failure to collect this information could cause a severe economic loss to the citrus industry.

Description of Respondents: Businesses or other for-profit.

Number of Respondents: 400.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 2,742.

Animal and Plant Health Inspection Service

Title: Importation of Potatoes from Mexico.

OMB Control Number: 0579–0413.

Summary of Collection: Under the Plant Protection Act (7 U.S.C. 7701, *et seq.*), the Secretary of Agriculture is authorized to prohibit or restrict the importation, entry, or movement of plants, and plant pests to prevent the introduction of plant pests into the United States or their dissemination within the United States. The regulations in ''Subpart-Fruit and Vegetables'' (7 CFR 319.56, referred to as the regulations) prohibit or restrict the importation of fruits and vegetables into the United States from certain parts of the world to prevent the introduction and dissemination of plant pests that are new to or not widely distributed within the United States. APHIS regulations concerning the importation of fruits and vegetables allow the importation of fresh potatoes (*Solanum tuberosum* L.) from Mexico into the United States. As a condition of entry, the potatoes have to be produced in accordance with a systems approach employing a combination of mitigation measures.

Need and Use of the Information: APHIS will use the following information collection activities to allow the importation of potatoes from Mexico while continuing to protect against the introduction of plant pests into the United States: (1) Bilateral workplan, (2) grower registration certification, (3) packinghouse registration, (4) inspection and agricultural seal, (5) foreign phytosanitary certificate, and (6) surveys. Failure to collect this information would cripple APHIS' ability to ensure that potatoes from Mexico are not carrying plant pests.

Description of Respondents: Businesses or other for-profit; Foreign Federal Government.

Number of Respondents: 19.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 236.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2017–13114 Filed 6–22–17; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

[Docket No. NRCS–2017–0001]

Notice of Proposed Changes to the National Handbook of Conservation Practices for the Natural Resources Conservation Service

AGENCY: Natural Resources Conservation Service (NRCS), U.S. Department of Agriculture (USDA).

ACTION: Notice of availability of proposed changes to the National Handbook of Conservation Practices for public review and comment.

SUMMARY: Notice is hereby given of the intention of NRCS to issue a series of revised conservation practice standards in the National Handbook of Conservation Practices. These standards include: Anaerobic Digester (Code 366), Contour Farming (Code 330), Crosswind Ridges (Code 588), Dam (Code 402), Mulching (Code 484), Pond Sealing or Lining—Geomembrane or Geosynthetic Clay Liner (Code 521), Stream Crossing (Code 578), Strip-Cropping (Code 585), Structure for Water Control (Code 587), Water and Sediment Control Basin (Code 638), Waste Recycling (Code 633), Waste Treatment Lagoon (Code 359). NRCS State Conservationists who choose to adopt these practices for use within their States will incorporate them into section IV of their respective electronic Field Office Technical Guide. These practices may be used in conservation systems that treat highly erodible land (HEL) or on land determined to be a wetland. Section 343 of the Federal Agriculture Improvement and Reform Act of 1996 requires NRCS to make available for public review and comment all proposed revisions to conservation practice standards used to carry out HEL and wetland provisions of the law.

DATES: *Effective Date:* This is effective June 23, 2017.

Comment Date: Submit comments on or before July 24, 2017. Final versions of these new or revised conservation practice standards will be adopted after the close of the 30-day period and after consideration of all comments.

ADDRESSES: Comments should be submitted, identified by Docket Number NRCS–2017–0001, using any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail or hand-delivery:* Public Comments Processing, Attention:

Regulatory and Agency Policy Team, Strategic Planning and Accountability, Natural Resources Conservation Service, 5601 Sunnyside Avenue, Building 1–1112D, Beltsville, Maryland 20705.

NRCS will post all comments on *http://www.regulations.gov.* In general, personal information provided with comments will be posted. If your comment includes your address, telephone number, email, or other personal identifying information (PII), your comments, including PII, may be available to the public. You may ask in your comment that your PII be withheld from public view, but this cannot be guaranteed.

FOR FURTHER INFORMATION CONTACT: Bill Reck, National Environmental Engineer, Conservation Engineering Division, U.S. Department of Agriculture, Natural Resources Conservation Service, 1400 Independence Avenue Southwest, South Building, Room 6136, Washington, DC 20250.

Electronic copies of the proposed revised standards are available through *http://www.regulations.gov* by accessing Docket No. NRCS–2017–0001. Alternatively, copies can be downloaded or printed from the following Web site: *http://go.usa.gov/TXye.* Requests for paper versions or inquiries may be directed to Emil Horvath, National Practice Standards Review Coordinator, Natural Resources Conservation Service, Central National Technology Support Center, 501 West Felix Street, Fort Worth, Texas 76115.

SUPPLEMENTARY INFORMATION: The amount of the proposed changes varies considerably for each of the conservation practice standards addressed in this notice. To fully understand the proposed changes, individuals are encouraged to compare these changes with each standard's current version as shown at *http://www.nrcs.usda.gov/wps/portal/nrcs/detailfull/national/technical/cp/ncps/?cid=nrcs143_026849.* To aid in this comparison, following are highlights of some of the proposed revisions to each standard:

Anaerobic Digester (Code 366)—Revised language as needed to improve readability and clarify intent in criteria. ''Conditions Where Practice Applies'' section was updated and two items were removed. Provided additional information on the use of open and closed flares. Updated the safety section.

Contour Farming (Code 330)—The contour farming definition was changed to read ''Aligning ridges, furrows, and roughness formed by tillage, planting and other operations at a grade near the contour to alter the velocity or the direction of water flow.'' Added the resource concern linked to each purpose. Under ''general criteria'' made changes to the wording on minimum and maximum row grades and lowered the allowable deviation of row grade within 50 feet of a stable outlet. Changed requirements under ''plans and specifications.''

Crosswind Ridges (Code 588)—The crosswind ridges standard was reviewed and updated to reflect current agency policy and science. Each ''purpose'' has the resource concern linked. Minor word edits were made to clarify criteria. In ''references,'' updated the Wind Erosion Prediction System reference.

Dam (Code 402)—The agency updated criteria and added references. Other changes improved the clarity of language used in the standard.

Mulching (Code 484)—The mulching standard was reviewed and updated to reflect current agency policy and science. The ''definition'' was changed with the reference to ''materials produced offsite'' removed. Each ''purpose'' has the resource concern linked. Under ''general criteria applicable to all purposes,'' a paragraph was added to remove synthetic mulches and to not incorporate them into the soil. The percentage of ground cover to reduce potential evaporation was increased and two new references were added.

Pond Sealing or Lining—Geomembrane or Geosynthetic Clay Liner (Code 521)—Title changed from ''Pond Sealing or Lining—Flexible Membrane'' to ''Pond Sealing or Lining—Geomembrane or Geosynthetic Clay Liner'' to better reflect the current industrial standard nomenclature. Practice Standard Code changed from 521A to 521. Units changed from ''Number'' to ''Square Feet'' to better represents the quantity of the practice installed. HDPE liner thickness changed from 40 mil to 60 mil.

Stream Crossing (Code 578)—The purpose of this standard has been modified to only address resource concerns. Criteria listed as considerations was moved to the appropriate criteria section. Language has been simplified to better coordinate CPS 578 with other conservation practices, policy, and procedures by cross-referencing, instead of reiteration.

Strip-Cropping (Code 585)—The strip-cropping standard was reviewed and updated to reflect current agency policy and science. Each ''purpose'' has the resource concern linked. Minor word edits were made to clarify criteria. Under ''general criteria,'' added ''Design the row grades with positive row drainage of not less than 0.2 percent on slopes where ponding is a concern. This would include sites with soils with slow to very slow infiltration rates (soil hydrologic groups C or D), or where crops are sensitive to ponded water.'' In ''references,'' updated the Wind Erosion Prediction System, and added a reference for the Water Erosion Prediction Project.

Structure for Water Control (Code 587)—The agency updated criteria and added references. Other changes improved the clarity of language used in the standard.

Water and Sediment Control Basin (Code 638)—Revised language as needed to improve readability and clarify intent of criteria. Topsoil criteria and the auxiliary spillway portion of the outlet criteria were moved to the considerations section since these are not always required. Added criteria for embankment foundation preparation.

Waste Recycling (Code 633)—Language changes were made in the definition, conditions where practice applies and criteria to clarify the purpose of the standard and how it is to be used.

Waste Treatment Lagoon (Code 359)—The document has been revised extensively. Those revisions include modifications to align the structural design requirements to align with changes to the Waste Storage Structure Standard. These changes include changes in accepted concrete and timber design criteria, modification of language for storage requirements to improve clarity, modify language to conform to the Plain Language Act, improvements to the safety criteria, changing the requirement of a staff gauge from optional to required, and improvements to the ''Plans and Specifications,'' and ''Operation and Maintenance'' sections of the standard. Other changes have been made to improve the clarity of the language used in the standard.

Signed this 24th day of May, 2017, in Washington, DC.

Leonard Jordan,

Acting Chief, Natural Resources Conservation Service.

[FR Doc. 2017–13179 Filed 6–22–17; 8:45 am]

BILLING CODE 3410–16–P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meetings of the Kansas Advisory Committee To Discuss Next Steps in the Committee's Study of Civil Rights and School Funding in Kansas

AGENCY: Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act that the Kansas Advisory Committee (Committee) will hold meetings on Friday, July 28, 2017, *and* Thursday September 7, 2017 at 3 p.m. Central time. The Committee will begin discussion and preparations to hold a public hearing as part of their current study on civil rights and school funding in the state.

DATES: These meetings will take place on Friday, July 28, 2017, *and* Thursday, September 7, 2017, at 3 p.m. Central time.

Public Call Information

- Friday July 28, 2017: Dial: 800–967–7185, Conference ID: 3532368
- Thursday September 7, 2017: Dial: 877–718–5106, Conference ID: 7020808

FOR FURTHER INFORMATION CONTACT: Melissa Wojnaroski, DFO, at *mwojnaroski@usccr.gov* or (312) 353–8311.

SUPPLEMENTARY INFORMATION: Members of the public can listen to these discussions. These meetings are available to the public through the above call in numbers. Any interested member of the public may call this number and listen to the meeting. An open comment period will be provided to allow members of the public to make a statement as time allows. The conference call operator will ask callers to identify themselves, the organization they are affiliated with (if any), and an email address prior to placing callers into the conference room. Callers can expect to incur regular charges for calls they initiate over wireless lines, according to their wireless plan. The Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1–800–977–8339 and providing the Service with the conference call number and conference ID number.

Members of the public are also entitled to submit written comments; the comments must be received in the regional office within 30 days following the meeting. Written comments may be mailed to the Regional Programs Unit, U.S. Commission on Civil Rights, 55 W. Monroe St., Suite 410, Chicago, IL 60615. They may also be faxed to the Commission at (312) 353–8324, or emailed to Corrine Sanders at *csanders@usccr.gov.* Persons who desire additional information may contact the Regional Programs Unit at (312) 353–8311.

Records generated from this meeting may be inspected and reproduced at the Regional Programs Unit Office, as they become available, both before and after the meeting. Records of the meeting will be available via *www.facadatabase.gov* under the Commission on Civil Rights, Kansas Advisory Committee link (*http://www.facadatabase.gov/committee/meetings.aspx?cid=249*). Click on ''meeting details'' and then ''documents'' to download. Persons interested in the work of this Committee are directed to the Commission's Web site, *http://www.usccr.gov,* or may contact the Regional Programs Unit at the above email or street address.

Agenda

Welcome and Roll Call
Civil Rights in Kansas: School funding
Future Plans and Actions
Public Comment
Adjournment

Dated: June 19, 2017.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2017–13113 Filed 6–22–17; 8:45 am]

BILLING CODE P

COMMISSION ON CIVIL RIGHTS

Sunshine Act Meeting Notice

AGENCY: United States Commission on Civil Rights.

ACTION: Notice of Commission Telephonic Business Meeting.

DATES: Thursday, June 29, 2017, at 12:00 p.m. EST.

ADDRESSES: Meeting to take place by telephone.

FOR FURTHER INFORMATION CONTACT: Brian Walch, (202) 376–8371, *publicaffairs@usccr.gov.*

SUPPLEMENTARY INFORMATION: This business meeting is open to the public by telephone only. Participant Access Instructions: Dial in 5–10 minutes prior to the start time using the phone number and Conference Passcode below.

Listen Only, Toll Free: 1 (888) 318–7469; Conference ID: 897–2138.

Persons with hearing impairments: Please contact the above about how to access the Federal Relay Service for the meeting.

Meeting Agenda

I. Approval of Agenda
II. Program Planning
- Vote on November 13th as Commission Business Meeting
- Vote on 2017 Statutory Enforcement Report ''Targeted Fines and Fees against Low-Income Communities of Color: Civil Rights and Constitutional Implications.''

V. Adjourn Meeting.

Dated: June 20, 2017,

Brian Walch,

Director of Communications and Public Engagement.

[FR Doc. 2017–13244 Filed 6–21–17; 11:15 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

First Responder Network Authority

[Docket Number: 131219999–7305–03]

RIN 0660–XC009

Revised National Environmental Policy Act Procedures and Categorical Exclusions

AGENCY: First Responder Network Authority, National Telecommunications and Information Administration, U.S. Department of Commerce.

ACTION: Notice of availability; request for comments.

SUMMARY: The First Responder Network Authority (FirstNet) publishes this notice to request comments on proposed revisions to its procedures for implementing the National Environmental Policy Act (NEPA), categorical exclusions, and related extraordinary circumstances. Pursuant to Council on Environmental Quality (CEQ) regulations, FirstNet is soliciting comments on its proposed revisions to its NEPA implementing procedures from members of the interested public. Additionally, in this notice, FirstNet is providing a synopsis of the proposed changes to its NEPA implementing procedures and categorical exclusions to assist the public in reviewing those changes.

DATES: Comments due on or before July 24, 2017.

ADDRESSES: The public is invited to submit written comments to FirstNet's proposed revisions to its NEPA implementing procedures, categorical exclusions, and related extraordinary circumstances. Written comments may

be submitted electronically through *www.regulations.gov* or by mail to Eli Veenendaal, First Responder Network Authority, National Telecommunications and Information Administration, U.S. Department of Commerce, 3122 Sterling Circle, Suite 100 Boulder, CO 80301. FirstNet may not consider comments if they are sent by any other method, to any other address or individual, or received after the comment period ends. Comments received in response to this docket will be made a part of the public record and be posted to *www.regulations.gov* without change. Comments should be machine-readable and should not be copy-protected. All personally identifiable information (*e.g.,* name, address) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information. FirstNet will make this notice and the draft Revised FirstNet NEPA Implementing Procedures, Categorical Exclusions, and supporting administrative record available for public inspection at *www.firstnet.gov.*

FOR FURTHER INFORMATION CONTACT: Eli Veenendaal, First Responder Network Authority, National Telecommunications and Information Administration, U.S. Department of Commerce, 3122 Sterling Circle, Suite 100 Boulder, CO 80301 or *elijah.veenendaal@firstnet.gov.*

SUPPLEMENTARY INFORMATION:

National Environmental Policy Act

The National Environmental Policy Act (NEPA) (42 U.S.C. 4321 *et seq.*) requires federal agencies to undertake an assessment of the environmental effects of their proposed actions prior to making a final decision and implementing the action. NEPA requirements apply to major federal actions that may significantly affect the quality of the human environment.[1] NEPA also established the Council on Environmental Quality (CEQ), which issued regulations implementing the procedural provisions of NEPA (*see* 40 CFR part 1500 *et. seq.*). Among other considerations, CEQ regulations at 40 CFR 1507.3 require federal agencies to (1) adopt their own implementing procedures to supplement CEQ's regulations, and (2) consult with CEQ during development of these supplemental procedures prior to publication in the **Federal Register**. Agency-specific NEPA implementing procedures are intended to provide guidance that assists agencies in fulfilling their responsibilities under NEPA. The requirements for establishing NEPA procedures are set forth at 40 CFR 1505.1 and 1507.3.

Further, NEPA and the CEQ implementing regulations provide for environmental review of a proposed government action in the form of a Categorical Exclusion (CE), Environmental Assessment (EA), or Environmental Impact Statement (EIS). A CE is ''a category of actions which do not individually or cumulatively have a significant effect on the human environment,'' and does not require further NEPA review in the form of either an EA or EIS. *See* 40 CFR 1508.4; CEQ, ''Final Guidance for Federal Departments and Agencies on Establishing, Applying, and Revising Categorical Exclusions Under the National Environmental Policy Act'' (75 FR 75628; December 6, 2010). A CE does not exempt an action from NEPA review; rather, it is one form of environmental review under NEPA. *See* 75 FR 75631. A CE may be applied to a proposed action after an agency has reviewed and determined that the action fits within the category of actions encompassed by the CE. *See* 40 CFR 1508.4. In making this determination, the decision maker must also consider whether extraordinary circumstances apply, which would lead to a normally categorically excluded action to have the potential for significant impacts. Thus, a CE does not eliminate environmental review of a proposed action, but reduces paperwork and delay and allows an agency to efficiently focus its resources on proposed actions with the potential for significant environmental effects.

FirstNet NEPA Implementing Procedures

The Middle Class Tax Relief and Job Creation Act of 2012 (Pub. L. 112–96, Title VI, 126 Stat. 156 (codified at 47 U.S.C. 1401 *et seq.*)) (the ''Act'') established the First Responder Network Authority (''FirstNet'') as an independent authority within the National Telecommunications and Information Administration (''NTIA''). FirstNet's statutory mission is to take all actions necessary to ensure the establishment of a nationwide public safety broadband network (''NPSBN'').[2] Moreover, the Act meets a long-standing and critical national infrastructure need to create a single, nationwide interoperable network that will, for the first time, allow public safety entities such as police officers, fire fighters, emergency medical service professionals, and other public safety personnel to effectively communicate with each other across agencies and jurisdictions. Consequently, because of the critical nature of this network, the Act requires FirstNet to, among other things, seek opportunities to speed the deployment of the network.[3]

To help facilitate FirstNet's mission, the Act requires the Federal Communications Commission (''FCC'') to reallocate and grant a license to FirstNet for the use of the 700MHz D block spectrum and existing public safety broadband spectrum.[4] As a result, FirstNet is in the unique position of being the only entity that is both an independent federal authority and a FCC licensee. Accordingly, FirstNet must comply with potentially duplicative regulations, such as those imposed under NEPA and the CEQ regulations and by FCC regulations. Consequently, it was determined that aligning the FirstNet and FCC NEPA processes was necessary in order to avoid duplicating analysis and documentation resulting in additional costs or delays in network deployment, which could severely impact FirstNet's ability to complete its statutory mission and ensure the establishment of a network for public safety.

On April 28, 2014, FirstNet, as a newly created federal entity, published a notice in the **Federal Register** finalizing its original NEPA implementing procedures.[5] These NEPA implementing procedures provide the framework for FirstNet's establishment of a NEPA compliance program and applying the appropriate level of NEPA review for major federal actions related to the deployment of the NPSBN. More specifically, FirstNet's NEPA implementing procedures supplement CEQ regulations and provide guidance to FirstNet employees and potential Applicants regarding the procedural requirements for the application of NEPA.

Proposed Changes to NEPA Implementing Procedures

As it has continued to mature as an organization, FirstNet, as mentioned above, has identified the need to modify its NEPA implementing procedures, CEs, and related extraordinary

[1] *See* 42 U.S.C. 4332.

[2] 47 U.S.C. 1426(b).

[3] *See, e.g.,* 47 U.S.C. 1426 (b)(3).

[4] 47 U.S.C. 1421(a) (consistent with this provision FCC granted a license to FirstNet for the use of the 700 MHz D block spectrum under Call Sign WQQE234 on November 15, 2012).

[5] FirstNet National Environmental Policy Act Implementing Procedures and Categorical Exclusions, 79 FR 23950 (April 29, 2014) (hereinafter ''NEPA Procedures'').

circumstances to ensure that such procedures better align with FirstNet's statutory mission and activities related to the deployment of the NPSBN, as well as better assist FirstNet in complying with NEPA and FCC regulations. More specifically, FirstNet, as both an independent federal authority and a licensee of the FCC, must satisfy its own NEPA requirements as well as comply with FCC-promulgated NEPA procedures. Under CEQ regulations, federal agencies with overlapping NEPA requirements related to the same project are encouraged to streamline their NEPA implementing procedures to avoid duplicative NEPA review.[6] Accordingly, FirstNet is proposing to modify its NEPA procedures and CEs to better align with FCC procedures in order to avoid duplicative NEPA reviews that would otherwise likely result in unnecessary costs to and delays in the deployment of the NPSBN.

Generally, FirstNet's proposed revisions include: (1) Updates to the process for determining and documenting categorically excluded activities; (2) the addition of criteria that may trigger the need for the development of an EA; (3) modifications necessary to account for FirstNet's changes in organizational structure and internal policies and procedures; (4) modifications to the definition and role of an Applicant in the environmental review process; and (5) the establishment of two new CEs and updates to its extraordinary circumstances. A synopsis of proposed changes is listed below and a full version of the revised implementing procedures and administrative record supporting the establishment of two new CEs is available at *www.firstnet.gov.*

Synopsis of Proposed Changes to Implementing Procedures

Administrative

FirstNet is seeking to modify its implementing procedures to reflect organizational changes that have occurred since the publishing of its existing procedures. Primary changes include: (1) Renaming the General Manager to Chief Executive Officer (CEO); (2) clarifying the roles of the Director of Environmental Compliance and/or NEPA Coordinator, the Office of Chief Counsel, and an Applicant; (3) updating the procedures from a Directive to a Policy; (4) the addition, removal, and updates to legal authorities used or cited throughout the policy; and (5) corrections to any minor clerical errors.

Definitions

FirstNet proposes moving the ''Definition'' section from Appendix B to the body of the policy and adding references to applicable definitions from the FCC regulations. FirstNet is also seeking to modify the term ''Applicant'' to mean ''any person, entity, or Federal, state, tribal, or territorial government body that seeks to take an action related to the NPSBN or an action that is otherwise under the direct control and responsibility of FirstNet, including, but not limited to, actions that occur under any type of agreement related to the use of the spectrum licensed to FirstNet under station license call sign WQQE234, or actions requiring the approval of or funding provided by FirstNet.''

General Requirements for Categorical Exclusions

FirstNet is seeking to amend the process for applying and documenting CEs by removing and replacing all of the section entitled ''General Requirements for Categorical Exclusions'' with the following language:

''CEs are categories of actions that FirstNet has found, based on past experience with similar actions, do not individually or cumulatively have significant environmental impacts and normally do not require any further NEPA review. FirstNet actions, including those of Applicants, that fit the description of actions in Appendix B, Categorical Exclusions, and where no extraordinary circumstances exist, are categorically excluded from further environmental review. The approved list of FirstNet actions that normally qualify for a CE are only those listed in Appendix B, Categorical Exclusions. A CE may be applied to a proposed action in accordance with the following requirements:

(a) FirstNet shall not be required to, but may at its discretion, document its determination that a CE applies to a proposed action.

(b) Documentation prepared by an Applicant to demonstrate that an action qualifies for a CE shall be provided for FirstNet's independent review and evaluation.

(c) Any action that normally would be classified as a CE but would involve any of the extraordinary circumstances identified in Appendix C shall require FirstNet, in cooperation with the Applicant, to conduct and document the appropriate environmental analysis to determine if the action warrants a CE or if the preparation of an EA or EIS is required.

(d) Extraordinary circumstances that, if present, may result in a potentially significant environmental effect are listed in Appendix C.

(e) The list of approved FirstNet CEs is subject to continual review and can be modified by amending/revising this policy, in consultation with CEQ.

(f) The use of a CE does not relieve FirstNet or an Applicant of obligations to comply with other statutes or required consultations, such as under the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*) or the National Historic Preservation Act of 1966 (16 U.S.C. 470 *et seq.*).''

General Requirements for Environmental Assessments

FirstNet is seeking to amend the requirements for determining the necessity of preparing an EA. Primary changes include adding criteria to account for existing FCC environmental regulatory requirements, removing overlapping or redundant language, and adding criteria for conducting tiered environmental reviews. Accordingly, FirstNet proposes removing and replacing all of the section entitled ''General Requirements for Environmental Assessments'' with the following language:

''FirstNet or an Applicant shall prepare an EA, as defined in 40 CFR 1508.9, for a proposed action that FirstNet determines may have significant environmental impacts. Actions normally requiring an EA include those:

(a) That fall within the scope of actions described in 47 CFR 1.1307(a);

(b) Where a particular facility, operation, or transmitter would cause human exposure to levels of radiofrequency radiation in excess of applicable health and safety guidelines found in 47 CFR 1.1307(b);

(c) That involve the construction or modification of certain antenna structures over 450 feet in height that are subject to the FCC's antenna structure registration rules in 47 CFR part 17;

(d) That have an adverse effect on a historic property so as to require an EA under 47 CFR 1.1307(a)(4); and

(e) That meet categorical exclusion criteria, but for which extraordinary circumstances are present, requiring further environmental analysis and potentially the preparation of an EA to determine if there are significant impacts associated with the action.''

[6] *See generally* 40 CFR 1507.3.

Environmental Assessment Development Process

FirstNet is proposing to move portions of the section ''General Requirements for Environmental Assessments'' to a new section entitled, ''Environmental Assessment Development Process.'' Primary changes include removing overlapping or redundant language, and adding criteria for conducting tiered environmental reviews. Accordingly, FirstNet proposes removing the section entitled ''Environmental Assessment Development Process'' to include the following language:

''FirstNet or an Applicant shall develop an EA in accordance with the following process and requirements.

(a) The FirstNet CEO or delegate can decide to prepare an EA as a planning tool to inform decision makers of the environmental impacts of a proposed action.

(b) FirstNet or an Applicant, in preparing an EA, shall ensure, at minimum, the contents of the EA: (1) comply with the requirements of 40 CFR 1508.9; (2) include the information specified in 47 CFR 1.1311; (3) explain the environmental consequences of the proposed action; and (4) set forth sufficient analysis for FirstNet to determine the potential impacts associated with the proposed action.

(c) If FirstNet determines, based on an independent review, that the proposed action will not have a significant impact, FirstNet may issue a FONSI as described in 40 CFR 1508.13.

(d) If, after review of the EA, FirstNet determines that the proposed action may have a significant environmental impact, FirstNet, in coordination with the Applicant, may amend the action described in the EA to avoid, minimize, or mitigate the potential environmental impacts.

(e) If actions cannot be taken to avoid, minimize, or mitigate the potential environmental impacts and FirstNet determines that the proposed action will have a significant environmental impact, FirstNet, in coordination with the Applicant, shall proceed with the preparation of an EIS.

(f) Rather than preparing a single EA or EIS as a basis for approving an entire project, FirstNet, as necessary, may conduct one or more rounds or ''tiers'' of environmental reviews. These tiered reviews may cover general matters in a broader EA or EIS (*e.g.,* contracts or policy statements) with subsequent narrower statements or environmental analyses (*e.g.,* site-specific analyses), incorporating by reference the general discussion and concentrating solely on the issues specific to the statement subsequently prepared.''

Environmental Justice

FirstNet is proposing to remove extraneous and duplicative language from the body of the implementing procedures as this language is already cited in E.O. 12898, ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations'' which is referenced in this section.

Environmental Determinations and Final Decisions

FirstNet is seeking to amend the section entitled ''Environmental Determinations and Final Decisions'' related to CEs by removing language that conflicts with the proposed changes to the application of CEs. Accordingly, FirstNet proposes removing and replacing the existing language with the following:

''(a) Categorical Exclusion (CE)

1. FirstNet or Applicant actions that fall within a CE and where no extraordinary circumstances exist do not require any further NEPA review.

2. If a proposed action is determined to fall within a CE, FirstNet shall not be required to, but may at its discretion, document its determination that a CE applies to a proposed action, unless extraordinary circumstances exist.''

Extraordinary Circumstances

FirstNet proposes to remove and replace its existing list of extraordinary circumstances with the criteria established by the FCC regulations that require the development of an EA. Accordingly, the current list of extraordinary circumstances will be removed and replaced with the following:

''The following extraordinary circumstances or First Responder Network Authority (FirstNet) actions with respect to the following types of facilities may significantly affect the environment and may require further environmental review and the preparation of an Environmental Assessment (EA):

1. Facilities that are to be located in an officially designated wilderness area.

2. Facilities that are to be located in an officially designated wildlife preserve.

3. Facilities that: (i) May affect listed threatened or endangered species or designated critical habitats; or (ii) are likely to jeopardize the continued existence of any proposed endangered or threatened species or likely to result in the destruction or adverse modification of proposed critical habitats, as determined by the Secretary of the Interior pursuant to the Endangered Species Act of 1973 (16 U.S.C. 1531).

4. Facilities that may affect prehistoric or historic districts, sites, buildings, structures, or objects that are significant in American history, architecture, archeology, engineering, or culture and that are listed, or are eligible for listing, in the National Register of Historic Places (*See* 16 U.S.C. 470w(5); Parts 60 through 800 of Title 36 of the Code of Federal Regulations [36 CFR parts 60 and 800]).[7] However, these requirements do not apply to:

a. The mounting of antennas [8] (including associated equipment such as wiring, cabling, cabinets, or backup-power) on existing utility structures (including utility poles and electric transmission towers in active use by a ''utility'' as defined in Section 224 of the Communications Act of 1934, 47 U.S.C. 224, but not including light poles, lamp posts, and other structures whose primary purpose is to provide public lighting) where the deployment meets the following conditions:

i. All antennas that are part of the deployment fit within enclosures (or if the antennas are exposed, within imaginary enclosures) that are individually no more than three (3) cubic feet in volume, and all antennas on the structure, including any pre-existing antennas on the structure, fit within enclosures (or if the antennas are exposed, within imaginary enclosures) that total no more than six (6) cubic feet in volume;

ii. All other wireless equipment associated with the structure, including pre-existing enclosures and including equipment on the ground associated with antennas on the structure, are cumulatively no more than 17 cubic feet in volume, exclusive of:

[7] To ascertain whether a proposed action may affect properties that are listed, or are eligible for listing, in the National Register of Historic Places, an Applicant shall follow the procedures set forth in the rules of the Advisory Council on Historic Preservation, 36 CFR part 800, as modified and supplemented by the Nationwide Programmatic Agreement for the Collocation of Wireless Antennas (*See* 47 CFR Appendix B Part 1) and the Nationwide Programmatic Agreement Regarding the Section 106 National Historic Preservation Act Review Process (*See* 47 CFR Appendix C Part 1).

[8] A non-visible new antenna is in the ''same vicinity'' as a pre-existing antenna if it will be collocated on the same rooftop, facade, or other surface. A visible new antenna is in the ''same vicinity'' as a pre-existing antenna if it is on the same rooftop, facade, or other surface and the centerpoint of the new antenna is within ten feet of the centerpoint of the pre-existing antenna. A deployment causes no new ground disturbance when the depth and width of previous disturbance exceeds the proposed construction depth and width by at least two feet.

1. Vertical cable runs for the connection of power and other services;

2. Ancillary equipment installed by other entities that is outside of the Applicant's ownership or control, and

3. Comparable equipment from pre-existing wireless deployments on the structure;

iii. The deployment will involve no new ground disturbance; and

iv. The deployment would otherwise require the preparation of an EA under 47 CFR 1.1307(a)(4) solely because of the age of the structure.

b. The mounting of antennas (including associated equipment such as wiring, cabling, cabinets, or backup-power) on buildings or other non-tower structures where the deployment meets the following conditions:

i. There is an existing antenna on the building or structure;

ii. One of the following criteria is met:

1. *Non-Visible Antennas.* The new antenna is not visible from any adjacent streets or surrounding public spaces and is added in the same vicinity as a pre-existing antenna;

2. *Visible Replacement Antennas.* The new antenna is visible from adjacent streets or surrounding public spaces, provided that:

a. It is a replacement for a pre-existing antenna;

b. The new antenna will be located in the same vicinity as the pre-existing antenna,

c. The new antenna will be visible only from adjacent streets and surrounding public spaces that also afford views of the pre-existing antenna,

d. The new antenna is not more than three (3) feet larger in height or width (including all protuberances) than the pre-existing antenna; and

e. No new equipment cabinets are visible from the adjacent streets or surrounding public spaces; or

3. *Other Visible Antennas.* The new antenna is visible from adjacent streets or surrounding public spaces, provided that:

a. It is located in the same vicinity as a pre-existing antenna;

b. The new antenna is visible only from adjacent streets and surrounding public spaces that also afford views of the pre-existing antenna;

c. The pre-existing antenna was not deployed pursuant to the exclusion in this subsection (47 CFR 1.1307(a)(4)(ii)(B)(2)(iii));

d. The new antenna is not more than three (3) feet larger in height or width (including all protuberances) than the pre-existing antenna; and

e. No new equipment cabinets are visible from the adjacent streets or surrounding public spaces;

c. The new antenna complies with all zoning conditions and historic preservation conditions applicable to existing antennas in the same vicinity that directly mitigate or prevent effects, such as camouflage or concealment requirements;

d. The deployment of the new antenna involves no new ground disturbance; and

e. The deployment would otherwise require the preparation of an EA under 47 CFR 1.1307(a)(4) solely because of the age of the structure.

5. Facilities that may affect tribal religious sites.

6. Facilities to be located in a floodplain (See Executive Order [E.O.] 11988, Floodplain Management, as amended).

7. Facilities whose construction will involve significant change in surface features (*e.g.,* wetland fill, deforestation, water diversion). In the case of wetlands on federal property, see E.O. 11990, Protection of Wetlands.

8. Antenna towers and/or supporting structures that are to be equipped with high intensity white lights and located in residential neighborhoods, as defined by the applicable zoning law.

9. FirstNet actions granting permits or leases, or renewals thereof, or equipment authorizations or modifications in existing facilities require the preparation of an EA, subject to the specific conditions specified in 47 CFR 1.1307(b), if the particular facility, operation, or transmitter would cause human exposure levels of radio frequency radiation in excess of the limits described in 47 CFR 1.1310 and 2.1093.

10. If an interested person alleges that a particular action, otherwise categorically excluded, may have a significant environmental effect, the person shall submit to FirstNet a written petition setting forth in detail the reasons justifying or circumstances necessitating environmental consideration in the decision-making process. FirstNet shall review the petition and consider the environmental concerns that have been raised. If FirstNet determines that the action may have a significant environmental impact, FirstNet will require the Applicant to prepare an EA, which will serve as the basis for the determination to proceed with or terminate environmental processing.

11. FirstNet shall require an EA for an otherwise categorically excluded action involving a new or existing antenna structure, for which an antenna structure registration application (Federal Communications Commission [FCC] Form 854) is required under 47 CFR part 17, if the proposed antenna structure will be over 450 feet in height above ground level and involves either:

a. Construction of a new antenna structure;

b. Modification or replacement of an existing antenna structure involving a substantial increase in size as defined in 47 CFR (C)(1)(3) of Appendix B to Part 1, Nationwide Programmatic Agreement for Collocations of Wireless Antennas; or

c. Addition of lighting or adoption of a less preferred lighting style as defined in 47 CFR 17.4(c)(1)(iii) of this chapter. FirstNet shall consider whether to require an EA for other antenna structures subject to 47 CFR 17.4(c) of this chapter in accordance with 47 CFR 17.4(c)(8). An EA required pursuant to this note will be subject to the same procedures that apply to any EA required for a proposed tower or modification of an existing tower for which an antenna structure registration application (FCC Form 854) is required, as set forth in 47 CFR 17.4(c).

12. If FirstNet is responsible for processing a particular action otherwise categorically excluded, and determines that the proposal may have a significant environmental impact, FirstNet on its own motion, shall require the Applicant to submit an EA.''

Proposed Revisions to FirstNet Categorical Exclusions

FirstNet, as discussed above, has a statutory mission to ensure the establishment of the NPSBN. As an FCC licensee, FirstNet actions related to network deployment will be the same activities as those undertaken by other FCC licensees and will be subject to the same FCC environmental review process. Thus, as federal entities, both FirstNet and the FCC are subject to the same NEPA requirements and will be performing a review of the same activities. Consequently, FirstNet, in an effort to establish a more efficient environmental review process, is seeking to more closely align its CEs with those of the FCC. More specifically, as described below, FirstNet's proposed CE B–1 relies upon the FCC CE, as listed in 47 CFR 1.1306, as a benchmark for establishing the updated FirstNet CE B–1. In addition to proposed CE B–1, FirstNet is seeking to establish a CE B–15 that will account for the use of cells on wheels, systems on wheels, and similar network equipment.

FirstNet has carefully reviewed the Administrative Record for the proposed CEs to ensure it fulfills the goal of balancing increased administrative efficiency in NEPA compliance with avoidance of misinterpretations and

misapplications of exclusionary language that could lead to non-compliance with NEPA requirements.[9] Ultimately, FirstNet determined that the proposed CEs met both objectives. Moreover, FirstNet notes that proposed CE B–1 is currently part of the FCC's rules for environmental review process and ensures that licensees, such as FirstNet, take appropriate measure to protect environmental and historic resources when conducting tower and antenna siting activities (*i.e.,* constructing a new tower or collocating an antenna on an existing structure). Likewise, FirstNet proposed CE B–14, which encompasses to the use of deployable devices, is supported by existing CEs of the Department of Homeland Security and the U.S. Army. Consequently, through a deliberative process, FirstNet determined that the proposed CEs encompass activities that do not inherently have individual or cumulative significant impacts on the human environment.

Synopsis of Proposed Changes to Categorical Exclusions

The following is a summary of the proposed revisions to the CEs that may be applied to actions related to the deployment of the NPSBN to which NEPA applies. Key proposed changes include: (1) Reorganizing CEs into two separate groups (*i.e.,* Group A covering administrative actions and Group B covering network deployment activities) and renumbering of existing CEs; (2) establishing two new CEs (B–1 and B–15); (3) removing the current CE A–7 in its entirety and the term ''wireless'' from the CE A–12 as activities related to wireless communications will be covered by the proposed CE B–1; and (4) removing current CE A–8 because it is unnecessary based on the scope of FirstNet actions. Accordingly, the following list presents FirstNet's proposed revisions to its CEs, along with a brief description of the reasoning for establishing a new CE or identifying substantive changes, if any, to the existing CE. As noted above, the Administrative Record supporting these CEs is available at *www.firstnet.gov.*

Administrative Actions

[A.1.] ''The issuance of bulletins and information publications that do not concern environmental matters or substantial facility design, construction, or maintenance practices.''

FirstNet does not propose any change to this existing CE.

[A.2.] ''Procurement activities related to the day-to-day operation of FirstNet, including routine procurement of goods or services.''

FirstNet does not propose any change to this existing CE.

[A.3.] ''Personnel and Administrative Actions.''

FirstNet does not propose any change to this existing CE.

[A.4.] ''Purchase or lease of existing facilities or a portion thereof where use or operation will remain unchanged.''

FirstNet does not propose any change to this existing CE.

Network Deployment Activities

[B.1.] ''Actions related to network deployment that are subject to and satisfy the environmental requirements established under 47 CFR 1.1306 as described below:

(a) Except as provided in 47 CFR 1.1307 (c) and (d), FirstNet's actions not covered by 47 CFR 1.1307 (a) and (b) are deemed individually and cumulatively to have no significant effect on the quality of the human environment and are categorically excluded from environmental processing.

(b) Specifically, any FirstNet action with respect to any new application, or minor or major modifications of existing or authorized facilities or equipment, will be categorically excluded, provided such proposals do not:

(1) Involve a site location specified under 47 CFR 1.1307(a)(1)–(7).

(2) Involve high intensity lighting under 47 CFR 1.1307(a)(8).

(3) Result in human exposure to radio frequency radiation in excess of the applicable safety standards specified in 47 CFR 1.1307(b).

(c) Any FirstNet action with respect to any new application, or minor or major modifications of existing or authorized facilities or equipment, will be categorically excluded, subject to the following:

(1) Unless 47 CFR 1.1307(a)(4) is applicable, the provisions of 47 CFR 1.1307(a) requiring the preparation of Environmental Assessments (EAs) do not encompass the construction of wireless facilities, including deployments on new or replacement poles, if:

(i) The facilities will be located in a right-of-way that is designated by a Federal, State, local, or tribal government for communications towers, above-ground utility transmission or distribution lines, or any associated structures and equipment;

(ii) The right-of-way is in active use for such designated purposes; and

(iii) The facilities would not:

(A) Increase the height of the tower or non-tower structure by more than 10 percent or 20 feet, whichever is greater, over existing support structures that are located in the right-of-way within the vicinity of the proposed construction;

(B) Involve the installation of more than four new equipment cabinets or more than one new equipment shelter;

(C) Add an appurtenance to the body of the structure that would protrude from the edge of the structure more than 20 feet, or more than the width of the structure at the level of the appurtenance, whichever is greater (except that the deployment may exceed this size limit if necessary to shelter the antenna from inclement weather or to connect the antenna to the tower via cable); or

(D) Involve excavation outside the current site, defined as the area that is within the boundaries of the leased or owned property surrounding the deployment or that is in proximity to the structure and within the boundaries of the utility easement on which the facility is to be deployed, whichever is more restrictive.

(2) Such wireless facilities are subject to 47 CFR 1.1307(b) and require EAs if their construction would result in human exposure to radiofrequency radiation in excess of the applicable health and safety guidelines cited in 47 CFR 1.1307(b).

(d) The provisions of 47 CFR 1.1307(a) requiring the preparation of EAs do not encompass the mounting of antenna(s) and associated equipment (such as wiring, cabling, cabinets, or backup-power), on or in an existing building, or on an antenna tower or other man-made structure, unless 47 CFR 1.1307(a)(4) is applicable. Such antennas are subject to 47 CFR 1.1307(b) and require EAs if their construction would result in human exposure to radiofrequency radiation in excess of the applicable health and safety guidelines cited in 47 CFR 1.1307(b). The provisions of 47 CFR 1.1307(a) and (b) do not encompass the installation of aerial wire or cable over existing aerial corridors of prior or permitted use or the underground installation of wire or cable along existing underground corridors of prior or permitted use, established by the Applicant or others. The use of existing buildings, towers, or corridors is an environmentally desirable alternative to the construction of new facilities and is encouraged. The provisions of 47 CFR 1.1307(a) and (b) do not encompass the construction of new submarine cable systems.

(e) The specific height of an antenna tower or supporting structure, as well as the specific diameter of a satellite Earth station, in and of itself, will not be deemed sufficient to warrant

[9] The Administrative Record for these proposed CEs is available at *www.firstnet.gov.*

environmental processing, *see* 47 CFR 1.1307 and 1.1308, except as required by FirstNet or the FCC pursuant to the note to 47 CFR 1.1307(d).

(f) The construction of an antenna tower or supporting structure in an established ''antenna farm'' (*i.e.,* an area in which similar antenna towers are clustered, whether or not such area has been officially designated as an antenna farm) will be categorically excluded unless one or more of the antennas to be mounted on the tower or structure are subject to the provisions of 47 CFR 1.1307(b) and the additional radiofrequency radiation from the antenna(s) on the new tower or structure would cause human exposure in excess of the applicable health and safety guidelines cited in 47 CFR 1.1307(b).''

FirstNet proposes to establish this CE to better align its existing environmental review process with the FCC's rules for environmental review that FirstNet must comply with as a licensee of the FCC. Further, the establishment of this CE ensures that FirstNet takes appropriate measures to protect environmental and historic resources when conducting tower and antenna siting activities (*i.e.,* constructing a new tower or collocating an antenna on an existing structure). This CE is supported by long-standing CEs and administrative records. In particular, these include exclusions from the Federal Communications Commission, U.S. Department of Agriculture, and U.S. Department of Energy.

[B.2.] ''Internal modifications or equipment additions (*e.g.,* computer facilities, relocating interior walls) to structures or buildings.''

This CE was formerly classified as A–5 but has been reclassified as B–5. No other changes to this CE have been proposed.

[B.3] ''Construction of buried and aerial telecommunications lines, cables, and related facilities.''

This CE was formerly classified as A–6 but has been reclassified as B–3. No other changes to this CE have been proposed.

[B.4.] ''Changes to existing transmission lines that involve less than 20 percent pole replacement, or the complete rebuilding of existing distribution lines within the same right of way. Changes to existing transmission lines that require 20 percent or greater pole replacement will be considered the same as new construction.''

This CE was formerly classified as A–9 but has been reclassified as B–5. No other changes to this CE have been proposed.

[B.5.] ''Changes or additions to existing substations, switching stations, telecommunications switching or multiplexing centers, or external changes to buildings or small structures requiring one acre (0.4 hectare) or more but no more than five acres (2 hectares) of new physically disturbed land or fenced property.''

This CE was formerly classified as A–10 but has been reclassified as B–5. No other changes to this CE have been proposed.

[B.6.] ''Construction of substations, switching stations, or telecommunications switching or multiplexing centers requiring no more than five acres (2 hectares) of new physically disturbed land or fenced property.''

This CE was formerly classified as A–11 but has been reclassified as B–6. No other changes to this CE have been proposed.

[B.7.] ''Changes or additions to telecommunication sites, substations, switching stations, telecommunications switching or multiplexing centers, buildings, or small structures requiring new physical disturbance or fencing of less than one acre (0.4 hectare).''

This CE was formerly classified as A–12 but has been reclassified as B–7. Further, FirstNet proposes to remove the term ''wireless'' from the CE as such activities related to wireless facilities fall within the scope of proposed CE B–1.

[B.8.] ''Ordinary maintenance or replacement of equipment or small structures (*e.g.,* line support structures, line transformers, microwave facilities, telecommunications remote switching and multiplexing sites).''

This CE was formerly classified as A–13 but has been reclassified as B–8. No other changes to this CE have been proposed.

[B.9.] ''The construction of telecommunications facilities within the fenced area of an existing substation, switching station, or within the boundaries of an existing electric generating facility site.''

This CE was formerly classified as A–14 but has been reclassified as B–9. No other changes to this CE have been proposed.

[B.10.] ''Testing or monitoring work (*e.g.,* soil or rock core sampling, monitoring wells, air monitoring).''

This CE was formerly classified as A–15 but has been reclassified as B–10. No other changes to this CE have been proposed.

[B.11.] ''Studies and engineering undertaken to define proposed actions or alternatives sufficiently so that environmental effects can be assessed.''

This CE was formerly classified as A–16 but has been reclassified as B–11. No other changes to this CE have been proposed.

[B.12.] ''Rebuilding of power lines or telecommunications cables where road or highway reconstruction requires the Applicant to relocate the lines either within or adjacent to the new road or highway easement or right-of-way.''

This CE was formerly classified as A–17 but has been reclassified as B–12. No other changes to this CE have been proposed.

[B.13.] ''Phase or voltage conversions, reconductoring or upgrading of existing electric distribution lines, or telecommunication facilities.''

This CE was formerly classified as A–18 but has been reclassified as B–13. No other changes to this CE have been proposed.

[B.14.] ''Construction of standby diesel electric generators (one megawatt or less total capacity) and associated facilities, for the primary purpose of providing emergency power, at an existing Applicant headquarters or district office, telecommunications switching or multiplexing site, or at an industrial, commercial, or agricultural facility served by the Applicant.''

This CE was formerly classified as A–19 but has been reclassified as B–14. No other changes to this CE have been proposed.

[B.15.] ''Deployment of Cells on Wheels, Systems on Wheels, or other deployable architecture intended for temporary placement (no more than two years) on an impervious surface.''

FirstNet proposes to establish this CE to account for activities related to the use of deployable or similar equipment. This CE is supported by long-standing CEs and administrative records. In particular, these include exclusions from the U.S. Department of Homeland Security and U.S. Army.

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DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–40–2017]

Foreign-Trade Zone (FTZ) 57—Charlotte, North Carolina, Notification of Proposed Production Activity, DNP Imagingcomm America Corporation (Coatings and Lamination on Semi-Completed Coated Paper), Concord, North Carolina

The Charlotte Regional Partnership, Inc., grantee of FTZ 57, submitted a

notification of proposed production activity to the FTZ Board on behalf of DNP Imagingcomm America Corporation (DNP), operator of Subzone 57C, located in Concord, North Carolina. The notification conforming to the requirements of the regulations of the FTZ Board (15 CFR 400.22) was received on May 30, 2017.

DNP already has authority to slit foreign jumbo rolls of thermal transfer ribbons, dye sublimation transfer ribbon (STR), and assemble STR photo printer components (including photo printer packages—printer cartridges and paper) within Subzone 57C. DNP's new activity would add foreign status coatings and lamination to semi-completed coated paper to the scope of authority. Pursuant to 15 CFR 400.14(b), additional FTZ authority would be limited to the specific foreign-status materials/components described in the submitted notification (as described below) and subsequently authorized by the FTZ Board.

Production under FTZ procedures could exempt DNP from customs duty payments on the foreign-status materials/components used in export production. On its domestic sales, DNP would be able to choose the duty rate during customs entry procedures that applies to the finished products in the existing scope of authority for the foreign-status materials/components noted below. Customs duties also could possibly be deferred or reduced on foreign-status production equipment.

The materials/components sourced from abroad include: Polyurethane composed of urethane resin, m-xylylene diisocyanate and ethyl acetate; catalyst for sealant and adhesive formulation; polyurethane resin; binding agent for polyurethane coatings; propylene film; coated wood-free paper; chemical reaction initiators; components of printing ink; plastic film; chemical binders; and, resin—binder used in ink (duty rate ranges from free to 6.5%)

Public comment is invited from interested parties. Submissions shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is August 2, 2017.

A copy of the notification will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 21013, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230–0002, and in the ''Reading Room'' section of the Board's Web site, which is accessible via *www.trade.gov/ftz.*

For further information, contact Christopher Wedderburn at *Chris.Wedderburn@trade.gov* or (202) 482–1963.

Dated: June 16, 2017.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2017–13134 Filed 6–22–17; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[S–83–2017]

Foreign-Trade Zone 143—Sacramento, California Application for Subzone Expansion; Mitsubishi Chemical Carbon Fiber and Composites, Inc. Sacramento, California

An application has been submitted to the Foreign-Trade Zones (FTZ) Board by the Sacramento-Yolo Port District, grantee of FTZ 143, requesting expanded subzone status for the facilities of Mitsubishi Chemical Carbon Fiber and Composites, Inc., located in Sacramento, California. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the FTZ Board (15 CFR part 400). It was formally docketed on June 1, 2017.

Subzone 143D consists of the following sites in Sacramento: *Site 1* (10 acres) 5900 88th Street; and, *Site 2* (1.05 acres) 6003 88th Street. The applicant is now requesting authority to expand the subzone to include proposed *Site 3:* 8670 Fruitridge Road, Suite 100, Sacramento. The expanded subzone would be subject to the existing activation limit of FTZ 143.

In accordance with the FTZ Board's regulations, Christopher Kemp of the FTZ Staff is designated examiner to review the application and make recommendations to the Executive Secretary.

Public comment is invited from interested parties. Submissions shall be addressed to the FTZ Board's Executive Secretary at the address below. The closing period for their receipt is August 2, 2017. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to August 17, 2017.

A copy of the application will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 21013, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230–0002, and in the ''Reading Room'' section of the FTZ Board's Web site, which is accessible via *www.trade.gov/ftz.*

For further information, contact Christopher Kemp at *Christopher.Kemp@trade.gov* or (202) 482–0862.

Dated: June 16, 2017.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2017–13120 Filed 6–22–17; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–43–2017]

Foreign-Trade Zone 57—Mecklenburg County, North Carolina; Application for Production Authority; Gildan Yarns, LLC (Cotton and Cotton/Polyester Yarns); Salisbury, North Carolina

An application has been submitted to the Foreign-Trade Zones (FTZ) Board by the Charlotte Regional Partnership, Inc., grantee of FTZ 57, requesting export-only production authority on behalf of Gildan Yarns, LLC (Gildan), located in Salisbury, North Carolina. The application conforming to the requirements of the regulations of the FTZ Board (15 CFR 400.23) was docketed on June 16, 2017.

The Gildan facility (400 employees, 104 acres) is located within Site 19 of FTZ 57. The facility is used to produce spun cotton and cotton/polyester yarns for export. Production under FTZ procedures could exempt Gildan from customs duty payments on the foreign component used in export production. The sole foreign-origin material (representing 10% of the value of the finished product) to be used in the export production is polyester staple fiber (duty rate 4.3%). Customs duties also could possibly be deferred or reduced on foreign-status production equipment. The request indicates that the savings from FTZ procedures would help improve the plant's international competitiveness.

In accordance with the FTZ Board's regulations, Elizabeth Whiteman of the FTZ Staff is designated examiner to evaluate and analyze the facts and information presented in the application and case record and to report findings and recommendations to the FTZ Board.

Public comment is invited from interested parties. Submissions shall be addressed to the FTZ Board's Executive Secretary at the address below. The closing period for their receipt is August 22, 2017. Rebuttal comments in response to material submitted during

the foregoing period may be submitted during the subsequent 15-day period to September 6, 2017.

A copy of the application will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 21013, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230–0002, and in the ''Reading Room'' section of the FTZ Board's Web site, which is accessible via *www.trade.gov/ftz*.

For further information, contact Elizabeth Whiteman at *Elizabeth.Whiteman@trade.gov* or (202) 482–0473.

Dated: June 19, 2017.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2017–13135 Filed 6–22–17; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–051]

Certain Hardwood Plywood Products From the People's Republic of China: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Preliminary Affirmative Determination of Critical Circumstances, in Part

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the Department) preliminarily determines that certain hardwood plywood products (hardwood plywood) from the People's Republic of China (PRC) are being, or are likely to be, sold in the United States at less than fair value (LTFV). The period of investigation (POI) is April 1, 2016, through September 30, 2016.

DATES: Effective June 23, 2017.

FOR FURTHER INFORMATION CONTACT: Amanda Brings or Ryan Mullen, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–3927 or (202) 482–5260, respectively.

SUPPLEMENTARY INFORMATION:

Background

This preliminary determination is made in accordance with section 733(b) of the Tariff Act of 1930, as amended (the Act). The Department published the notice of initiation of this investigation on December 16, 2016.[1] On February 27, 2017, the Department postponed the preliminary determination of this investigation and the revised deadline is now June 16, 2017.[2] For a complete description of the events that followed the initiation of this investigation, *see* the Preliminary Decision Memorandum.[3] A list of topics included in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary 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 to all parties in the Central Records Unit, Room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/.* The signed and the electronic versions of the Preliminary Decision Memorandum are identical in content.

Scope of the Investigation

The product covered by this investigation is hardwood plywood from the PRC. For a complete description of the scope of this investigation, *see* Appendix I.

Scope of Comments

In accordance with the preamble to the Department's regulations,[4] the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (scope).[5] Certain interested parties commented on the scope of the investigation as it appeared in the *Initiation Notice.* For a summary of the product coverage comments and rebuttal responses submitted to the record for this investigation, and accompanying discussion and analysis of all comments timely received, *see* the Department's Preliminary Scope Decision Memorandum and the Department's Additional Preliminary Scope Decision Memorandum.[6] The Department is preliminarily modifying the scope language as it appeared in the *Initiation Notice. See* the revised scope in Appendix I to this notice.

Methodology

The Department is conducting this investigation in accordance with section 731 of the Act. The Department calculated export prices in accordance with section 772(a) of the Act. Because the PRC is a non-market economy, within the meaning of section 771(18) of the Act, the Department calculated normal value (NV) in accordance with section 773(c) of the Act. In addition, pursuant to sections 776(a) and (b) of the Act, the Department preliminarily relied upon facts otherwise available, with adverse inferences, for Shandong Dongfang Bayley Wood Co., Ltd. (Bayley), certain separate rate applicants, and the PRC-wide entity. As the Department preliminarily determined that Bayley is not entitled to a separate rate, the company is included within the PRC-wide entity. For a full description of the methodology underlying the Department's preliminary determination, *see* the Preliminary Decision Memorandum.

Preliminary Affirmative Determination of Critical Circumstances, in Part

In accordance with section 733(e) of the Act and 19 CFR 351.206, the Department preliminarily determines that critical circumstances exist with respect to imports of hardwood plywood from the PRC for certain separate rate respondents and the PRC-wide entity (of which Bayley and certain separate rate respondents are a part), but do not exist for Linyi Chengen Import and Export Co., Ltd. and certain separate rate respondents. For a full description of the methodology and results of the Department's critical circumstances analysis, *see* the Preliminary Decision Memorandum.

[1] *See Certain Hardwood Plywood Products from the People's Republic of China: Initiation of Less-Than-Fair-Value Investigation,* 81 FR 91125 (December 16, 2016) (*Initiation Notice*).

[2] *See Certain Hardwood Plywood Products from the People's Republic of China: Postponement of Preliminary Determination of Antidumping Duty Investigation,* 82 FR 12538 (March 6, 2017).

[3] *See* Memorandum, ''Decision Memorandum for the Preliminary Determination in the Less-Than-Fair-Value Investigation of Certain Hardwood Plywood Products from the People's Republic of China,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[4] *See Antidumping Duties; Countervailing Duties, Final Rule,* 62 FR 27296, 27323 (May 19, 1997).

[5] *See Initiation Notice.*

[6] *See* Memorandum, ''Certain Hardwood Plywood Products from the People's Republic of China: Scope Comments Decision Memorandum for the Preliminary Determinations'' (Preliminary Scope Decision Memorandum), dated April 17, 2017, and hereby adopted by, this preliminary determination; Memorandum, ''Certain Hardwood Plywood Products from the People's Republic of China: Additional Scope Comments Preliminary Decision Memorandum and Extension of Deadlines for Scope Case Briefs and Scope Rebuttal Briefs'' (Additional Preliminary Scope Decision Memorandum), dated concurrently with, and hereby adopted by, this preliminary determination.

Combination Rates

In the *Initiation Notice,*[7] the Department stated that it would calculate producer/exporter combination rates for the respondents that are eligible for a separate rate in this investigation. Policy Bulletin 05.1 describes this practice.[8]

Preliminary Determination

The Department preliminarily determines that the following estimated weighted-average dumping margins exist:

Exporter	Producer	Estimated weighted-average dumping margin (percent)	Cash deposit rate (percent)
Linyi Chengen Import and Export Co., Ltd	Linyi Dongfangjuxin Wood Co., Ltd	00.00	00.00
Anhui Hoda Wood Co., Ltd	Feixian Jianxin Board Factory	57.36	57.07
Anhui Hoda Wood Co., Ltd	Linyi Xicheng Wood Co., Ltd	57.36	57.07
Anhui Hoda Wood Co., Ltd	Linyi Longxin Wood Co., Ltd	57.36	57.07
Anhui Hoda Wood Co., Ltd	Fengxian Jihe Wood Co., Ltd	57.36	57.07
Anhui Hoda Wood Co., Ltd	Xuzhou Chunyiyang Wood Co., Ltd	57.36	57.07
Anhui Hoda Wood Co., Ltd	Linyi Lanshan District Xiangfeng Decorative Board Factory.	57.36	57.07
Anhui Hoda Wood Co., Ltd	Linyi Lanshan District Fubai Wood Board Factory	57.36	57.07
Anhui Hoda Wood Co., Ltd	Shandong Jubang Wood Co., Ltd	57.36	57.07
Anhui Hoda Wood Co., Ltd	Feixian Shangye Town Mingda Multi-layered Board Factory.	57.36	57.07
Anhui Hoda Wood Co., Ltd	Xuzhou Dayuan Wood Co., Ltd	57.36	57.07
Anhui Hoda Wood Co., Ltd	Linyi Mingzhu Wood Co., Ltd	57.36	57.07
Anhui Hoda Wood Co., Ltd	Linyi Renlin Wood Co., Ltd	57.36	57.07
Celtic Co., Ltd	Linyi Celtic Wood Co., Ltd	57.36	57.07
Celtic Co., Ltd	Pinyi Fuhua Wood Co., Ltd	57.36	57.07
China Friend Limited	Feixian Wanda Wood Factory	57.36	57.07
China Friend Limited	Shandong Huaxin Jiasheng Wood Co., Ltd	57.36	57.07
China Friend Limited	Feixian Xinhe Wood Co., Ltd	57.36	57.07
China Friend Limited	Shandong Dongfang Bayley Wood Co., Ltd	57.36	57.07
China Friend Limited	Xuzhou Yujinfang Wood Co., Ltd	57.36	57.07
China Friend Limited	Linyi Huifeng Wood Industry Co., Ltd	57.36	57.07
China Friend Limited	Linyi Dongfangjuxin Wood Co., Ltd	57.36	57.07
Cosco Star International Co., Ltd	Linyi Huasheng Yongbin Wood Corp	57.36	57.07
Cosco Star International Co., Ltd	Suining Pengxiang Wood Co., Ltd	57.36	57.07
Cosco Star International Co., Ltd	Pizhou Jiangshan Wood Co., Ltd	57.36	57.07
Cosco Star International Co., Ltd	Shandong Union Wood Co. Ltd	57.36	57.07
Cosco Star International Co., Ltd	Linyi Sanfortune Wood Co. Ltd	57.36	57.07
Cosco Star International Co., Ltd	Shandong Anxin Timber Co., Ltd	57.36	57.07
Cosco Star International Co., Ltd	Linyi Evergreen Wood Co., Ltd	57.36	57.07
Cosco Star International Co., Ltd	Shandong Huaxin Jiasheng Wood Co., Ltd	57.36	57.07
Cosco Star International Co., Ltd	Xuzhou Shenghe Wood Co., Ltd	57.36	57.07
Cosco Star International Co., Ltd	Pengyi Jinniu Wood Co., Ltd	57.36	57.07
Cosco Star International Co., Ltd	Linyi Celtic Wood Co., Ltd	57.36	57.07
Cosco Star International Co., Ltd	Linyi Laiyi Timber Industry Co., Ltd	57.36	57.07
Cosco Star International Co., Ltd	Feixian Hongqiang Wood Co., Ltd	57.36	57.07
Cosco Star International Co., Ltd	Feixan Xingying Wood Co., Ltd	57.36	57.07
Cosco Star International Co., Ltd	Linyi City Lanshan District Fubo Wood Factory	57.36	57.07
Deqing China-Africa Foreign Trade Port Co., Ltd	Suqian Welcomewood Products CO., LTD	57.36	57.07
Deqing China-Africa Foreign Trade Port Co., Ltd	Feixian Hongqiang Wooden Products CO., LTD	57.36	57.07
Feixian Jinde Wood Factory	Feixian Jinde Wood Factory	57.36	57.07
Feixian Longteng Wood Co., Ltd	Feixian Longteng Wood Co., Ltd	57.36	57.07
Golder International Trade Co., Ltd	Fengxian Shuangxingyuan Wood Co., Ltd	57.36	57.07
Golder International Trade Co., Ltd	Fengxian Fangyuan Wood Co., Ltd	57.36	57.07
Golder International Trade Co., Ltd	Pizhou Jinuoyuan Wood Co., Ltd	57.36	57.07
Golder International Trade Co., Ltd	Xuzhou Changcheng Wood Co., Ltd	57.36	57.07
Golder International Trade Co., Ltd	Xuzhou Jiamei Wood Co., Ltd	57.36	57.07
G.D. Enterprise Limited	International Wood Products (Kunshan) Co., Ltd	57.36	57.07
Happy Wood Industrial Group Co., Ltd	Happy Wood Industrial Group Co., Ltd	57.36	57.07
Henan Hongda Woodcraft Industry Co., Ltd	Henan Hongda Woodcraft Industry Co., Ltd	57.36	57.07
Highland Industries Inc	Weifang Hanlin Timber Producers Co. Ltd	57.36	57.07
Highland Industries Inc	Anqiu Hengrui Wood Co., Ltd	57.36	57.07
Highland Industries Inc	Weifang Chenglin Wood Industry Co., Ltd	57.36	57.07
Huainan Mengping Import and Export Co., Ltd	Linyi Qianfeng Panel Factory Co., Ltd	57.36	57.07
Jiangsu High Hope Arser Co., Ltd	Shandong Dongfang Bayley Wood Co., Ltd	57.36	57.07
Jiangsu High Hope Arser Co., Ltd	Xuzhou Zhongtong Wood Co., Ltd	57.36	57.07
Jiangsu High Hope Arser Co., Ltd	Pizhou Arser Wood Co., Ltd	57.36	57.07
Jiangsu High Hope Arser Co., Ltd	Linyi Jinghai Wood Products Factory	57.36	57.07

[7] *See Initiation Notice* at 91129.

[8] *See* Enforcement and Compliance's Policy Bulletin No. 05.1, regarding, ''Separate-Rates Practice and Application of Combination Rates in Antidumping Investigations involving Non-Market Economy Countries,'' (April 5, 2005) (Policy Bulletin 05.1), available on the Department's Web site at *http://enforcement.trade.gov/policy/bull05-1.pdf.*

Exporter	Producer	Estimated weighted-average dumping margin (percent)	Cash deposit rate (percent)
Jiangsu Qianjiuren International Trading Co., Ltd	Jiangsu Shuren Wood Co., Ltd	57.36	57.07
Jiangsu Shengyang Industrial Joint Stock Co., Ltd	Jiangsu Shengyang Industrial Joint Stock Co., Ltd	57.36	57.07
Jiangsu Top Point International Co., Ltd	Linyi Jinkun Wood Co., Ltd	57.36	57.07
Jiangsu Top Point International Co., Ltd	Feixian Huafeng Wood Co., Ltd	57.36	57.07
Jiangsu Top Point International Co., Ltd	Feixian Xindongfang Wood Co., Ltd	57.36	57.07
Jiangsu Top Point International Co., Ltd	Feixian Fuyang Plywood Factory	57.36	57.07
Jiangsu Top Point International Co., Ltd	Fengxian Shuangxingyuan Wood Co., Ltd	57.36	57.07
Jiangsu Top Point International Co., Ltd	Linyi Celtic Wood Co., Ltd	57.36	57.07
Jiashan Dalin Wood Industry Co., Ltd	Jiashan Dalin Wood Industry Co., Ltd	57.36	57.07
Jiaxing Gsun Imp. & Exp. Co., Ltd	Fengxian Hengyuan Wood Industry Co., Ltd	57.36	57.07
Jiaxing Gsun Imp. & Exp. Co., Ltd	Feixian Junyang Wood Industry Co., Ltd	57.36	57.07
Jiaxing Gsun Imp. & Exp. Co., Ltd	Feixian Junbang Wood Factory	57.36	57.07
Jiaxing Gsun Imp. & Exp. Co., Ltd	Linyi City Lanshan District Mingda Wood Factory	57.36	57.07
Jiaxing Gsun Imp. & Exp. Co., Ltd	Feixian Hongyun Wood Factory	57.36	57.07
Jiaxing Gsun Imp. & Exp. Co., Ltd	Linyi City Lanshan District Xiangfeng Wood Decoration Factory.	57.36	57.07
Jiaxing Gsun Imp. & Exp. Co., Ltd	Shandong Jubang Wood Co., Ltd	57.36	57.07
Jiaxing Gsun Imp. & Exp. Co., Ltd	Feixian Yixin Wood Processing Factory	57.36	57.07
Jiaxing Gsun Imp. & Exp. Co., Ltd	Pizhou Wantai Wood Industry Co., Ltd	57.36	57.07
Jiaxing Gsun Imp. & Exp. Co., Ltd	Feixian Fengxiang Wood Processing Factory	57.36	57.07
Jiaxing Gsun Imp. & Exp. Co., Ltd	Shandong Compete Wood Co., Ltd.	57.36	57.07
Jiaxing Gsun Imp. & Exp. Co., Ltd	Linyi Kunyu Plywood Factory	57.36	57.07
Jiaxing Hengtong Wood Co., Ltd	Jiaxing Hengtong Wood Co., Ltd	57.36	57.07
Jiaxing Kaochuan Woodwork Co., Ltd	Jiaxing Kaochuan Woodwork Co., Ltd	57.36	57.07
Leadwood Industrial Corp	Leadwood Industrial Corp	57.36	57.07
Lianyungang Yuantai International Trade Co., Ltd	Xinyi Chaohua Wood Co., Ltd	57.36	57.07
Lianyungang Yuantai International Trade Co., Ltd	Linyi Huasheng Yongbin Wood Corp	57.36	57.07
Lianyungang Yuantai International Trade Co., Ltd	Linyi City Lanshan District Baoshan Wood Factory	57.36	57.07
Lianyungang Yuantai International Trade Co., Ltd	Pizhou Yuanxing Wood Co., Ltd	57.36	57.07
Lianyungang Yuantai International Trade Co., Ltd	Linyi Celtic Wood Co., Ltd	57.36	57.07
Lianyungang Yuantai International Trade Co., Ltd	Linyi City Lanshan District Fubo Wood Factory	57.36	57.07
Lianyungang Yuantai International Trade Co., Ltd	Fei County Hongsheng Wood Co., Ltd	57.36	57.07
Lianyungang Yuantai International Trade Co., Ltd	Xuzhou Hongwei Wood Co., Ltd	57.36	57.07
Lianyungang Yuantai International Trade Co., Ltd	Pizhou Jinguoyuan Wood Co., Ltd	57.36	57.07
Lianyungang Yuantai International Trade Co., Ltd	Feixian Wanda Wood Co., Ltd	57.36	57.07
Lianyungang Yuantai International Trade Co., Ltd	Fengxian Shuangxingyuan Wood Co., Ltd	57.36	57.07
Lianyungang Yuantai International Trade Co., Ltd	Feixian Hongqiang Wood Co., Ltd	57.36	57.07
Lianyungang Yuantai International Trade Co., Ltd	Linyi City Lanshan District Fuerda Wood Factory	57.36	57.07
Lianyungang Yuantai International Trade Co., Ltd	Fengxian Hengyuan Wood Industry Co., Ltd	57.36	57.07
Lianyungang Yuantai International Trade Co., Ltd	Feixian Xingying Wood Co., Ltd	57.36	57.07
Lianyungang Yuantai International Trade Co., Ltd	Shandong Jubang Wood Co., Ltd	57.36	57.07
Lianyungang Yuantai International Trade Co., Ltd	Feixian Junyang Wood Industry Co., Ltd	57.36	57.07
Lianyungang Yuantai International Trade Co., Ltd	Feixian Junbang Wood Factory	57.36	57.07
Lianyungang Yuantai International Trade Co., Ltd	Feixian Hongyun Wood Factory	57.36	57.07
Lianyungang Yuantai International Trade Co., Ltd	Linyi City Lanshan District Xiangfeng Wood Decoration Factory.	57.36	57.07
Lianyungang Yuantai International Trade Co., Ltd	Linyi Renlin Wood Industry Co., Ltd	57.36	57.07
Lianyungang Yuantai International Trade Co., Ltd	Linyi City Lanshan District Mingda Wood Factory	57.36	57.07
Linyi City Dongfang Fukai Wood Industry Co., Ltd	Linyi City Dongfang Fukai Wood Industry Co., Ltd	57.36	57.07
Linyi City Dongfang Jinxin Economic and Trade Co., Ltd.	Linyi City Dongfang Jinxin Economic and Trade Co., Ltd.	57.36	57.07
Linyi City Shenrui International Trade Co., Ltd	Linyi City Dongfang Fuchao Wood Co., Ltd	57.36	57.07
Linyi City Shenrui International Trade Co., Ltd	Feixian Zhenghua Wood Factory	57.36	57.07
Linyi Dahua Wood Co., Ltd	Linyi Dahua Wood Co., Ltd	57.36	57.07
Linyi Evergreen Wood Co., Ltd	Linyi Evergreen Wood Co., Ltd	57.36	57.07
Linyi Glary Plywood Co., Ltd	Linyi Glary Plywood Co., Ltd	57.36	57.07
Linyi Hengsheng Wood Industry Co., Ltd	Linyi Hengsheng Wood Industry Co., Ltd	57.36	57.07
Linyi Huasheng Yongbin Wood Co., Ltd	Linyi Huasheng Yongbin Wood Co., Ltd	57.36	57.07
Linyi Jiahe Wood Industry Co., Ltd	Linyi Jiahe Wood Industry Co., Ltd	57.36	57.07
Linyi Linhai Wood Co., Ltd	Linyi Linhai Wood Co., Ltd	57.36	57.07
Linyi Mingzhu Wood Co., Ltd	Linyi Mingzhu Wood Co., Ltd	57.36	57.07
Linyi Sanfortune Wood Co., Ltd	Linyi Sanfortune Wood Co., Ltd	57.36	57.07
Linyi Tian He Wooden Industry Co., Ltd	Linyi Tian He Wooden Industry Co., Ltd	57.36	57.07
Pingyi Jinniu Wood Co., Ltd	Pingyi Jinniu Wood Co., Ltd	57.36	57.07
Pizhou Dayun Import & Export Trade Co., Ltd	Xuzhou Camry Wood Co., Ltd	57.36	57.07
Pizhou Jin Sheng Yuan International Corp., Ltd	Xuzhou Chengxin Wood Co., Ltd	57.36	57.07
Pizhou Jin Sheng Yuan International Corp., Ltd	Xuzhou Golden River Wood Co., Ltd	57.36	57.07
Qingdao Good Faith Import and Export Co., Ltd	Linyi Fubo Wood Co., Ltd	57.36	57.07
Qingdao Good Faith Import and Export Co., Ltd	Linyi Tuopu Zhixin Wooden Industry Co., Ltd	57.36	57.07
Qingdao Good Faith Import and Export Co., Ltd	Linyi Haisen Wood Co., Ltd	57.36	57.07

Exporter	Producer	Estimated weighted-average dumping margin (percent)	Cash deposit rate (percent)
Qingdao Good Faith Import and Export Co., Ltd	Linyi Jubang Wood Co., Ltd	57.36	57.07
Qingdao Good Faith Import and Export Co., Ltd	Xuzhou Changcheng Wood Co., Ltd	57.36	57.07
Qingdao Good Faith Import and Export Co., Ltd	Xuzhou Jinguoyuan Wood Co., Ltd	57.36	57.07
Qingdao Good Faith Import and Export Co., Ltd	Xuzhou Xuexin Wood Co., Ltd	57.36	57.07
Qingdao Good Faith Import and Export Co., Ltd	Anhui Fuyang Qinglin Wood Products Co., Ltd	57.36	57.07
Qingdao Good Faith Import and Export Co., Ltd	Anhui Huijin Wood Co., Ltd	57.36	57.07
Qingdao Good Faith Import and Export Co., Ltd	Anhui Lingfeng Wood Co., Ltd	57.36	57.07
Qingdao Good Faith Import and Export Co., Ltd	Suzhou Dongsheng Wood Co., Ltd	57.36	57.07
Qingdao Good Faith Import and Export Co., Ltd	Pizhou Zhongxin Wood Co., Ltd	57.36	57.07
Qingdao Good Faith Import and Export Co., Ltd	Xuzhou Spring Art Yang Wood Industry Co., Ltd	57.36	57.07
Qingdao Top P&Q International Corp	Linyi Dahua Wood Products Co., Ltd	57.36	57.07
Qingdao Top P&Q International Corp	Yutai Zezhong Wood Products Co., Ltd	57.36	57.07
Qingdao Top P&Q International Corp	Linyi Evergreen Wood Products Co., Ltd	57.36	57.07
Qingdao Top P&Q International Corp	Suzhou Dongsheng Wood Co., Ltd	57.36	57.07
Qingdao Top P&Q International Corp	Shandong Dongfang Bayley Wood Products Co., Ltd	57.36	57.07
Qingdao Top P&Q International Corp	Feixian Tanyi Youchengjiafu Wood Products Co., Ltd	57.36	57.07
Qingdao Top P&Q International Corp	Feixian Mingteng Wood Products Co., Ltd	57.36	57.07
Qingdao Top P&Q International Corp	Linyi Dahua Wood Products Co., Ltd	57.36	57.07
Qingdao Top P&Q International Corp	Yutai Zezhong Wood Products Co., Ltd	57.36	57.07
Qingdao Top P&Q International Corp	Linyi Qianfeng Wood Products Co., Ltd	57.36	57.07
Qingdao Top P&Q International Corp	Shandong Jinqiu Wood Products Co., Ltd	57.36	57.07
Qingdao Top P&Q International Corp	Linyi Laite Plywood Factory	57.36	57.07
Qingdao Top P&Q International Corp	Xuzhou Chunyiyang Wood Products Co. Ltd	57.36	57.07
Qingdao Top P&Q International Corp	Feixian Lijun Wood Products Co., Ltd	57.36	57.07
Qingdao Top P&Q International Corp	Feixian Shuangfeng Wood Products Co., Ltd	57.36	57.07
Qingdao Top P&Q International Corp	Linyi Longxin Wood Products Co., Ltd	57.36	57.07
Qingdao Top P&Q International Corp	Linyi Lanshan Wanmei Wood Factory	57.36	57.07
Qingdao Top P&Q International Corp	Feixian Xinhe Wood Products Co., Ltd	57.36	57.07
Qingdao Top P&Q International Corp	Linyi Chenyuan Wood Products Co., Ltd	57.36	57.07
Qingdao Top P&Q International Corp	Di Birch Wood Industry Co., Ltd	57.36	57.07
Qingdao Top P&Q International Corp	Shandong Junxing Wood Products Co., Ltd	57.36	57.07
Qingdao Top P&Q International Corp	Linyi Jiexin Wood Products Factory	57.36	57.07
Qingdao Top P&Q International Corp	Xuzhou Fuyu Wood Industry Co., Ltd	57.36	57.07
Qingdao Top P&Q International Corp	Jiangsu Lishun Industry And Trade Co., Ltd	57.36	57.07
Qingdao Top P&Q International Corp	Linyi Evergreen Wood Products Co., Ltd	57.36	57.07
Qingdao Top P&Q International Corp	Anhui Qinglin Wood Products Co., Ltd	57.36	57.07
Qingdao Top P&Q International Corp	Linyi Haisen Wood Products Co., Ltd	57.36	57.07
Qingdao Top P&Q International Corp	Linyi Hongze Plywood Factory	57.36	57.07
Qingdao Top P&Q International Corp	Linyi Kaifeng Wood Products Co., Ltd	57.36	57.07
Qingdao Top P&Q International Corp	Feixian Fugang Wood Products Co., Ltd	57.36	57.07
Qingdao Top P&Q International Corp	Lanling Longziyun Wood Products Co., Ltd	57.36	57.07
Qingdao Top P&Q International Corp	Linyi Fuerda Wood Products Co., Ltd	57.36	57.07
Qingdao Top P&Q International Corp	Fengxian Shuangxingyuan Wood Co., Ltd	57.36	57.07
Qingdao Top P&Q International Corp	Suzhou Dongsheng Wood Co., Ltd	57.36	57.07
Qingdao Top P&Q International Corp	Feixan Dexin Wood Products Co., Ltd	57.36	57.07
Qingdao Top P&Q International Corp	Shandong Dongfang Bayley Wood Products Co., Ltd	57.36	57.07
Qingdao Top P&Q International Corp	Linyi Huifeng Wood Products Co., Ltd	57.36	57.07
Qingdao Top P&Q International Corp	Feixian Kailin Wood Products Co., Ltd	57.36	57.07
Shandong Huaxin Jiasheng Wood Co., Ltd	Shandong Huaxin Jiasheng Wood Co., Ltd	57.36	57.07
Shandong Huiyu International Trade Co., Ltd	Linyi Huifeng Wood Products Co., Ltd	57.36	57.07
Shandong Jinluda International Trade Co., Ltd	Shandong Union Wood Co., Ltd	57.36	57.07
Shandong Jinluda International Trade Co., Ltd	Shandong Jinqiu Wood Co., Ltd	57.36	57.07
Shandong Johnson Trading Co., Ltd	Fengxian Hengyuan Wood Industry Co., Ltd	57.36	57.07
Shandong Johnson Trading Co., Ltd	Feixian Junyang Wood Industry Co., Ltd	57.36	57.07
Shandong Johnson Trading Co., Ltd	Feixian Junbang Wood Factory	57.36	57.07
Shandong Johnson Trading Co., Ltd	Linyi City Lanshan District Mingda Wood Factory	57.36	57.07
Shandong Johnson Trading Co., Ltd	Feixian Hongyun Wood Factory	57.36	57.07
Shandong Johnson Trading Co., Ltd	Linyi City Lanshan District Xiangfeng Wood Decoration Factory.	57.36	57.07
Shandong Johnson Trading Co., Ltd	Linyi Lanshan Yulin Wood Factory	57.36	57.07
Shandong Johnson Trading Co., Ltd	Shandong Jubang Wood Co., Ltd	57.36	57.07
Shandong Johnson Trading Co., Ltd	Feixian Yixin Wood Processing Factory	57.36	57.07
Shandong Johnson Trading Co., Ltd	Linyi Renlin Wood Industry Co., Ltd	57.36	57.07
Shandong Johnson Trading Co., Ltd	Xuzhou Dayuan Wood Industry Co., Ltd	57.36	57.07
Shandong Johnson Trading Co., Ltd	Xuzhou Yuantai Wood Co., Ltd	57.36	57.07
Shandong Johnson Trading Co., Ltd	Pizhou Wantai Wood Industry Co., Ltd	57.36	57.07
Shandong Johnson Trading Co., Ltd	Feixian Desheng Wood Industry Factory	57.36	57.07
Shandong Johnson Trading Co., Ltd	Xuzhou Zhongcai Wood Industry Co., Ltd	57.36	57.07
Shandong Johnson Trading Co., Ltd	Feixian Fengxiang Wood Processing Factory	57.36	57.07
Shandong Johnson Trading Co., Ltd	Shandong Compete Wood Co., Ltd	57.36	57.07

Exporter	Producer	Estimated weighted-average dumping margin (percent)	Cash deposit rate (percent)
Shandong Qishan International Trading Co., Ltd	Linyi Tuopu Zhixin Wooden Industry Co., Ltd	57.36	57.07
Shandong Senmanqi Import & Export Co., Ltd	Shandong Jinqiu Wood Co., Ltd	57.36	57.07
Shandong Shengdi International Trading Co., Ltd	Qufu Shengda Wood Co., Ltd	57.36	57.07
Shanghai Brightwood Trading Co., Ltd	Linyi Jinghua Wood Industry Co., Ltd	57.36	57.07
Shanghai Brightwood Trading Co., Ltd	Linyi Lianbang Wood Industry Co., Ltd	57.36	57.07
Shanghai Brightwood Trading Co., Ltd	Linyi Huada Wood Industry Co., Ltd	57.36	57.07
Shanghai Brightwood Trading Co., Ltd	Linyi Laite Board Factory	57.36	57.07
Shanghai Brightwood Trading Co., Ltd	Linyi Yuqiao Board Factory	57.36	57.07
Shanghai Brightwood Trading Co., Ltd	Feixian Huafeng Wood Industry Co., Ltd	57.36	57.07
Shanghai Brightwood Trading Co., Ltd	Xuzhou Shuangxingyuan Wood Industry Co., Ltd	57.36	57.07
Shanghai Brightwood Trading Co., Ltd	Linyi Youcheng Jiafu Wood Industry Co., Ltd	57.36	57.07
Shanghai Brightwood Trading Co., Ltd	Linyi Lanshan Jinhao Board Factory	57.36	57.07
Shanghai Brightwood Trading Co., Ltd	Siyang Dazhong Wood Product Factory	57.36	57.07
Shanghai Brightwood Trading Co., Ltd	Binzhou Yongsheng Artificial Board Industrial Trade Co., Ltd.	57.36	57.07
Shanghai Brightwood Trading Co., Ltd	Linyi Senpeng Wood Industry Co., Ltd	57.36	57.07
Shanghai Brightwood Trading Co., Ltd	Dangshan County Weidi Wood Industry Co., Ltd	57.36	57.07
Shanghai Brightwood Trading Co., Ltd	Yutai County Zezhong Wood Industry Co., Ltd	57.36	57.07
Shanghai Brightwood Trading Co., Ltd	Linyi Huasheng Yongbin Wood Co., Ltd	57.36	57.07
Shanghai Brightwood Trading Co., Ltd	Linyi Hengan Wood Industry Co., Ltd	57.36	57.07
Shanghai Futuwood Trading Co., Ltd	Linyi Jinghua Wood Industry Co., Ltd	57.36	57.07
Shanghai Futuwood Trading Co., Ltd	Linyi Lianbang Wood Industry Co., Ltd	57.36	57.07
Shanghai Futuwood Trading Co., Ltd	Linyi Huada Wood Industry Co., Ltd	57.36	57.07
Shanghai Futuwood Trading Co., Ltd	Linyi Jinkun Wood Industry Co., Ltd	57.36	57.07
Shanghai Futuwood Trading Co., Ltd	Linyi Yuqiao Board Factory	57.36	57.07
Shanghai Futuwood Trading Co., Ltd	Linyi Laite Board Factory	57.36	57.07
Shanghai Futuwood Trading Co., Ltd	Linyi Tuopu Zhixin Wooden Industry Co., Ltd	57.36	57.07
Shanghai Futuwood Trading Co., Ltd	Feixian Huafeng Wood Industry Co., Ltd	57.36	57.07
Shanghai Futuwood Trading Co., Ltd	Xuzhou Shuangxingyuan Wood Industry Co., Ltd	57.36	57.07
Shanghai Futuwood Trading Co., Ltd	Linyi Youcheng Jiafu Wood Industry Co., Ltd	57.36	57.07
Shanghai Futuwood Trading Co., Ltd	Shandong Qingyuan Wood Industry Co., Ltd	57.36	57.07
Shanghai Futuwood Trading Co., Ltd	Linyi Lanshan Jinhao Board Factory	57.36	57.07
Shanghai Futuwood Trading Co., Ltd	Linyi Lanshan Fubai Wood Industry Board Factory	57.36	57.07
Shanghai Futuwood Trading Co., Ltd	Siyang Dazhong Wood Product Factory	57.36	57.07
Shanghai Futuwood Trading Co., Ltd	Binzhou Yongsheng Artificial Board Industrial Trade Co., Ltd.	57.36	57.07
Shanghai Futuwood Trading Co., Ltd	Shandong Jinqiu Wood Industry Co., Ltd	57.36	57.07
Shanghai Futuwood Trading Co., Ltd	Linyi Senpeng Wood Industry Co., Ltd	57.36	57.07
Shanghai Futuwood Trading Co., Ltd	Xuzhou Heng'an Wood Industry Co., Ltd	57.36	57.07
Shanghai Futuwood Trading Co., Ltd	Dangshan Weidi Wood Industry Co., Ltd	57.36	57.07
Shanghai Futuwood Trading Co., Ltd	Fengxian Jihe Wood Industry Co., Ltd	57.36	57.07
Shanghai Futuwood Trading Co., Ltd	Yutai Zezhong Wood Industry Co., Ltd	57.36	57.07
Shanghai Futuwood Trading Co., Ltd	Linyi Huasheng Yongbin Wood Co., Ltd	57.36	57.07
Shanghai Futuwood Trading Co., Ltd	Linyi Kaifeng Wood Board Factory	57.36	57.07
Shanghai Futuwood Trading Co., Ltd	Linyi Mingda Wood Industry Co., Ltd	57.36	57.07
Shanghai Futuwood Trading Co., Ltd	Yangxin County Xintong Decorative Materials Co., Ltd	57.36	57.07
Shanghai Futuwood Trading Co., Ltd	Pingyi County Zhongli Wood Products Factory	57.36	57.07
Shanghai Futuwood Trading Co., Ltd	Pingyi County Yuxin Board Factory	57.36	57.07
Shanghai Futuwood Trading Co., Ltd	Linyi Mingzhu Wood Co., Ltd	57.36	57.07
Shanghai Luli Trading Co., Ltd	Feixian Wanda Wood Factory	57.36	57.07
Shanghai Luli Trading Co., Ltd	Shandong Huaxin Jiasheng Wood Co., Ltd	57.36	57.07
Shanghai Luli Trading Co., Ltd	Feixian Xinhe Wood Co., Ltd	57.36	57.07
Shanghai Luli Trading Co., Ltd	Xuzhou Yujinfang Wood Co., Ltd	57.36	57.07
Shanghai Luli Trading Co., Ltd	Linyi Huifeng Wood Industry Co., Ltd	57.36	57.07
Shanghai S&M Trade Co., Ltd	LinYi Celtic Wood Co., Ltd	57.36	57.07
Shanghai S&M Trade Co., Ltd	Linyi Lanshan District Jinhao Wood Factory	57.36	57.07
Shanghai S&M Trade Co., Ltd	Jiangsu Shuren Wood Industry Co., Ltd	57.36	57.07
Shanghai S&M Trade Co., Ltd	Jiangsu Sending Wood Industry Co., Ltd	57.36	57.07
Smart Gift International	LinYi Celtic Wood Co., Ltd	57.36	57.07
Smart Gift International	Linyi Lanshan District Jinhao Wood Factory	57.36	57.07
Smart Gift International	Jiangsu Shuren Wood Industry Co., Ltd	57.36	57.07
Smart Gift International	Jiangsu Sending Wood Industry Co., Ltd	57.36	57.07
Suining Pengxiang Wood Co., Ltd	Suining Pengxiang Wood Co., Ltd	57.36	57.07
Sumec International Technology Co., Ltd	Suqian Huilin Wood Industry Co., Ltd	57.36	57.07
Sumec International Technology Co., Ltd	Shandong Junxing Wood Industry Co., Ltd	57.36	57.07
Sumec International Technology Co., Ltd	Linyi Longxin Wood Industry Co., Ltd	57.36	57.07
Sumec International Technology Co., Ltd	Linyi Xicheng Wood Industry Co., Ltd	57.36	57.07
Sumec International Technology Co., Ltd	Feixian County Mingda Multilayered Board Factory	57.36	57.07
Sumec International Technology Co., Ltd	Linyi Celtic Wood Industry Co., Ltd	57.36	57.07
Sumec International Technology Co., Ltd	Shandong Haote Decorative Materials Co., Ltd	57.36	57.07

Exporter	Producer	Estimated weighted-average dumping margin (percent)	Cash deposit rate (percent)
Sumec International Technology Co., Ltd	Linyi City Lanshan District Linyu Board Factory	57.36	57.07
Sumec International Technology Co., Ltd	Linyi City Lanshan District Xiangfeng Decorative Board Factory.	57.36	57.07
Sumec International Technology Co., Ltd	Linyi City Baoshan Board Factory	57.36	57.07
Sumec International Technology Co., Ltd	Feixian Xingying Wood Industry Co., Ltd	57.36	57.07
Sumec International Technology Co., Ltd	Fengxian Jihe Wood Industry Co., Ltd	57.36	57.07
Sumec International Technology Co., Ltd	Xuzhou Jiangshan Wood Industry Co., Ltd	57.36	57.07
Sumec International Technology Co., Ltd	Xuzhou Senyuan Wood Products Co., Ltd	57.36	57.07
Sumec International Technology Co., Ltd	Xuzhou Jinguoyuan Wood Industry Co., Ltd	57.36	57.07
Sumec International Technology Co., Ltd	Xuzhou Chunyiyang Wood Industry Co., Ltd	57.36	57.07
Sumec International Technology Co., Ltd	Zibo Sumaida Wood Industry Co., Ltd	57.36	57.07
Suqian Hopeway International Trade Co., Ltd	Xuzhou Henglin Wood Co., Ltd	57.36	57.07
Suqian Hopeway International Trade Co., Ltd	Qufu Shengda Wood Co., Ltd	57.36	57.07
Suqian Hopeway International Trade Co., Ltd	Pizhou Xuexin Wood Products Co., Ltd	57.36	57.07
Suqian Hopeway International Trade Co., Ltd	Pizhou Jiangshan Wood Co., Ltd	57.36	57.07
Suqian Hopeway International Trade Co., Ltd	Shandong Union Wood Co., Ltd	57.36	57.07
Suqian Hopeway International Trade Co., Ltd	Linyi City Lanshan District Fubo Wood Factory	57.36	57.07
Suqian Hopeway International Trade Co., Ltd	Linyi Mingzhu Wood Co., Ltd	57.36	57.07
Suqian Hopeway International Trade Co., Ltd	Suzhou Dongsheng Wood Co., Ltd	57.36	57.07
Suqian Hopeway International Trade Co., Ltd	Linyi Jiahe Wood Industry Co., Ltd	57.36	57.07
Suqian Hopeway International Trade Co., Ltd	Linyi Dahua Wood Co., Ltd	57.36	57.07
Suzhou Dongsheng Wood Co., Ltd	Suzhou Dongsheng Wood Co., Ltd	57.36	57.07
Suzhou Fengshuwan Import and Exports Trade Co., Ltd.	Xuzhou Henglin Wood Co., Ltd	57.36	57.07
Suzhou Fengshuwan Import and Exports Trade Co., Ltd.	Qufu Shengda Wood Co., Ltd	57.36	57.07
Suzhou Fengshuwan Import and Exports Trade Co., Ltd.	Pizhou Xuexin Wood Products Co., Ltd	57.36	57.07
Suzhou Fengshuwan Import and Exports Trade Co., Ltd.	Pizhou Jiangshan Wood Co. Ltd	57.36	57.07
Suzhou Fengshuwan Import and Exports Trade Co., Ltd.	Shandong Union Wood Co. Ltd	57.36	57.07
Suzhou Fengshuwan Import and Exports Trade Co., Ltd.	Linyi City Lanshan District Fubo Wood Factory	57.36	57.07
Suzhou Fengshuwan Import and Exports Trade Co., Ltd.	Linyi Mingzhu Wood Co., Ltd	57.36	57.07
Suzhou Fengshuwan Import and Exports Trade Co., Ltd.	Suzhou Dongsheng Wood Co., Ltd	57.36	57.07
Suzhou Fengshuwan Import and Exports Trade Co., Ltd.	Linyi Jiahe Wood Industry Co., Ltd	57.36	57.07
Suzhou Fengshuwan Import and Exports Trade Co., Ltd.	Linyi Dahua Wood Co., Ltd	57.36	57.07
Suzhou Oriental Dragon Import and Export Co., Ltd	Linyi Tiancai Timber Co., Ltd	57.36	57.07
Suzhou Oriental Dragon Import and Export Co., Ltd	Lingyi Huasheng Yongbin Wood Co., Ltd	57.36	57.07
Suzhou Oriental Dragon Import and Export Co., Ltd	Linyi Xicheng Wood Products Co., Ltd	57.36	57.07
Suzhou Oriental Dragon Import and Export Co., Ltd	Linyi Longxin Wood Co., Ltd	57.36	57.07
Suzhou Oriental Dragon Import and Export Co., Ltd	Linyi Oriental Fuchao Wood Co., Ltd	57.36	57.07
Suzhou Oriental Dragon Import and Export Co., Ltd	Linyi Qianfeng Wood Co., Ltd	57.36	57.07
Suzhou Oriental Dragon Import and Export Co., Ltd	Feixian Wanda Wood Factory	57.36	57.07
Suzhou Oriental Dragon Import and Export Co., Ltd	Shandong Union Wood Co., Ltd	57.36	57.07
Suzhou Oriental Dragon Import and Export Co., Ltd	Shandong Jinqiu Wood Corporation	57.36	57.07
Suzhou Oriental Dragon Import and Export Co., Ltd	Yinhe Machinery Chemical Limited Company of Shandong Province.	57.36	57.07
Suzhou Oriental Dragon Import and Export Co., Ltd	Linyi City Yongsen Wood Corp	57.36	57.07
Suzhou Oriental Dragon Import and Export Co., Ltd	Xuzhou Changcheng Wood Co., Ltd	57.36	57.07
Suzhou Oriental Dragon Import and Export Co., Ltd	Pizhou Fushen Wood Co., Ltd	57.36	57.07
Suzhou Oriental Dragon Import and Export Co., Ltd	Pizhou Yuanxing Wood Co., Ltd	57.36	57.07
Suzhou Oriental Dragon Import and Export Co., Ltd	Xuzhou Yuantai Wood Co., Ltd	57.36	57.07
Suzhou Oriental Dragon Import and Export Co., Ltd	Xuzhou Hongfu Wood Co., Ltd	57.36	57.07
Suzhou Oriental Dragon Import and Export Co., Ltd	Feng County Shuangxingyuan Wood	57.36	57.07
Suzhou Oriental Dragon Import and Export Co., Ltd	Anhui Fuyang Qinglin Wood Products Co., Ltd	57.36	57.07
Suzhou Oriental Dragon Import and Export Co., Ltd	Linyi Dahua Wood Co., Ltd	57.36	57.07
Suzhou Oriental Dragon Import and Export Co., Ltd	Juxian Dechang Wood Co., Ltd	57.36	57.07
Suzhou Oriental Dragon Import and Export Co., Ltd	Feixian Jinhao Wood Board Plant	57.36	57.07
Suzhou Oriental Dragon Import and Export Co., Ltd	Siyang Dahua Plywood Plant	57.36	57.07
Suzhou Oriental Dragon Import and Export Co., Ltd	Linyi Lanshan District Fubo Woods Factory	57.36	57.07
Suzhou Oriental Dragon Import and Export Co., Ltd	Xuzhou Deheng Wood Co., Ltd	57.36	57.07
Suzhou Oriental Dragon Import and Export Co., Ltd	Linyi Kaifeng Wood Board Factory	57.36	57.07
Suzhou Oriental Dragon Import and Export Co., Ltd	Linyi Zhenyuan Wood Products Co., Ltd	57.36	57.07
Suzhou Oriental Dragon Import and Export Co., Ltd	Xuzhou Weilin Wood Co., Ltd	57.36	57.07

Exporter	Producer	Estimated weighted-average dumping margin (percent)	Cash deposit rate (percent)
Suzhou Oriental Dragon Import and Export Co., Ltd ...	Linyi Tianlu Wood Board Factory	57.36	57.07
Suzhou Oriental Dragon Import and Export Co., Ltd ...	Linyi Baoshan Board Factory	57.36	57.07
Suzhou Oriental Dragon Import and Export Co., Ltd ...	Linyi Mingzhu Wood Co., Ltd	57.36	57.07
Suzhou Oriental Dragon Import and Export Co., Ltd ...	Xinyi Chaohua Wood Co., Ltd	57.36	57.07
Suzhou Oriental Dragon Import and Export Co., Ltd ...	Pizhou Jinguoyuan Wood Co., Ltd	57.36	57.07
Suzhou Oriental Dragon Import and Export Co., Ltd ...	Feng County Jihe Wood Co., Ltd	57.36	57.07
Suzhou Oriental Dragon Import and Export Co., Ltd ...	Dangshan County Weidi Wood Co., Ltd	57.36	57.07
Suzhou Oriental Dragon Import and Export Co., Ltd ...	Zhucheng Runheng Industrial and Trading Co., Ltd	57.36	57.07
Xuzhou Amish Import & Export Trade Co., Ltd	Xuzhou Amish Import & Export Trade Co., Ltd	57.36	57.07
Xuzhou Andefu Wood Co., Ltd	Fengxian Fangyuan Wood Co., Ltd	57.36	57.07
Xuzhou Baoqi Wood Product Co., Ltd	Linyi Jinghai Board Plant	57.36	57.07
Xuzhou Baoqi Wood Product Co., Ltd	Linyi Lanshan Yulin Board Plant	57.36	57.07
Xuzhou Dilun Wood Co. Ltd	Xuzhou Dilun Wood Co. Ltd	57.36	57.07
Xuzhou DNT Commercial Co., Ltd	Xuzhou Longyuan Wood Industry Co., Ltd	57.36	57.07
Xuzhou DNT Commercial Co., Ltd	Linyi Changcheng Wood Co., Ltd	57.36	57.07
Xuzhou DNT Commercial Co., Ltd	Feixian Jinde Wood Co., Ltd	57.36	57.07
Xuzhou DNT Commercial Co., Ltd	Suzhou Dongsheng Wood Co., Ltd	57.36	57.07
Xuzhou DNT Commercial Co., Ltd	Fengxian Fangyuan Wood Co., Ltd	57.36	57.07
Xuzhou DNT Commercial Co., Ltd	Xuzhou City Hengde Wood Products Co., Ltd	57.36	57.07
Xuzhou DNT Commercial Co., Ltd	Pizhou Jiangshan Wood Co., Ltd	57.36	57.07
Xuzhou DNT Commercial Co., Ltd	Linyi Huasheng Yongbin Wood Corp	57.36	57.07
Xuzhou DNT Commercial Co., Ltd	Pizhou Jinguoyuan Wood Co., Ltd	57.36	57.07
Xuzhou DNT Commercial Co., Ltd	Linyi Mingzhu Wood Co., Ltd	57.36	57.07
Xuzhou DNT Commercial Co., Ltd	Linyi Renlin Wood Industry Co., Ltd	57.36	57.07
Xuzhou DNT Commercial Co., Ltd	Binzhou Yongsheng Artificial Board Industrial & Training Co., Ltd.	57.36	57.07
Xuzhou DNT Commercial Co., Ltd	Xuzhou Zhongcai Wood Co., Ltd	57.36	57.07
Xuzhou DNT Commercial Co., Ltd	Anhui Xinyuanda Wood Co., Ltd	57.36	57.07
Xuzhou DNT Commercial Co., Ltd	Shandong Lianbang Wood Co., Ltd	57.36	57.07
Xuzhou DNT Commercial Co., Ltd	Linyi Xinrui Wood Co., Ltd	57.36	57.07
Xuzhou DNT Commercial Co., Ltd	Shandong Huashi Lvyuan Wood Co., Ltd	57.36	57.07
Xuzhou DNT Commercial Co., Ltd	Xuzhou Fuyu Wood Co., Ltd	57.36	57.07
Xuzhou DNT Commercial Co., Ltd	Linyi Dazhong Wood Co., Ltd	57.36	57.07
Xuzhou DNT Commercial Co., Ltd	Shandong Junxing Wood Co., Ltd	57.36	57.07
Xuzhou DNT Commercial Co., Ltd	Linyi City Lanshan District Linyu Plywood Factory	57.36	57.07
Xuzhou DNT Commercial Co., Ltd	Linyi City Dongfang Fuchao Wood Co., Ltd	57.36	57.07
Xuzhou DNT Commercial Co., Ltd	Linyi Dahua Wood Co., Ltd	57.36	57.07
Xuzhou DNT Commercial Co., Ltd	Linyi Qianfeng Wood Co., Ltd	57.36	57.07
Xuzhou DNT Commercial Co., Ltd	Xuzhou Zhongtong Wood Co., Ltd	57.36	57.07
Xuzhou DNT Commercial Co., Ltd	Shandong Oufan Wood Co., Ltd	57.36	57.07
Xuzhou DNT Commercial Co., Ltd	Shandong Jubang Wood Co., Ltd	57.36	57.07
Xuzhou DNT Commercial Co., Ltd	Xuzhou Changcheng Wood Products Co., Ltd	57.36	57.07
Xuzhou DNT Commercial Co., Ltd	Feixian Jinhao Wood Board Plant	57.36	57.07
Xuzhou DNT Commercial Co., Ltd	Feixian Huafeng Wood Co., Ltd	57.36	57.07
Xuzhou DNT Commercial Co., Ltd	Dhanshan County Weidi Wood Co., Ltd	57.36	57.07
Xuzhou DNT Commercial Co., Ltd	Xuzhou Hongmei Wood Development Co., Ltd	57.36	57.07
Xuzhou Eastern Huatai International Trading Co., Ltd	Xuzhou Well-Done Wood Co., Ltd	57.36	57.07
Xuzhou Eastern Huatai International Trading Co., Ltd	Linyi Longxin Wood Co., Ltd	57.36	57.07
Xuzhou Eastern Huatai International Trading Co., Ltd	Linyi Xicheng Wood Co., Ltd	57.36	57.07
Xuzhou Eastern Huatai International Trading Co., Ltd	Xuzhou Hongfu Wood Co., Ltd	57.36	57.07
Xuzhou Eastern Huatai International Trading Co., Ltd	Oufan Wooden Products Shandong Co., Ltd	57.36	57.07
Xuzhou Eastern Huatai International Trading Co., Ltd	Dangshan Weidi Wood Co., Ltd	57.36	57.07
Xuzhou Eastern Huatai International Trading Co., Ltd	Xu Zhou Chang Cheng Wood Co, Ltd	57.36	57.07
Xuzhou Hansun Import & Export Co. Ltd	XuZhou Zhongyuan Wood Co., Ltd	57.36	57.07
Xuzhou Jiangheng Wood Products Co., Ltd	Xuzhou Jiangheng Wood Products Co., Ltd	57.36	57.07
Xuzhou Jiangyang Wood Industries Co., Ltd	Xuzhou Jiangyang Wood Industries Co., Ltd	57.36	57.07
Xuzhou Longyuan Wood Industry Co., Ltd	Xuzhou Longyuan Wood Industry Co., Ltd	57.36	57.07
Xuzhou Maker's Mark Building Materials Co., Ltd	Xuzhou Qinglin Wood Co., Ltd	57.36	57.07
Xuzhou Maker's Mark Building Materials Co., Ltd	Xuzhou Maomei Wood Co., Ltd	57.36	57.07
Xuzhou Maker's Mark Building Materials Co., Ltd	Suzhou Jiakaide Wood Co., Ltd	57.36	57.07
Xuzhou Pinlin International Trade Co., Ltd	Xuzhou Longyuan Wood Industry Co., Ltd	57.36	57.07
Xuzhou Pinlin International Trade Co., Ltd	Linyi Changcheng Wood Co., Ltd	57.36	57.07
Xuzhou Pinlin International Trade Co., Ltd	Feixian Jinde Wood Co., Ltd	57.36	57.07
Xuzhou Pinlin International Trade Co., Ltd	Suzhou Dongsheng Wood Co., Ltd	57.36	57.07
Xuzhou Pinlin International Trade Co., Ltd	Fengxian Fangyuan Wood Co., Ltd	57.36	57.07
Xuzhou Pinlin International Trade Co., Ltd	Xuzhou City Hengde Wood Products Co., Ltd	57.36	57.07
Xuzhou Pinlin International Trade Co., Ltd	Pizhou Jiangshan Wood Co., Ltd	57.36	57.07
Xuzhou Pinlin International Trade Co., Ltd	Linyi Huasheng Yongbin Wood Corp	57.36	57.07
Xuzhou Pinlin International Trade Co., Ltd	Pizhou Jinguoyuan Wood Co., Ltd	57.36	57.07
Xuzhou Pinlin International Trade Co., Ltd	Linyi Mingzhu Wood Co., Ltd	57.36	57.07

Exporter	Producer	Estimated weighted-average dumping margin (percent)	Cash deposit rate (percent)
Xuzhou Pinlin International Trade Co., Ltd	Linyi Renlin Wood Industry Co., Ltd	57.36	57.07
Xuzhou Pinlin International Trade Co., Ltd	Binzhou Yongsheng Artificial Board Industrial & Training Co., Ltd.	57.36	57.07
Xuzhou Pinlin International Trade Co., Ltd	Xuzhou Zhongcai Wood Co., Ltd	57.36	57.07
Xuzhou Pinlin International Trade Co., Ltd	Anhui Xinyuanda Wood Co., Ltd	57.36	57.07
Xuzhou Pinlin International Trade Co., Ltd	Shandong Lianbang Wood Co., Ltd	57.36	57.07
Xuzhou Pinlin International Trade Co., Ltd	Linyi Xinrui Wood Co., Ltd	57.36	57.07
Xuzhou Pinlin International Trade Co., Ltd	Shandong Huashi Lvyuan Wood Co., Ltd	57.36	57.07
Xuzhou Pinlin International Trade Co., Ltd	Xuzhou Fuyu Wood Co., Ltd	57.36	57.07
Xuzhou Pinlin International Trade Co., Ltd	Linyi Dazhong Wood Co., Ltd	57.36	57.07
Xuzhou Pinlin International Trade Co., Ltd	Shandong Junxing Wood Co., Ltd	57.36	57.07
Xuzhou Pinlin International Trade Co., Ltd	Linyi City Lanshan District Linyu Plywood Factory	57.36	57.07
Xuzhou Pinlin International Trade Co., Ltd	Linyi City Dongfang Fuchao Wood Co., Ltd	57.36	57.07
Xuzhou Pinlin International Trade Co., Ltd	Linyi Dahua Wood Co., Ltd	57.36	57.07
Xuzhou Pinlin International Trade Co., Ltd	Linyi Qianfeng Wood Co., Ltd	57.36	57.07
Xuzhou Pinlin International Trade Co., Ltd	Xuzhou Zhongtong Wood Co., Ltd	57.36	57.07
Xuzhou Pinlin International Trade Co., Ltd	Shandong Oufan Wood Co., Ltd	57.36	57.07
Xuzhou Pinlin International Trade Co., Ltd	Shandong Jubang Wood Co., Ltd	57.36	57.07
Xuzhou Pinlin International Trade Co., Ltd	Xuzhou Changcheng Wood Products Co., Ltd	57.36	57.07
Xuzhou Pinlin International Trade Co., Ltd	Feixian Jinhao Wood Board Plant	57.36	57.07
Xuzhou Pinlin International Trade Co., Ltd	Feixian Huafeng Wood Co., Ltd	57.36	57.07
Xuzhou Pinlin International Trade Co., Ltd	Dhanshan County Weidi Wood Co., Ltd	57.36	57.07
Xuzhou Pinlin International Trade Co., Ltd	Xuzhou Hongmei Wood Development Co., Ltd	57.36	57.07
Xuzhou Shenghe Wood Co. Ltd	Xuzhou Shenghe Wood Co. Ltd	57.36	57.07
Xuzhou Shengping Imp and Exp Co., Ltd	Xuzhou Longyuan Wood Industry Co., Ltd	57.36	57.07
Xuzhou Shuiwanxing Trading Co., Ltd	Fengxian Jihe Wood Industry Co. Ltd	57.36	57.07
Xuzhou Shuner Import & Export Trade Co. Ltd	Pizhou Fushen Wood Co. Ltd	57.36	57.07
Xuzhou Tianshan Wood Co., Ltd	Xuzhou Tianshan Wood Co., Ltd	57.36	57.07
Xuzhou Timber International Trade Co., Ltd	Xuzhou Jiangheng Wood Products Co., Ltd	57.36	57.07
Xuzhou Timber International Trade Co., Ltd	Xuzhou Jiangyang Wood Industries Co., Ltd	57.36	57.07
Xuzhou Timber International Trade Co., Ltd	Xuzhou Changcheng Wood Co., Ltd	57.36	57.07
Xuzhou Timber International Trade Co., Ltd	Fengxian Shuangxingyuan Wood Co., Ltd	57.36	57.07
Xuzhou Timber International Trade Co., Ltd	Linyi Mingzhu Wood Co., Ltd	57.36	57.07
Xuzhou Timber International Trade Co., Ltd	Linyi City Lanshan District Daqian Wood Board Factory.	57.36	57.07
Xuzhou Timber International Trade Co., Ltd	Feixian Hongsheng Wood Co., Ltd	57.36	57.07
Xuzhou Timber International Trade Co., Ltd	Xuzhou Hongwei Wood Co., Ltd	57.36	57.07
Xuzhou Timber International Trade Co., Ltd	Pizhou Jinguoyuan Wood Co., Ltd	57.36	57.07
Xuzhou Timber International Trade Co., Ltd	Linyi Qianfeng Wood Factory	57.36	57.07
Xuzhou Timber International Trade Co., Ltd	Linyi Renlin Wood Industry Co., Ltd	57.36	57.07
Xuzhou Timber International Trade Co., Ltd	Xuzhou Senyuan Wood Products Co., Ltd	57.36	57.07
Xuzhou Timber International Trade Co., Ltd	Jiangsu Lishun Industrial and Trading Co., Ltd	57.36	57.07
Xuzhou Timber International Trade Co., Ltd	Pizhou Xuexin Wood Industry Co., Ltd	57.36	57.07
Xuzhou Timber International Trade Co., Ltd	Feixian Hongjing Board Factory	57.36	57.07
Xuzhou Timber International Trade Co., Ltd	Xuzhou Jiaqiang Wood Industry Co., Ltd	57.36	57.07
Xuzhou Timber International Trade Co., Ltd	Shandong Shelter Forest Products Co., Ltd	57.36	57.07
Xuzhou Timber International Trade Co., Ltd	Jiangsu Binsong Wood Co., Ltd	57.36	57.07
Yangzhou Hanov International Co., Ltd	Linyi Longxin Wood Co., Ltd	57.36	57.07
Yishui Zelin Wood Made Co., Ltd	Yishui Zelin Wood Made Co., Ltd	57.36	57.07
Zhejiang Dehua TB Import & Export Co., Ltd	Dehua TB New Decoration Material Co., Ltd	57.36	57.07
Zhejiang Dehua TB Import & Export Co., Ltd	Zhangjiagang Jiuli Wood Co., Ltd	57.36	57.07
PRC–WIDE ENTITY [9]		114.72	114.72

Consistent with section 733(b)(3) of the Act, the Department disregards *de minimis* rates and preliminarily determines that the individually examined respondent with a *de minimis* rate has not made sales of subject merchandise at LTFV.

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, the Department will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of subject merchandise as described in the scope of the investigation section entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**, as discussed below. Further, pursuant to section 733(d)(1)(B) of the Act and 19 CFR 351.205(d), the Department will instruct CBP to require a cash deposit equal to the weighted average amount by which normal value exceeds U.S. price, as indicated in the chart above as follows: (1) For the producer/exporter combinations listed in the table above, the cash deposit rate is equal to the estimated weighted-average dumping margin listed for that

[9] As detailed in the Preliminary Decision Memorandum, Bayley, a mandatory respondent in this investigation, and certain separate-rate respondents did not demonstrate that they were entitled to a separate rate. Accordingly, we consider these companies to be part of the PRC-wide entity. As discussed below, we have made an affirmative critical circumstances determination with regard to the PRC-wide entity.

combination in the table; (2) for all combinations of PRC producers/exporters of merchandise under consideration that have not established eligibility for their own separate rates, the cash deposit rate will be equal to the estimated weighted-average dumping margin established for the PRC-wide entity; and (3) for all third-country exporters of merchandise under consideration not listed in the table above, the cash deposit rate is the cash deposit rate applicable to the PRC producer/exporter combination that supplied that third-country exporter.

Because the estimated weighted-average dumping margin for the Linyi Dongfangjuxin Wood Co., Ltd./Linyi Chengen Import and Export Co., Ltd. combination is zero or *de minimis* (*i.e.,* less than 0.5 percent), the Department is directing CBP not to suspend liquidation of entries of subject merchandise from this producer/exporter combination. Entries of subject merchandise from this exporter supplied by any other producer, or from this producer that supplied any other exporter, or from third-country exporters that sourced from the excluded producer/exporter combination, are not entitled to this exclusion from suspension of liquidation and are subject to the provisional measures at the cash deposit rate established for the PRC-wide entity.

Should the final estimated weighted-average dumping margin be zero or *de minimis* for the producer/exporter combination identified above, entries of merchandise from this producer/exporter combinations will be excluded from the order. Such exclusion(s) will not be applicable to merchandise exported to the United States by any other producer/exporter combinations or by third-country exporters that sourced from the excluded producer/exporter combination.

Section 733(e)(2) of the Act provides that, given an affirmative determination of critical circumstances, any suspension of liquidation shall apply to unliquidated entries of merchandise entered, or withdrawn from warehouse, for consumption on or after the later of (a) the date which is 90 days before the date on which the suspension of liquidation was first ordered, or (b) the date on which notice of initiation of the investigation was published. The Department preliminarily finds that critical circumstances exist for imports of subject merchandise from the PRC-wide entity, as discussed above.

In accordance with section 733(e)(2)(A) of the Act, the suspension of liquidation shall apply to all unliquidated entries of merchandise from the producer/exporter combinations identified in this paragraph that were entered, or withdrawn from warehouse, for consumption on or after the date which is 90 days before the publication of this notice.

To determine the cash deposit rate, the Department normally adjusts the estimated weighted-average dumping margin by the amount of domestic subsidy pass-through and export subsidies determined in a companion CVD proceeding when CVD provisional measures are in effect. Accordingly, where the Department has made a preliminary affirmative determination for domestic subsidy pass-through or export subsidies, the Department has offset the calculated estimated weighted-average dumping margin by the appropriate rate(s). Any such adjusted rates may be found in the Preliminary Determination Section's chart of estimated weighted-average dumping margins above.

Should provisional measures in the companion CVD investigation expire prior to the expiration of provisional measures in this LTFV investigation, the Department will direct CBP to begin collecting cash deposits at a rate equal to the estimated weighted-average dumping margins calculated in this preliminary determination unadjusted for the passed-through domestic subsidies or for export subsidies at the time the CVD provisional measures expire.

These suspension of liquidation instructions will remain in effect until further notice.

Disclosure

The Department intends to disclose to interested parties the calculations performed in connection with this preliminary determination within five days of its public announcement or, if there is no public announcement, within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

Verification

As provided in section 782(i)(1) of the Act, the Department intends to verify information provided by mandatory respondent Linyi Chengen Import and Export Co., Ltd. that it relied upon in making its final determination. Because mandatory respondent Shandong Dongfang Bayley Wood Co., Ltd. did not provide information requested by the Department and the Department preliminarily determines that it has been uncooperative, verification will not be conducted for Shandong Dongfang Bayley Wood Co., Ltd.

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the last final verification report is issued in this investigation. Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline date for case briefs.[10] Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this investigation are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, within 30 days after the date of publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, the Department intends to hold the hearing at the U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230, at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

Final Determination

Section 735(a)(1) of the Act and 19 CFR 351.210(b)(1) provide that the Department will issue the final determination within 75 days after the date of its preliminary determination. Accordingly, the Department will make its final determination no later than 75 days after the signature date of this preliminary determination.

International Trade Commission Notification

In accordance with section 733(f) of the Act, the Department will notify the International Trade Commission (ITC) of its preliminary determination of sales at LTFV. If the final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the final determination whether imports of the subject merchandise are materially injuring, or

[10] *See* 19 CFR 351.309; *see also* 19 CFR 351.303 (for general filing requirements).

threaten material injury to, the U.S. industry.

Notification to Interested Parties

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act and 19 CFR 351.205(c).

Dated: June 16, 2017.

Ronald K. Lorentzen,

Acting Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The merchandise subject to this investigation is hardwood and decorative plywood, and certain veneered panels as described below. For purposes of this proceeding, hardwood and decorative plywood is defined as a generally flat, multilayered plywood or other veneered panel, consisting of two or more layers or plies of wood veneers and a core, with the face and/or back veneer made of non-coniferous wood (hardwood) or bamboo. The veneers, along with the core may be glued or otherwise bonded together. Hardwood and decorative plywood may include products that meet the American National Standard for Hardwood and Decorative Plywood, ANSI/HPVA HP–1–2016 (including any revisions to that standard).

For purposes of this investigation a ''veneer'' is a slice of wood regardless of thickness which is cut, sliced or sawed from a log, bolt, or flitch. The face and back veneers are the outermost veneer of wood on either side of the core irrespective of additional surface coatings or covers as described below.

The core of hardwood and decorative plywood consists of the layer or layers of one or more material(s) that are situated between the face and back veneers. The core may be composed of a range of materials, including but not limited to hardwood, softwood, particleboard, or medium-density fiberboard (MDF).

All hardwood plywood is included within the scope of this investigation regardless of whether or not the face and/or back veneers are surface coated or covered and whether or not such surface coating(s) or covers obscures the grain, textures, or markings of the wood. Examples of surface coatings and covers include, but are not limited to: Ultra violet light cured polyurethanes; oil or oil-modified or water based polyurethanes; wax; epoxy-ester finishes; moisture-cured urethanes; paints; stains; paper; aluminum; high pressure laminate; MDF; medium density overlay (MDO); and phenolic film. Additionally, the face veneer of hardwood plywood may be sanded; smoothed or given a ''distressed'' appearance through such methods as hand-scraping or wire brushing. All hardwood plywood is included within the scope even if it is trimmed; cut-to-size; notched; punched; drilled; or has underwent other forms of minor processing.

All hardwood and decorative plywood is included within the scope of this investigation, without regard to dimension (overall thickness, thickness of face veneer, thickness of back veneer, thickness of core, thickness of inner veneers, width, or length). However, the most common panel sizes of hardwood and decorative plywood are 1219 x 1829 mm (48 x 72 inches), 1219 x 2438 mm (48 x 96 inches), and 1219 x 3048 mm (48 x 120 inches).

Subject merchandise also includes hardwood and decorative plywood that has been further processed in a third country, including but not limited to trimming, cutting, notching, punching, drilling, or any other processing that would not otherwise remove the merchandise from the scope of the investigation if performed in the country of manufacture of the in-scope product.

The scope of the investigation excludes the following items: (1) Structural plywood (also known as ''industrial plywood'' or ''industrial panels'') that is manufactured to meet U.S. Products Standard PS 1–09, PS 2–09, or PS 2–10 for Structural Plywood (including any revisions to that standard or any substantially equivalent international standard intended for structural plywood), and which has both a face and a back veneer of coniferous wood; (2) products which have a face and back veneer of cork; (3) multilayered wood flooring, as described in the antidumping duty and countervailing duty orders on Multilayered Wood Flooring from the People's Republic of China, Import Administration, International Trade Administration. See Multilayered Wood Flooring from the People's Republic of China, 76 FR 76690 (December 8, 2011) (amended final determination of sales at less than fair value and antidumping duty order), and Multilayered Wood Flooring from the People's Republic of China, 76 FR 76693 (December 8, 2011) (countervailing duty order), as amended by Multilayered Wood Flooring from the People's Republic of China: Amended Antidumping and Countervailing Duty Orders, 77 FR 5484 (February 3, 2012); (4) multilayered wood flooring with a face veneer of bamboo or composed entirely of bamboo; (5) plywood which has a shape or design other than a flat panel, with the exception of any minor processing described above; (6) products made entirely from bamboo and adhesives (also known as ''solid bamboo''); and (7) Phenolic Film Faced Plyform (PFF), also known as Phenolic Surface Film Plywood (PSF), defined as a panel with an ''Exterior'' or ''Exposure 1'' bond classification as is defined by The Engineered Wood Association, having an opaque phenolic film layer with a weight equal to or greater than 90g/m3 permanently bonded on both the face and back veneers and an opaque, moisture resistant coating applied to the edges.

Excluded from the scope of this investigation are wooden furniture goods that, at the time of importation, are fully assembled and are ready for their intended uses. Also excluded from the scope of this investigation is ''ready to assemble'' (''RTA'') furniture. RTA furniture is defined as (A) furniture packaged for sale for ultimate purchase by an end-user that, at the time of importation, includes (1) all wooden components (in finished form) required to assemble a finished unit of furniture, (2) all accessory parts (*e.g.,* screws, washers, dowels, nails, handles, knobs, adhesive glues) required to assemble a finished unit of furniture, and (3) instructions providing guidance on the assembly of a finished unit of furniture; (B) unassembled bathroom vanity cabinets, having a space for one or more sinks, that are imported with all unassembled hardwood and hardwood plywood components that have been cut-to-final dimensional component shape/size, painted or stained prior to importation, and stacked within a singled shipping package, except for furniture feet which may be packed and shipped separately; or (C) unassembled bathroom vanity linen closets that are imported with all unassembled hardwood and hardwood plywood components that have been cut-to-final dimensional shape/size, painted or stained prior to importation, and stacked within a single shipping package, except for furniture feet which may be packed and shipped separately.

Excluded from the scope of this investigation are kitchen cabinets that, at the time of importation, are fully assembled and are ready for their intended uses. Also excluded from the scope of this investigation are RTA kitchen cabinets. RTA kitchen cabinets are defined as kitchen cabinets packaged for sale for ultimate purchase by an end-user that, at the time of importation, includes (1) all wooden components (in finished form) required to assemble a finished unit of cabinetry, (2) all accessory parts (*e.g.,* screws, washers, dowels, nails, handles, knobs, hooks, adhesive glues) required to assemble a finished unit of cabinetry, and (3) instructions providing guidance on the assembly of a finished unit of cabinetry.

Excluded from the scope of this investigation are finished table tops, which are table tops imported in finished form with pre-cut or drilled openings to attach the underframe or legs. The table tops are ready for use at the time of import and require no further finishing or processing.

Excluded from the scope of this investigation are finished countertops that are imported in finished form and require no further finishing or manufacturing.

Excluded from the scope of this investigation are laminated veneer lumber door and window components with (1) a maximum width of 44 millimeters, a thickness from 30 millimeters to 72 millimeters, and a length of less than 2413 millimeters (2) water boiling point exterior adhesive, (3) a modulus of elasticity of 1,500,000 pounds per square inch or higher, (4) finger-jointed or lap-jointed core veneer with all layers oriented so that the grain is running parallel or with no more than 3 dispersed layers of veneer oriented with the grain running perpendicular to the other layers; and (5) top layer machined with a curved edge and one or more profile channels throughout.

Imports of hardwood plywood are primarily entered under the following Harmonized Tariff Schedule of the United States (HTSUS) subheadings: 4412.10.0500; 4412.31.0520; 4412.31.0540; 4412.31.0560; 4412.31.0620; 4412.31.0640; 4412.31.0660;

4412.31.2510; 4412.31.2520; 4412.31.2610; 4412.31.2620; 4412.31.4040; 4412.31.4050; 4412.31.4060; 4412.31.4075; 4412.31.4080; 4412.31.4140; 4412.31.4150; 4412.31.4160; 4412.31.4180; 4412.31.5125; 4412.31.5135; 4412.31.5155; 4412.31.5165; 4412.31.5175; 4412.31.5235; 4412.31.5255; 4412.31.5265; 4412.31.5275; 4412.31.6000; 4412.31.6100; 4412.31.9100; 4412.31.9200; 4412.32.0520; 4412.32.0540; 4412.32.0565; 4412.32.0570; 4412.32.0620; 4412.32.0640; 4412.32.0670; 4412.32.2510; 4412.32.2525; 4412.32.2530; 4412.32.2610; 4412.32.2630; 4412.32.3125; 4412.32.3135; 4412.32.3155; 4412.32.3165; 4412.32.3175; 4412.32.3185; 4412.32.3235; 4412.32.3255; 4412.32.3265; 4412.32.3275; 4412.32.3285; 4412.32.5600; 4412.32.3235; 4412.32.3255; 4412.32.3265; 4412.32.3275; 4412.32.3285; 4412.32.5700; 4412.94.1030; 4412.94.1050; 4412.94.3105; 4412.94.3111; 4412.94.3121; 4412.94.3141; 4412.94.3161; 4412.94.3175; 4412.94.4100; 4412.99.0600; 4412.99.1020; 4412.99.1030; 4412.99.1040; 4412.99.3110; 4412.99.3120; 4412.99.3130; 4412.99.3140; 4412.99.3150; 4412.99.3160; 4412.99.3170; 4412.99.4100; 4412.99.5115; and 4412.99.5710.

Imports of hardwood plywood may also enter under HTSUS subheadings 4412.39.4011; 4412.39.4012; 4412.39.4019; 4412.39.4031; 4412.39.4032; 4412.39.4039; 4412.39.4051; 4412.39.4052; 4412.39.4059; 4412.39.4061; 4412.39.4062; 4412.39.4069; 4412.39.5010; 4412.39.5030; 4412.39.5050; 4412.99.6000; 4412.99.7000; 4412.99.8000; 4412.99.9000; 4412.10.9000; 4412.94.5100; 4412.94.9500; and 4412.99.9500. While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

Appendix II

List of Topics Discussed in the Preliminary Decision Memorandum

[FR Doc. 2017–13125 Filed 6–22–17; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–983]

Drawn Stainless Steel Sinks From the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2015–2016

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: On May 5, 2017, the Department of Commerce (the Department) published the preliminary results of the administrative review of the antidumping duty order on drawn stainless steel sinks (drawn sinks) from the People's Republic of China (PRC). The period of review (POR) is April 1, 2015, through March 31, 2016. No interested party submitted comments on the preliminary results. Therefore, for the final results, we continue to find that Guangdong Dongyuan Kitchenware Industrial Co., Ltd. (Dongyuan) and Guangdong Yingao Kitchen Utensils Co. Ltd. (Yingao) made sales at of subject merchandise at prices below normal value (NV) during the period of review (POR). We also continue to grant separate rates to ten companies which demonstrated eligibility for separate rate status but were not selected for individual examination. Finally, we continue to find that New Shichu Import and Export Company Limited (New Shichu) made no shipments of subject merchandise during the POR.

DATES: Effective June 23, 2017.

FOR FURTHER INFORMATION CONTACT: Terre Keaton Stefanova or Rebecca Janz, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–1280 or (202) 482–2972, respectively.

SUPPLEMENTARY INFORMATION: On May 5, 2017, the Department published the *Preliminary Results*.[1] The POR is April 1, 2015, through March 31, 2016. We invited parties to comment on the *Preliminary Results;* none were submitted. The Department conducted this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Scope of the Order

The products covered by the order include drawn stainless steel sinks. Imports of subject merchandise are currently classified under the Harmonized Tariff Schedule of the United States (HTSUS) subheadings 7324.10.0000 and 7324.10.0010. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the order is dispositive.[2]

Final Results of Review and Final Determination of No Shipments

As noted above, we received no comments from interested parties on the *Preliminary Results.* Therefore, we have not modified our analysis from that presented in the *Preliminary Results,* and no decision memorandum accompanies this **Federal Register** notice. As a result, we continue to find that Dongyuan and Yingao made sales of subject merchandise at less than NV during the POR. In addition, we continue to find that the following ten companies which were not selected for individual examination are eligible for a separate rate: Feidong Import and Export Co., Ltd.; Ningbo Afa Kitchen and Bath Co., Ltd.; Xinhe Stainless Steel Products Co., Ltd.; KaiPing Dawn Plumbing Products, Inc.; Jiangmen Hongmao Trading Co., Ltd.; Jiangmen New Star Hi-Tech Enterprise Ltd.; Foshan Zhaoshun Trade Co., Ltd; Zhuhai KOHLER Kitchen & Bathroom Products Co., Ltd.; B&R Industries Limited; and Zhongshan Superte Kitchenware Co., Ltd. Finally, we continue to find that New Shichu made no shipments of subject merchandise during the POR.

For further discussion of the issues addressed in this proceeding, *see* the *Preliminary Results* and accompanying Preliminary Decision Memorandum. We are assigning the following weighted-average dumping margins to the respondents for the period April 1, 2015, through March 31, 2016:

Exporter	Weighted-average dumping margins (percent)
B&R Industries, Ltd.*	1.78
Feidong Import & Export Co., Ltd.*	1.78
Foshan Zhaoshun Trade Co., Ltd.*	1.78
Guangdong Dongyuan Kitchenware Industrial Co., Ltd.	1.80

[1] *See Drawn Stainless Steel Sinks from the People's Republic of China: Preliminary Results of the Antidumping Duty Administrative Review and Preliminary Determination of No Shipments; 2015–2016,* 82 FR 21192 (May 5, 2017) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum, for a full description of the scope of the order.

[2] *Id.*

Exporter	Weighted-average dumping margins (percent)
Guangdong Yingao Kitchen Utensils Co. Ltd.	1.68
Jiangmen Hongmao Trading Co., Ltd.*	1.78
Jiangmen New Star Hi-Tech Enterprise Ltd.*	1.78
KaiPing Dawn Plumbing Products, Co., Ltd.*	1.78
Nigbo Afa Kitchen and Bath Co., Ltd.*	1.78
Xinhe Stainless Steel Products Co., Ltd.*	1.78
Zhongshan Superte Kitchenware Co., Ltd.*	1.78
Zhuhai KOHLER Kitchen & Bathroom Products, Co., Ltd.*	1.78

* This company demonstrated that it qualified for a separate rate in this administrative review. We assigned this company a rate which is the average of the weighted-average dumping margins assigned to Dongyuan and Yingao. *See* the *Preliminary Results* and the accompanying Preliminary Decision Memorandum.

Assessment Rates

Pursuant to section 751(a)(2)(C) of the Act and 19 CFR 351.212(b), the Department determined, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review. The Department intends to issue appropriate assessment instructions directly to CBP 15 days after publication of the final results of this administrative review.

For Dongyuan and Yingao, which have above weighted-average dumping margins above zero or *de minimis* (*i.e.,* less than 0.5 percent), we calculated importer- (or customer-) specific per-unit duty assessment rates based on the ratio of the total amount of dumping calculated for the importer's (or customer's) examined sales to the total sales quantity associated with those sales, in accordance with 19 CFR 351.212(b)(1). Where either the respondents' weighted-average dumping margin is zero or *de minimis,* or an importer-(or customer-) specific assessment rate is zero or *de minimis,* we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.

For the respondents which were not selected for individual examination in this administrative review and which qualified for a separate rate, the assessment rate is equal to the average of the weighted-average dumping margins assigned to Dongyuan and Yingao, or 1.78 percent.

The Department has refined its assessment practice in NME cases. Pursuant to this refinement in practice, for entries that were not reported in the U.S. sales databases submitted by Dongyuan or Yingao, the Department will instruct CBP to liquidate such entries at the PRC-wide rate. In addition, because the Department determined that New Shichu had no shipments of the subject merchandise, any suspended entries of subject merchandise from New Shichu will be liquidated at the PRC-wide rate.[3]

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(C) of the Act: (1) For the companies listed above that have a separate rate, the cash deposit rate will be that rate established in the final results of this review (except, if the rate is zero or *de minimis,* then a cash deposit rate of zero will be established for that company); (2) for previously investigated or reviewed PRC and non-PRC exporters 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; (3) for all PRC exporters of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be the rate for the PRC-wide entity, which is 76.45 percent; and (4) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporter(s) that supplied that non-PRC exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as the only 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 Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

[3] For a full discussion of this practice, *see Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR 65694 (October 24, 2011) (*NME Antidumping Proceedings*).

Notification Regarding Administrative Protective Order

This notice serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

Notification to Interested Parties

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i) of the Act and 19 CFR 351.213(h).

Dated: June 19, 2017.

Gary Taverman,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2017–13121 Filed 6–22–17; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–808]

Certain Stainless Steel Wire Rod From India: Continuation of Antidumping Duty Order

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: As a result of the determinations by the Department of Commerce (the Department) and the International Trade Commission (ITC) that revocation of the antidumping duty order on certain stainless steel wire rods (wire rods) from India would likely lead to continuation or recurrence of dumping and material injury to an industry in the United States, the Department is publishing a notice of continuation of the antidumping duty order.

DATES: Effective June 23, 2017.

FOR FURTHER INFORMATION CONTACT: Andre Gziryan, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone (202) 482–2201.

SUPPLEMENTARY INFORMATION:

Background

On December 1, 1993, the Department published the AD order on wire rods from India.[1] On December 1, 2016, the Department published the notice of initiation of the fourth sunset review of the antidumping duty order on wire rods from India, pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act).[2] On December 1, 2016, the ITC instituted its review of the antidumping duty order on wire rods from India.[3]

As a result of this sunset review, the Department determined that revocation of the antidumping duty order on wire rods from India would be likely to lead to continuation or recurrence of dumping and notified the ITC of the magnitude of the margins likely to prevail should the order be revoked.[4]

On June 6, 2017, pursuant to sections 751(c) and 752(a) of the Act, the ITC determined that revocation of the antidumping duty order on wire rods from India would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.[5]

Scope of the Order

The merchandise covered by the antidumping duty order is certain stainless steel wire rods from India, which are hot-rolled or hot-rolled annealed and/or pickled rounds, squares, octagons, hexagons or other shapes, in coils. Wire rods are made of alloy steels containing, by weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with or without other elements. These products are only manufactured by hot-rolling and are normally sold in coiled form, and are of solid cross section. The majority of wire rods sold in the United States are round in cross-section shape, annealed, and pickled. The most common size is 5.5 millimeters in diameter.

The wire rods subject to this order are currently classifiable under subheadings 7221.00.0005, 7221.00.0017, 7221.00.0018, 7221.00.0030, 7221.00.0045, and 7221.00.0075 of the Harmonized Tariff Schedule of the United States (HTSUS).[6] Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise subject to the order is dispositive.

Continuation of the Order

As a result of the determinations by the Department and the ITC that revocation of the antidumping duty order would likely lead to continuation or recurrence of dumping and material injury to an industry in the United States, pursuant to section 751(d)(2) of the Act, the Department hereby orders the continuation of the antidumping duty order on wire rods from India.

U.S. Customs and Border Protection will continue to collect antidumping duty cash deposits at the rates in effect at the time of entry for all imports of subject merchandise. The effective date of continuation of this order will be the date of publication in the **Federal Register** of this notice of continuation. Pursuant to section 751(c)(2) of the Act, the Department intends to initiate the next five-year review of the order not later than 30 days prior to the fifth anniversary of the effective date of continuation.

This five-year sunset review and this notice are in accordance with section 751(c) of the Act and published pursuant to section 777(i)(1) of the Act, and 19 CFR 351.218(f)(4).

Dated: June 19, 2017.

Gary Taverman,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2017–13136 Filed 6–22–17; 8:45 am]

BILLING CODE 3510–DS–P

[1] *Antidumping Duty Order: Certain Stainless Steel Wire Rods From India,* 58 FR 63335 (December 1, 1993).

[2] *See Initiation of Five-Year (Sunset) Reviews,* 81 FR 86697 (December 1, 2016).

[3] *See Stainless Steel Wire Rod From India; Institution of a Five-Year Review,* 81 FR 86728 (December 1, 2016).

[4] *See Certain Stainless Steel Wire Rods From India: Final Results of the Expedited Fourth Sunset Review of the Antidumping Duty Order,* 82 FR 16795 (April 6, 2017).

[5] *See Stainless Steel Wire Rod From India,* 82 FR 26943 (June 12, 2017), and ITC Publication entitled *Stainless Steel Wire Rod From India: Investigation No. 731–TA–638 (Fourth Review)* (June 2017).

[6] The merchandise subject to the scope of this order was originally classifiable under all of the following HTS subheadings: 7221.00.0005, 7221.00.0015, 7221.00.0020, 7221.00.0030, 7221.00.0040, 7221.00.0045, 7221.00.0060, 7221.00.0075, and 7221.00.0080. HTSUS subheadings 7221.00.0015, 7221.00.0020, 7221.00.0040, 7221.00.0060, and 7221.00.0080, no longer exist.

DEPARTMENT OF COMMERCE

International Trade Administration

[C–533–874; C–570–059]

Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel From India and the People's Republic of China: Postponement of Preliminary Determinations of Countervailing Duty Investigations

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

DATES: Effective June 23, 2017.

FOR FURTHER INFORMATION CONTACT: Ryan Mullen at (202) 482–5620 (India); Mandy Mallott and Alex Rosen, (202) 482–6430 and (202) 482–7814, respectively (the People's Republic of China), AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

On May 9, 2017, the Department of Commerce (Department) initiated countervailing duty (CVD) investigations on certain cold-drawn mechanical tubing of carbon and alloy steel (cold-drawn mechanical tubing) from India and the People's Republic of China (PRC).[1] The notice of initiation stated that, in accordance with section 703(b)(1) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.205(b)(1), we would issue our preliminary determinations no later than 65 days after the date of initiation, unless postponed.[2] Currently, the preliminary determinations of these investigations are due no later than July 13, 2017.

Postponement of Preliminary Determination

Section 703(b)(1) of the Act requires the Department to issue the preliminary determination in a CVD investigation within 65 days after the date on which the Department initiated the investigation. However, if the petitioner makes a timely request for a postponement, section 703(c)(1)(A) of the Act allows the Department to postpone, making the preliminary determination until no later than 130 days after the date on which the Department initiated the investigation.

[1] *See Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from India and the People's Republic of China: Initiation of Countervailing Duty Investigations, 82 FR 22486 (May 16, 2017).*

[2] *Id.*

On June 14, 2017, ArcelorMittal Tubular products, Michigan Seamless Tube, LLC, Plymouth Tube Co. USA, PTC Alliance Corp., Webco Industries, Inc., and Zekelman Industries Inc. (collectively, the petitioners), submitted timely requests pursuant to section 703(c)(1)(A) of the Act and 19 CFR 351.205(e) to postpone the preliminary determinations.[3] For the reasons stated above and because there are no compelling reasons to deny the requests, the Department, in accordance with section 703(c)(1)(A) of the Act, is postponing the deadline for the preliminary determinations to no later than 130 days after the day on which the investigations were initiated. Accordingly, the Department will issue the preliminary determinations no later than September 18, 2017.[4] In accordance with section 705(a)(1) of the Act and 19 CFR 351.210(b)(1), the deadline for the final determinations of these investigations will continue to be 75 days after the date of the preliminary determinations.

This notice is issued and published pursuant to section 703(c)(2) of the Act and 19 CFR 351.205(f)(1).

Dated: June 19, 2017.

Gary Taverman,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2017–13124 Filed 6–22–17; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF483

Atlantic Coastal Fisheries Cooperative Management Act Provisions; General Provisions for Domestic Fisheries; Application for Exempted Fishing Permits

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

ACTION: Notice; request for comments.

SUMMARY: The Assistant Regional Administrator for Sustainable Fisheries, Greater Atlantic Region, NMFS, has made a preliminary determination that an Exempted Fishing Permit application from the Commercial Fisheries Research Foundation and the University of Rhode Island contains all of the required information and warrants further consideration. The Exempted Fishing Permit would exempt participating commercial fishing vessels from Federal lobster escape vent, trap limit, and trap tag regulations and restrictions on egg-bearing and v-notched female and sublegal lobsters for American lobster and Jonah crab research in a designated Wind Energy Area.

Regulations under the Magnuson-Stevens Fishery Conservation and Management Act and the Atlantic Coastal Fisheries Cooperative Management Act require publication of this notification to provide interested parties the opportunity to comment on applications for proposed Exempted Fishing Permits.

DATES: Comments must be received on or before July 10, 2017.

ADDRESSES: You may submit written comments by any of the following methods:

- *Email: NMFS.GAR.EFP@noaa.gov.* Include in the subject line ''Comments on CFRF/URI SNECVTS EFP.''
- *Mail:* John K. Bullard, Regional Administrator, NMFS, Greater Atlantic Regional Fisheries Office, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope ''Comments on CFRF/URI SNECVTS Exempted Fishing Permit.''

FOR FURTHER INFORMATION CONTACT: Cynthia Hanson, Fishery Management Specialist, (978) 281–9180, *Cynthia.Hanson@noaa.gov.*

SUPPLEMENTARY INFORMATION: The Commercial Fisheries Research Foundation (CFRF) and the University of Rhode Island (URI) submitted a complete application for an Exempted Fishing Permit (EFP) on May 25, 2017, to conduct commercial fishing activities that the regulations would otherwise restrict. The EFP would authorize four vessels (three active and one alternate) to conduct a cooperative ventless trap survey to determine distribution and habitat use of American lobster and Jonah crab in the Rhode Island/Massachusetts Wind Energy Area in Lobster Management Area (LMA) 2. The study is designed to better understand potential impacts of wind turbine construction on crustacean populations.

Funding for this study has been awarded under the Bureau of Ocean Energy Management Award (Grant #M13AC00009). CFRF and URI are requesting exemptions from Federal lobster regulations on:

1. Gear specifications at 50 CFR 697.21(c)(2) to allow for closed escape vents;
2. Trap limits for LMA 2, at § 697.19(b), to be exceeded by 80 additional traps per fishing vessel, for a total of 240 additional traps;
3. Trap tag requirements at § 697.19(j);
4. Minimum legal size possession restrictions at § 697.20(a)(4); and
5. Possession restrictions on berried and standard v-notch females at § 697.20(d) and (g).

If the EFP is approved, three active vessels will survey lobsters and Jonah crabs at 24 established sampling sites within the study area, with an alternate vessel available in case of mechanical issues. Each active vessel will fish 8 standard Atlantic large whale-compliant trawls with 10 traps (6 ventless, 4 standard) per trawl, for a total of 80 traps (48 ventless, 32 standard) per vessel. One trawl will be deployed at each of the fixed sample sites, and fished twice a month from July through November 2017, with a soak time of five days. There would never be more than 240 additional traps in the water at any time as a result of this project.

During sampling, biological information will be recorded for all lobsters and up to 10 Jonah crabs from each trap, and other bycatch species will also be enumerated, weighed, and measured. The possession exemptions are required to sample all catch. All species will be returned promptly to the water after sampling. No catch from this project will be landed for sale.

If approved, the applicant may request minor modifications and extensions to the EFP throughout the study period. EFP modifications and extensions may be granted without further notice if they are deemed essential to facilitate completion of the proposed research and have minimal impacts that do not change the scope or impact of the initially approved EFP request. Any fishing activity conducted outside the scope of the exempted fishing activity would be prohibited.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: June 20, 2017.

Emily H. Menashes,

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

[FR Doc. 2017–13133 Filed 6–22–17; 8:45 am]

BILLING CODE 3510–22–P

[3] *See* Petitioners' Letter re: Certain Mechanical Cold-Drawn Tubing of Carbon and Alloy Steel from India: Request to Postpone Preliminary Determination, dated June 14, 2017 (C–533–874); Petitioners' Letter re: Certain Mechanical Cold-Drawn Tubing of Carbon and Alloy Steel from the People's Republic of China: Request to Postpone Preliminary Determination, dated June 14, 2017 (C–570–059).

[4] The actual deadline is September 16, 2017, which is a Saturday. The Department's practice dictates that where a deadline falls on a weekend or federal holiday, the appropriate deadline is the next business day. *See* Notice of Clarification: Application of ''Next Business Day'' Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, As Amended, 70 FR 24533 (May 10, 2005).

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF497

Mid-Atlantic Fishery Management Council (MAFMC); Public Meeting

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

ACTION: Notice of scoping meetings, request for comments.

SUMMARY: The Mid-Atlantic Fishery Management Council's Surfclam and Ocean Quahog Committee will hold four public meetings related to the Excessive Shares Amendment.

DATES: Written comments will be accepted until July 21, 2017. Four scoping meetings will be held during this comment period. For dates, times, and locations, see **SUPPLEMENTARY INFORMATION**.

ADDRESSES: Written comments may be sent by any of the following methods:

- *Email to the following address: jmontanez@mafmc.org*; Include ''SCOQ Excessive Shares Amendment Scoping Comments'' in the subject line.
- Mail or hand deliver to Dr. Christopher Moore, Executive Director, Mid-Atlantic Fishery Management Council, 800 North State Street, Suite 201, Dover, Delaware 19901. Mark outside of the envelope ''SCOQ Excessive Shares Amendment Scoping Comments.''
- FAX to (302) 674–5399; Include ''SCOQ Excessive Shares Amendment Scoping Comments'' in the subject line.
- A Web form for submitting comments is available on the Council's Web site: *http://www.mafmc.org/comments/scoq-excessive-shares-amendment-scoping.* The scoping guide will be posted to the Council's Web site by June 19, 2017. The scoping guide may be obtained from the Council office at the previously provided address, or by request to the Council by phone (302) 674–2331, or via the Internet at *http://www.mafmc.org.*
- Comments may also be provided verbally at any of the four scoping meetings. See **SUPPLEMENTARY INFORMATION** for dates, times, and locations.

Council address: Mid-Atlantic Fishery Management Council, 800 N. State Street, Suite 201, Dover, DE 19901; telephone: (302) 674–2331 or on their Web site at *http://www.mafmc.org.*

FOR FURTHER INFORMATION CONTACT: Dr. Christopher Moore, Executive Director, Mid-Atlantic Fishery Management Council, telephone: (302) 526–5255.

SUPPLEMENTARY INFORMATION: The Mid-Atlantic Fishery Management Council is developing this Amendment to the Surfclam and Ocean Quahog (SCOQ) Fishery Management Plan (FMP; called Excessive Shares Amendment) to (1) implement measures that specifically define what constitutes an excessive share in the SCOQ Individual Fishing Quota (ITQ) program, (2) review and if necessary revise goals and objectives in the FMP. During the scoping comment period, which will include scoping meetings, the public may provide comments on the range of issues and information that should be considered, including comments related to the excessive shares issue in the SCOQ ITQ fisheries and goals and objectives of the FMP, as well as any other issues that might be of concern regarding to the management of the SCOQ ITQ fishery. Additional information and background documents about the amendment can be found at: *http://www.mafmc.org/actions/scoq-excessive-shares-amendment.*

Scoping Meetings

The dates and locations of the scoping meetings are as follows:

- Monday, July 10, 2017, 6:30 p.m., Hilton Garden Inn Providence Airport, 1 Thurber Street, Warwick, RI 02886, telephone: (401) 734–9600.
- Tuesday, July 11, 2017, 6:30 p.m., Internet Webinar, Connection information to be available at *http://www.mafmc.org.* This meeting will be conducted via webinar accessible via the internet from the Council's Web site, *http://www.mafmc.org.* Members of the public may also attend in-person at the Council office address (see **ADDRESSES**) for this webinar meeting, if they contact the Council by July 7, 2017.
- Wednesday, July 12, 2017, 6:30 p.m., The Grand Hotel, 1045 Beach Avenue, Cape May, NJ 08204, telephone: (609) 884–5611.
- Monday, July 17, 2017, 6 p.m., Ocean Pines Branch Library, 1107 Cathell Road, Berlin, MD 21811, telephone: (410) 208–4014.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aid should be directed to M. Jan Saunders, (302) 526–5251, at least 5 days prior to the meeting date.

Dated: June 20, 2017.

Tracey L. Thompson,

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

[FR Doc. 2017–13152 Filed 6–22–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF448

Notice of Availability of the Final Programmatic Environmental Impact Statement and Restoration Plan To Compensate for Injuries to Natural Resources in Portland Harbor, Oregon

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

ACTION: Notice of availability of a Final Programmatic Environmental Impact Statement and Restoration Plan.

SUMMARY: In this notice, NMFS announces the availability of the Programmatic Environmental Impact Statement and Restoration Plan to Compensate for Injuries to Natural Resources in Portland Harbor, Oregon.

The National Environmental Policy Act (NEPA) of 1960, requires an assessment of any Federal action that may impact the environment, which, in this case, is the selection of a Restoration Plan. The purpose of the PEIS/RP is to evaluate, in compliance with the National Environmental Policy Act (NEPA), the potential direct, indirect, and cumulative impacts of implementing the alternative programmatic approaches to restoration in the Portland Harbor area.

ADDRESSES: Obtaining documents: You may download the PEIS/RP at *https://www.fws.gov/oregonfwo/Contaminants/PortlandHarbor/Documents/201706_FINAL_PEIS.pdf.* Or you may request a CD of the document from Megan Callahan Grant, NOAA Restoration Center, 1201 NE Lloyd Blvd., Suite 1100, Portland, OR 97232.

FOR FURTHER INFORMATION CONTACT: Megan Callahan Grant at (503) 231–2213 or email at *megan.callahan-grant@noaa.gov.*

SUPPLEMENTARY INFORMATION:

Background

NOAA, the Department of the Interior (U.S. Fish and Wildlife Service), the Oregon Department of Fish and Wildlife, the Nez Perce Tribe, the Confederated Tribes of the Warm

Springs Indian Reservation of Oregon, the Confederated Tribes of the Umatilla Indian Reservation, the Confederated Tribes of Siletz Indians, and the Confederated Tribes of the Grand Ronde Community of Oregon are collectively referred to as the Trustee Council for this case. The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), 42 U.S.C. 9601 *et seq.;* the Oil Pollution Act (OPA) of 1990, 33 U.S.C. 2701 *et seq.;* the Clean Water Act (CWA), 33 U.S.C. 1251; the National Oil and Hazardous Substances Pollution Contingency Plan (National Contingency Plan [NCP]), 40 CFR 300, Subpart G; Executive Orders 12580 and 12777; and other applicable Federal and state laws and regulations provide a legal framework for addressing injuries to the nation's natural resources resulting from releases of hazardous substances and discharges of oil.

In January of 2007, the Portland Harbor Trustee Council released a Pre-Assessment Screen (PAS) for the Portland Harbor Superfund site. The PAS concluded that natural resources in the area have been affected or potentially affected from releases or discharges of contaminants. Based on the conclusions of the PAS, the Portland Harbor Trustee Council determined that proceeding past the pre-assessment phase to a full natural resource damage assessment was warranted.

Exposed living natural resources include, but are not limited to: (1) Aquatic-dependent mammals such as mink and river otter, and species they depend on as prey items; (2) migratory birds, including osprey, bald eagle, mergansers and other waterfowl, great blue heron, spotted sandpiper and other shorebirds, cliff swallow, belted kingfisher, and other species; (3) threatened and endangered species; (4) anadromous and resident fish, including salmon and steelhead; (5) reptiles and amphibians; (6) aquatic invertebrates; (7) wapato and other aquatic plants.

Exposed habitat types and water natural resources include wetland and upland habitats, groundwater, and surface water. The services that are provided by these potentially affected natural resources include, but are not limited to: (1) Habitat for trust resources, including food, shelter, breeding, foraging, and rearing areas, and other factors essential for survival; (2) consumptive commercial resource use such as commercial fishing; (3) consumptive recreational resource use such as hunting and fishing; (4) non-consumptive uses such as wildlife viewing, photography, and other outdoor recreation activities; (5) primary and secondary contact activities such as swimming and boating; (6) cultural, spiritual, and religious use; (7) option and existence values; (8) traditional foods.

An Assessment Plan was completed in June of 2010. Based on this plan, scientific literature and studies being conducted by the Trustee Council seek to document injuries from hazardous substances found in Portland Harbor. The objective of these studies is to demonstrate (1) how the contamination has harmed the organisms that inhabit the riverine sediments, (2) how the contamination has harmed the fish and wildlife that come into contact with the contaminated sediments or that eat contaminated prey items, and (3) how the harm to the natural resources has impacted the people that use these resources. Concurrent with the damage assessment, the Trustee Council is conducting restoration planning.

By identifying criteria and guidance to be used in selecting feasible restoration projects, the Restoration Plan provides a framework to maximize the benefits of restoration projects to the affected resources and services in the defined areas of the Lower Willamette River. The Trustee Council analyzed three alternatives including: (1) (Preferred) integrated habitat restoration actions that will benefit multiple species and services (those species listed above as potentially affected by releases of hazardous substances, such as salmon and resident fish, mammals such as mink and river otter, and aquatic-dependent birds such as osprey and bald eagle); (2) species-specific restoration actions (for example, augmenting a species population through artificial production); and (3) a no-action alternative (no action takes place and the public is not compensated). Two additional alternatives for restoration were considered but not moved forward for detailed study because they did not meet the purpose and need for the project. The first was an alternative without any defined geographic boundary, and the second was an alternative including a requirement that all restoration would occur within the defined geographic area called the Superfund Study Area.

The Draft Portland Harbor Programmatic EIS and Restoration Plan was released for public comment on July 9, 2012. The comment period ended October 8, 2012, and a public Open House meeting was held on July 17, 2012.

Comments were received from 21 parties, resulting in 193 individual comments. The Final PEIS includes responses to these comments as Appendix F.

The Trustee Council has opened an Administrative Record (Record). The Record includes documents that the Trustees relied upon during the development of the Final Restoration Plan and Final PEIS. The Record is on file at the offices of Parametrix, a contractor to NOAA. The Record is also available at: *http://www.fws.gov/oregonfwo/contaminants/PortlandHarbor/default.asp.*

Next Steps

In accordance with NEPA, a Federal agency must prepare a concise public Record of Decision (ROD) at the time the agency makes a decision in cases involving an EIS (40 CFR 1505.2). The Trustees will issue a ROD pursuant to NEPA regulations at 40 CFR 1505.2. Accordingly, the ROD for the Final RP/PEIS will provide and explain the Trustees' decisions regarding the selection of a preferred alternative. The Trustees will issue the ROD no earlier than 30 days after the Environmental Protection Agency publishes a notice in the **Federal Register** announcing the availability of the Final RP/PEIS (40 CFR 1506.10).

Dated: June 15, 2017.

Carrie D. Selberg,

Deputy Director, Office of Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 2017–12953 Filed 6–22–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Meeting of the Ocean Exploration Advisory Board (OEAB)

AGENCY: Office of Ocean Exploration and Research (OER) National Oceanic and Atmospheric Administration (NOAA) Department of Commerce (DOC).

ACTION: Notice of public meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Ocean Exploration Advisory Board (OEAB). OEAB members will discuss and provide advice on Federal ocean exploration programs, with a particular emphasis on National Oceanic and Atmospheric Administration (NOAA) Office of Ocean Exploration and Research (OER) activities; the use of ocean exploration data by decision makers, including those in the not-for-

profit organizations and the private sector; and other matters as described in the agenda found on the OEAB Web site at *http://oeab.noaa.gov.*

DATES: The announced meeting is scheduled for Tuesday, July 11, 2017 from 9:00 a.m. to 5:00 p.m. EDT and Wednesday, July 12, 2017 from 9:00 to 5:00 p.m. EDT.

ADDRESSES: The meeting will be held at Oceaneering Advanced Technologies, 7001 Dorsey Road, Hanover, Maryland 21076.

FOR FURTHER INFORMATION CONTACT: Mr. David McKinnie, Designated Federal Officer, Ocean Exploration Advisory Board, National Oceanic and Atmospheric Administration, 7600 Sand Point Way NE., Seattle, WA 98115, (206) 526–6950.

SUPPLEMENTARY INFORMATION: NOAA established the OEAB under the Federal Advisory Committee Act (FACA) and legislation that gives the agency statutory authority to operate an ocean exploration program and to coordinate a national program of ocean exploration. The OEAB advises NOAA leadership on strategic planning, exploration priorities, competitive ocean exploration grant programs and other matters as the NOAA Administrator requests.

OEAB members represent government agencies, the private sector, academic institutions, and not-for-profit institutions involved in all facets of ocean exploration—from advanced technology to citizen exploration.

In addition to advising NOAA leadership, NOAA expects the OEAB to help to define and develop a national program of ocean exploration—a network of stakeholders and partnerships advancing national priorities for ocean exploration.

Status: The meeting will be open to the public with a 15-minute public comment period on Tuesday, July 11, 2017 from 11:45 a.m. to 12:00 p.m. EDT (please check the final agenda on the Web site to confirm the time). The public may listen to the meeting and provide comments during the public comment period via teleconference. Dial-in information may be found on the meeting agenda posted to the OEAB Web site *http://oeab.noaa.gov.*

The OEAB expects that public statements at its meetings will not be repetitive of previously submitted verbal or written statements. In general, each individual or group making a verbal presentation will be limited to three minutes. The Designated Federal Officer must receive written comments by July 3, 2017 to provide sufficient time for OEAB review. Written comments received after July 3, 2017 will be distributed to the OEAB but may not be reviewed prior to the meeting date. Seats will be available on a first-come, first-served basis.

Special Accomodations: These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to David McKinnie, Designated Federal Officer (see below) by July 3, 2017.

Dated: June 9, 2017.

David Holst,

Acting Chief Financial Officer/CAO, Office of Oceanic and Atmospheric Research, National Oceanic and Atmospheric Administration.

[FR Doc. 2017–13200 Filed 6–22–17; 8:45 am]

BILLING CODE 3510–KA–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF496

Caribbean Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The Caribbean Fishery Management Council's District Advisory Panels (DAPs) for Puerto Rico, St. Croix and St. Thomas/St. John, USVI, will hold a joint meeting.

DATES: The meeting will be held on Thursday, July 6, 2017, from 9:30 a.m. to 5 p.m.

ADDRESSES: The meeting will be held at the Verdanza Hotel, Tartak St., Isla Verde, Puerto Rico.

FOR FURTHER INFORMATION CONTACT: Caribbean Fishery Management Council, 270 Muñoz Rivera Avenue, Suite 401, San Juan, Puerto Rico 00918, telephone: (787) 766–5926.

SUPPLEMENTARY INFORMATION: The DAPs will meet to discuss the items contained in the following agenda:

July 6, 2017, 9 a.m.

—Call to Order and Welcome—Miguel A. Rolón

—General Concepts (Scalars, Buffers, Scientific Uncertainty) to be Considered for Discussion by the DAPs—Dr. Richard Appeldoorn

—Expected Outcomes for Submission to the SSC and the CFMC—Dr. Richard Appeldoorn

—Quality of Information

—Year Sequences

—Life History Parameters

—Buffers Between ABCs and ACLs

10:30 a.m.—Coffee Break

10:45 a.m.–12 noon

Separate Meetings of Each DAP

—Year Sequences

—Recommended Buffers Between ABC and ACL

12 p.m.–1:30 p.m.—Lunch Break

1:30 p.m.–3:30 p.m.

DAPs Continuation of Morning Discussions

3:30 p.m.–4:30 p.m.

Reports by DAPs Chairs on DAPs Discussions and Recommendations

—Conclusion and Recommendations to CFMC

4:30 p.m.–5 p.m.

—Other Business

The meeting is open to the public, and will be conducted in English. Fishers and other interested persons are invited to attend and participate with oral or written statements regarding agenda issues.

Special Accommodations

This meeting is physically accessible to people with disabilities. For more information or request for sign language interpretation and/other auxiliary aids, please contact Mr. Miguel A. Rolón, Executive Director, Caribbean Fishery Management Council, 270 Muñoz Rivera Avenue, Suite 401, San Juan, Puerto Rico, 00918, telephone (787) 766–5926, at least 5 days prior to the meeting date.

Dated: June 20, 2017.

Tracey L. Thompson,

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

[FR Doc. 2017–13151 Filed 6–22–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

[Docket No.: PTO–P–2017–0026]

Extension of the Cancer Immunotherapy Pilot Program

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Notice.

SUMMARY: On June 29, 2016, the United States Patent and Trademark Office (USPTO) implemented the Cancer Immunotherapy Pilot Program, which permits patent applications pertaining to cancer immunotherapy to be advanced out of turn for examination and reviewed earlier (accorded special status). To date, over 80 petitions

requesting participation in the pilot program have been filed, and 9 patents have been granted under the pilot program. Various stakeholders from around the world have filed petitions to participate in the pilot program—they are independent inventors, universities, research institutions, hospitals, medical centers, government agencies, and large and small companies. The pilot program was originally scheduled to end on June 28, 2017. In view of the continued interest in the pilot program, the USPTO is extending the pilot program until December 31, 2018. All pilot parameters will remain the same as the original pilot.

DATES: *Effective Date:* June 23, 2017.

Duration: The Cancer Immunotherapy Pilot Program will continue to run until December 31, 2018. Therefore, petitions to make special under the Cancer Immunotherapy Pilot Program must be filed on or before December 31, 2018. The USPTO may further extend the pilot program (with or without modifications) or terminate it depending on feedback received, continued interest and the effectiveness of the pilot program.

FOR FURTHER INFORMATION CONTACT: Pinchus M. Laufer, Patent Attorney (telephone (571) 272–7726; electronic mail at *pinchus.laufer@uspto.gov*) or Susy Tsang-Foster, Senior Legal Advisor (telephone (571) 272–7711; electronic mail at *susy.tsang-foster@uspto.gov*), of the Office of Patent Legal Administration, Office of the Deputy Commissioner for Patent Examination Policy.

For questions relating to a specific petition, please contact Gary B. Nickol, Supervisory Patent Examiner (telephone (571) 272–0835; electronic mail at *gary.nickol@uspto.gov*) or Brandon J. Fetterolf, Supervisory Patent Examiner (telephone (571) 272–2919; electronic mail at *brandon.fetterolf@uspto.gov*), of Technology Center 1600.

SUPPLEMENTARY INFORMATION: The USPTO published a notice for the implementation of the Cancer Immunotherapy Pilot Program on June 29, 2016. *See Cancer Immunotherapy Pilot Program,* 81 FR 42328 (June 29, 2016), 1428 *Off. Gaz. Pat. Office* 253 (July 26, 2016) (Cancer Immunotherapy Notice). The pilot program was designed to support the global fight against cancer. The Cancer Immunotherapy Notice indicated that an applicant may have an application advanced out of turn (accorded special status) for examination without meeting all of the current requirements of the accelerated examination program set forth in item VIII of MPEP section 708.02(a), if the application contained at least one claim to a method of treating cancer using immunotherapy and met other requirements specified in the Cancer Immunotherapy Notice.

The Cancer Immunotherapy Notice established that the pilot program would run for twelve months from June 29, 2016. The USPTO is hereby extending the pilot program through December 31, 2018 in view of the continued interest in the pilot program. The extension also will allow the USPTO to continue its evaluation of the pilot program. The requirements of the pilot program have not been modified.

Various stakeholders from around the world have filed petitions to participate in the pilot program—they are independent inventors, universities, research institutions, hospitals, medical centers, government agencies, and large and small companies. To date, over 80 petitions requesting participation in the pilot program have been filed, and 9 patents have been granted under the pilot program. The USPTO may again extend the pilot program (with or without modifications) depending on the feedback from the participants, continued interest, and the effectiveness of the pilot program.

Dated: June 19, 2017.

Joseph Matal,

Performing the Functions and Duties of the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

[FR Doc. 2017–13122 Filed 6–22–17; 8:45 am]

BILLING CODE 3510–16–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. NJ17–10–001]

Notice of Filing; City of Dover, Delaware

Take notice that on June 15, 2017, City of Dover, Delaware submitted its Supplement to the May 16, 2017 tariff filing (Deficiency Filing).

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant and all the parties in this proceeding.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the eFiling link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern Time on June 26, 2017.

Dated: June 19, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017–13111 Filed 6–22–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2368–056]

Algonquin Northern Maine Generating Company; Notice of Intent to File License Application, Filing of Pre-Application Document (Pad), Intent To Waive Certain Procedural Matters, Commencement of Pre-Filing Process, and Scoping; Request for Comments on the Pad and Scoping Document, and Identification of Issues and Associated Study Requests

a. *Type of Filing:* Notice of Intent to File License Application for a New License and Commencing Pre-filing Process.

b. *Project No.:* 2368–056.

c. *Dated Filed:* May 1, 2017.

d. *Submitted By:* Algonquin Northern Maine Generating Company (Algonquin).

e. *Name of Project:* Squa Pan Hydroelectric Project.

f. *Location:* On Scopan Stream near the town of Masardis in Aroostook

County, Maine. The project does not occupy federal land.

g. *Filed Pursuant to:* 18 CFR part 5 of the Commission's Regulations.

h. *Potential Applicant Contact:* Alain Basakay, Project Manager, Algonquin Northern Maine Generating Company, 84 Water Street, Caribou, Maine 04736, *Alain.Basakay@algonquinpower.com* or 905–465–7059

i. *FERC Contact:* John Baummer at (202) 502–6837 or email at *john.baummer@ferc.gov.*

j. *Cooperating agencies:* Federal, state, local, and tribal agencies with jurisdiction and/or special expertise with respect to environmental issues that wish to cooperate in the preparation of the environmental document should follow the instructions for filing such requests described in item o below. Cooperating agencies should note the Commission's policy that agencies that cooperate in the preparation of the environmental document cannot also intervene. *See* 94 FERC ¶ 61,076 (2001).

k. With this notice, we are initiating informal consultation with: (a) The U.S. Fish and Wildlife Service and/or NOAA Fisheries under section 7 of the Endangered Species Act and the joint agency regulations thereunder at 50 CFR, part 402 and (b) the State Historic Preservation Officer, as required by section 106, National Historic Preservation Act, and the implementing regulations of the Advisory Council on Historic Preservation at 36 CFR 800.2.

l. With this notice, we are designating Algonquin as the Commission's non-federal representative for carrying out informal consultation, pursuant to section 7 of the Endangered Species Act and section 106 of the National Historic Preservation Act.

m. The current license for the Squa Pan Project was issued with an effective date of December 4, 1991, for a term of 30 years and expires on December 3, 2021. Section 5.5(d) of the Commission's regulations provides that an existing licensee must file its Notice of Intent (NOI) no later than five years before the expiration of the license; therefore the date for Algonquin to file its NOI was December 3, 2016. Algonquin filed a Notice of Intent to File License Application (NOI) on December 8, 2016, along with a request for an extension until August 2017 to file a Pre-Application Document (PAD). No other entity filed an NOI or PAD.

On January 5, 2017 the Commission issued a Notice of Existing Licensee's Failure to File Notice of Intent to File a New License Application. The notice set a deadline of 120 days from the issuance date for Algonquin and competing applicants to file NOIs, PADs and requests to use an alternative licensing process. The notice also denied Algonquin's request for an extension until August 2017 to file a PAD because it would unreasonably shorten the time available for preparation of a license application and/or conducting necessary studies.

On May 1, 2017, Algonquin filed an updated NOI and PAD, pursuant to 18 CFR 5.6 of the Commission's regulations. No other entity filed an NOI, PAD or request to use an alternative licensing process.

Because the licensee states its unequivocal intent to submit an application for a new license for Project No. 2368, and no other entity has filed an NOI, PAD, or request for an alternative licensing process, the Commission intends to waive section 16.24(a) of the Commission's regulations, and allow Algonquin to file an application for a new license for the project. The Commission's process plan and schedule for relicensing Project No. 2368 can be found in Appendix B of Scoping Document 1, issued concurrently with this notice.

n. A copy of the PAD is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site (*http://www.ferc.gov*), using the eLibrary link. Enter the docket number, excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). A copy is also available for inspection and reproduction at the address in paragraph h.

Register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filing and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

o. With this notice we are soliciting comments on the PAD and Commission's staff Scoping Document 1 (SD1), as well as study requests. All comments on the PAD and SD1, and study requests should be sent to the address above in paragraph h. In addition, all comments on the PAD and SD1, study requests, requests for cooperating agency status, and all communications to and from Commission staff related to the merits of the potential application must be filed with the Commission.

The Commission strongly encourages electronic filing. Please file all documents using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov.* In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. The first page of any filing should include docket number P–2368–056.

All filings with the Commission must bear the appropriate heading: Comments on Pre-Application Document, Study Requests, Comments on Scoping Document 1,''Request for Cooperating Agency Status, or Communications to and from Commission Staff. Any individual or entity interested in submitting study requests, commenting on the PAD or SD1, and any agency requesting cooperating status must do so by August 29, 2017.

p. Although our current intent is to prepare an environmental assessment (EA), there is the possibility that an Environmental Impact Statement (EIS) will be required. Nevertheless, this meeting will satisfy the NEPA scoping requirements, irrespective of whether an EA or EIS is issued by the Commission.

Scoping Meetings

Commission staff will hold two scoping meetings in the vicinity of the project at the time and place noted below. The daytime meeting will focus on resource agency, Indian tribes, and non-governmental organization concerns, while the evening meeting is primarily for receiving input from the public. We invite all interested individuals, organizations, and agencies to attend one or both of the meetings, and to assist staff in identifying particular study needs, as well as the scope of environmental issues to be addressed in the environmental document. The times and locations of these meetings are as follows:

Daytime Scoping Meeting

Date: Thursday, July 27, 2017.
Time: 1:00 p.m.
Location: Hampton Inn, 768 Main Street, Presque Isle, ME 04736.
Phone: (207) 760–9292.

Evening Scoping Meeting

Date: Wednesday, July 26, 2017.
Time: 7:00 p.m.
Location: Hampton Inn, 768 Main Street, Presque Isle, ME 04736.

Phone: (207) 760–9292.

Scoping Document 1 (SD1), which outlines the subject areas to be addressed in the environmental document, was mailed to the individuals and entities on the Commission's mailing list. Copies of SD1 will be available at the scoping meetings, or may be viewed on the web at *http://www.ferc.gov,* using the ''eLibrary'' link. Follow the directions for accessing information in paragraph n. Based on all oral and written comments, a Scoping Document 2 (SD2) may be issued. SD2 may include a revised process plan and schedule, as well as a list of issues, identified through the scoping process.

Environmental Site Review

The potential applicant and Commission staff will conduct an Environmental Site Review of the project on Thursday, July 27, 2017, starting at 9:00 a.m. All participants should meet at the Squa Pan Dam, located at Squapan Hydro Road, Masardis, Maine 04732. All participants are responsible for their own transportation. Anyone with questions about the site visit should contact Mr. James Veil of Algonquin at (207–551–9881) on or before July 13, 2017.

Meeting Objectives

At the scoping meetings, staff will: (1) Initiate scoping of the issues; (2) review and discuss existing conditions and resource management objectives; (3) review and discuss existing information and identify preliminary information and study needs; (4) review and discuss the process plan and schedule for pre-filing activity that incorporates the time frames provided for in Part 5 of the Commission's regulations and, to the extent possible, maximizes coordination of federal, state, and tribal permitting and certification processes; and (5) discuss the appropriateness of any federal or state agency or Indian tribe acting as a cooperating agency for development of an environmental document.

Meeting participants should come prepared to discuss their issues and/or concerns. Please review the PAD in preparation for the scoping meetings. Directions on how to obtain a copy of the PAD and SD1 are included in item n. of this document.

Meeting Procedures

The meetings will be recorded by a stenographer and will be placed in the public records of the project.

Dated: June 16, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017–13092 Filed 6–22–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. OR17–14–000]

Tesoro Refining & Marketing Company LLC v. Frontier Aspen LLC; Notice of Complaint

Take notice that on June 15, 2017, pursuant to Rule 206 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure,[1] section 343.2 of the Procedural Rules Applicable to Oil Pipeline Proceedings,[2] and sections 1(4), 1(6), 2, 3(1), 6, 9, 13(1) and 15(1) of the Interstate Commerce Act,[3] Tesoro Refining & Marketing Company LLC (Complainant) filed a formal complaint against Frontier Aspen LLC (Respondent) alleging that Respondent's pro rata walk-up prorationing policy and lack of an equalization factor are unjust, unreasonable and unduly discriminatory, all as more fully explained in the complaint.

Complainant states that a copy of the complaint was served on Respondent.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. The Respondent's answer and all interventions, or protests must be filed on or before the comment date. The Respondent's answer, motions to intervene, and protests must be served on the Complainant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the eFiling link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern Time on July 17, 2017.

Dated: June 16, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017–13091 Filed 6–22–17; 8:45 am]

BILLING CODE 6717–01–P

[1] 18 CFR 385.206.

[2] 18 CFR 343.2.

[3] 49 App. U.S.C. 1(4), 1(6), 3(1), 6(1), 6(3), 6(7), 9, 13(1), and 15(1) (1988).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP17–464–000]

Rover Pipeline LLC; Notice of Amendment

On May 17, 2017, Rover Pipeline LLC (Rover), 1300 Main Street, Houston, Texas 77002, filed a variance request in Docket No. CP15–93–000. The Commission is treating the variance request as an application to amend its Rover Pipeline Project under section 7(c) of the Natural Gas Act (NGA) and Part 157 of the Commission's regulations, and hereby gives notice of the proposed amendment. Specifically, Rover requests authorization to install a third 3,550 horsepower natural gas compressor unit at the Majorsville Compressor Station and a new equipment run at the Majorsville Meter Station in Marshall County, West Virginia. The proposal would increase the point capacity of the Majorsville Compressor Station and the Majorsville Meter Station from 300 million cubic feet per day (MMcf/d) to 400 MMcf/d, all as more fully set forth in the request which is on file with the Commission and open to public inspection. The filing may be viewed on the web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Any questions regarding the proposed amendment should be directed to Mr. Kelly Allen, Manager, Regulatory Affairs Department, Rover Pipeline LLC, 1300 Main Street, Houston, Texas 77002, by telephone at (713) 989–2606.

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: Complete its environmental analysis (EA) and place it into the Commission's public record (eLibrary) for this proceeding, or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's EA.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below, file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 5 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the eFiling link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 7 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

Comment Date: July 7, 2017.

Dated: June 16, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017–13090 Filed 6–22–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER16–1530–000.

Applicants: BIF III Holtwood LLC.

Description: Report Filing: BIF III Holtwood LLC Refund Report Supplemeny to be effective N/A.

Filed Date: 6/19/17.

Accession Number: 20170619–5142.

Comments Due: 5 p.m. ET 7/10/17.

Docket Numbers: ER17–1861–000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: 1976R6 Kaw Valley Electric Cooperative, Inc. NITSA and NOA to be effective 9/1/2017.

Filed Date: 6/19/17.

Accession Number: 20170619–5103.

Comments Due: 5 p.m. ET 7/10/17.

Docket Numbers: ER17–1862–000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: 2900R8 KMEA NITSA NOA to be effective 9/1/2017.

Filed Date: 6/19/17.

Accession Number: 20170619–5110.

Comments Due: 5 p.m. ET 7/10/17.

Docket Numbers: ER17–1863–000.

Applicants: Southern California Edison Company.

Description: § 205(d) Rate Filing: Third Amendment LGIA Nevada Hydro Company—LEAPS Project to be effective 8/19/2017.

Filed Date: 6/19/17.

Accession Number: 20170619–5125.

Comments Due: 5 p.m. ET 7/10/17.

Docket Numbers: ER17–1864–000.

Applicants: Bayshore Solar A, LLC.

Description: Baseline eTariff Filing: Bayshore Solar A, LLC MBR Tariff to be effective 8/19/2017.

Filed Date: 6/19/17.

Accession Number: 20170619–5127.

Comments Due: 5 p.m. ET 7/10/17.

Docket Numbers: ER17–1865–000.

Applicants: San Diego Gas & Electric Company.

Description: TO4 Formula Depreciation Rate Change For Non-Transmission Common Plant and Electric General Plant of San Diego Gas & Electric Company.

Filed Date: 6/19/17.

Accession Number: 20170619–5129.

Comments Due: 5 p.m. ET 7/10/17.

Docket Numbers: ER17–1866–000.

Applicants: Louisville Gas and Electric Company.

Description: § 205(d) Rate Filing: KyMEA Unexecuted NOA to be effective 5/1/2017.

Filed Date: 6/19/17.

Accession Number: 20170619–5139.

Comments Due: 5 p.m. ET 7/10/17.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing

requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: June 19, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017–13110 Filed 6–22–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Number: PR17–46–000.

Applicants: Public Service Company of Colorado.

Description: Tariff filing per 284.123(b),(e)+(g): 20170607_SOR—GRSA Eff. 5–1–2017 to be effective 5/1/2017; Filing Type: 1300.

Filed Date: 6/7/17.

Accession Number: 201706075155.

Comments Due: 5 p.m. ET 6/28/17.

284.123(g) Protests Due: 5 p.m. ET 8/7/17.

Docket Numbers: RP17–777–000.

Applicants: Trunkline Gas Company, LLC.

Description: Trunkline Gas Company, LLC submits tariff filing per 154.204: Non-Conforming List Update—Rover to be effective 7/1/2017.

Filed Date: 05/30/2017.

Accession Number: 20170530–5143.

Comment Date: 5:00 p.m. Eastern Time on Monday, June 19, 2017.

Docket Numbers: RP17–828–000.

Applicants: Trailblazer Pipeline Company LLC.

Description: Trailblazer Pipeline Company LLC submits tariff filing per 154.204: Neg Rate 2017–06–14 Fortigen to be effective 6/15/2017.

Filed Date: 06/13/2017.

Accession Number: 20170613–5074.

Comment Date: 5:00 p.m. Eastern Time on Monday, June 26, 2017.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and § 385.214) on or before 5:00 p.m. Eastern time on the specified date(s). Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: June 14, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017–13093 Filed 6–22–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER16–905–001.

Applicants: Comanche Solar PV, LLC.

Description: Notice of Non-Material Change in Status of Comanche Solar PV, LLC.

Filed Date: 6/15/17.

Accession Number: 20170615–5191.

Comments Due: 5 p.m. ET 7/6/17.

Docket Numbers: ER17–1774–000.

Applicants: NextEra Energy Bluff Point, LLC.

Description: Clarification to June 8, 2017 NextEra Energy Bluff Point, LLC tariff filing.

Filed Date: 6/15/17.

Accession Number: 20170615–5208.

Comments Due: 5 p.m. ET 7/6/17.

Docket Numbers: ER17–1842–000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: 1884R6 Westar Energy, Inc. NITSA and NOA to be effective 9/1/2017.

Filed Date: 6/16/17.

Accession Number: 20170616–5022.

Comments Due: 5 p.m. ET 7/7/17.

Docket Numbers: ER17–1843–000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: 1885R6 Westar Energy, Inc. NITSA and NOA to be effective 9/1/2017.

Filed Date: 6/16/17.

Accession Number: 20170616–5023.

Comments Due: 5 p.m. ET 7/7/17.

Docket Numbers: ER17–1844–000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: 1978R6 Westar Energy, Inc. NITSA and NOA to be effective 9/1/2017.

Filed Date: 6/16/17.

Accession Number: 20170616–5024.

Comments Due: 5 p.m. ET 7/7/17.

Docket Numbers: ER17–1845–000.

Applicants: Lazarus Energy Holdings, LLC.

Description: Compliance filing: Revision to Lazarus Energy MBR Tariff to be effective 6/15/2017.

Filed Date: 6/16/17.

Accession Number: 20170616–5043.

Comments Due: 5 p.m. ET 7/7/17.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES17–36–000.

Applicants: The United Illuminating Company.

Description: Application of The United Illuminating Company to issue short term securities under Section 204.

Filed Date: 6/14/17.

Accession Number: 20170614–5060.

Comments Due: 5 p.m. ET 7/5/17.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: June 16, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017–13086 Filed 6–22–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC17–130–000.

Applicants: Great Western Wind Energy, LLC, AER GW Holdco, LLC.

Description: Application for Authorization under Section 203 of the Federal Power Act for Disposition of Jurisdictional Facilities, Request for Expedited Action and Confidential Treatment of Great Western Wind Energy, LLC, et al.

Filed Date: 6/16/17.

Accession Number: 20170616–5168.

Comments Due: 5 p.m. ET 7/7/17.

Docket Numbers: EC17–131–000.

Applicants: Florida Power & Light Company.

Description: Application for Approval of Acquisition of Transmission Assets Pursuant to Section 203 of the Federal Power Act and Request for Expedited Action of Florida Power & Light Company.

Filed Date: 6/16/17.

Accession Number: 20170616–5174.

Comments Due: 5 p.m. ET 7/7/17.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER15–1332–005; ER10–2400–007; ER10–2401–005; ER10–2402–005; ER10–2403–006; ER10–2405–005; ER10–2407–004; ER10–2424–004; ER10–2425–006; ER11–3414–006; ER13–1816–005; ER15–1333–005.

Applicants: Arbuckle Mountain Wind Farm LLC, Blue Canyon Windpower LLC, Blue Canyon Windpower II LLC, Blue Canyon Windpower V LLC, Blue Canyon Windpower VI LLC, Cloud County Wind Farm, LLC, High Prairie Wind Farm II, LLC, Lost Lakes Wind Farm LLC, Pioneer Prairie Wind Farm I, LLC, Rail Splitter Wind Farm, LLC, Sustaining Power Solutions LLC, Waverly Wind Farm LLC.

Description: Notice of Non-Material Change in Status of Arbuckle Mountain Wind Farm LLC, et al.

Filed Date: 6/16/17.

Accession Number: 20170616–5148.

Comments Due: 5 p.m. ET 7/7/17.

Docket Numbers: ER17–1846–000.

Applicants: PacifiCorp.

Description: § 205(d) Rate Filing: UAMPS Construction Agmt Lehi Temp Tap Additional to be effective 8/16/2017.

Filed Date: 6/16/17.

Accession Number: 20170616–5082.

Comments Due: 5 p.m. ET 7/7/17.

Docket Numbers: ER17–1847–000.

Applicants: Moxie Freedom LLC.

Description: Baseline eTariff Filing: Market-Based Rate Application to be effective 8/16/2017.

Filed Date: 6/16/17.

Accession Number: 20170616–5146.

Comments Due: 5 p.m. ET 7/7/17.

Docket Numbers: ER17–1848–000.

Applicants: Michigan Electric Transmission Company, LLC.

Description: § 205(d) Rate Filing: Filing of an Interconnection Facilities Agreement to be effective 8/15/2017.

Filed Date: 6/16/17.

Accession Number: 20170616–5178.

Comments Due: 5 p.m. ET 7/7/17.

Docket Numbers: ER17–1849–000.

Applicants: Nautilus Power, LLC.

Description: § 205(d) Rate Filing: Errata re Notice of Succession to be effective 6/16/2017.

Filed Date: 6/16/17.

Accession Number: 20170616–5200.

Comments Due: 5 p.m. ET 7/7/17.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and § 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: June 16, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017–13087 Filed 6–22–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER17–1830–000]

CXA Sundevil Holdco, Inc.; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of CXA Sundevil Holdco, Inc.'s application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is July 6, 2017.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: June 16, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017–13089 Filed 6–22–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–2249–007.

Applicants: Portland General Electric Company.

Description: Notice of Change in Status of Portland General Electric Company.

Filed Date: 6/19/17.

Accession Number: 20170619–5087.

Comments Due: 5 p.m. ET 7/10/17.

Docket Numbers: ER10–2633–033; ER10–2717–004; ER13–55–022.

Applicants: Birchwood Power Partners, L.P., EFS Parlin Holdings, LLC, Homer City Generation, L.P.

Description: Updated Market Power Analysis for the Northeast Region of Birchwood Power Partners, L.P., et al.

Filed Date: 6/19/17.

Accession Number: 20170619–5096.

Comments Due: 5 p.m. ET 8/18/17.

Docket Numbers: ER13–1504–005; ER10–2866–004; ER10–2861–004.

Applicants: SWG Arapahoe, LLC, SWG Colorado, LLC, Fountain Valley Power, L.L.C.

Description: Notice of Non-Material Change in Status of SWG Arapahoe, LLC, et al.

Filed Date: 6/19/17.

Accession Number: 20170619–5090.

Comments Due: 5 p.m. ET 7/10/17.

Docket Numbers: ER17–264–001.

Applicants: Southwest Power Pool, Inc.

Description: Tariff Amendment: Amended Filing in ER17–264—AEP Formula Rate Revisions to be effective 7/1/2017.

Filed Date: 6/19/17.

Accession Number: 20170619–5081.

Comments Due: 5 p.m. ET 7/10/17.

Docket Numbers: ER17–1671–001.

Applicants: Gulf Coast Solar Center II, LLC.

Description: Tariff Amendment: Amendment to Application for MBR to be effective 5/31/2017.

Filed Date: 6/19/17.

Accession Number: 20170619–5086.

Comments Due: 5 p.m. ET 7/10/17.

Docket Numbers: ER17–1672–001.

Applicants: Gulf Coast Solar Center III, LLC.

Description: Tariff Amendment: Amendment to Application for MBR to be effective 5/31/2017.

Filed Date: 6/19/17.

Accession Number: 20170619–5092.

Comments Due: 5 p.m. ET 7/10/17.

Docket Numbers: ER17–1850–000.

Applicants: Bishop Hill Energy LLC.

Description: § 205(d) Rate Filing: Revised Market-Based Rate Tariff to be effective 8/19/2017.

Filed Date: 6/19/17.

Accession Number: 20170619–5039.

Comments Due: 5 p.m. ET 7/10/17.

Docket Numbers: ER17–1851–000.

Applicants: Blue Sky East, LLC.

Description: § 205(d) Rate Filing: Revised Market-Based Rate Tariff to be effective 8/19/2017.

Filed Date: 6/19/17.

Accession Number: 20170619–5041.

Comments Due: 5 p.m. ET 7/10/17.

Docket Numbers: ER17–1852–000.

Applicants: Canandaigua Power Partners, LLC.

Description: § 205(d) Rate Filing: Revised Market-Based Rate Tariff to be effective 8/19/2017.

Filed Date: 6/19/17.

Accession Number: 20170619–5042.

Comments Due: 5 p.m. ET 7/10/17.

Docket Numbers: ER17–1853–000.

Applicants: Canandaigua Power Partners II, LLC.

Description: § 205(d) Rate Filing: Revised Market-Based Rate Tariff to be effective 8/19/2017.

Filed Date: 6/19/17.

Accession Number: 20170619–5043.

Comments Due: 5 p.m. ET 7/10/17.

Docket Numbers: ER17–1854–000.

Applicants: Erie Wind, LLC.

Description: § 205(d) Rate Filing: Revised Market-Based Rate Tariff to be effective 8/19/2017.

Filed Date: 6/19/17.

Accession Number: 20170619–5044.

Comments Due: 5 p.m. ET 7/10/17.

Docket Numbers: ER17–1855–000.

Applicants: Evergreen Wind Power, LLC.

Description: § 205(d) Rate Filing: Revised Market-Based Rate Tariff to be effective 8/19/2017.

Filed Date: 6/19/17.

Accession Number: 20170619–5045.

Comments Due: 5 p.m. ET 7/10/17.

Docket Numbers: ER17–1856–000.

Applicants: Evergreen Wind Power III, LLC.

Description: § 205(d) Rate Filing: Revised Market-Based Rate Tariff to be effective 8/19/2017.

Filed Date: 6/19/17.

Accession Number: 20170619–5046.

Comments Due: 5 p.m. ET 7/10/17.

Docket Numbers: ER17–1857–000.

Applicants: Niagara Wind Power, LLC.

Description: § 205(d) Rate Filing: Revised Market-Based Rate Tariff to be effective 8/19/2017.

Filed Date: 6/19/17.

Accession Number: 20170619–5047.

Comments Due: 5 p.m. ET 7/10/17.

Docket Numbers: ER17–1858–000.

Applicants: Stetson Holdings, LLC.

Description: § 205(d) Rate Filing: Revised Market-Based Rate Tariff to be effective 8/19/2017.

Filed Date: 6/19/17.

Accession Number: 20170619–5048.

Comments Due: 5 p.m. ET 7/10/17.

Docket Numbers: ER17–1859–000.

Applicants: Stetson Wind II, LLC.

Description: § 205(d) Rate Filing: Revised Market-Based Rate Tariff to be effective 8/19/2017.

Filed Date: 6/19/17.

Accession Number: 20170619–5053.

Comments Due: 5 p.m. ET 7/10/17.

Docket Numbers: ER17–1860–000.

Applicants: Vermont Wind, LLC.

Description: § 205(d) Rate Filing: Revised Market-Based Rate Tariff to be effective 8/19/2017.

Filed Date: 6/19/17.

Accession Number: 20170619–5058.

Comments Due: 5 p.m. ET 7/10/17.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: June 19, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017–13109 Filed 6–22–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP17–46–000]

Southern Natural Gas Company, LLC; Notice of Schedule for Environmental Review of the Fairburn Expansion Project

On February 3, 2017, Southern Natural Gas Company, LLC (Southern) filed an application in Docket No. CP17–46–000 requesting a Certificate of Public Convenience and Necessity pursuant to section 7(c) of the Natural Gas Act to construct and operate certain natural gas pipeline facilities. The proposed project is known as the Fairburn Expansion Project, and would add 343,164 dekatherms per day of firm transportation service to its existing pipeline system.

On February 17, 2017 the Federal Energy Regulatory Commission (Commission or FERC) issued its Notice of Application for the Project. Among

other things, that notice alerted agencies issuing federal authorizations of the requirement to complete all necessary reviews and to reach a final decision on a request for a federal authorization within 90 days of the date of issuance of the Commission staff's Environmental Assessment (EA) for the Project. This instant notice identifies the FERC staff's planned schedule for the completion of the EA for the Project.

Schedule for Environmental Review

Issuance of EA: August 18, 2017.

90-day Federal Authorization Decision Deadline: November 16, 2017.

If a schedule change becomes necessary, additional notice will be provided so that the relevant agencies are kept informed of the Project's progress.

Project Description

Southern would upgrade and construct certain compression and pipeline facilities in Fayetteville and Fulton Counties, Georgia (including installing a new 4.9-mile-long 30-inch-diameter Fairburn Lateral and the new 18,000-horsepower electric Fairburn Compressor Station); and Clayton and Cobb Counties Georgia.

Background

On March 20, 2017, the Commission issued a *Notice of Intent To Prepare an Environmental Assessment for the Proposed Fairburn Expansion Project and Request for Comments on Environmental Issues* (NOI). The NOI was sent to affected landowners; federal, state, and local government agencies; elected officials; environmental and public interest groups; Native American tribes; other interested parties; and local libraries and newspapers. In response to the NOI, the Commission received comments from the U.S. Environmental Protection Agency (EPA) and five landowners. The primary issues raised by the commentors are safety and residential impacts during construction, and operational safety in association with electric power line collocation.

The EPA and the U.S. Army Corps of Engineers are cooperating agencies in the preparation of the EA.

Additional Information

In order to receive notification of the issuance of the EA and to keep track of all formal issuances and submittals in specific dockets, the Commission offers a free service called eSubscription. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to *www.ferc.gov/docs-filing/esubscription.asp.*

Additional information about the Project is available from the Commission's Office of External Affairs at (866) 208–FERC or on the FERC Web site (*www.ferc.gov*). Using the eLibrary link, select General Search from the eLibrary menu, enter the selected date range and Docket Number excluding the last three digits (*i.e.,* CP17–47), and follow the instructions. For assistance with access to eLibrary, the helpline can be reached at (866) 208–3676, TTY (202) 502–8659, or at *FERCOnlineSupport@ferc.gov.* The eLibrary link on the FERC Web site also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rule makings.

Dated: June 16, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017–13088 Filed 6–22–17; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OARM–2016–0762; FRL–9963–18–OEI]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; General Administrative Requirements for Assistance Programs (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency has submitted an information collection request (ICR), General Administrative Requirements for Assistance Programs (Renewal), to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. This is a proposed extension of the ICR, which is currently approved through June 30, 2017. Public comments were previously requested via the **Federal Register** on February 8, 2017 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. 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.

DATES: Additional comments may be submitted on or before July 24, 2017.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OARM–2016–0762, to (1) EPA online using *www.regulations.gov* (our preferred method), by email to *oei.docket@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460, and (2) OMB via email to *oira_submission@omb.eop.gov.* Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Elizabeth January, Office of Grants and Debarment, National Policy, Training and Compliance Division, Mail Code: 3903R, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: (617) 918–8655; fax number: (202) 565–2470; email address: *January.Elizabeth@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents for the General Administrative Requirements for Assistance Programs (EPA ICR No. 0938.21, OMB Control No. 2030–0020), which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

Abstract: The information is collected from applicants/recipients of EPA assistance to monitor adherence to the programmatic and administrative requirements of the Agency's financial assistance program. It is used to make awards, pay recipients, and collect information on how Federal funds are being spent. EPA needs this information to meet its Federal stewardship responsibilities. This ICR renewal requests authorization for the collection of information under EPA's General Regulation for Assistance Programs, which establishes minimum management requirements for all recipients of EPA grants or cooperative agreements (assistance agreements). Recipients must respond to these

information requests to obtain and/or retain a benefit (Federal funds). For awards made prior to December 26, 2014, 40 CFR part 30, ''Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations,'' establishes the management requirements for institutions of higher education, hospitals, and other non-profit organizations, as well as procurement requirements for non-governmental recipients. For awards made prior to December 26, 2014, 40 CFR part 31, ''Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments,'' includes the management requirements for States, local governments, and Indian Tribal governments. These regulations include only those provisions mandated by statute, required by Office of Management and Budget (OMB) Circulars, or added by EPA to ensure sound and effective financial assistance management. For awards made on or after December 26, 2014, 2 CFR 200 and EPA's implementation of 2 CFR 200 at 2 CFR 1500 ''Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards'' establishes the management requirements for all entity types. 40 CFR part 35 outlines policies and procedures for assistance agreements to State, interstate, and local agencies and Indian Tribes and Intertribal Consortia for pollution abatement and control programs (listed in Subparts A and B). The information required by these regulations will be used by EPA award officials to make assistance awards and assistance payments and to verify that the recipient is using Federal funds appropriately.

Form Numbers: EPA Form 190–F–04–001, ''EPA Payment Request''; EPA Form 190–F–05–001, ''Fellowship Stipend Payment Enrollment Form''; EPA Form 4700–4, ''Preaward Compliance Review Report for All Applicants and Recipients Requesting Federal Financial Assistance''; EPA Form 5700–52A, ''MBE/WBE Utilization Under Federal Grants and Cooperative Agreements''; EPA Form 5700–53, ''Lobbying and Litigation Certification for Grants and Cooperative Agreements''; EPA Form 5700–54, ''Key Contacts Form,'' and EPA Form 5700–54–2, ''Key Contacts Form for Multiple Principal Investigators''; EPA Form 5770–2, ''Fellowship Application''; EPA Form 5770–3, ''Fellowship Facilities and Commitment Statement''; EPA Form 5770–5, ''Agency Fellowship Certification''; EPA Form 5770–7, ''EPA Fellowship Activation Notice''; EPA Form 5770–8, ''Fellowship Agreement''; EPA Form 5770–9, ''Completion of Studies Notice''; EPA Form 6600–01, ''EPA Administrative and Financial Onsite Review Questionnaire''; EPA Form 6600–06, ''Certification Regarding Lobbying''; EPA Form 6600–08, ''Lobbying Cost Certificate for Indirect Costs/Certificate of Indirect Costs for State and Local Governments''; EPA Form 6600–09, ''EPA Administrative Capability Questionnaire'' NCER Form 5, ''Current and Pending Support''.

Respondents/affected entities: State and local governments, Indian Tribes, educational institutions, and not-for-profit institutions.

Respondent's obligation to respond: Required to obtain an assistance agreement.

Estimated number of respondents: 5,492 (total).

Frequency of response: On occasion, quarterly, and annually.

Total estimated burden: 90,124 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $5,263,533 (per year), includes $0 annualized capital or operation & maintenance costs.

Changes in the Estimates: There is a decrease of 64,882 hours in the total estimated respondent burden compared with the ICR currently approved by OMB. This decrease is due to adjustments in the number of respondents, the annual submissions per respondent, the burden hours for completion for all of its grant forms, and removed burden associated with two forms.

Courtney Kerwin,

Director, Regulatory Support Division.

[FR Doc. 2017–13146 Filed 6–22–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2014–0034; FRL–9960–85–OEI]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; NSPS for Kraft Pulp Mills (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency has submitted an information collection request (ICR), NSPS for Kraft Pulp Mills, to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). This is a proposed extension of the ICR, which is currently approved through June 30, 2017. Public comments were previously requested via the **Federal Register** on May 3, 2016 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An Agency may neither conduct nor sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

DATES: Additional comments may be submitted on or before July 24, 2017.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OECA–2014–0034, to: (1) EPA online using *www.regulations.gov* (our preferred method), or by email to *docket.oeca@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460; and (2) OMB via email to *oira_submission@omb.eop.gov.* Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI), or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Patrick Yellin, Monitoring, Assistance, and Media Programs Division, Office of Compliance, Mail Code 2227A, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: (202) 564–2970; fax number: (202) 564–0050; email address: *yellin.patrick@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents for this ICR, NSPS for Kraft Pulp Mills (40 CFR part 60, subpart BBa) (Renewal), (EPA ICR No. 2485.03, OMB Control No. 2060–0690), which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit: *http://www.epa.gov/dockets.*

Abstract: Owners and operators of affected facilities are required to comply with reporting and record keeping requirements for the General Provisions (40 CFR part 60, subpart A), as well as the specific requirements at 40 CFR part 60, subpart BBa. This includes submitting initial notifications, performance tests and periodic reports and results, and maintaining records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. These reports are used by EPA to determine compliance with the standards.

Form Numbers: None.

Respondents/affected entities: Kraft pulp mills.

Respondent's obligation to respond: Mandatory (40 CFR part 60 Subpart BBa).

Estimated number of respondents: 10 (total).

Frequency of response: Initially, occasionally, and semiannually.

Total estimated burden: 3,950 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: $1,230,000 (per year), which includes $821,000 for both annualized capital/startup and operation & maintenance costs.

Changes in the Estimates: There is an adjustment increase in the total estimated burden and labor costs as currently identified in the OMB Inventory of Approved Burdens. This increase is not due to any program changes. The change in the burden and cost estimates occurred for two reasons. First, this ICR assumes all existing respondents will have to familiarize with the regulatory requirements each year. Second, the burden has increased due an increase in the estimated number of sources subject to the standard.

There is also an increase in the total capital and O&M costs as currently identified in the OMB Inventory of Approved Burdens. This increase is due to an increase in the estimated number of sources, and because in year 2 of this ICR existing sources will need to repeat performance tests that are required every 5 years.

Courtney Kerwin,

Director, Regulatory Support Division.

[FR Doc. 2017–13150 Filed 6–22–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2014–0063; FRL–9961–08–OEI]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; NESHAP for Polyether Polyols Production (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency has submitted an information collection request (ICR), NESHAP for Polyether Polyols, to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. This is a proposed extension of the ICR, which is currently approved through May 31, 2017. Public comments were previously requested via the **Federal Register** on May 3, 2016 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An Agency may neither conduct nor sponsor, and a person is not required to respond to, a collection of information unless it displays a currently-valid OMB control number.

DATES: Additional comments may be submitted on or before July 24, 2017.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OECA–2014–0063, to: (1) EPA online using *www.regulations.gov* (our preferred method), or by email to *docket.oeca@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460; and (2) OMB via email to *oira_submission@omb.eop.gov.* Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI), or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Patrick Yellin, Monitoring, Assistance, and Media Programs Division, Office of Compliance, Mail Code 2227A, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: (202) 564–2970; fax number: (202) 564–0050; email address: *yellin.patrick@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents for this renewal ICR, NESHAP for Polyether Polyols (40 CFR part 63, subpart PPP), (EPA ICR No. 1811.10, OMB Control No. 2060–0415), which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit: *http://www.epa.gov/dockets.*

Abstract: The affected entities are subject to the General Provisions of the NESHAP (40 CFR part 63, subpart A), and any changes or additions to the General Provisions are specified at 40 CFR part 63, subpart PPP. Owners or operators of the affected facilities must submit initial notification, performance tests, and periodic reports and results. Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. Reports, at a minimum, are required semiannually.

Form Numbers: None.

Respondents/affected entities: Polyether polyols production facilities.

Respondent's obligation to respond: Mandatory (40 CFR part 63, subpart PPP).

Estimated number of respondents: 23 (total).

Frequency of response: Initially, occasionally and semiannually.

Total estimated burden: 3,710 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: $383,000 (per year), and does not include any annualized capital/startup or operation & maintenance costs.

Changes in the Estimates: There is a small increase in labor hours in this ICR compared to the previous ICR. This is due to the removal of affirmative defense and the addition of a one-hour estimate associated with re-familiarization of the regulatory requirements for each regulated source. There is also a decrease in the total capital and O&M costs. Since all existing sources are expected to be compliant with any initial requirements

of the 2014 rule, the estimated capital cost has decreased since the last ICR.

Courtney Kerwin,

Director, Regulatory Support Division.

[FR Doc. 2017–13149 Filed 6–22–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–9033–8]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7146 or *http://www.epa.gov/nepa.*

Weekly receipt of Environmental Impact Statements (EISs) filed 06/12/2017 through 06/16/2017 pursuant to 40 CFR 1506.9.

Notice

Section 309(a) of the Clean Air Act requires that EPA make public its comments on EISs issued by other Federal agencies. EPA's comment letters on EISs are available at: *http://www.epa.gov/compliance/nepa/eisdata.html.*

EIS No. 20170104, Final, USFS, OR, Ten Cent Community Wildfire Protection Project, Review Period Ends: 08/07/2017, Contact: Andrew Stinchfield 541–427–5397.

EIS No. 20170105, Final, NOAA, OR, Programmatic—Portland Harbor Restoration Plan, Review Period Ends: 07/24/2017, Contact: Megan Callahan Grant 503–231–2213.

EIS No. 20170106, Draft, NMFS, OR, Analyze Impacts of NOAA's National Marine Fisheries Service joining as a signatory to a new U.S. v. Oregon Management Agreement for the Years 2018–2027, Comment Period Ends: 08/07/2017, Contact: Jeromy Jording 360–753–9576.

EIS No. 20170107, Final, USFS, CA, Horse Creek Community Protection and Forest Restoration Project, Review Period Ends: 08/07/2017, Contact: Lisa Bousfield 530–493–1766.

EIS No. 20170108, Draft Supplement, USAF, AK, U.S. Air Force F–35A Operational Beddown—Pacific, Comment Period Ends: 08/07/2017, Contact: Hamid Kamalpour 210 925 2738.

EIS No. 20170109, Final, BLM, AZ, Sonoran Desert National Monument Target Shooting Proposed Resource Management Plan Amendment, Review Period Ends: 07/24/2017, Contact: Wayne Monger 623–580–5683.

EIS No. 20170110, Final, USN, RI, Disposal and Reuse of Surplus Property at Naval Station Newport, Review Period Ends: 07/24/2017, Contact: James Anderson 843–963–4991.

Dated: June 20, 2017.

Dawn Roberts,

Management Analyst, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 2017–13187 Filed 6–22–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2016–0460; FRL–9963–23–OEI]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; Requirements for Certified Applicators Using 1080 Collars for Livestock Protection (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency has submitted an information collection request (ICR), Requirements for Certified Applicators Using 1080 Collars for Livestock Protection to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. This is a proposed extension of the ICR, which is currently approved through May 31, 2017. Public comments were previously requested via the **Federal Register** on September 26, 2016 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. 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.

DATES: Additional comments may be submitted on or before July 24, 2017.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OPP–2016–0460, to (1) EPA online using *www.regulations.gov* (our preferred method), or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460, and (2) OMB via email to *oira_submission@omb.eop.gov.* Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Amaris Johnson, Field and External Affairs Division (7506P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: 703–305–9542; email address: *johnson.amaris@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents for the Requirements for Certified Applicators Using 1080 Collars for Livestock Protection ICR (EPA ICR No. 1249.11, OMB Control No. 2070–0074), which explain in detail the information that the EPA will be collecting, are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

Abstract: The information in this ICR enables the agency to obtain information needed to track the use of registered Livestock Protection Collar products which contain solutions of Sodium Monofluoroacetate (Compound 1080). The mandatory record-keeping requirements for these Compound 1080 collars were imposed by an administrative judge in October 1982 and confirmed by the agency in 1983. It ensures the proper use and function of the 1080 collar products, and demonstrates there is no threat of unreasonable harm to non-target animals or people.

Form Numbers: None.

Respondents/affected entities: Certified pesticide applicators that apply or hold inventory of 1080 collars, and the reporting agencies (state government, NAICS 999200) responsible for implementing and administering a 1080 collar monitoring program.

Respondent's obligation to respond: Mandatory.

Estimated number of respondents: 33 (total).

Frequency of response: Annual.

Total estimated burden: 1,431 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $64,213 (per year), includes $0 annualized capital or operation & maintenance costs.

Changes in the Estimates: There is a decrease of 513 hours in the total estimated respondent burden compared with the ICR currently approved by OMB. This decrease reflects voluntary cancellation of the 1080 Livestock Protection Collar registration formerly held by the South Dakota Department of Agriculture and the removal of estimated burden associated with submission of annual Livestock Protection Collar production reports erroneously included in the previous renewal of this ICR. This resulted in a corresponding decrease in the associated burden. This change is an adjustment.

Courtney Kerwin,

Director, Regulatory Support Division.

[FR Doc. 2017–13147 Filed 6–22–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OW–2006–0369; FRL–9963–17–OEI]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; National Estuary Program (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency has submitted an information collection request (ICR), National Estuary Program (Renewal) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. This is a proposed extension of the ICR, which is currently approved through June 30, 2017. Public comments were previously requested via the **Federal Register** on January 23, 2017 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. 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.

DATES: Additional comments may be submitted on or before July 24, 2017.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OW–2006–0369, to (1) EPA online using *www.regulations.gov* (our preferred method), by email to *OW-Docket@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460, and (2) OMB via email to *oira_submission@omb.eop.gov.* Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Vince Bacalan, Oceans and Coastal Protection Division, Office of Wetlands, Oceans, and Watersheds, 4504T, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: 202–566–0930; fax number: 202–566–1336; email address: *bacalan.vince@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents for the National Estuary Program ICR (EPA ICR No. 1500.08, OMB Control No. 2040–0138), which explain in detail the information that the EPA will be collecting, are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

Abstract: The National Estuary Program (NEP) involves collecting information from the state or local agency or nongovernmental organizations that receive funds under Sec. 320 of the Clean Water Act (CWA). The regulation requiring this information is found at 40 CFR part 35.

Prospective grant recipients seek funding to develop or oversee and coordinate implementation of Comprehensive Conservation Management Plans (CCMPs) for estuaries of national significance. In order to receive funds, grantees must submit an annual work plan to EPA which are used to track performance of each of the 28 estuary programs currently in the NEP. EPA provides funding to NEPs to support long-term implementation of CCMPs if such programs pass a program evaluation process. The primary purpose of the program evaluation process is to help EPA determine whether the 28 programs included in the National Estuary Program (NEP) are making adequate progress implementing their CCMPs and therefore merit continued funding under Sec. 320 of the Clean Water Act. EPA also requests that each of the 28 NEPs receiving Sec. 320 funds report information that can be used in the GPRA reporting process. This reporting is done on an annual basis and is used to show environmental results that are being achieved within the overall National Estuary Program. This information is ultimately submitted to Congress along with GPRA information from other EPA programs.

Form Numbers: None.

Respondents/affected entities: Entities potentially affected by this action are those state or local agencies or nongovernmental organizations in the National Estuary Program (NEP) who receive grants under Section 320 of the Clean Water Act.

Respondent's obligation to respond: Required to obtain or retain a benefit (Section 320 of the Clean Water Act).

Estimated number of respondents: 28 (total).

Frequency of response: Annual.

Total estimated burden: 5,600 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $314,138 (per year), includes $0 annualized capital or operation & maintenance costs.

Changes in the Estimates: There is an increase of 700 hours in the total estimated respondent burden compared with the ICR currently approved by OMB. This increase is due to the fact that respondents are required to submit program evaluation packages in the next three years and also due to a change in GPRA reporting application platform in FY2016 that require additional effort.

Courtney Kerwin,

Director, Regulatory Support Division.

[FR Doc. 2017–13148 Filed 6–22–17; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0767]

Information Collection Approved by the Office of Management and Budget (OMB)

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: The Federal Communications Commission (FCC) has received Office of Management and Budget (OMB) approval for a revision of a currently

approved public information collection pursuant to the Paperwork Reduction Act of 1995. An agency may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number, and no person is required to respond to a collection of information unless it displays a currently valid control number. Comments concerning the accuracy of the burden estimates and any suggestions for reducing the burden should be directed to the person listed in the **FOR FURTHER INFORMATION CONTACT** section below.

FOR FURTHER INFORMATION CONTACT: Cathy Williams, Office of the Managing Director, at (202) 418–2918, or email: *Cathy.Williams@fcc.gov.*

SUPPLEMENTARY INFORMATION: The total annual reporting burdens and costs for the respondents are as follows:

OMB Control Number: 3060–0767.

OMB Approval Date: May 25, 2017.

OMB Expiration Date: May 31, 2020.

Title: Sections 1.2110, 1.2111 and 1.2112, Auction and Licensing Disclosures—Ownership and Designated Entity Status.

Form Number: N/A.

Respondents: Business or other for profit entities, not-for-profit institutions, and State, local or Tribal governments.

Number of Respondents and Responses: 310 respondents; 310 responses.

Estimated Time per Response: 0.50 hours to 2 hours.

Frequency of Response: On occasion reporting requirement, recordkeeping requirement and third party disclosure reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in Sections 154(i) and 309(j) of the Communications Act of 1934, as amended, 47 U.S.C. 4(i) and 309(j)(5).

Total Annual Burden: 470 hours.

Total Annual Cost: $31,500.

Nature and Extent of Confidentiality: The Commission is not requesting that respondents submit confidential information to the Commission as part of this information collection. However, to the extent a respondent wishes to request confidential treatment of information submitted in response to this collection, it may do so in accordance with section 0.459 of the Commission's rules, 47 CFR 0.459.

Privacy Act Impact Assessment: No impact(s).

Needs and Uses: In FCC 15–80, *Updating Part 1 Report and Order,* the Commission updated many of its Part 1 competitive bidding rules. Among other things, the Commission amended its definition of ''designated entities'' to include ''eligible rural service providers,'' and established a new designated entity benefit/bidding credit for eligible rural service providers.

Beginning first on May 5, 1997, OMB approved under OMB Control No. 3060–0767, the Commission's collections of information pursuant to sections 1.2110, 1.2111, and 1.2112 of the Commission's rules, 47 CFR 1.2110, 1.2111, and 1.2112, and their predecessors, regarding ownership and designated entity status of parties involved with Commission licenses. The Commission collects this information in several contexts, including when determining the eligibility of applicants to participate in Commission auctions (including eligibility to claim designated entity benefits), the eligibility of parties to hold a Commission license/authorization (including eligibility for designated entity benefits), the eligibility of parties to whom licenses/authorizations are being assigned or transferred, and the repayment by license/authorization holders of the amount of bidding credits received in Commission auctions to avoid unjust enrichment. Applicants and licensees/authorization holders claiming eligibility for designated entity status are subject to audits and a record-keeping requirement regarding FCC-licensed service concerning such claims of eligibility, to confirm that their representations are, and remain, accurate.

The collection of this information will enable the Commission to determine whether applicants are qualified to bid on and hold Commission licenses/authorizations and, if applicable, to receive designated entity benefits, and is designed to ensure the fairness of the auction, licensing, and license/authorization assignment and transfer processes. The information collected will be reviewed and, if warranted, referred to the Commission's Enforcement Bureau for possible investigation and administrative action. The Commission may also refer allegations of anticompetitive auction conduct to the Department of Justice for investigation.

OMB has approved separately the routine collections of information pursuant to these Commission rules in applications to participate in Commission auctions, FCC Form 175, OMB Control No. 3060–0600, and in Commission licensing applications, FCC Form 601, OMB Control No. 3060–0798, and assignment/transfer of control applications, FCC Form 603, OMB Control No. 3060–0800. On occasion, the Commission may collect information from auction applicants and license/authorization holders pursuant to these rules under this information collection to clarify information provided in these forms or in circumstances to which the standard forms may not directly apply.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 2017–13082 Filed 6–22–17; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Radio Broadcasting Services; AM or FM Proposals To Change the Community of License

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: The following applicants filed AM or FM proposals to change the community of License: Alpha Media Licensee, LLC, Station NEW, Facility ID 198622, BNPH- 20151013AIK, From Longview, TX, To Hallsville, TX; Byrne Acquisition Group, LLC, Station WAHT, Facility ID 24482, BP–20170424AAT, From Clemson, SC, To Cowpens, SC; Central Florida Educational Foundational, Inc., Station WPOZ, Facility ID 9876, BPED–20170504ABA, From Union Park, FL, To Orlando, FL; Educational Media Foundation, Station KLRW, Facility ID 92140, BPED–20170530AAM, From Byrne, TX, To San Angelo, TX; Isleta Radio Company, Station KRKE, Facility ID 22391, BP-20151123BZF, From Milan, NM, To Moriarty, NM; Point Ten, LLC, Station KXFM, Facility ID 5470, BPH–20151110ANR, From Santa Maria, CA, To Port Hueneme, CA; SLC Divestiture Trust I (W. Lawrence Patrick, Trustee), Station KDWY, Facility ID 77947, BMPH- 20170223ABT, From Oakley, UT, To Diamondville, WY; Sun Valley Media Group, LLC, Station KPTO, Facility ID 129638, BP–20170531ABF, From Pocatello, ID, To Hailey, ID.

DATES: The agency must receive comments on or before August 22, 2017.

ADDRESSES: Federal Communications Commission, 445 12th Street SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Tung Bui, 202–418–2700.

SUPPLEMENTARY INFORMATION: The full text of these applications is available for inspection and copying during normal business hours in the Commission's Reference Center, 445 12th Street SW.,

Washington, DC 20554 or electronically via the Media Bureau's Consolidated Data Base System, *http://licensing.fcc.gov/prod/cdbs/pubacc/prod/cdbs_pa.htm.*

Federal Communications Commission.

James D. Bradshaw,

Deputy Chief, Audio Division, Media Bureau.

[FR Doc. 2017–13164 Filed 6–22–17; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting

AGENCY: Federal Election Commission.

DATE AND TIME: Tuesday, June 6, 2017 at 10:00 a.m. and its continuation at the conclusion of the open meeting on June 8, 2017 and its continuation on June 21, 2017 at 10:00 a.m.

PLACE: 999 E Street NW., Washington, DC.

STATUS: This meeting was closed to the public.

FEDERAL REGISTER NOTICE OF PREVIOUS ANNOUNCEMENT: 82 FR 26928.

ITEMS ALSO DISCUSSED: This meeting was continued on Thursday, June 21, 2017.

* * * * *

PERSON TO CONTACT FOR INFORMATION: Judith Ingram, Press Officer, Telephone: (202) 694–1220.

Laura E. Sinram,

Acting Deputy Secretary of the Commission.

[FR Doc. 2017–13323 Filed 6–21–17; 4:15 pm]

BILLING CODE 6715–01–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 July 20, 2017.

A. *Federal Reserve Bank of St. Louis* (David L. Hubbard, Senior Manager) P.O. Box 442, St. Louis, Missouri 63166–2034. Comments can also be sent electronically to *Comments.applications@stls.frb.org:*

1. *First Horizon National Corporation,* Memphis, Tennessee; to merge with Capital Bank Financial Corp., Charlotte, North Carolina, and thereby indirectly acquire Capital Bank Corp., Raleigh, North Carolina.

Board of Governors of the Federal Reserve System, June 20, 2017.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2017–13138 Filed 6–22–17; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Savings and Loan Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Home Owners' Loan Act (12 U.S.C. 1461 *et seq.*) (HOLA), Regulation LL (12 CFR part 238), and Regulation MM (12 CFR part 239), and all other applicable statutes and regulations to become a savings and loan holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a savings association and nonbanking companies owned by the savings and loan 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 application also will 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 HOLA (12 U.S.C. 1467a(e)). 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 10(c)(4)(B) of the HOLA (12 U.S.C. 1467a(c)(4)(B)). 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 July 20, 2017.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *FFBW, MHC,* to become a mutual savings and loan holding company, and FFBW, Inc., to become a mid-tier stock savings and loan holding company, by acquiring 100 percent of First Federal Bank of Wisconsin, all of Brookfield, Wisconsin.

Board of Governors of the Federal Reserve System, June 20, 2017.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2017–13137 Filed 6–22–17; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[CFDA Number: 93.676]

Announcement of the Award of 43 Single-Source Low-Cost Extension Supplement Grants Within the Office of Refugee Resettlement's Unaccompanied Alien Children's (UAC) Program

AGENCY: Office of Refugee Resettlement (ORR), Administration for Children and Families (ACF), Department of Health and Human Services (HHS).

ACTION: Notice of award of 43 single-source low-cost extension supplement grants under the Unaccompanied Alien Children's (UAC) Program.

SUMMARY: ACF, ORR, announces the award of 43 single-source low-cost extension supplement grants for a total of $34,847,803 under the Unaccompanied Alien Children's (UAC) Program.

DATES: Low-cost extension supplement grants will support activities from January 1, 2017 through January 31, 2017.

FOR FURTHER INFORMATION CONTACT: Jallyn Sualog, Director, Division of Unaccompanied Alien Children Operations, Office of Refugee

Resettlement, 330 C Street SW., Washington, DC 20201. Phone: (202) 401–4997. Email: *DCSProgram@acf.hhs.gov.*

SUPPLEMENTARY INFORMATION: The following supplement grants will support the immediate need for additional capacity of shelter services to accommodate the increasing number of UACs referred by DHS into ORR care. The increase in the UAC population necessitates the need for expansion of services to expedite the release of UAC. In order to be prepared for an increase in referrals for shelter and post release/home studies services, ORR will solicit proposals from forty three grantees to accommodate the extensive amount of referrals from DHS.

Location	Grantee	Amount
U.S. Multi-City	BCFS Health and Human Services	$1,145,366.00
U.S. Multi-City	Southwest Key, Inc	349,114.00
U.S. Multi-City	United States Conference of Catholic Bishops	238,188.00
U.S. Multi-City	Crittenton	100,522.00
	Children's Village	96,438.00
U.S. Multi-City	MercyFirst	41,171.00
U.S. Multi-City	United States Committee for Refugee and Immigrants	530,760.00
U.S. Multi-City	His House, Inc	24,414
U.S. Multi-City	Heartland	111,211.00
U.S. Multi-City	Lutheran Immigration and Refugee Service	270,959.00
Staunton, VA	Shenandoah	330,255.00
Lincolndale, NY	Lincoln Hall	1,280,435.00
San Antonio, TX	St. Peter-St. Joseph Children's Home	574,485.00
Corpus Christi, TX	Upbring	216,543.00
Chicago, IL	Heartland Human Care, Inc	3,169,960.00
National	United Stated Conference of Catholic Bishops	507,397.00
Mesa, AZ	A New Leaf	248,248.00
La Verne, CA	David & Margaret	518,699.00
Fullerton, CA	Florence Crittenton	1,017,271.00
Manvel, TX	Shiloh	429,079.00
Houston, TX	Catholic Charities Houston-Galveston	563,040.00
Miami, FL	His House	742,246.00
Corpus Christi, TX	Upbring	2,004,628
U.S. Multi-City	BCFS Health and Human Services (102)	8,156,483.00
National	Lutheran Immigration and Refugee Service	1,450,002.00
Seattle, WA	Youth Care	129,580.00
Portland, OR	Morrison Child and Family Services	883,727.00
Phoenix, AZ	Tumbleweed Child and Family Services	177,104.00
Philadelphia, PA	KidsPeace	875,670.00
San Antonio, TX	BCFS Health and Human Services (110)	159,870.00
San Antonio, TX	Seton Home	275,474.00
Fairfield, CA	BCFS Health and Human Services (112)	316,623.00
Bristow, VA	Youth for Tomorrow	1,005,950.00
Woodland, CA	Yolo County	235,636.00
Miami, FL	Catholic Charities Boystown	442,406.00
San Antonio, TX	BCFS Health and Human Services (116)	1,018,000.00
Bronx, NY	Cardinal McCloskey	148,056.00
Syosset, NY	Mercy First	515,025.00
Kingston, NY	Children's Home of Kingston	146,681.00
New York, NY	Lutheran Social Services of Metropolitan New York	369,231.00
New York, NY	Cayuga Home for Children DBA Cayuga Centers	2,703,131.00
New York, NY	Catholic Guardian Services	560,869.00
Yonkers, NY	Leake and Watts Services, Inc	767,856.00

ORR has specific requirements for the provision of services. Award recipients must have the infrastructure, licensing, experience, and appropriate level of trained staff to meet those requirements. The expansion of the existing shelter services and post-release/home studies programs through this supplemental award is a key strategy for ORR to be prepared to meet its responsibility of safe and timely release of Unaccompanied Alien Children referred to its care by DHS and to provide services for vulnerable youth post release. This will allow the US Border Patrol to continue its vital national security mission to prevent illegal migration, trafficking, and protect the borders of the United States.

Statutory Authority: This program is authorized by—

(A) Section 462 of the Homeland Security Act of 2002, which in March 2003, transferred responsibility for the care and custody of Unaccompanied Alien Children from the Commissioner of the former Immigration and Naturalization Service (INS) to the Director of ORR of the Department of Health and Human Services (HHS).

(B) The Flores Settlement Agreement, Case No. CV85–4544RJK (C.D. Cal. 1996), as well as the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (Pub. L. 110–457), which authorizes post release services under certain conditions to eligible children. All programs must comply with the Flores Settlement Agreement, Case No. CV85–4544–RJK (C.D. Cal. 1996), pertinent regulations and ORR policies and procedures.

Christopher Beach,

Senior Grants Policy Specialist, Division of Grants Policy, Office of Administration, Administration for Children and Families.

[FR Doc. 2017–13081 Filed 6–22–17; 8:45 am]

BILLING CODE 4184–45–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2017–N–0001]

Request for Nominations for Voting Members on Public Advisory Panels or Committees; Device Good Manufacturing Practice Advisory Committee and the Medical Devices Advisory Committee

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is requesting nominations for voting members to serve on the Device Good Manufacturing Practice Advisory Committee and device panels of the Medical Devices Advisory Committee in the Center for Devices and Radiological Health. In accordance with the 21st Century Cures Act, this notice provides an annual opportunity for patients, representatives of patients, and sponsors of medical device submissions to provide recommendations for individuals with appropriate expertise to fill voting member positions on classification panels.

FDA seeks to include the views of women and men, members of all racial and ethnic groups, and individuals with and without disabilities on its advisory committees and, therefore, encourages nominations of appropriately qualified candidates from these groups.

DATES: Nominations received on or before August 22, 2017, will be given first consideration for membership on the Device Good Manufacturing Practice Advisory Committee and Panels of the Medical Devices Advisory Committee. Nominations received after August 22, 2017, will be considered for nomination to the committee as later vacancies occur.

ADDRESSES: All nominations for membership should be submitted electronically by logging into the FDA Advisory Nomination Portal: *https://www.accessdata.fda.gov/scripts/FACTRSPortal/FACTRS/index.cfm* or by mail to Advisory Committee Oversight and Management Staff, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 32, Rm. 5103, Silver Spring, MD 20993–0002. Information about becoming a member on an FDA advisory committee can also be obtained by visiting FDA's Web site at *https://www.fda.gov/AdvisoryCommittees/default.htm.*

FOR FURTHER INFORMATION CONTACT: Regarding all nomination questions for membership, contact the following persons listed in table 1:

TABLE 1—COMMITTEE CONTACT

Primary contact person or designated federal officer	Committee
Sara Anderson, Office of Device Evaluation, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. G616, Silver Spring, MD 20993, 301–796–7047, email: *Sara.Anderson@fda.hhs.gov*.	Dental Products Panel, Hematology and Pathology Devices Panel, Orthopaedic and Rehabilitation Devices Panel.
Aden S. Asefa, Office of Device Evaluation, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. G642, Silver Spring, MD 20993, 301–796–0400, email: *Aden.Asefa@fda.hhs.gov*.	General Hospital and Personal Use Devices Panel, Neurological Devices Panel, Ophthalmic Devices Panel, Immunology Devices Panel, Device Good Manufacturing Practice Advisory Committee.
Shanika Craig, Office of Device Evaluation, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. G644, Silver Spring, MD 20993, 301–796–6639, email: *Shanika.Craig@fda.hhs.gov*.	Anesthesiology and Respiratory Therapy Devices Panel, Microbiology Devices Panel, Obstetrics and Gynecology Devices Panel, Radiological Devices Panel.
Patricio G. Garcia, Office of Device Evaluation, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. G610, Silver Spring, MD 20993, 301–796–6875, email: *Patricio.Garcia@fda.hhs.gov*.	Clinical Chemistry and Clinical Toxicology Panel, Gastroenterology and Urology Devices Panel, General and Plastic Surgery Devices Panel.
Pamela Scott, Office of the Center Director, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5572, Silver Spring, MD 20993, 301–796–5433, email: *Pamelad.Scott@fda.hhs.gov*.	Medical Devices Dispute Resolution Panel.
Evella F. Washington, Office of Device Evaluation, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. G640, Silver Spring, MD 20993, 301–796–6683, email: *Evella.Washington@fda.hhs.gov*.	Circulatory System Devices Panel, Ear, Nose and Throat Devices Panel, Molecular and Clinical Genetics Devices Panel.

SUPPLEMENTARY INFORMATION: FDA is requesting nominations for voting members for vacancies listed in table 2:

TABLE 2—EXPERTISE NEEDED, VACANCIES, AND APPROXIMATE DATE NEEDED

Committee expertise needed	Upcoming vacancies	Approximate date needed
Device Good Manufacturing Practice Advisory Committee—Experts needed to provide cross-cutting scientific or clinical expertise concerning the particular issue in dispute. Vacancies include a public representative and a government representative.	5	Immediately: Health Professional (2). June 1, 2017: Government Representatives (2) and General Public Representative (1).
Anesthesiology and Respiratory Therapy Devices Panel of the Medical Devices Advisory Committee—Anesthesiologists, pulmonary medicine specialists, or other experts who have specialized interests in ventilator support, pharmacology, physiology, or the effects and complications of anesthesia.	3	December 1, 2017.

TABLE 2—EXPERTISE NEEDED, VACANCIES, AND APPROXIMATE DATE NEEDED—Continued

Committee expertise needed	Upcoming vacancies	Approximate date needed
Circulatory System Devices Panel of the Medical Devices Advisory Committee—Interventional cardiologists, electrophysiologists, invasive (vascular) radiologists, vascular and cardiothoracic surgeons, and cardiologists with special interest in congestive heart failure.	1	July 1, 2017.
Clinical Chemistry and Clinical Toxicology Panel of the Medical Devices Advisory Committee—Doctors of medicine or philosophy with experience in clinical chemistry (e.g., cardiac markers), clinical toxicology, clinical pathology, clinical laboratory medicine, and endocrinology.	2	Immediately.
Dental Products Panel of the Medical Devices Advisory Committee—Dentists, engineers, and scientists who have expertise in the areas of dental implants, dental materials, periodontology, tissue engineering, and dental anatomy.	3	November 1, 2017.
Ear, Nose and Throat Devices Panel of the Medical Devices Advisory Committee—Otologists, neurotologists, and audiologists.	1 3	Immediately. November 1, 2017.
Gastroenterology and Urology, Devices Panel of the Medical Devices Advisory Committee—Gastroenterologists, urologists, and nephrologists.	1 2	Immediately. January 1, 2018.
General and Plastic Surgery Devices Panel of the Medical Devices Advisory Committee—Surgeons (general, plastic, reconstructive, pediatric, thoracic, abdominal, pelvic, and endoscopic); dermatologists; experts in biomaterials, lasers, wound healing, and quality of life; and biostatisticians.	1 2	Immediately. September 1, 2017.
General Hospital and Personal Use Devices Panel of the Medical Devices Advisory Committee—Internists, pediatricians, neonatologists, endocrinologists, gerontologists, nurses, biomedical engineers or microbiologists/infection control practitioners or experts.	1 2	Immediately. January 1, 2018.
Hematology and Pathology Devices Panel of the Medical Devices Advisory Committee—Hematologists (benign and/or malignant hematology), hematopathologists (general and special hematology, coagulation and homeostasis, and hematological oncology), gynecologists with special interests in gynecological oncology, cytopathologists, and molecular pathologists with special interests in development of predictive and prognostic biomarkers.	1	Immediately.
Immunology Devices Panel of the Medical Devices Advisory Committee—Persons with experience in medical, surgical, or clinical oncology, internal medicine, clinical immunology, allergy, molecular diagnostics, or clinical laboratory medicine.	3	Immediately.
Medical Devices Dispute Resolution Panel of the Medical Devices Advisory Committee—Experts with cross-cutting scientific, clinical, analytical or mediation skills.	1 1	Immediately. October 1, 2017.
Microbiology Devices Panel of the Medical Devices Advisory Committee—Infectious disease clinicians (e.g. pulmonary disease specialists, sexually transmitted disease specialists, pediatric ID specialists, tropical diseases specialists) and clinical microbiologists experienced in emerging infectious diseases; clinical microbiology laboratory directors; molecular biologists with experience in in vitro diagnostic device testing; virologists; hepatologists; or clinical oncologists experienced with tumor resistance and susceptibility.	5	Immediately.
Molecular and Clinical Genetics Devices Panel of the Medical Devices Advisory Committee—Experts in human genetics and in the clinical management of patients with genetic disorders, e.g., pediatricians, obstetricians, neonatologists. Individuals with training in inborn errors of metabolism, biochemical and/or molecular genetics, population genetics, epidemiology and related statistical training, and clinical molecular genetics testing (e.g., genotyping, array CGH, etc.). Individuals with experience in genetics counseling, medical ethics are also desired, and individuals with experience in ancillary fields of study will be considered.	2	June 1, 2017.
Neurological Devices Panel of the Medical Devices Advisory Committee—Neurosurgeons (cerebrovascular and pediatric), neurologists (stroke, pediatric, pain management, and movement disorders), interventional neuroradiologists, psychiatrists, and biostatisticians.	4 1	Immediately. December 1, 2017.
Obstetrics and Gynecology Devices Panel of the Medical Devices Advisory Committee—Experts in perinatology, embryology, reproductive endocrinology, pediatric gynecology, gynecological oncology, operative hysteroscopy, pelviscopy, electrosurgery, laser surgery, assisted reproductive technologies, contraception, postoperative adhesions, and cervical cancer and colposcopy; biostatisticians and engineers with experience in obstetrics/gynecology devices; urogynecologists; experts in breast care; experts in gynecology in the older patient; experts in diagnostic (optical) spectroscopy; experts in midwifery; labor and delivery nursing.	1 3	Immediately. February 1, 2018.
Ophthalmic Devices Panel of the Medical Devices Advisory Committee—Ophthalmologists specializing in cataract and refractive surgery and vitreo-retinal surgery, in addition to vision scientists, optometrists, and biostatisticians practiced in ophthalmic clinical trials.	1 2	Immediately. November 1, 2017.

TABLE 2—EXPERTISE NEEDED, VACANCIES, AND APPROXIMATE DATE NEEDED—Continued

Committee expertise needed	Upcoming vacancies	Approximate date needed
Orthopaedic and Rehabilitation Devices Panel of the Medical Devices Advisory Committee—Orthopaedic surgeons (joint, spine, trauma, and pediatric); rheumatologists; engineers (biomedical, biomaterials, and biomechanical); experts in rehabilitation medicine, sports medicine, and connective tissue engineering; and biostatisticians.	2	September 1, 2017.
Radiological Devices Panel of the Medical Devices Advisory—Physicians with experience in general radiology, mammography, ultrasound, magnetic resonance, computed tomography, other radiological subspecialties and radiation oncology; scientists with experience in diagnostic devices, radiation physics, statistical analysis, digital imaging and image analysis.	1	Immediately.

I. General Description of the Committees Duties

A. Device Good Manufacturing Practice Advisory Committee

The Committee reviews regulations proposed for issuance regarding good manufacturing practices governing the methods used in, and the facilities and controls used for, the manufacture, packing, storage, and installation of devices, and makes recommendations to the Commissioner of Food and Drugs (the Commissioner) regarding the feasibility and reasonableness of those proposed regulations. The committee also advises the Commissioner with regard to any petition submitted by a manufacturer for an exemption or variance from good manufacturing practice regulations that is referred to the committee.

B. Medical Devices Advisory Committee

The Committee reviews and evaluates data on the safety and effectiveness of marketed and investigational devices and makes recommendations for their regulation. The panels engage in a number of activities to fulfill the functions the Federal Food, Drug, and Cosmetic Act (the FD&C Act) envisions for device advisory panels. With the exception of the Medical Devices Dispute Resolution Panel, each panel, according to its specialty area performs the following duties: (1) Advises the Commissioner regarding recommended classification or reclassification of devices into one of three regulatory categories, (2) advises on any possible risks to health associated with the use of devices, (3) advises on formulation of product development protocols, (4) reviews premarket approval applications for medical devices, (5) reviews guidelines and guidance documents, (6) recommends exemption of certain devices from the application of portions of the FD&C Act, (7) advises on the necessity to ban a device, and (8) responds to requests from the Agency to review and make recommendations on specific issues or problems concerning the safety and effectiveness of devices. With the exception of the Medical Devices Dispute Resolution Panel, each panel, according to its specialty area, may also make appropriate recommendations to the Commissioner on issues relating to the design of clinical studies regarding the safety and effectiveness of marketed and investigational devices.

The Dental Products Panel also functions at times as a dental drug panel. The functions of the dental drug panel are to evaluate and recommend whether various prescription drug products should be changed to over-the-counter status and to evaluate data and make recommendations concerning the approval of new dental drug products for human use.

The Medical Devices Dispute Resolution Panel provides advice to the Commissioner on complex or contested scientific issues between FDA and medical device sponsors, applicants, or manufacturers relating to specific products, marketing applications, regulatory decisions and actions by FDA, and Agency guidance and policies. The panel makes recommendations on issues that are lacking resolution, are highly complex in nature, or result from challenges to regular advisory panel proceedings or Agency decisions or actions.

II. Criteria for Voting Members

A. Device Good Manufacturing Practice Advisory Committee

The Committee consists of a core of nine members including the Chair. Members and the Chair are selected by the Secretary of Health and Human Services. Persons nominated for membership as a health professional or officer or employee of any Federal, State, or local government should have knowledge of or expertise in any one or more of the following areas: Quality assurance concerning the design, manufacture, and use of medical devices. To be eligible for selection as a representative of the general public, nominees should possess appropriate qualifications to understand and contribute to the committee's work. Three of the members shall be officers or employees of any State or local government or of the Federal Government; two shall be representative of the interests of the device manufacturing industry; two shall be representatives of the interests of physicians and other health professionals; and two shall be representatives of the interests of the general public. Almost all non-Federal members of this committee serves as Special Government Employees. Members are invited to serve for overlapping terms of 4 years. The particular needs at this time for this committee are listed in Table 2 of this document.

B. Panels of the Medical Devices Advisory Committee

The Medical Devices Advisory Committee with its 18 panels shall consist of a maximum of 159 standing members. Members are selected by the Commissioner or designee from among authorities in clinical and administrative medicine, engineering, biological and physical sciences, and other related professions. Almost all non-Federal members of this committee serve as Special Government Employees. A maximum of 122 members shall be standing voting members and 37 shall be nonvoting members who serve as representatives of consumer interests and of industry interests. FDA is publishing separate documents announcing the Request for Nominations Notification for Non-Voting Representatives on certain panels of the Medical Devices Advisory Committee. Persons nominated for membership on the panels should have adequately diversified experience appropriate to the work of the panel in such fields as clinical and

administrative medicine, engineering, biological and physical sciences, statistics, and other related professions. The nature of specialized training and experience necessary to qualify the nominee as an expert suitable for appointment may include experience in medical practice, teaching, and/or research relevant to the field of activity of the panel. The particular needs at this time for each panel are listed in table 2 of this document. Members will be invited to serve for terms of up to 4 years.

III. Nomination Procedures

Any interested person may nominate one or more qualified individuals for membership on one or more of the advisory panels or advisory committees. Self-nominations are also accepted. Nominations must include a current, complete resume or curriculum vitae for each nominee, including current business address and/or home address, telephone number, and email address if available. Nominations must also specify the advisory committee(s) for which the nominee is recommended. Nominations must also acknowledge that the nominee is aware of the nomination unless self-nominated. FDA will ask potential candidates to provide detailed information concerning such matters related to financial holdings, employment, and research grants and/or contracts to permit evaluation of possible sources of conflict of interest.

This notice is issued under the Federal Advisory Committee Act (5 U.S.C. app. 2) and 21 CFR part 14, relating to advisory committees.

Dated: June 20, 2017.

Anna K. Abram,

Deputy Commissioner for Policy, Planning, Legislation, and Analysis.

[FR Doc. 2017–13182 Filed 6–22–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2017–N–2697]

Submission of Proposed Recommendations for Industry on Developing Continuous Manufacturing of Solid Dosage Drug Products in Pharmaceutical Manufacturing; Establishment of a Public Docket

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; establishment of docket; request for comments.

SUMMARY: In connection with promoting the use of innovative technologies, the Food and Drug Administration (FDA or Agency) is establishing a public docket to invite discussion of issues related to the adoption of continuous manufacturing by the pharmaceutical industry.

DATES: Submit electronic or written comments by September 21, 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 September 21, 2017. The *https://www.regulations.gov* electronic filing system will accept comments until midnight Eastern Time at the end of September 21, 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):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, 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–2697 for ''Submission of Proposed Recommendations for Industry on Developing Continuous Manufacturing of Solid Dosage Drug Products in Pharmaceutical Manufacturing; Establishment of a Public Docket.'' 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 Dockets Management Staff 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 Dockets Management Staff. 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 Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

Submit written requests for single copies of the Engineering Research Center for Structured Organic Particulate Systems (C-SOPS) document to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 2201, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the C-SOPS document.

FOR FURTHER INFORMATION CONTACT: Sau (Larry) Lee, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, Rm. 2128, Silver Spring, MD 20993–0002, 301–796–2905, *Sau.Lee@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

During a May 7, 2015, workshop on the Future of Pharmaceutical Manufacturing, FDA agreed that interested parties could submit for Agency consideration draft guidance or other materials discussing the science, technology, and best practices related to continuous manufacturing. On June 13, 2016, C-SOPS submitted to FDA an industry-coordinated best practices document on continuous manufacturing. FDA is interested in public comments about the science, technology, and practices discussed in the C-SOPS document and is opening this docket for that purpose. In addition, FDA is seeking comments on other recommendations regarding continuous manufacturing that have already been published, including ''Regulatory and Quality Considerations for Continuous Manufacturing: May 20–21, 2014, Continuous Manufacturing Symposium.'' FDA invites comment on control strategy, facility, and process validation considerations for continuous manufacturing of solid oral dosage forms. This request is not limited to comments on the proposal described in the C-SOPS submission.

II. Electronic Access

Persons with access to the Internet may obtain the C-SOPS document at *https://www.regulations.gov.*

Dated: June 15, 2017.

Anna K. Abram,

Deputy Commissioner for Policy, Planning, Legislation, and Analysis.

[FR Doc. 2017–13195 Filed 6–22–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2017–N–3067]

Patient-Focused Drug Development for Alopecia Areata; Public Meeting; Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public meeting; request for comments.

SUMMARY: The Food and Drug Administration (FDA, the Agency, or we) is announcing a public meeting and an opportunity for public comment on ''Patient-Focused Drug Development for Alopecia Areata.'' Patient-Focused Drug Development is part of FDA's performance commitments under the fifth authorization of the Prescription Drug User Fee Act (PDUFA V). The public meeting is intended to allow FDA to obtain patients' perspectives on the impact of alopecia areata, including on daily life. FDA is also seeking patients' views on treatment approaches and decision factors taken into account when selecting a treatment.

DATES: The public meeting will be held on September 11, 2017, from 1 p.m. to 5 p.m. Submit either electronic or written comments on this public meeting by November 13, 2017. See the **SUPPLEMENTARY INFORMATION** section for registration date and information.

ADDRESSES: The public meeting will be held at the FDA White Oak Campus, 10903 New Hampshire Ave., Bldg. 31 Conference Center, the Great Room (Rm. 1503), Silver Spring, MD 20993–0002. Entrance for the public meeting participants (non-FDA employees) is through Building 1 where routine security check procedures will be performed. For more information on parking and security procedures, please refer to *http://www.fda.gov/AboutFDA/WorkingatFDA/BuildingsandFacilities/WhiteOakCampusInformation/ucm241740.htm.*

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 November 13, 2017. The *https://www.regulations.gov* electronic filing system will accept comments until midnight Eastern Time at the end of November 13, 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):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, 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–3067 for ''Patient-Focused Drug Development for Alopecia Areata.'' 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 Dockets Management Staff 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 Dockets Management Staff. 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 Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FDA will post the agenda approximately 5 days before the meeting at: *https://www.fda.gov/ForIndustry/UserFees/PrescriptionDrugUserFee/ucm554443.htm.*

FOR FURTHER INFORMATION CONTACT: Meghana Chalasani, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 1146, Silver Spring, MD 20993–0002, 240–402–6525, FAX: 301–847–8443, *Meghana.Chalasani@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background on Patient-Focused Drug Development

FDA has selected alopecia areata as the focus of a public meeting under the Patient-Focused Drug Development initiative. This initiative involves obtaining a better understanding of patients' perspectives on the severity of a disease and the available therapies for that condition. Patient-Focused Drug Development is being conducted to fulfill FDA performance commitments that are part of the PDUFA reauthorization under Title I of the Food and Drug Administration Safety and Innovation Act (FDASIA) (Pub. L. 112–144). The full set of performance commitments is available on the FDA Web site at *http://www.fda.gov/downloads/forindustry/userfees/prescriptiondruguserfee/ucm270412.pdf.*

FDA committed to obtain the patient perspective on at least 20 disease areas during the course of PDUFA V. For each disease area, the Agency is conducting a public meeting to discuss the disease and its impact on patients' daily lives, the types of treatment benefits that matter most to patients, and patients' perspectives on the adequacy of the available therapies. These meetings will include participation of FDA review divisions, the relevant patient communities, and other interested stakeholders.

On April 11, 2013, FDA published a notice in the **Federal Register** (78 FR 21613), announcing the disease areas for meetings in fiscal years (FYs) 2013–2015, the first 3 years of the 5-year PDUFA V timeframe. The Agency used several criteria outlined in that notice to develop the list of disease areas. FDA obtained public comment on the Agency's proposed criteria and potential disease areas through a public docket and a public meeting that was convened on October 25, 2012. In selecting the set of disease areas, FDA carefully considered the public comments received and the perspectives of review divisions at FDA. FDA initiated a second public process for determining the disease areas for FY 2016–2017, and published a notice in the **Federal Register** on July 2, 2015 (80 FR 38216), announcing the selection of eight disease areas. More information, including the list of disease areas and a general schedule of meetings, is posted at *https://www.fda.gov/ForIndustry/UserFees/PrescriptionDrugUserFee/ucm347317.htm.*

II. Purpose and Scope of the Meeting

As part of Patient-Focused Drug Development, FDA will obtain patient and patient stakeholder input on the symptoms of alopecia areata that matter most to patients and on current approaches to treating alopecia areata. Alopecia areata is an autoimmune disease that causes hair loss. The hair loss usually occurs on the scalp but can also affect the beard, eyebrows, and other areas of the body. While there is currently no cure, there are available treatments, such as corticosteroids or non-drug therapies, which may help hair regrowth. FDA is interested in the perspectives of patients with alopecia areata on: (1) The impact of their condition, (2) treatment approaches, and (3) decision factors taken into account when selecting a treatment.

The questions that will be asked of patients and patient stakeholders at the meeting are listed in this section and organized by topic. For each topic, a brief initial patient panel discussion will begin the dialogue. This will be followed by a facilitated discussion inviting comments from other patient and patient stakeholder participants. In addition to input generated through this public meeting, FDA is interested in receiving patient input addressing these questions through electronic or written comments, which can be submitted to the Dockets Management Staff (see **ADDRESSES**).

Topic 1: Disease Symptoms and Daily Impacts That Matter Most to Patients

1. Of all the symptoms or disease manifestations that you experience because of your condition, which one to three symptoms or manifestations have the most significant impact on your life? Examples may include location or type of hair loss (*i.e.* loss of hair on scalp, loss of eyebrows, loss of all hair on body patchy hair loss), nail changes, hair quality upon regrowth.

2. Are there specific activities that are important to you but that you cannot do at all or as fully as you would like because of your condition? Examples of activities may include daily hygiene, engagement in personal relationships, participation in sports or social activities, completion of school or work activities, etc.

3. How do your symptoms and their negative impacts affect your daily life on the best days? On the worst days?

4. How has your condition changed over time?

- Would you define your condition today as being well-managed?

5. What worries you most about your condition?

Topic 2: Patients' Perspectives on Current Approaches to Treatment

1. What are you currently doing to help treat your condition or its symptoms? Examples may include prescription medicines, over-the-counter products, and non-drug therapies such as diet modification.

- How has your treatment regimen changed over time, and why?

2. How well does your current treatment regimen control your condition?

- How well have these treatments worked for you as your condition has changed over time?

3. What are the most significant downsides to your current treatments,

and how do they affect your daily life? Examples of downsides may include going to the clinic for treatment, time devoted to treatment, side effects of treatment, route of administration, etc.

4. What specific things would you look for in an ideal treatment for your condition?

• What would you consider to be a meaningful improvement in your condition that a treatment could provide?

5. What factors do you take into account when making decisions about selecting a course of treatment?

III. Meeting Attendance and Participation

If you wish to attend this meeting, visit *https://alopeciaareata.eventbrite.com.* Persons interested in attending this public meeting must register by August 28, 2017. If you are unable to attend the meeting in person, you can register to view a live Webcast of the meeting. You will be asked to indicate in your registration if you plan to attend in person or via the Webcast. Early registration is recommended because seating is limited; therefore, FDA may limit the number of participants from each organization. Registrants will receive confirmation once they have been accepted. Onsite registration on the day of the meeting will be based on space availability. If you need special accommodations due to a disability, please contact Meghana Chalasani (see **FOR FURTHER INFORMATION CONTACT**) no later than September 1, 2017.

Patients who are interested in presenting comments as part of the initial panel discussions will be asked to indicate in their registration which topic(s) they wish to address. These patients also must send to *PatientFocused@fda.hhs.gov* a brief summary of responses to the topic questions by August 21, 2017. Panelists will be notified of their selection approximately 7 days before the public meeting. We will try to accommodate all patients and patient stakeholders who wish to speak, either through the panel discussion or audience participation; however, the duration of comments may be limited by time constraints.

Transcripts: Please be advised that as soon as a transcript of the public meeting is available, it will be accessible at *https://www.regulations.gov.* It may be viewed at the Dockets Management Staff (see **ADDRESSES**). A link to the transcript will also be available at *https://www.fda.gov/ForIndustry/UserFees/PrescriptionDrugUserFee/ucm554443.htm.*

Dated: June 20, 2017.

Anna K. Abram,

Deputy Commissioner for Policy, Planning, Legislation, and Analysis.

[FR Doc. 2017–13194 Filed 6–22–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Proposed Collection: Public Comment Request Information Collection Request Title: Federal Tort Claims Act (FTCA) Program Deeming Applications for Free Clinics, OMB No. 0915–0293—Extension

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services.

ACTION: Notice.

SUMMARY: In compliance with the requirement for opportunity for public comment on proposed data collection projects of the Paperwork Reduction Act of 1995, the Health Resources and Services Administration (HRSA) announces plans to submit an Information Collection Request (ICR), described below, to the Office of Management and Budget (OMB). Prior to submitting the ICR to OMB, HRSA seeks comments from the public regarding the burden estimate, below, or any other aspect of the ICR.

DATES: Comments on this Information Collection Request must be received no later than August 22, 2017.

ADDRESSES: Submit your comments to *paperwork@hrsa.gov* or mail the HRSA Information Collection Clearance Officer, Room 14N39, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and draft instruments, email *paperwork@hrsa.gov* or call the HRSA Information Collection Clearance Officer at (301) 443–1984.

SUPPLEMENTARY INFORMATION: When submitting comments or requesting information, please include the information request collection title for reference, in compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995.

Information Collection Request Title: Federal Tort Claims Act (FTCA) Program Deeming Applications for Free Clinics, OMB No. 0915–0293—Extension.

Abstract: Section 224(o) of the Public Health Service (PHS) Act (42 U.S.C. 233(o)), as amended, authorizes the ''deeming'' of certain individuals as PHS employees for the purposes of receiving Federal Tort Claims Act (FTCA) coverage. Section 224(o) relates to employees, officers, and contractors at qualifying free clinics. The Free Clinics FTCA Program is administered by HRSA's Bureau of Primary Health Care (BPHC). Sponsoring free clinics are required by law to submit deeming applications in the specified form and manner on behalf of named individuals for review and approval, resulting in a ''deeming determination'' that includes associated FTCA coverage for these individuals.

Need and Proposed Use of the Information: Deeming applications must address certain specified criteria required by law for deeming determinations to be issued, and FTCA application forms are critical to BPHC's deeming determination process. These forms provide BPHC with the information necessary to evaluate an application and determine whether an individual meets the requirements for deemed PHS employee status for the purposes of FTCA coverage. FTCA application forms for free clinics do not require any changes with this extension other than to update the applicable dates.

Likely Respondents: Respondents include free clinics seeking deemed PHS employee status on behalf of their sponsored individuals for purposes of FTCA coverage.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose, or provide the information requested. 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. The total annual burden hours estimated for this Information Collection Request are summarized in the table below.

TOTAL ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Number of respondents	Number of responses per respondent	Total responses	Average burden per response (in hours)	Total burden hours
FTCA Free Clinics Program Application	228	3	684	2	1368
Total	228	3	684	2	1368

HRSA specifically requests comments on (1) the necessity and utility of the proposed information collection for the proper performance of the agency's functions, (2) the accuracy of the estimated burden, (3) ways to enhance the quality, utility, and clarity of the information to be collected, and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Jason E. Bennett,

Director, Division of the Executive Secretariat.

[FR Doc. 2017–13178 Filed 6–22–17; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Proposed Collection: Public Comment Request; Information Collection Request Title: Federal Tort Claims Act (FTCA) Program Deeming Applications for Health Centers, OMB No. 0906–XXXX—New

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services.

ACTION: Notice.

SUMMARY: In compliance with the requirement for opportunity for public comment on proposed data collection projects of the Paperwork Reduction Act of 1995, HRSA announces plans to submit an Information Collection Request (ICR), described below, to the Office of Management and Budget (OMB). Prior to submitting the ICR to OMB, HRSA seeks comments from the public regarding the burden estimate, below, or any other aspect of the ICR.

DATES: Comments on this ICR must be received no later than August 22, 2017.

ADDRESSES: Submit your comments to *paperwork@hrsa.gov* or mail the HRSA Information Collection Clearance Officer, Room 14N39, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and draft instruments, email *paperwork@hrsa.gov* or call the HRSA Information Collection Clearance Officer at (301) 443–1984.

SUPPLEMENTARY INFORMATION: When submitting comments or requesting information, please include the information request collection title for reference, in compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995.

Information Collection Request Title: Federal Tort Claims Act (FTCA) Program Deeming Applications for Health Centers, OMB No. 0906–XXXX—New

Abstract: Section 224(g)–(n) of the Public Health Service (PHS) Act (42 U.S.C. 233(g)–(n)), as amended, authorizes the ''deeming'' of entities receiving funds under section 330 of the PHS Act as PHS employees for the purposes of receiving Federal Tort Claims Act (FTCA) coverage. The Health Center Program is administered by HRSA's Bureau of Primary Health Care (BPHC). Health centers submit deeming applications to BPHC in the prescribed form and manner to obtain deemed PHS employee status with the associated FTCA coverage.

Need and Proposed Use of the Information: Deeming applications must address certain specified criteria required by law for deeming determinations to be issued, and FTCA application forms are critical to BPHC's deeming determination process. These forms provide BPHC with the information necessary to evaluate an application and make a deeming determination for the purposes of FTCA coverage. The application information is also used to determine whether a site visit is appropriate to assess issues relating to the health center's quality of care and to determine technical assistance needs.

Likely Respondents: Respondents include Health Center Program funds recipients seeking deemed PHS employee status for purposes of FTCA coverage.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose, or provide the information requested. 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. The total annual burden hours estimated for this Information Collection Request are summarized in the table below.

Total Estimated Annualized Burden Hours:

Form name	Number of respondents	Number of responses per respondent	Total responses	Average burden per response (in hours)	Total burden hours
FTCA Health Center Program Initial Application	35	1	35	2.5	87.5
FTCA Health Center Program Redeeming Application	1125	1	1125	2.5	2812.5
Total	1160	.....	1160	.....	2900

HRSA specifically requests comments on (1) the necessity and utility of the proposed information collection for the proper performance of the agency's functions, (2) the accuracy of the estimated burden, (3) ways to enhance the quality, utility, and clarity of the information to be collected, and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Jason E. Bennett,

Director, Division of the Executive Secretariat.

[FR Doc. 2017–13176 Filed 6–22–17; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Proposed Collection: Public Comment Request; Information Collection Request Title: Federal Tort Claims Act (FTCA) Program Deeming Applications for Health Center Volunteer Health Professionals

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services.

ACTION: Notice.

SUMMARY: In compliance with the requirement for opportunity for public comment on proposed data collection projects, HRSA announces plans to submit an Information Collection Request (ICR), described below, to the Office of Management and Budget (OMB). Prior to submitting the ICR to OMB, HRSA seeks comments from the public regarding the burden estimate, below, or any other aspect of the ICR.

DATES: Comments on this ICR must be received no later than August 22, 2017.

ADDRESSES: Submit your comments to *paperwork@hrsa.gov* or mail the HRSA Information Collection Clearance Officer, Room 14N39, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and draft instruments, email *paperwork@hrsa.gov* or call the HRSA Information Collection Clearance Officer at (301) 443–1984.

SUPPLEMENTARY INFORMATION: When submitting comments or requesting information, please include the information request collection title for reference, in compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995.

Information Collection Request Title: Federal Tort Claims Act (FTCA) Program Deeming Applications for Health Center Volunteer Health Professionals, OMB No. 0906–XXXX—New

Abstract: Section 224(q) of the Public Health Service (PHS) Act (42 U.S.C. 233(q)), as amended, authorizes the ''deeming'' of certain individuals as PHS employees for the purposes of receiving Federal Tort Claims Act (FTCA) coverage. Section 224(q) relates to volunteer health professionals (VHPs) of Health Center Program grantees that have been deemed as PHS employees. The Health Center FTCA Program is administered by HRSA's Bureau of Primary Health Care (BPHC). Sponsoring health centers are required by law to submit deeming applications in the specified form and manner on behalf of named individuals for review and approval, resulting in a ''deeming determination'' that includes associated FTCA coverage for these individuals.

Need and Proposed Use of the Information: Deeming applications must address certain specified criteria required by law for deeming determinations to be issued, and FTCA application forms are critical to BPHC's deeming determination process. These forms provide BPHC with the information necessary to evaluate an application and determine whether an individual meets the requirements for deemed PHS employee status for the purposes of FTCA coverage. Because the 21st Century Cures Act extended FTCA coverage to VHPs, BPHC proposes to add new FTCA application forms for use by health centers applying to sponsor volunteers to become VHPs with associated FTCA coverage for their activities within the scope of deemed employment on behalf of the health center.

Likely Respondents: Respondents include Health Center Program fund recipients seeking deemed PHS employee status on behalf of their sponsored individuals for purposes of FTCA coverage.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose, or provide the information requested. 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. The total annual burden hours estimated for this Information Collection Request are summarized in the table below.

TOTAL ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Number of respondents	Number of responses per respondent	Total responses	Average burden per response (in hours)	Total burden hours
FTCA Health Center Volunteer Health Professional Program Application	1375	3	4125	2	8250
Total	1375		4125		8250

HRSA specifically requests comments on (1) the necessity and utility of the proposed information collection for the proper performance of the agency's functions, (2) the accuracy of the estimated burden, (3) ways to enhance the quality, utility, and clarity of the information to be collected, and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Jason E. Bennett,

Director, Division of the Executive Secretariat.

[FR Doc. 2017–13172 Filed 6–22–17; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Meeting of the Advisory Committee on Minority Health

AGENCY: Office of Minority Health, Office of the Secretary, Department of Health and Human Services.

ACTION: Notice of meeting.

SUMMARY: As stipulated by the Federal Advisory Committee Act, the Department of Health and Human Services (DHHS) is hereby giving notice that the Advisory Committee on Minority Health (ACMH) will hold a meeting. This meeting will be open to the public. Preregistration is required for both public attendance and comment. Any individual who wishes to attend the meetings and/or participate in the public comment session should email *OMH–ACMH@hhs.gov.*

DATES: The meeting will be held on Monday, August 28, 2017, from 9:00 a.m. to 5:00 p.m. and Tuesday, August 29, 2017, from 9:00 a.m. to 1:00 p.m.

ADDRESSES: The meeting will be held at the 5600 Fishers Lane Building, Room 05N76, 5600 Fishers Lane, Rockville, Maryland 20857.

FOR FURTHER INFORMATION CONTACT: Dr. Minh Wendt, Designated Federal Officer, ACMH; Tower Building, 1101 Wootton Parkway, Suite 600, Rockville, Maryland 20852. Phone: 240–453–8222, Fax: 240–453–8223; *OMH–ACMH@hhs.gov*

SUPPLEMENTARY INFORMATION: In accordance with 42 U.S.C.§ 300u-6(c), the ACMH was established to provide advice to the Deputy Assistant Secretary for Minority Health in improving the health of each racial and ethnic minority group and on the development of goals and specific program activities of the Office of Minority Health.

Topics to be discussed during this meeting will include strategies to improve the health of racial and ethnic minority populations through the development of health policies and programs that will help eliminate health disparities, as well as other related issues.

Public attendance at this meeting is limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the designated contact person at least fourteen (14) business days prior to the meeting. Members of the public will have an opportunity to provide comments at the meeting. Public comments will be limited to three minutes per speaker. Individuals who would like to submit written statements should mail or fax their comments to the Office of Minority Health at least seven (7) business days prior to the meeting. Any members of the public who wish to have printed material distributed to ACMH committee members should submit their materials to the Designated Federal Officer, ACMH, Tower Building, 1101 Wootton Parkway, Suite 600, Rockville, Maryland 20852, prior to close of business on Monday, August 21, 2017.

Dated: June 19, 2017.

Minh Wendt,

Designated Federal Officer, ACMH, Office of Minority Health, U.S. Department of Health and Human Services.

[FR Doc. 2017–13072 Filed 6–22–17; 8:45 am]

BILLING CODE 4150–29–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; 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 Environmental Health Sciences Special Emphasis Panel; SEP for K99 Applications.

Date: July 11, 2017.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: NIEHS/National Institutes of Health, Keystone Building, 530 Davis Drive, Room 3118, Research Triangle Park, NC 27709, (Virtual Meeting).

Contact Person: Laura A Thomas, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Research and Training, National Institute of Environmental Health Sciences, Research Triangle Park, NC 27709, 919–541–2824, *laura.thomas@nih.gov.*

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel; Peer Review of Prime Applications 2017.

Date: July 13, 2017.

Time: 8:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Sheraton Imperial Hotel and Convention Center, 4800 Emperor Blvd., Durham, NC 27709.

Contact Person: Leroy Worth, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Research and Training, Nat. Institute of Environmental Health Sciences, P. O. Box 12233, MD EC–30/Room 3171, Research Triangle Park, NC 27709, (919) 541–0670, *worth@niehs.nih.gov.*

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel; SEP for K01, K02, K08, K23 Applications.

Date: July 13, 2017.

Time: 11:30 a.m. to 1:30 p.m.

Agenda: To review and evaluate grant applications.

Place: NIEHS/National Institutes of Health, Keystone Building, 530 Davis Drive, Room 3118, Research Triangle Park, NC 27709, (Virtual Meeting).

Contact Person: Laura A Thomas, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Research and Training, National Institute of Environmental Health Sciences, Research Triangle Park, NC 27709, 919–541–2824, *laura.thomas@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences; 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing, National Institutes of Health, HHS)

Dated: June 19, 2017.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–13079 Filed 6–22–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; 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 Mental Health Special Emphasis Panel; Member Conflicts: Mental Health Services Research.

Date: July 10, 2017.

Time: 12:30 p.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852.

Contact Person: Karen Gavin-Evans, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Boulevard, Room 6153, MSC 9606, Bethesda, MD 20892, 301–451–2356, *gavinevanskm@mail.nih.gov.*

Name of Committee: National Institute of Mental Health Special Emphasis Panel; National Cooperative Drug Discovery/Development Groups (NCDDG).

Date: July 19, 2017.

Time: 12:00 p.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications and/or proposals.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Vinod Charles, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6151, MSC 9606, Bethesda, MD 20892–9606, 301–443–1606, *charlesvi@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program No. 93.242, Mental Health Research Grants; 93.281)

Dated: June 19, 2017.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–13080 Filed 6–22–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel; PAR15–287 Opportunistic Research Collaborations with the NIH Clinical Center.

Date: July 14, 2017.

Time: 11:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute Shady Grove, 9609 Medical Center Drive, Room 7W264, Bethesda, MD 20892–9750 (Telephone Conference Call).

Contact Person: Reed A. Graves, Ph.D., Scientific Review Officer, Research Technology and Contract Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W264, Bethesda, MD 20892–9750, 240–276–6384, *gravesr@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: June 19, 2017.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–13075 Filed 6–22–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; 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 on Alcohol Abuse and Alcoholism Special Emphasis Panel; NIAAA AA2 & AA3 Member Conflict Reviews.

Date: July 14, 2017.

Time: 1:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, National Institute on Alcohol Abuse and Alcoholism, 5635 Fishers Lane, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Ranga Srinivas, Ph.D., Chief, Extramural Project Review Branch, National Institute on Alcohol Abuse and Alcoholism, National Institutes of Health, 5365 Fishers Lane, Room 2085, Rockville, MD 20852 (301) 451–2067, *srinivar@mail.nih.gov.*

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel; Review of R01 applications for RFA–AA–17–016 Alcohol-PTSD Comorbidity: Preclinical Studies of Models and Mechanisms.

Date: July 18, 2017.

Time: 8:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, National Institute on Alcohol Abuse and Alcoholism, 5635 Fishers Lane, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Beata Buzas, Ph.D., Scientific Review Officer, National Institute on Alcohol Abuse and Alcoholism, National Institutes of Health, 5635 Fishers Lane, Room 2081, Rockville, MD 20852, 301–443–0800, *bbuzas@mail.nih.gov.*

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel; NIAAA Member Conflict Panel—Behavioral and Clinical Studies.

Date: July 25, 2017.

Time: 11:00 a.m. to 12:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, National Institute on Alcohol Abuse and Alcoholism, 5635 Fishers Lane, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Ranga Srinivas, Ph.D., Chief, Extramural Project Review Branch, National Institute on Alcohol Abuse and Alcoholism, National Institutes of Health, 5365 Fishers Lane, Room 2085, Rockville, MD 20852, (301) 451–2067, *srinivar@mail.nih.gov.*

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel; NIAAA Member Conflict Panel—Prevention and Treatment Research.

Date: July 27, 2017.

Time: 11:00 a.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, National Institute on Alcohol Abuse and Alcoholism, 5635 Fishers Lane, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Ranga Srinivas, Ph.D., Chief, Extramural Project Review Branch, National Institute on Alcohol Abuse and Alcoholism, National Institutes of Health, 5365 Fishers Lane, Room 2085, Rockville, MD 20852, (301) 451–2067, *srinivar@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; 93.891, Alcohol Research Center Grants; 93.701, ARRA Related Biomedical Research and Research Support Awards, National Institutes of Health, HHS)

Dated: June 19, 2017.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–13076 Filed 6–22–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Draft Report on Carcinogens Monograph on Haloacetic Acids Found as Water Disinfection By-Products; Availability of Document; Request for Comments; Notice of Peer-Review Meeting

SUMMARY: The National Toxicology Program (NTP) announces a meeting to peer review the *Draft Report on Carcinogens (RoC) Monograph on Haloacetic Acids Found as Water Disinfection By-Products.* The monograph was prepared by the Office of the Report on Carcinogens (ORoC), Division of the National Toxicology Program (DNTP), National Institute of Environmental Health Sciences (NIEHS). The peer review meeting is open to the public. Registration is requested for both public attendance and oral comment and required to access the webcast. Information about the meeting and registration is available at *https://ntp.niehs.nih.gov/go/38853.*

DATES:

Meeting: July 24, 2017, 8:30 a.m. to adjournment at approximately 4:00 p.m. Eastern Daylight Time (EDT).

Document Availability: Draft monograph should be available by June 7, 2017, at *https://ntp.niehs.nih.gov/go/38853.*

Written Public Comment Submissions: Deadline is July 14, 2017.

Registration for Oral Comments: Deadline is July 14, 2017.

Registration for Meeting and/or to View Webcast: Deadline is July 24, 2017. Registration to view the meeting via the webcast is required.

ADDRESSES:

Meeting Location: Rodbell Auditorium, Rall Building, NIEHS, 111 T.W. Alexander Drive, Research Triangle Park, NC 27709.

Meeting Web page: The draft monograph, preliminary agenda, registration, and other meeting materials will be available at *https://ntp.niehs.nih.gov/go/38853.*

Webcast: The URL for viewing webcast will be provided to those who register.

FOR FURTHER INFORMATION CONTACT:

Canden Byrd, ICF, 2635 Meridian Parkway, Suite 200, Durham, NC, USA 27713. Phone: (919) 293–1660, Fax: (919) 293–1645, Email: *canden.byrd@icf.com.*

SUPPLEMENTARY INFORMATION:

Background: The RoC is a congressionally mandated, science-based, public health report that identifies agents, substances, mixtures, or exposures (collectively called ''substances'') in our environment that pose a cancer hazard for people in the United States. NTP prepares the RoC on behalf of the Secretary of Health and Human Services. NTP follows an established, four-part process for preparation of the RoC (*https://ntp.niehs.nih.gov/pubhealth/roc/process/index.html*). For each substance selected for review, a draft RoC monograph is prepared that presents (1) information on human exposure to the substance; (2) an assessment of the evidence from cancer studies in humans and experimental animals, mechanisms of carcinogenicity, and other data relevant for evaluating the substance's potential carcinogenicity; and (3) NTP's preliminary preliminary RoC listing recommendation. The draft monograph also contains a draft profile that provides the NTP's preliminary listing recommendation for the substance and a summary of the scientific evidence considered key to reaching that recommendation.

Haloacetic acids found as drinking water by-products were selected for review following solicitation of public comment, review by the NTP Board of Scientific Counselors on April 11, 2016, and approval by the NTP Director (*https://ntp.niehs.nih.gov/go/9741*).

Water disinfection is among the most important and beneficial public health advances of the 20th century and has substantially reduced United States incidence of cholera, typhoid, and amoebic dysentery caused by waterborne pathogens. A consequence of the water disinfection process is formation of a large number of unintended compounds from chemicals and organic material in the water; these unintended chemicals are of potential public health concern. Haloacetic acids are the second largest group by weight (36%) of total halogenated disinfection by-products found in public water supplies. The draft RoC monograph includes a cancer hazard assessment of 13 haloacetic acids containing chlorine, bromine, or iodine, or a combination of these halogens that have been identified in disinfected water.

Meeting and Registration: The meeting is open to the public with time set aside for oral public comment; attendance at the NIEHS is limited only by the space available. Registration to attend the meeting in-person and/or view the webcast is by July 24, 2017, at *https://ntp.niehs.nih.gov/go/38853.* Registration is required to view the webcast; the URL for the webcast will be provided in the email confirming registration. Visitor and security information for those attending in-person is available at *https://www.niehs.nih.gov/about/visiting/index.cfm.* Individuals with disabilities who need accommodation to participate in this event should contact Canden Byrd by phone: (919) 293–1660 or email: *canden.byrd@icf.com.* TTY users should contact the Federal TTY Relay Service at (800) 877–8339. Requests should be made at least five business days in advance of the event.

The draft monograph and preliminary agenda will be available on the NTP Web site at *https://ntp.niehs.nih.gov/go/38853.* The draft monograph should be available by June 7, 2017. Additional information will be posted when available or may be requested in hardcopy, see **FOR FURTHER INFORMATION CONTACT**. Following the meeting, a report of the peer review will be prepared and made available on the NTP Web site. Individuals are

encouraged to access the meeting Web page to stay abreast of the most current information regarding the meeting.

Request for Comments: NTP invites written and oral public comments on the draft monograph. The deadline for submission of written comments is July 14, 2017, to enable review by the peer review panel and NTP staff prior to the meeting. Registration to provide oral comments is by July 14, 2017, at *https://ntp.niehs.nih.gov/go/38853.* Public comments and any other correspondence on the draft monograph should be sent to the **FOR FURTHER INFORMATION CONTACT**. Persons submitting written comments should include their name, affiliation, mailing address, phone, email, and sponsoring organization (if any). Written comments received in response to this notice will be posted on the NTP Web site, and the submitter will be identified by name, affiliation, and/or sponsoring organization (if any). Guidelines for public comments are at *https://ntp.niehs.nih.gov/ntp/about_ntp/guidelines_public_comments_508.pdf.*

Public comment at this meeting is welcome, with time set aside for the presentation of oral comments on the draft monograph. In addition to in-person oral comments at the NIEHS, public comments can be presented by teleconference line. There will be 50 lines for this call; availability is on a first-come, first-served basis. The lines will be open from 8:30 a.m. until adjournment at approximately 4:00 p.m. EDT on July 24, 2017, although oral comments will be received only during the formal public comment periods indicated on the preliminary agenda. The access number for the teleconference line will be provided to registrants by email prior to the meeting. Each organization is allowed one time slot. At least 7 minutes will be allotted to each time slot, and if time permits, the allotment may be extended to 10 minutes at the discretion of the chair.

Persons wishing to make an oral presentation are asked to register online at *https://ntp.niehs.nih.gov/go/38853* by July 14, 2017, and indicate whether they will present comments in-person or via the teleconference line. If possible, oral public commenters should send a copy of their slides and/or statement or talking points at that time. Written statements can supplement and may expand the oral presentation. Registration for in-person oral comments will also be available at the meeting, although time allowed for presentation by on-site registrants may be less than that for registered speakers and will be determined by the number of speakers who register on-site.

Background Information on the RoC: Published biennially, each edition of the RoC is cumulative and consists of substances newly reviewed in addition to those listed in previous editions. For each listed substance, the RoC contains a substance profile, which provides information on cancer studies that support the listing—including those in humans, animals, and studies on possible mechanisms of action—information about potential sources of exposure to humans, and current federal regulations to limit exposures. The 14th RoC, the latest edition, was published on November 3, 2016 (available at *https://ntp.niehs.nih.gov/go/roc14*).

Background Information on NTP Peer Review Panels: NTP panels are technical, scientific advisory bodies established on an ''as needed'' basis to provide independent scientific peer review and advise the NTP on agents of public health concern, new/revised toxicological test methods, or other issues. These panels help ensure transparent, unbiased, and scientifically rigorous input to the program for its use in making credible decisions about human hazard, setting research and testing priorities, and providing information to regulatory agencies about alternative methods for toxicity screening. NTP welcomes nominations of scientific experts for upcoming panels. Scientists interested in serving on an NTP panel should provide current curriculum vitae to the **FOR FURTHER INFORMATION CONTACT** (see above). The authority for NTP panels is provided by 42 U.S.C. 217a; section 222 of the Public Health Service (PHS) Act, as amended. The panel is governed by the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), which sets forth standards for the formation and use of advisory committees.

Dated: June 6, 2017.

John R. Bucher,

Associate Director, National Toxicology Program.

[FR Doc. 2017–13159 Filed 6–22–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; 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 on Drug Abuse Special Emphasis Panel; Summer Research Education Experience Programs (R25).

Date: June 30, 2017.

Time: 11:00 a.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Julia Berzhanskaya, Ph.D., Scientific Review Officer, Office of Extramural Policy and Review, Division of Extramural Research, National Institute on Drug Abuse, NIH, DHHS, 6001 Executive Boulevard, Room 4234, MSC 9550, Bethesda, MD 20892, 301–827–5840, *julia.berzhanskaya@nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel; Exploratory Studies of Smoking Cessation Interventions for People with Schizophrenia (R21/R33; R33).

Date: July 12, 2017.

Time: 2:30 p.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Julia Berzhanskaya, Ph.D., Scientific Review Officer, Office of Extramural Policy and Review, Division of Extramural Research, National Institute on Drug Abuse, NIH, DHHS, 6001 Executive Boulevard, Room 4234, MSC 9550, Bethesda, MD 20892, 301–827–5840, *julia.berzhanskaya@nih.gov.*

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel; Evaluating the NIDA Standardized Research E-Cigarette in Risk Reduction and Related Studies (U01).

Date: July 21, 2017.

Time: 8:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate cooperative agreement applications.

Place: Courtyard by Marriott Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Julia Berzhanskaya, Ph.D., Scientific Review Officer, Office of Extramural Policy and Review, Division of Extramural Research, National Institute on Drug Abuse, NIH, DHHS, 6001 Executive Boulevard, Room 4234, MSC 9550, Bethesda,

MD 20892, 301–827–5840, *julia.berzhanskaya@nih.gov.*

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel; Expanding Medication Assisted Treatment for Opioid Use Disorders in the Context of the SAMHSA Opioid STR Grants (R21/R33).

Date: July 25, 2017.

Time: 12:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Hiromi Ono, Ph.D., Scientific Review Officer, Office of Extramural Policy and Review, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6001 Executive Boulevard, Room 4238, MSC 9550, Bethesda, MD 20892, 301–827–5820, *hiromi.ono@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos.: 93.279, Drug Abuse and Addiction Research Programs, National Institutes of Health, HHS)

Dated: June 19, 2017.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–13078 Filed 6–22–17; 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 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 Allergy and Infectious Diseases Special Emphasis Panel; NIAID CLINICAL TRIAL PLANNING GRANT (R34).

Date: July 17, 2017.

Time: 2:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 5601 Fishers Lane, Rockville, MD 20892 (Telephone Conference Call).

Contact Person: Zhuqing (Charlie) Li, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, Room #3G41B, National Institutes of Health/NIAID, 5601 Fishers Lane, MSC9823, Bethesda, MD 20892–9823, (240) 669–5068, *zhuqing.li@nih.gov.*

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; LIMITED COMPETITION: CTOT–C MECHANISTIC ANCILLARY STUDIES (U01).

Date: July 18, 2017.

Time: 9:30 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: Zhuqing (Charlie) Li, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, Room #3G41B, National Institutes of Health/NIAID, 5601 Fishers Lane, MSC9823, Bethesda, MD 20892–9823, (240) 669–5068, *zhuqing.li@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: June 19, 2017.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–13077 Filed 6–22–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–6036–N–01]

Housing Trust Fund Federal Register; Allocation Notice

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice of Fiscal Year 2017 Funding Awards.

SUMMARY: The Housing and Economic Recovery Act of 2008 (HERA) established the Housing Trust Fund (HTF) to be administered by HUD. Pursuant to the Federal Housing Enterprises Financial Security and Soundness Act of 1992 (the Act), as amended by HERA, Division A, eligible HTF grantees are the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, Guam, the Commonwealth of Northern Mariana Islands, and the United States Virgin Islands. In accordance with Section 1338(c)(4)(A) of the Act, this notice announces the formula allocation amount for each eligible HTF grantee.

FOR FURTHER INFORMATION CONTACT: Virginia Sardone, Director, Office of Affordable Housing Programs, Room 7164, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410–7000; telephone (202) 708–2684. (This is not a toll-free number.) A telecommunications device for hearing- and speech-impaired persons (TTY) is available at 800–877–8339 (Federal Relay Service).

SUPPLEMENTARY INFORMATION: Section 1131 of HERA Division A amended the Act to add a new section 1337 entitled ''Affordable Housing Allocations'' and a new section 1338 entitled ''Housing Trust Fund.'' HUD's implementing regulations are codified at 24 CFR part 93. Congress authorized the HTF with the stated purpose of: (1) Increasing and preserving the supply of rental housing for extremely low-income families with incomes between 0 and 30 percent of area median income and very low-income families with incomes between 30 and 50 percent of area median income, including homeless families, and (2) increasing homeownership for extremely low-income and very low-income families. Section 1337 of the Act provides for the HTF (and other programs) to be funded with an affordable housing set-aside by Fannie Mae and Freddie Mac. The total set-aside amount is equal to 4.2 basis points (.042 percent) of Fannie Mae and Freddie Mac's new mortgage purchases, a portion of which is for the HTF. Section 1338 of the Act directs HUD to establish, through regulation, the formula for distribution of amounts made available for the HTF. The statute specifies the factors to be used for the formula and priority for certain factors. The factors and methodology HUD uses to allocate HTF funds among eligible grantees are established in the HTF regulation. The funding announced for Fiscal Year 2017 through this notice is $219,168,373.94. This amount includes $12,702,747 of unobligated Fiscal Year 2016 HTF funds that will be reallocated by formula, which are comprised of $37,298 from American Samoa, Guam, and the Commonwealth of Northern Mariana Islands, three Insular Areas that declined their Fiscal Year 2016 allocations and $12,665,449 of Sequestered Fiscal Year 2016 funds. HUD may add any amounts that may become available to these FY 2017 HTF allocation amounts. Appendix A to this notice provides the names of the grantees and the amounts of the awards.

Dated: June 20, 2017.

Clifford Taffet,

General Deputy Assistant Secretary for Community Planning and Development.

Appendix A: FY 2017 Housing Trust Fund Allocation Amounts

Grantee	FY 2017 Allocation
Alabama	$3,000,000
Alaska	3,000,000
Arizona	3,317,255
Arkansas	3,000,000
California	23,228,114.94
Colorado	3,154,331
Connecticut	3,000,000
Delaware	3,000,000
District of Columbia	3,000,000
Florida	7,658,948
Georgia	4,427,950
Hawaii	3,000,000
Idaho	3,000,000
Illinois	7,163,487
Indiana	3,367,317
Iowa	3,000,000
Kansas	3,000,000
Kentucky	3,000,000
Louisiana	3,000,000
Maine	3,000,000
Maryland	3,071,109
Massachusetts	4,604,660
Michigan	4,851,072
Minnesota	3,118,428
Mississippi	3,000,000
Missouri	3,357,775
Montana	3,000,000
Nebraska	3,000,000
Nevada	3,000,000
New Hampshire	3,000,000
New Jersey	5,599,220
New Mexico	3,000,000
New York	14,790,240
North Carolina	4,433,361
North Dakota	3,000,000
Ohio	5,511,230
Oklahoma	3,000,000
Oregon	3,143,231
Pennsylvania	5,863,425
Rhode Island	3,000,000
South Carolina	3,000,000-
South Dakota	3,000,000
Tennessee	3,160,279
Texas	8,858,738
Utah	3,000,000
Vermont	3,000,000
Virginia	3,821,341
Washington	4,129,304
West Virginia	3,000,000
Wisconsin	3,481,414
Wyoming	3,000,000
American Samoa	7,771
Guam	62,855
N. Mariana Islands	34,603
Puerto Rico	883,160
Virgin Islands	67,755
Total	219,168,373.94

[FR Doc. 2017–13180 Filed 6–22–17; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLWO320000 L13300000.PO0000]

Agency Information Collection Activities; OMB Control Number 1004–0103; Mineral Materials Disposal

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice; request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act, the Bureau of Land Management (BLM) provides 60-day notice, invites public comments on, and plans to request approval to continue, the collection of information from applicants for authorization to purchase mineral materials from public lands. The Office of Management and Budget (OMB) has assigned control number 1004–0103 to this information collection.

DATES: Please submit comments on the proposed information collection by August 22, 2017.

ADDRESSES: Comments may be submitted by mail, fax, or electronic mail. Mail: U.S. Department of the Interior, Bureau of Land Management, 1849 C Street NW., Room 2134LM, Attention: Jean Sonneman, Washington, DC 20240. Fax: Jean Sonneman at 202–245–0050. Electronic mail: *Jean_Sonneman@blm.gov.* Please indicate ''Attn: 1004–0103'' regardless of the form of your comments.

FOR FURTHER INFORMATION CONTACT: George Brown, Division of Solid Minerals, at 202–912–7118. Persons who use a telecommunication device for the deaf may call the Federal Relay Service at 1–800–877–8339, to leave a message for Mr. Brown.

SUPPLEMENTARY INFORMATION: OMB regulations at 5 CFR 1320, which implement provisions of the Paperwork Reduction Act, 44 U.S.C. 3501–3521, require that interested members of the public and affected agencies be given an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8(d) and 1320.12(a)). This notice identifies an information collection that the BLM will be submitting to OMB for approval. The Paperwork Reduction Act provides that an agency may not conduct or sponsor a collection of information unless it displays a valid OMB control number. Until OMB approves a collection of information, you are not obligated to respond.

The BLM will request a 3-year term of approval for this information collection activity. Comments are invited on: (1) The need for the collection of information for the performance of the functions of the agency; (2) the accuracy of the agency's burden estimates; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the information collection burden on respondents, such as use of automated means of collection of the information. A summary of the public comments will accompany our submission of the information collection requests to OMB.

Before including your address, telephone number, email address, or other personal identifying information in your comments, be advised that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask in your comment to withhold from public review your personal identifying information, we cannot guarantee that we will be able to do so.

The following information is provided for the information collection:

Title: Sale of Mineral Materials (43 CFR part 3600).

OMB Control Number: 1004–0103.

Summary: The Mineral Materials Act, 30 U.S.C. 601 and 602, authorizes disposals of mineral materials (such as sand, gravel, and petrified wood) from public lands. This information collection request pertains to mineral sales contracts in accordance with regulations at 43 CFR part 3600.

Frequency of Collection: On occasion.

Forms: 3600–9, Contract for the Sale of Mineral Materials.

Estimated Number and Description of Respondents: An estimated 265 businesses annually submit applications to purchase or use mineral materials from public lands.

Estimated Annual Responses: 3,870.

Estimated Annual Burden Hours: 5,834.

Estimated Annual Non-Hour Costs: $141,592.

The following table details the individual components and respective hour burdens of this information collection request:

A. Type of response	B. Number of responses	C. Time per response	D. Total hours (column B × column C)
Pre-Application Sampling and Testing 43 CFR 3601.30	10	30 minutes	5
Request for Sale Within a Community Pit or Common Use Area 43 CFR 3602.11	165	30 minutes	83
Request for Sale Not Within a Community Pit or Common Use Area 43 CFR 3602.11	100	30 minutes	50
Mining and Reclamation Plans (Simple) 43 CFR 3601.40	240	2 hours	480
Mining and Reclamation Plans (Complex) 43 CFR 3601.40	25	30 hours	750
Contract for the Sale of Mineral Materials 43 CFR subpart 3602 Form 3600–9	265	30 minutes	133
Performance Bond 43 CFR 3602.14	265	30 minutes	133
Report of Mineral Materials Mined or Removed 43 CFR 3602.29	1,400	1 hour 30 minutes.	2,100
Records Maintenance 43 CFR 3602.28	1,400	1 hour 30 minutes.	2,100
Totals	3,870		5,834

Authorities

The authorities for this action are the Mineral Materials Act (30 U.S.C. 601–602) and the Paperwork Reduction Act (44 U.S.C. 3501—3521).

Mark Purdy,

Bureau of Land Management, Management Analyst.

[FR Doc. 2017–13153 Filed 6–22–17; 8:45 am]

BILLING CODE 4310–84–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–NER–DEWA–22315; PS.SDEWA0040.00.1]

Boundary Adjustment at Delaware Water Gap National Recreation Area

AGENCY: National Park Service, Interior.

ACTION: Notification of boundary adjustment.

SUMMARY: The boundary of Delaware Water Gap National Recreation Area is adjusted to include three parcels of land totaling 1,055.89 acres of land, more or less. Fee simple interest in two parcels and a right-of-way over the third parcel will be donated by the Conservation Fund to the United States along with fee simple interest in 35.39 acres of other land already within the boundary. These properties are all located in Pike County, Pennsylvania.

DATES: The effective date of this boundary adjustment is June 23, 2017.

ADDRESSES: The map depicting this boundary adjustment is available for inspection at the following locations: National Park Service, Land Resources Program Center, Northeast Region, 200 Chestnut Street, Philadelphia, Pennsylvania 19106, and National Park Service, Department of the Interior, 1849 C Street NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Superintendent John J. Donahue, Delaware Water Gap National Recreation Area, 1978 River Road (Off US209), Bushkill, PA 18324, telephone (570) 426–2418.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, pursuant to 16 U.S.C. 460o–2(b), the boundary of Delaware Water Gap National Recreation Area is adjusted to include three parcels totaling 1,055.89 acres of land in Pike County, Pennsylvania: 1,054.26 acres (Tax Map Nos. 175.00–02–06, 176.00–02–01 and 183.00–01–19) in Lehman and Delaware Townships; and 0.47 acre (portion of Tax Map No. 113.00–01–05.004) and 1.16 acres (right-of-way over a portion of Tax Map No. 113.00–01–05.003) in Milford Township. The two parcels in Milford Township, together with 35.39 acres of fee interest already within the boundary (remaining portion of Tax Map No. 113.00–01–05.004, also known as Tract 12795 in the National Recreation Area), are part of a single property that cannot be subdivided. This boundary adjustment is depicted on Map No. 620/137,770 dated April, 2017.

Specifically, 16 U.S.C. 460o–2(b) states that the Secretary of the Interior may make adjustments in the boundary of the national recreation area by publication of the amended description thereof in the **Federal Register**: Provided, that the area encompassed by such revised boundary shall not exceed the acreage included within the detailed boundary first described in the **Federal Register** on June 7, 1977 (42 FR 29071–29103). This boundary adjustment does not exceed the acreage of the detailed boundary so described. The Conservation Fund is in contract to acquire the property in Lehman and Delaware Townships and owns the fee parcel and right-of-way in Milford Township (along with Tract 12795). The Conservation Fund will convey all of these properties, including Tract 12795, to the United States without cost to help mitigate the effects of the upgrade and expansion of the Susquehanna-Roseland electric transmission line across approximately 4.3 miles of the National Recreation Area.

Dated: May 3, 2017.

Joshua R. Laird,

Acting Regional Director, Northeast Region.

[FR Doc. 2017–13154 Filed 6–22–17; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 15–26]

Peter F. Kelly, D.P.M.; Decision and Order

On July 10, 2015, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, issued an Order to Show Cause to Peter F. Kelly, D.P.M. (Respondent), of Roanoke, Virginia. ALJ Ex. 1, at 1. The Show Cause Order proposed the revocation of Respondent's Certificate of Registration No. BK0639279, the denial of any application to renew or modify his registration, and the denial of any other application for a DEA registration, on the ground that he has committed acts which render his registration ''inconsistent with the public interest.'' *Id.* (citing 21 U.S.C. 824(a)(4), 823(f)).

As to the jurisdictional basis for the proceeding, the Show Cause Order alleged that Respondent is registered ''as a practitioner in [s]chedules II–V,'' under the above registration number, at the address of 4106 Electric Road, Roanoke, Virginia. *Id.* The Show Cause Order alleged that Respondent's registration does not expire until December 31, 2017. *Id.*

As to the substantive grounds for the proceeding, the Show Cause Order alleged that in June 2000, Respondent was indicted in the Circuit Court for Roanoke County, Virginia, on four felony counts of unlawful possession of

controlled substances which included sufentanil, oxycodone, pethidine, and hydromorphone, as well as one misdemeanor count of marijuana possession. *Id.* The Order alleged that Respondent entered an Alford plea to the charges and was sentenced to probation and a fine. *Id.* The Order further alleged that as a result of the criminal case, on December 12, 2002, Respondent entered into a Memorandum of Agreement with DEA, and that on February 3, 2005, he entered into a Consent Order with the Virginia Board of Medicine for ''recordkeeping and other controlled substance violations,'' which resulted in his being fined and his license being ''placed on probation for twelve months.'' *Id.* at 1–2.

Next, the Show Cause Order alleged that ''[f]rom approximately December 2007 until approximately September 2012, [Respondent's] employee, Vickie Mullen, used [his] DEA registration number to call-in and/or fax-in 72 prescriptions in her own name and 1[,]596 prescriptions in the names of others for controlled substances totaling 127,686 dosage units of hydrocodone (then a [s]chedule III controlled substance) and 5,370 dosage units of Ambien ([z]olpidem tartrate, a [s]chedule IV controlled substance).'' *Id.* at 2. The Order alleged that ''[t]hese prescriptions were not authorized by you and were not for a legitimate medical purpose, but rather were diverted by Ms. Mullen into illegitimate channels, including for her own personal use and the personal use of her son and numerous other individuals.'' *Id.* The Order then alleged that Respondent is ''responsible for the misuse of [his] registration by [his] employees.'' *Id.* (citations omitted). The Order further alleged that Respondent had ''continued to employ Ms. Mullen in [his] medical practice, even after learning of her diversion, in violation of 21 CFR 1301.92.'' *Id.*

The Show Cause Order further alleged that ''[o]n July 10, 2013, DEA executed an Administrative Inspection Warrant . . . at [Respondent's] registered location'' and that the Agency found that Respondent was in violation of several record-keeping requirements. *Id.* More specifically, the Order alleged that Respondent ''failed to take'' both initial and biennial inventories of the controlled substances at his registered location. *Id.* (citing 21 U.S.C. 827(a) & (b); 21 CFR 1304.11(a) & (c)). The Order also alleged that Respondent violated DEA regulations requiring that the inventories list ''the number of commercial containers'' and the ''number of units or volume of each finished form in each container.'' *Id.* (citing 21 U.S.C. 827(a) & (b); 21 CFR 1304.11(e)(3) & (e)(1)(iii)(D)). The Order then alleged that these ''violations are the same as, or similar to, [the] recordkeeping violations previously found by the [S]tate as detailed in [the] February 3, 2005 Consent Order.'' *Id.*

The Show Cause Order also alleged that Respondent left controlled substances, which included hydrocodone, alprazolam, and diazepam, ''out overnight in [his] office, rather than 'stored in a securely locked, substantially constructed cabinet' as required by 21 CFR 1301.75(b).'' *Id.* at 2–3. The Order alleged that Respondent engaged in this practice so that his office manager, ''who is not a DEA registrant, could dispense these drugs to patients prior to [his] arrival in the office.'' *Id.* at 3. The Order then alleged that Respondent ''aided and abetted the unlawful distribution of controlled substances,'' because the office manager did not possess a DEA registration and dispensed controlled substances ''in [his] absence . . . in violation of 21 U.S.C. 822(a)(2) and 21 CFR 1301.11(a).'' *Id.* (citing 21 U.S.C. 841(a) and 18 U.S.C. 2).

Following service of the Show Cause Order, Respondent, through his counsel, requested a hearing on the allegations. ALJ Ex. 2. The matter was placed on the docket of the Office of Administrative Law Judges and was initially assigned to Chief Administrative Law Judge John J. Mulrooney, II. However, on September 22, 2015, the matter was reassigned to Administrative Law Judge (ALJ) Charles Wm. Dorman, who conducted further pre-hearing procedures and an evidentiary hearing on January 12–13, 2016, in Roanoke, Virginia.

On April 11, 2016, the ALJ issued his Recommended Decision. With respect to Factor One, the ALJ found that the Board's 2005 Consent Order ''is the only disciplinary action in the record'' and that the Board terminated his probation one month early. R.D. 29. The ALJ noted, however, that while possessing a state license is a necessary condition for holding a DEA registration, it is not dispositive. As for Factor Three, the ALJ found that while in 2000, Respondent was convicted of possession of marijuana and other controlled substances, these were simple possession offenses which did not involve the manufacture, distribution or dispensing of controlled substances and thus did not fall within Factor Three. *Id.* at 29–30. The ALJ thus concluded that ''there is no evidence to consider concerning Factor Three.'' *Id.* at 30.

The ALJ then addressed the various allegations of misconduct under Factors Two, Four and Five. The ALJ rejected the allegation that Respondent is responsible for the misuse of his registration by Ms. Mullen, holding that the Government was required to show that Respondent had entrusted his registration to Mullen and had failed to produce any evidence that Respondent had given his registration number to Mullen or that he had given her access to his registration whether expressly, impliedly, or negligently. *Id.* at 32–34. The ALJ further found that there was no ''credible or substantial evidence showing that . . . Respondent knew about Mullen's illegal activities prior to August 20, 2012.'' *Id.* at 34. The ALJ specifically rejected the Government's contention that '''it is simply not believable that [Respondent] did not know of [Mullen's] diversion,'' finding that ''the evidence shows that no one, other than Mullen and her cohorts, was aware of Mullen's activities.'' *Id.* at 35.

The ALJ also rejected the Government's contention that Respondent was put on notice that his registration was being misused when, in 2008, he was contacted by a pharmacist regarding two prescriptions that were called-in under his name, and that Respondent should have monitored Mullen and his PMP report. *Id.* at 35. The ALJ cited four reasons for rejecting the Government's argument, including: (1) That a ''fax did not contain any information that suggested that one of Respondent's employees was involved'' and that the ''prescription was not written for one of the Respondent's patients,'' (2) that the Respondent was never informed that Mullen was responsible for the prescriptions, (3) that even the detective who ran the investigation did not check the PMP, and 4) that ''the Government presented no evidence that . . . Respondent breached some duty by not monitoring his PMP.'' *Id.*

The ALJ further rejected the Government's contention that Respondent violated 21 CFR 1301.92, by continuing to employ Mullen even after he learned of her diversion. R.D. 37–38. According to the ALJ, the regulation relied on by the Government ''does not require the immediate termination of an employee; it only requires that the employer immediately assess the employee's conduct to determine what employment actions to take against the employee.'' R.D. 37. The ALJ found that Respondent complied with the regulations because he told Mullen that she would be retained ''only until her replacement showed minimal proficiency,'' he ''began advertising [her] position the same week that he discovered her diversion,'' and

''promptly hired and began to train Mullen's replacement.'' *Id.* The ALJ also noted that ''Respondent moved his fax machine to a room with a deadbolt on the door, called local pharmacies to alert them to Mullen's actions, took away Mullen's keys to the office, and monitored his DEA number on the PMP system.'' *Id.*

The ALJ further noted that Mullen was ''Respondent's only insurance secretary,'' that ''her position was essential to the continued operation of . . . Respondent's practice,'' and while ''Respondent's office manager was competent to perform the duties of the insurance secretary, she could not do so and also perform her various duties.'' *Id.* at 38. According to the ALJ, ''[f]or small businesses that depend on each employee performing essential business functions, it is reasonable to expect that terminating an employee can be a process rather than an instantaneous action.'' *Id.* The ALJ thus concluded that Respondent acted ''[c]onsistent with the requirements of 21 CFR 1301.92'' by taking ''immediate action towards terminating Mullen's employment because of her misconduct'' and rejected the allegation. *Id.*

With respect to the recordkeeping allegations, the ALJ rejected Respondent's contention that he was not subject to the recordkeeping requirements of 21 U.S.C. 827(a), because he did not ''regularly engage[] in the dispensing or administering of controlled substances and charge[d] his patients, either separately or together with charges for other professional services, for substances so dispense or administered.'' *Id.* at 39 (quoting 21 U.S.C. 827(c)(1)(B)).

Based on the findings of the 2005 Virginia Board of Medicine Consent Order, the ALJ then found that the Government had proved that Respondent failed to conduct an initial inventory. *Id.* at 40 (citing 21 U.S.C. 827(a)(1)). He also found that the Government had proved that Respondent failed to conduct and ''maintain[ ] a proper biennial inventory'' because his records did not contain an actual count of the controlled substances taken either at the beginning or close of business but rather ''a running balance of controlled substances after dispensing.'' *Id.* at 41 (citing 21 CFR 1304.11(c)). The ALJ further found that the inventories were not compliant because they did not contain ''the number of commercial containers of each controlled substance'' and the ''the number of units or volume of each commercial container of controlled substances.'' *Id.* at 42 (citations omitted).

Next, the ALJ rejected the Government's contention that Respondent violated 21 CFR 1301.75, which requires that controlled substances be stored ''in a securely locked, substantially constructed cabinet,'' when he left the controlled substances out overnight for his office manager to administer to patients who were undergoing procedures the following morning. *Id.* at 44. The ALJ specifically noted that the DEA regulation does not define the term ''cabinet,'' but that the New College edition of the American Heritage Dictionary of the English Language (1976) includes as one of the word's definitions, ''a small or private room set aside for some specific activity.'' *Id.* The ALJ noted that the room in which the medications were kept was locked, that only the Respondent and his office manager had a key, that the room had a steel reinforced door and steel doorframe with a deadbolt, that Respondent's office was protected by a security system, and that there was no evidence that the room ''was used for any purpose other than to store controlled substances prior to 2014.'' *Id.* The ALJ thus concluded that the Government failed to prove the violation. *Id.*

However, the ALJ found that the Government proved the allegation that Respondent had aided and abetted the unlawful distribution of controlled substances by having his office manager, who was not registered, administer controlled substances to patients who were to have procedures on days when he was late arriving at his office. *Id.* at 44–45. The ALJ specifically rejected Respondent's argument that his office manager was exempt from registration under 21 CFR 1301.22(a), because she was an ''agent or employee . . . acting in the usual course of . . . her . . . employment.'' *Id.* at 45. Based on Respondent's testimony that the office manager administered controlled substances to patients ''only on 'limited occasions,' '' the ALJ explained that he was ''find[ing] as a matter of fact that [her] administration of controlled substances was described repeatedly as 'occasional,' which is the opposite of 'usual[,]' '' and ''[t]herefore, [section] 1301.22(a) does not apply.'' *Id.* As to this violation, the ALJ also found that Respondent did not acknowledge his misconduct. *Id.* at 46.

Finally, the ALJ found that Respondent's 2000 state court convictions for unlawful possession of various controlled substances could be considered under Factor Five. The ALJ noted, however, that ''these convictions occurred over 15 years ago, and [that] Respondent has not been convicted of any controlled substance offenses since 2000.'' *Id.* at 47. The ALJ further rejected Respondent's contention that DEA was estopped from relying on the convictions because it subsequently entered into an MOA with Respondent. *Id.* The ALJ also rejected Respondent's contention that his possession of the drugs did not actually violate federal law because his home was a warehouse which was exempt from registration under the Controlled Substances Act (CSA), reasoning that issue could not be re-litigated in this proceeding. *Id.*

Based on his findings of the recordkeeping violations, the aiding and abetting of the office manager's unlawful distribution of controlled substances, and the 2000 convictions, the ALJ concluded that the Government had established ''a *prima facie* case that . . . Respondent has acted in a manner that is inconsistent with the public interest and that marginally supports the sanction [revocation] that the Government requests.'' *Id.* at 48. Turning to whether Respondent had rebutted the Government's *prima facie* case, the ALJ found that while ''Respondent acknowledged his three violations, [he] did not show remorse for his actions'' and that he had not accepted responsibility. *Id.*

While the ALJ found that Respondent had not ''rebut[ted] the Government's *prima facie* showing that a sanction is appropriate,'' he also concluded that the egregiousness of Respondent's misconduct was mitigated by various circumstances. *Id.* at 50; *see also id.* at 52. However, even taking ''these matters into considerations,'' the ALJ still found that ''Respondent's violations, in combination, are serious and raise concerns of whether his registration is consistent with the public interest.'' *Id.* at 53. Continuing, the ALJ explained that ''[i]n light of . . . Respondent's failure to accept responsibility, the record supports the conclusion that [his] registration should be suspended and [he] should obtain training concerning recordkeeping, as well as storage and administration of controlled substances.'' *Id.*

The ALJ thus recommended that Respondent's registration be suspended for a period of one year, to begin three months from the effective date of the Decision and Order in this matter, and that the suspension be stayed if during this period, Respondent completed courses in ''controlled substance recordkeeping,'' ''control substance storage,'' and ''the administration of controlled substances.'' *Id.* The ALJ also recommended that if his proposed suspension was stayed, that his

registration be restricted to authorize only the prescribing of controlled substances for a period of one year to begin on the stay's effective date. *Id.* And he further recommended that if the suspension is stayed, Respondent ''undergo an annual audit to ensure compliance with controlled substance regulations . . . by an independent auditor hired by . . . Respondent, for three years from the effective date of the stay[,]'' with ''[t]he first audit [to] be conducted no later than one year after the effective date of the stay,'' with the results to be forwarded to the local DEA office ''within [10] business days after the audit.'' *Id.* at 53–4.

Respondent filed Exceptions to the Recommended Decision. Thereafter, the record was forwarded to my Office for Final Agency Action.

Having considered the record in its entirety, including Respondent's Exceptions, I agree with the ALJ that the Government has failed to prove that Respondent is liable either for entrusting his registration to Ms. Mullen (his insurance clerk) or because he knew or should have known of her criminal misconduct prior to August 20, 2012. I also agree with the ALJ that the Government has failed to prove that Respondent violated 21 CFR 1301.75, on those occasions when he left controlled substances outside of the controlled substances safe but the drugs were left locked in the drug room.

I further agree with the ALJ that Respondent failed to conduct an initial inventory and that he also failed to take a proper biennial inventory because he did not actually count the drugs that were on hand. In addition, I agree with the ALJ that Respondent aided and abetted a violation of 21 U.S.C. 841 when he directed his office manager to administer controlled substances to patients prior to procedures when he was not present in the office. Finally, I agree with the ALJ that Respondent was convicted in 2000 in state court of four felony offenses and one misdemeanor offense of unlawful possession of controlled substances.

I disagree, however, with the ALJ's rejection of the Government's contention that Respondent should have immediately terminated Mullen after he determined that she had been calling and faxing in fraudulent prescriptions and refill requests for hydrocodone and zolpidem. While I agree with the ALJ that Respondent did not acknowledge any of his misconduct, I disagree with his recommended sanction of a stayed suspension. Instead, I conclude that relevant factors support the imposition of an outright suspension of Respondent's registration for a period of one year, as well as the requirement that Respondent take a course in controlled substance recordkeeping if, following termination of the suspension, he intends to resume either administering or engaging in the direct dispensing of controlled substances. I make the following factual findings.

Findings of Fact

Respondent's License and Registration Status

Respondent is a board certified Doctor of Podiatric Medicine who is licensed by the Virginia Board of Medicine. GX 2. At all times relevant to the events at issue, Respondent maintained offices in Roanoke, Bedford, Radford, and Rocky Mount, Virginia. RX 13, at 2.

Respondent is also the holder of DEA Certificate of Registration BK0639279, pursuant to which he is authorized to dispense controlled substances in schedules II through V, as a practitioner, at the registered address of 4106 Electric Road, P.O. Box 20566, Roanoke, VA 24018. ALJ Ex. 8, at 15. Respondent's registration does not expire until December 31, 2017. *Id.*

The Prior Criminal and Administrative Proceedings

On September 13, 2000, Respondent pled guilty in the Circuit Court of Roanoke County Virginia to four felony counts of possession of the controlled substances sufentanil, oxycodone (with acetaminophen), pethidine (meperidine), and hydromorphone,[1] as well as a single misdemeanor count of possession of marijuana. GX 1, at 1. The Circuit Court, while finding the evidence sufficient to convict Respondent, withheld adjudication pursuant to the written plea agreement. *Id.* at 2. Thereafter, on October 30, 2000, the Circuit Court sentenced him to probation for a period of one year, the terms of which required him to perform 100 hours of community service, to forfeit his driver's license for 30 months, to undergo drug abuse testing and counseling, and to pay costs. *Id.* at 4; *see also* RX 83, at 1. Respondent successfully completed probation and on October 31, 2001, the charges were dismissed. GX 1, at 6; RX 83, at 1.

Shortly after Respondent was sentenced, representatives of the DEA notified him that his registration was subject to revocation based on the above proceeding; the letter also offered Respondent the opportunity to voluntarily surrender his registration. RX 83, at 1. Sometime thereafter, Respondent's attorney wrote a letter to the DEA representatives informing them that he had successfully completed his probation and that all of his drug tests were negative and that his propensity for drug abuse risk was found to be negligible. *Id.* On December 12, 2002, DEA agreed to renew his registration subject to a Memorandum of Agreement (MOA) which remained in effect for a period of one year. *Id.* at 2.

On October 15, 2004, the Virginia Board of Medicine notified Respondent that it would hold ''an informal conference'' to inquire into various allegations that he ''violated certain laws and regulations governing the practice of podiatry in Virginia.'' GX 2, at 1. The Board raised 19 different allegations including, *inter alia,* that he violated Virginia law by: (1) Unlawfully possessing controlled substances based on his Alford plea; (2) that prior to February 15, 2001, he ''failed to perform an initial inventory, establish a biennial inventory date, and failed to take an inventory of all [s]chedule II to V controlled substances at least every two (2) years''; and (3) that the inventory he ''performed on February 15, 2001 lacked the time it was performed and the name of the individual who performed it.'' [2] *Id.* at 1–3.

On February 3, 2005, Respondent and the Board entered into a Consent Order, which found that Respondent had violated various provisions of Virginia law. The findings included ''that he . . . did not establish an initial inventory or maintain current and accurate records of his inventory, receipt and distribution of controlled substances,'' and that he

[1] Each of the felony counts involved a schedule II controlled substance. *See* 21 CFR 1308.12(b)(1)(vii) (hydromorphone); *id.* § 1308.12(b)(1)(xiii) (oxycodone); *id.* § 1308.12(c)(18)(pethidine); *id.* § 1308.12(c)(27) (sufentanil). Respondent maintained that the drugs (other than the marijuana) were both ''expired and existing medications'' which he moved from his office to his house because, based on his drug counts, some of the drugs were missing and while he suspected one of his employees, he ''didn't really have any evidence to confront her and report this.'' Tr. 383–84. However, Respondent asserted that the pethidine ''was left over from [his] ex-wife's . . . rhinoplasty procedure, and she doesn't really take any narcotics, so she had some of these left over.'' *Id.* at 387. Respondent asserted that he entered the Alford plea because had he gone to trial, ''it would have made the front page [of the] paper for the whole week'' and ''would have cost me all my patients and reputation.'' *Id.* at 388. Respondent subsequently maintained that during the hearing on his plea, the Commonwealth's Attorney ''was unable to point to any specific violation of law.'' *Id.* at 389–90. However, the Circuit Court's orders identified the specific provisions of the Virginia Code violated by Respondent. *See* GX 1, at 1 (Trial Order citing Va. Code §§ 18.2–250 and 18.2- 250.1); *id.* at 3 (Sentencing Order citing same provisions).

[2] Some of the other allegations included that he administered expired controlled substances to his patients, and that he dispensed schedule III and IV controlled substances to patients for their ''at home use'' ''without a license from the Board of Pharmacy.'' GX 2, at 1–2.

''did not provide for adequate storage for controlled substances maintained in his office.'' GX 3, at 1–2. The Consent Order further found that ''since the Board brought these matters to his attention in July 2002, [Respondent] has revised and updated his controlled substance recordkeeping, storage and dispensing practice, and believes that he is fully compliant with all regulatory requirements regarding controlled substances.'' *Id.* at 4.

Based on its findings, the Board imposed a monetary penalty of $2,000 and placed Respondent on probation for a period of one year. *Id.* at 5. The Board further required that Respondent certify ''that he has read and agrees to fully comply with Chapters 33 and 34 of the Code of Virginia,'' that he ''successfully complete [a] continuing education course[] in recordkeeping,'' and that ''[w]ithin 60 days from the entry of [the] Order,'' he ''submit to an inspection and audit by an Investigator of the Department of Health Professions (DHP) to ensure that he is in compliance with record keeping, storage and dispensing requirements.'' *Id.* at 5–6. The Order also provided that ''[w]ithin 9 months from the inspection and audit . . . Respondent's practice may be subject to an unannounced inspection by a'' DHP Investigator. *Id.*

On January 11, 2006, a Committee of the Board met to review Respondent's compliance with the Consent Order and found that he ''had fully complied with all terms [of] the Order.'' GX 4, at 1. The Board thus terminated Respondent's probation and restored his license to unrestricted status. *Id.*

The Diversion Occurring at Respondent's Practice

Sometime in 2004, Respondent hired Ms. Vicki Mullen to work at his Roanoke office, where her duties included preparing and filing insurance claim forms. Tr. 73, 81. According to Respondent's office manager, Mullen was authorized to use Respondent's signature stamp on the forms. *Id.* at 81. She also had access to the fax machine.[3] *Id.* at 408.

Beginning on or about December 31, 2007, Mullen began calling in prescriptions to pharmacies for various drugs including 90 to 120 dosage units of hydrocodone 10 mg (then a schedule III and now a schedule II controlled substance) and 30 dosage units of zolpidem (the generic version of Ambien, a schedule IV controlled substance). GX 12, at 1. According to the credited testimony, at one Walmart pharmacy, Mullen would call the pharmacy's doctor's line and leave a message for a prescription representing that she was calling on behalf of Respondent. The Walmart pharmacy would fill the prescriptions even though Mullen did not provide Respondent's DEA registration number.[4] Tr. 42. Instead, notwithstanding that DEA regulations require that an oral prescription contain all of the information mandated under 21 CFR 1306.05, including the prescriber's DEA registration number,[5] the pharmacist would retrieve Respondent's registration number from the computer and put it on the call-in prescription form which the pharmacy would complete.[6] *Id.* at 48. Mullen did not give her name as the person calling in the prescriptions; rather, she used such names as Virginia Norvel, Liz Norville, and Liz Chilton. *See* GX 6, at 2; GX 7, at 5, 7, 12, 14; Tr. 106.

On some occasions, the pharmacies would fax a refill request to Respondent's office. On these occasions, Mullen would use Respondent's signature stamp to manifest that he had approved the refill request and fax the authorization back to the pharmacy which typically authorized three refills. *See* GX 7, at 9; GX 8, at 5, 7, 13, 15, 17, 19; GX 9, at 7, 13, 23, 29, 34, 38; GX 10, at 9, 15, 19.

However, notwithstanding Respondent's claim that Mullen did not have access to his DEA number,[7] the record contains numerous refill request forms that suggest otherwise. These forms include a ''Prescriber Comments'' box with lines for printing the ''Prescriber's Name,'' the ''Prescriber's DEA #,'' as well as lines for the ''Prescriber's Signature''—which was where Mullen would use Respondent's signature stamp—and the ''Date.'' *See* GX 8, at 5. Notably, a number of these forms included Respondent's DEA number which was hand-written in the ''Prescriber Comments'' box. *See* GX 8, at 5, 7, 13, 15, 17, 19; GX 9, at 7, 13, 23, 29, 34, 38; GX 10, at 9, 15, 19.

Over the course of the scheme, Mullen called in or faxed in prescriptions and refill requests for 82 prescriptions for herself which Respondent had not authorized.[8] Tr. 106–07. On some occasions, she called in prescriptions listing her son and a daughter-in-law as the patients. *Id.* at 105. Moreover, Mullen's son provided her with the names and dates of birth of his co-workers, who agreed to pick up the prescriptions. *Id.* at 105–06. Mullen also called in and or stamped refill requests for 13 prescriptions for 90 dosage units of hydrocodone 10 mg, with Respondent's office manager listed as the patient. RX 36. In her testimony, Respondent's office manager denied that she had received any of these prescriptions. Tr. 84.

Between December 31, 2007 and August 20, 2012, Mullen called in, or stamped and faxed, prescriptions and refill requests for 1,596 prescriptions and refills for hydrocodone and zolpidem. GX 12. In total, the prescriptions resulted in the dispensing of 127,686 dosage units of hydrocodone and 5,370 dosage units of zolpidem under Respondent's registration.[9] GX 11, at 2.

While Mullen was able to continue her illegal activity for nearly five years, she came to the attention of the Virginia State Police as early as November 18, 2008. GX 6, at 2. According to the evidence, on November 17, 2008,

[3] According to the testimony of Respondent's office manager, Respondent saw patients once a week at his Roanoke office; he also did surgeries once a week at the Roanoke office, however, he did not do surgeries every week. Tr. 56.

[4] According to the credited testimony of both Respondent and his office manager, his DEA registration was not posted and was kept in a file with his license in his office. Tr. 71, 319, 405. Also, his signature stamp did not contain his registration number. *Id.* at 80 & 405. Nor did Respondent's prescription blanks contain his DEA number. *Id.* at 71; *see also* RX 16. Respondent did not, however, keep his office door locked. Tr. 274.

[5] The only exception is the prescriber's signature. 21 CFR 1306.21(a).

[6] On cross-examination, a Diversion Investigator provided testimony suggesting that pharmacies ''normally'' fill oral prescriptions or called-in prescriptions that are missing ''the doctor's DEA number because it is already on file.'' Tr. 148. Moreover, the record contains numerous prescriptions that were reduced to writing by the pharmacist, but which were missing Respondent's DEA number. *See* GX 7. While in some instances, the DEA number was written on the prescription, the Government put forward no evidence that the pharmacist had obtained Respondent's DEA number off the voice mail message left by Mullen rather than through the pharmacy's database.

[7] *See* Tr. 174–75 (Colloquy between Respondent's counsel and DI regarding refill request form (GX 7, at 9): ''Q[.] And as faxed back from, allegedly from the doctor's office, it does not have a DEA number on it, does it?'' A[.] No.'').

[8] While the testimony was to the effect that Mullen called in or faxed in 72 prescriptions for herself, the PMP report lists 82 prescriptions/refills. RX 24.

[9] According to Detective Findley of the Virginia State Police Drug Diversion Unit, Mullen stated that only ''one pharmacy called [the] office to verify the prescriptions,'' and because Mullen ''was there by herself and . . . took the phone call [she] obviously told the pharmacist that it was fine, to go ahead and fill'' the prescription. Tr. 225. Detective Finley further testified that zolpidem is a sleep medication which is not usually prescribed by podiatrists and that the issuance of two to three monthly prescriptions by a podiatrist should have been suspicious to a pharmacist and that it would be unusual for a podiatrist to continue prescribing this drug. *Id.* at 226–27. With respect to the hydrocodone prescriptions, Detective Finley agreed with Respondent's counsel that ''it would be unusual for a podiatrist to maintain somebody on narcotic pain medication at the levels'' of these prescriptions. *Id.* at 227.

Mullen called in two prescriptions for Tramadol, which although it was not then a federally-controlled substance, it was a controlled substance under Virginia law, to a Walmart Pharmacy in Christiansburg, Virginia. *Id.* Upon reviewing the prescriptions, the pharmacist noted that they were issued by the same doctor (Respondent), for the same exact prescription to two patients (C.T. and S.F.), who, while they had different last names, had the same address. *Id.* According to the pharmacist, the prescriptions were purportedly called in by Liz Norville. *Id.*

Finding the two prescriptions to be suspicious, the pharmacist called Respondent's office and was told that ''no one named Liz Norville . . . worked at that office [and] that they had no patients by the name of'' C.T. and S.F. *Id.* Later that day, Respondent called the pharmacist and confirmed that C.T. and S.F. were not his patients and that ''no one had called those in from his office.'' *Id.* Respondent also faxed to the pharmacist a written statement, stating that ''[n]either did my office nor I call in prescriptions for [C.T. or S.F.] at any time. They are not my patients.'' GX 5, at 1. The next day, the pharmacist reported the prescriptions to Detective Larry Findley, who was assigned to the Drug Diversion Unit of the Virginia State Police.[10] Tr. 189; RX 93–A.

The same day, Detective Findley went to the pharmacy, interviewed the pharmacist and obtained a written statement from her, as well as the statement Respondent had provided to the pharmacist. GX 6, at 2; Tr. 189–90. Using video footage, the Detective, with the assistance of one of the store's asset protection officers, was able to identify the individual who picked up one of the prescriptions as M.F.,[11] who has the same last name as S.F. RX 93–A. The Detective called M.F., who ''admitted to picking up the forged prescriptions.'' *Id.* She also told the Detective that Vicki Mullen had called in the prescriptions. *Id., see also* Tr. 191.

Thereafter, on November 20, 2008, the Detective interviewed Mullen, who admitted that she had called in the forged prescriptions. RX 93–A. While on February 6, 2009, Mullen was indicted in state court on the charge that she ''did obtain or attempt to obtain [Tramadol], by fraud, deceit, misrepresentation, embezzlement, or subterfuge, or by the concealment of a material fact,'' which was punishable as a Class 6 felony under Virginia law, at no point did the Detective tell Respondent that Mullen had been arrested.[12] Tr. 214.

The Detective further admitted that he did not obtain a Prescription Monitoring Program (PMP) report using Respondent's DEA registration number to determine what controlled substance prescriptions were being dispensed under his registration. *Id.* at 210. He also did not obtain a PMP report showing the prescriptions obtained by Ms. Mullen. *Id.* at 212. While the Detective testified that he did not remember the exact date on which the state police's drug diversion agents were given access to the PMP, he acknowledged that during the period in which he was investigating the tramadol prescriptions, he probably had the ability to obtain a PMP report of Respondent's controlled substance prescriptions. *Id.* at 211–12. While the Detective's testimony also suggests that he obtained a report from the Walmart Pharmacy of the prescriptions dispensed to the individuals who were filling the forged prescriptions, he did not ask the pharmacy to provide a report of Ms. Mullen's prescriptions. *Id.* at 212–13. Moreover, the Detective did not notify any other pharmacies to be on the lookout for potentially forged prescriptions from Respondent's office. *Id.* at 214.

Notably, by November 17, 2008, Mullen's criminal conduct had already resulted in the dispensing of 200 prescriptions and refills, each being for 90 dosage units of hydrocodone, by three Walmart Pharmacies. *See* GX 12, at 1–7. And by this date, Mullen herself was able to fill a prescription or a refill for 90 dosage units of hydrocodone 10 mg on nine different occasions. *See* GX 13, at 1. Indeed, Mullen's criminal conduct continued unabated even after she was indicted, and even after May 27, 2009, when she pled guilty to two counts of prescription fraud and was offered probation for one year and a deferred adjudication of the charges. *See* GX 14, at 3–4, 7–9; GX 12, at 9–49. At no point was Respondent notified that Mullen had pled guilty to the charges, and he was not otherwise notified of Mullen's conviction by ''the parole [sic] system.'' Tr. 428; *see also id.* at 357.[13]

Mullen continued to work for Respondent until late September 2012, nearly five weeks after August 20, 2012, when his office manager found a faxed refill request from a Walmart Pharmacy (#1301) for 90 dosage units of Lortab 10 mg for a patient named J.L. GX 15, at 2; *see also* RX 18; Tr. 342–43. According to the office manager, she pulled a chart for a patient with the same name and determined that there was no such original prescription in the chart; she also determined that while the actual and purported patient had the same names and address, they had different birthdates. Tr. 60. The office manager showed the refill request to Respondent, who determined that he did not write the prescription. *Id.; see also id.* at 342.

Respondent then called the pharmacy. GX 15, at 2; Tr. 343. The pharmacist reviewed J.L.'s prescription history and told Respondent that J.L. had been obtaining Lortab prescriptions/refills on a monthly basis since May 17, 2011, ''when the original prescription was called in by'' a person who gave Vicki as her first name but a different last name than Mullen. GX 15, at 2; Tr. 348; *see also* RX 27 (telephone prescription of May 17, 2011 with no DEA number); RX 28, at 1–4 (request for refills dated 6/30/11 (four total refills), 11/22/11 (one refill), 12/20/11 (four total refills), 4/10/12 (four total refills). The pharmacist verified that the refill requests were faxed to and from Respondent's office. GX 15, at 2; *see also* RX 28, at 1–4.

Respondent told the pharmacist ''that somebody was fraudulently using [his] DEA number.'' Tr. 350. He also told the

[10] On cross-examination, Respondent asserted that he ''didn't think [the November 2008 incident] had anything to do with me. There was nothing to link my employee with that at all.'' Tr. 404. He then testified that he thought the incident was ''associated more with'' a podiatrist who practiced in the Christiansburg, Virginia area and who had bought another practice in an area where there was ''a large drug ring down there.'' *Id.* at 404–05. Respondent explained that ''I addressed the issue as it was presented to me'' and ''I had [the office manager] search our computer database and our current patient files.'' *Id.* at 407. He further testified that because the purported patients were not his patients he made no changes to his office practices and had ''[n]o reason to'' discuss the incident with Mullen. *Id.* at 408.

After Respondent acknowledged that Mullen had access to the fax machine and his signature stamp, the Government asked him what measures he had in place to supervise employees when he was in his other offices. *Id.* at 408–09. Respondent asserted that ''aside from recording all calls, and having copies faxed to my email, I can't think of any measure that wouldn't be extreme, and quite burdensome.'' *Id.* He then acknowledged that he took no such measures. *Id.* at 410.

[11] The asset protection officer had worked at the same Walmart in Salem, Virginia as had M.F. RX 93–A.

[12] Mullen was not arrested until February 20, 2009, after she was indicted. Tr. 217.

[13] During cross-examination by Respondent, the Detective was asked whether he recalled that during Mullen's plea hearing in federal court, the Court asked him if he was ''convinced that [Respondent] had no idea this was going on until it was brought to [Respondent's] attention by his ex-wife, if I understand that,'' and that he [the Detective] had answered, ''Yes, sir.'' Tr. 228. While the Detective acknowledged his previous testimony, *id.,* the transcript of Mullen's federal court plea hearing was not made part of the record, and nothing in the record of this proceeding establishes that Respondent's ex-wife brought ''this'' to Respondent's attention, let alone when she may have done so.

pharmacist ''to block [his] DEA number.'' *Id.* Respondent acknowledged, however, that a couple of prescriptions were filled after this conversation. *Id.* A spreadsheet compiled by the Government shows that on August 29 and September 2, 2012, two refills, each being for 120 dosage units of hydrocodone, were filled by this same pharmacy. GX 12, at 49. The spreadsheet also shows that 10 other refills for 90 or 120 dosage units of hydrocodone were dispensed between August 22 and September 15, 2012.[14] *Id.* However, the prescription numbers support a finding that Mullen had either called in or faxed back the fraudulent authorization for each of these refills prior to August 20, 2012. Tr. 166; GX 12, at 47–49.

Respondent further determined that only Mullen was working in his Roanoke office that afternoon as he and his office manager had worked at his Radford office. GX 15, at 2. Respondent confronted Mullen over the phone who ''confessed to falsifying [his] signature, submitting the refill authorizations, and picking them up.'' *Id.;* Tr. 354. Respondent asked Mullen ''how many other people she used for the[] false prescriptions''; Mullen answered ''about five.'' GX 15, at 2; Tr. 355.[15]

Respondent called DEA and spoke with a Diversion Investigator, who told him to call Detective Findley. Tr. 347. Respondent called Detective Findley; the two met at Respondent's Radford office that afternoon. *Id.* at 347, 355. According to Respondent, Findley told him that ''Vicki Mullen's history extended beyond the falsified prescriptions mentioned above, to include other stores, and other CIII medications.'' GX 15, at 2. Findley told Respondent that Mullen had committed similar acts in 2008. *Id.*

Several days later, Respondent accessed the Virginia Court System's Web site and found the records of the 2009 criminal case in which Mullen pled guilty to obtaining drugs by fraud. RX 23, at 1–6. He also ran a PMP report on Mullen. RX 24. The Report showed that from January 21, 2008 through August 24, 2012, Mullen had obtained 56 prescriptions/refills for 90 dosage units of hydrocodone 10 mg and 26 prescriptions/refills for 30 dosage units of zolpidem 10 mg which were dispensed under Respondent's registration. *Id.*

On August 24, 2012, Respondent had Mullen prepare a written statement regarding her misconduct. *See* GX 16. In the statement, Mullen listed the stores she had used, including three Walmarts and three CVSs. *Id.* at 1. She also stated that Respondent and his office manager ''had no part or knowledge of my activities.'' *Id.*

While Respondent told Mullen that she would be fired, and placed an ad for her replacement, he retained her as an employee through September 28, 2012. *See* RX 49; Tr. 360. He testified that if he had another employee who could have done his insurance billing, Mullen ''would have been out the door immediately.'' Tr. 362. He maintained that he ''could not operate'' his practice without his insurance clerk, that 99 percent of his cash flow came from insurance reimbursements, and that if he had fired Mullen immediately, ''we would have had a backlog, and things would have started trailing off in three weeks.'' *Id.* at 361. He also asserted that he had tried both ''electronic billing'' and ''any number of substitutes,'' but these measures had not ''worked.'' *Id.* at 362. And he maintained that to prevent a re-occurrence of Mullen's criminal activity, he had moved the fax machine into the medication room, which had a steel door and frame with a deadbolt lock for which Mullen did not have a key, and took away her office keys. *Id.* at 359, 421.

Respondent further asserted that ''I needed to isolate [Mullen] from any of these communications, to keep the office safe from her.'' *Id.* at 362. Yet Respondent offered no testimony that Mullen was denied access to the office phone. And when asked by his counsel if Mullen would abide by ''[t]he limitations [he] placed on her with what she was doing,'' Respondent answered: ''She didn't indicate anything. She didn't have much choice in the matter.'' *Id.* at 363.

Respondent also asserted that at the time he decided to retain Mullen while she trained her replacement he acted in ''proportion of things that I knew. So it wasn't . . . what we're looking at in retrospective now with this huge situation. It was only with a handful of information that I had, less than a dozen.'' *Id.* at 426. Yet, as found above, on August 24, 2012, Respondent ran a PMP report on Mullen's prescriptions. The report showed that between January 21, 2008 and August 24, 2012, Mullen herself had obtained 56 prescriptions for 90 hydrocodone 10 mg and 26 prescriptions for 30 tablets of zolpidem 10 mg. RX 24. So too, Respondent testified that Mullen had given him copies of two refill request forms, which she had stamped with his signature and faxed back, which authorized the dispensing of four refills of hydrocodone to J.B. (120 du) and R.H. (90 du). RX 26; *see also* GX 12, at 26, 48.

Consistent with Mullen's August 24, 2012 statement, both Respondent and his office manager denied having any knowledge of Mullen's criminal activity, including the 2009 state proceeding, until late August 2012. Tr.75–76, 88 (office manager's testimony); *id.* at 355, 357, 381–82. (Respondent's testimony). Respondent also disputed statements made by Mullen in an unsworn ''declaration'' to the effect that he had knowledge of the 2008 diversion incident and that both he and the office manager knew ''before 2012 that [she] was diverting drugs from his office.'' GX 20, at 1 (Mullen declaration); Tr. 381–82 (Respondent's testimony).[16] While the opening sentence of Mullen's declaration states that she was ''duly sworn,'' nothing else in the declaration establishes that she appeared before a person authorized to administer oaths. *See* GX 20, at 4 (signature page). Nor does the declaration contain an attestation clause.[17] *See id.; see also* 28 U.S.C. 1746.

[14] Four of the refills were dispensed by a different Walmart Pharmacy (#3243), three were dispensed at still another Walmart Pharmacy (#2312), one was filled at two different CVS pharmacies (#s 06285 and 03949), and another prescription was dispensed at a Walgreens Pharmacy (#7604). GX 12, at 49.

Respondent testified that he had called various pharmacies to report these incidents, but did not ''exactly know when [he] did that,'' before claiming that he might have done this on August 20, 2012, before he left for his Radford office. Tr. 359. Respondent then explained that he notified one of the Walmarts that his ''DEA number [wa]s being . . . falsified and abused'' and that ''should go to all of the Walmarts'' because ''they're going to be on a network.'' *Id.* at 360. He also stated that he had called ''a handful of these'' pharmacies, including CVS and Walgreens, and that he knew it worked because he subsequently received phone calls from pharmacists questioning prescriptions. *Id.* As for why the two prescriptions were filled at Walmart #1301 even after he had informed this pharmacy that the refill authorization for J.L. was fraudulent, Respondent testified that he ''figured the same thing would happen with this Walmart 1301 also. So, I had no reason not to believe it would work.'' *Id.*

[15] According to Respondent, sometime between August 20 and 24, 2012, Mullen gave Respondent three refill authorization forms which had been faxed to his office from Walmart Pharmacies #s 2312 and 3243. *See* RX 26. One of the requests, which was dated March 13, 2012, was for Mullen herself and authorized the dispensing of four refills of 30 Ambien 10 mg. *Id.* at 1. The other requests, which were dated November 22, 2010 and August 14, 2012, authorized the dispensing of four refills of 90 Lortab 10 mg to R.H. and four refills of 120 Lortab 10 mg to J.B. *Id.* at 2–3.

[16] Both the office manager and Respondent also disputed Mullen's statement in the 2015 declaration that Respondent ''stood over me and at one point he leaned over me, grabbed my shoulder and shook me.'' GX 20, at 3; Tr. 86 & 369.

[17] On November 6, 2014, Mullen, along with her son, were indicted on multiple counts of violating 21 U.S.C. 841(a)(1) (unlawful distribution of hydrocodone and zolpidem), 846 (conspiracy to distribute hydrocodone and zolpidem), and 843(a)(3) (obtaining controlled substances by fraud), and a single count of violating 21 U.S.C. 843(a)(2)

Respondent further testified that he never authorized Mullen to call in prescriptions for pain medications and/or controlled substances using his name and DEA number. Tr. 319. Indeed, he asserted that Ms. Mullen ''doesn't know my DEA number.'' *Id.* When asked whether he ever authorized Mullen to fax in refill prescriptions, Respondent ''doubted that because whenever I gave out prescriptions for any kind of pain medicine . . . I would give that to the patient directly. And then if [the patient] needed a refill, I would refill it with the patient when I saw [him/her], so that was directly handed to the patient.'' *Id.* at 320.

Asked whether he accepted responsibility for the ''diversion that occurred out of [his] office and under [his] identity,'' Respondent answered that Mullen ''was not entrusted with [his] DEA number'' and that ''there was nothing I could do to supplement that.'' *Id.* at 429. He further testified that when ''I found out about this, I acted immediately,'' and ''as far as . . . acting in the public interest, I think I did that.'' *Id.* Continuing, Respondent testified that ''[a]s far as if you're asking me if I accept responsibility for all of her diversion for the five years and so forth, I don't know how I could do that.'' *Id.* at 429–30.

The DEA Administrative Inspection and Investigation

On July 10, 2013, DEA Diversion Investigators executed an Administrative Inspection Warrant (AIW), presumably at Respondent's Roanoke office as it was his registered location.[18] RX 88, at 1; Tr. 135. In testimony which was both confused and confusing, the DI stated that Respondent had various recordkeeping violations, which, in his view, included that the ''initial inventory wasn't listed.'' Tr. 135–36. The DI then asserted that while Respondent ''had a dispensing log and it did have the number of pills that was dispensed each time and a running count . . . DEA requires a beginning inventory, which would actually . . . be the drug strength, the number of commercial containers or the size of the commercial containers.'' *Id.* at 136. However, on questioning by the ALJ as to whether the beginning inventory would be ''from the date that he opened his practice or . . . from the date that he received these particular drugs,'' the DI explained that ''[i]t would be from the last biennial inventory. So he did have a biennial inventory. So that we can use that as a beginning inventory.'' [19] *Id.* at 137. After acknowledging that a biennial inventory is done ''[e]very two years,'' the DI acknowledged that ''we would use that biennial inventory or the initial inventory'' as the ''starting point.'' *Id.* at 137–38.

However, upon questioning by Government counsel, the DI testified that there was no beginning inventory, that this is the same as the initial inventory which must be created when a person first becomes registered and obtains drugs, and that there was also no biennial inventory. *Id.* at 138. Then asked if there were ''any other regulation violations in terms of the inventories that were required to be kept,'' the DI answered: ''No. Basically he didn't list the number of commercial containers or how many dosage units were in each commercial container.'' *Id.* The DI also testified that he found it troubling that Respondent's violations ''were similar'' to those found in the 2005 Consent Order, ''especially about the biennial inventory and initial inventory.'' *Id.* at 140. The DI further asserted that Respondent's recordkeeping violations ''should have been rectified . . . back in 2005,'' and that the records ''should have been done correctly . . . actually, ever since [Respondent] entered into the MOA with DEA.'' *Id.* at 141.

The DI acknowledged, however, that Respondent had receipt records that went back beyond the period of the audit he conducted, which covered a period of two years. *Id.* at 161, 163. The DI also conceded that Respondent could account for nearly every pill he had obtained, the exception being that he was off three pills of hydrocodone 10/650 mg. *Id.* at 162–63.

Regarding the recordkeeping allegation, Respondent testified that DHP's inspector who audited his records did not raise any issue with respect to his recordkeeping and ''said they were good.'' *Id.* at 397. Respondent testified that based on his conversation with the inspector, he continued to maintain the records in ''just the same way'' until the DI advised him as to the ''deficiencies he found.'' *Id.* at 398. Respondent then testified that as a result of his conversation with the DEA, he changed his recordkeeping practices ''right away.'' *Id.*

The DI also testified that in the summer of 2015, he interviewed Respondent's office manager. *Id.* at 133. In the interview, the office manager denied any knowledge that prescriptions were being called-in in her name. *Id.* She also told the DI that Respondent was not ''aware of that.'' *Id.*

The office manager also told the DI that ''sometimes the controlled substances, which would be [h]ydrocodone, Xanax, and [d]iazepam . . . would be left out for . . . her to administer to the patient.'' *Id.* at 134. The DI testified that the office manager is not a registrant and that she is not permitted to administer controlled substances when Respondent is not present because she is ''not registered'' and ''doesn't have the training to handle controlled substances.'' *Id.* The DI also testified that leaving the controlled substances out overnight is not permitted, and that under the Code of Federal Regulations, controlled substances ''have to be secured in a substantial cabinet,'' such as ''a steel cabinet'' or ''a safe.'' *Id.* Finally, the DI asserted that Respondent did not maintain effective controls against diversion because he was not monitoring his employee closely enough, *id.* at 142, and that Respondent ''has an obligation to know about any diversion that happens with his employees or any criminal information.'' *Id.* at 144. However, when asked by Government counsel if there were ''[a]ny other controls that [Respondent] should have been using,'' the DI answered: ''I don't believe so.'' *Id.*

The DI conceded that Respondent no longer has controlled substances in his office. *Id.* at 165–66. He also acknowledged that he had looked at Respondent's prescriptions since 2013, and that none of these prescriptions raised any concern. *Id.* at 166.

As to the allegation that he did not provide adequate security for the controlled substances that he left out of the safe the night before he would perform procedures, Respondent

(use of a DEA registration number issued to another). GX 20, at 132–40. Mullen pled guilty to all six counts, and on July 17, 2015, she was sentenced to 18 months incarceration. *Id.* at 156–158.

[18] The Government did not submit the AIW for the record and the DI did not testify to the exact date on which the AIW was executed. Tr. 135. I thus derive the date of the inspection from the closing inventory document, which was submitted by Respondent. RX 88. Even though the Show Cause Order alleged that various other records did not comply with the CSA and DEA regulations, the Government did not submit these either.

[19] The CSA does not use the term ''beginning inventory.'' *See* 21 U.S.C. 827(a)(1). Rather, it uses the term ''initial inventory'' to describe the requirement that ''every registrant . . . shall . . . as soon thereafter as such registrant first engages in the manufacture, distribution, or dispensing of controlled substances . . . make a complete and accurate record of all stocks thereof on hand[.]'' *Id.* While the CSA also requires a registrant who engages in the dispensing of controlled substances to take an inventory ''every second year thereafter,'' the statute calls this inventory a ''biennial inventory.'' *See id.* The term ''beginning inventory'' simply refers to an inventory that is used as the starting point for an audit of a registrant's handling of controlled substances.

testified that his office was in ''a freestanding building,'' that it was the only office in the building, that he had a security system that had motion and door detectors that was monitored, that the door and door frame to the drug room were made of steel, and that the door had a deadbolt lock. *Id.* at 305–10. He further testified that Ms. Mullen did not have a key to the room. *Id.* at 308.

As for his practice of allowing his office manager to administer controlled substances to patients prior to procedures, Respondent testified that this ''was not a routine practice'' and occurred only ''on occasion.'' *Id.* at 336. Respondent added that this would occur if he was ''inevitably going to be late, right when the patient starts . . . complaining about that,'' prompting a call from his office manager ''asking[] if she [could] administer. . . the medicines.'' *Id.* at 337. Respondent explained that his office manager ''had already checked the [patient's] vitals,'' and that he ''would either say yes or no about that.'' *Id.* He also testified that he did procedures only one day a week, and that it ''would only be the first case in the morning, if that happened at all.'' *Id.*

While Respondent testified that he would leave drugs outside of the safe (in the storage room) either the night before the procedure or if he had ''come in earlier in the morning,'' he further explained that he would leave out only the aliquot for ''just that one patient,'' and that it was kept ''behind the locked door'' of the drug room. *Id.* at 338–39. According to Respondent, opening the safe required both a key and a combination, but only he knew the combination. *Id.* at 340. Respondent stated that he had ended the practice of allowing his office manager to administer medication in September 2013, after a patient questioned the practice. *Id.* at 341.

Asked by the ALJ whether he thought ''it was improper to have [his office manager] administer'' controlled substances to patients when he was ''not in the office,'' Respondent maintained that he ''thought it was a common practice.'' *Id.* at 431. He then maintained that ''my interpretation of the state code and publications by the Board of Medicine, it seemed like it was all right.'' *Id.* However, Respondent provided no such materials to corroborate that this practice complied with state law.

Asked by the ALJ when he first started using the PMP, Respondent testified: ''August 24, 2012.'' *Id.*at 435. When then asked by the ALJ why he didn't ''use it prior to that time,'' Respondent asserted that he had tried several times but ''couldn't get a log-in.'' *Id.; see also id.* at 366–67. Respondent then testified that he later found out ''that the site had been hacked . . . in 2009'' but did not remember when he had tried to access the PMP. *Id.* at 367 & 435. Nor did he testify as to why he had previously sought to access the PMP. However, Respondent testified that he now monitors the state PMP every month to determine if someone is misusing his registration. *Id.* at 382.

Discussion

Under the CSA, ''[a] registration pursuant to section 823 of this title to manufacture, distribute, or dispense a controlled substance . . . may be suspended or revoked by the Attorney General upon a finding that the registrant . . . has committed such acts as would render his registration under section 823 of this title inconsistent with the public interest as determined under such section.'' 21 U.S.C. 824(a)(4). So too, ''[t]he Attorney General may deny an application for [a practitioner's] registration . . . if the Attorney General determines that the issuance of such registration . . . would be inconsistent with the public interest.'' *Id.* § 823(f). In the case of a practitioner, *see id.* § 802(21), Congress has directed the Attorney General to consider the following factors in making the public interest determination:

(1) The recommendation of the appropriate State licensing board or professional disciplinary authority.

(2) The applicant's experience in dispensing or conducting research with respect to controlled substances.

(3) The applicant's conviction record under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances.

(4) Compliance with applicable State, Federal, or local laws relating to controlled substances.

(5) Such other conduct which may threaten the public health and safety.

Id. § 823(f).

''[T]hese factors are . . . considered in the disjunctive.'' *Robert A. Leslie, M.D.,* 68 FR 15227, 15230 (2003). It is well settled that I ''may rely on any one or a combination of factors, and may give each factor the weight [I] deem[] appropriate in determining whether'' to suspend or revoke an existing registration or deny an application. *Id.; see also MacKay* v. *DEA,* 664 F.3d 808, 816 (10th Cir. 2011); *Volkman* v. *DEA,* 567 F.3d 215, 222 (6th Cir. 2009); *Hoxie* v. *DEA,* 419 F.3d 477, 482 (6th Cir. 2005). Moreover, while I am required to consider each of the factors, I ''need not make explicit findings as to each one.'' *MacKay,* 664 F.3d at 816 (quoting *Volkman,* 567 F.3d at 222); *see also Hoxie,* 419 F.3d at 482.[20]

Under the Agency's regulation, ''[a]t any hearing for the revocation or suspension of a registration, the Administration shall have the burden of proving [by substantial evidence] that the requirements for such revocation or suspension pursuant to . . . 21 U.S.C. [§] 824(a) . . . are satisfied.'' 21 CFR 1301.44(e). In this matter, I conclude that the Government's evidence with respect to Factors Two, Four, and Five [21] supports the conclusion that Respondent has committed acts which render his ''registration inconsistent

[20] In short, this is not a contest in which score is kept; the Agency is not required to mechanically count up the factors and determine how many favor the Government and how many favor the registrant/applicant. Rather, it is an inquiry which focuses on protecting the public interest; what matters is the seriousness of the registrant's or applicant's misconduct. *Jayam Krishna-Iyer,* 74 FR 459, 462 (2009). Accordingly, as the Tenth Circuit has recognized, findings under a single factor can support the revocation of a registration. *MacKay,* 664 F.3d at 821. Likewise, findings under a single factor can support the denial of an application.

[21] With respect to Factor One, the Virginia Board has not made a recommendation to the Agency in this matter. Moreover, even under the broader view taken in numerous agency cases of what constitutes relevant evidence under this factor, the Virginia Board's 2005 restoration of Respondent's medical license to unrestricted status is of *de minimis* probative value in assessing whether his continued registration is consistent with the public interest given that the most serious allegations in this matter post-date the Board's action. Thus, the most that can be said for the Board's restoration of his medical license to unrestricted status is that Respondent currently possesses authority to dispense controlled substances under Virginia law and therefore meets the CSA's prerequisite for maintaining a practitioner's registration. *See Frederic Marsh Blanton,* 43 FR 27616 (1978) (''State authorization to dispense or otherwise handle controlled substances is a prerequisite to the issuance and maintenance of a Federal controlled substances registration.'') However, this finding is not dispositive of the public interest inquiry. *See Mortimer Levin,* 57 FR 8680, 8681 (1992) (''[T]he Controlled Substances Act requires that the Administrator . . . make an independent determination [from that made by state officials] as to whether the granting of controlled substance privileges would be in the public interest.''); *see also Paul Weir Battershell,* 76 FR 44359, 44366 (2011) (citing *Edmund Chein,* 72 FR 6580, 6590 (2007), *pet. for rev. denied, Chein* v. *DEA,* 533 F.3d 828 (D.C. Cir. 2008)).

As to Factor Three, I agree with the ALJ that there is no evidence that Respondent has been convicted of an offense under either federal or state law ''relating to the manufacture, distribution or dispensing of controlled substances,'' 21 U.S.C. 823(f)(3), and that the simple possession offenses of which he has been convicted are properly considered under Factor Five. The Agency has recognized, however, there are a number of reasons why even a person who has engaged in criminal misconduct may never have been convicted of an offense under this factor, let alone prosecuted for one. *Dewey C. MacKay,* 75 FR 49956, 49973 (2010), *pet. for rev. denied, MacKay* v. *DEA,* 664 F.3d 808 (10th Cir. 2011). Thus, ''the absence of such a conviction is of considerably less consequence in the public interest inquiry'' and is therefore not dispositive. *Id.*

with the public interest.'' 21 U.S.C. 823(f), 824(a)(4). While I agree with the ALJ's conclusion that a sanction is appropriate, I find that the record supports a stronger sanction than that recommended by the ALJ.

Factors Two, Four and Five—Respondent's Experience in Dispensing Controlled Substances, Compliance with Applicable Laws Related to Controlled Substances, and Such Other Conduct Which May Threaten Public Health and Safety

Respondent's Liability for Mullen's Misuse of His Registration

In the Show Cause Order, the Government alleged that Respondent is ''responsible for the misuse of [his] registration by'' Ms. Mullen. ALJ Ex. 1, at 2. Moreover, in its post-hearing brief, the Government asserts that Respondent ''knew or should have known about the diversion that Ms. Mullen was committing under his name'' based on the fraudulent tramadol prescriptions that were brought to his attention by a pharmacist in November 2008. Gov. Post-Hrng. Br. 15–16. The Government notes Respondent's testimony that he ''didn't think [these acts of diversion] had anything to do with him,'' even though the prescriptions were called in under his name, and argues that ''he admitted [that] he made no changes in his office practices, did not discuss the situation with his employees and did not begin to use Virginia's PMP to monitor the drugs being prescribed under his'' registration. *Id.* at 16–17. The Government then argues that the Agency has consistently applied the principle ''that a registrant bears responsibility for the misuse of their [sic] registration . . . by an employee.'' *Id.* at 17. Also pointing to the ''testimony'' it presented in the form of Ms. Mullen's unattested declaration, the Government argues that Respondent entrusted his registration to Ms. Mullen because her ''duties also included occasionally calling-in patient prescriptions to pharmacies.'' *Id.* at 20.

The ALJ rejected the allegation, reasoning that the Government did not prove that Respondent ''provide[d] Mullen with access to his registration number expressly, impliedly, or negligently,'' R.D. 34, or that Respondent either had knowledge or was willfully blind to Mullen's actions prior to August 20, 2012. *Id.* at 35. While I agree with the ALJ that the Government's proof was inadequate to support the imposition of liability for entrusting his registration to Mullen, I disagree with substantial aspects of the ALJ's reasoning.

First, the ALJ's opinion suggests that he gave weight to Respondent's testimony that he did not believe that the 2008 incident had anything to do with him. *See* R.D. 35. Specifically, in rejecting the Government's contention that ''Respondent should have monitored Mullen and his PMP report, the ALJ reasoned, in part, that ''the 2008 fax [22] did not contain any information that suggested that one of Respondent's employees was involved'' and that ''the refill prescription was not written for one of the Respondent's patients.'' *Id.*

As for Respondent's contention that he did not believe the incident involved him, the incident obviously involved him because his name was being used as the purported issuer of the prescriptions. Moreover, neither Respondent nor the ALJ explained why one would reasonably expect an employee who was engaged in criminal activity by calling in fraudulent prescriptions to give her actual name. Indeed, with respect to the person who was calling in the prescriptions, there were only two possibilities: either the prescriptions were being called in by someone who did not work for him or by someone who did.[23] The record does not, however, establish whether the pharmacist told Respondent that ''Liz Norville'' (Mullen) had provided Respondent's phone number in the voice mail message that she left for the prescription.

I agree with the ALJ that the Government did not prove that Respondent either had actual knowledge of, or was willfully blind to, Mullen's criminal behavior until August 20, 2012.[24] R.D. 35–36. However, DEA has previously held that ''[c]onsistent with a registrant's obligation to 'provide effective controls and procedures to guard against theft and diversion of controlled substances,' every registrant has a duty to conduct a reasonable investigation upon receiving credible information to suspect that a theft or diversion had occurred.'' *Rose Mary Jacinta Lewis,* 72 FR 4035, 4042 (2007) (quoting 21 CFR 1301.71(a)). Thus, the Government is not required to show that a registrant either had actual knowledge of, or was willfully blind to, an employee's or agent's criminal behavior.[25]

The Agency has further explained that ''the precise scope of'' the duty to investigate ''necessarily depends upon the facts and circumstances.'' *Id.* Moreover, a registrant's duty to investigate potential theft or diversion by his employees (or agents) applies to all such acts, regardless of whether the employee has been entrusted with authority to use his registration. *Cf. John V. Scalera,* 78 FR 12092 (2013). In *Scalera,* the former Administrator denied a physician's application for registration, based, in part, on his testimony that he ''had no idea'' and did not ''know anything about'' how unlawful prescriptions that were issued under his name as the prescriber were either called-in or faxed to the pharmacies. *Id.* at 12095–96; *see also id.* at 12099. The Administrator further noted the physician's testimony that ''there was not enough evidence to convince him that any of his employees had actually called in the prescriptions with his surrendered number.'' *Id.* at 12097; *see also id.* at 12099. Notably, the former Administrator denied the physician's application notwithstanding that there was no showing that the physician had entrusted his registration to any employee,[26] holding that ''[h]aving failed to explain why the . . . prescriptions were called in, [r]espondent has offered no credible assurance that similar acts will not occur in the future''). *Id.* at 12100.

Nonetheless, the Agency has not previously held that the potential misuse by an employee or agent of a

[22] While there was a 2008 fax, this document was generated by Respondent in response to the call from the pharmacist questioning the prescriptions, which were phoned-in.

[23] I acknowledge the possibility that someone outside of a physician's practice could call-in (or fax-in) a fraudulent prescription to a pharmacy. Thus, obtaining the phone number provided by the caller (or the number used to fax the prescription) would tend to eliminate one of the two possible sources of the prescription's origin. There is, however, no evidence that the pharmacist told Respondent that ''Liz Norville,'' the name Mullen used on this occasion, had provided his office phone number when she called in the prescriptions, or whether the pharmacy had obtained Respondent's phone number from its dispensing software.

[24] As noted previously, in support of its contention that Respondent authorized Mullen to use his registration and was also aware that she was diverting controlled substances, the Government produced an unattested declaration by Ms. Mullen. Notwithstanding that some of the statements made by Mullen in this document are corroborated by other evidence, the Government's failure to ensure that Ms. Mullen attested to the truth of her statements under penalty of perjury renders this document inherently unreliable.

[25] The Government did not explicitly cite this duty or *Jacinta Lewis* in the Show Cause Order, its Pre-Hearing Statements, or its Post-Hearing brief. Because I reject the Government's contentions as to the steps Respondent should have taken but did not following the 2008 incident, I need not decide whether the Government failed to provide adequate notice of its intent to rely on this duty in this matter.

[26] In *Scalera,* the physician had previously surrendered his registration. 78 FR at 12094. While the physician testified that office employees had access to his registration number, there was no showing by the Government that the physician had authorized the employees to call in prescriptions.

practitioner's state prescribing authority to divert a non-federally controlled drug triggers the duty to investigate whether his DEA registration has also been misused. I now hold that where a registrant is provided with credible information that his state prescribing authority is being used to divert a state-controlled (but not federally-controlled) drug, such information triggers the duty to investigate whether his DEA registration is also being used to divert federally controlled substances. However, as this is a new and additional duty beyond that which was announced in *Jacinta Lewis,* which applies only to a practitioner's receipt of information that his DEA registration is being misused, I conclude that it cannot be retroactively imposed on Respondent.

Moreover, even if the duty had been announced prior to the 2008 incident, I would find unpersuasive the Government's contention that Respondent should be held liable because ''he made no changes in his office practices, did not discuss the situation with his employees and did not begin to use Virginia's PMP to monitor the drugs being prescribed under his DEA number.'' Gov. Post-Hrng. Br., at 16–17. *See also id.* at 21 (arguing that ''[e]ven assuming . . . that [Respondent] did not know of Ms. Mullen's diversion, his failure to discover it over a five-year period and his failure to properly monitor Ms. Mullen or to even check his own PMP report demonstrates a gross and reckless disregard for his responsibilities as a registrant and for the public health and safety'').

The Government offered no explanation as to what changes Respondent should have made to his office practices (other than to check his PMP report) or other steps he should have taken ''to properly monitor Ms. Mullen.'' As for its claim that Respondent did not discuss the situation with his employees, while there is evidence that he did not discuss the matter with Mullen, perhaps Mullen would have confessed and perhaps not. Thus, it is unclear what this would have accomplished. Finally, as for the contention that Respondent should have checked his own PMP report, under Virginia law in effect at the time of the 2008 incident, Respondent was not authorized to obtain a PMP report showing his own prescribings. *See* Va. Stat. § 54.1–2523.B & C (2008). Indeed, Virginia law did not authorize the disclosure by the PMP Director of this information until 2013.[27] *See* 2013 Va. Laws Ch. 739(H.B. 1704) (Amending Va. Code § 54.1–2523.C by authorizing the Director to disclose, ''in his discretion,'' ''.8 Information relating to prescriptions for covered substances issued by a specific prescriber, which have been dispensed and reported to the program, to that prescriber.'').

Nonetheless, where a practitioner receives credible information that fraudulent prescriptions under his name are being presented for state but not federally-controlled drugs, and the state PMP permits a practitioner to obtain information as to his controlled substance prescribings, that practitioner has a duty to obtain that information and to determine whether unlawful prescriptions for federally controlled substances are also being dispensed under his registration. Moreover, even if state law does not authorize a practitioner to obtain a PMP report of the dispensings which have been attributed to him, a practitioner is obligated to obtain that information from a pharmacy that reports a fraudulent prescription to him. If information obtained from either the PMP or a pharmacy shows that one's registration is being misused, a registrant must report that information to DEA (as well as local law enforcement authorities) even if the practitioner concludes that no employee or agent is involved in the misuse of his registration.[28] A practitioner is not excused from this duty because others, who also have responsibilities to investigate, such as law enforcement officers and pharmacists, failed to carry out those responsibilities.

In conclusion, I agree with the ALJ's legal conclusion that on this record, the Government has not sustained the allegation that Respondent is liable for Mullen's criminal misconduct. However, regardless of whether a registrant has entrusted his registration to an employee, upon receiving credible information that his registration may be the subject of misuse, a registrant has a duty to conduct a reasonable investigation to determine whether his employees are involved in the misuse of his registration. A failure to do so constitutes ''other conduct which may threaten the public health and safety.'' 21 U.S.C. 823(f)(5).

To establish a violation of this duty, the Government is not required to prove that the registrant had actual knowledge or was willfully blind to the fact that an employee was engaged in diversion. Rather, the Government is required to show only that the registrant received credible information creating a suspicion that his registration was being misused, that reasonable measures were available to the registrant to determine if his/her employee or agent was misusing his registration, and that the registrant failed to take such measures.

Respondent's Continued Employment of Mullen After He Became Aware of Her Criminal Conduct

As found above, even after Mullen admitted to Respondent that she had submitted the fraudulent refill authorization for hydrocodone and he was told by Detective Findley that Mullen had a history of submitting fraudulent prescriptions which included the 2008 tramadol prescriptions, Respondent continued to employ Mullen. Indeed, within days of receiving this information, Respondent found the state court records showing that Mullen had pled guilty to obtaining prescription drugs by fraud. He also obtained a PMP report showing that from January 21, 2008 through August 24, 2012, Mullen had filled 56 prescriptions/refills for 90 dosage units of hydrocodone 10 mg and 26 prescriptions/refills for zolpidem 10 mg. Respondent nonetheless continued to employ Mullen for another five weeks, asserting that he needed to retain her because she was his insurance clerk and needed her to maintain his cash flow while a new insurance clerk was hired and trained.

The ALJ rejected the Government's contention that Respondent violated 21 CFR 1301.92 because he continued to employ Mullen ''even after learning of her diversion.'' Show Cause Order (ALJ

[27] The Government argues that Respondent's ''failure to discover [Mullen's diversion] over a five-year period and his failure to properly monitor'' her ''demonstrates a gross and reckless disregard for his responsibility as a registrant.'' Notably, the Government does not explain by what method Respondent should have discovered Mullen's diversion when the state police detective acknowledged that he did not tell Respondent about Mullen's 2008 arrest and the subsequent convictions until the August 2012 incidents, and only a single pharmacy questioned the dosing of a prescription (but not its legitimacy) after the 2008 incident.

Given the scope of the diversion, there is much about this case (such as the failure of the detective to tell Respondent of Mullen's arrest and convictions, not to mention that the terms of her probation did not prohibit her from working in a doctor's office; the fact that prescriptions which were missing Respondent's DEA number were routinely filled notwithstanding that they were facially invalid; as well as that the prescriptions were for hydrocodone in quantities and dosings that were clearly outside of the scope of what is usually prescribed by podiatrists), which is deeply disturbing. While the Government believes Respondent's and his office manager's testimony as to his lack of knowledge is implausible, the burden was on the Government to prove otherwise under the theory it advanced in this case.

[28] Depending upon the extent of the misuse, the practitioner may need to request the cancellation of his registration number and the issuance of a new registration number.

Ex. 1), at 2; R.D. 37–38. According to the ALJ, this regulation ''does not require the immediate termination of an employee; it only requires that the employer immediately assess the employee's conduct to determine what employment action to take against the employee.'' R.D. 37.

In the ALJ's view, ''Respondent immediately assessed both the seriousness of Mullen's violations and her position of responsibility, as required under'' the regulation. *Id.* The ALJ also gave weight to Respondent's testimony that while Mullen remained in his employment, he moved the fax machine into the secure medication room, took away her office keys, called local pharmacies to alert them to Mullen's actions, and monitored his DEA number on the PMP system.[29] R.D. 37. The ALJ further gave weight to the testimony that Respondent needed to retain Mullen for this period because 99 percent of his cash flow came from insurance payments and ''no replacement could immediately fill Mullen's position so as to continue the Respondent's normal business operations,'' even though Respondent acknowledged that his ''office manager was competent to perform these duties.'' *Id.* at 38.

Continuing, the ALJ explained that ''[f]or small businesses that depend on each employee performing essential business functions, it is reasonable to expect that terminating an employee can be a process rather than an instantaneous action.'' *Id.* The ALJ then rejected the allegation, concluding that Respondent had acted ''[c]onsistent with the requirements of 21 CFR 1301.92'' by taking ''immediate action towards terminating Mullen's employment because of her misconduct.'' *Id.*

Section 1301.92 is contained in a section of part 1301 which follows the heading: ''EMPLOYEE SCREENING–NON-PRACTITIONERS,'' thus raising the question, which was not addressed by either party or the ALJ as to whether it even applies to Respondent who is a practitioner. I need not decide this question because under the public interest standard applicable to practitioners, the Agency's authority includes not only those acts that constitute violations of its regulations, it also includes ''[s]uch other conduct which may threaten the public health and safety.'' [30] 21 U.S.C. 823(f)(5).

Moreover, whether I were to apply section 1301.92 or evaluate Respondent's conduct under Factor Five, I would come to the same result. Here, the evidence shows that by August 24, 2012, Respondent knew that Mullen had been convicted in state court of two counts of prescription fraud. And once he obtained the PMP report which showed the controlled substances prescriptions she obtained under his DEA registration, Respondent knew that Mullen had committed at least another 82 felony offenses of prescription fraud.

To the extent the ALJ's recommendation suggests that Respondent properly ''assessed . . . the seriousness of Mullen's violations,'' R.D. 37, I disagree. Indeed, proof that Mullen had committed a single act of prescription fraud should have resulted in her immediate termination. Of further note, when confronted on cross-examination as to why he retained Mullen even after he obtained the PMP report, Respondent attempted to minimize the scope of Mullen's misconduct when he testified that ''I acted upon the, you know, the proportion of things that I knew. So it wasn't—it wasn't what we're looking at in retrospective now with this huge situation. It was only with a handful of information that I had, less than a dozen.'' Tr. 426.

However, by August 24, 2012, Mullen's criminal conduct in obtaining prescriptions for herself alone made this an indisputably ''huge situation'' given that she had obtained more than 5,000 dosage units of hydrocodone 10 mg, the strongest dosage form of this highly abused controlled substance, not to mention another 780 dosage units of zolpidem. Notably, the ALJ, in his discussion as to why he rejected the Government's contention that Respondent should have immediately fired Mullen, did not address this testimony.

I also disagree with the ALJ that the measures undertaken by Respondent justify his failure to immediately terminate Mullen. As for his moving the fax machine into the secure medications room, this did not address Mullen's ability to phone in prescriptions. So too, while Respondent took away Mullen's keys to the office, obviously she was allowed into the office in order to train her replacement and Respondent offered no testimony that anyone was watching Mullen on those days when he was at his other offices.

As for the ALJ's finding that Respondent ''monitored his DEA number on the PMP system,'' R.D.37, while Respondent claimed he did this ''every month,'' Tr. 382, he offered conflicting testimony as to when he started doing so. Specifically, after testifying that he checked the PMP every month to see if anyone was misusing his number, when then asked by his counsel if he had found any misuse since August 2012, Respondent answered: ''No. I will say I've been doing every month for approximately a year, nine months, something like that that. No, no deviations there.'' [31] *Id.* at 382–83. Yet when later asked by the ALJ ''when did you start using the PMP on a regular basis?'' Respondent answered: ''August 24 of 2012.'' *Id.* at 435. Not only is this conflict in his testimony unresolved, Respondent did not testify as to any other instance during the remaining period of Mullen's employment in which he accessed the PMP to determine what prescriptions were being dispensed under his registration.

To be sure, there is evidence that Respondent called local pharmacies to alert them to Mullen's actions. Yet the evidence also shows while Respondent claimed to have called ''a handful of these'' pharmacies on August 20, 2012 (the day the refill authorization form was found on the fax), at least 12 refills for 90 or 120 dosage units of hydrocodone were nonetheless dispensed by several of these pharmacies after that date, including by those he called. Moreover, Respondent saw patients at four different locations

[29] The ALJ also found that ''Respondent's office manager monitored Mullen from August 20, 2012, until she left the Respondent's employment.'' R.D. 37 (citing Tr. 79). The cited testimony involved only the question by Respondent's counsel: ''Do you recall whether you were more vigilant watching Ms. Mullen during that month that she was still there?'' followed by the office manager's answer: ''I would say yes.'' Tr. 79. The office manager did not, however, offer any further testimony explaining in what manner she was more vigilant in watching Mullen during this period.

[30] Notwithstanding that the Government did not cite Factor Five with reference to this allegation, Respondent clearly knew that his conduct in retaining Mullen in his employment after discovering that she was diverting drugs was at issue in the proceeding and put on a full defense against the allegation. Of consequence, the public interest factors do not impose substantive legal duties which can be violated, but simply shape the scope of relevant evidence in the proceeding, and Respondent clearly knew throughout the proceeding that the Government was alleging that his retention of Mullen was conduct which renders his registration inconsistent with the public interest. ALJ Ex. 1, at 1–2 (citing 21 U.S.C. 824(a)(4) and 823(f)).

Of further note, 21 CFR 1301.76(a), which is titled ''[o]ther security controls for practitioners,'' provides, in part, that ''[t]he registrant shall not employ as an agent or employee who has access to controlled substances, any person who has been convicted of a felony offense relating to controlled substances.''

[31] Even if Respondent meant that he had been checking the PMP for one year and nine months (since the date of the hearing), this still would not support a finding that he had commenced doing so every month since August 2012 and did so while Mullen remained employed with him.

in southwestern Virginia, and while there is no evidence as to the number of pharmacies in this area of Virginia, presumably there are more than ''a handful.''

I further reject Respondent's contention that he was justified in continuing to employ Mullen because he needed to maintain his cash flow while a new insurance clerk was hired and trained. The evidence showed that Respondent's office manager could have performed these duties, and while she testified that she could not do so and perform her other duties, no evidence was offered that Respondent could not have hired someone to fill the office manager's duties or that he could not have hired a billing service. Moreover, Respondent offered no evidence that he did not have access to other sources of funds (such as his savings, credit cards, or a line of credit) to support his practice while a new insurance clerk was hired and trained. As for the ALJ's suggestion that Respondent acted reasonably because he ran a small business and Mullen performed an essential business function, a DEA registrant is obligated at all times to act in the public interest.

It is true that ''there was no evidence that Mullen used her position in . . . Respondent's office to generate any fraudulent prescriptions after August 20, 2012.'' R.D. 38. Respondent was nonetheless willing to risk causing additional harm to the public health and safety. His conduct in continuing to employ a serial diverter clearly constitutes ''conduct which *may threaten* the public health and safety.'' 21 U.S.C. 823(f)(5) (emphasis added).

The Recordkeeping Allegations

Pursuant to 21 U.S.C. 827(a)(1), ''every registrant shall . . . as soon . . . as such registrant first engages in the manufacture, distribution, or dispensing of controlled substances . . . and every second year thereafter, make a complete and accurate record of all stocks thereof on hand.'' *See also* 21 CFR 1304.11(c) (''After the initial inventory is taken, the registrant shall take a new inventory of all stocks of controlled substances on hand at least every two years.''). Moreover, ''[e]ach inventory shall contain a complete and accurate record of all controlled substances on hand on the date the inventory is taken. . . . The inventory may be taken either as of opening of business or as of the close of business on the inventory date and it shall be indicated on the inventory.'' *Id.* § 1304.11(a).

The evidence shows that in 2005, Respondent entered into a Consent Order which found that he ''did not establish an initial inventory.'' GX 3, at 1–2. Moreover, during the July 2013 inspection, Diversion Investigators found that Respondent did not have a biennial inventory which was based on an actual count of the drugs on hand as required by DEA regulations. *See* 21 CFR 1304.11(a) & (c). Rather, he maintained a perpetual inventory, which was not based on an actual count of the drugs on hand at the required biennial interval, but rather, as the ALJ found, was ''a mathematical calculation of how many [controlled substances] the Respondent *should* have had after dispensing the listed amounts.'' R.D. 41. Thus, I agree with the ALJ that Respondent violated 21 U.S.C. 827(a) by failing to establish an initial inventory (as found in the 2005 Consent Order) and by failing to ''make a complete and accurate'' biennial inventory. R.D. 40–41.

In his Exceptions, Respondent raises two contentions to the ALJ's findings. First, he argues that because he was engaged in administering medication to his patients, he was ''not required to perform the initial and biennial inventories that are required of other registrants.'' Exceptions, at 1 (citations omitted). Respondent points to 21 U.S.C. 827(c)(1)(B), which states, in relevant part, that the recordkeeping provisions of section 827 ''shall not apply . . . to the administering of a controlled substance in schedule II, III, IV, or V unless the practitioner regularly engages in the dispensing or administering of controlled substances and charges his patients, either separately or together with charges for other professional services, for substances so dispensed or administered.'' Exceptions, at 1–2. Respondent argues that ''DEA had the burden of proof as to this allegation,'' and because the Government failed ''to offer evidence that [he] falls into the statutory exception,'' the allegation must be rejected. *Id.* at 2. Respondent further maintains that ''[t]his is not a case where [he] seeks to invoke a statutory exception; rather, DEA seeks to invoke it.'' *Id.*

Respondent is mistaken. Section 827(a) states that ''*[e]xcept as provided in subsection (c)* of this section . . . *every registrant shall* . . . as soon . . . as such registrant first engages in the . . . distribution[] or dispensing of controlled substance, and every second year thereafter, make a complete and accurate record of all stocks thereof on hand.'' (emphasis added). Thus, section 827(a) makes plain that the provisions of subsection C are simply exceptions to the provisions of subsection A and B, which are generally applicable to all registrants.

Fatal to Respondent's contention is 21 U.S.C. 885(a)(1). It provides that:

> It shall not be necessary for the United States to negative any exemption or *exception* set forth in this subchapter in any complaint, information, indictment, or other pleading or in any trial, *hearing, or other proceeding under this subchapter,* and the burden of going forward with the evidence with respect to any such exemption *or exception shall be upon the person claiming its benefit.*

21 U.S.C. 885(a)(1) (emphasis added). By its plain terms, this provision applies not only to criminal proceedings but also to suspension and revocation proceedings.

Because section 827(c) is clearly an exception to the generally applicable recordkeeping requirements and Respondent is ''the person claiming its benefit,'' he had the burden of producing evidence to show why he was entitled to the exception. *Id.* As Respondent produced no evidence showing that he did not ''charge[ ] his patients, either separately or together with charges for other professional services, for substances so dispensed or administered,'' *id.* § 827(c)(1)(B), he is not entitled to claim the exception. I therefore reject Respondent's exception and hold that Respondent violated section 827(a) by failing to maintain proper inventories.[32]

The Failure To Maintain Adequate Physical Security Allegation

As found above, on occasion, the night before he was to perform a procedure, Respondent would set out in a cup—outside of the controlled substance safe—the controlled substances that his office manager was to provide to his first patient. However, the evidence shows that the drugs were nonetheless kept locked in his medication room which was secured with a steel door (and door frame) that had a deadbolt lock. The evidence also shows that this office was a freestanding building and that Respondent had a security monitoring system.

The ALJ rejected the Government's contention that Respondent violated 21 CFR 1301.75, which provides that ''[c]ontrolled substances listed in [s]chedules II, III, IV, and V shall be

[32] As Respondent did not maintain a proper initial and biennial inventory at all, these are the violations he committed. Having made these findings, I agree with Respondent that the ALJ's additional findings that his inventory did not contain the number of containers and the number of units or volume in each container, *see* R.D. at 42, ''are subsumed under the 'greater' violation'' of failing to take a biennial inventory. Exceptions, at 3.

stored in a securely locked, substantially constructed cabinet.'' R.D. 43–44. Noting that the Agency's regulations do not define the term ''substantially constructed cabinet,'' the ALJ explained that at least one prominent dictionary provides a definition of the term ''cabinet'' which includes ''[a] small or private room set aside for some specific activity.'' R.D. 44 (quoting American Heritage Dictionary of the English Language 185 (1976)). The ALJ further gave ''consideration to the factors contained in 21 CFR 1301.71(b)'' and found that Respondent's use of the Extra Meds Room ''to store his controlled substances substantially complied with the requirements of 21 CFR 1301.71(b).'' *Id.*

Of note, section 1301.75(b) does not require that most schedule II through V controlled substances be stored in a safe, and indeed, section 1301.75(e) specifies two drugs (carfentanil etorphine hydrochloride and diprenorphine) which ''shall be stored in a safe or steel cabinet equivalent to a U.S. Government Class V security container.'' 21 CFR 1301.75(b) & (e). And while the use of the word ''cabinet'' to describe a small room appears archaic,[33] I agree with the ALJ that in light of the small amount of controlled substances that were stored outside of the safe and the level of security provided by the medication room and the office's alarm system, Respondent nonetheless remained in substantial compliance with section 1301.75 when he left the drugs outside of the safe but locked in the medication room.

Aiding and Abetting the Unlawful Distribution of Controlled Substances by an Unregistered Person

The Government alleged and the ALJ found that Respondent aided and abetted the unlawful distribution of controlled substances when he allowed his office manager to administer the controlled substances, which he had set out in the drug room the night before, to those patients who were undergoing procedures and he had yet to arrive at his office. R.D. 44–46. The evidence showed that Respondent's office manager did not hold a registration to dispense controlled substances.[34] *Id.* at 44 (citing Tr. 57). The ALJ further rejected Respondent's contention that his office manager was exempt from registration under 21 CFR 1301.22(a) because in administering the drugs, she was Respondent's ''agent or employee'' and was ''acting in the usual course of . . . her business or employment.'' *Id.* at 45.

In so holding, the ALJ reasoned that because in his post-hearing brief, ''Respondent described [the office manager's] administration of controlled substances as occurring only on 'limited occasions,' '' ''Respondent himself argued . . . that [she] did not administer controlled substances in the usual course of business.'' *Id.* (quoting Resp. Post-Hrng. Br. 38). Continuing, the ALJ explained that he was ''find[ing] as a matter of fact that [the office manager's] administration of controlled substances was described repeatedly as 'occasional,' which is the opposite of 'usual.' Therefore, 21 [CFR] 1301.22(a) does not apply.'' *Id.*

Respondent takes exception to the ALJ's legal conclusion. He argues that his office manager was an agent within the meaning of the CSA, which defines the term as ''an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser.'' Exceptions, at 4 (quoting 21 U.S.C. 802(3)). Respondent further notes that ''[w]hile the phrase 'in the usual course of business' is used many times in the CSA and the associated regulations, it is not defined.'' *Id.* at 5 (citing 21 U.S.C. 822(c); 21 CFR 1300.04). Respondent then maintains that ''[t]he fact that a business practice occasionally, or on limited occasions, does not mean that it is not in the usual course of that business.'' *Id.* Respondent argues that the testimony shows ''that during the course of [his] surgical practice, it was in the usual course of business for [the office manager] to administer medication in lieu of [his] doing it personally when [he] was not going to be in the office when the surgery patient arrived[.]'' *Id.* Respondent thus contends that the office manager ''was acting as [his] agent and employee within the scope of her responsibilities and duties'' and was not required ''to be registered.'' *Id.* Respondent thus contends that he ''did not aid and abet an illegal distribution of a controlled substance under 21 U.S.C. 841(a).'' *Id.*

I need not decide whether the frequency of the office manager's administrations of controlled substances to Respondent's patients was sufficient to establish that she was acting in the usual course of her employment when she did so. Rather, I conclude that because under Virginia law, the office manager could not legally administer controlled substances to Respondent's patients, it does not matter whether she did so only ''on limited occasions'' or routinely, and that because her conduct was unlawful, it cannot qualify under section 822(c) as ''acting in the usual course of [a registrant's] business or employment.''

The Virginia Drug Control Act defines the term ''[a]dminister [to] mean[ ] the direct application of a controlled substance, whether by injection, inhalation, ingestion, or any other means, to the body of a patient . . . by (i) a practitioner or by his authorized agent and under his direction or (ii) the patient . . . at the direction and in the presence of the practitioner.'' Va. Code § 54.1–3401. Even assuming that the office manager's conduct in providing the drugs to patients falls within the provision allowing a practitioner's ''authorized agent'' to do so, the Virginia Drug Control Act contained extensive and detailed provisions governing the circumstances in which drugs can be administered by someone other than a licensed prescribing practitioner. *See id.* § 54.1–3408. Relevant here is subsection U, which states:

> Pursuant to a specific order for a patient and under *his direct and immediate supervision,* a prescriber may authorize the administration of controlled substances by personnel who have been properly trained to assist a doctor of medicine or osteopathic medicine, provided the method does not included intravenous, intrathecal, or epidural administration and the prescriber remains responsible for such administration.

Id. § 54.1–3408.U. Even assuming that this provision allows a doctor of podiatry [35] to authorize his employee to administer a controlled substance to his patient, the evidence shows that Respondent would approve the administration when he was ''going to be late,'' prompting his office manager to call and ask ''if she [could] administer . . . the medicines.'' Tr. 337. Respondent was not in the office when this occurred, and while he asserted that

[33] *See Merriam-Webster*.com. Merriam-Webster, n.d. Web. 22 May 2017.

[34] Nor does she hold any DEA registration. Tr. 57.

[35] While this provision specifically refers to ''a doctor of medicine or osteopathic medicine,'' Va. Code § 54.1–3408.U, subsection A refers to ''[a] practitioner of medicine, osteopathy, podiatry, dentistry, or veterinary medicine.'' *Id.* § 54.1–3408.A.

In his Post-Hearing Brief, Respondent implies that this practice was lawful under the Board of Medicine's Rules governing Office-Based Anesthesia. Resp. Post-Hrng. Br. 50. He specifically notes that Board's ''requirements for office based anesthesia'' do not apply to ''[m]inimal sedation/anxiolysis.'' *Id.* (quoting 18 Va. Admin. Code 85–20–320(A)(1). That may be (even though there is no evidence as to whether the cocktail of drugs that were given to the patients resulted in the inducement of ''minimal sedation/anxiolysis'' or ''moderate sedation/conscious sedation,'' which is subject to the requirements for office-based anesthesia), but this argument does not address whether Respondent's practice of having his office manager administer the drugs to the patients in his absence was lawful under Va. Code § 54.1–3408.U.

''he thought it was a common practice'' and was permitted by the Board of Medicine, he produced no materials from the Board such as an opinion letter or Board decision that would support his contention that even though he was not physically present in the office, he was nonetheless engaged in the ''direct and immediate supervision'' of his office manager when he authorized his office manager to administer the drugs to the patients.

Accordingly, I reject Respondent's exception that his office manager was exempt from registration because she was ''acting in the usual course of [her] . . . employment'' and that he is not liable for aiding and abetting the unlawful distribution of controlled substances. As explained above, I further hold that on those occasions when Respondent was not physically present in the office and his office manager administered the controlled substances to various patients, she engaged in an unlawful distribution under 21 U.S.C. 841(a)(1).[36] I further agree with the ALJ that Respondent aided and abetted these violations and that this conduct is actionable under Factor Four. R.D. 46; *see also* 18 U.S.C. 2.

The State Court Convictions

As the ALJ found, in 2000, Respondent pled guilty in state court to four felony counts of the unlawful possession of controlled substances which included sufentanil, oxycodone, pethidine, and hydromorphone, as well as one misdemeanor count of unlawful possession of marijuana. R.D. 47. While the ALJ noted that the Agency had ''declined to revoke'' Respondent's registration based on these convictions and the convictions were over 15 years old, he rejected Respondent's contention that because the Agency entered into the Memorandum of Agreement (MOA) with Respondent it is now estopped from seeking revocation based on these convictions. *Id.*

Respondent takes exception to the ALJ's ruling. Exceptions, at 10–11. He argues that that ''[t]he ALJ cited no basis for his finding that the MOA did not estopped [sic] DEA from relying on [his] 2000 conviction [sic] in its attempt to sanction him today.'' *Id.* at 10. He also argues that he ''has not found an agency decision that relied on conduct predating a MOA as a basis for revoking a registration.'' *Id.* And he argues that ''[t]he MOA was a contract between DEA and [himself],'' that the MOA placed restrictions on his registration ''[i]n lieu of initiating procedures for the revocation of'' his registration, that he ''fulfilled his obligations under the'' MOA, and that ''DEA is bound by its agreement to accept the MOA in lieu of seeking revocation based on [his] 2000 conviction'' under ''[s]imple contract law.'' *Id.* at 11.

I disagree. While the MOA noted that ''[i]n light of [his] past actions, authority exists under 21 U.S.C. [823(f) and 824a)(4)] for DEA to initiate Show Cause action to revoke [his] registration'' and that ''[i]n lieu of initiating procedures for the revocation of [his] [r]egistration,'' the parties had agreed to various terms including the renewal of his registration, none of those terms precluded the Agency from relying on the state court convictions in any subsequent proceeding.[37] RX 83, at 2. Thus, applying ''simple contract law,'' Respondent got exactly what he bargained for—the renewal of his registration subject to various conditions. What he did not bargain for was the ability to preclude the Agency from considering the state court convictions in the event he committed additional misconduct in the future and was subject to a Show Cause Order.[38]

I therefore reject Respondent's exceptions that I am precluded from considering Respondent's state court convictions by the MOA. However, in light of the fact that Respondent's convictions occurred 17 years ago and that there is no evidence that Respondent has been subsequently convicted of either a federal or state offense related to controlled substances (whether falling within the scope of Factor Three or Factor Five), I place only limited weight on the state court convictions.

Summary of the Government's Prima Facie Case

Given Respondent's knowledge that Mullen had fraudulently obtained controlled substance prescriptions/refills 82 times from January 21, 2008 through August 24, 2012, as well as his knowledge that Mullen had been convicted in state court of two counts of prescription fraud, I conclude that he has committed ''other conduct which may threaten the public health and safety'' when he failed to immediately terminate Mullen. 21 U.S.C. 823(f)(5). I further conclude that Respondent's convictions for the unlawful possession of various controlled substances provide limited support for the finding that Respondent has committed ''other conduct which may threaten public health or safety.'' *Id.*

[36] In his Exceptions, Respondent argues that ''[t]here is no DEA precedent for finding [the office manager's] conduct to be an illegal distribution.'' Exceptions, at 5 (citing *Fred Samimi,* 79 FR 18698 (2014), and *Margy Temponeras,* 77 FR 45675 (2012)). Discussing *Samimi,* Respondent states that ''Dr. Samimi was found by the State of California to have aided and abetted the unlicensed practice of medicine by allowing his staff to dispense (not administer) controlled substances when he was not present. In sustaining that finding as relevant to her consideration, the Administrator made no suggestions that Dr. Samimi's actions violated the CSA.'' *Id.* And discussing *Temponeras,* Respondent noted that ''Dr. Temponeras had unregistered employees dispensing (not administering) drugs to patients by filling prescriptions while she was not actually present[,]'' and that while ''the Administrator found that Dr. Temponeras violated the CSA because she was not registered as a dispenser and . . . violated Ohio law by allowing unlicensed individual[s] to fill controlled substance[ ] prescriptions . . . there was no reference to Dr. Temponeras' conduct as constituting illegal distributions.'' *Id.* at 5–6 (int. quotations omitted).

Neither case supports Respondent. As for *Samimi,* the Government never argued that the physician's practice of allowing unlicensed staff to dispense controlled substances without being directly supervised by him constituted a violation of 21 U.S.C. 841, and thus, that case did not address the question of whether an unregistered person can administer controlled substances to a patient outside of the presence of the physician. *See* 79 FR at 18698 (discussing allegations of Show Cause Order); *id.* at 18710 (discussing state board's findings and relevant state law prohibiting practice of allowing unlicensed and unsupervised office staff to dispense drugs).

As for *Temponeras,* the Agency's decision found that the physician, who was not registered as a pharmacy, ''exceeded the authority of her registration because she authorized her employees to fill prescriptions issued by her father.'' 77 FR at 45677. Notably, the decision cited both 21 U.S.C. § 822(b), which provides that a registrant is authorized to engage in controlled substances activities ''to the extent authorized by [his] registration and in conformity with the other provisions of'' the CSA, and § 841(a), which renders unlawful the knowing or intentional distribution of a controlled substance ''[e]xcept as authorized by'' the CSA. Thus, Respondent's assertion that ''[i]n *Temponeras,* there was no reference to Dr. Temponeras' conduct as constituting 'illegal distributions' '' misstates the case. Exceptions, at 6.

[37] Respondent might have an argument under ''simple contract law'' if, after the MOA expired (that being one year from the date that DEA signed the agreement), the Agency then brought a show cause proceeding based on the exact same grounds that led to the MOA and nothing else. But it has not.

[38] Respondent also argues that he ''has not found an Agency decision that relied on conduct predating a MOA as a basis for revoking a registration.'' Exceptions, at 10. However, in *Mark De La Lama,* 76 FR 20011 (2011), the Agency denied an application (submitted by a nurse practitioner who allowed his registration to expire) based, in part, on his prior convictions for controlled substance offenses which gave rise to an MOA when he first became registered and which he subsequently violated. *See* 76 FR at 20018 & n.15; *id.* at 20019 n.18. While the decision did not place substantial weight on the applicant's convictions due to their age, it did not hold that the Agency could not consider the convictions because they predated the MOA. *See id.*

Moreover, Respondent cites no Agency decision which holds that following the entry of an MOA, the Agency is precluded from considering the conduct which gave rise to the MOA in a subsequent proceeding.

As also found above, Respondent failed to comply with the CSA's requirement that he ''make a complete and accurate record of all stocks . . . on hand'' both when he first engaged in the dispensing of controlled substances as well as ''every second year thereafter.'' 21 U.S.C. 827(a)(1); 21 CFR 1304.11(a) & (c). He also violated the CSA by directing his office manager, who does not hold a registration, to administer controlled substances to those patients who were to undergo procedures when Respondent was not at his office. 21 U.S.C. 841(a); 18 U.S.C. 2. Both his failure to maintain proper records and his conduct in directing his office manager to administer controlled substances to patients is relevant in assessing Respondent's experience in dispensing controlled substances (Factor Two) and his compliance with applicable laws related to controlled substances (Factor Four).

I therefore hold that the Government has met its *prima facie* burden of showing that Respondent ''has committed such acts as would render his registration . . . inconsistent with the public interest.'' 21 U.S.C. 824(a)(4). I further conclude that grounds exist to suspend or revoke Respondent's registration.

Sanction

Where, as here, the Government has established grounds to revoke a registration or deny an application, a respondent must then ''present[ ] sufficient mitigating evidence'' to show why he can be entrusted with a new registration. *Samuel S. Jackson,* 72 FR 23848, 23853 (2007) (quoting *Leo R. Miller,* 53 FR 21931, 21932 (1988)). '' 'Moreover, because 'past performance is the best predictor of future performance,' *ALRA Labs, Inc.* v. *DEA,* 54 F.3d 450, 452 (7th Cir. 1995), [DEA] has repeatedly held that where [a registrant] has committed acts inconsistent with the public interest, the [registrant] must accept responsibility for [his] actions and demonstrate that [he] will not engage in future misconduct.'' *Jayam Krishna-Iyer,* 74 FR 459, 463 (2009) (citing *Medicine Shoppe,* 73 FR 364, 387 (2008)); *see also Jackson,* 72 FR at 23853; *John H. Kennedy,* 71 FR 35705, 35709 (2006); *Cuong Tron Tran,* 63 FR 64280, 64283 (1998); *Prince George Daniels,* 60 FR 62884, 62887 (1995). Also, a registrant's candor during both an investigation and the hearing itself is an important factor to be considered in determining both whether he has accepted responsibility as well as the appropriate sanction. *Michael S. Moore,* 76 FR 45867, 45868 (2011); *Robert F. Hunt, D.O.,* 75 FR 49995, 50004 (2010); *see also Jeri Hassman,* 75 FR 8194, 8236 (2010) (quoting *Hoxie* v. *DEA,* 419 F.3d 477, 483 (6th Cir. 2005) (''Candor during DEA investigations, regardless of the severity of the violations alleged, is considered by the DEA to be an important factor when assessing whether a physician's registration is consistent with the public interest[.]'').

While a registrant must accept responsibility for his misconduct and demonstrate that he will not engage in future misconduct in order to establish that his continued registration is consistent with the public interest, DEA has repeatedly held that these are not the only factors that are relevant in determining the appropriate disposition of the matter. *See, e.g., Joseph Gaudio,* 74 FR 10083, 10094 (2009); *Southwood Pharmaceuticals, Inc.,* 72 FR 36487, 36504 (2007). Obviously, the egregiousness and extent of a registrant's misconduct are significant factors in determining the appropriate sanction. *See Jacobo Dreszer,* 76 FR 19386, 19387–88 (2011) (explaining that a respondent can ''argue that even though the Government has made out a *prima facie* case, his conduct was not so egregious as to warrant revocation''); *Paul H. Volkman,* 73 FR 30630, 30644 (2008); *see also Paul Weir Battershell,* 76 FR 44359, 44369 (2011) (imposing six-month suspension, noting that the evidence was not limited to security and recordkeeping violations found at first inspection and ''manifested a disturbing pattern of indifference on the part of [r]espondent to his obligations as a registrant''); *Gregory D. Owens,* 74 FR 36751, 36757 n.22 (2009).

So too, the Agency can consider the need to deter similar acts, both with respect to the respondent in a particular case and the community of registrants. *See Gaudio,* 74 FR at 10095 (quoting *Southwood,* 71 FR at 36503). *Cf. McCarthy* v. *SEC,* 406 F.3d 179, 188–89 (2d Cir. 2005) (upholding SEC's express adoption of ''deterrence, both specific and general, as a component in analyzing the remedial efficacy of sanctions'').

Having considered the relevant facts and circumstances, I disagree with the ALJ's recommended sanction of a one year suspension which would not be effective for three months from the date of my Final Order and which would be stayed provided Respondent takes certain courses within that period. Instead, because I find Respondent's failure to immediately terminate Mullen upon determining that she had fraudulently obtained 82 prescriptions for herself is egregious misconduct, which clearly posed a threat to public health and safety, I am compelled to reject the ALJ's recommended sanction and conclude that the imposition of a substantial period of outright suspension is warranted.[39]

Notably, Respondent did not acknowledge his misconduct in retaining Mullen, and instead, justified his decision to retain her until a new insurance clerk was hired and trained because of his need to maintain his cash flow. Moreover, when confronted as to why he had retained Mullen even after he obtained the PMP report which listed 82 different prescriptions which she had fraudulently obtained, Respondent attempted to minimize the scope of her misconduct, testifying that he ''acted upon . . . the proportion of things that I knew. So it wasn't . . . what we're looking at in retrospective now with this huge situation. It was only with a handful of information that I had, less than a dozen.'' Tr. 426.

It is true that there is no evidence that Mullen continued her criminal acts during the five week period before she was finally terminated. Had the Government produced such evidence, I would revoke Respondent's registration. While it is also true that Respondent moved the fax machine into a room to which Mullen did not have access, this does not mitigate Respondent's misconduct because the evidence shows that many of the fraudulent prescriptions (whether for Mullen personally or for her co-conspirators) were phoned in.

Finally, I conclude that the Agency's interests in both specific and general deterrence also support a substantial period of outright suspension for this misconduct. As to specific deterrence, were Respondent to confront the same situation of a diverting employee in the future, he must know that there will be serious consequences for failing to act responsibly. Also, Respondent may confront different scenarios in which he is faced with the choice of placing his private interests over the public interest. As to the Agency's interests in general deterrence, the community of practitioner registrants must know that there will be substantial consequences for failing to promptly terminate employees who are diverting controlled substances.[40]

[39] Because the ALJ rejected this allegation, he did not address the relevant facts and circumstances related to this misconduct.

[40] Respondent argues that I should consider his cooperation with law enforcement upon discovering the 2012 fraudulent refill request. Resp. Post-Hrng. Br. 67. However, as discussed above, I conclude that the other factors discussed above greatly outweigh his cooperation with the Detective's investigation.

Accordingly, based solely on Respondent's misconduct in retaining Mullen, I conclude that the factors relevant to this misconduct support the outright suspension of Respondent's registration for a period of one year. Moreover, I conclude that Respondent's failure to maintain complete and accurate inventories, as well as his misconduct in directing his unregistered office manager to administer controlled substances to patients, provide additional support for my conclusion that an outright suspension for one year is warranted.

While Respondent's failure to establish an initial inventory occurred sometime ago, his failure to maintain a complete and accurate biennial inventory based on an actual physical count of the controlled substances he had on hand is far more recent. While Respondent testified that he kept the records as he did based on the guidance he received from the state inspector in the 2005 time frame, the requirements to take an actual physical count ''either as of the opening of business or as of the close of business on the inventory date'' and to indicate this ''on the inventory'' are clear on the regulation's face. And even if Respondent was given erroneous advice by the state inspector, Respondent is responsible for knowing what is required by DEA's regulations.[41]

Moreover, while in response to the DI's instructions Respondent started taking an actual count, the ALJ found that ''Respondent did not show remorse for his recordkeeping violations.'' R.D. 49.

As for his practice of directing his office manager to administer controlled substances to patients who were undergoing procedures when he was running late and not in the office, the ALJ also found that there were several factors that mitigate the egregiousness of these violations. According to the ALJ, these factors include that this happened only ''occasionally,'' that Respondent had previously determined what medications should be administered to the patient based on his assessment of the patient's needs, that there is no evidence that the drugs were diverted, and that Respondent had ceased this practice after a patient questioned it. R.D. 50–51.

I do not take issue with the ALJ's conclusions that these factors mitigate the egregiousness of these violations. However, here again, the ALJ found that ''Respondent never acknowledged that [the office manager's] administration of controlled substances violated DEA regulations. . . . Respondent never showed remorse for aiding and abetting dispensations by a non-registrant. Rather, the Respondent denied that these actions were wrongful.'' *Id.* at 46. The ALJ thus concluded that ''Respondent has not accepted responsibility for his conduct, even though he discontinued these practices [and] . . . Respondent has not rebutted the Government's *prima facie* showing that the Respondent violated 21 U.S.C. [§ 841(a)].'' *Id.* I agree.

Respondent's violations in failing to take a proper inventory and in directing his unregistered office manager to administer controlled substances, coupled with his failure to acknowledge his misconduct with respect to both violations, provide additional support for my decision to suspend Respondent's registration for a period of one year. As for the state court convictions, because they did not involve distribution to others and occurred 17 years ago, I give them only limited weight in my determination as to the appropriate sanction.

Accordingly, I will order that Respondent's registration be suspended outright for a period of one year. While Respondent testified that he no longer uses controlled substances during his procedures, if, following termination of the suspension, he intends to resume administering and/or engaging in the direct dispensing of controlled substances, Respondent must provide evidence to the local DEA office that he has completed a course in controlled substance recordkeeping prior to doing so. If Respondent does not provide such evidence, his registration shall be restricted to prescribing controlled substances.

Order

Pursuant to the authority vested in me by 21 U.S.C. 824(a) as well as 21 CFR 0.100(b), I order that DEA Certificate of Registration No. BK0639279 issued to Peter F. Kelly, D.P.M., be, and it hereby is, suspended for a period of one year. I further order that upon termination of the suspension, said registration shall be restricted to prescribing controlled substances, until such date that Peter F. Kelly, D.P.M., provides evidence that he has completed a course in controlled substance prescribing. This Order is effective July 24, 2017.

Dated: June 19, 2017.

Chuck Rosenberg,

Acting Administrator.

[FR Doc. 2017–13158 Filed 6–22–17; 8:45 am]

BILLING CODE 4410–09–P

[41] In his Recommended Decision, the ALJ discussed eight considerations that in his view, ''mitigate the egregious of the shortcomings of Respondent's controlled substance inventory.'' R.D. 50. However, several of these do not mitigate the violation. For example, the ALJ noted that ''Respondent kept a thorough and detailed perpetual inventory,'' that the DI was able to use the perpetual inventory to do an audit, and that ''there is no evidence that the Respondent's recordkeeping errors resulted in any diversion.'' *Id.* These do not mitigate the violation because the CSA and DEA regulations require that a registrant take an actual physical count of the controlled substances on hand, and an accurate actual count, as memorialized in either an initial or biennial inventory, is essential in conducting an accurate audit. Likewise, an accurate audit is essential in determining whether a registrant is maintaining complete and accurate records of both the controlled substances he receives and those he ''deliver[s] or otherwise dispose[s] of.'' 21 U.S.C. 827(a)(3). As for the ALJ's statement that there is no evidence that Respondent's recordkeeping errors resulted in diversion, generally, it is diversion that results in recordkeeping irregularities and not the other way around.

As for the ALJ's observation that Respondent kept receipt records that ''showed the number of containers, the number of dosages in the containers, and the strength of the dosages,'' these records were prepared by Respondent's suppliers, *see, e.g.,* RX 89, at 37–47; and Respondent is required to maintain these records under the CSA and DEA regulations. *See* 21 U.S.C. 827(a)(3); 21 CFR 1304.21(a); *id.* § 1304.22(c). Moreover, because I hold that the violation is based on his failure to have a biennial inventory based on an actual count of the drugs on hand and not on the fact that his inventory did not list the number of containers, the number of units or volume of each container, and the drug strength, the fact that he had records showing this information for the various receipts does not mitigate the violation.

DEPARTMENT OF JUSTICE

Federal Bureau of Investigation

[OMB Number 1110–0021]

Agency Information Collection Activities; Proposed eCollection eComments; Requested; Extension Without Change, of a Previously Approved Collection; FBI National Academy: End-of-Session Student Course Questionnaire; FBI National Academy: General Remarks Questionnaire

AGENCY: Federal Bureau of Investigation, Department of Justice.

ACTION: 60-day notice.

SUMMARY: The Department of Justice (DOJ), Office of Justice Programs, Bureau of Justice Statistics, will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for 60 days until August 22, 2017.

FOR FURTHER INFORMATION CONTACT:

If you have additional comments especially on the estimated public burden or associated response time,

suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Keith Shirley, Unit Chief, Evaluation and Assessment Unit, Training Division, FBI Academy, Federal Bureau of Investigation, Quantico, Virginia 22135.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Bureau of Justice Statistics, including whether the information will have practical utility;
—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
—Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and
—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of this information collection:

1. *Type of Information Collection:* Extension of a currently approved collection.

2. *The Title of the Form/Collection:* FBI National Academy Post—End-of-Session Student Course Questionnaire—FBI National Academy: General Remarks Questionnaire

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* The form is unnumbered. The applicable component within the Training Division, Department of Justice (DOJ), Federal Bureau of Investigation (FBI)

4. *Affected public who will be asked or required to respond, as well as a brief abstract:* FBI National Academy students that represent state and local police and sheriffs' departments, military police organizations, and federal law enforcement agencies from the United States and over 150 foreign nations.

This collection is requested by the FBI National Academy. These questionnaires have been designed to collect feedback from National Academy graduates and their supervisors to determine the type of impact the National Academy program had on their organization. The results are used to help determine if the National Academy program is functioning as intended and meeting its goals and objectives. We will utilize the students' comments to improve the current curriculum.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* Approximately 1,000 FBI National Academy graduates per year will respond to two types of questionnaires. (1) FBI National Academy; End-of-Session Student Course Questionnaire and (2) FBI National Academy: General Remarks Questionnaire. It is predicted we will receive a 75% response rate for both questionnaires. Each student will respond to seven Student Course questionnaires-one for each course they completed. The average time for reading the questionnaire directions is estimated to be two (2) minutes; the time to complete each questionnaire is estimated to be approximately 13 minutes. Thus the total time to complete one Student Course questionnaire 15 minutes and 105 minutes for all seven questionnaires.

For the FBI National Academy: General Remarks Questionnaire, students will respond to one questionnaire. The average time for reading the questionnaire directions is estimated to be two (2) minutes; the time to complete the questionnaire is estimated to be approximately 10 minutes. Thus the total time to complete the General Remarks Questionnaire is 12 minutes.

6. *An estimate of the total public burden (in hours) associated with the collection:* The estimated public burden associated with this collection is 1462.5 hours given that approximately 75% of those surveyed (or 750) will respond.

If additional information is required contact: Melody Braswell, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., 3E.405A, Washington, DC 20530.

Dated: June 20, 2017.

Melody Braswell,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2017–13177 Filed 6–22–17; 8:45 am]

BILLING CODE 4410–02–P

DEPARTMENT OF JUSTICE

Privacy Act of 1974; System of Records

AGENCY: Foreign Claims Settlement Commission, Department of Justice.

ACTION: Notice of a new system of records.

SUMMARY: Pursuant to the Privacy Act of 1974, the Foreign Claims Settlement Commission of the United States (Commission), Department of Justice, proposes to establish a new system of records to enable the Commission to carry out its statutory responsibility to receive, examine, adjudicate and render final decisions with respect to claims for compensation of individuals pursuant to the Guam World War II Loyalty Recognition Act. The system will include documentation provided by the claimants as well as background material that will assist the Commission in the processing of their claims. The system will also include the final decision of the Commission regarding each claim.

DATES: In accordance with 5 U.S.C. 552a(e)(4) and (11), this system of records notice is effective upon publication, with the exception of the routine uses that are subject to a 30-day period in which to comment, described below. Therefore, please submit any comments by July 24, 2017.

ADDRESSES: The public is invited to submit any comments via email at *info.fcsc@usdoj.gov* or by mail to the Foreign Claims Settlement Commission, 600 E Street NW., Suite 6002, Washington, DC 20579.

FOR FURTHER INFORMATION CONTACT: Jeremy LaFrancois, Chief Administrative Counsel, Foreign Claims Settlement Commission, U.S. Department of Justice, 600 E Street NW., Suite 6002, Washington, DC 20579, or by telephone at (202) 616–6975.

SUPPLEMENTARY INFORMATION: On December 23, 2016, President Obama signed into law the Guam World War II Loyalty Recognition Act, Title XVII, Public Law 114–328, 130 Stat. 2000, 2641–2647 (2016) (the ''Guam Loyalty Recognition Act'' or ''Act''). The Act authorizes the Foreign Claims Settlement Commission of the United States (Commission) to adjudicate claims and determine the eligibility of individuals for payments under the Act, in recognition of harms suffered by residents of Guam as a result of the occupation of Guam by Imperial Japanese military forces during World War II.

The system of records covered by this notice is necessary for the Commission's

adjudication of claims under the Act. These records shall form the basis upon which the Commission will determine an individual's eligibility for and amount of compensation.

In accordance with 5 U.S.C. 552a(r), the Commission has provided a report to OMB and the Congress on the new system of records.

Jeremy R. LaFrancois,
Chief Administrative Counsel.

SYSTEM NAME AND NUMBER:

Claims Arising under the Guam World War II Loyalty Recognition Act, JUSTICE/FCSC–32.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Offices of the Foreign Claims Settlement Commission, 600 E Street NW., Suite 6002, Washington, DC 20579.

SYSTEM MANAGER(S):

Chief Administrative Counsel, Foreign Claims Settlement Commission, 600 E Street NW., Suite 6002, Washington, DC 20579. Telephone: (202) 616–6975. Fax: (202) 616–6993. Email *Jeremy.r.lafrancois@usdoj.gov.*

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Authority to establish and maintain this system is contained in 5 U.S.C. 301 and 44 U.S.C. 3101, which authorize the Chairman of the Commission to create and maintain federal records of agency activities, and is further described in 22 U.S.C. 1622e, which vests all non-adjudicatory functions, powers and duties in the Chairman of the Commission.

PURPOSE(S) OF THE SYSTEM:

To enable the Commission to carry out its statutory responsibility to determine the validity and amount of claims arising under the Guam World War II Loyalty Recognition Act.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who file claims pursuant to the Guam World War II Loyalty Recognition Act.

CATEGORIES OF RECORDS IN THE SYSTEM:

Claim information, including name and address of claimant and representative, if any; date and place of birth or naturalization; nature of claim; description of loss or injury including medical records; and other evidence establishing entitlement to compensation.

RECORD SOURCE CATEGORIES:

Claimant on whom the record is maintained.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b), all or a portion of the records contained in this system of records may be disclosed as a routine use pursuant to 5 U.S.C. 552a(b)(3) under the circumstances or for the purposes described below, to the extent such disclosures are compatible with the purposes for which the information was collected.

a. Upon the issuance of a final decision awarding compensation, the Commission will certify its decision and other necessary personal information to the Department of the Treasury in order to process payment of the claim.

b. To contractors, grantees, experts, consultants, students, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for the federal government, when necessary to accomplish a Commission function related to this system of records;

c. To a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of, and at the request of, the individual who is the subject of the record;

d. Where a record, either alone or in conjunction with other information, indicates a violation or potential violation of law—criminal, civil, or regulatory in nature—the relevant records may be referred to the appropriate federal, state, local, territorial, tribal, or foreign law enforcement authority or other appropriate entity charged with the responsibility for investigating or prosecuting such violation or charged with enforcing or implementing such law;

e. In an appropriate proceeding before the Commission, or before a court, grand jury, or administrative or adjudicative body, when the Department of Justice and/or the Commission determines that the records are arguably relevant to the proceeding; or in an appropriate proceeding before an administrative or adjudicative body when the adjudicator determines the records to be relevant to the proceeding;

f. To a former employee of the Commission for purposes of: Responding to an official inquiry by a federal, state, or local government entity or professional licensing authority, in accordance with applicable Commission regulations; or facilitating communications with a former employee that may be necessary for personnel-related or other official purposes where the Commission requires information and/or consultation from the former employee regarding a matter within that person's former area of responsibility;

g. To the National Archives and Records Administration for purposes of records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906;

h. To appropriate agencies, entities, and persons when (1) the Commission suspects or has confirmed that there has been a breach of the system of records; (2) the Commission has determined that as a result of the suspected or confirmed breach there is a risk of harm to the individuals, the Commission (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Commission's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm;

i. To another Federal agency or Federal entity, when the Commission determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach;

j. To such recipients and under such circumstances and procedures as are mandated by federal statute or treaty.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Paper records maintained in file folders at the Commission's office and electronic records located on the Commission's Server.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records maintained in this system of records will be retrieved by claim number and/or decision number. An alphabetical index may be used by the Commission for identification of a claim by claimants' name.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records are maintained under 5 U.S.C. 301. The Commission has submitted a record schedule, schedule

no. DAA–0299–2017–0001, to the National Archives and Records Administration for review.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Paper records are under security safeguards at the Commission's office. Such safeguards include storage in a central location within a limited access building and a further limited access suite. Accordingly, access is limited to Commission employees and contractors with appropriate security clearances. The electronic records are safeguarded by the DOJ JCON security procedures. Access to the Commission's data requires a password and is limited to Commission employees and contractors with appropriate security clearances.

RECORD ACCESS PROCEDURES:

The Commission's record access procedures are set forth in 45 CFR 503.5. That section provides that (a) Any individual requesting access to a record or information on himself or herself in person must appear at the offices of the Foreign Claims Settlement Commission, 600 E Street NW., Room 6002, Washington, DC, between the hours of 9 a.m. and 5:00 p.m., Monday through Friday, and (1) Provide information sufficient to identify the record, *e.g.,* the individual's own name, claim and decision number, date and place of birth, etc.; (2) Provide identification sufficient to verify the individual's identity, *e.g.,* driver's license, Medicare card, or other government issued identification; and (3) Any individual requesting access to records or information pertaining to himself or herself may be accompanied by a person of the individual's own choosing while reviewing the records or information. If an individual elects to be so accompanied, advance notification of the election will be required along with a written statement authorizing disclosure and discussion of the record in the presence of the accompanying person at any time, including the time access is granted. (b) Any individual making a request for access to records or information pertaining to himself or herself by mail must address the request to the Privacy Officer, Foreign Claims Settlement Commission, 600 E Street NW., Room 6002, Washington, DC 20579, and must provide information acceptable to the Commission to verify the individual's identity. (c) Responses to requests under this section normally will be made within ten (10) days of receipt (excluding Saturdays, Sundays, and legal holidays). If it is not possible to respond to requests within that period, an acknowledgment will be sent to the individual within ten (10) days of receipt of the request (excluding Saturdays, Sundays, and legal holidays).

CONTESTING RECORD PROCEDURES:

(a) Any individual may request amendment of a record pertaining to himself or herself according to the procedure in paragraph (b) of this section, except in the case of records described under paragraph (d) of this section. (b) After inspection by an individual of a record pertaining to himself or herself, the individual may file a written request, presented in person or by mail, with the Administrative Officer, for an amendment to a record. The request must specify the particular portions of the record to be amended, the desired amendments and the reasons therefor. (c) Not later than ten (10) days (excluding Saturdays, Sundays, and legal holidays) after the receipt of a request made in accordance with this section to amend a record in whole or in part, the Administrative Officer will: (1) Make any correction of any portion of the record which the individual believes is not accurate, relevant, timely or complete and thereafter inform the individual of such correction; or (2) Inform the individual, by certified mail return receipt requested, of the refusal to amend the record, setting forth the reasons therefor, and notify the individual of the right to appeal that determination as provided under 45 CFR 503.8. (d) The provisions for amending records do not apply to evidence presented in the course of Commission proceedings in the adjudication of claims, nor do they permit collateral attack upon what has already been subject to final agency action in the adjudication of claims in programs previously completed by the Commission pursuant to statutory time limitations.

NOTIFICATION PROCEDURES:

The Commission's notification procedures are set forth in 45 CFR 503.5. That section provides that (a) Any individual requesting access to a record or information on himself or herself in person must appear at the offices of the Foreign Claims Settlement Commission, 600 E Street NW., Room 6002, Washington, DC, between the hours of 9 a.m. and 5:00 p.m., Monday through Friday, and (1) Provide information sufficient to identify the record, *e.g.,* the individual's own name, claim and decision number, date and place of birth, etc.; (2) Provide identification sufficient to verify the individual's identity, *e.g.,* driver's license, Medicare card, or other government issued identification; and (3) Any individual requesting access to records or information pertaining to himself or herself may be accompanied by a person of the individual's own choosing while reviewing the records or information. If an individual elects to be so accompanied, advance notification of the election will be required along with a written statement authorizing disclosure and discussion of the record in the presence of the accompanying person at any time, including the time access is granted. (b) Any individual making a request for access to records or information pertaining to himself or herself by mail must address the request to the Privacy Officer, Foreign Claims Settlement Commission, 600 E Street NW., Room 6002, Washington, DC 20579, and must provide information acceptable to the Commission to verify the individual's identity. (c) Responses to requests under this section normally will be made within ten (10) days of receipt (excluding Saturdays, Sundays, and legal holidays). If it is not possible to respond to requests within that period, an acknowledgment will be sent to the individual within ten (10) days of receipt of the request (excluding Saturdays, Sundays, and legal holidays).

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

HISTORY:

None.

[FR Doc. 2017–13094 Filed 6–22–17; 8:45 am]

BILLING CODE 4410–BA–P

DEPARTMENT OF JUSTICE

[OMB Number 1121—NEW]

Agency Information Collection Activities; Proposed eCollection; eComments Requested Generic Clearance for Cognitive, Pilot, and Field Studies for Office of Juvenile Justice and Delinquency Prevention Data Collection Activities

AGENCY: Office of Justice Programs, Department of Justice.

ACTION: 30-day notice.

SUMMARY: Department of Justice (DOJ), Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention (OJJDP) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. This proposed information collection was previously published in the **Federal Register** April

18, 2017, allowing for a 60 day comment period.

DATES: Comments are encourages and will be accepted for an additional 30 day until July 24, 2017.

FOR FURTHER INFORMATION CONTACT: Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to Office of Juvenile Justice and Delinquency Prevention, Office of Justice Programs, U.S. Department of Justice, 810 Seventh Street NW., Washington, DC 20531. Written comments and/or suggestions can also be sent to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503 or sent to *OIRA_submissions@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Enhance the quality, utility, and clarity of the information to be collected; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* New collection.

(2) *Title of the Form/Collection:* Generic clearance for cognitive, pilot, and field studies for Office of Juvenile Justice and Delinquency Prevention data collection activities.

(3) *Agency form number, if any, and the applicable component of the Department sponsoring the collection:* Agency form number: Not applicable (new collection).

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: The proposed information collection activity will enable OJJDP to develop, test, and improve its survey and data collection instruments and methodologies. OJJDP will engage in cognitive, pilot, and field test activities t25o inform its data collection efforts and to minimize respondent burden associated with each new or modified data collection. OJJDP anticipates using a variety of procedures including, but not limited to, tests of various types of survey and data collection operations, focus groups, cognitive laboratory activities, pilot testing, field testing, exploratory interviews, experiments with questionnaire design, and usability testing of electronic data collection instruments. Following standard Office of Management and Budget (OMB) requirements, OJJDP will submit an individual request to OMB for every group of data collection activities undertaken under this generic clearance. OJJDP will provide OMB with a copy of the individual instruments or questionnaires (if one is used), as well as other materials describing the project. Currently, OJJDP anticipates the need to conduct testing and development work that will include the collection of information from law enforcement agencies, child welfare agencies, courts, probation supervision offices, and the state agencies, local governments, non-profit organizations, and for-profit organizations that operate juvenile residential placement facilities.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* It is estimated that approximately 2,500 respondents will be involved in the anticipated cognitive, pilot, and field testing work over the 3-year clearance period. Specific estimates for the average response time are not known for development work covered under a generic clearance. Estimates of overall burden are included in item 6 below.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The estimated public burden for identified and future projects covered under this generic clearance over the 3-year clearance period is approximately 5,000 hours.

If additional information is required contact: Melody Braswell, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., 3E.405A, Washington, DC 20530.

Dated: June 20, 2017.

Melody Braswell,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2017–13155 Filed 6–22–17; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Office of Workers' Compensation Programs

Advisory Board on Toxic Substances and Worker Health; Notice of Advisory Board Charter Renewal

AGENCY: Office of Workers' Compensation Programs

ACTION: Notice.

In accordance with the National Defense Authorization Act (NDAA) of 2015, Executive Order 13699 (June 26, 2015), and the provisions of the Federal Advisory Committee Act (FACA), as amended (5 U.S.C. App. 2) and its implementing regulations issued by the General Services Administration (GSA), the Advisory Board on Toxic Substances and Worker Health was established on July 2, 2015. Pursuant to FACA, Section 14(b)(2), the Secretary of Labor has renewed the Charter for two years.

The Charter renewal allows the Advisory Board on Toxic Substances and Worker Health (Board) to continue its operations. The Board advises the Secretary of Labor (Secretary) with respect to: (1) The Site Exposure Matrices (SEM) of the Department of Labor; (2) medical guidance for claims examiners for claims with the EEOICPA program, with respect to the weighing of the medical evidence of claimants; (3) evidentiary requirements for claims under Part B of EEOICPA related to lung disease; and (4) the work of industrial hygienists and staff physicians and consulting physicians of the Department of Labor and reports of such hygienists and physicians to ensure quality, objectivity, and consistency. The Board, when necessary, coordinates exchanges of data and findings with the Department of Health and Human Services' Advisory Board on Radiation and Worker Health.

Membership of the Board currently consists of 15 members appointed by the Secretary, who also appointed a Chair. Public Law 106–398, Section 3687(a)(3). Pursuant to Section 3687(a)(2), membership is balanced and includes members from the scientific, medical and claimant communities. The members serve two-year terms. At the discretion of the Secretary, members may be appointed to successive terms or

removed at any time. The Board meets no less than twice per year.

The Board reports to the Secretary of Labor. As specified in Section 3687(i), the Board shall terminate five (5) years after the date of the enactment of the NDAA, which was December 19, 2014. Thus, the Board shall terminate on December 19, 2019.

Electronic copies of this **Federal Register** notice are available at *http://www.regulations.gov.* This notice, as well as news releases and other relevant information, are also available on the Advisory Board's Web page at *http://www.dol.gov/owcp/energy/regs/compliance/AdvisoryBoard.htm.*

You may contact Douglas Fitzgerald, Designated Federal Officer, at *fitzgerald.douglas@dol.gov,* or Carrie Rhoads, Alternate Designated Federal Officer, at *rhoads.carrie@dol.gov,* U.S. Department of Labor, 200 Constitution Avenue NW., Suite S–3524, Washington, DC 20210, telephone (202) 343–5580.

This is not a toll-free number.

Signed at Washington, DC, this 16th day of June, 2017.

Gary Steinberg,

Deputy Director, Office of Workers' Compensation Programs.

[FR Doc. 2017–13202 Filed 6–22–17; 8:45 am]

BILLING CODE 4510–24–P

EXECUTIVE OFFICE OF THE PRESIDENT

Office of National Drug Control Policy

Cancellation Notification of the Public Teleconference of the President's Commission on Combating Drug Addiction and the Opioid Crisis (Commission)

AGENCY: Office of National Drug Control Policy (ONDCP).

ACTION: Notice of cancellation of teleconference.

SUMMARY: ONDCP is issuing this notice to advise the public that the Commission is cancelling the teleconference of the President's Commission on Combating Drug Addiction and the Opioid Crisis that was previously scheduled for Monday, June 26th at 4 p.m. EST. Please check the Commission's Web site or future **Federal Register** notices for information about when this meeting will be rescheduled.

DATES: The cancellation is effective on June 20, 2017.

FOR FURTHER INFORMATION CONTACT: General information concerning the Commission and its meetings can be found on ONDCP's Web site at *https://www.whitehouse.gov/ondcp/presidents-commission.* Any member of the public wishing to obtain information about the Commission or its meetings that is not already on ONDCP's Web site or who wishes to submit written comments for the Commission's consideration may contact Michael Passante, Designated Federal Officer (DFO) via email at *commission@ondcp.eop.gov* or telephone at (202) 395–6709. Please note that ONDCP may post such written comments publicly on our Web site, including names and contact information that are submitted.

SUPPLEMENTARY INFORMATION: The Commission was established in accordance with E.O. 13784 of March 29, 2017, the Commission's charter, and the provisions of the Federal Advisory Committee Act (FACA), as amended, 5 U.S.C. App. 2, to obtain advice and recommendations for the President regarding drug issues. The Executive Order, charter, and information on the Members of the Commission are available on ONDCP's Web site. The Commission will function solely as an advisory body and will make recommendations regarding policies and practices for combating drug addiction with particular focus on the current opioid crisis in the United States. The Commission's final report is due October 1, 2017 unless there is an extension. Per E.O. 13784, the Commission shall:

a. Identify and describe the existing Federal funding used to combat drug addiction and the opioid crisis;

b. assess the availability and accessibility of drug addiction treatment services and overdose reversal throughout the country and identify areas that are underserved;

c. identify and report on best practices for addiction prevention, including healthcare provider education and evaluation of prescription practices, collaboration between State and Federal officials, and the use and effectiveness of State prescription drug monitoring programs;

d. review the literature evaluating the effectiveness of educational messages for youth and adults with respect to prescription and illicit opioids;

e. identify and evaluate existing Federal programs to prevent and treat drug addiction for their scope and effectiveness, and make recommendations for improving these programs; and;

f. make recommendations to the President for improving the Federal response to drug addiction and the opioid crisis.

Dated: June 20, 2017.

Michael Passante,

Acting General Counsel, Designated Federal Officer.

[FR Doc. 2017–13183 Filed 6–22–17; 8:45 am]

BILLING CODE 3280–F5–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

Submission for OMB Review; Comment Request

The National Endowment for the Arts (NEA) has submitted the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995: Applications from students for Agency Initiatives Poetry Out Loud or the Musical Theater Songwriting Challenge for High School Students. Copies of this ICR, with applicable supporting documentation, may be obtained by visiting *www.Reginfo.gov.*

Comments should be sent to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the National Endowment for the Arts, Office of Management and Budget, Room 10235, Washington, DC 20503, 202/395–7316, within 30 days from the date of this publication in the **Federal Register**.

The Office of Management and Budget (OMB) is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Could help minimize the burden of the collection of information on those who are to respond, including through the use of electronic submission of responses through *Grants.gov.*

SUPPLEMENTARY INFORMATION: The National Endowment for the Arts requests the review of applications from students for Agency Initiatives Poetry Out Loud or the Musical Theater Songwriting Challenge for High School Students. This entry is issued by the National Endowment for the Arts and contains the following information: (1)

The title of the form; (2) how often the required information must be reported; (3) who will be required or asked to report; (4) what the form will be used for; (5) an estimate of the number of responses; (6) the average burden hours per response; (7) an estimate of the total number of hours needed to prepare the form. This entry is not subject to 44 U.S.C. 3504(h).

Agency: National Endowment for the Arts.

Title: Applications from students for Agency Initiatives Poetry Out Loud or the Musical Theater Songwriting Challenge for High School Students.

OMB Number: N/A.

Frequency: Annually.

Affected Public: Individuals.

Estimated Number of Respondents: 200.

Estimated Time per Respondent: 1 hour.

Total Burden Hours: 200.

Total Annualized Capital/Startup Costs: 0.

Total Annual Costs (Operating/Maintaining Systems or Purchasing Services): 0.

Description: The Application Form, for which clearance is requested, is used to gather basic information from youth applying to Agency Initiatives Poetry Out Loud or the Musical Theater Songwriting Challenge for High School Students. Information is needed to verify eligibility for the program and to facilitate judging of the entries.

Jillian Miller,

Director, Office of Guidelines and Panel Operations, National Endowment for the Arts.

[FR Doc. 2017–13175 Filed 6–22–17; 8:45 am]

BILLING CODE 7537–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80971; File No. SR–ISE–2017–52]

Self-Regulatory Organizations; Nasdaq ISE, LLC; Notice of Filing of a Proposed Rule Change To Adopt Rule 912

June 19, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'' or ''Exchange Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 9, 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. 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 adopt Rule 912 (Consolidated Audit Trail—Fee Dispute Resolution) to establish the procedures for resolving potential disputes related to CAT Fees charged to Industry Members.[3]

The text of the proposed rule change is available on the Exchange's Web site at *http://ise.cchwallstreet.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

Bats BYX Exchange, Inc., Bats BZX Exchange, Inc., Bats EDGA Exchange, Inc., Bats EDGX Exchange, Inc., BOX Options Exchange LLC, C2 Options Exchange, Incorporated, Chicago Board Options Exchange, Incorporated, Chicago Stock Exchange, Inc., Financial Industry Regulatory Authority, Inc. (''FINRA''), Investors' Exchange LLC, Miami International Securities Exchange, LLC, MIAX PEARL, LLC, NASDAQ BX, Inc., Nasdaq GEMX, LLC, Nasdaq ISE, LLC, Nasdaq MRX, LLC,[4] NASDAQ PHLX LLC, The NASDAQ Stock Market LLC, New York Stock Exchange LLC, NYSE MKT LLC, NYSE Arca, Inc. and NYSE National, Inc.[5] (collectively, the ''Participants'') filed with the Commission, pursuant to Section 11A of the Exchange Act[6] and Rule 608 of Regulation NMS thereunder,[7] the National Market System Plan Governing the Consolidated Audit Trail (the ''CAT NMS Plan'' or ''Plan'').[8] The Participants filed the Plan to comply with Rule 613 of Regulation NMS under the Exchange Act. The Plan was published for comment in the **Federal Register** on May 17, 2016,[9] and approved by the Commission, as modified, on November 15, 2016.[10] The Plan is designed to create, implement and maintain a consolidated audit trail (''CAT'') that would capture customer and order event information for orders in NMS Securities and OTC Equity Securities, across all markets, from the time of order inception through routing, cancellation, modification, or execution in a single consolidated data source. The Plan accomplishes this by creating CAT NMS, LLC (the ''Company''), of which each Participant is a member, to operate the CAT.[11] Under the CAT NMS Plan, the Operating Committee of the Company (''Operating Committee'') has discretion to establish funding for the Company to operate the CAT, including establishing fees that the Participants will pay, and establishing fees for Industry Members that will be implemented by the Participants (''CAT Fees'').[12] The Participants are required to file with the SEC under Section 19(b) of the Exchange Act any such CAT Fees applicable to Industry Members that the Operating Committee approves.[13] Accordingly, the Exchange has filed a proposed rule change with the SEC to

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Unless otherwise specified, capitalized terms used in this rule filing are defined as set forth herein, or in the Consolidated Audit Trail Funding Fees Rule, the CAT Compliance Rule Series or in the CAT NMS Plan.

[4] ISE Gemini, LLC, ISE Mercury, LLC and International Securities Exchange, LLC have been renamed Nasdaq GEMX, LLC, Nasdaq MRX, LLC, and Nasdaq ISE, LLC, respectively. *See* Securities Exchange Act Release No. 80248 (March 15, 2017), 82 FR 14547 (March 21, 2017); Securities Exchange Act Release No. 80326 (March 29, 2017), 82 FR 16460 (April 4, 2017); and Securities Exchange Act Release No. 80325 (March 29, 2017), 82 FR 16445 (April 4, 2017).

[5] National Stock Exchange, Inc. has been renamed NYSE National, Inc. *See* Securities Exchange Act Release No. 79902 (January 30, 2017), 82 FR 9258 (February 3, 2017).

[6] 15 U.S.C. 78k–1.

[7] 17 CFR 242.608.

[8] *See* Letter from the Participants to Brent J. Fields, Secretary, Commission, dated September 30, 2014; and Letter from Participants to Brent J. Fields, Secretary, Commission, dated February 27, 2015. On December 24, 2015, the Participants submitted an amendment to the CAT NMS Plan. *See* Letter from Participants to Brent J. Fields, Secretary, Commission, dated December 23, 2015.

[9] Securities Exchange Act Release No. 77724 (April 27, 2016), 81 FR 30614 (May 17, 2016).

[10] Securities Exchange Act Rel. No. 79318 (November 15, 2016), 81 FR 84696 (November 23, 2016) (''Approval Order'').

[11] The Plan also serves as the limited liability company agreement for the Company.

[12] Section 11.1(b) of the CAT NMS Plan.

[13] *Id.*

adopt the Consolidated Audit Trail Funding Fees, which will require Industry Members that are Exchange members to pay the CAT Fees determined by the Operating Committee.[14] The Exchange submits this rule filing to adopt Rule 912 (Consolidated Audit Trail—Fee Dispute Resolution) to establish the procedures for resolving potential disputes related to CAT Fees charged to Industry Members. The proposed rules are described below.

(1) Definitions

Paragraph (a) of Proposed Rule 912 sets forth the definitions for Proposed Rule 912. Paragraph (a)(1) of Proposed Rule 912 states that, for purposes of Rule 912, the terms ''CAT NMS Plan'', ''Industry Member'', ''Operating Committee'', and ''Participant'' are defined as set forth in the Rule 900 (Consolidated Audit Trail—Definitions), and the term ''CAT Fee'' is defined as set forth in the Consolidated Audit Trail Funding Fees. In addition, the Exchange proposes to add paragraph (a)(2) to Proposed Rule 912. New paragraph (a)(2) would define the term ''Subcommittee'' to mean a subcommittee designated by the Operating Committee pursuant to the CAT NMS Plan. This definition is the same substantive definition as set forth in Section 1.1 of the CAT NMS Plan.

(2) Fee Dispute Resolution

Section 11.5 of the CAT NMS Plan requires Participants to adopt rules requiring that disputes with respect to fees charged to Industry Members pursuant to the CAT NMS Plan be determined by the Operating Committee or Subcommittee. Section 11.5 of the CAT NMS Plan also states that decisions by the Operating Committee or Subcommittee on such matters shall be binding on Industry Members, without prejudice to the right of any Industry Member to seek redress from the SEC pursuant to SEC Rule 608 or in any other appropriate forum. The Exchange proposes to adopt paragraph (b) of Proposed Rule 912. Paragraph (b) of Proposed Rule 912 states that disputes initiated by an Industry Member with respect to CAT Fees charged to such Industry Member pursuant to the Consolidated Audit Trail Funding Fees, including disputes related to the designated tier and the fee calculated pursuant to such tier, shall be resolved by the Operating Committee, or a Subcommittee designated by the Operating Committee, of the CAT NMS Plan, pursuant to the Fee Dispute Resolution Procedures adopted pursuant to the CAT NMS Plan and set forth in paragraph (c) of Proposed Rule 912. Decisions on such matters shall be binding on Industry Members, without prejudice to the rights of any such Industry Member to seek redress from the SEC or in any other appropriate forum.

The Operating Committee has adopted ''Fee Dispute Resolution Procedures'' governing the manner in which disputes regarding CAT Fees charged pursuant to the Consolidated Audit Trail Funding Fees will be addressed. These Fee Dispute Resolution Procedures, as they relate to Industry Members, are set forth in paragraph (c) of Proposed Rule 912. Specifically, the Fee Dispute Resolution Procedures provide the procedure for Industry Members that dispute CAT Fees charged to such Industry Member pursuant to one or more of the Participants' Consolidated Audit Trail Funding Fees Rules, including disputes related to the designated tier and the fee calculated pursuant to such tier, to apply for an opportunity to be heard and to have the CAT Fees charged to such Industry Member reviewed. The Procedures are modeled after the adverse action procedures adopted by various exchanges,[15] and will be posted on the Web site for the CAT NMS Plan Web site.[16]

Under these Procedures, an Industry Member that disputes CAT Fees charged to such Industry Member and that desires to have an opportunity to be heard with respect to such disputed CAT Fees must file a written application with the Company within 15 business days after being notified of such disputed CAT Fees. The application must identify the disputed CAT Fees, state the specific reasons why the applicant takes exception to such CAT Fees, and set forth the relief sought. In addition, if the applicant intends to submit any additional documents, statements, arguments or other material in support of the application, the same should be so stated and identified.

The Company will refer applications for hearing and review promptly to the Subcommittee designated by the Operating Committee pursuant to Section 4.12 of the CAT NMS Plan with responsibility for conducting the reviews of CAT Fee disputes pursuant to these Procedures. This Subcommittee will be referred to as the Fee Review Subcommittee. The members of the Fee Review Subcommittee will be subject to the provisions of Section 4.3(d) of the CAT NMS Plan regarding recusal and Conflicts of Interest. The Fee Review Subcommittee will keep a record of the proceedings.

The Fee Review Subcommittee will hold hearings promptly. The Fee Review Subcommittee will set a hearing date. The parties to the hearing shall furnish the Fee Review Subcommittee with all materials relevant to the proceedings at least 72 hours prior to the date of the hearing. Each party will have the right to inspect and copy the other party's materials prior to the hearing.

The parties to the hearing will consist of the applicant and a representative of the Company who shall present the reasons for the action taken by the Company that allegedly aggrieved the applicant. The applicant is entitled to be accompanied, represented and advised by counsel at all stages of the proceedings.

The Fee Review Subcommittee will determine all questions concerning the admissibility of evidence and will otherwise regulate the conduct of the hearing. Each of the parties will be permitted to make an opening statement, present witnesses and documentary evidence, cross examine opposing witnesses and present closing arguments orally or in writing as determined by the Fee Review Subcommittee. The Fee Review Subcommittee also will have the right to question all parties and witnesses to the proceeding. The Fee Review Subcommittee must keep a record of the hearing. The formal rules of evidence will not apply.

The Fee Review Subcommittee must set forth its decision in writing and send the written decision to the parties to the proceeding. Such decisions will contain the reasons supporting the conclusions of the Fee Review Subcommittee.

The decision of the Fee Review Subcommittee will be subject to review by the Operating Committee either on its own motion within 20 business days after issuance of the decision or upon written request submitted by the applicant within 15 business days after issuance of the decision. The applicant's petition must be in writing and must specify the findings and conclusions to which the applicant objects, together with the reasons for such objections. Any objection to a decision not specified in writing will be considered to have been abandoned and may be disregarded. Parties may petition to

[14] *See* Securities Exchange Act Release No. 80715 (May 18, 2017), 82 FR 23895 (May 24, 2017) (SR–ISE–2017–45).

[15] *See, e.g.,* Chapter X of BATS BZX Exchange, Inc. (Adverse Action); and Chapter X of NYSE National, Inc. (Adverse Action).

[16] The CAT NMS Plan Web site is *www.catnmsplan.com.*

submit a written argument to the Operating Committee and may request an opportunity to make an oral argument before the Operating Committee. The Operating Committee will have sole discretion to grant or deny either request.

The Operating Committee will conduct the review. The review will be made upon the record and will be made after such further proceedings, if any, as the Operating Committee may order. Based upon such record, the Operating Committee may affirm, reverse or modify, in whole or in part, the decision of the Fee Review Subcommittee. The decision of the Operating Committee will be in writing, will be sent to the parties to the proceeding and will be final.

The Procedures state that a final decision regarding the disputed CAT Fees by the Operating Committee, or the Fee Review Subcommittee (if there is no review by the Operating Committee), must be provided within 90 days of the date on which the Industry Member filed a written application regarding disputed CAT Fees with the Company. The Operating Committee may extend the 90-day time limit at its discretion.

In addition, the Procedures state that any notices or other documents may be served upon the applicant either personally or by leaving the same at its, his or her place of business or by deposit in the United States post office, postage prepaid, by registered or certified mail, addressed to the applicant at its, his or her last known business or residence address. The Procedures also state that any time limits imposed under the Procedures for the submission of answers, petitions or other materials may be extended by permission of the Operating Committee. All papers and documents relating to review by the Fee Review Subcommittee or the Operating Committee must be submitted to the Fee Review Subcommittee or Operating Committee, as applicable.

The Procedures also note that decisions on such CAT Fee disputes made pursuant to these Procedures will be binding on Industry Members, without prejudice to the rights of any such Industry Member to seek redress from the SEC or in any other appropriate forum.

Finally, an Industry Member that files a written application with the Company regarding disputed CAT Fees in accordance with these Procedures is not required to pay such disputed CAT Fees until the dispute is resolved in accordance with these Procedures, including any review by the SEC or in any other appropriate forum. For these purposes, the disputed CAT Fees means the amount of the invoiced CAT Fees that the Industry Member has asserted pursuant to these Procedures that such Industry Member does not owe to the Company. The Industry Member must pay any invoiced CAT Fees that are not disputed CAT Fees when due as set forth in the original invoice.

Once the dispute regarding CAT Fees is resolved pursuant to these Procedures, if it is determined that the Industry Member owes any of the disputed CAT Fees, then the Industry Member must pay such disputed CAT Fees that are owed as well as interest on such disputed CAT Fees from the original due date (that is, 30 days after receipt of the original invoice of such CAT Fees) until such disputed CAT Fees are paid at a per annum rate equal to the lesser of (i) the Prime Rate plus 300 basis points, or (ii) the maximum rate permitted by applicable law.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6(b)(5) of the Act,[17] which requires, among other things, that the Exchange rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest, and not designed to permit unfair discrimination between customers, issuers, brokers and dealer [sic], and Section 6(b)(4) of the Act,[18] which requires that Exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using its facilities.

The Exchange believes that this proposal is consistent with the Act because it implements, interprets or clarifies Section 11.5 of the Plan, and is designed to assist the Exchange and its Industry Members in meeting regulatory obligations pursuant to the Plan. In approving the Plan, the SEC noted that the Plan ''is necessary and appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanism of a national market system, or is otherwise in furtherance of the purposes of the Act.'' [19] To the extent that this proposal implements, interprets or clarifies the Plan and applies specific requirements to Industry Members, the Exchange believes that this proposal furthers the objectives of the Plan, as identified by the SEC, and is therefore consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

Section 6(b)(8) of the Act [20] requires that Exchange rules not impose any burden on competition that is not necessary or appropriate. 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 notes that the proposed rule change implements Section 11.5 of the CAT NMS Plan approved by the Commission, and is designed to assist the Exchange in meeting its regulatory obligations pursuant to the Plan. Similarly, all national securities exchanges and FINRA are proposing this proposed rule to implement the requirements of the CAT NMS Plan. Therefore, this is not a competitive rule filing and, therefore, it does not raise competition issues between and among the exchanges and FINRA.

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

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

(A) By order approve or disapprove such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

[17] 15 U.S.C. 78f(b)(5).

[18] 15 U.S.C. 78f(b)(4).

[19] Approval Order at 84697.

[20] 15 U.S.C. 78f(b)(8).

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–2017–52 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–2017–52. 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–2017–52, and should be submitted on or before July 14, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[21]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–13102 Filed 6–22–17; 8:45 am]

BILLING CODE 8011–01–P

[21] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE., Washington, DC 20549–2736.

Extension:

Rule 425. SEC File No. 270–462, OMB Control No. 3235–0521.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget this request for extension of the previously approved collection of information discussed below.

Rule 425 (17 CFR 230.425) under the Securities Act of 1933 (15 U.S.C. 77a *et seq.*) requires the filing of certain prospectuses and communications under Rule 135 (17 CFR 230.135) and Rule 165 (17 CFR 230.165) in connection with business combination transactions. The purpose of the rule is to permit more oral and written communications with shareholders about tender offers, mergers and other business combination transactions on a more-timely basis, so long as the written communications are filed on the date of first use. The information provided under Rule 425 is made available to the public upon request. Also, the information provided under Rule 425 is mandatory. Approximately 7,160 issuers file communications under Rule 425 at an estimated 0.25 hours per response for a total of 1,790 annual burden hours (0.25 hours per response × 7,160 responses).

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

The public may view the background documentation for this information collection at the following Web site, *www.reginfo.gov.* Written comments regarding the above information should be directed to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503 or send an email to: *Shagufta_Ahmed@omb.eop.gov*; and (ii) Pamela Dyson, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549; or send an email to: *PRA_Mailbox@sec.gov.* Comments must be submitted to OMB within 30 days of this notice.

Dated: June 19, 2017.

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–13143 Filed 6–22–17; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE., Washington, DC 20549–2736.

Extension:

Regulations 14D and 14E, Schedule 14D–9. SEC File No. 270–114, OMB Control No. 3235–0102.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget this request for extension of the previously approved collection of information discussed below.

Regulation 14D (17 CFR 240.14d–1–240.14d–11) and Regulation 14E (17 CFR 240.14e–1–240.14f–1) and related Schedule 14D–9 (17 CFR 240.14d–101) require information important to security holders in deciding how to respond to tender offers. This information is made available to the public. Information provided on Schedule 14D–9 is mandatory. Schedule 14D–9 takes approximately 260.56 hours per response to prepare and is filed by 169 companies annually. We estimate that 25% of the 260.56 hours per response (65.14 hours) is prepared by the company for an annual reporting burden of 11,009 hours (65.14 hours per response × 169 responses).

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

The public may view the background documentation for this information collection at the following Web site, *www.reginfo.gov* . Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503,

or by sending an email to: *Shagufta_Ahmed@omb.eop.gov*; and (ii) Pamela Dyson, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549 or send an email to: *PRA_Mailbox@sec.gov*. Comments must be submitted to OMB within 30 days of this notice.

Dated: June 19, 2017.

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–13145 Filed 6–22–17; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80966; File No. SR–MRX–2017–08]

Self-Regulatory Organizations; Nasdaq MRX, LLC; Notice of Filing of a Proposed Rule Change To Adopt Rule 912

June 19, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'' or ''Exchange Act'') [1], and Rule 19b–4 thereunder,[2] notice is hereby given that on June 9, 2017, Nasdaq MRX, LLC (''MRX'' 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. 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 adopt Rule 912 (Consolidated Audit Trail—Fee Dispute Resolution) to establish the procedures for resolving potential disputes related to CAT Fees charged to Industry Members.[3]

The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaqmrx.cchwallstreet.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.

[3] Unless otherwise specified, capitalized terms used in this rule filing are defined as set forth herein, or in the Consolidated Audit Trail Funding Fees Rule, the CAT Compliance Rule Series or in the CAT NMS Plan.

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

Bats BYX Exchange, Inc., Bats BZX Exchange, Inc., Bats EDGA Exchange, Inc., Bats EDGX Exchange, Inc., BOX Options Exchange LLC, C2 Options Exchange, Incorporated, Chicago Board Options Exchange, Incorporated, Chicago Stock Exchange, Inc., Financial Industry Regulatory Authority, Inc. (''FINRA''), Investors' Exchange LLC, Miami International Securities Exchange, LLC, MIAX PEARL, LLC, NASDAQ BX, Inc., Nasdaq GEMX, LLC, Nasdaq ISE, LLC, Nasdaq MRX, LLC,[4] NASDAQ PHLX LLC, The NASDAQ Stock Market LLC, New York Stock Exchange LLC, NYSE MKT LLC, NYSE Arca, Inc. and NYSE National, Inc.[5] (collectively, the ''Participants'') filed with the Commission, pursuant to Section 11A of the Exchange Act [6] and Rule 608 of Regulation NMS thereunder,[7] the National Market System Plan Governing the Consolidated Audit Trail (the ''CAT NMS Plan'' or ''Plan'').[8] The Participants filed the Plan to comply with Rule 613 of Regulation NMS under the Exchange Act. The Plan was published for comment in the **Federal Register** on May 17, 2016,[9] and approved by the Commission, as modified, on November 15, 2016.[10] The Plan is designed to create, implement and maintain a consolidated audit trail (''CAT'') that would capture customer and order event information for orders in NMS Securities and OTC Equity Securities, across all markets, from the time of order inception through routing, cancellation, modification, or execution in a single consolidated data source. The Plan accomplishes this by creating CAT NMS, LLC (the ''Company''), of which each Participant is a member, to operate the CAT.[11] Under the CAT NMS Plan, the Operating Committee of the Company (''Operating Committee'') has discretion to establish funding for the Company to operate the CAT, including establishing fees that the Participants will pay, and establishing fees for Industry Members that will be implemented by the Participants (''CAT Fees'').[12] The Participants are required to file with the SEC under Section 19(b) of the Exchange Act any such CAT Fees applicable to Industry Members that the Operating Committee approves.[13] Accordingly, the Exchange has filed a proposed rule change with the SEC to adopt the Consolidated Audit Trail Funding Fees, which will require Industry Members that are Exchange members to pay the CAT Fees determined by the Operating Committee.[14] The Exchange submits this rule filing to adopt Rule 912 (Consolidated Audit Trail—Fee Dispute Resolution) to establish the procedures for resolving potential disputes related to CAT Fees charged to Industry Members. The proposed rules are described below.

(1) Definitions

Paragraph (a) of Proposed Rule 912 sets forth the definitions for Proposed Rule 912. Paragraph (a)(1) of Proposed Rule 912 states that, for purposes of Rule 912, the terms ''CAT NMS Plan'', ''Industry Member'', ''Operating Committee'', and ''Participant'' are defined as set forth in the Rule 900

[4] ISE Gemini, LLC, ISE Mercury, LLC and International Securities Exchange, LLC have been renamed Nasdaq GEMX, LLC, Nasdaq MRX, LLC, and Nasdaq ISE, LLC, respectively. *See* Securities Exchange Act Release No. 80248 (March 15, 2017), 82 FR 14547 (March 21, 2017); Securities Exchange Act Release No. 80326 (March 29, 2017), 82 FR 16460 (April 4, 2017); and Securities Exchange Act Release No. 80325 (March 29, 2017), 82 FR 16445 (April 4, 2017).

[5] National Stock Exchange, Inc. has been renamed NYSE National, Inc. *See* Securities Exchange Act Release No. 79902 (January 30, 2017), 82 FR 9258 (February 3, 2017).

[6] 15 U.S.C. 78k–1.

[7] 17 CFR 242.608.

[8] *See* Letter from the Participants to Brent J. Fields, Secretary, Commission, dated September 30, 2014; and Letter from Participants to Brent J. Fields, Secretary, Commission, dated February 27, 2015. On December 24, 2015, the Participants submitted an amendment to the CAT NMS Plan. *See* Letter from Participants to Brent J. Fields, Secretary, Commission, dated December 23, 2015.

[9] Securities Exchange Act Release No. 77724 (April 27, 2016), 81 FR 30614 (May 17, 2016).

[10] Securities Exchange Act Rel. No. 79318 (November 15, 2016), 81 FR 84696 (November 23, 2016) (''Approval Order'').

[11] The Plan also serves as the limited liability company agreement for the Company.

[12] Section 11.1(b) of the CAT NMS Plan.

[13] *Id.*

[14] *See* Securities Exchange Act Release No. 80726 (May 18, 2017), 82 FR 23915 (May 24, 2017) (SR–MRX–2017–04).

(Consolidated Audit Trail—Definitions), and the term ''CAT Fee'' is defined as set forth in the Consolidated Audit Trail Funding Fees. In addition, the Exchange proposes to add paragraph (a)(2) to Proposed Rule 912. New paragraph (a)(2) would define the term ''Subcommittee'' to mean a subcommittee designated by the Operating Committee pursuant to the CAT NMS Plan. This definition is the same substantive definition as set forth in Section 1.1 of the CAT NMS Plan.

(2) Fee Dispute Resolution

Section 11.5 of the CAT NMS Plan requires Participants to adopt rules requiring that disputes with respect to fees charged to Industry Members pursuant to the CAT NMS Plan be determined by the Operating Committee or Subcommittee. Section 11.5 of the CAT NMS Plan also states that decisions by the Operating Committee or Subcommittee on such matters shall be binding on Industry Members, without prejudice to the right of any Industry Member to seek redress from the SEC pursuant to SEC Rule 608 or in any other appropriate forum. The Exchange proposes to adopt paragraph (b) of Proposed Rule 912. Paragraph (b) of Proposed Rule 912 states that disputes initiated by an Industry Member with respect to CAT Fees charged to such Industry Member pursuant to the Consolidated Audit Trail Funding Fees, including disputes related to the designated tier and the fee calculated pursuant to such tier, shall be resolved by the Operating Committee, or a Subcommittee designated by the Operating Committee, of the CAT NMS Plan, pursuant to the Fee Dispute Resolution Procedures adopted pursuant to the CAT NMS Plan and set forth in paragraph (c) of Proposed Rule 912. Decisions on such matters shall be binding on Industry Members, without prejudice to the rights of any such Industry Member to seek redress from the SEC or in any other appropriate forum.

The Operating Committee has adopted ''Fee Dispute Resolution Procedures'' governing the manner in which disputes regarding CAT Fees charged pursuant to the Consolidated Audit Trail Funding Fees will be addressed. These Fee Dispute Resolution Procedures, as they relate to Industry Members, are set forth in paragraph (c) of Proposed Rule 912. Specifically, the Fee Dispute Resolution Procedures provide the procedure for Industry Members that dispute CAT Fees charged to such Industry Member pursuant to one or more of the Participants' Consolidated Audit Trail Funding Fees Rules, including disputes related to the designated tier and the fee calculated pursuant to such tier, to apply for an opportunity to be heard and to have the CAT Fees charged to such Industry Member reviewed. The Procedures are modeled after the adverse action procedures adopted by various exchanges,[15] and will be posted on the Web site for the CAT NMS Plan Web site.[16]

Under these Procedures, an Industry Member that disputes CAT Fees charged to such Industry Member and that desires to have an opportunity to be heard with respect to such disputed CAT Fees must file a written application with the Company within 15 business days after being notified of such disputed CAT Fees. The application must identify the disputed CAT Fees, state the specific reasons why the applicant takes exception to such CAT Fees, and set forth the relief sought. In addition, if the applicant intends to submit any additional documents, statements, arguments or other material in support of the application, the same should be so stated and identified.

The Company will refer applications for hearing and review promptly to the Subcommittee designated by the Operating Committee pursuant to Section 4.12 of the CAT NMS Plan with responsibility for conducting the reviews of CAT Fee disputes pursuant to these Procedures. This Subcommittee will be referred to as the Fee Review Subcommittee. The members of the Fee Review Subcommittee will be subject to the provisions of Section 4.3(d) of the CAT NMS Plan regarding recusal and Conflicts of Interest. The Fee Review Subcommittee will keep a record of the proceedings.

The Fee Review Subcommittee will hold hearings promptly. The Fee Review Subcommittee will set a hearing date. The parties to the hearing shall furnish the Fee Review Subcommittee with all materials relevant to the proceedings at least 72 hours prior to the date of the hearing. Each party will have the right to inspect and copy the other party's materials prior to the hearing.

The parties to the hearing will consist of the applicant and a representative of the Company who shall present the reasons for the action taken by the Company that allegedly aggrieved the applicant. The applicant is entitled to be accompanied, represented and advised by counsel at all stages of the proceedings.

The Fee Review Subcommittee will determine all questions concerning the admissibility of evidence and will otherwise regulate the conduct of the hearing. Each of the parties will be permitted to make an opening statement, present witnesses and documentary evidence, cross examine opposing witnesses and present closing arguments orally or in writing as determined by the Fee Review Subcommittee. The Fee Review Subcommittee also will have the right to question all parties and witnesses to the proceeding. The Fee Review Subcommittee must keep a record of the hearing. The formal rules of evidence will not apply.

The Fee Review Subcommittee must set forth its decision in writing and send the written decision to the parties to the proceeding. Such decisions will contain the reasons supporting the conclusions of the Fee Review Subcommittee.

The decision of the Fee Review Subcommittee will be subject to review by the Operating Committee either on its own motion within 20 business days after issuance of the decision or upon written request submitted by the applicant within 15 business days after issuance of the decision. The applicant's petition must be in writing and must specify the findings and conclusions to which the applicant objects, together with the reasons for such objections. Any objection to a decision not specified in writing will be considered to have been abandoned and may be disregarded. Parties may petition to submit a written argument to the Operating Committee and may request an opportunity to make an oral argument before the Operating Committee. The Operating Committee will have sole discretion to grant or deny either request.

The Operating Committee will conduct the review. The review will be made upon the record and will be made after such further proceedings, if any, as the Operating Committee may order. Based upon such record, the Operating Committee may affirm, reverse or modify, in whole or in part, the decision of the Fee Review Subcommittee. The decision of the Operating Committee will be in writing, will be sent to the parties to the proceeding and will be final.

The Procedures state that a final decision regarding the disputed CAT Fees by the Operating Committee, or the Fee Review Subcommittee (if there is no review by the Operating Committee), must be provided within 90 days of the date on which the Industry Member

[15] *See, e.g.,* Chapter X of BATS BZX Exchange, Inc. (Adverse Action); and Chapter X of NYSE National, Inc. (Adverse Action).

[16] The CAT NMS Plan Web site is *www.catnmsplan.com.*

filed a written application regarding disputed CAT Fees with the Company. The Operating Committee may extend the 90-day time limit at its discretion.

In addition, the Procedures state that any notices or other documents may be served upon the applicant either personally or by leaving the same at its, his or her place of business or by deposit in the United States post office, postage prepaid, by registered or certified mail, addressed to the applicant at its, his or her last known business or residence address. The Procedures also state that any time limits imposed under the Procedures for the submission of answers, petitions or other materials may be extended by permission of the Operating Committee. All papers and documents relating to review by the Fee Review Subcommittee or the Operating Committee must be submitted to the Fee Review Subcommittee or Operating Committee, as applicable.

The Procedures also note that decisions on such CAT Fee disputes made pursuant to these Procedures will be binding on Industry Members, without prejudice to the rights of any such Industry Member to seek redress from the SEC or in any other appropriate forum.

Finally, an Industry Member that files a written application with the Company regarding disputed CAT Fees in accordance with these Procedures is not required to pay such disputed CAT Fees until the dispute is resolved in accordance with these Procedures, including any review by the SEC or in any other appropriate forum. For these purposes, the disputed CAT Fees means the amount of the invoiced CAT Fees that the Industry Member has asserted pursuant to these Procedures that such Industry Member does not owe to the Company. The Industry Member must pay any invoiced CAT Fees that are not disputed CAT Fees when due as set forth in the original invoice.

Once the dispute regarding CAT Fees is resolved pursuant to these Procedures, if it is determined that the Industry Member owes any of the disputed CAT Fees, then the Industry Member must pay such disputed CAT Fees that are owed as well as interest on such disputed CAT Fees from the original due date (that is, 30 days after receipt of the original invoice of such CAT Fees) until such disputed CAT Fees are paid at a per annum rate equal to the lesser of (i) the Prime Rate plus 300 basis points, or (ii) the maximum rate permitted by applicable law.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6(b)(5) of the Act,[17] which requires, among other things, that the Exchange rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest, and not designed to permit unfair discrimination between customers, issuers, brokers and dealer [sic], and Section 6(b)(4) of the Act,[18] which requires that Exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using its facilities.

The Exchange believes that this proposal is consistent with the Act because it implements, interprets or clarifies Section 11.5 of the Plan, and is designed to assist the Exchange and its Industry Members in meeting regulatory obligations pursuant to the Plan. In approving the Plan, the SEC noted that the Plan ''is necessary and appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanism of a national market system, or is otherwise in furtherance of the purposes of the Act.'' [19] To the extent that this proposal implements, interprets or clarifies the Plan and applies specific requirements to Industry Members, the Exchange believes that this proposal furthers the objectives of the Plan, as identified by the SEC, and is therefore consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

Section 6(b)(8) of the Act [20] requires that Exchange rules not impose any burden on competition that is not necessary or appropriate. 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 notes that the proposed rule change implements Section 11.5 of the CAT NMS Plan approved by the Commission, and is designed to assist the Exchange in meeting its regulatory obligations pursuant to the Plan. Similarly, all national securities exchanges and FINRA are proposing this proposed rule to implement the requirements of the CAT NMS Plan. Therefore, this is not a competitive rule filing and, therefore, it does not raise competition issues between and among the exchanges and FINRA.

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

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

(A) By order approve or disapprove such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–MRX–2017–08 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–MRX–2017–08. 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

[17] 15 U.S.C. 78f(b)(5).

[18] 15 U.S.C. 78f(b)(4).

[19] Approval Order at 84697.

[20] 15 U.S.C. 78f(b)(8).

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–MRX–2017–08, and should be submitted on or before July 14, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[21]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–13097 Filed 6–22–17; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80968; File No. SR–BX–2017–029]

Self-Regulatory Organizations; NASDAQ BX, Inc.; Notice of Filing of a Proposed Rule Change To Adopt Rule 6896 and Chapter IX, Section 9

June 19, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'' or ''Exchange Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 9, 2017, NASDAQ BX, Inc. (''BX'' 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. 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 adopt Rule 6896 and Chapter IX, Section 9 (Consolidated Audit Trail—Fee Dispute Resolution) to establish the procedures for resolving potential disputes related to CAT Fees charged to Industry Members.[3]

The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaqbx.cchwallstreet.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

Bats BYX Exchange, Inc., Bats BZX Exchange, Inc., Bats EDGA Exchange, Inc., Bats EDGX Exchange, Inc., BOX Options Exchange LLC, C2 Options Exchange, Incorporated, Chicago Board Options Exchange, Incorporated, Chicago Stock Exchange, Inc., Financial Industry Regulatory Authority, Inc. (''FINRA''), Investors' Exchange LLC, Miami International Securities Exchange, LLC, MIAX PEARL, LLC, NASDAQ BX, Inc., Nasdaq GEMX, LLC, Nasdaq ISE, LLC, Nasdaq MRX, LLC,[4] NASDAQ PHLX LLC, The NASDAQ Stock Market LLC, New York Stock Exchange LLC, NYSE MKT LLC, NYSE Arca, Inc. and NYSE National, Inc.[5] (collectively, the ''Participants'') filed with the Commission, pursuant to Section 11A of the Exchange Act[6] and Rule 608 of Regulation NMS thereunder,[7] the National Market System Plan Governing the Consolidated Audit Trail (the ''CAT NMS Plan'' or ''Plan'').[8] The Participants filed the Plan to comply with Rule 613 of Regulation NMS under the Exchange Act. The Plan was published for comment in the **Federal Register** on May 17, 2016,[9] and approved by the Commission, as modified, on November 15, 2016.[10] The Plan is designed to create, implement and maintain a consolidated audit trail (''CAT'') that would capture customer and order event information for orders in NMS Securities and OTC Equity Securities, across all markets, from the time of order inception through routing, cancellation, modification, or execution in a single consolidated data source. The Plan accomplishes this by creating CAT NMS, LLC (the ''Company''), of which each Participant is a member, to operate the CAT.[11] Under the CAT NMS Plan, the Operating Committee of the Company (''Operating Committee'') has discretion to establish funding for the Company to operate the CAT, including establishing fees that the Participants will pay, and establishing fees for Industry Members that will be implemented by the Participants (''CAT Fees'').[12] The Participants are required to file with the SEC under Section 19(b) of the Exchange Act any such CAT Fees applicable to Industry Members that the Operating Committee approves.[13] Accordingly, the Exchange has filed a proposed rule change with the SEC to adopt the Consolidated Audit Trail Funding Fees, which will require Industry Members that are Exchange members to pay the CAT Fees determined by the Operating Committee.[14] The Exchange submits this rule filing to adopt Rule 6896 and Chapter IX, Section 9 (Consolidated

[21] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Unless otherwise specified, capitalized terms used in this rule filing are defined as set forth herein, or in the Consolidated Audit Trail Funding Fees Rule, the CAT Compliance Rule Series or in the CAT NMS Plan.

[4] ISE Gemini, LLC, ISE Mercury, LLC and International Securities Exchange, LLC have been renamed Nasdaq GEMX, LLC, Nasdaq MRX, LLC, and Nasdaq ISE, LLC, respectively. *See* Securities Exchange Act Release No. 80248 (March 15, 2017), 82 FR 14547 (March 21, 2017); Securities Exchange Act Release No. 80326 (March 29, 2017), 82 FR 16460 (April 4, 2017); and Securities Exchange Act Release No. 80325 (March 29, 2017), 82 FR 16445 (April 4, 2017).

[5] National Stock Exchange, Inc. has been renamed NYSE National, Inc. *See* Securities Exchange Act Release No. 79902 (January 30, 2017), 82 FR 9258 (February 3, 2017).

[6] 15 U.S.C. 78k–1.

[7] 17 CFR 242.608.

[8] *See* Letter from the Participants to Brent J. Fields, Secretary, Commission, dated September 30, 2014; and Letter from Participants to Brent J. Fields, Secretary, Commission, dated February 27, 2015. On December 24, 2015, the Participants submitted an amendment to the CAT NMS Plan. *See* Letter from Participants to Brent J. Fields, Secretary, Commission, dated December 23, 2015.

[9] Securities Exchange Act Release No. 77724 (April 27, 2016), 81 FR 30614 (May 17, 2016).

[10] Securities Exchange Act Rel. No. 79318 (November 15, 2016), 81 FR 84696 (November 23, 2016) (''Approval Order'').

[11] The Plan also serves as the limited liability company agreement for the Company.

[12] Section 11.1(b) of the CAT NMS Plan.

[13] *Id.*

[14] *See* Securities Exchange Act Release No. 80697 (May 16, 2017), 82 FR 23398 (May 22, 2017) (SR–BX–2017–023).

Audit Trail—Fee Dispute Resolution) to establish the procedures for resolving potential disputes related to CAT Fees charged to Industry Members. The proposed rules are described below.

(1) Definitions

Paragraph (a) of Proposed Rule 6896 and Chapter IX, Section 9 sets forth the definitions for Proposed Rule 6896 and Chapter IX, Section 9. Paragraph (a)(1) of Proposed Rule 6896 and Chapter IX, Section 9 states that, for purposes of Rule 6896 and Chapter IX, Section 9, the terms ''CAT NMS Plan'', ''Industry Member'', ''Operating Committee'', and ''Participant'' are defined as set forth in the Rule 6810 and Chapter IX, Section 8(a) (Consolidated Audit Trail—Definitions), respectively, and the term ''CAT Fee'' is defined as set forth in the Consolidated Audit Trail Funding Fees. In addition, the Exchange proposes to add paragraph (a)(2) to Proposed Rule 6896 and Chapter IX, Section 9. New paragraph (a)(2) would define the term ''Subcommittee'' to mean a subcommittee designated by the Operating Committee pursuant to the CAT NMS Plan. This definition is the same substantive definition as set forth in Section 1.1 of the CAT NMS Plan.

(2) Fee Dispute Resolution

Section 11.5 of the CAT NMS Plan requires Participants to adopt rules requiring that disputes with respect to fees charged to Industry Members pursuant to the CAT NMS Plan be determined by the Operating Committee or Subcommittee. Section 11.5 of the CAT NMS Plan also states that decisions by the Operating Committee or Subcommittee on such matters shall be binding on Industry Members, without prejudice to the right of any Industry Member to seek redress from the SEC pursuant to SEC Rule 608 or in any other appropriate forum. The Exchange proposes to adopt paragraph (b) of Proposed Rule 6896 and Chapter IX, Section 9. Paragraph (b) of Proposed Rule 6896 and Chapter IX, Section 9 states that disputes initiated by an Industry Member with respect to CAT Fees charged to such Industry Member pursuant to the Consolidated Audit Trail Funding Fees, including disputes related to the designated tier and the fee calculated pursuant to such tier, shall be resolved by the Operating Committee, or a Subcommittee designated by the Operating Committee, of the CAT NMS Plan, pursuant to the Fee Dispute Resolution Procedures adopted pursuant to the CAT NMS Plan and set forth in paragraph (c) of Proposed Rule 6896 and Chapter IX, Section 9. Decisions on such matters shall be binding on Industry Members, without prejudice to the rights of any such Industry Member to seek redress from the SEC or in any other appropriate forum.

The Operating Committee has adopted ''Fee Dispute Resolution Procedures'' governing the manner in which disputes regarding CAT Fees charged pursuant to the Consolidated Audit Trail Funding Fees will be addressed. These Fee Dispute Resolution Procedures, as they relate to Industry Members, are set forth in paragraph (c) of Proposed Rule 6896 and Chapter IX, Section 9. Specifically, the Fee Dispute Resolution Procedures provide the procedure for Industry Members that dispute CAT Fees charged to such Industry Member pursuant to one or more of the Participants' Consolidated Audit Trail Funding Fees Rules, including disputes related to the designated tier and the fee calculated pursuant to such tier, to apply for an opportunity to be heard and to have the CAT Fees charged to such Industry Member reviewed. The Procedures are modeled after the adverse action procedures adopted by various exchanges,[15] and will be posted on the Web site for the CAT NMS Plan Web site.[16]

Under these Procedures, an Industry Member that disputes CAT Fees charged to such Industry Member and that desires to have an opportunity to be heard with respect to such disputed CAT Fees must file a written application with the Company within 15 business days after being notified of such disputed CAT Fees. The application must identify the disputed CAT Fees, state the specific reasons why the applicant takes exception to such CAT Fees, and set forth the relief sought. In addition, if the applicant intends to submit any additional documents, statements, arguments or other material in support of the application, the same should be so stated and identified.

The Company will refer applications for hearing and review promptly to the Subcommittee designated by the Operating Committee pursuant to Section 4.12 of the CAT NMS Plan with responsibility for conducting the reviews of CAT Fee disputes pursuant to these Procedures. This Subcommittee will be referred to as the Fee Review Subcommittee. The members of the Fee Review Subcommittee will be subject to the provisions of Section 4.3(d) of the CAT NMS Plan regarding recusal and Conflicts of Interest. The Fee Review Subcommittee will keep a record of the proceedings.

The Fee Review Subcommittee will hold hearings promptly. The Fee Review Subcommittee will set a hearing date. The parties to the hearing shall furnish the Fee Review Subcommittee with all materials relevant to the proceedings at least 72 hours prior to the date of the hearing. Each party will have the right to inspect and copy the other party's materials prior to the hearing.

The parties to the hearing will consist of the applicant and a representative of the Company who shall present the reasons for the action taken by the Company that allegedly aggrieved the applicant. The applicant is entitled to be accompanied, represented and advised by counsel at all stages of the proceedings.

The Fee Review Subcommittee will determine all questions concerning the admissibility of evidence and will otherwise regulate the conduct of the hearing. Each of the parties will be permitted to make an opening statement, present witnesses and documentary evidence, cross examine opposing witnesses and present closing arguments orally or in writing as determined by the Fee Review Subcommittee. The Fee Review Subcommittee also will have the right to question all parties and witnesses to the proceeding. The Fee Review Subcommittee must keep a record of the hearing. The formal rules of evidence will not apply.

The Fee Review Subcommittee must set forth its decision in writing and send the written decision to the parties to the proceeding. Such decisions will contain the reasons supporting the conclusions of the Fee Review Subcommittee.

The decision of the Fee Review Subcommittee will be subject to review by the Operating Committee either on its own motion within 20 business days after issuance of the decision or upon written request submitted by the applicant within 15 business days after issuance of the decision. The applicant's petition must be in writing and must specify the findings and conclusions to which the applicant objects, together with the reasons for such objections. Any objection to a decision not specified in writing will be considered to have been abandoned and may be disregarded. Parties may petition to submit a written argument to the Operating Committee and may request an opportunity to make an oral argument before the Operating Committee. The Operating Committee

[15] *See, e.g.,* Chapter X of BATS BZX Exchange, Inc. (Adverse Action); and Chapter X of NYSE National, Inc. (Adverse Action).

[16] The CAT NMS Plan Web site is *www.catnmsplan.com.*

will have sole discretion to grant or deny either request.

The Operating Committee will conduct the review. The review will be made upon the record and will be made after such further proceedings, if any, as the Operating Committee may order. Based upon such record, the Operating Committee may affirm, reverse or modify, in whole or in part, the decision of the Fee Review Subcommittee. The decision of the Operating Committee will be in writing, will be sent to the parties to the proceeding and will be final.

The Procedures state that a final decision regarding the disputed CAT Fees by the Operating Committee, or the Fee Review Subcommittee (if there is no review by the Operating Committee), must be provided within 90 days of the date on which the Industry Member filed a written application regarding disputed CAT Fees with the Company. The Operating Committee may extend the 90-day time limit at its discretion.

In addition, the Procedures state that any notices or other documents may be served upon the applicant either personally or by leaving the same at its, his or her place of business or by deposit in the United States post office, postage prepaid, by registered or certified mail, addressed to the applicant at its, his or her last known business or residence address. The Procedures also state that any time limits imposed under the Procedures for the submission of answers, petitions or other materials may be extended by permission of the Operating Committee. All papers and documents relating to review by the Fee Review Subcommittee or the Operating Committee must be submitted to the Fee Review Subcommittee or Operating Committee, as applicable.

The Procedures also note that decisions on such CAT Fee disputes made pursuant to these Procedures will be binding on Industry Members, without prejudice to the rights of any such Industry Member to seek redress from the SEC or in any other appropriate forum.

Finally, an Industry Member that files a written application with the Company regarding disputed CAT Fees in accordance with these Procedures is not required to pay such disputed CAT Fees until the dispute is resolved in accordance with these Procedures, including any review by the SEC or in any other appropriate forum. For these purposes, the disputed CAT Fees means the amount of the invoiced CAT Fees that the Industry Member has asserted pursuant to these Procedures that such Industry Member does not owe to the Company. The Industry Member must pay any invoiced CAT Fees that are not disputed CAT Fees when due as set forth in the original invoice.

Once the dispute regarding CAT Fees is resolved pursuant to these Procedures, if it is determined that the Industry Member owes any of the disputed CAT Fees, then the Industry Member must pay such disputed CAT Fees that are owed as well as interest on such disputed CAT Fees from the original due date (that is, 30 days after receipt of the original invoice of such CAT Fees) until such disputed CAT Fees are paid at a per annum rate equal to the lesser of (i) the Prime Rate plus 300 basis points, or (ii) the maximum rate permitted by applicable law.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6(b)(5) of the Act,[17] which requires, among other things, that the Exchange rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest, and not designed to permit unfair discrimination between customers, issuers, brokers and dealer [sic], and Section 6(b)(4) of the Act,[18] which requires that Exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using its facilities.

The Exchange believes that this proposal is consistent with the Act because it implements, interprets or clarifies Section 11.5 of the Plan, and is designed to assist the Exchange and its Industry Members in meeting regulatory obligations pursuant to the Plan. In approving the Plan, the SEC noted that the Plan ''is necessary and appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanism of a national market system, or is otherwise in furtherance of the purposes of the Act.'' [19] To the extent that this proposal implements, interprets or clarifies the Plan and applies specific requirements to Industry Members, the Exchange believes that this proposal furthers the objectives of the Plan, as identified by the SEC, and is therefore consistent with the Act.

[17] 15 U.S.C. 78f(b)(5).

[18] 15 U.S.C. 78f(b)(4).

[19] Approval Order at 84697.

B. Self-Regulatory Organization's Statement on Burden on Competition

Section 6(b)(8) of the Act [20] requires that Exchange rules not impose any burden on competition that is not necessary or appropriate. 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 notes that the proposed rule change implements Section 11.5 of the CAT NMS Plan approved by the Commission, and is designed to assist the Exchange in meeting its regulatory obligations pursuant to the Plan. Similarly, all national securities exchanges and FINRA are proposing this proposed rule to implement the requirements of the CAT NMS Plan. Therefore, this is not a competitive rule filing and, therefore, it does not raise competition issues between and among the exchanges and FINRA.

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

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

(A) By order approve or disapprove such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–BX–2017–029 on the subject line.

[20] 15 U.S.C. 78f(b)(8).

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–BX–2017–029. 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–BX–2017–029, and should be submitted on or before July 14, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[21]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–13099 Filed 6–22–17; 8:45 am]

BILLING CODE 8011–01–P

[21] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80970; File No. SR–GEMX–2017–24]

Self-Regulatory Organizations; Nasdaq GEMX, LLC; Notice of Filing of a Proposed Rule Change To Adopt Rule 912

June 19, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'' or ''Exchange Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 9, 2017, Nasdaq GEMX, LLC (''GEMX'' 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. 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 adopt Rule 912 (Consolidated Audit Trail—Fee Dispute Resolution) to establish the procedures for resolving potential disputes related to CAT Fees charged to Industry Members.[3]

The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaqgemx.cchwallstreet.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

Bats BYX Exchange, Inc., Bats BZX Exchange, Inc., Bats EDGA Exchange, Inc., Bats EDGX Exchange, Inc., BOX Options Exchange LLC, C2 Options Exchange, Incorporated, Chicago Board Options Exchange, Incorporated, Chicago Stock Exchange, Inc., Financial Industry Regulatory Authority, Inc. (''FINRA''), Investors' Exchange LLC, Miami International Securities Exchange, LLC, MIAX PEARL, LLC, NASDAQ BX, Inc., Nasdaq GEMX, LLC, Nasdaq ISE, LLC, Nasdaq MRX, LLC,[4] NASDAQ PHLX LLC, The NASDAQ Stock Market LLC, New York Stock Exchange LLC, NYSE MKT LLC, NYSE Arca, Inc. and NYSE National, Inc.[5] (collectively, the ''Participants'') filed with the Commission, pursuant to Section 11A of the Exchange Act[6] and Rule 608 of Regulation NMS thereunder,[7] the National Market System Plan Governing the Consolidated Audit Trail (the ''CAT NMS Plan'' or ''Plan'').[8] The Participants filed the Plan to comply with Rule 613 of Regulation NMS under the Exchange Act. The Plan was published for comment in the **Federal Register** on May 17, 2016,[9] and approved by the Commission, as modified, on November 15, 2016.[10] The Plan is designed to create, implement and maintain a consolidated audit trail (''CAT'') that would capture customer and order event information for orders in NMS Securities and OTC Equity Securities, across all markets, from the time of order inception through routing, cancellation, modification, or execution in a single consolidated data source. The Plan accomplishes this by creating CAT NMS, LLC (the ''Company''), of which each Participant is a member, to operate the CAT.[11] Under the CAT NMS Plan, the Operating Committee of the Company (''Operating Committee'') has discretion to establish funding for the Company to operate the CAT, including establishing fees that the Participants will pay, and establishing fees for Industry Members that will be

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Unless otherwise specified, capitalized terms used in this rule filing are defined as set forth herein, or in the Consolidated Audit Trail Funding Fees Rule, the CAT Compliance Rule Series or in the CAT NMS Plan.

[4] ISE Gemini, LLC, ISE Mercury, LLC and International Securities Exchange, LLC have been renamed Nasdaq GEMX, LLC, Nasdaq MRX, LLC, and Nasdaq ISE, LLC, respectively. *See* Securities Exchange Act Release No. 80248 (March 15, 2017), 82 FR 14547 (March 21, 2017); Securities Exchange Act Release No. 80326 (March 29, 2017), 82 FR 16460 (April 4, 2017); and Securities Exchange Act Release No. 80325 (March 29, 2017), 82 FR 16445 (April 4, 2017).

[5] National Stock Exchange, Inc. has been renamed NYSE National, Inc. *See* Securities Exchange Act Release No. 79902 (January 30, 2017), 82 FR 9258 (February 3, 2017).

[6] 15 U.S.C. 78k–1.

[7] 17 CFR 242.608.

[8] *See* Letter from the Participants to Brent J. Fields, Secretary, Commission, dated September 30, 2014; and Letter from Participants to Brent J. Fields, Secretary, Commission, dated February 27, 2015. On December 24, 2015, the Participants submitted an amendment to the CAT NMS Plan. *See* Letter from Participants to Brent J. Fields, Secretary, Commission, dated December 23, 2015.

[9] Securities Exchange Act Release No. 77724 (April 27, 2016), 81 FR 30614 (May 17, 2016).

[10] Securities Exchange Act Rel. No. 79318 (November 15, 2016), 81 FR 84696 (November 23, 2016) (''Approval Order'').

[11] The Plan also serves as the limited liability company agreement for the Company.

implemented by the Participants (''CAT Fees'').[12] The Participants are required to file with the SEC under Section 19(b) of the Exchange Act any such CAT Fees applicable to Industry Members that the Operating Committee approves.[13] Accordingly, the Exchange has filed a proposed rule change with the SEC to adopt the Consolidated Audit Trail Funding Fees, which will require Industry Members that are Exchange members to pay the CAT Fees determined by the Operating Committee.[14] The Exchange submits this rule filing to adopt Rule 912 (Consolidated Audit Trail—Fee Dispute Resolution) to establish the procedures for resolving potential disputes related to CAT Fees charged to Industry Members. The proposed rules are described below.

(1) Definitions

Paragraph (a) of Proposed Rule 912 sets forth the definitions for Proposed Rule 912. Paragraph (a)(1) of Proposed Rule 912 states that, for purposes of Rule 912, the terms ''CAT NMS Plan'', ''Industry Member'', ''Operating Committee'', and ''Participant'' are defined as set forth in the Rule 900 (Consolidated Audit Trail—Definitions), and the term ''CAT Fee'' is defined as set forth in the Consolidated Audit Trail Funding Fees. In addition, the Exchange proposes to add paragraph (a)(2) to Proposed Rule 912. New paragraph (a)(2) would define the term ''Subcommittee'' to mean a subcommittee designated by the Operating Committee pursuant to the CAT NMS Plan. This definition is the same substantive definition as set forth in Section 1.1 of the CAT NMS Plan.

(2) Fee Dispute Resolution

Section 11.5 of the CAT NMS Plan requires Participants to adopt rules requiring that disputes with respect to fees charged to Industry Members pursuant to the CAT NMS Plan be determined by the Operating Committee or Subcommittee. Section 11.5 of the CAT NMS Plan also states that decisions by the Operating Committee or Subcommittee on such matters shall be binding on Industry Members, without prejudice to the right of any Industry Member to seek redress from the SEC pursuant to SEC Rule 608 or in any other appropriate forum. The Exchange proposes to adopt paragraph (b) of Proposed Rule 912. Paragraph (b) of Proposed Rule 912 states that disputes initiated by an Industry Member with respect to CAT Fees charged to such Industry Member pursuant to the Consolidated Audit Trail Funding Fees, including disputes related to the designated tier and the fee calculated pursuant to such tier, shall be resolved by the Operating Committee, or a Subcommittee designated by the Operating Committee, of the CAT NMS Plan, pursuant to the Fee Dispute Resolution Procedures adopted pursuant to the CAT NMS Plan and set forth in paragraph (c) of Proposed Rule 912. Decisions on such matters shall be binding on Industry Members, without prejudice to the rights of any such Industry Member to seek redress from the SEC or in any other appropriate forum.

The Operating Committee has adopted ''Fee Dispute Resolution Procedures'' governing the manner in which disputes regarding CAT Fees charged pursuant to the Consolidated Audit Trail Funding Fees will be addressed. These Fee Dispute Resolution Procedures, as they relate to Industry Members, are set forth in paragraph (c) of Proposed Rule 912. Specifically, the Fee Dispute Resolution Procedures provide the procedure for Industry Members that dispute CAT Fees charged to such Industry Member pursuant to one or more of the Participants' Consolidated Audit Trail Funding Fees Rules, including disputes related to the designated tier and the fee calculated pursuant to such tier, to apply for an opportunity to be heard and to have the CAT Fees charged to such Industry Member reviewed. The Procedures are modeled after the adverse action procedures adopted by various exchanges,[15] and will be posted on the Web site for the CAT NMS Plan Web site.[16]

Under these Procedures, an Industry Member that disputes CAT Fees charged to such Industry Member and that desires to have an opportunity to be heard with respect to such disputed CAT Fees must file a written application with the Company within 15 business days after being notified of such disputed CAT Fees. The application must identify the disputed CAT Fees, state the specific reasons why the applicant takes exception to such CAT Fees, and set forth the relief sought. In addition, if the applicant intends to submit any additional documents, statements, arguments or other material in support of the application, the same should be so stated and identified.

The Company will refer applications for hearing and review promptly to the Subcommittee designated by the Operating Committee pursuant to Section 4.12 of the CAT NMS Plan with responsibility for conducting the reviews of CAT Fee disputes pursuant to these Procedures. This Subcommittee will be referred to as the Fee Review Subcommittee. The members of the Fee Review Subcommittee will be subject to the provisions of Section 4.3(d) of the CAT NMS Plan regarding recusal and Conflicts of Interest. The Fee Review Subcommittee will keep a record of the proceedings.

The Fee Review Subcommittee will hold hearings promptly. The Fee Review Subcommittee will set a hearing date. The parties to the hearing shall furnish the Fee Review Subcommittee with all materials relevant to the proceedings at least 72 hours prior to the date of the hearing. Each party will have the right to inspect and copy the other party's materials prior to the hearing.

The parties to the hearing will consist of the applicant and a representative of the Company who shall present the reasons for the action taken by the Company that allegedly aggrieved the applicant. The applicant is entitled to be accompanied, represented and advised by counsel at all stages of the proceedings.

The Fee Review Subcommittee will determine all questions concerning the admissibility of evidence and will otherwise regulate the conduct of the hearing. Each of the parties will be permitted to make an opening statement, present witnesses and documentary evidence, cross examine opposing witnesses and present closing arguments orally or in writing as determined by the Fee Review Subcommittee. The Fee Review Subcommittee also will have the right to question all parties and witnesses to the proceeding. The Fee Review Subcommittee must keep a record of the hearing. The formal rules of evidence will not apply.

The Fee Review Subcommittee must set forth its decision in writing and send the written decision to the parties to the proceeding. Such decisions will contain the reasons supporting the conclusions of the Fee Review Subcommittee.

The decision of the Fee Review Subcommittee will be subject to review by the Operating Committee either on its own motion within 20 business days after issuance of the decision or upon written request submitted by the applicant within 15 business days after

[12] Section 11.1(b) of the CAT NMS Plan.

[13] *Id.*

[14] *See* Securities Exchange Act Release No. 80713 (May 18, 2017), 82 FR 23956 (May 24, 2017) (SR–GEMX–2017–17).

[15] *See, e.g.,* Chapter X of BATS BZX Exchange, Inc. (Adverse Action); and Chapter X of NYSE National, Inc. (Adverse Action).

[16] The CAT NMS Plan Web site is *www.catnmsplan.com.*

issuance of the decision. The applicant's petition must be in writing and must specify the findings and conclusions to which the applicant objects, together with the reasons for such objections. Any objection to a decision not specified in writing will be considered to have been abandoned and may be disregarded. Parties may petition to submit a written argument to the Operating Committee and may request an opportunity to make an oral argument before the Operating Committee. The Operating Committee will have sole discretion to grant or deny either request.

The Operating Committee will conduct the review. The review will be made upon the record and will be made after such further proceedings, if any, as the Operating Committee may order. Based upon such record, the Operating Committee may affirm, reverse or modify, in whole or in part, the decision of the Fee Review Subcommittee. The decision of the Operating Committee will be in writing, will be sent to the parties to the proceeding and will be final.

The Procedures state that a final decision regarding the disputed CAT Fees by the Operating Committee, or the Fee Review Subcommittee (if there is no review by the Operating Committee), must be provided within 90 days of the date on which the Industry Member filed a written application regarding disputed CAT Fees with the Company. The Operating Committee may extend the 90-day time limit at its discretion.

In addition, the Procedures state that any notices or other documents may be served upon the applicant either personally or by leaving the same at its, his or her place of business or by deposit in the United States post office, postage prepaid, by registered or certified mail, addressed to the applicant at its, his or her last known business or residence address. The Procedures also state that any time limits imposed under the Procedures for the submission of answers, petitions or other materials may be extended by permission of the Operating Committee. All papers and documents relating to review by the Fee Review Subcommittee or the Operating Committee must be submitted to the Fee Review Subcommittee or Operating Committee, as applicable.

The Procedures also note that decisions on such CAT Fee disputes made pursuant to these Procedures will be binding on Industry Members, without prejudice to the rights of any such Industry Member to seek redress from the SEC or in any other appropriate forum.

Finally, an Industry Member that files a written application with the Company regarding disputed CAT Fees in accordance with these Procedures is not required to pay such disputed CAT Fees until the dispute is resolved in accordance with these Procedures, including any review by the SEC or in any other appropriate forum. For these purposes, the disputed CAT Fees means the amount of the invoiced CAT Fees that the Industry Member has asserted pursuant to these Procedures that such Industry Member does not owe to the Company. The Industry Member must pay any invoiced CAT Fees that are not disputed CAT Fees when due as set forth in the original invoice.

Once the dispute regarding CAT Fees is resolved pursuant to these Procedures, if it is determined that the Industry Member owes any of the disputed CAT Fees, then the Industry Member must pay such disputed CAT Fees that are owed as well as interest on such disputed CAT Fees from the original due date (that is, 30 days after receipt of the original invoice of such CAT Fees) until such disputed CAT Fees are paid at a per annum rate equal to the lesser of (i) the Prime Rate plus 300 basis points, or (ii) the maximum rate permitted by applicable law.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6(b)(5) of the Act,[17] which requires, among other things, that the Exchange rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest, and not designed to permit unfair discrimination between customers, issuers, brokers and dealer [sic], and Section 6(b)(4) of the Act,[18] which requires that Exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using its facilities.

The Exchange believes that this proposal is consistent with the Act because it implements, interprets or clarifies Section 11.5 of the Plan, and is designed to assist the Exchange and its Industry Members in meeting regulatory obligations pursuant to the Plan. In approving the Plan, the SEC noted that the Plan ''is necessary and appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanism of a national market system, or is otherwise in furtherance of the purposes of the Act.'' [19] To the extent that this proposal implements, interprets or clarifies the Plan and applies specific requirements to Industry Members, the Exchange believes that this proposal furthers the objectives of the Plan, as identified by the SEC, and is therefore consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

Section 6(b)(8) of the Act [20] requires that Exchange rules not impose any burden on competition that is not necessary or appropriate. 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 notes that the proposed rule change implements Section 11.5 of the CAT NMS Plan approved by the Commission, and is designed to assist the Exchange in meeting its regulatory obligations pursuant to the Plan. Similarly, all national securities exchanges and FINRA are proposing this proposed rule to implement the requirements of the CAT NMS Plan. Therefore, this is not a competitive rule filing and, therefore, it does not raise competition issues between and among the exchanges and FINRA.

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

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

(A) By order approve or disapprove such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

[17] 15 U.S.C. 78f(b)(5).

[18] 15 U.S.C. 78f(b)(4).

[19] Approval Order at 84697.

[20] 15 U.S.C. 78f(b)(8).

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–2017–24 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–2017–24. 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–2017–24, and should be submitted on or before July 14, 2017.

[21] 17 CFR 200.30–3(a)(12).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[21]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–13101 Filed 6–22–17; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE., Washington, DC 20549–2736

Extension:

Form F–4. SEC File No. 270–288, OMB Control No. 3235–0325

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget this request for extension of the previously approved collection of information discussed below.

Form F–4 (17 CFR 239.34) is used by foreign issuers to register securities in business combinations, reorganizations and exchange offers pursuant to federal securities laws pursuant to the Securities Act of 1933 (15 U.S.C. 77a *et seq.*). The information collected is intended to ensure that the information required to be filed by the Commission permits verification of compliance with securities law requirements and assures the public availability of such information. The information provided is mandatory and all information is made available to the public upon request. Form F–4 takes approximately 1,457 hours per response and is filed by approximately 39 respondents. We estimate that 25% of the 1,457 hours per response (364.25 hours) is prepared by the registrant for a total annual reporting burden of 14,206 hours (364.25 hours per response × 39 responses).

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

The public may view the background documentation for this information collection at the following Web site, *www.reginfo.gov* . Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: *Shagufta_Ahmed@omb.eop.gov;* and (ii) Pamela Dyson, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549 or send an email to: *PRA_Mailbox@sec.gov.* Comments must be submitted to OMB within 30 days of this notice.

Dated: June 19, 2017.

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–13140 Filed 6–22–17; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE., Washington, DC 20549–2736.

Extension:

Rule 163. SEC File No. 270–556, OMB Control No. 3235–0619.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget this request for extension of the previously approved collection of information discussed below.

Rule 163 (17 CFR 230.163) provides an exemption from section 5(c) (15 U.S.C. 77e(c)) under the Securities Act of 1933 (15 U.S.C. 77a *et seq.*) for certain communications by or on behalf of a well-known seasoned issuer. The information filed under Rule 163 is publicly available. We estimate that it takes approximately 0.24 burden hours per response to provide the information required under Rule 163 and is filed by approximately 53 issuers. We estimate that 25% of the 0.24 hours per response (0.06 hours) is prepared by the issuer for an annual reporting burden of 3 hours (0.06 hours per response × 53 responses).

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

The public may view the background documentation for this information collection at the following Web site, *www.reginfo.gov* . Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission,

Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: *Shagufta_Ahmed@omb.eop.gov;* and (ii) Pamela Dyson, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549 or send an email to: *PRA_Mailbox@sec.gov.* Comments must be submitted to OMB within 30 days of this notice.

Dated: June 19, 2017.

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–13142 Filed 6–22–17; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80972; File No. SR–Phlx–2017–39]

Self-Regulatory Organizations; NASDAQ PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rule 1049, Communications to Customers

June 19, 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 June 8, 2017, NASDAQ PHLX LLC (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 1049, Communications to Customers. The proposed rule change is intended to update and modernize Rule 1049, to be retitled ''Options Communications,'' and to conform it to rules of other options exchanges regarding communications to customers. It makes both organizational and substantive changes that have previously been made by other options exchanges.

The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaqphlx.cchwallstreet.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 Exchange is a party to a 17d–2 agreement with the Financial Industry Regulatory Authority, Inc. (''FINRA'') and other options exchanges (the ''Options Multiparty 17d–2 Agreement'' or the ''17d–2 Agreement'').[3] The 17d–2 Agreement allocates regulatory responsibilities with respect to broker-dealers, and persons associated therewith, that are members of more than one Participant (the ''Common Members'') and conduct a public business for compliance with specified common rules relating to the conduct by broker-dealers and associated persons of accounts for listed options, index warrants, currency index warrants, and currency warrants (collectively, ''Covered Securities''). Pursuant to the 17d–2 Agreement, FINRA is the Designated Options Examining Authority (''DOEA'') for its broker-dealer members that also are members of Phlx. Thus, FINRA has certain examination and enforcement responsibilities relating to compliance by Common Members with the rules of Phlx that are substantially similar to the rules of FINRA (the ''Common Rules'') identified in the 17d–2 Agreement.

Phlx Rule 1049, Communications to Customers, is not currently a Common Rule under the 17d–2 Agreement. Rule 1049 sets forth a range of requirements applicable to members, member organizations, or persons associated with a member organization utilizing any advertisement, educational material, sales literature or other communications to any customer or member of the public. The purpose of this proposed rule change is to update, clarify and conform Rule 1049 to the rules of FINRA and other options exchanges regarding options communications to customers that are included as Common Rules under the 17d–2 Agreement, so that it too may qualify as a Common Rule under the 17d–2 Agreement. The proposed rule change would make both organizational and substantive changes that have previously been made by other exchanges in order to conform to FINRA rules.[4]

Specifically, this proposed rule change is based upon, and makes changes that have previously been made to, Chicago Board Options Exchange (''CBOE'') Rule 9.21 (a Common Rule) over the past ten years, on a cumulative basis, by SR–CBOE–2013–043;[5] SR–CBOE–2010–035 [6] and SR–CBOE–2007–30.[7] Current Phlx Rule 1049 is very similar in content and organization to CBOE Rule 9.21 as it existed prior to approval of SR–CBOE–2007–30. Upon implementation of the amendments proposed herein, Exchange Rule 1049 would once again track CBOE Rule 9.21 nearly word for word.[8] The

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Agreement by and among Bats BZX Exchange, Inc., BOX Options Exchange, LLC, the Chicago Board Options Exchange, Incorporated, C2 Options Exchange, Incorporated, the International Securities Exchange, LLC, Financial Industry Regulatory Authority, Inc., Miami International Securities Exchange, LLC, the NYSE MKT LLC, the NYSE Arca, Inc., The NASDAQ Stock Market LLC, NASDAQ BX, Inc., the NASDAQ PHLX LLC, ISE Gemini, LLC, Bats EDGX Exchange, Inc., ISE Mercury, LLC and MIAX PEARL, LLC, Pursuant to Rule 17d–2 under the Securities Exchange Act of 1934. *See also* Securities Exchange Act Release No. 79929 (February 2, 2017), 82 FR 9757 (February 8, 2017).

[4] *See, e.g.,* FINRA Rule 2220, CBOE Rule 9.21, MIAX Rule 1322, and ISE Rule 623.

[5] *See* Securities Exchange Act Release 69807 (June 20, 2013), 78 FR 38423 (June 26, 2013) (SR–CBOE–2013–043)

[6] *See* Securities Exchange Act Release No. 62034 (May 4, 2010), 75 FR 26303 (May 10, 2010) (SR–CBOE–2010–35). This was an interim rule change relating to market letters which are no longer addressed in CBOE rules and are thus not addressed in this proposed rule change.

[7] *See* Securities Exchange Act Release No. 58823 (October 21, 2008), 73 FR 63747 (October 28, 2008) (SR–CBOE–2007–30).

[8] The only substantive difference between CBOE Rule 9.21 and proposed Phlx Rule 1049 is with respect to index warrants. Current Phlx Rule 1049 states at section (f) that the provisions of Rule 1049 are applicable to index warrants, and at Commentary .05 that, for purposes of the rule the term ''option'' is deemed to include index warrants and the term ''The Options Clearing Corporation'' is deemed to mean the issuer(s) of such warrants. CBOE Rule 9.21 does not contain comparable provisions. No changes are proposed with respect to these provisions. Provisions relating to index warrants were added to Rule 1049 by Phlx in 1994 as part of a comprehensive proposed rule change establishing rules for the listing and trading of stock index, currency and currency index warrants. *See*

amendments, if adopted, would provide a more uniform approach to communications to customers regarding standardized options. The proposed changes are discussed below.

Redesignation of Rule 1049(e) to Proposed Rule 1049(a) and New Definitions

Rule 1049(e) currently defines terms used in Rule 1049. Phlx proposes to redesignate paragraph (e) as paragraph (a). Phlx also proposes to delete the existing definitions of ''advertisement'',[9] ''educational material'' [10] and ''sales literature'',[11] and to add new definitions of ''correspondence'', ''institutional communication'' and ''retail communication'' which collectively would constitute ''options communications'' under the revised rule. These new terms are necessary because FINRA, in reframing its customer communications rule, previously adopted these new terms to describe various categories of communications. The term ''correspondence'' would include any written (including electronic) communication distributed or made available to 25 or fewer retail customers within any 30 calendar-day period. The term ''institutional communication'' would include any written (including electronic) communication concerning options that is distributed or made available only to institutional investors, but would not include a member's internal communications.[12] Finally, ''retail communication'' would be defined to mean any written (including electronic) communication that is distributed or made available to more than 25 retail investors within any 30 calendar-day period.

The Exchange proposes corresponding amendments throughout Rule 1049 to the provisions referring to advertisement, educational material and sales literature, including deletion of Commentary .02A of Rule 1049, which outlines what is permitted in an advertisement, and Commentary .03 of Rule 1049, which concerns the content of educational material.

Relocation of Rule 1049(a) to Proposed Rule 1049(d)

Rule 1049(a) currently contains an outline of the ''General Rule'' for options communications. Phlx proposes to redesignate Rule 1049(a) as Rule 1049(d), and to incorporate limitations on the use of options communications currently contained in Commentary .01 of Rule 1049 into proposed Rule 1049(d).[13] In addition, proposed Rule 1049(d)(iii) would amend current Rule 1049(a)(iii) by clarifying the types of cautionary statements and caveats that are prohibited. The Exchange is proposing to relocate to Rule 1049(d), and slightly modify, language currently found in Rule 1049 Commentary .01 governing acceptable content of options communications. Section A of Rule 1049 Commentary .04 currently sets forth the requirement that ''sales literature'' shall state that supporting documentation for any claims, comparisons, recommendations, statistics or other technical data, will be supplied upon request. The Exchange proposes to redesignate Section A of Rule 1049 Commentary .04 as proposed Rule 1049(d)(vii), which would have the effect of making those conditions applicable to options communications as defined in proposed Rule 1049 rather than to the deleted term ''sales literature.'' Proposed Rule 1049(d)(viii) would provide that certain aspects of the General Rule set forth in paragraphs (vi) and (vii) are inapplicable to institutional communications.

Proposed Amendments to Rule 1049(b)

Phlx proposes to amend Rule 1049(b) to include the types of communications proposed to be added to the definition of ''options communications'' in proposed Rule 1049(a). Current Rule 1049(b) which imposes an obligation to obtain advance approval by a Registered Options Principal (''ROP'') for most options communications, would be replaced by new language set forth in Rule 1049(b)(i)–(iv). Rule 1049(b)(i) would preserve this requirement with respect to retail communications. However, proposed Rule 1049(b)(ii) would remove correspondence, as defined in Rule 1049(a), from the pre-approval requirement. All correspondence would, however, be subject to general supervision and review requirements.[14] Additionally, proposed Rule 1049(b)(iii) would remove institutional communications, as defined in Rule 1049(a), from the pre-approval requirement, but would require each member or member organization to establish written procedures that are appropriate to its business, size, structure, and customers for review by a ROP of institutional communications used by the member or member organization.

Finally, proposed Rule 1049(b)(iv) would require copies of the options communications to be retained by the member or member organization in accordance with Rule 17a–4 [15] under the Securities Exchange Act of 1934. The names of the persons who prepared the options communications, the names of the persons who approved the options communications, and the source of any recommendations contained therein would also be required to be retained by the member or member organization and kept in the form and for the time periods required for options communications by Rule 17a–4.

Proposed Amendments to Rule 1049(c)

Rule 1049(c) currently requires members to obtain approval from the Exchange for every advertisement and all educational material. This requirement applies regardless of whether the options communications are used before or after the delivery of a current ODD. Phlx proposes to amend this provision to require Exchange approval only with respect to retail communications of a member or member organization pertaining to standardized options that is not accompanied or preceded by the applicable current ODD. Such retail communications would be required to be submitted at least ten calendar days prior to use (or such shorter period as the Exchange may allow in particular instances). The Exchange pre-approval requirement for options

Securities Exchange Act Release No. 36167 (August 29, 1995), 60 FR 46667 (September 7, 1995).

[9] The term ''advertisement'' is currently defined in Rule 1049(e) as including any sales material that reaches a mass audience through public media such as newspapers, periodicals, magazines, radio, television, telephone recording, motion picture, audio or video device, telecommunications device, billboards, signs, or through written communications to customers or the public not required to be accompanied or preceded by one or more current Options Disclosure Documents.

[10] The term ''educational material'' is currently defined in Rule 1049(e)(ii) as including any explanatory material distributed or made generally available to customers or the public that is limited to information describing the general nature of the standardized options markets or one or more strategies.

[11] The term ''sales literature'' is currently defined in Rule 1049(e)(iii) as including any written communication (not defined as an ''advertisement'' or as ''educational material'') distributed or made available to customers or the public that contains any analysis, performance report, projection or recommendation with respect to options, underlying securities or market conditions, any standard forms of worksheets, or any seminar text which pertains to options and which is communicated to customers or the public at seminars, lectures or similar such events, or any Exchange-produced materials pertaining to options.

[12] The term institutional investor would mean any qualified investor as defined in Section 3(a)(54) of the Securities Exchange Act of 1934.

[13] Current Rule 1049(d), which limits the dissemination of written materials respecting options to persons who have not received the current Options Disclosure Document (''ODD''), would be deleted. Rules governing communications prior to or after delivery of the current ODD would be set forth in new Rule 1049(e).

[14] *See* Phlx Rule 1025.

[15] 17 CFR 240.17a–4.

communications used *subsequent* to the delivery of the ODD is being eliminated because the ODD is designed to alert the customer to the characteristics and risks associated with trading in options.

Rule 1049(c) would also be amended to delete references to ''advertisements'' and ''educational material,'' which as discussed above would no longer be defined, and to include instead the types of communications added to the definition of ''options communications'' in proposed Rule 1049(a). The Exchange is also proposing to add language which would further exempt the ODD and a prospectus from Exchange review as these documents have other further requirements under the Securities Act of 1933.

Proposed Rule 1049(e)

Proposed new Rule 1049(e) would set forth (i) standards for options communications that are not preceded or accompanied by an ODD and (ii) standards for options communications used prior to delivery of an ODD. These requirements generally would clarify and restate the requirements contained in the current Commentary .02A of Rule 1049 which, as noted above, would be deleted.

Proposed Amendments to Rule 1049 Commentary Sections

Proposed new Commentary .01 would include and amend the provisions found in current Section A of Commentary .02 regarding how the Rule 1049(e)(i)(B) requirement that options communications contain contact information for obtaining a copy of the ODD may be satisfied. As noted above, the current provisions of Commentary .01 regarding limitations on the use of options communications are proposed to be incorporated into proposed Rule 1049(d).[16]

Proposed Commentary .02, Projections, would be revised to amend and include the provisions currently located in Section B of Commentary .04, which pertain to standards for ''Sales Literature'' that contains projected performance figures. These provisions would be amended to apply to options communications rather than to the deleted defined term Sales Literature. As previously noted, the provisions of Commentary .02 that outline what is permitted in an advertisement are proposed to be deleted, and the provisions relating to standards for options communications used prior to delivery of the ODD are proposed to be incorporated into proposed Rule 1049(e)(ii). Proposed Rule 1049(e)(i) would limit all options communications that are not preceded or accompanied by the ODD.

Proposed Commentary .03, Historical Performance, would be revised to amend and include the provisions currently found in Section C of Commentary .04 pertaining to standards for sales literature that contains historical performance figures. These provisions would be amended to apply to options communications rather than to the deleted defined term sales literature. Existing Commentary .03, which concerns the content of educational material (another defined term proposed to be deleted), is proposed to be deleted as noted above. Proposed Rule 1049(e)(i) would limit all options communications that are not preceded or accompanied by the ODD.

Proposed Commentary .04, Options Programs, would contain the provisions of current Section D of Commentary .04, and would require communications regarding an options program (*i.e.,* an investment plan employing the systematic use of one or more options strategies), the cumulative history or unproven nature of the program and its underlying assumptions to be disclosed. Commentary .04 currently sets forth the standards applicable to ''Sales Literature.'' The Exchange proposes to delete existing Sections E, F and G of Commentary .04 dealing with worksheets and recordkeeping with respect to communications that portray performance of past recommendations or actual transactions, in favor of the new customer communications rules applicable to options communications generally that are consistent with those of other options exchanges.

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 Section 6(b)(5) of the Act,[18] 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 to protect investors and the public interest, by conforming Rule 1049 more closely to the Common Rules regarding options communications under the 17d–2 Agreement. By doing so, the proposal also furthers the objectives of Section 6(b)(1)[19] of the Act as the amendments would better enable the Exchange to be so organized as to have the capacity to be able to carry out the purposes of the Act and to comply, and to enforce compliance by its members with the provisions of the Act, the rules and regulations thereunder, and the rules of the Exchange.

In its most recent approval order for the 17d–2 Agreement[20] the Commission noted that Section 19(g)(1) of the Act,[21] among other things, requires every self-regulatory organization (''SRO'') registered as either a national securities exchange or national securities association to examine for, and enforce compliance by, its members and persons associated with its members with the Act, the rules and regulations thereunder, and the SRO's own rules, unless the SRO is relieved of this responsibility pursuant to Section 17(d)[22] or Section 19(g)(2)[23] of the Act.

Without this relief, the statutory obligation of each individual SRO could result in a pattern of multiple examinations of broker-dealers that maintain memberships in more than one SRO (''common members''). In its decision, the Commission noted that such regulatory duplication would add unnecessary expenses for common members and their SROs. Finally, it observed that under paragraph (c) of Rule 17d–2, the Commission may declare joint plans for the allocation of regulatory responsibilities with respect to their common members effective if, after providing for notice and comment, it determines that the plan is necessary or appropriate in the public interest and for the protection of investors, to foster cooperation and coordination among the SROs, to remove impediments to, and foster the development of, a national market system and a national clearance and settlement system, and is in conformity with the factors set forth in Section 17(d) of the Act.

The 17d–2 Plan covering the Common Rules is designed to eliminate regulatory duplication and unnecessary expense for common members and the SROs including Phlx, with respect to the Common Rules. By amending Rule 1049 so that it, like CBOE Rule 9.21, is ''substantially similar'' to the FINRA rules of similar purpose and therefore eligible to become a Common Rule for purposes of the 17d–2 Agreement, the Exchange is eliminating regulatory duplication and unnecessary expense as contemplated by Commission Rule 17d–

[16] Commentary .01 Section A contains an example which is not being incorporated into proposed Rule 1049(d), as it is not found in CBOE Rule 9.21(d).

[17] 15 U.S.C. 78f(b).

[18] 15 U.S.C. 78f(b)(5).

[19] 15 U.S.C. 78f(b)(1).

[20] *See* Securities and Exchange Act Release No. 79929 (February 2, 2017).

[21] 15 U.S.C. 78s(g)(1).

[22] 15 U.S.C. 78q(d)(1).

[23] 15 U.S.C. 78s(g)(2).

2, and facilitating more efficient regulatory compliance by its members.[24]

Additionally, the modernization of Rule 1049 promotes just and equitable principles of trade, removes impediments to and perfects the mechanism of a free and open market and a national market system, and protects investors and the public interest, because it is designed to alert members to requirements with respect to options communications and to bring clarity to its members and the public regarding the Exchange's options communications rule. The Exchange therefore believes that the proposed rule change will help ensure that investors are protected from potentially false or misleading communications with the public distributed by Exchange members.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the amendments to Rule 1049 proposed herein will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act inasmuch as the amendments conform Rule 1049 more closely to the Common Rules regarding options communications to customers under the 17d–2 Agreement.

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[25] and subparagraph (f)(6) of Rule 19b–4 thereunder.[26]

[24] CBOE Rule 9.21 and FINRA Rules 2360(b)(18) and 2354 are designated as Common Rules under the 17d–2 Agreement.

[25] 15 U.S.C. 78s(b)(3)(A)(iii).

[26] 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.

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–Phlx–2017–39 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–Phlx–2017–39. 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–Phlx–2017–39 and should be submitted on or before July 14, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[27]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–13103 Filed 6–22–17; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE., Washington, DC 20549–2736.

Extension:

Rule 701. SEC File No. 270–306, OMB Control No. 3235–0522.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget this request for extension of the previously approved collection of information discussed below.

Rule 701(17 CFR 230.701) under the Securities Act of 1933 (''Securities Act'') (15 U.S.C. 77a *et seq.*) provides an exemption for certain issuers from the registration requirements of the Securities Act for limited offerings and sales of securities issued under compensatory benefit plans or contracts. The purpose of Rule 701 is to ensure that a basic level of information is available to employees and others when substantial amounts of securities are issued in compensatory arrangements. Information provided under Rule 701 is mandatory. We estimate that approximately 300 companies annually rely on the Rule 701 exemption and that it takes 2 hours to prepare each response. We estimate that 25% of the 2 hours per response (0.5 hours) is prepared by the company for a total annual reporting burden of 150 hours (0.5 hours per response × 300 responses).

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

[27] 17 CFR 200.30–3(a)(12).

The public may view the background documentation for this information collection at the following Web site, *www.reginfo.gov* . Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: *Shagufta_Ahmed@omb.eop.gov;* and (ii) Pamela Dyson, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549 or send an email to: *PRA_Mailbox@sec.gov.* Comments must be submitted to OMB within 30 days of this notice.

Dated: June 19, 2017.

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–13144 Filed 6–22–17; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80965; File No. SR–MRX–2017–07]

Self-Regulatory Organizations; Nasdaq MRX, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Chapter 19

June 19, 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 June 6, 2017, Nasdaq MRX, LLC (''MRX'' 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. 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 Chapter 19 to notify members of a systems issue related to allocations made pursuant to Supplementary Material .02(a)–(b) to Rule 1901.

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 the proposed rule change is to amend Chapter 19 to notify members of a systems issue related to allocations made pursuant to Supplementary Material .02(a)–(b) to Rule 1901 (''Flash auction''). Pursuant to Supplementary Material .02 to Rule 1901, when the automatic execution of an incoming order would result in an impermissible Trade Through,[3] such order is exposed at the current national best bid or offer (''NBBO'') to all members, and members are given an opportunity to enter responses up to the size of the order being exposed. Supplementary Material .02(a)–(b) to Rule 1901 provides that interest executed in the Flash auction is allocated in price priority, and, at the same price, Priority Customer orders will be executed first in time priority and then all other interest (orders, quotes, and responses) will be allocated pro-rata based on size. Currently, however, the system is erroneously providing the Primary Market Maker (''PMM'') an enhanced allocation after Priority Customer Orders on the book, and ahead of Responses, Professional Orders, and other market maker quotes. Specifically, the PMM is being erroneously given participation rights in a Flash auction pursuant to Supplementary Material .01(b)–(c) to Rule 713, which results in the PMM receiving a potentially larger share of the order to be executed. That is, if the PMM is quoting at the best price and the conditions in Supplementary Material .01(b)–(c) to Rule 713 are satisfied, the PMM is given participation rights equal to the greater of (i) the proportion of the total size at the best price represented by the size of its quote, or (ii) sixty percent (60%) of the contracts to be allocated if there is only one (1) other Professional Order or market maker quotation at the best price, forty percent (40%) if there are two (2) other Professional Orders and/or market maker quotes at the best price, and thirty percent (30%) if there are more than two (2) other Professional Orders and/or market maker quotes at the best price. Alternatively, orders for five (5) contracts or fewer will be executed first by the PMM, if he is present at that price.

This enhanced allocation was intended for the PMM when orders are allocated in the regular market, and not for the allocation of an order exposed pursuant to Supplementary Material .02 to Rule 1901 (*i.e.,* the Flash auction). The Exchange has notified members and the Commission of this systems issue pursuant to Regulation SCI. The purpose of the proposed rule change is to provide additional notification to members by noting in Chapter 19 of the Exchange's rulebook the discrepancy between the allocation described in the rule and the allocation currently being given by the Exchange's trading system. The Exchange is currently migrating its trading system to the Nasdaq INET architecture, and the allocation issue will be resolved as symbols start trading on INET in Q3 2017. In the interim, the Exchange proposes to add language to Chapter 19 to notify members that until such time as symbols are migrated to INET, Flash auction allocations pursuant to Supplementary Material .02(a)–(b) to Rule 1901 will not be provided as described in that rule. Instead, PMM quotes will be given a Flash auction allocation pursuant to Supplementary Material .01(b)–(c) to Rule 713 after Priority Customer Orders on the book, and ahead of Responses, Professional Orders, and other market maker quotes, until such time as symbols are migrated to the INET trading system. The Exchange believes that this language will reduce member confusion regarding how allocations will be processed prior to the resolution of this systems issue.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.[4]

[3] ''Trade-Through'' means a transaction in an option series at a price that is lower than a Protected Bid or higher than a Protected Offer. *See* Rule 1900(q).

[4] 15 U.S.C. 78f(b).

In particular, the proposal is consistent with Section 6(b)(5) of the Act,[5] because is designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanisms 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 is consistent with the protection of investors and the public interest because the proposed rule language more accurately reflects the way contracts will be allocated in the Flash auction until the systems issue is resolved. Due to a systems issue, allocations in the Flash auction do not take place in the manner described in Supplementary Material .02(a)–(b) to Rule 1901. The proposed rule change makes this clear in the Exchange's rules, and supplements notifications given to members and the Commission pursuant to Regulation SCI. While the Exchange intends to allocate contracts in the Flash auction as described in Supplementary Material .02(a)–(b) to Rule 1901, the Exchange is taking this temporary measure to ensure that members are properly notified of the current system behavior. The proposed rule change does not make any permanent changes to the Exchange's treatment of Flash auction allocations, which will be processed correctly when the Exchange migrates its trading system to INET in Q3 2017. The Exchange believes that the proposed rule change will promote just and equitable principles of trade since it is a temporary change, and is designed solely to provide additional notification and clarity to members of the Flash auction allocation issue. The Exchange intends to amend the manner in which the system operates to conform to the current rule text as symbols migrate to INET in Q3 2017.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[6] the Exchange does not believe that the proposed rule change will impose any burden on intermarket or intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is designed to more accurately reflect the way the trading system allocates contracts in the Flash auction today, and is not intended to be a permanent rule of the Exchange. The Flash auction allocation will be corrected with the migration of the Exchange to INET technology, and the proposed rule change is being filed solely to provide additional notice to members in the interim. The proposed rule change is therefore not designed to impose any significant burden on competition.

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[7] and subparagraph (f)(6) of Rule 19b–4 thereunder.[8]

A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative for 30 days after the date of filing. However, Rule 19b–4(f)(6)(iii)[9] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. In its filing with the Commission, the Exchange requests that the Commission waive the 30-day operative delay. The Exchange represents that it filed the proposed rule change to provide additional notice to members concerning the current handling of orders and quotes executed in a Flash auction, and that waiver of the operative delay is consistent with the protection of investors and the public interest as it will allow the Exchange to immediately reflect in its rules the allocation methodology currently in place for Flash auctions. The Exchange further represents that the allocation methodology will be fixed once the Exchange migrates to the INET platform. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission designates the proposed rule change operative upon filing.[10]

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–MRX–2017–07 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–MRX–2017–07. 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

[5] 15 U.S.C. 78f(b)(5).

[6] 15 U.S.C. 78f(b)(8).

[7] 15 U.S.C. 78s(b)(3)(A)(iii).

[8] 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.

[9] 17 CFR 240.19b–4(f)(6)(iii).

[10] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

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–MRX–2017–07 and should be submitted on or before July 14, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–13096 Filed 6–22–17; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80969; File No. SR–BOX–2017–21]

Self-Regulatory Organizations; BOX Options Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Fee Schedule To Make Several Non-Substantive Changes

June 19, 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 June 7, 2017, BOX Options Exchange LLC (the ''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 self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule 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 Fee Schedule to make several non-substantive changes. The text of the proposed rule change is available from the principal office of the Exchange, at the Commission's Public Reference Room and also on the Exchange's Internet Web site at *http://boxexchange.com.*

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 these statements may be examined at the places specified in Item IV below. The self-regulatory organization 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 Exchange proposes to make certain clarifying and non-substantive changes to its fee schedule in order to improve formatting and increase overall readability. The Exchange notes that these changes are purely clerical and do not substantively amend any fee or rebate, nor do they alter the manner in which the Exchange assesses fees or calculates rebates. The proposed changes are simply intended to increase overall readability and improve formatting. Specifically, the Exchange proposes to add a title page and table of contents page to the fee schedule.

2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Act,[3] in general, and Section 6(b)(5) of the Act,[4] in particular, in that the proposed change is designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general protect investors and the public interest, by increasing the readability of BOX's Fee Schedule. Further, the Exchange notes that the proposed changes do not substantively amend any fee or rebate, nor do they alter the manner in which the Exchange assesses fees or calculates rebates. Finally, the Exchange believes that the proposed changes will make the fee schedule clearer and eliminate investor confusion, thereby removing impediments to and perfecting the mechanism of a free and open market and a national market system, and, in general, protecting investors and the public interest. As such, BOX believes the proposed rule change is in the public interest, and therefore, consistent with the Act.

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 the proposed change will not impose a burden on competition, as the changes are purely clerical and do not amend any fee or rebate within the BOX Fee Schedule.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the 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) of the Act[5] and Rule 19b–4(f)(6) thereunder.[6]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act[7] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii)[8] 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, which the Exchange states would immediately add clarity to the Fee Schedule. The Commission notes that the proposed rule change merely adopts a table of contents and makes formatting changes that are designed to increase overall readability of the fee schedule

[11] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78f(b).

[4] 15 U.S.C. 78f(b)(5).

[5] 15 U.S.C. 78s(b)(3)(A).

[6] 17 CFR 240.19b–4(f)(6). As required under Rule 19b–4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the text of 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.

[7] 17 CFR 240.19b–4(f)(6).

[8] 17 CFR 240.19b–4(f)(6)(iii).

and thus believes the waiver of the operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission hereby waives the operative delay and designates the proposal operative upon filing.[9]

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 necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule 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–BOX–2017–21 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–BOX–2017–21. 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, on official business days between the hours of 10:00 a.m. and 3:00 p.m., located at 100 F Street NE., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BOX–2017–21 and should be submitted on or before July 14, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–13100 Filed 6–22–17; 8:45 am]

BILLING CODE 8011–01–P

[9] 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).

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80967; File No. SR–PHLX–2017–47]

Self-Regulatory Organizations; NASDAQ PHLX LLC; Notice of Filing of a Proposed Rule Change To Adopt Rule 996A

June 19, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'' or ''Exchange Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 8, 2017, NASDAQ PHLX LLC (''Phlx'' 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. 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 proposal to adopt Rule 996A (Consolidated Audit Trail—Fee Dispute Resolution) to establish the procedures for resolving potential disputes related to CAT Fees charged to Industry Members.[3]

The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaqphlx.cchwallstreet.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

Bats BYX Exchange, Inc., Bats BZX Exchange, Inc., Bats EDGA Exchange, Inc., Bats EDGX Exchange, Inc., BOX Options Exchange LLC, C2 Options Exchange, Incorporated, Chicago Board Options Exchange, Incorporated, Chicago Stock Exchange, Inc., Financial Industry Regulatory Authority, Inc. (''FINRA''), Investors' Exchange LLC, Miami International Securities Exchange, LLC, MIAX PEARL, LLC, NASDAQ BX, Inc., Nasdaq GEMX, LLC, Nasdaq ISE, LLC, Nasdaq MRX, LLC,[4] NASDAQ PHLX LLC, The NASDAQ Stock Market LLC, New York Stock Exchange LLC, NYSE MKT LLC, NYSE Arca, Inc. and NYSE National, Inc.[5] (collectively, the ''Participants'') filed with the Commission, pursuant to Section 11A of the Exchange Act[6] and Rule 608 of Regulation NMS thereunder,[7] the National Market

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Unless otherwise specified, capitalized terms used in this rule filing are defined as set forth herein, or in the Consolidated Audit Trail Funding Fees Rule, the CAT Compliance Rule Series or in the CAT NMS Plan.

[4] ISE Gemini, LLC, ISE Mercury, LLC and International Securities Exchange, LLC have been renamed Nasdaq GEMX, LLC, Nasdaq MRX, LLC, and Nasdaq ISE, LLC, respectively. *See* Securities Exchange Act Release No. 80248 (March 15, 2017), 82 FR 14547 (March 21, 2017); Securities Exchange Act Release No. 80326 (March 29, 2017), 82 FR 16460 (April 4, 2017); and Securities Exchange Act Release No. 80325 (March 29, 2017), 82 FR 16445 (April 4, 2017).

[5] National Stock Exchange, Inc. has been renamed NYSE National, Inc. *See* Securities Exchange Act Release No. 79902 (January 30, 2017), 82 FR 9258 (February 3, 2017).

[6] 15 U.S.C. 78k–1.

[7] 17 CFR 242.608.

System Plan Governing the Consolidated Audit Trail (the ''CAT NMS Plan'' or ''Plan'').[8] The Participants filed the Plan to comply with Rule 613 of Regulation NMS under the Exchange Act. The Plan was published for comment in the **Federal Register** on May 17, 2016,[9] and approved by the Commission, as modified, on November 15, 2016.[10] The Plan is designed to create, implement and maintain a consolidated audit trail (''CAT'') that would capture customer and order event information for orders in NMS Securities and OTC Equity Securities, across all markets, from the time of order inception through routing, cancellation, modification, or execution in a single consolidated data source. The Plan accomplishes this by creating CAT NMS, LLC (the ''Company''), of which each Participant is a member, to operate the CAT.[11] Under the CAT NMS Plan, the Operating Committee of the Company (''Operating Committee'') has discretion to establish funding for the Company to operate the CAT, including establishing fees that the Participants will pay, and establishing fees for Industry Members that will be implemented by the Participants (''CAT Fees'').[12] The Participants are required to file with the SEC under Section 19(b) of the Exchange Act any such CAT Fees applicable to Industry Members that the Operating Committee approves.[13] Accordingly, the Exchange has filed a proposed rule change with the SEC to adopt the Consolidated Audit Trail Funding Fees, which will require Industry Members that are Exchange members to pay the CAT Fees determined by the Operating Committee.[14] The Exchange submits this rule filing to adopt Rule 996A (Consolidated Audit Trail—Fee Dispute Resolution) to establish the procedures for resolving potential disputes related to CAT Fees charged to Industry Members. The proposed rules are described below.

(1) Definitions

Paragraph (a) of Proposed Rule 996A sets forth the definitions for Proposed Rule 996A. Paragraph (a)(1) of Proposed Rule 996A states that, for purposes of Rule 996A, the terms ''CAT NMS Plan'', ''Industry Member'', ''Operating Committee'', and ''Participant'' are defined as set forth in the Rule 910A (Consolidated Audit Trail—Definitions), and the term ''CAT Fee'' is defined as set forth in the Consolidated Audit Trail Funding Fees. In addition, the Exchange proposes to add paragraph (a)(2) to Proposed Rule 996A. New paragraph (a)(2) would define the term ''Subcommittee'' to mean a subcommittee designated by the Operating Committee pursuant to the CAT NMS Plan. This definition is the same substantive definition as set forth in Section 1.1 of the CAT NMS Plan.

(2) Fee Dispute Resolution

Section 11.5 of the CAT NMS Plan requires Participants to adopt rules requiring that disputes with respect to fees charged to Industry Members pursuant to the CAT NMS Plan be determined by the Operating Committee or Subcommittee. Section 11.5 of the CAT NMS Plan also states that decisions by the Operating Committee or Subcommittee on such matters shall be binding on Industry Members, without prejudice to the right of any Industry Member to seek redress from the SEC pursuant to SEC Rule 608 or in any other appropriate forum. The Exchange proposes to adopt paragraph (b) of Proposed Rule 996A. Paragraph (b) of Proposed Rule 996A states that disputes initiated by an Industry Member with respect to CAT Fees charged to such Industry Member pursuant to the Consolidated Audit Trail Funding Fees, including disputes related to the designated tier and the fee calculated pursuant to such tier, shall be resolved by the Operating Committee, or a Subcommittee designated by the Operating Committee, of the CAT NMS Plan, pursuant to the Fee Dispute Resolution Procedures adopted pursuant to the CAT NMS Plan and set forth in paragraph (c) of Proposed Rule 996A. Decisions on such matters shall be binding on Industry Members, without prejudice to the rights of any such Industry Member to seek redress from the SEC or in any other appropriate forum.

The Operating Committee has adopted ''Fee Dispute Resolution Procedures'' governing the manner in which disputes regarding CAT Fees charged pursuant to the Consolidated Audit Trail Funding Fees will be addressed. These Fee Dispute Resolution Procedures, as they relate to Industry Members, are set forth in paragraph (c) of Proposed Rule 996A. Specifically, the Fee Dispute Resolution Procedures provide the procedure for Industry Members that dispute CAT Fees charged to such Industry Member pursuant to one or more of the Participants' Consolidated Audit Trail Funding Fees Rules, including disputes related to the designated tier and the fee calculated pursuant to such tier, to apply for an opportunity to be heard and to have the CAT Fees charged to such Industry Member reviewed. The Procedures are modeled after the adverse action procedures adopted by various exchanges,[15] and will be posted on the Web site for the CAT NMS Plan Web site.[16]

Under these Procedures, an Industry Member that disputes CAT Fees charged to such Industry Member and that desires to have an opportunity to be heard with respect to such disputed CAT Fees must file a written application with the Company within 15 business days after being notified of such disputed CAT Fees. The application must identify the disputed CAT Fees, state the specific reasons why the applicant takes exception to such CAT Fees, and set forth the relief sought. In addition, if the applicant intends to submit any additional documents, statements, arguments or other material in support of the application, the same should be so stated and identified.

The Company will refer applications for hearing and review promptly to the Subcommittee designated by the Operating Committee pursuant to Section 4.12 of the CAT NMS Plan with responsibility for conducting the reviews of CAT Fee disputes pursuant to these Procedures. This Subcommittee will be referred to as the Fee Review Subcommittee. The members of the Fee Review Subcommittee will be subject to the provisions of Section 4.3(d) of the CAT NMS Plan regarding recusal and Conflicts of Interest. The Fee Review Subcommittee will keep a record of the proceedings.

The Fee Review Subcommittee will hold hearings promptly. The Fee Review Subcommittee will set a hearing date. The parties to the hearing shall furnish the Fee Review Subcommittee with all materials relevant to the

[8] *See* Letter from the Participants to Brent J. Fields, Secretary, Commission, dated September 30, 2014; and Letter from Participants to Brent J. Fields, Secretary, Commission, dated February 27, 2015. On December 24, 2015, the Participants submitted an amendment to the CAT NMS Plan. *See* Letter from Participants to Brent J. Fields, Secretary, Commission, dated December 23, 2015.

[9] Securities Exchange Act Release No. 77724 (April 27, 2016), 81 FR 30614 (May 17, 2016).

[10] Securities Exchange Act Rel. No. 79318 (November 15, 2016), 81 FR 84696 (November 23, 2016) (''Approval Order'').

[11] The Plan also serves as the limited liability company agreement for the Company.

[12] Section 11.1(b) of the CAT NMS Plan.

[13] *Id.*

[14] *See* Securities Exchange Act Release No. 80725 (May 18, 2017), 82 FR 23935 (May 24, 2017) (SR–PHLX–2017–37).

[15] *See, e.g.,* Chapter X of BATS BZX Exchange, Inc. (Adverse Action); and Chapter X of NYSE National, Inc. (Adverse Action).

[16] The CAT NMS Plan Web site is *www.catnmsplan.com.*

proceedings at least 72 hours prior to the date of the hearing. Each party will have the right to inspect and copy the other party's materials prior to the hearing.

The parties to the hearing will consist of the applicant and a representative of the Company who shall present the reasons for the action taken by the Company that allegedly aggrieved the applicant. The applicant is entitled to be accompanied, represented and advised by counsel at all stages of the proceedings.

The Fee Review Subcommittee will determine all questions concerning the admissibility of evidence and will otherwise regulate the conduct of the hearing. Each of the parties will be permitted to make an opening statement, present witnesses and documentary evidence, cross examine opposing witnesses and present closing arguments orally or in writing as determined by the Fee Review Subcommittee. The Fee Review Subcommittee also will have the right to question all parties and witnesses to the proceeding. The Fee Review Subcommittee must keep a record of the hearing. The formal rules of evidence will not apply.

The Fee Review Subcommittee must set forth its decision in writing and send the written decision to the parties to the proceeding. Such decisions will contain the reasons supporting the conclusions of the Fee Review Subcommittee.

The decision of the Fee Review Subcommittee will be subject to review by the Operating Committee either on its own motion within 20 business days after issuance of the decision or upon written request submitted by the applicant within 15 business days after issuance of the decision. The applicant's petition must be in writing and must specify the findings and conclusions to which the applicant objects, together with the reasons for such objections. Any objection to a decision not specified in writing will be considered to have been abandoned and may be disregarded. Parties may petition to submit a written argument to the Operating Committee and may request an opportunity to make an oral argument before the Operating Committee. The Operating Committee will have sole discretion to grant or deny either request.

The Operating Committee will conduct the review. The review will be made upon the record and will be made after such further proceedings, if any, as the Operating Committee may order. Based upon such record, the Operating Committee may affirm, reverse or modify, in whole or in part, the decision of the Fee Review Subcommittee. The decision of the Operating Committee will be in writing, will be sent to the parties to the proceeding and will be final.

The Procedures state that a final decision regarding the disputed CAT Fees by the Operating Committee, or the Fee Review Subcommittee (if there is no review by the Operating Committee), must be provided within 90 days of the date on which the Industry Member filed a written application regarding disputed CAT Fees with the Company. The Operating Committee may extend the 90-day time limit at its discretion.

In addition, the Procedures state that any notices or other documents may be served upon the applicant either personally or by leaving the same at its, his or her place of business or by deposit in the United States post office, postage prepaid, by registered or certified mail, addressed to the applicant at its, his or her last known business or residence address. The Procedures also state that any time limits imposed under the Procedures for the submission of answers, petitions or other materials may be extended by permission of the Operating Committee. All papers and documents relating to review by the Fee Review Subcommittee or the Operating Committee must be submitted to the Fee Review Subcommittee or Operating Committee, as applicable.

The Procedures also note that decisions on such CAT Fee disputes made pursuant to these Procedures will be binding on Industry Members, without prejudice to the rights of any such Industry Member to seek redress from the SEC or in any other appropriate forum.

Finally, an Industry Member that files a written application with the Company regarding disputed CAT Fees in accordance with these Procedures is not required to pay such disputed CAT Fees until the dispute is resolved in accordance with these Procedures, including any review by the SEC or in any other appropriate forum. For these purposes, the disputed CAT Fees means the amount of the invoiced CAT Fees that the Industry Member has asserted pursuant to these Procedures that such Industry Member does not owe to the Company. The Industry Member must pay any invoiced CAT Fees that are not disputed CAT Fees when due as set forth in the original invoice.

Once the dispute regarding CAT Fees is resolved pursuant to these Procedures, if it is determined that the Industry Member owes any of the disputed CAT Fees, then the Industry Member must pay such disputed CAT Fees that are owed as well as interest on such disputed CAT Fees from the original due date (that is, 30 days after receipt of the original invoice of such CAT Fees) until such disputed CAT Fees are paid at a per annum rate equal to the lesser of (i) the Prime Rate plus 300 basis points, or (ii) the maximum rate permitted by applicable law.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6(b)(5) of the Act,[17] which requires, among other things, that the Exchange rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest, and not designed to permit unfair discrimination between customers, issuers, brokers and dealer [sic], and Section 6(b)(4) of the Act,[18] which requires that Exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using its facilities.

The Exchange believes that this proposal is consistent with the Act because it implements, interprets or clarifies Section 11.5 of the Plan, and is designed to assist the Exchange and its Industry Members in meeting regulatory obligations pursuant to the Plan. In approving the Plan, the SEC noted that the Plan ''is necessary and appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanism of a national market system, or is otherwise in furtherance of the purposes of the Act.'' [19] To the extent that this proposal implements, interprets or clarifies the Plan and applies specific requirements to Industry Members, the Exchange believes that this proposal furthers the objectives of the Plan, as identified by the SEC, and is therefore consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

Section 6(b)(8) of the Act [20] requires that Exchange rules not impose any burden on competition that is not necessary or appropriate. The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or

[17] 15 U.S.C. 78f(b)(5).

[18] 15 U.S.C. 78f(b)(4).

[19] Approval Order at 84697.

[20] 15 U.S.C. 78f(b)(8).

appropriate in furtherance of the purposes of the Act. The Exchange notes that the proposed rule change implements Section 11.5 of the CAT NMS Plan approved by the Commission, and is designed to assist the Exchange in meeting its regulatory obligations pursuant to the Plan. Similarly, all national securities exchanges and FINRA are proposing this proposed rule to implement the requirements of the CAT NMS Plan. Therefore, this is not a competitive rule filing and, therefore, it does not raise competition issues between and among the exchanges and FINRA.

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

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

(A) by order approve or disapprove such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–PHLX–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–PHLX–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 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–PHLX–2017–47, and should be submitted on or before July 14, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[21]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–13098 Filed 6–22–17; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80974; File No. SR–MRX–2017–09]

Self-Regulatory Organizations; Nasdaq MRX, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Regarding Quote Mitigation

June 19, 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 June 15, 2017, Nasdaq MRX, LLC (''MRX'' 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 MRX Rule 804(h), regarding quote mitigation.

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 Exchange proposes to amend MRX Rule 804, entitled ''Market Maker Quotations,'' to specifically amend Rule 804(h) which addresses the Exchange's quote traffic mitigation plan to adopt a similar quote mitigation plan to that of NASDAQ PHLX LLC (''Phlx'').

ISE Mercury, LLC (now known as MRX) implemented its quote mitigation plan in 2013, at the time it filed its Form 1 application.[3] At that time, MRX adopted the same quote mitigation plan that was in effect on ISE.[4]

MRX Rule 804(h) provides that MRX shall utilize a mechanism so that newly-received quotations and other changes to the Exchange's best bid and offer are not disseminated for a period of up to,

[21] 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 Release Act. No.76998 (January 29, 2016), 81 FR 6066 (February 4, 2016) (File No. 10–221) (In the Matter of the Application of ISE Mercury, LLC for Registration as a National Securities Exchange; Findings, Opinion, and Order of the Commission). This pilot has since been extended several times.

[4] *See* Securities Exchange Release Act. No. 55161 (February 1, 2007), 72 FR 4754 (January 24, 2007) (SR–ISE–2006–62) (Order Granting Approval to Proposed Rule Change as Modified by Amendment Nos. 1 and 2 Thereto, To Implement a Penny Pilot Program To Quote Certain Options in Pennies).

but not more than one second. With the upcoming planned migration to INET,[5] the Exchange proposes to utilize a plan similar to that of Phlx for quote mitigation. The Exchange proposes to amend Rule 804(h) to adopt language similar to Phlx. Since 2007, Phlx has operated on INET, the same system that MRX will be migrating to utilize.

Phlx Rule 1082(a)(ii)(C) sets forth the conditions under which Phlx disseminates updated quotations based on changes in the Exchange's disseminated price and/or size. Phlx disseminates an updated bid and offer price, together with the size associated with such bid and offer, when: (1) Phlx's disseminated bid or offer price increases or decreases; (2) the size associated with Phlx's disseminated bid or offer decreases; or (3) the size associated with Phlx's bid (offer) increases by an amount greater than or equal to a percentage (never to exceed 20%) [6] of the size associated with the previously disseminated bid (offer). Such percentage, which would never exceed 20%, would be determined on an issue-by-issue basis by the Exchange and announced to membership via an Exchange circular. The percentage size increase necessary to give rise to a refreshed quote may vary from issue to issue, depending, without limitation, on the liquidity, average volume, and average number of quotations submitted in the issue. The mitigation would apply to all options traded on MRX.

The Exchange will not be adopting Phlx Rule 1082(a)(ii)(C)(4). This functionality is not necessary on INET. Phlx adopted 1082(a)(ii)(C)(4) when it was not operating on INET, with its subsequent replatform to INET functionality, 1082(a)(ii)(C)(4) was no longer necessary because of the real-time features which exist on INET. The INET functionality rendered the rule text in 1082(a)(ii)(C)(4) as unnecessary.

The Exchange will begin a system migration to Nasdaq INET in Q3 of 2017.[7] The migration will be on a symbol by symbol basis as specified by the Exchange in a notice to Members. The Exchange is proposing to implement this rule change once all symbols have migrated to INET.

Upon completion of the migration to INET, MRX will set an initial percentage of 3% to be applied to all issues, which will be announced in an Options Trader Alert. MRX will continue to monitor the quote activity on the market and would not notify participants of any incremental increase in the size of the Exchange's quote to be disseminated to OPRA.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[8] in general, and furthers the objectives of Section 6(b)(5) of the Act,[9] 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, by reducing the number of options quotations required to be submitted to OPRA and, therefore, mitigating the Exchange's quote message traffic and capacity. By adopting a quote mitigation plan similar to Phlx, the Exchange will continue to mitigate quotes and monitor its quote capacity, as is the case today. While the Phlx method differs from that of MRX's rule, the Exchange believes that Phlx's method today successfully mitigates quotes on that market. In addition, MRX desires to adopt a similar mitigation as currently utilized by its affiliated market, as it will operate on the same architecture.

The Phlx quote mitigation process has been in place since 2007. Phlx is operating on the INET system today, the same system that MRX will migrate to for its operating system. The Exchange believes that Phlx's quote mitigation process has successfully controlled Phlx's quote capacity. The Exchange believes that it is reasonable to utilize a similar process as Phlx to mitigate quotes for MRX given the system architecture which will be utilized on MRX with the upcoming migration. Additionally, Nasdaq, Inc., a common parent to Phlx and MRX, has experience with this quote mitigation strategy on INET. The Exchange has selected to mitigate MRX at 3% to start and determine if the percentage will need to be adjusted thereafter. The Exchange has selected to mitigate MRX at 3% initially because, unlike Phlx, which is a mature market with various auction offerings and higher volumes, MRX is a not as large in volume and has fewer functional offerings, *e.g.,* complex orders and floor trading. The Exchange notes that it will continue to monitor quotes on MRX and make adjustments as necessary.

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 proposes to mitigate all options trading on MRX. All options exchanges have a quote mitigation process in place in connection with their participation in the Penny Pilot Program.

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

[5] *See* SR–MRX–2017–02 (not yet published). The Commission notes that MRX–2017–02 was published for comment in the **Federal Register** on June 5, 2017. *See* Securities Exchange Act Release No. 80815 (May 30, 2017), 82 FR 25827.

[6] Phlx has set its percentage to 10%. *See http://www.nasdaqtrader.com/content/phlxmemos/2007/jan/0197-07.pdf.*

[7] *See* SR–MRX–2017–02 (not yet published). The Commission notes that MRX–2017–02 was published for comment in the **Federal Register** on June 5, 2017. *See* Securities Exchange Act Release No. 80815 (May 30, 2017), 82 FR 25827.

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

[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.

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–MRX–2017–09 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–MRX–2017–09. 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–MRX–2017–09 and should be submitted on or before July 14, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–13105 Filed 6–22–17; 8:45 am]

BILLING CODE 8011–01–P

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–1, OMB Control No. 3235–0007]

Submission for OMB Review; Comment Request

Upon Written Request Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE., Washington, DC 20549–02736.

Extension:

Rule 13e–3 (Schedule 13E–3).

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget this request for extension of the previously approved collection of information discussed below.

Rule 13e–3 (17 CFR 240.13e–3) and Schedule 13E–3 (17 CFR 240.13e–100)—Rule 13e–3 prescribes the filing, disclosure and dissemination requirements in connection with a going private transaction by an issuer or an affiliate. Schedule 13E–3 provides shareholders and the marketplace with material information concerning a going private transaction. The information collected permits verification of compliance with securities laws requirements and ensures the public availability and dissemination of the collected information. This information is made available to the public. Information provided on Schedule 13E–3 is mandatory. We estimate that Schedule 13E–3 is filed by approximately 77 issuers annually and it takes approximately 137.42 hours per response. We estimate that 25% of the 137.42 hours per response is prepared by the filer for a total annual reporting burden of 2,646 hours (34.36 hours per response × 77 responses).

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

The public may view the background documentation for this information collection at the following Web site, *www.reginfo.gov* . Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: *Shagufta_Ahmed@omb.eop.gov;* and (ii) Pamela Dyson, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549 or send an email to: *PRA_Mailbox@sec.gov.* Comments must be submitted to OMB within 30 days of this notice.

Dated: June 2017.

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–13141 Filed 6–22–17; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80973; File No. SR–FINRA–2017–009]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Order Approving a Proposed Rule Change Relating to Expediting List Selection in Arbitration

June 19, 2017.

I. Introduction

On April 26, 2017, Financial Industry Regulatory Authority, Inc. (''FINRA'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Exchange Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to provide that the Director of FINRA's Office of Dispute Resolution (''ODR Director'') will send the list or lists or arbitrators generated by the Neutral List Selection System (''NLSS'') to all parties at the same time, within approximately 30 days after the last answer is due, regardless of the parties' agreement to extend any answer due date.

The proposed rule change was published for comment in the **Federal Register** on May 15, 2017.[3] The public comment period closed on June 5, 2017. The Commission received five comment letters in response to the Notice, all of which supported the proposed rule change.[4] This order approves the proposed rule change.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Exchange Act Release No. 80634 (May 9, 2017), 82 FR 22363 (May 15, 2017) (File No. SR–FINRA–2017–009) (''Notice'').

[4] *See* Letters from Steven B. Caruso, Maddox Hargett Caruso, P.C., dated May 11, 2017 (''Caruso Letter''); Ryan K. Bakhtiari, Aidikoff, Uhl & Bakhtiari, dated May 15, 2017 (''Bakhtiari Letter''); Glenn S. Gitomer, McCausland Keen + Buckman, dated May 26, 2017 (''Gitomer Letter''); Marnie C. Lambert, President, Public Investors Arbitration Bar Association (''PIABA''), dated June 1, 2017 (''PIABA Letter''); Andres Gomez III, Esquire, Executive Principal, AG Consultants, dated June 4, 2017 (''Gomez Letter''). Comment letters are available at *www.sec.gov.*

II. Description of the Proposed Rule Change [5]

Under FINRA Rules 12402 (Cases with One Arbitrator) and 12403 (Cases with Three Arbitrators) of the Code of Arbitration Procedure for Customer Disputes (''Customer Code'') and FINRA Rule 13403 (Generating and Sending Lists to the Parties) of the Code of Arbitration Procedure for Industry Disputes (''Industry Code,'' and together with the Customer Code, the ''Codes''), a party must serve an answer on each other party to an arbitration within the timeframes specified under the applicable provisions of the Codes. For example, FINRA Rule 12303 requires a respondent to serve an answer specifying the relevant facts and available defenses to the statement of claim on each other party to the arbitration within 45 days of receipt of the statement of claim (the ''answer due date'').[6] If there are multiple respondents to an arbitration, and the respondents are added at different times, each respondent would have a different answer due date.[7] The Codes currently require the ODR Director [8] to wait until after the last answer is due [9] to send the list or lists of arbitrators generated by NLSS to the parties. Specifically, the Codes provide that the ODR Director must send the list or lists of arbitrators to all parties at the same time within approximately 30 days after the last answer is due.[10]

Currently, when parties to an arbitration agree to extend the deadline for when an answer is due, the ODR Director uses that new, agreed-upon extended answer due date as the last answer due date for sending the arbitrator list or lists to the parties.[11] FINRA believes that by sending the arbitrator list or lists after the original due date for the last answer, regardless of any extension, it can shorten the time it takes for an arbitration to conclude in those instances.[12] Party agreements to extend answer due dates would no longer affect the timing of providing the arbitrator list or lists to the parties.

FINRA is therefore proposing to amend FINRA Rules 12402(c)(1), 12403(b)(1), and 13403(c)(1) to provide that the ODR Director will send the list or lists generated by NLSS to all parties at the same time, within approximately 30 days after the last answer is due, regardless of the parties' agreement to extend any answer due date.[13]

As parties must return the ranked arbitrator list or lists to the ODR Director no more than 20 days after the date upon which the ODR Director sent the list or lists to the parties,[14] sending the list or lists after the original due date for the last answer would give all parties the same amount of time to create their ranked arbitrator list or lists. Further, FINRA believes that sending the list or lists at this time would result in earlier arbitrator appointment and, therefore, an earlier initial prehearing conference at which the hearings are scheduled.[15] FINRA believes that in the many instances in which the parties agree to extend an answer due date, the proposed rule change would help arbitrations conclude in less time than they do under current rules.[16] FINRA further notes that, currently, parties often jointly request that the ODR Director send the list or lists to the parties before the last answer is due.[17]

III. Comment Summary

As noted above, the Commission received five comment letters on the proposed rule change, all of which supported the proposal.[18] One commenter described the proposal as ''a fair, equitable and reasonable approach that would facilitate the fairness and efficiency of the participant experience in the FINRA arbitration forum and should, accordingly, be approved by the SEC on an expedited basis.'' [19] Another commenter called the proposal an ''outstanding initiative.'' [20] Two commenters expressed the view that the proposal would simply codify existing accepted practice.[21] A majority of commenters expressed the view that the proposal would enhance and expedite the arbitration process,[22] which, as one commenter noted, currently lasts for 14.4 months.[23]

IV. Discussion and Commission Findings

After careful review of the proposed rule change and the comment letters, the Commission finds that the proposal is consistent with the requirements of the Exchange Act and the rules and regulations thereunder that are applicable to a national securities association.[24] Specifically, the Commission finds that the rule change is consistent with Section 15A(b)(6) of the Exchange Act,[25] which requires, among other things, that FINRA rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest.

As stated in the Notice, the proposal would ''enable the parties, or their counsel, to evaluate and rank the arbitrator list or lists at the same time that they prepare their responses in those circumstances where the parties request an extension to answer.'' [26] The Commission notes that FINRA believes that ''the proposal would shorten the time it takes for such arbitrations to conclude and, thereby, make the forum more efficient and the case administration process more expeditious for investors.'' [27] The Commission also notes that currently, ''parties often jointly request that the ODR Director send the list or lists before the last answer due date deadline.'' [28] The Commission further notes that all five commenters were supportive of the proposal.[29] Taking into consideration FINRA's views and the commenters' unanimous support, the Commission believes that the proposal is consistent with the Exchange Act. Specifically, the Commission believes that the proposal will help protect investors and the public interest by streamlining the arbitration process by concluding the

[5] The subsequent description of the proposed rule change is substantially excerpted from FINRA's description in the Notice. *See* Notice, 82 FR at 22363–22364.

[6] *See also* FINRA Rule 13303.

[7] If an amended claim adds a new party to the arbitration, the new party would be required to serve an answer on all other parties within 45 days of receipt of the claim. *See* FINRA Rules 12306, 12310, 13306, and 13310.

[8] Unless the Codes provide that the ODR Director may not delegate a specific function, the term includes FINRA staff to whom the ODR Director has delegated authority. *See* FINRA Rules 12100(k) and 13100(k). *See also* FINRA Rules 12103 and 13103.

[9] The answer due date for the last respondent added to the arbitration would be when the last answer is due for purposes of the Codes.

[10] The Codes also state that the parties will receive employment history for the past 10 years and other background information for each arbitrator listed. *See* FINRA Rules 12402, 12403, and 13403.

[11] FINRA stated that in 2015, parties requested an extension to answer in approximately 65 percent of arbitration cases served; in 2016, the figure was approximately 62 percent. *See* Notice at 22363 n.9.

[12] *See* Notice at 22363.

[13] *See id.*

[14] *See* FINRA Rules 12402(d)(3), 12403(c)(3), and 13404(d).

[15] *See* FINRA Rules 12500(c) and 13500(c); *see* Notice at 22363.

[16] *See* Notice at 22363.

[17] *See id.* at 22364.

[18] *See* Caruso Letter, Bakhtiari Letter; Gitomer Letter; PIABA Letter; Gomez Letter.

[19] Caruso Letter.

[20] Gomez Letter.

[21] *See* Gitomer Letter; PIABA Letter.

[22] *See* Caruso Letter; Bakhtiari Letter; Gitomer Letter; PIABA Letter.

[23] PIABA Letter at 2.

[24] In approving this rule change, the Commission has considered the rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[25] 15 U.S.C. 78o–3(b)(6).

[26] Notice at 22364.

[27] *Id.*

[28] *Id.*

[29] *See* Caruso Letter, Bakhtiari Letter; Gitomer Letter; PIABA Letter; Gomez Letter.

arbitrator selection process at an earlier date. Accordingly, the Commission believes that the approach proposed by FINRA is appropriate and designed to protect investors and the public interest, consistent with Section 15A(b)(6) of the Exchange Act. For these reasons, the Commission finds that the proposed rule change is consistent with the Exchange Act and the rules and regulations thereunder.

V. Conclusion

It is therefore ordered pursuant to Section 19(b)(2) of the Exchange Act [30] that the proposal (SR–FINRA–2017–009), be and hereby is approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[31]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–13104 Filed 6–22–17; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80964; File No. SR–NYSEMKT–2017–37]

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Change To Modify the NYSE Amex Options Fee Schedule

June 19, 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 June 9, 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 to modify the NYSE Amex Options Fee Schedule (''Fee Schedule''). The Exchange proposes to implement the fee change effective June 9, 2017. 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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this filing is to establish fees and credits for a recently adopted Exchange trading mechanism known as Broadcast Order Liquidity Delivery Mechanism (''BOLD''), which was launched on May 31, 2017.[4]

BOLD is a new feature within the Exchange's trading system that provides automated order handling in eligible orders that are executable against quotations disseminated by other exchanges that are participants in the Options Order Protection and Locked/Crossed Market Plan.[5]

First, the Exchange proposes to adopt definitions related to BOLD. The Exchange proposes to define the ''BOLD Mechanism'' as referring to ''the Exchange's automated order handling for eligible orders in designated classes, pursuant to Rule 994NY.'' [6] As a general matter, the BOLD Mechanism is Exchange functionality that allows ATP Holders to ''step-up'' and trade against orders that are exposed by the Exchange prior to such orders being routed to another market or posted on the Exchange's order book. ATP Holders that submit orders that are designated to be BOLD-eligible will be considered BOLD Initiating Orders for purposes of this proposed rule change. As such, the Exchange proposes to define a ''BOLD Initiating Order'' as ''an order submitted to be executed via the BOLD Mechanism.'' [7] ATP Holders that ''step-up'' to trade against a BOLD Initiating Order will be considered BOLD Responding Order for purposes of this proposed rule change. As such, the Exchange proposes to define a ''BOLD Responding Order'' as ''an order that trades with the BOLD Initiating Order.'' [8] The Exchange believes these proposed changes would add clarity and transparency to the Fee Schedule.

Regarding pricing, the Exchange proposes that Non-Customer [9] and Professional Customer orders executed via BOLD would be charged the same rate as currently applied to Electronic executions in standard options contracts, based on participant type and whether the option traded is a Penny Pilot issue.[10] The Exchange proposes to apply a per contract credit for all BOLD Initiating Orders that are Customer orders executed via BOLD, which credit would be the greater of $0.12 or the rebate amount achieved through the Amex Customer Engagement (''ACE'') Program.[11] The Exchange proposes to exclude from this proposed credit any transactions in Binary Return Derivatives—or ByRDs—executed via BOLD as ByRDs transactions are not currently subject to transaction charges.[12] The Exchange proposes to impose no fee on Customer orders that are BOLD Responding Orders. The Exchange notes that, as proposed, NYSE Amex Options Market Makers would not be assessed Marketing Charges for transactions executed via the BOLD Mechanism.[13] The Exchange believes this proposed change would encourage Market Makers to provide additional liquidity to orders directed to BOLD Mechanism for execution on the Exchange.

The Exchange proposes that, beginning in June 2017, volume

[30] 15 U.S.C. 78s(b)(2).

[31] 17 CFR 200.30–3(a)(12).

[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 Nos. 80494 (April 20, 2017) 82 FR 19300 (April 26, 2017) (SR–NYSEMKT–2017–21) and 80695 (May 16, 2017) (SR–NYSEMKT–2017–28).

[5] *See* Rule 994NY.

[6] *See* proposed Fee Schedule, Key Terms and Definitions.

[7] *See id.*

[8] *See id.*

[9] Non-Customers include Broker-Dealers, DOMMs, e-Specialists, Firms, Market Makers, and Specialists.

[10] *See* Fee Schedule, Section I.A. (Rates for Standard Options transactions—Electronic and Manual), *available here, https://www.nyse.com/publicdocs/nyse/markets/amex-options/NYSE_Amex_Options_Fee_Schedule.pdf.*

[11] *See* proposed Fee Schedule, Section I.M. (BOLD Mechanism Fees & Credits).

[12] *See* Fee Schedule, *supra* note 11, at footnote 5 to Section I.A. (excluding transactions in ByRDs from transaction fees and credits) and proposed Fee Schedule, Section I.M., at footnote 2 (excluding ByRDs from proposed credit for executions via the BOLD Mechanism). *See also* Fee Schedule, Section I.H. (Early Adopter Specialist) (providing incentive to Specialists appointed to trade ByRDs).

[13] *See* proposed Fee Schedule, Section I.M., at footnote 1. Only Market Makers incur Marketing Charges, such charges are not imposed on any other market participants.

executed via BOLD would be included for purposes of calculating monthly volume thresholds for the Market Maker Sliding Scale and the ACE Program.[14] Also beginning in June 2017, the Exchange proposes to apply fees incurred via the BOLD Mechanism to the Prepayment Programs.[15]

Finally, the Exchange proposes to make a clarifying change to the ACE Program to make clear that ATP Holders that achieve Tier 2 and are eligible to receive the $0.19 per contract credit for Electronic Customer Complex Orders would receive such credit ''regardless of whether the Complex Order trades against interest in the Complex Order Book or with individual orders and quotes in the Consolidated Book.'' [16] The Exchange notes that this treatment would be consistent with how other credits for Complex Orders achieved through the ACE Program are handled.[17] The Exchange believes this change would add clarity, transparency and internal consistency to the Fee Schedule.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[18] in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,[19] in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The Exchange believes applying standard transaction fees (based on participant type and whether a Penny Pilot issue) for Non-Customer and Professional Customer orders executed using the BOLD Mechanism is reasonable, equitable, and not unfairly discriminatory, because these market participants would be subject to the same or lower fees as are currently imposed on these market participants for Electronic transactions executed on the Exchange.

Further, the Exchange believes the proposed treatment of Customer orders executed via BOLD—*i.e.,* the proposed credit for BOLD Initiating Orders, no fee for BOLD Responding Orders and absence of Marketing Charge—is reasonable, equitable, and not unfairly discriminatory as these fees and credits recognize the benefits of additional liquidity delivered to the Exchange when ATP Holders utilize the BOLD Mechanism. Specifically, the proposed pricing provides an incentive for Customer orders that are marketable against the National Best Bid/Offer (''NBBO'') to be sent to NYSE Amex, which benefits all market participants by providing more trading opportunities. The Exchange also notes that other markets have utilized pricing incentives for features similar to the BOLD Mechanism and therefore the concept is not new or novel.[20] The Exchange also notes that it is reasonable to exclude transactions in ByRDs from the proposed credit for BOLD Initiating Orders because ByRDs are not currently subject to any transaction fees.[21]

Further, the proposal to include orders executed via the BOLD Mechanism for purposes of calculating monthly volume thresholds for the Market Maker Sliding Scale and the ACE Program, as well as to apply fees incurred for BOLD transactions to the Prepayment Program, are reasonable, equitable, and not unfairly discriminatory as these programs are designed to encourage participation by Customers and Market Makers in the full spectrum of NYSE Amex Options transactions. The Exchange also believes it is reasonable, equitable, and not unfairly discriminatory to not impose Marketing Charges on NYSE Amex Market Makers for orders executed via the BOLD Mechanism because such orders do not interact with quoted markets but are required to be filled at prices no worse than the NBBO. The Exchange believes that removing the Marketing Charges should incentivize Market Makers to more actively provide liquidity in response to orders submitted via BOLD.[22] To the extent that the proposed changes attract additional order flow to the Exchange, this would result in liquidity and more trading opportunities to the benefit of all market participants.

In addition, the Exchange believes the proposed changes are consistent with the Act because to the extent the BOLD Mechanism permits the Exchange to continue to attract greater volume and liquidity, the proposed change would improve the Exchange's overall competitiveness and strengthen its market quality for all market participants.

Finally, the Exchange believes the proposed clarifying change to the ACE Program regarding how credits for Complex Orders would be handled is consistent with the Act as this change would add clarity, transparency and internal consistency to the Fee Schedule. In addition, the proposal to remove extraneous language from Section I.C. of the Fee Schedule [23] would likewise add clarity, transparency and internal consistency to the Fee Schedule.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[24] the Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes the proposed credit for Customer orders executed via BOLD and the proposed absence of a fee for Customer orders that are BOLD Responding Orders are pro-competitive as the proposed pricing is designed to encourage Order Flow Providers (''OFPs'') to direct Customer order flow to the Exchange and any resulting increase in volume and liquidity to the Exchange would benefit all Exchange participants through increased opportunities to trade as well as enhancing price discovery. The proposed fees for Non-Customer and Professional Customer orders executed via BOLD would not discourage competition and are instead intended to promote competition and better improve the Exchange's competitive position. Further, the proposed changes only

[14] *See* proposed Fee Schedule, Sections I.C. (NYSE Amex Options Market Maker Sliding Scale—Electronic and Manual) and I.E (ACE Program). The Exchange also proposes to remove from Section I.C. of the Fee Schedule the now-superfluous language ''[e]ffective January 3, 2017,'' which would add clarity and transparency to the Fee Schedule. *See* proposed Fee Schedule, Section I.C.

[15] *See* proposed Fee Schedule, Section I.D. (Prepayment Program).

[16] *See* proposed Fee Schedule, Section I.E., n. 4 (ACE Program).

[17] *See* Fee Schedule, *supra* note 11, Section I.E., n. 2 (providing that credits for Complex Orders achieved under Tiers 4 or 5 of the ACE Program would be paid ''regardless of whether the Complex Order trades against interest in the Complex Order Book or with individual orders and quotes in the Consolidated Book'').

[18] 15 U.S.C. 78f(b).

[19] 15 U.S.C. 78f(b)(4) and (5).

[20] *See, e.g.,* Nasdaq ISE Schedule of Fees, *available here, https://www.ise.com/fees* (Section IV.G., providing credit for responses to Flash Orders). *See also* NASDAQ PHLX LLC Pricing Schedule, *available here, http://www.nasdaqtrader.com/Micro.aspx?id=phlxpricing* (providing that ''[n]o Marketing Fees will be assessed on transactions which execute against an order for which the Exchange broadcast an order exposure alert in Penny Pilot Options,'' which exposure alert is similar to BOLD).

[21] The Exchange notes that ByRDs, which were re-launched in 2016, are exempted from standard transaction fees and are also not subject to monthly rights fees. *See* Fee Schedule, *supra* note 11, Section I.A., n. 5 and Section III. C., n. 1, respectively.

[22] The Exchange also notes that other options exchanges do not charge marketing fees for orders similar to BOLD-designated orders. *See supra* note 21 (citing NASDAQ PHLX fee schedule).

[23] *See supra* note 15.

[24] 15 U.S.C. 78f(b)(8).

affect trading on the Exchange. To the extent that the proposed changes make NYSE Amex a more attractive marketplace for market participants at other exchanges, such market participants are welcome to become ATP Holders on the Exchange.

The Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues. In such an environment, the Exchange must continually review, and consider adjusting, its fees and credits to remain competitive with other exchanges. For the reasons described above, the Exchange believes that the proposed rule change reflects 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 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 foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A) [25] of the Act and subparagraph (f)(2) of Rule 19b–4 [26] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [27] 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–2017–37 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–2017–37. 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–2017–37, and should be submitted on or before July 14, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[28]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–13095 Filed 6–22–17; 8:45 am]

BILLING CODE 8011–01–P

[25] 15 U.S.C. 78s(b)(3)(A).

[26] 17 CFR 240.19b–4(f)(2).

[27] 15 U.S.C. 78s(b)(2)(B).

[28] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #15183 and #15184; KANSAS Disaster #KS–00102]

Presidential Declaration of a Major Disaster for Public Assistance Only for the State of KANSAS

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of KANSAS (FEMA–4319–DR), dated 06/16/2017.

Incident: Severe Winter Storm, Snowstorm, Straight-line Winds, and Flooding.

Incident Period: 04/28/2017 through 05/03/2017.

DATES: Effective 06/16/2017.

Physical Loan Application Deadline Date: 08/15/2017.

Economic Injury (Eidl) Loan Application Deadline Date: 03/16/2018.

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 President's major disaster declaration on 06/16/2017, Private Non-Profit organizations that provide essential services of governmental nature may file disaster loan applications 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, Cheyenne, Crawford, Decatur, Finney, Gove, Graham, Grant, Greeley, Hamilton, Haskell, Kearny, Lane, Logan, Morton, Neosho, Norton, Rawlins, Scott, Seward, Sheridan, Sherman, Stanton, Stevens, Thomas, Wallace, Wichita.

The Interest Rates are:

	Percent
For Physical Damage:	
Non-Profit Organizations with Credit Available Elsewhere ...	2.500
Non-Profit Organizations without Credit Available Elsewhere	2.500
For Economic Injury:	

	Percent
Non-Profit Organizations without Credit Available Elsewhere	2.500

The number assigned to this disaster for physical damage is 15183B and for economic injury is 15184B.

(Catalog of Federal Domestic Assistance Number 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2017–13118 Filed 6–22–17; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Announcement of Growth Accelerator Fund Competition

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: The U.S. Small Business Administration (SBA) announces the 2017 Growth Accelerator Fund Competition, pursuant to the America Competes Act, to recognize the nation's most innovative accelerators and award them cash prizes they may use to fund their operations costs and allow them to bring startup companies to scale and new ideas to life.

DATES: The submission period for entries begins 12:00 p.m. EDT, June 23, 2017 and ends July 21, 2017 at 4:59 p.m. EDT. Winners will be announced no later than Fall 2017.

FOR FURTHER INFORMATION CONTACT: Nagesh Rao, Office of Investment and Innovation, U.S. Small Business Administration, 409 Third Street SW., 6th Floor, Washington, DC 20416, (202) 205–6565, *accelerators@sba.gov.*

SUPPLEMENTARY INFORMATION:

Competition Details

1. *Subject of Competition:* The SBA is seeking to identify the nation's most innovative and promising small business accelerators and incubators in order to infuse them with additional resource capital that ultimately stimulates the growth and development of startups from within the entrepreneurial communities they serve. For the purposes of this Competition, Growth Accelerators include accelerators, incubators, co-working startup communities, shared tinkerspaces or other models to accomplish similar goals. Regardless of the specific model employed, Growth Accelerators focus on helping entrepreneurs and their startups speed the launch, growth and scale of their businesses. A broad set of models used to support start-ups will better serve the entire entrepreneurial ecosystem. Whether an accelerator is industry focused, technology focused, product centric, cohort based or more long term, all are valuable players in the nation's high-growth entrepreneurial ecosystem that ultimately creates jobs.

2. *Eligibility Rules for Participating in the Competition:* This Competition is open only to previous Growth Accelerator Fund Competition Winners (2014–2016). Previous winners should be established private entities, such as corporations or non-profit organizations that are already incorporated and maintain a primary place of business and operation in the United States. Entities that have an outstanding, unresolved financial obligation to, or that are currently suspended or debarred by, the Federal Government are not eligible for this Competition. Federal, state, local and tribal agencies are also not eligible for this Competition.

3. *Registration and Entry Submission Process for Contestants:* Contestants must submit their 2017 Growth Accelerator Fund applications online using the link designated for that purpose on *www.sba.gov/accelerators,* where the link will be posted. In addition to the basic details collected in that short application form, contestants must also complete and submit deck, similar to one that would be used in a pitch competition, which must address all of the items identified below:

Mission and Vision

- What is your accelerator's mission in one sentence?
- What specific elements make your accelerator model stand out?
- What experiences prepare your team for this?

Impact

- What gaps does or will your accelerator and/or thrust/program fill?
- What are the specifics of your model and how it will accomplish the above?
- What has been your success/metrics so far?
- Please explain your overall statistics of the start-up life cycle?

Implementation

- What is your plan for the prize money if you win?
- Provide basics of business plan and phases for implementation.
- Aside from the founding team members, what do you look for in staff?
- What are the largest risk factors you see?

Metrics

- What are your fundraising goals or metrics? (aside from the 4-to-1 match)
- Is there a plan in place to secure/work to secure funds (cash, in-kind donations, or sponsorships) in a 4-to-1 proportion to the prize dollars received?
- Aside from metrics required by SBA, what are 5 key metrics you will use to self-evaluate?
- What does success look like?

Additionally, participants in this Competition must utilize models of operation that include most, if not all, of the following elements:

- Selective process to choose participating startups.
- Regular networking opportunities offered to startups.
- Introductions to customers, partners, suppliers, advisory boards and other players.
- High-growth and tech-driven startup mentorship and commercialization assistance.
- Shared working environments focused on building a strong startup community.
- Resource sharing and co-working arrangements for startups.
- Opportunities to pitch ideas and startups to investors along with other capital formation avenues to startups.
- Small amounts of angel money, seed capital or structured loans to startups.
- Service to underserved communities, such as women, veterans, and economically disadvantaged individuals.

4. *Prizes for Winners:* Prizes will be paid in lump sum via the Automated Clearing House (ACH). Winners will be required to create an account in the System for Award Management (SAM) in order to receive an award, and should have their paperwork and system's credentials established prior to receipt of the award.

5. *Selection of Winners:* Competition entries will be evaluated by a review committee that may be compromised of SBA officials, including District Office employees, other federal agencies, and/or private sector experts. Winners will be selected based upon how well they address the criteria identified in Items 2 and 3 of this Competition announcement. In judging entries, special consideration will be given to those accelerator models which support one or more of the following:

- STEM/Small Business Innovation Research (SBIR)
- Women-Owned or Minority-Owned Small Businesses (Underserved Communities)
- Rural Communities

• Veterans Focused Communities

In addition, in order to achieve nationwide distribution of prizes for the purpose of stimulating the growth and development of startups across the entire United States, SBA may take into account applicants' geographic locations and areas of service when selecting winners, including support to geographic regions that traditionally have limited access to capital, the underserved, women, the maker community, and American Indian, Alaska Native or Native Hawaiian populations.

6. *Applicable Law:* This Competition is being conducted by SBA pursuant to the government wide prize competition authority at *15 U.S.C. 3719.* By participating in this Competition, each contestant gives its full and unconditional agreement to the Official Rules and the related administrative decisions described in this notice, which are final and binding in all matters related to the Competition. Contestants remain solely responsible for complying with all applicable federal laws, including licensing, export control, and nonproliferation laws, and related regulations. A contestant's eligibility for a prize award is contingent upon their fulfilling all requirements identified in this notice. Publication of this notice is not an obligation of funds on the part of SBA. SBA reserves the right to modify or cancel this Competition, in whole or in part, at any time prior to the award of prizes.

7. *Conflicts of Interest:* No individual acting as a judge at any stage of this Competition may have personal or financial interests in, or be an employee, officer, director, or agent of any contestant or have a familial or financial relationship with a contestant.

8. *Intellectual Property Rights:* All entries submitted in response to this Competition will remain the sole intellectual property of the individuals or organizations that developed them. By registering and entering a submission, each contestant represents and warrants that it is the sole author and copyright owner of the submission, and that the submission is an original work of the contestant, or if the submission is a work based on an existing application, that the contestant has acquired sufficient rights to use and to authorize others to use the submission, and that the submission does not infringe upon any copyright or upon any other third party rights of which the contestant is aware. Additionally, by registering and entering a submission, each contestant agrees to grant SBA an irrevocable, non-exclusive, worldwide, royalty-free license to use materials, concepts, and other similar items of intellectual property proposed in, or developed during operations conducted pursuant to, its submission for purposes consistent with the Agency's mission.

9. *Publicity Rights:* By registering and entering a submission, each contestant consents to SBA's and its agents' use, in perpetuity, of its name, likeness, photograph, voice, opinions, and/or hometown and state information for promotional or informational purposes through any form of media, worldwide, without further payment or consideration.

10. *Liability and Insurance Requirements:* By registering and entering a submission, each contestant agrees to assume any and all risks and waive claims against the Federal Government and its related entities, except in the case of willful misconduct, for any injury, death, damage, or loss of property, revenue, or profits, whether direct, indirect, or consequential, arising from their participation in this Competition, whether the injury, death, damage, or loss arises through negligence or otherwise. Given this Competition does not involve potentially hazardous activities or the use of government property, contestants are not required to obtain liability insurance or demonstrate financial resources to cover claims by a third party for death, bodily injury, or property damage or loss resulting from any activity it carries out in connection with its participation in this Competition, or claims by the Federal Government for damage or loss to Government property resulting from such an activity.

11. *Record Retention and Disclosure:* All submissions and related materials provided to SBA in the course of this Competition automatically become SBA records and cannot be returned. Contestants should identify any confidential commercial information contained in their entries at the time of their submission.

Award Approving Official: John R. Williams, Director, Office of Innovation and Technology, U.S. Small Business Administration, 409 Third Street SW., Washington, DC 20416.

Authority: 15 U.S.C. 3719

Dated: June 15, 2017.

John R. Williams,

Director, Office of Innovation and Technology.

[FR Doc. 2017–13074 Filed 6–22–17; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice: 10043]

In the Matter of the Amendment of the Designation of Hizballah (and Other Aliases) as a Foreign Terrorist Organization Pursuant to Section 219 of the Immigration and Nationality Act, as Amended

Based upon a review of the Administrative Record assembled pursuant to Section 219 of the Immigration and Nationality Act, as amended (8 U.S.C. 1189) (''INA''), and in consultation with the Attorney General and the Secretary of the Treasury, I have concluded that there is a sufficient factual basis to find that the following are aliases of Hizballah (and other aliases): Lebanese Hizballah, also known as Lebanese Hezbollah, also known as LH; Foreign Relations Department, also known as FRD; and External Security Organization, also known as ESO, also known as Foreign Action Unit, also known as Hizballah ESO, also known as Hizballah International, also known as Special Operations Branch, also known as External Services Organization, also known as External Security Organization of Hezbollah.

Therefore, pursuant to Section 219(b) of the INA, as amended (8 U.S.C. 1189(b), I hereby amend the designation of Hizballah as a foreign terrorist organization to include the following new aliases: Lebanese Hizballah, also known as Lebanese Hezbollah, also known as LH; Foreign Relations Department, also known as FRD; and External Security Organization, also known as ESO, also known as Foreign Action Unit, also known as Hizballah ESO, also known as Hizballah International, also known as Special Operations Branch, also known as External Services Organization, also known as External Security Organization of Hezbollah.

This determination shall be published in the **Federal Register**.

Dated: May 16, 2017.

Rex W. Tillerson,

Secretary of State.

[FR Doc. 2017–13325 Filed 6–22–17; 8:45 am]

BILLING CODE 4710–10–P

DEPARTMENT OF STATE

[Public Notice: 10046]

In the Matter of the Amendment of the Designation of al-Qa'ida in the Arabian Peninsula (and Other Aliases) as a Foreign Terrorist Organization Pursuant to Section 219 of the Immigration and Nationality Act

Based upon a review of the administrative record assembled in this matter pursuant to Section 219 of the Immigration and Nationality Act, as amended (8 U.S.C. 1189 (''INA''), and in consultation with the Attorney General and the Secretary of the Treasury, I have concluded that there is a sufficient factual basis to find that al-Qa'ida in the Arabian Peninsula uses the additional aliases Sons of Abyan, Sons of Hadramawt, Sons of Hadramawt Committee, Civil Council of Hadramawt, and National Hadramawt Council.

Therefore, pursuant to Section 219(b) of the INA, as amended (8 U.S.C. 1189(b), I hereby amend the designation of al-Qa'ida in the Arabian Peninsula as a Foreign Terrorist Organization to include Sons of Abyan, Sons of Hadramawt, Sons of Hadramawt Committee, Civil Council of Hadramawt, and National Hadramawt Council as aliases.

This determination shall be published in the **Federal Register**.

Dated: May 15, 2017.

Rex Tillerson,

Secretary of State.

[FR Doc. 2017–13322 Filed 6–22–17; 8:45 am]

BILLING CODE 4710–10–P

DEPARTMENT OF STATE

[Public Notice: 10045]

In the Matter of the Amendment of the Designation of al-Qa'ida in the Arabian Peninsula and Other Aliases as a Specially Designated Global Terrorist Entity Pursuant to Executive Order 13224

Based upon a review of the administrative record assembled in this matter, and in consultation with the Attorney General and the Secretary of the Treasury, I have concluded that there is a sufficient factual basis to find that al-Qa'ida in the Arabian Peninsula (and other aliases) uses the additional aliases Sons of Abyan, Sons of Hadramawt, Sons of Hadramawt Committee, Civil Council of Hadramawt, and National Hadramawt Council.

Therefore, pursuant to Section 1(b) of Executive Order 13224, I hereby amend the designation of al-Qa'ida in the Arabian Peninsula (and other aliases) as a Specially Designated Global Terrorist to include Sons of Abyan, Sons of Hadramawt, Sons of Hadramawt Committee, Civil Council of Hadramawt, and National Hadramawt Council as aliases.

This determination shall be published in the **Federal Register**.

Dated: May 15, 2017.

Rex Tillerson,

Secretary of State.

[FR Doc. 2017–13319 Filed 6–22–17; 8:45 am]

BILLING CODE 4710–10–P

DEPARTMENT OF STATE

[Public Notice: 10044]

In the Matter of the Amendment of the Designation of Hizballah (and Other Aliases) as a Specially Designated Global Terrorist

Based upon a review of the administrative record assembled in this matter, and in consultation with the Attorney General and the Secretary of the Treasury, I have concluded that there is a sufficient factual basis to find that Hizballah (and other aliases): Lebanese Hizballah, also known as Lebanese Hezbollah, also known as LH; Foreign Relations Department, also known as FRD; and External Security Organization, also known as ESO, also known as Foreign Action Unit, also known as Hizballah ESO, also known as Hizballah International, also known as Special Operations Branch, also known as External Services Organization, also known as External Security Organization of Hezbollah.

Therefore, pursuant to Section 1(b) of Executive Order 13224, I hereby amend the designation of Hizballah as a Specially Designated Global Terrorist to include the following new aliases: Lebanese Hizballah, also known as Lebanese Hezbollah, also known as LH; Foreign Relations Department, also known as FRD; and External Security Organization, also known as ESO, also known as Foreign Action Unit, also known as Hizballah ESO, also known as Hizballah International, also known as Special Operations Branch, also known as External Services Organization, also known as External Security Organization of Hezbollah.

This determination shall be published in the **Federal Register**.

Dated: May 16, 2017.

Rex W. Tillerson,

Secretary of State.

[FR Doc. 2017–13318 Filed 6–22–17; 8:45 am]

BILLING CODE 4710–AD–P

SURFACE TRANSPORTATION BOARD

[Docket No. AB 1009 (Sub-No. 1X)]

Mission Mountain Railroad, L.L.C.—Discontinuance of Service Exemption—in Flathead County, Mont.

On June 5, 2017, Mission Mountain Railroad, L.L.C. (MMT), filed with the Board a petition under 49 U.S.C. 10502 for exemption from the prior approval requirements of 49 U.S.C. 10903 to discontinue its lease operations over approximately 2.7 miles of rail line owned by BNSF Railway Company (BNSF) in Flathead County, Mont. (the Line). The Line is located from milepost 1225.19 to milepost 1227.58 and from milepost 1226.91 to Engineering Station 189+36 (milepost 1227.10) in Kalispell, Mont. and traverses United States Postal Service Zip Code 59901.[1]

MMT states that based on information in BNSF's possession, the Line does not contain any federally granted rights-of-way. It states that any documentation in MMT's possession will be made available to those requesting it.

MMT states that it began operating over the Line in December 2004 [2] and since that time has provided service to two customers located on the Line. MMT represents that the two customers on the Line do not oppose the discontinuance of service because they will be relocated to Glacier Rail Park.

As a condition to this exemption, any employee adversely affected by the discontinuance of service shall be protected under *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho,* 360 I.C.C. 91 (1979).

By issuance of this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued by September 22, 2017.

Because this is a discontinuance proceeding and not an abandonment proceeding, trail use/rail banking and

[1] BNSF is seeking to abandon the Line in *BNSF Railway—Abandonment Exemption—in Flathead County, Mont.,* Docket No. AB 6 (Sub-No. 495X). According to MMT, the customers do not oppose the abandonment.

[2] MMT states that it acquired authority to lease a line of rail including the Line in January 2005. *See Mission Mountain R.R.—Acquis. & Lease Exemption—Burlington N. & Santa Fe Ry.,* FD 34634 (STB served Jan. 19, 2005).

public use conditions are not appropriate. Because environmental review is being conducted in the BNSF abandonment proceeding in Docket No. AB 6 (Sub-No. 495X), this discontinuance does not require an environmental review.

Any offer of financial assistance (OFA) under 49 CFR 1152.27(b)(2) to subsidize continued rail service will be due no later than October 2, 2017, or 10 days after service of a decision granting the petition for exemption, whichever occurs sooner. Each OFA must be accompanied by a $1,700 filing fee. *See* 49 CFR 1002.2(f)(25).

All filings in response to this notice must refer to Docket No. AB 1009 (Sub-No. 1X) and must be sent to: (1) Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001; and (2) Karl Morell, 440 1st Street NW., Suite 400, Washington, DC 20001. Replies to this petition are due on or before July 13, 2017.

Persons seeking further information concerning discontinuance procedures may contact the Board's Office of Public Assistance, Governmental Affairs, and Compliance at (202) 245–0238 or refer to the full abandonment and discontinuance regulations at 49 CFR pt. 1152. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Board decisions and notices are available on our Web site at *WWW.STB.GOV.*

Decided: June 16, 2017.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Brendetta S. Jones,

Clearance Clerk.

[FR Doc. 2017–13132 Filed 6–22–17; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on a Land Release Request at Elkins, Randolph County Regional Airport, Elkins, WV

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Notice and request for comment.

SUMMARY: The FAA is requesting public comment on the Elkins, Randolph County Regional Airport Authority's proposal to change 2.03 acres of airport property at Elkins, Randolph County Regional Airport, Elkins, West Virginia from aeronautical to non-aeronautical use and to enter into a long term non-aeronautical lease concerning the subject property.

In accordance with federal regulations this notice is required to be published in the **Federal Register** 30 days before the FAA can approve of this proposal and grant the land release request.

DATES: Comments must be received on or before July 24, 2017.

ADDRESSES: Comments on this application may be mailed or delivered to the following address: Nils A. Heinke, President, Elkins, Randolph County Regional Airport, 400 Airport Road, Elkins, West Virginia 26241, 304–636–2726.

And at the FAA Beckley Airports Field Office:, Matthew DiGiulian, Manager, Beckley Airports Field Office, 176 Airport Circle, Room 101, Beaver, West Virginia, (304) 252–6216.

FOR FURTHER INFORMATION CONTACT: Connie Boley-Lilly, Program Specialist, Beckley Airports Field Office, location listed above.

The request for change in use of on-airport property may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The following is a brief overview of the request:

The Elkins, Randolph County Regional Airport Authority, requests to change the use of 2.03 acres of on-airport property from aeronautical to non-aeronautical use and to enter into a long term non-aeronautical lease concerning this property. No land shall be sold as part of this land release request. The property is situated on the southeast corner of the airport. The Emerson Phares Building is an 80′ x 146′ brick and mortar building situated on 2.03 acres. This building was built in 1988 for the purpose of housing an FAA Flight Service Station. It is no longer needed by the FAA for that purpose. The release is being requested in order to re-classify the building as non-aeronautical use for the purpose of entering into a long term lease agreement with the Randolph County Commission. The lease term will be for a minimum of 30 years to utilize the building as a 911 Emergency Services Communications Center. The release of the property to facilitate the reclassification of the building will result in a direct benefit to the Airport Authority which will be realized in the form of monetary gain from the collection of rental/lease fees. The 2.03 acre area requested to be designated as non-aeronautical is unable to be utilized for aviation purposes because it is located outside the airport perimeter fence, and airside operations area, and is inaccessible by aircraft. The subject acreage is currently being used as rental property and once was occupied by an FAA Flight Service Station. The purpose of this request is to permanently change the use of the property given there is no potential for future aviation use, as demonstrated by the Airport Layout Plan. Subsequent to the implementation of the proposed change in use, rents received by the airport from this property must be used in accordance with FAA's Policy and Procedures Concerning the Use of Airport Revenue, published in the **Federal Register** on February 16, 1999.

Any person may inspect the request by appointment at the FAA office address listed above. Interested persons are invited to comment. All comments will be considered by the FAA to the extent practicable.

Issued in Beaver, West Virginia June 9, 2017.

Matthew DiGiulian,

Manager, Beckley Airports Field Office.

[FR Doc. 2017–13181 Filed 6–22–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice of Final Federal Agency Actions on The Hampton Roads Crossing Study in the Cities of Hampton and Norfolk, Virginia

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of limitation on claims for judicial review of actions by FHWA.

SUMMARY: This notice announces actions taken by FHWA that are final. The actions relate to the widening of Interstate 64 to a consistent six-lane facility between Interstates 664 and 564 and the addition of a new bridge-tunnel parallel to the existing Interstate 64 Hampton Roads Bridge Tunnel. Those actions grant licenses, permits, and approvals for the project.

DATES: By this notice, FHWA is advising the public of final agency actions subject to 23 U.S.C. 139(*l*)(1). A claim seeking judicial review of the Federal agency actions on the project will be barred unless the claim is filed on or before November 20, 2017. If the Federal law that authorizes judicial review of a claim provides a time period of less than 150 days for filing such claim, then that shorter time period still applies.

FOR FURTHER INFORMATION CONTACT: For FHWA: Mr. Edward Sundra, Director of Program Development, FHWA Virginia Division, 400 North 8th Street, Richmond, Virginia 23219; telephone:

(804) 775–3357; email: *Ed.Sundra@dot.gov.* The FHWA Virginia Division Office's normal business hours are 8:00 a.m. to 4:30 p.m. (Eastern Time). For the Virginia Department of Transportation: Scott Smizik, 1401 East Broad Street, Richmond, Virginia 23219; email: *Scott.Smizik@VDOT.Virginia.gov;* telephone: (804) 371–4082. The Virginia Department of Transportation's normal business hours are 7:00 a.m. to 4:00 p.m.

SUPPLEMENTARY INFORMATION: Notice is hereby given that FHWA has taken final agency actions subject to 23 U.S.C. 139(*l*)(1) by issuing licenses, permits, and approvals for the following project in the State of Virginia: Hampton Roads Crossing Study in the Cities of Hampton and Norfolk. The project involves the widening of Interstate 64 to a consistent six-lane facility between Interstates 664 and 564 and the addition of a new bridge-tunnel parallel to the existing Interstate 64 Hampton Roads Bridge Tunnel. The actions taken by FHWA, and the laws under which such actions were taken, are described in the Final Supplemental Environmental Impact Statement (SEIS) and Record of Decision (ROD). The Final SEIS was signed on April 25, 2017. The ROD was signed on June 12, 2017. The Final SEIS, ROD and other supporting documentation can be viewed on the project's Web site at: *http://hamptonroadscrossingstudy.org/.* These documents and other project records are also available by contacting FHWA or the Virginia Department of Transportation at the phone numbers and addresses listed above.

This notice applies to all Federal agency decisions as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

1. *General:* National Environmental Policy Act (NEPA) [42 U.S.C. 4321–4351]; Federal-Aid Highway Act (FAHA) [23 U.S.C. 109 and 23 U.S.C. 128].
2. *Air:* Clean Air Act [42 U.S.C. 7401–7671(q)].
3. *Land:* Section 4(f) of the Department of Transportation Act of 1966 [49 U.S.C. 303; 23 U.S.C. 138].
4. *Wildlife:* Endangered Species Act [16 U.S.C. 1531–1544 and Section 1536].
5. *Historic and Cultural Resources:* Section 106 of the National Historic Preservation Act of 1966, as amended [54 U.S.C. 306108].
6. *Social and Economic:* Farmland Protection Policy Act [7 U.S.C. 4201–4209].

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Authority: 23 U.S.C. 139(*l*)(1).

Issued On: June 13, 2017.

Edward Sundra,

Director of Program Development

[FR Doc. 2017–12812 Filed 6–22–17; 8:45 am]

BILLING CODE 4910–RY–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice of Final Federal Agency Actions on Proposed Highway in Washington

AGENCY: Federal Highway Administration (FHWA), Department of Transportation (DOT).

ACTION: Notice of limitation on claims for judicial review of actions by FHWA.

SUMMARY: This notice announces actions taken by the FHWA that are final. The action relates to the issuance of a Finding of No Significant Impact for the Interstate 5 Joint Base Lewis-McChord (JBLM) Congestion Relief Project in the vicinity of JBLM in southern Pierce County, State of Washington.

DATES: By this notice, the FHWA is advising the public of final agency actions subject to 23 U.S.C. 139(*l*)(1). A claim seeking judicial review of the Federal agency actions on the highway project will be barred unless the claim is filed on or before November 20, 2017. If the Federal law that authorizes judicial review of a claim provides a time period of less than 150 days for filing such claim, then that shorter time period still applies.

FOR FURTHER INFORMATION CONTACT: For FHWA, Dean Moberg, Area Engineer, Federal Highway Administration, 711 S. Capitol Way, Suite 501, Olympia, WA 98501–1284, 360–534–9344, or *Dean.Moberg@dot.gov;* or Jeff Sawyer, Region Environmental Manager, Washington State Department of Transportation, P.O. Box 47440, Tumwater, WA 98501, 360–570–6701, or *SawyerJ@wsdot.wa.gov.*

SUPPLEMENTARY INFORMATION: Notice is hereby given that FHWA has taken final agency action(s) subject to 23 U.S.C. 139(*l*)(1) by issuing licenses, permits, and approvals for the following highway project in the State of Washington: The purpose of the proposed action is to reduce chronic traffic congestion and improve person and freight mobility along I–5 in the vicinity of JBLM while continuing to maintain access to the communities and military installations neighboring the freeway. The proposed Project would improve I–5 through the JBLM area and relieve existing and expected future congestion on I–5 within the vicinity of JBLM, improve local and mainline system efficiency, enhance mobility, improve safety, and increase transit and Transportation Demand Management (TDM) opportunities by reducing I–5 travel times and improving accessibility at Thorne Lane and Berkeley Street. The actions by the Federal agencies, and the laws under which such actions were taken, are described in the Revised Environmental Assessment (REA) for the project approved on May 23, 2017, and in the Finding of No Significant Impact (FONSI) approved on May 23, 2017, and in other documents in the project records. The EA, FONSI, and other project records are available from FHWA and WSDOT at the addresses provided above and can be found at: *http://www.wsdot.wa.gov/Projects/I5/MountsRdThorneLn/EA.htm.*

This notice applies to all Federal agency decisions that are final as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to

1. *General:* National Environmental Policy Act (NEPA) (42 U.S.C. 4321–4351); Federal-Aid Highway Act (23 U.S.C. 109 and 23 U.S.C. 128).
2. *Air:* Clean Air Act (42 U.S.C. 7401–7671q).
3. *Land:* Section 4(f) of the Department of Transportation Act of 1966 (49 U.S.C. 303; 23 U.S.C. 138); Landscaping and Scenic Enhancement (Wildflowers) (23 U.S.C. 319).
4. *Wildlife:* Endangered Species Act (16 U.S.C. 1531–1544 and Section 1536); Marine Mammal Protection Act (16 U.S.C. 1361–1423h); Fish and Wildlife Coordination Act (16 U.S.C. 661–667d); Migratory Bird Treaty Act (16 U.S.C. 703–712).
5. *Historic and Cultural Resources:* Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470f); Archeological Resources Protection Act of 1977 (16 U.S.C. 470aa–470mm); Archeological and Historic Preservation Act (16 U.S.C. 469–469c); Native American Grave Protection and Repatriation Act (NAGPRA) (25 U.S.C. 3001–3013).
6. *Social and Economic:* American Indian Religious Freedom Act (42 U.S.C. 1996); Farmland Protection Policy Act (FPPA) (7 U.S.C. 4201–4209).
7. *Wetlands and Water Resources:* Clean Water Act (Section 404, Section 401, Section 319) (33 U.S.C. 1251–1387); Land and Water Conservation Fund

(LWCF) (16 U.S.C. 4601–4604); Safe Drinking Water Act (SDWA) (42 U.S.C. 300f–300j–26)); Rivers and Harbors Act of 1899 (33 U.S.C. 401–406); Wild and Scenic Rivers Act (16 U.S.C. 1271–1287); Emergency Wetlands Resources Act, (16 U.S.C. 3901, 3921); Wetlands Mitigation (23 U.S.C. 119(g) and 133(b)(14)); Flood Disaster Protection Act, 42 U.S.C. 4012a, 4106).

8. *Executive Orders:* E.O. 11990 Protection of Wetlands; E.O. 11988 Floodplain Management; E.O. 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations; E.O. 11593 Protection and Enhancement of Cultural Resources; E.O. 13007 Indian Sacred Sites; E.O. 13287 Preserve America; E.O. 13175 Consultation and Coordination with Indian Tribal Governments; E.O. 11514 Protection and Enhancement of Environmental Quality; E.O. 13112 Invasive Species.
9. *Navigation:* Rivers and Harbors Act of 1899 [33 U.SC. 403]; General Bridge Act of 1946 [33 U.S.C 9 and 11].

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Authority: 23 U.S.C. 139(*l*)(1).

Issued on: June 13, 2017.

Daniel M. Mathis,

Division Administrator, Olympia, Washington.

[FR Doc. 2017–12814 Filed 6–22–17; 8:45 am]

BILLING CODE 4910–RY–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2017–0016]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to exempt 10 individuals from the vision requirement in the Federal Motor Carrier Safety Regulations (FMCSRs). They are unable to meet the vision requirement in one eye for various reasons. The exemptions will enable these individuals to operate commercial motor vehicles (CMVs) in interstate commerce without meeting the prescribed vision requirement in one eye. The Agency has concluded that granting these exemptions will provide a level of safety that is equivalent to or greater than the level of safety maintained without the exemptions for these CMV drivers.

DATES: The exemptions were granted May 25, 2017. The exemptions expire on May 25, 2019.

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–113, Washington, DC 20590–0001. Office hours are 8:30 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Electronic Access

You may see all the comments online through the Federal Document Management System (FDMS) at *http://www.regulations.gov.*

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* and/or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

II. Background

On April 24, 2017, FMCSA published a notice of receipt of exemption applications from certain individuals, and requested comments from the public (82 FR 18954). That notice listed 10 applicants' case histories. The 10 individuals applied for exemptions from the vision requirement in 49 CFR 391.41(b)(10), for drivers who operate CMVs in interstate commerce.

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption for a 2-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The statute also allows the Agency to renew exemptions at the end of the 2-year period. Accordingly, FMCSA has evaluated the 10 applications on their merits and made a determination to grant exemptions to each of them.

III. Vision and Driving Experience of the Applicants

The vision requirement in the FMCSRs provides:

A person is physically qualified to drive a commercial motor vehicle if that person has distant visual acuity of at least 20/40 (Snellen) in each eye without corrective lenses or visual acuity separately corrected to 20/40 (Snellen) or better with corrective lenses, distant binocular acuity of a least 20/40 (Snellen) in both eyes with or without corrective lenses, field of vision of at least 70° in the horizontal meridian in each eye, and the ability to recognize the colors of traffic signals and devices showing red, green, and amber (49 CFR 391.41(b)(10)).

FMCSA recognizes that some drivers do not meet the vision requirement but have adapted their driving to accommodate their limitation and demonstrated their ability to drive safely. The 10 exemption applicants listed in this notice are in this category. They are unable to meet the vision requirement in one eye for various reasons, including amblyopia, complete loss of vision, enucleation, glaucoma, and prosthetic eye. In most cases, their eye conditions were not recently developed. Nine of the applicants were either born with their vision impairments or have had them since childhood.

The one individual that sustained their vision condition as an adult has had it for 12 years.

Although each applicant has one eye which does not meet the vision requirement in 49 CFR 391.41(b)(10), each has at least 20/40 corrected vision in the other eye, and in a doctor's opinion, has sufficient vision to perform all the tasks necessary to operate a CMV. Doctors' opinions are supported by the applicants' possession of valid commercial driver's licenses (CDLs) or non-CDLs to operate CMVs. Before issuing CDLs, States subject drivers to knowledge and skills tests designed to evaluate their qualifications to operate a CMV.

All of these applicants satisfied the testing requirements for their State of residence. By meeting State licensing requirements, the applicants demonstrated their ability to operate a CMV, with their limited vision, to the satisfaction of the State.

While possessing a valid CDL or non-CDL, these 10 drivers have been

authorized to drive a CMV in intrastate commerce, even though their vision disqualified them from driving in interstate commerce. They have driven CMVs with their limited vision in careers ranging for 5 to 52 years. In the past three years, no drivers were involved in crashes and one driver was convicted of a moving violation in a CMV.

The qualifications, experience, and medical condition of each applicant were stated and discussed in detail in the April 24, 2017 notice (82 FR 18954).

IV. Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the vision requirement in 49 CFR 391.41(b)(10) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. Without the exemption, applicants will continue to be restricted to intrastate driving. With the exemption, applicants can drive in interstate commerce. Thus, our analysis focuses on whether an equal or greater level of safety is likely to be achieved by permitting each of these drivers to drive in interstate commerce as opposed to restricting him or her to driving in intrastate commerce.

To evaluate the effect of these exemptions on safety, FMCSA considered the medical reports about the applicants' vision as well as their driving records and experience with the vision deficiency.

To qualify for an exemption from the vision requirement, FMCSA requires a person to present verifiable evidence that he/she has driven a commercial vehicle safely with the vision deficiency for the past 3 years. Recent driving performance is especially important in evaluating future safety, according to several research studies designed to correlate past and future driving performance. Results of these studies support the principle that the best predictor of future performance by a driver is his/her past record of crashes and traffic violations. Copies of the studies may be found at Docket Number FMCSA–1998–3637.

FMCSA believes it can properly apply the principle to monocular drivers, because data from the Federal Highway Administration's (FHWA) former waiver study program clearly demonstrate the driving performance of experienced monocular drivers in the program is better than that of all CMV drivers collectively (See 61 FR 13338, 13345, March 26, 1996). The fact that experienced monocular drivers demonstrated safe driving records in the waiver program supports a conclusion that other monocular drivers, meeting the same qualifying conditions as those required by the waiver program, are also likely to have adapted to their vision deficiency and will continue to operate safely.

The first major research correlating past and future performance was done in England by Greenwood and Yule in 1920. Subsequent studies, building on that model, concluded that crash rates for the same individual exposed to certain risks for two different time periods vary only slightly (See Bates and Neyman, University of California Publications in Statistics, April 1952). Other studies demonstrated theories of predicting crash proneness from crash history coupled with other factors. These factors—such as age, sex, geographic location, mileage driven and conviction history—are used every day by insurance companies and motor vehicle bureaus to predict the probability of an individual experiencing future crashes (See Weber, Donald C., ''Accident Rate Potential: An Application of Multiple Regression Analysis of a Poisson Process,'' Journal of American Statistical Association, June 1971). A 1964 California Driver Record Study prepared by the California Department of Motor Vehicles concluded that the best overall crash predictor for both concurrent and nonconcurrent events is the number of single convictions. This study used 3 consecutive years of data, comparing the experiences of drivers in the first 2 years with their experiences in the final year.

Applying principles from these studies to the past 3-year record of the 10 applicants, no drivers were involved in crashes and one driver was convicted of a moving violation in a CMV. All the applicants achieved a record of safety while driving with their vision impairment, demonstrating the likelihood that they have adapted their driving skills to accommodate their condition. As the applicants' ample driving histories with their vision deficiencies are good predictors of future performance, FMCSA concludes their ability to drive safely can be projected into the future.

We believe that the applicants' intrastate driving experience and history provide an adequate basis for predicting their ability to drive safely in interstate commerce. Intrastate driving, like interstate operations, involves substantial driving on highways on the interstate system and on other roads built to interstate standards. Moreover, driving in congested urban areas exposes the driver to more pedestrian and vehicular traffic than exists on interstate highways. Faster reaction to traffic and traffic signals is generally required because distances between them are more compact. These conditions tax visual capacity and driver response just as intensely as interstate driving conditions. The veteran drivers in this proceeding have operated CMVs safely under those conditions for at least 3 years, most for much longer. Their experience and driving records lead us to believe that each applicant is capable of operating in interstate commerce as safely as he/she has been performing in intrastate commerce. Consequently, FMCSA finds that exempting these applicants from the vision requirement in 49 CFR 391.41(b)(10) is likely to achieve a level of safety equal to that existing without the exemption. For this reason, the Agency is granting the exemptions for the 2-year period allowed by 49 U.S.C. 31136(e) and 31315 to the 10 applicants listed in the notice of April 24, 2017 (82 FR 18954).

We recognize that the vision of an applicant may change and affect his/her ability to operate a CMV as safely as in the past. As a condition of the exemption, therefore, FMCSA will impose requirements on the 10 individuals consistent with the grandfathering provisions applied to drivers who participated in the Agency's vision waiver program.

Those requirements are found at 49 CFR 391.64(b) and include the following: (1) That each individual be physically examined every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the requirement in 49 CFR 391.41(b)(10) and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time oaf the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy in his/her driver's qualification file if he/she is self-employed. The driver must have a copy of the certification when driving, for presentation to a duly authorized Federal, State, or local enforcement official.

V. Discussion of Comments

FMCSA received one comment in this proceeding. Cheyenne Imlay stated she is against granting the exemptions due to safety concerns. FMCSA is required to evaluate medical reports regarding each applicant's vision deficiency, as well as each applicant's driving records,

in order to determine if an equal or greater level of safety is likely to be achieved by permitting each of the applicants to drive in interstate commerce as opposed to restricting him or her to driving in intrastate commerce. The Agency completed this evaluation for each of the 10 applicants listed in this notice and determined that an equivalent or greater level of safety is likely to be achieved by granting the exemptions as would be without the exemptions.

IV. Conclusion

Based upon its evaluation of the 10 exemption applications, FMCSA exempts the following drivers from the vision requirement in 49 CFR 391.41(b)(10):

Russel R. Dixon (VA)
Robert A. Fasset (MI)
William M. Hanes (OH)
Ryan P. Lambert (UT)
Richard D. Patterson (TN)
Jonathan W. Pryor (OK)
Ernesto Silva (NM)
Dennis L. Spence (WA)
Gordon R. Ulm (OH)
Gary L. Warner (VA)

In accordance with 49 U.S.C. 31136(e) and 31315, each exemption will be valid for 2 years unless revoked earlier by FMCSA. The exemption will be revoked if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136 and 31315.

If the exemption is still effective at the end of the 2-year period, the person may apply to FMCSA for a renewal under procedures in effect at that time.

Issued on: June 14, 2017.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2017–13128 Filed 6–22–17; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2016–0141; Notice 2]

Spartan Motors USA, Inc., Grant of Petition for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Grant of petition.

SUMMARY: Spartan Motors USA, Inc. (Spartan), has determined that certain model year (MY) 2017 Spartan Emergency Response Metro Star motor vehicles do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 120, *Tire selection and rims and motor home/recreation vehicle trailer load carrying capacity information for motor vehicles with a GVWR of more than 4,536 kilograms (10,000 pounds).* Spartan filed a noncompliance information report dated December 6, 2016. Spartan also petitioned NHTSA on January 4, 2017, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety.

ADDRESSES: For further information on this decision contact Kerrin Bressant, Office of Vehicle Safety Compliance, the National Highway Traffic Safety Administration (NHTSA), telephone (202) 366–1110, facsimile (202) 366–5930.

SUPPLEMENTARY INFORMATION:

I. Overview: Spartan Motors USA, Inc. (Spartan), has determined that certain model year (MY) 2017 Spartan Emergency Response Metro Star motor vehicles do not fully comply with paragraph S5.2(b) of Federal Motor Vehicle Safety Standard (FMVSS) No. 120, *Tire selection and rims and motor home/recreation vehicle trailer load carrying capacity information for motor vehicles with a GVWR of more than 4,536 kilograms (10,000 pounds).* Spartan filed a noncompliance report dated December 6, 2016, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports.* Spartan also petitioned NHTSA on January 4, 2017, pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR part 556, for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential as it relates to motor vehicle safety.

Notice of receipt of the petition was published, with a 30-day public comment period on April 11, 2017, in the **Federal Register** (82 FR 17520). No comments were received. To view the petition and all supporting documents log onto the Federal Docket Management System (FDMS) Web page at: *http://www.regulations.gov/.* Then follow the online search instruction to locate docket number ''NHTSA–2016–0141.''

II. Vehicles Involved: Approximately 19 MY 2017 Spartan Emergency Response Metro Star motor vehicles manufactured between September 6, 2016, and October 24, 2016, are potentially involved.

III. Noncompliance: Spartan explains that the noncompliance is that the wheels on the subject vehicles incorrectly identify the rim size as 24.5″ x 8.25″ instead of 22.5″ x 8.25″, and therefore do not meet the requirements of paragraph S5.2(b) of FMVSS No. 120.

IV. Rule Text: paragraph S5.2 of FMVSS No. 120 states:

S5.2 *Rim marking.* Each rim or, at the option of the manufacturer in the case of a single-piece wheel, wheel disc shall be marked with the information listed in paragraphs (a) through (e) of this paragraph, in lettering not less than 3 millimeters high, impressed to a depth or, at the option of the manufacturer, embossed to a height of not less than 0.125 millimeters . . .

(b) The rim size designation, and in case of multipiece rims, the rim type designation. For example: 20 x 5.50, or 20 x 5.5.

V. Summary of Spartan's Petition: Spartan described the subject noncompliance and stated its belief that the noncompliance is inconsequential as it relates to motor vehicle safety.

In support of its petition, Spartan provided the following: Chassis cabs affected by this condition are manufactured in two or more stages. While in general, Spartan is the incomplete vehicle manufacturer, in this case, Spartan provides a label that contains the requirements identified in 49 CFR 567.5(a)(2)(iv), which states that a label must be affixed to an incomplete vehicle that contains the ''GROSS AXLE WEIGHT RATING'' or ''GVWR'', followed by the appropriate value in kilograms and (pounds) for each axle, identified in order from front to rear (*e.g.,* front, first intermediate, second intermediate, rear). The ratings for any consecutive axles having identical gross axle weight ratings when equipped with tires having the same tire size designation may be stated as a single value, with the label indicating to which axles the ratings apply. Similar information must be included in the incomplete vehicle document or IVD that must be furnished by the incomplete vehicle manufacturer, as required by 49 CFR 568.4(a)(5).

While the actual wheel stamping may be 24.5, the physical size (outside diameter) is 22.5. If a service provider were to reference the rim size of the incorrectly stamped rim, and attempt to install a tire with an inside diameter of 24.5, it would be too large for the 22.5 size rim and thus not fit. Given the label being provided and the construction details sheet provided in accordance with NFPA® 1901 Standard for Automotive Fire Apparatus 2016 edition, Spartan believes the

noncompliance is inconsequential as it relates to motor vehicle safety, and requests that their petition to be exempted from providing notification of the noncompliance, as required by 49 U.S.C. 30118, and a remedy for the noncompliance, as required by 49 U.S.C. 30120, should be granted.

To view Spartan's petition analyses in its entirety you can visit *https://www.regulations.gov* by following the online instructions for accessing the dockets and by using the docket ID number for this petition shown in the heading of this notice.

No comments were received during the receipt notice comment period.

NHTSA Decision

NHTSA Analysis: Spartan Motors USA, Inc. (Spartan) explained that as many as 19 emergency response chassis cabs may be equipped with rims that were inadvertently stamped with a 24.5 inch diameter x 8.25 inch width marking instead of 22.5 inch diameter x 8.25 inch width marking which is the actual size of the rim. Further, while the actual diameter rim stamping may be 24.5 inches, the physical size (outside diameter) is actually 22.5 inches. If a service provider were to reference the stamped rim size and attempted to install a tire with an inside diameter of 24.5 inches, the tire inside diameter would be too large for the rim diameter and the two could not be fitted together.

In this case, the agency agrees that the noncompliance is inconsequential to motor vehicle safety. As stated by Spartan, if a service provider tried to mount a 24.5 diameter tire on a 22.5 diameter rim it would be unsuccessful. The inability to mount the incorrect tire on the rim precludes one's ability to actually drive with an incorrect tire-rim combination on public roadways. Furthermore, FMVSS No. 120 paragraph S5.3 requires vehicles be labeled with proper tire/rim size combinations. This additional information is available to assist the vehicle operator with tire/rim size information.

NHTSA's Decision: In consideration of the foregoing, NHTSA has decided that the petitioner has met its burden of persuasion that the noncompliance at issue is inconsequential to motor vehicle safety. Accordingly, Spartan's petition is hereby granted, and the petitioner is exempted from the obligation of providing notification of, and a remedy for, the noncompliance.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, this decision only applies to the subject motorcycles that Spartan no longer controlled at the time it determined that the noncompliance existed. However, the granting of this petition does not relieve vehicle distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant vehicles under their control after Spartan notified them that the subject noncompliance existed.

Authority: (49 U.S.C. 30118, 30120: delegations of authority at 49 CFR 1.95 and 501.8).

Jeffrey M. Giuseppe,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 2017–13083 Filed 6–22–17; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2017–0041; Notice 1]

Nissan North America, Inc., Receipt of Petition for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Receipt of petition.

SUMMARY: Nissan North America, Inc. (Nissan), has determined that certain model year (MY) 2016–2017 Nissan Titan Crew Cab motor vehicles do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 201, *Occupant Protection in Interior Impact.* Nissan filed a noncompliance report dated April 24, 2017. Nissan also petitioned NHTSA on May 16, 2017, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety.

DATES: The closing date for comments on the petition is July 24, 2017.

ADDRESSES: Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket and notice number cited in the title of this notice and submitted by any of the following methods:

- *Mail:* Send comments by mail addressed to 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 comments by hand to U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. The Docket Section is open on weekdays from 10 a.m. to 5 p.m. except Federal Holidays.
- *Electronically:* Submit comments electronically by logging onto the Federal Docket Management System (FDMS) Web site at *https://www.regulations.gov/.* Follow the online instructions for submitting comments.
- Comments may also be faxed to (202) 493–2251.

Comments must be written in the English language, and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that comments you have submitted by mail were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to *https://www.regulations.gov,* including any personal information provided.

All comments and supporting materials received before the close of business on the closing date indicated above will be filed in the docket and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the fullest extent possible.

When the petition is granted or denied, notice of the decision will also be published in the **Federal Register** pursuant to the authority indicated at the end of this notice.

All comments, background documentation, and supporting materials submitted to the docket may be viewed by anyone at the address and times given above. The documents may also be viewed on the Internet at *https://www.regulations.gov* by following the online instructions for accessing the dockets. The docket ID number for this petition is shown in the heading of this notice.

DOT's complete Privacy Act Statement is available for review in a **Federal Register** notice published on April 11, 2000, (65 FR 19477–78).

SUPPLEMENTARY INFORMATION:

I. Overview: Nissan North America, Inc. (Nissan), has determined that certain model year (MY) 2016–2017 Nissan Titan Crew Cab motor vehicles

do not fully comply with paragraphs S7 and S10.4(b)(2) of FMVSS No. 201, *Occupant Protection in Interior Impact.* Nissan filed a noncompliance report dated April 24, 2017, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports.* Nissan also petitioned NHTSA on May 16, 2017, pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR part 556, for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential as it relates to motor vehicle safety.

This notice of receipt of Nissan's petition is published under 49 U.S.C. 30118 and 30120 and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

II. *Vehicles Involved:* Approximately 44,264 MY 2016–2017 Nissan Titan Crew Cab motor vehicles, manufactured between August 7, 2015, and February 24, 2017, are potentially involved.

III. *Noncompliance:* During an FMVSS No. 201 test performed by NHTSA and conducted at MGA Research Corporation (MGA) on January 12, 2017, the 2017 Nissan Titan Crew Cab NHTSA test vehicle, failed the HIC(d) value test and therefore did not meet the requirements of paragraphs S7 and S10.4(b)(2) of FMVSS No. 201. Specifically, NHTSA's test vehicle had a HIC(d) value of 1,007.9, exceeding the value permitted by the standard, which states that it should not exceed 1,000.

IV. *Rule Text:* Paragraph S7 of FMVSS No. 201 states in pertinent part:

S7 *Performance Criterion.* The HIC(d) shall not exceed 1000 when calculated in accordance with the following formula:

$$HIC = \left[\frac{1}{t_2 - t_1}\int_{t_1}^{t_2} a dt\right]^{2.5}(t_2 - t_1)$$

Where the term a is the resultant head acceleration expressed as a multiple of g (the acceleration of gravity), and t1 and t2 are any two points in time during the impact which are separated by not more than a 36 millisecond time interval. . .

Paragraphs S10.4(b)(2) of FMVSS No. 201 states in pertinent part:

S10.4 *Rearmost pillar targets.*
(b) Target RP2. . .
(2) If a seat belt anchorage is located on the pillar, Target RP2 is any point on the anchorage. . .

V. *Summary of Nissan's Petition:* Nissan described the subject noncompliance and stated its belief that the noncompliance is inconsequential as it relates to motor vehicle safety.

In support of its petition, Nissan submitted the following reasoning:

1. In the subject vehicles, the HIC(d) value deviation for target RP2 observed in the MGA test is inconsequential because it is impossible for an occupant's head to strike this target at the same angle as the MGA test.

(a) When attempting to replicate the MGA test condition with an AM50 Hybrid III dummy (AM50 ATD), the AM50 ATD's head cannot contact the RP2 compliance test impact point when the rear seat *is in the design position.* It is not possible for the AM50 ATD to contact the RP2 target in the same head form orientation as used in the FMVSS No. 201U compliance test. This lack of contact is caused by interference between the AM50 and the seat back of the second row seats. Due to this interference, the AM50 ATD's head is 330 mm forward of the RP2 target.

(b) When attempting to replicate the MGA test condition with an AM50 Hybrid III dummy (AM50 ATD), the AM50 ATD's head cannot contact the RP2 compliance test impact point when the *rear seat is in the folded position.* It is not possible for the AM50 ATD to contact the RP2 target in the same head form orientation as used in the FMVSS No. 201U compliance test. This lack of contact is caused by interference between the AM50 ATD and the back-panel trim. Due to this interference, the AM50 ATD's head is 190 mm forward of the RP2 target.

2. As previously demonstrated in section 1, it is not possible for the AM50 ATD to contact the D-Ring anchor cap in the same head form orientation as used in the MGA test. It was then attempted to replicate any possible real world contact of the AM50 Hybrid III dummy's head (AM50 ATD) and the rear pillar d-ring anchor cap. A small range exists where it is possible for the head of the AM50 ATD to contact the rear seat belt d-ring anchor cap albeit in a manner different than the compliance test. This range is bounded on one end by the AM50 contact with either the rear seat when in the design position or the rear trim when the seat is in the folded position.

(a) Interference between the AM50 ATD and the back of the front seat limits the horizontal approach angle to thirty-four degrees (34°). A test conducted in support of this petition with a horizontal approach angle of 34° and a vertical approach angle of 0° at a velocity of 24.5 kph resulted in a HIC(d) value of 646.2.

(b) With the rear seat in the folded position, in order for the AM50 ATD's head to contact the RP2 target, a horizontal approach angle of seventy-one degrees (71°) would be required; the resultant deceleration, and thus HIC(d) value, would be lower than 1,007.9 due to head contact with the edge of the D-ring bolt trip cap and off-axis loading of the D-Ring bolt. A test conducted in support of this petition with a horizontal approach angle of 71° and vertical approach angle of 0° at a velocity of 24.6 kph resulted in a HIC(d) value of 891.7.

(c) With the rear seat in the design position, in order for the AM50 ATD's head to contact the RP2 target a horizontal approach angle of sixty-five degrees (65°) would be required, with the resultant HIC(d) similar to the above, and well below the regulatory threshold.

3. In addition to the above, Nissan is aware of four crash tests that demonstrate the test dummy's head does not contact the RP2 target during the crash event:

(a) In the Insurance Institute for Highway Safety Side Impact Moving Deformable Barrier (MDB) Test conducted at a ninety-degree (90°) side impact at 50 kph the test dummy head does not contact FMVSS No. 201U S10.4(b)(2) target RP2.

(b) In the New Car Assessment Program (NCAP) Side Impact Moving Deformable Barrier Test conducted at 61.9 kph, the test dummy head does not contact FMVSS No. 201U S10.4(b)(2) target RP2.

(c) In a frontal impact sled test conducted as part of an internal Nissan evaluation, the test dummy's head, in a fully rearward position, does not contact the RP2 target.

(d) In a second row 18 mph side impact rigid pole test conducted as part of an internal evaluation, the test dummy's head does not contact the RP2 target.

Nissan concluded by expressing the belief that the subject noncompliance is inconsequential as it relates to motor vehicle safety, and that its petition to be exempted from providing notification of the noncompliance, as required by 49 U.S.C. 30118, and a remedy for the noncompliance, as required by 49 U.S.C. 30120, should be granted.

To view Nissan's petition analyses and any supplemental information in its entirety you can visit *https://www.regulations.gov* by following the online instructions for accessing the dockets and by using the docket ID number for this petition shown in the heading of this notice.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and

30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, any decision on this petition only applies to the subject vehicles that Nissan no longer controlled at the time it determined that the noncompliance existed. However, any decision on this petition does not relieve vehicle distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant vehicles under their control after Nissan notified them that the subject noncompliance existed.

Authority: 49 U.S.C. 30118, 30120: delegations of authority at 49 CFR 1.95 and 501.8.

Jeffrey M. Giuseppe,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 2017–13084 Filed 6–22–17; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF VETERANS AFFAIRS

Solicitation of Nominations for Appointment to the Veterans and Community Oversight and Engagement Board

ACTION: Notice, amended.

SUMMARY: The Department of Veterans Affairs (VA) is seeking nominations of qualified candidates to be considered for appointment as a member of the Veterans and Community Oversight and Engagement Board (herein after referred in this section to as ''the Board'') for the VA West Los Angeles Campus in Los Angeles, CA (''Campus''). The Board is established to coordinate locally with the Department of Veterans Affairs to identify the goals of the community and Veteran partnership; provide advice and recommendations to the Secretary to improve services and outcomes for Veterans, members of the Armed Forces, and the families of such Veterans and members; and provide advice and recommendations on the implementation of the Draft Master Plan approved by the Secretary on January 28, 2016, and on the creation and implementation of any other successor master plans.

DATES: Nominations for membership on the Board must be received no later than 5:00p.m. EST on July 7, 2017.

ADDRESSES: All nominations should be mailed to the Veterans Experience Office, Department of Veterans Affairs, 810 Vermont Avenue NW. (30), Washington, DC 20420; or sent electronically to the Advisory Committee Management Office mailbox at *vaadvisorycmte@va.gov.*

FOR FURTHER INFORMATION CONTACT: Kellie Condon, Ph.D., Designated Federal Officer, Veterans Experience Office, Department of Veterans Affairs, 810 Vermont Avenue NW. (30), Washington, DC 20420, telephone 805–868–2076 or via email at *Kellie.Condon@va.gov.*

SUPPLEMENTARY INFORMATION: In carrying out the duties set forth in the West LA Leasing Act, the Board shall:

(1) Provide the community with opportunities to collaborate and communicate by conducting public forums; and

(2) Focus on local issues regarding the Department that are identified by the community with respect to health care, implementation of the Master Plan, and any subsequent plans, benefits, and memorial services at the Campus. Information on the Master Plan can be found at *https://www.losangeles.va.gov/masterplan/.*

Authority: The Board is a statutory committee established as required by Section 2(i) of the West Los Angeles Leasing Act of 2016, Public Law 114–226 (the West LA Leasing Act). The Board operates in accordance with the provisions of the Federal Advisory Committee Act (FACA), as amended, 5 U.S.C. App. 2.

Membership Criteria and Qualifications: VA is seeking nominations for Board membership. The Board is composed of twelve members and several ex-officio members.

The members of the Board are appointed by the Secretary of Veterans Affairs from the general public, from various sectors and organizations, and shall meet the following qualifications, as set forth in the West LA Leasing Act:

(1) Not less than 50% of members shall be Veterans; and

(2) Non-Veteran members shall be:

a. Family members of Veterans,

b. Veteran advocates,

c. Service providers,

d. Real estate professionals familiar with housing development projects, or

e. Stakeholders.

In accordance with the Board Charter, the Secretary shall determine the number, terms of service, and pay and allowances of Board members, except that a term of service of any such member may not exceed two years. The Secretary may reappoint any Board 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 and information so that VA can ensure diverse Board membership.

Requirements for Nomination Submission: Nominations should be typed written (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 Board;

(2) The nominee's contact information, including name, mailing address, telephone numbers, and email address;

(3) The nominee's curriculum vitae, not to exceed three pages and a one page cover letter; and

(4) A summary of the nominee's experience and qualifications relative to the membership criteria and professional qualifications criteria listed above.

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 Board 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 Board and appears to have no conflict of interest that would preclude membership. An ethics review is conducted for each selected nominee.

Dated: June 19, 2017.

Jelessa M. Burney,

Federal Advisory Committee Management Officer.

[FR Doc. 2017–13073 Filed 6–22–17; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL REGISTER

Vol. 82 Friday,
No. 120 June 23, 2017

Part II

The President

Federal Register
Vol. 82, No. 120
Friday, June 23, 2017

Presidential Documents

Title 3—

The President

Notice of June 21, 2017

Continuation of the National Emergency With Respect to North Korea

On June 26, 2008, by Executive Order 13466, the President declared a national emergency with respect to North Korea pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701–1706) to deal with the unusual and extraordinary threat to the national security and foreign policy of the United States constituted by the existence and risk of proliferation of weapons-usable fissile material on the Korean Peninsula. The President also found that it was necessary to maintain certain restrictions with respect to North Korea that would otherwise have been lifted pursuant to Proclamation 8271 of June 26, 2008, which terminated the exercise of authorities under the Trading With the Enemy Act (50 U.S.C. App. 1–44) with respect to North Korea.

On August 30, 2010, the President signed Executive Order 13551, which expanded the scope of the national emergency declared in Executive Order 13466 to deal with the unusual and extraordinary threat to the national security, foreign policy, and economy of the United States posed by the continued actions and policies of the Government of North Korea, manifested by its unprovoked attack that resulted in the sinking of the Republic of Korea Navy ship *Cheonan* and the deaths of 46 sailors in March 2010; its announced test of a nuclear device and its missile launches in 2009; its actions in violation of United Nations Security Council Resolutions 1718 and 1874, including the procurement of luxury goods; and its illicit and deceptive activities in international markets through which it obtains financial and other support, including money laundering, the counterfeiting of goods and currency, bulk cash smuggling, and narcotics trafficking, which destabilize the Korean Peninsula and imperil United States Armed Forces, allies, and trading partners in the region.

On April 18, 2011, the President signed Executive Order 13570 to take additional steps to address the national emergency declared in Executive Order 13466 and expanded in Executive Order 13551 that would ensure the implementation of the import restrictions contained in United Nations Security Council Resolutions 1718 and 1874 and complement the import restrictions provided for in the Arms Export Control Act (22 U.S.C. 2751 *et seq.*).

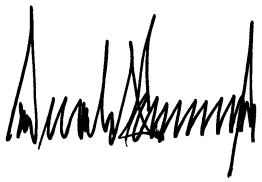
On January 2, 2015, the President signed Executive Order 13687 to expand the scope of the national emergency declared in Executive Order 13466, expanded in Executive Order 13551, and addressed further in Executive Order 13570, to address the threat to the national security, foreign policy, and economy of the United States constituted by the provocative, destabilizing, and repressive actions and policies of the Government of North Korea, including its destructive, coercive cyber-related actions during November and December 2014, actions in violation of United Nations Security Council Resolutions 1718, 1874, 2087, and 2094, and commission of serious human rights abuses.

On March 15, 2016, the President signed Executive Order 13722 to take additional steps with respect to the national emergency declared in Executive Order 13466, as modified in scope and relied upon for additional steps in subsequent Executive Orders, to address the Government of North Korea's continuing pursuit of its nuclear and missile programs, as evidenced by

its February 7, 2016, launch using ballistic missile technology and its January 6, 2016, nuclear test in violation of its obligations pursuant to numerous United Nations Security Council resolutions and in contravention of its commitments under the September 19, 2005, Joint Statement of the Six-Party Talks, that increasingly imperils the United States and its allies.

The existence and risk of proliferation of weapons-usable fissile material on the Korean Peninsula and the actions and policies of the Government of North Korea continue to pose an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States. For this reason, the national emergency declared in Executive Order 13466, expanded in scope in Executive Order 13551, addressed further in Executive Order 13570, further expanded in scope in Executive Order 13687, and under which additional steps were taken in Executive Order 13722 of March 15, 2016, and the measures taken to deal with that national emergency, must continue in effect beyond June 26, 2017. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing for 1 year the national emergency with respect to North Korea declared in Executive Order 13466.

This notice shall be published in the *Federal Register* and transmitted to the Congress.



THE WHITE HOUSE,
June 21, 2017.

[FR Doc. 2017–13376
Filed 6–22–17; 11:15 am]
Billing code 3295–F7–P

Presidential Documents

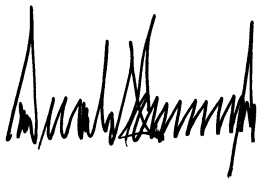
Notice of June 21, 2017

Continuation of the National Emergency With Respect to the Western Balkans

On June 26, 2001, by Executive Order 13219, the President declared a national emergency with respect to the Western Balkans, pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701–1706), to deal with the unusual and extraordinary threat to the national security and foreign policy of the United States constituted by the actions of persons engaged in, or assisting, sponsoring, or supporting (i) extremist violence in the Republic of Macedonia and elsewhere in the Western Balkans region, or (ii) acts obstructing implementation of the Dayton Accords in Bosnia or United Nations Security Council Resolution 1244 of June 10, 1999, in Kosovo. The President subsequently amended that order in Executive Order 13304 of May 28, 2003, to take additional steps with respect to acts obstructing implementation of the Ohrid Framework Agreement of 2001 relating to Macedonia.

The actions of persons threatening the peace and international stabilization efforts in the Western Balkans, including acts of extremist violence and obstructionist activity, continue to pose an unusual and extraordinary threat to the national security and foreign policy of the United States. For this reason, the national emergency declared on June 26, 2001, and the measures adopted on that date and thereafter to deal with that emergency, must continue in effect beyond June 26, 2017. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing for 1 year the national emergency with respect to the Western Balkans declared in Executive Order 13219.

This notice shall be published in the *Federal Register* and transmitted to the Congress.



THE WHITE HOUSE,
June 21, 2017.

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