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

The Code of Federal Regulations is sold by the Superintendent of Documents.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

[NRC–2016–0138]

RIN 3150–AJ78

List of Approved Spent Fuel Storage Casks: EnergySolutions™ Corporation, VSC–24 Ventilated Storage Cask System, Renewal of Initial Certificate and Amendment Nos. 1–6

AGENCY: Nuclear Regulatory Commission.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is confirming the effective date of September 20, 2017, for the direct final rule that was published in the **Federal Register** on July 7, 2017. This direct final rule amended the NRC's spent fuel storage regulations by revising the EnergySolutions™ Corporation's VSC–24 Ventilated Storage Cask System listing within the ''List of Approved Spent Fuel Storage Casks'' to renew, for an additional 40 years, the initial certificate and Amendment Nos. 1–6 of Certificate of Compliance (CoC) No. 1007.

DATES: *Effective date:* The effective date of September 20, 2017, for the direct final rule published July 7, 2017 (82 FR 31433), is confirmed.

ADDRESSES: Please refer to Docket ID NRC–2016–0138 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

• *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2016–0138. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

• *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''ADAMS Public Documents'' and then select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.*

• *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Robert D. MacDougall, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–5175; email: *Robert.MacDougall@nrc.gov.*

SUPPLEMENTARY INFORMATION: On July 7, 2017 (82 FR 31433), the NRC published a direct final rule amending its regulations in part 72 of title 10 of the *Code of Federal Regulations* to renew, for an additional 40 years, the initial certificate and Amendment Nos. 1–6 of CoC No. 1007. The renewal requires cask users to establish, implement, and maintain written procedures for aging management program (AMP) elements, including a lead cask inspection program, for VSC–24 Storage Cask structures, systems, and components (SSCs) important to safety. Users must also conduct periodic ''tollgate'' assessments of new information on SSC aging effects and mechanisms to determine whether any element of an AMP addressing these effects and mechanisms requires revision to encompass the current state of knowledge. In addition, the renewal of the initial certificate and Amendment Nos. 1–6 makes several other changes, described the **Federal Register** notice for the direct final rule.

In the direct final rule, the NRC stated that if no significant adverse comments were received, the direct final rule would become effective on September 20, 2017. The NRC did not receive any comments on the direct final rule. Therefore, this direct final rule will become effective as scheduled. The final CoC, Technical Specifications, and Safety Evaluation Report can be viewed in ADAMS under Package Accession No. ML17242A189.

Dated at Rockville, Maryland, this 15th day of September, 2017.

For the Nuclear Regulatory Commission.

Helen Chang,

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

[FR Doc. 2017–20010 Filed 9–20–17; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2017–0809; Product Identifier 2017–NM–094–AD; Amendment 39–19030; AD 2017–18–21]

RIN 2120–AA64

Airworthiness Directives; Airbus Airplanes

Republication

Editorial Note: Rule document 2017–19301 was originally published on pages 42929 through 42932 in the issue of Wednesday, September 13, 2017. In that publication, on page 42931, Figure 1 was formatted incorrectly. The corrected document is republished here in its entirety.

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

ACTION: Final rule; request for comments.

SUMMARY: We are superseding Airworthiness Directive (AD) 2017–13–12, which applied to all 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. AD 2017–13–12 required modification or replacement of certain side stay assemblies of the main landing gear (MLG). This new AD clarifies the formatting of a figure in the published version of AD 2017–13–12. This new AD was prompted by reports indicating that affected parties misinterpreted the applicability of the affected part numbers due to the

formatting of a figure in the published version of AD 2017–13–12, which could result in a negative effect on compliance. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective September 28, 2017.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of August 9, 2017 (82 FR 30949, July 5, 2017).

We must receive comments on this AD by October 30, 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 final rule, contact Airbus, Airworthiness Office–EIAS, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone: +33 5 61 93 36 96; fax: +33 5 61 93 44 51; email: *account.airworth-eas@airbus.com;* Internet: *http://www.airbus.com.*

For Messier-Dowty service information identified in this final rule, contact Messier-Dowty: Messier Services Americas, Customer Support Center, 45360 Severn Way, Sterling, VA 20166–8910; telephone: 703–450–8233; fax: 703–404–1621; Internet: *https://techpubs.services/messier-dowty.com.*

You may view this referenced service information at the FAA, Transport Standards Branch, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0809.

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–2017–0809; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone 800–647–5527) is Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

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

SUPPLEMENTARY INFORMATION:

Discussion

On June 19, 2017, we issued AD 2017–13–12, Amendment 39–18942 (82 FR 30949, July 5, 2017) (''AD 2017–13–12''), which applied to all Airbus Model A318 series airplanes 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. AD 2017–13–12 was prompted by an evaluation by the design approval holder (DAH), which indicates that the main landing gear (MLG) does not comply with certification specifications, which could result in a locking failure of the MLG side stay. AD 2017–13–12 required modification or replacement of certain MLG side stay assemblies. We issued AD 2017–13–12 prevent possible collapse of the MLG during takeoff and landing.

Since we issued AD 2017–13–12, we have received reports indicating that affected parties misinterpreted the applicability of the affected part numbers due to the formatting of figure 1 to paragraphs (g), (h), and (i) in the published version of AD 2017–13–12, which could result in a negative effect on compliance. Therefore, we have determined that clarification of the formatting of the published figure is necessary.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2016–0018R1, dated September 14, 2016 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for all 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 EASA AD is referenced in AD 2017–13–12. EASA has not revised its AD since the issuance of AD 2017–13–12.

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–2017–0809.

Related Service Information Under 1 CFR Part 51

We have reviewed the following service information.

- Airbus Service Bulletin A320–32–1429, Revision 01, dated February 29, 2016.
- Messier-Bugatti-Dowty Service Bulletin 200–32–315, dated April 24, 2015.
- Messier-Bugatti-Dowty Service Bulletin 201–32–63, dated April 24, 2015.

The service information describes procedures for modifying the MLG side stay assembly. The Messier-Bugatti-Dowty documents are distinct since they apply to different airplane models. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination and Requirements of This 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 issuing this AD because we evaluated all pertinent information and determined the unsafe condition exists and is likely to exist or develop on other products of the same type design.

FAA's Justification and Determination of the Effective Date

We are superseding AD 2017–13–12 to clarify the formatting of a figure in the regulatory text of the published AD. No other changes have been made to AD 2017–13–12. Therefore, we determined that notice and opportunity for prior public comment are unnecessary.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not precede it by notice and opportunity for public comment. We invite you to send any written relevant

data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2017–0809; Product Identifier 2017–NM–094–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this AD. We will consider all comments received by the closing date and may amend this AD because of those comments.

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

Costs of Compliance

We estimate that this AD affects 959 airplanes of U.S. registry. This AD adds no new economic burden to AD 2017–13–12. We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Replacement or modification (retained actions from AD 2017–13–12).	9 work-hours × $85 per hour = $765	$14,104	$14,869	$14,259,371

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.

This AD is issued in accordance with authority delegated by the Executive Director, Aircraft Certification Service, as authorized by FAA Order 8000.51C. In accordance with that order, issuance of ADs is normally a function of the Compliance and Airworthiness Division, but during this transition period, the Executive Director has delegated the authority to issue ADs applicable to transport category airplanes to the Director of the System Oversight Division.

Regulatory Findings

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

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

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

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

3. Will not affect intrastate aviation in Alaska; and

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing airworthiness directive (AD) 2017–13–12, Amendment 39–18942 (82 FR 30949, July 5, 2017), and adding the following new AD:

2017–18–21 Airbus: Amendment 39–19030; Docket No. FAA–2017–0809; Product Identifier 2017–NM–094–AD.

(a) Effective Date

This AD is effective September 28, 2017.

(b) Affected ADs

This AD replaces AD 2017–13–12, Amendment 39–18942 (82 FR 30949, July 5, 2017) (''AD 2017–13–12'').

(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.

(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 32, Landing Gear.

(e) Reason

This AD was prompted by an evaluation by the design approval holder that indicates that the main landing gear (MLG) does not comply with certification specifications, which could result in a locking failure of the MLG side stay. We are issuing this AD to prevent possible collapse of the MLG during takeoff and landing.

(f) Compliance

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

(g) Retained Modification or Replacement, With Revised Figure Formatting

This paragraph restates the requirements of paragraph (g) of AD 2017–13–12, with revised figure formatting. Within 120 months after August 9, 2017 (the effective date of AD 2017–13–12), accomplish the action specified in paragraph (g)(1) or (g)(2) of this AD.

(1) Modify each MLG side stay assembly having a part number listed in figure 1 to paragraphs (g), (h), and (i) of this AD, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320–32–1429, Revision 01, dated February 29, 2016, and the service information specified in paragraph (g)(1)(i) or (g)(1)(ii) of this AD, as applicable. The modification may be done ''off wing,'' provided the modified MLG is reinstalled on the airplane.

(i) For Model A318 series airplanes; Model A319 series airplanes; and Model A320–211, –212, –214, –231, –232, and –233 airplanes: Messier-Bugatti-Dowty Service Bulletin 200–32–315, dated April 24, 2015.

(ii) For Model A321 series airplanes: Messier-Bugatti-Dowty Service Bulletin 201–32–63, dated April 24, 2015.

(2) Replace the MLG side stay assembly with a side stay assembly that has been modified in accordance with paragraph (g)(1) of this AD. Do the replacement using a method approved by the Manager, International Section, Transport Standards Branch, FAA; or the European Aviation Safety Agency (EASA); or Airbus's EASA Design Organization Approval (DOA).

Note 1 to paragraph (g)(2) of this AD: Additional guidance for the replacement can be found in Chapter 32 of the Airbus A318/A319/A320/A321 Aircraft Maintenance Manual.

Figure 1 to paragraphs (g), (h), and (i) of this AD –
Affected MLG side stay assemblies

Models	Affected Part Numbers (P/N)	Strike Number not Cancelled
A318-111, A318-112, A318-121, A318-122, A319-111, A319-112, A319-113, A319-114, A319-115, A319-131, A319-132, A319-133, A320-211, A320-212, A320-214, A320-231, A320-232, and A320-233 airplanes	[1]201166001-xxx [1]201166002-xxx [1]201166003-xxx [1]201166004-xxx [1]201166005-xxx [1]201166006-xxx [1]201166007-xxx [1]201166008-xxx [1]201166009-xxx [1]201166010-xxx [1]201166011-xxx [1]201166012-xxx [2]201166013-000 through 201166013-030 inclusive [2]201166014-000 through 201166014-030 inclusive	12
A321-111, A321-112, and A321-131 airplanes	[2]201390001-000 through 201390001-040 inclusive [2]201390002-000 through 201390002-040 inclusive [2]201527001-000 through 201527001-025 inclusive [2]201527002-000 through 201527002-025 inclusive	15
A321-211, A321-212, A321-213, A321-231, and A321-232 airplanes	[2]201524001-000 through 201524001-035 inclusive [2]201524002-000 through 201524002-035 inclusive [2]201660001-000 through 201660001-030 inclusive [2]201660002-000 through 201660002-030 inclusive	15

[1]The 'xxx' used in this figure can be any 3-digit combination.

[2]Units having a P/N with no dash number after the first 9 digits are also affected. Units having a P/N with the first 9 digits and a dash number higher than those listed, are not affected by the requirements of this AD.

(h) Retained Provisions for Unaffected Airplanes, With No Changes

This paragraph restates the provisions of paragraph (h) of AD 2017–13–12, with no changes. An airplane on which Airbus Modification (Mod) 156646, Airbus Mod 161202, or Airbus Mod 161346 has been embodied in production is not affected by the requirements of paragraph (g) of this AD, provided it is determined that no part having a part number identified in figure 1 to paragraphs (g), (h), and (i) of this AD has been installed on that airplane since the date of issuance of the original certificate of airworthiness or the original export certificate of airworthiness. A review of the airplane maintenance records is acceptable to make this determination, provided that these records are accurate and can be relied upon to conclusively make that determination.

(i) Retained Parts Installation Prohibition, With No Changes

This paragraph restates the requirements of paragraph (i) of AD 2017–13–12, with no changes. As of August 9, 2017 (the effective date of AD 2017–13–12), do not install on any airplane, an MLG side stay assembly having a part number, with the strike number not cancelled, as identified in figure 1 to paragraphs (g), (h), and (i) of this AD, unless it has been modified in accordance with the requirements of paragraph (g) of this AD.

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

This paragraph restates the provisions of paragraph (j) of AD 2017–13–12, with no

changes. This paragraph provides credit for actions required by paragraph (g) of this AD, if those actions were performed before August 9, 2017 (the effective date of AD 2017–13–12), using Airbus Service Bulletin A320–32–1429, dated September 10, 2015.

(k) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Section, Transport Standards Branch, 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 Section, send it to the attention of the person identified in paragraph (l)(2) of this AD. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

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

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

(l) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA AD 2016–0018R1, dated September 14, 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–2017–0809.

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

(3) Service information identified in this AD that is not incorporated by reference is available at the addresses specified in paragraphs (m)(3), (m)(4), and (m)(5) of this AD.

(m) Material Incorporated by Reference

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

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

(3) The following service information was approved for IBR on August 9, 2017 (82 FR 30949, July 5, 2017).

(i) Airbus Service Bulletin A320–32–1429, Revision 01, dated February 29, 2016.

(ii) Messier-Bugatti-Dowty Service Bulletin 200–32–315, dated April 24, 2015.

(iii) Messier-Bugatti-Dowty Service Bulletin 201–32–63, dated April 24, 2015.

(4) 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.*

(5) For Messier-Dowty service information identified in this AD, contact Messier-Dowty: Messier Services Americas, Customer Support Center, 45360 Severn Way, Sterling, VA 20166–8910; telephone: 703–450–8233; fax: 703–404–1621; Internet: *https://techpubs.services/messier-dowty.com.*

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

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

Issued in Renton, Washington, on August 31, 2017.

Dionne Palermo,

Acting Director, System Oversight Division, Aircraft Certification Service.

Editorial Note: Proposed rule document 2017–19301 was originally published on pages Pages 42929 through 42932 in the issue of Wednesday, September 13, 2017. In that publication, on page 42931, Figure 1 was formatted incorrectly. The corrected document is republished here in its entirety.

[FR Doc. R1–2017–19301 Filed 9–20–17; 8:45 am]

BILLING CODE 1301–00–D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2017–0181; Airspace Docket No. 17–AGL–7]

Amendment of Class E Airspace; Mineral Point, WI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies Class E airspace extending upward from 700 feet above the surface at Iowa County Airport, Mineral Point, WI. This action is necessary due to the decommissioning of the Mineral Point non-directional radio beacon (NDB), and cancellation of the NDB approach. This action enhances the safety and management of standard instrument approach procedures for instrument flight rules (IFR) operations at the airport.

DATES: Effective 0901 UTC, December 7, 2017. The Director of the Federal Register approves this incorporation by reference action under Title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.11 and publication of conforming amendments.

ADDRESSES: FAA Order 7400.11B, 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 7400.11B 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: Rebecca Shelby, Federal Aviation Administration, Support Specialist, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222–5857.

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 E airspace extending upward 700 feet above the surface at Iowa County Airport, Mineral Point, WI.

History

The FAA published in the **Federal Register** (82 FR 17158, April 10, 2017) Docket No. FAA–2017–0181 a notice of proposed rulemaking (NPRM) to modify Class E airspace extending upward from 700 feet above the surface at Iowa County Airport, Mineral Point, WI. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Class E airspace designations are published in paragraph 6005 of FAA Order 7400.11B, dated August 3, 2017, and effective September 15, 2017, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order 7400.11B, Airspace Designations and Reporting Points, dated August 3, 2017, and effective September 15, 2017. FAA Order 7400.11B is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11B lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Rule

This amendment to Title 14 Code of Federal Regulations (14 CFR) part 71 modifies Class E Airspace extending upward from 700 feet or more above the surface to within a 6.6-mile radius (reduced from a 7.2-mile radius) of Iowa County Airport, Mineral Point, WI. The 5.2-mile wide segment from the Mineral Point NDB extending from the 7.2-mile radius of the airport to 7.4 miles northeast is removed, due to the decommissioning and cancellation of the Mineral Point NDB, and NDB approaches. This action enhances the safety and management of the standard instrument approach procedures for IFR operations at the airport.

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

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures,'' paragraph 5–6.5.a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

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

■ 1. The authority citation for 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 7400.11B, Airspace Designations and Reporting Points, dated August 3, 2017, and effective September 15, 2017, is amended as follows:

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

* * * * *

AGL WI E5 Mineral Point, WI [Amended]

Iowa County Airport, WI
(Lat. 42°53′13″ N., long. 90°14′12″ W.)

That airspace extending upward from 700 feet above the surface within a 6.6-mile radius of Iowa County Airport.

Issued in Fort Worth, Texas on September 13, 2017.

Walter Tweedy,

Acting Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2017–20055 Filed 9–20–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2016–9473; Airspace Docket No. 16–ANM–7]

Amendment of Class D and Class E Airspace; Cheyenne, WY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies Class D airspace, Class E surface area airspace, Class E airspace extending upward from 700 feet above the surface, and Class E airspace extending upward from 1,200 feet above the surface at Cheyenne Regional/Jerry Olson Field Airport (formerly, Cheyenne Airport), Cheyenne, WY. Airspace redesign is necessary due to the decommissioning of the Cheyenne instrument landing system (ILS) locator outer marker and removal of the Cheyenne VHF Omnidirectional Range/Tactical Air Navigation (VORTAC) from the airspace description as the FAA transitions from ground-based navigation aids to satellite-based navigation. Also, this action updates the airport name and geographic coordinates for the associated Class D and E airspace areas to reflect the FAA's current aeronautical database, and makes an editorial change in the legal description by replacing Airport/Facility Directory with the term Chart Supplement.

DATES: Effective 0901 UTC, December 7, 2017. The Director of the Federal Register approves this incorporation by reference action under Title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.11 and publication of conforming amendments.

ADDRESSES: FAA Order 7400.11B, 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 this material 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 modifies Class D and E airspace at Cheyenne Regional/Jerry Olson Field Airport, Cheyenne, WY, in support of instrument flight rules operations at the airport.

History

On June 2, 2017, the FAA published in the **Federal Register** (82 FR 25561) Docket FAA–2016–9473, a notice of proposed rulemaking (NPRM) to modify Class D airspace, Class E surface area airspace, and Class E airspace extending upward from 700 and 1,200 feet above the surface at Cheyenne Regional/Jerry Olson Field Airport, Cheyenne, WY. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Class D and E airspace designations are published in paragraph 5000, 6002, and 6005, respectively, of FAA Order 7400.11B, dated August 3, 2017, and effective September 15, 2017, 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.

Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order 7400.11B, Airspace Designations and Reporting Points, dated August 3, 2017, and effective September 15, 2017. FAA Order 7400.11B is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11B lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Rule

The FAA is amending Title 14 Code of Federal Regulations (14 CFR) part 71 by modifying Class D airspace, modifying Class E surface area airspace, and modifying Class E airspace extending upward from 700 and 1,200 feet above the surface at Cheyenne Regional/Jerry Olson Field Airport, Cheyenne, WY. This action is necessary due to the decommissioning of the Cheyenne ILS locator outer marker, removal of the Cheyenne VORTAC from the airspace description, and the availability of diverse departure headings as the FAA transitions from ground-based navigation aids to satellite-based navigation. Class D airspace is amended by removing the segment on each side of the Cheyenne ILS localizer east course extending from the 5.6-mile radius to the outer marker.

Class E surface area airspace is amended to be coincident with the Class D airspace, and effective during the times the Class D is not in effect.

Class E airspace extending upward from 700 feet above the surface is amended to within an 8.1-mile radius (from 12.2 miles) of Cheyenne Regional/Jerry Olson Field Airport, and within a 9.1-mile radius of the airport from the 240° bearing from the airport clockwise to the 300° bearing from the airport with a segment on each side of a 275° bearing from the airport extending from the airport 9.1-mile radius to 10.6 miles west of the airport, and with another segment on each side of the 028° bearing from the airport extending from the airport 8.1 mile radius to 10.8 miles northeast of the airport. The airspace extending upward from 1,200 feet above the surface would be modified to within a 43.6-mile radius of the airport (from a polygon of similar area) to provide controlled airspace for diverse departures until reaching the overlying Class E airspace.

Also, the geographic coordinates of the airport are updated to match the FAA's current aeronautical database. This action also updates the airport name to Cheyenne Regional/Jerry Olson Field Airport (from Cheyenne Airport). Finally, this action replaces the outdated term Airport/Facility Directory with the term Chart Supplement in the associated Class D and E airspace legal descriptions.

Regulatory Notices and Analyses

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

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures,'' paragraph 5–6.5a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11B, Airspace Designations and Reporting Points, dated August 3, 2017, and effective September 15, 2017, is amended as follows:

Paragraph 5000 Class D Airspace.

* * * * *

ANM WY D Cheyenne, WY [Amended]

Cheyenne Regional/Jerry Olson Field Airport, WY
(Lat. 41°09′20″ N., long. 104°48′38″ W.)

That airspace extending upward from the surface to and including 8,700 feet MSL within a 5.6-mile radius of Cheyenne Regional/Jerry Olson Field Airport. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Chart Supplement.

Paragraph 6002 Class E Airspace Designated as Surface Areas.

* * * * *

ANM WY E2 Cheyenne, WY [Amended]

Cheyenne Regional/Jerry Olson Field Airport, WY
(Lat. 41°09′20″ N., long. 104°48′38″ W.)

That airspace extending upward from the surface within a 5.6-mile radius of Cheyenne Regional/Jerry Olson Field Airport. This Class E 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 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

ANM WY E5 Cheyenne, WY [Amended]

Cheyenne Regional/Jerry Olson Field Airport, WY
(Lat. 41°09′20″ N., long. 104°48′38″ W.)

That airspace extending upward from 700 feet above the surface within an 8.1-mile radius of Cheyenne Regional/Jerry Olson Field Airport from the 300° bearing from the airport clockwise to the 240° bearing, and within a 9.1-mile radius of the airport from the 240° bearing from the airport clockwise to the 300° bearing from the airport, and within 2.2 miles each side of the 275° bearing from the airport extending from the airport 9.1-mile radius to 10.6 miles west of the airport, and within 2.4 miles each side of a 028° bearing from the airport extending from the airport 8.1 mile radius to 10.8 miles northeast of the airport; and that airspace extending upward from 1,200 feet above the surface within a 43.6-mile radius of the airport.

Issued in Seattle, Washington, on September 14, 2017.

B.G. Chew,

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

[FR Doc. 2017–20041 Filed 9–20–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2017–0219; Airspace Docket No. 17–AWP–5]

Amendment of Class E Airspace; Lemoore NAS, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule, technical amendment.

SUMMARY: This action amends the legal description of the Class E airspace designated as an extension, at Lemoore NAS (Reeves Field), Lemoore, CA, eliminating the Notice to Airmen (NOTAM) part-time status. This action does not affect the charted boundaries or operating requirements of the airspace.

DATES: Effective 0901 UTC, December 7, 2017. The Director of the Federal Register approves this incorporation by reference action under title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.11 and publication of conforming amendments.

ADDRESSES: FAA Order 7400.11B, Airspace Designations and Reporting Points, and subsequent amendments can be viewed on line 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 this material 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: Robert LaPlante, Federal Aviation Administration, Operations Support Group, Western Service Center, 1601 Lind Avenue SW., Renton, WA 98057; telephone (425) 203–4566.

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 removes NOTAM part-time information for Class E airspace designated as an extension to a Class D at Lemoore NAS (Reeves Field), Lemoore, CA.

History

The FAA Aeronautical Information Services branch found the Class E airspace area designated as an extension to a Class D, for Lemoore NAS (Reeves Field), Lemoore, CA, as published in FAA Order 7400.11B, Airspace Designations and Reporting Points, does not require part-time status. This action makes the update.

Class E airspace designations are published in paragraph 6004 of FAA Order 7400.11B dated August 3, 2017, and effective September 15, 2017, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order 7400.11B, Airspace Designations and Reporting Points, dated August 3, 2017, and effective September 15, 2017. FAA Order 7400.11B is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11B lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Rule

This action amends Title 14, Code of Federal Regulations (14 CFR) part 71 by eliminating the following language from the legal description of Class E airspace designated as an extension at Lemoore NAS (Reeves Field), Lemoore, CA, ''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''. This is an administrative change and does not affect the boundaries, altitudes, or operating requirements of the airspace, therefore, notice and public procedure under 5 U.S.C. 553(b) is unnecessary.

Regulatory Notices and Analyses

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

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures,'' paragraph 5–6.5a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11B, Airspace Designations and Reporting Points, dated August 3, 2017, effective September 15, 2017, is amended as follows:

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

* * * * *

AWP CA E4 Lemoore NAS, CA [Amended]

Lemoore NAS (Reeves Field), CA
(Lat. 36°19′59″ N., long. 119°57′08″ W.)
Lemoore TACAN
(Lat. 36°20′39″ N., long. 119°57′59″ W.)

That airspace extending upward from the surface within a 5.2-mile radius of Lemoore NAS (Reeves Field), and within 1.8 miles each side of the Lemoore TACAN 335° and 357° radials, extending from the 5.2-mile radius of Lemoore NAS (Reeves Field) to 7 miles northwest and north of the TACAN, and within 1.8 miles each side of the Lemoore TACAN 155° radial, extending from the 5.2-mile radius to 7 miles southeast of the TACAN.

Issued in Seattle, Washington, on September 14, 2017.

B.G. Chew,

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

[FR Doc. 2017–20043 Filed 9–20–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. USCG–2017–0754]

RIN 1625–AA08

Special Local Regulation; Frogtown Regatta, Maumee River, Toledo, OH

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary special local regulation for all navigable waters of the Maumee River, Toledo, OH from the Martin Luther King Jr. Memorial Bridge at Maumee river mile 4.30 to the Michael DiSalle Bridge at River mile 6.73. This regulated area is necessary to protect spectators and vessels from potential hazards associated with the Frogtown Regatta. Entry of vessels or persons into this regulated area is prohibited unless specifically authorized by the Captain of the Port Detroit, or a designated representative.

DATES: This temporary final rule is effective from 5 a.m. through 6 p.m. on September 23, 2017.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type USCG–2017–0754 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 temporary rule, call or email Ryan Erpelding, Prevention Department, MSU Toledo, Coast Guard; telephone 419–418–6037, or email *Ryan.G.Erpelding@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of Proposed Rulemaking
§ Section
U.S.C. United States Code

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because doing so would be impracticable. The Coast Guard did not receive the final details of this regatta until there was insufficient time remaining before the event to publish an NPRM. We must establish this area by September 23, 2017 and lack sufficient time to provide a reasonable comment period and then consider those comments before issuing the rule.

We are issuing this rule, and under 5 U.S.C. 553(d)(3), for the reasons stated above, the Coast Guard finds that good cause exists for making this temporary

rule effective less than 30 days after publication in the **Federal Register**.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1233. The Captain of the Port Detroit (COTP) has determined that potential hazard associated with regatta from 5 a.m. through 6 p.m. on September 23, 2017 will be a safety concern to anyone within waters of the Maumee River, Toledo, OH from the Martin Luther King Jr. Memorial Bridge at river mile 4.30 to the Michael DiSalle Bridge at river mile 6.73. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone while the regatta occurs.

IV. Discussion of the Rule

This rule establishes a safety zone from 5 a.m. through 6 p.m. on September 23, 2017. The safety zone will encompass all U.S. navigable waters of the Maumee River, Toledo, OH from the Martin Luther King Jr. Memorial Bridge at river mile 4.30 to the Michael DiSalle Bridge at river mile 6.73. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative.

The Coast Guard will patrol the regatta area under the direction of the Captain of the Port Detroit (COTP), or a designated representative. A designated representative may be a Coast Guard Patrol Commander. Vessels desiring to transit the regulated area may do so only with prior approval of the COTP or a designated representative and when so directed by that officer. Vessels will be operated at a no wake speed to reduce the wake to a minimum, in a manner which will not endanger participants in the event or any other craft and remain vigilant for event participants and safety craft. Additionally, vessels must yield right-of-way for event participants and event safety craft and must follow directions given by the COTP or a designated representative. The rules contained in the above two sentences do not apply to participants in the event or vessels of the patrol operating in the performance of their assigned duties. Commercial vessels will have right-of-way over event participants and event safety craft. The races will stop for oncoming freighter or commercial traffic and will resume after the vessel has completed its passage through the regulated area. COTP or a designated representative may direct the anchoring, mooring, or movement of any boat or vessel within the regatta area. A succession of sharp, short signals by whistle or horn from vessels patrolling the area under the direction of the U.S. COTP or a designated representative shall serve as a signal to stop. Vessels so signaled must stop and comply with the orders of the COTP or a designated representative. Failure to do so may result in expulsion from the area, citation for failure to comply, or both. The COTP or a designated representative may establish vessel size and speed limitations and operating conditions and may restrict vessel operation within the regatta area to vessels having particular operating characteristics. The COTP or a designated representative may terminate the marine event or the operation of any vessel at any time it is deemed necessary for the protection of life and property.

Patrol Commander means a Coast Guard commissioned, warrant, or petty officer who has been designated by the COTP to monitor a regatta area, permit entry into the regatta area, give legally enforceable orders to persons or vessels within the regatta area, and take other actions authorized by the COTP. The Patrol Commander will be aboard either a Coast Guard or Coast Guard Auxiliary vessel. The Patrol Commander may be contacted on Channel 16 (156.8 MHZ) by the call sign ''Coast Guard Patrol Commander.''

V. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on these statutes and executive orders.

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 13771 directs agencies to control regulatory costs through a budgeting process. This rule has not been designated a ''significant regulatory action,'' under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB), and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771. This regulatory action determination is based on the size, location, duration, and time-of-year of the regulated area. Vessel traffic will be able to safely transit around this regulated area, which will impact a small designated area of the Maumee River from 5 a.m. through 6 p.m. on September 23, 2017. Moreover, the Coast Guard will issue Broadcast Notice to Mariners via VHF–FM marine channel 16 about the regulated area and the rule allows vessels to seek permission to enter the regulated area.

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 regulated area 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 this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a special local regulation interval lasting from 5a.m. through 6 p.m., that will prohibit entry within waters of the Maumee River, Toledo, OH from the Martin Luther King Jr. Memorial Bridge at river mile 4.30 to the Michael DiSalle Bridge at river mile 6.73. It is categorically excluded under section 2.B.2, figure 2–1, paragraph 34(h) of the Commandant Instruction. 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 100

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 100 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

■ 1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233.

■ 2. In § 100.928, effective from 5 a.m. through 6 p.m. on September 23, 2017, suspend paragraph (b) and add paragraph (d) to read as follows:

§ 100.928 Special Local Regulation; Frogtown Regatta, Maumee River, Toledo, OH.

* * * * *

(d) *Enforcement period.* The regulated area described in paragraph (a) of this section will be enforced from 5 a.m. through 6 p.m. on September 23, 2017.

Dated: September 11, 2017.

Jeffrey W. Novak,

Captain, U.S. Coast Guard, Captain of the Port Detroit.

[FR Doc. 2017–19750 Filed 9–20–17; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Parts 100 and 165

[Docket Number USCG–2016–0998]

RIN 1625– AA08; AA00

Special Local Regulations and Safety Zones; Recurring Marine Events Held in the Coast Guard Sector Northern New England Captain of the Port Zone

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is updating the special local regulations and permanent safety zones in Coast Guard Sector Northern New England Captain of the Port Zone for annual recurring marine events. When enforced, these special local regulations and safety zones will restrict vessels from portions of water areas during certain annually recurring events. The special local regulations and safety zones are intended to expedite public notification and ensure the protection of the maritime public and event participants from the hazards associated with certain maritime events.

DATES: This rule is effective without actual notice on September 21, 2017. For the purposes of enforcement, actual notice will be used from June 26, 2017 through September 21, 2017.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type USCG–2016–0998 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 Chief Marine Science Technician Chris Bains, Sector Northern New England Waterways Management Division, U.S. Coast Guard; telephone 207–347–5003, email *Chris.D.Bains@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
NPRM Notice of Proposed Rulemaking
NAD 83 North American Datum of 1983
Pub. L. Public Law
§ Section
U.S.C. United States Code

II. Background Information and Regulatory History

On April 13, 2017, the Coast Guard published an NPRM in the **Federal Register** titled Special Local Regulations and Safety Zone; Recurring Marine Events Held in the Coast Guard Sector Northern New England Captain of the Port Zone, (82 FR 17782), proposing to update special local regulations and safety zones. There we stated why we issued the NPRM and invited comments on our proposed regulatory action. No public comments or request for a public meeting were received during the NPRM process. Swim events, fireworks displays, and marine events are held on an annual recurring basis on the navigable waters within the Coast Guard Sector Northern New England COTP Zone. In the past, the Coast Guard has established special local regulations, regulated navigation areas, and safety zones for these annual recurring events on a case by case basis to ensure the protection of the maritime public and event participants from the hazards associated with these events. In the past year, events were assessed for their likelihood to recur in subsequent years or to be discontinued. These events were added to or deleted from the tables accordingly. In addition, minor changes to existing events were made to ensure the accuracy of event details.

The purpose of this rulemaking is to reduce administrative overhead, expedite public notification of events, and ensure the protection of the maritime public during marine events in the Sector Northern New England area.

We are issuing this rule under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making it effective less than 30 days after publication in the **Federal Register**. The comment period for the NPRM associated with the Special Local Regulations and Safety Zone; Recurring Marine Events Held in the Coast Guard Sector Northern New England Captain of the Port Zone expired on May 15, 2017. The first events are scheduled to occur June 16, 2017. Thus, there is now insufficient time for a 30 day effective period before the need to enforce this safety zone and special local regulations. Delaying the enforcement of this safety zone and special local regulations to allow a 30 day effective period would be impracticable.

III. Legal Authority and Need for Rule

The Coast Guard issues this rulemaking under authority in 33 U.S.C. 1231. This rule updates the tables of annual recurring events in the existing regulation for the Coast Guard Sector Northern New England COTP Zone. The tables provide the event name, sponsor, and type, as well as approximate times, dates, and locations of the events. Advanced public notification of specific times, dates, regulated areas, and enforcement periods for each event will be provided through appropriate means, which may include, the Local Notice to Mariners, Broadcast Notice to Mariners, and a Notice of Enforcement published in the **Federal Register** at least 30 days prior to the event date. If an event does not have a date and time listed in this regulation, then the precise dates and times of the enforcement period for that event will be announced through a Local Notice to Mariners and, if time permits, a Notice of Enforcement in the **Federal Register**.

IV. Discussion of Comments, Changes, and the Rule

As noted above, we received no comments to the NPRM published April 13, 2017. The single change from the NPRM is the modification of one position to the Colchester Triathlon held in Colchester, VT. The Coast Guard has adjusted a mistake to a position made in the NPRM that went unnoticed until after publication in the **Federal Register**.

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, reducing costs, harmonizing rules, and for 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.

We expect the economic impact of this rule to be minimal. Although this regulation may have some impact on the public, the potential impact will be minimized for the following reason: The Coast Guard is only modifying existing regulations to account for new information.

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 regulated waters 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 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 water activities including swimming events, boat races, and fireworks displays. The regulatory actions related to these activities are categorically excluded from further review under paragraph 34(g)(Safety Zones) and (34)(h)(Special Local Regulations) of Figure 2–1 of Commandant Instruction M16475.lD. A Record of Environmental Consideration (REC) supporting this finding is 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

33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

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 parts 100 and 165 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

■ 1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233

■ 2. In § 100.120:

■ a. In the introductory text, remove ''Table to § 100.120'' everywhere it appears and adding in its place ''Table 1 to § 100.120;'' and

■ b. Revise the table to the section.

The revision reads as follows:

§ 100.120 Special Local Regulations; Marine Events Held in the Coast Guard Sector Northern New England Captain of the Port Zone.

* * * * *

TABLE 1 TO § 100.120

5.0	May occur May through September
5.1 Tall Ships Visiting Portsmouth	• Event Type: Regatta and Boat Parade. • Date: A four day event from Friday through Monday. [1] • Time (Approximate): 9:00 am to 8:00 pm each day. • Location: The regulated area includes all waters of Portsmouth Harbor, New Hampshire in the vicinity of Castle Island within the following points (NAD 83): 43° 03′11″ N, 070° 42′26″ W. 43° 03′18″ N, 070° 41′51″ W. 43° 04′42″ N, 070° 42′11″ W. 43° 04′28″ N, 070° 44′12″ W. 43° 05′36″ N, 070° 45′56″ W. 43° 05′29″ N, 070° 46′09″ W. 43° 04′19″ N, 070° 44′16″ W. 43° 04′22″ N, 070° 42′33″ W.
6.0	JUNE
6.1 Charlie Begin Memorial Lobster Boat Races.	• Event Type: Power Boat Race. • Date: A one day event in June. [1] • Time (Approximate): 10:00 am to 3:00 pm. • Location: The regulated area includes all waters of Boothbay Harbor, Maine in the vicinity of John's Island within the following points (NAD 83): 43° 50′04″ N, 069° 38′37″ W. 43° 50′54″ N, 069° 38′06″ W. 43° 50′49″ N, 069° 37′50″ W. 43° 50′00″ N, 069° 38′20″ W.
6.2 Rockland Harbor Lobster Boat Races	• Event Type: Power Boat Race.

TABLE 1 TO § 100.120—Continued

	• Date: A one day event in June. [1] • Time (Approximate): 9:00 am to 5:00 pm. • Location: The regulated area includes all waters of Rockland Harbor, Maine in the vicinity of the Rockland Breakwater Light within the following points (NAD 83): 44° 05′59″ N, 069° 04′53″ W. 44° 06′43″ N, 069° 05′25″ W. 44° 06′50″ N, 069° 05′05″ W. 44° 06′05″ N, 069° 04′34″ W.
6.3 Windjammer Days Parade of Ships	• Event Type: Tall Ship Parade. • Date: A one day event in June. [1] • Time (Approximate): 12:00 pm to 5:00 pm. • Location: The regulated area includes all waters of Boothbay Harbor, Maine in the vicinity of Tumbler's Island within the following points (NAD 83): 43° 51′02″ N, 069° 37′33″ W. 43° 50′47″ N, 069° 37′31″ W. 43° 50′23″ N, 069° 37′57″ W. 43° 50′01″ N, 069° 37′45″ W. 43° 50′01″ N, 069° 38′31″ W. 43° 50′25″ N, 069° 38′25″ W. 43° 50′49″ N, 069° 37′45″ W.
6.4 Bass Harbor Blessing of the Fleet Lobster Boat Race	• Event Type: Power Boat Race. • Date: A one day event in June. [1] • Time (Approximate): 10:00 am to 2:00 pm. • Location: The regulated area includes all waters of Bass Harbor, Maine in the vicinity of Lopaus Point within the following points (NAD 83): 44° 13′28″ N, 068° 21′59″ W. 44° 13′20″ N, 068° 21′40″ W. 44° 14′05″ N, 068° 20′55″ W. 44° 14′12″ N, 068° 21′14″ W.
7.0	JULY
7.1 Burlington 3rd of July Air Show	• Event Type: Air Show. • Date: A one day event held near July 4th. [1] • Time (Approximate): 8:30 pm to 9:00 pm. • Location: The regulated area includes all waters of Lake Champlain, Burlington, VT within the following points (NAD 83): 44° 28′51″ N, 073° 14′21″ W. 44° 28′57″ N, 073° 13′41″ W. 44° 28′05″ N, 073° 13′26″ W. 44° 27′59″ N, 073° 14′03″ W.
7.2 Moosabec Lobster Boat Races	• Event Type: Power Boat Race. • Date: A one day event held near July 4th. [1] • Time (Approximate): 10:00 am to 12:30 pm. • Location: The regulated area includes all waters of Jonesport, Maine within the following points (NAD 83): 44° 31′21″ N, 067° 36′44″ W. 44° 31′36″ N, 067° 36′47″ W. 44° 31′44″ N, 067° 35′36″ W. 44° 31′29″ N, 067° 35′33″ W.
7.3 The Great Race	• Event Type: Rowing and Paddling Boat Race. • Date: A one day event in July. [1] • Time (Approximate): 10:00 am to 12:30 pm. • Location: The regulated area includes all waters of Lake Champlain in the vicinity of Saint Albans Bay within the following points (NAD 83): 44°47′18″ N, 073° 10′27″ W. 44°47′10″ N, 073° 08′51″ W.
7.4 Stonington Lobster Boat Races	• Event Type: Power Boat Race. • Date: A one day event in July. [1] • Time (Approximate): 8:00 am to 3:30 pm. • Location: The regulated area includes all waters of Stonington, Maine within the following points (NAD 83): 44° 08′55″ N, 068° 40′12″ W. 44° 09′00″ N, 068° 40′15″ W. 44° 09′11″ N, 068° 39′42″ W.

TABLE 1 TO § 100.120—Continued

	44° 09′07″ N, 068° 39′39″ W.
7.5 Mayor's Cup Regatta	• Event Type: Sailboat Parade. • Date: A one day event in July. [1] • Time (Approximate): 10:00 am to 4:00 pm. • Location: The regulated area includes all waters of Cumberland Bay on Lake Champlain in the vicinity of Plattsburgh, New York within the following points (NAD 83): 44° 41′26″ N, 073° 23′46″ W. 44° 40′19″ N, 073° 24′40″ W. 44° 42′01″ N, 073° 25′22″ W.
7.6 The Challenge Race	• Event Type: Rowing and Paddling Boat Race. • Date: A one day event in July. [1] • Time (Approximate): 11:00 am to 3:00 pm. • Location: The regulated area includes all waters of Lake Champlain in the vicinity of Button Bay State Park within the following points (NAD 83): 44° 12′25″ N, 073° 22′32″ W. 44° 12′00″ N, 073° 21′42″ W. 44° 12′19″ N, 073° 21′25″ W. 44° 13′16″ N, 073° 21′36″ W.
7.7 Yarmouth Clam Festival Paddle Race	• Event Type: Rowing and Paddling Boat Race. • Date: A one day event in July. [1] • Time (Approximate): 8:00 am to 4:00 pm. • Location: The regulated area includes all waters in the vicinity of the Royal River outlet and Lane's Island within the following points (NAD 83): 43° 47′47″ N, 070° 08′40″ W. 43° 47′50″ N, 070° 07′13″ W. 43° 47′06″ N, 070° 07′32″ W. 43° 47′17″ N, 070° 08′25″ W.
7.8 Maine Windjammer Lighthouse Parade	• Event Type: Wooden Boat Parade. • Date: A one day event in July. [1] • Time (Approximate): 1:00 pm to 3:00 pm. • Location: The regulated area includes all waters of Rockland Harbor, Maine in the vicinity of the Rockland Harbor Breakwater within the following points (NAD 83): 44° 06′14″ N, 069° 03′48″ W. 44° 05′50″ N, 069° 03′47″ W. 44° 06′14″ N, 069° 05′37″ W. 44° 05′50″ N, 069° 05′37″ W.
7.9 Friendship Lobster Boat Races	• Event Type: Power Boat Race. • Date: A one day event during a weekend between the 15th of July and the 15th of August. [1] • Time (Approximate): 9:30 am to 3:00 pm. • Location: The regulated area includes all waters of Friendship Harbor, Maine within the following points (NAD 83): 43° 57′51″ N, 069° 20′46″ W. 43° 58′14″ N, 069° 19′53″ W. 43° 58′19″ N, 069° 20′01″ W. 43° 58′00″ N, 069° 20′46″ W.
8.0	AUGUST
8.1 Eggemoggin Reach Regatta	• Event Type: Wooden Boat Parade. • Date: A one day event on a Saturday between the 15th of July and the 15th of August. [1] • Time (Approximate): 11:00 am to 7:00 pm. • Location: The regulated area includes all waters of Eggemoggin Reach and Jericho Bay in the vicinity of Naskeag Harbor, Maine within the following points (NAD 83): 44° 15′16″ N, 068° 36′26″ W. 44° 12′41″ N, 068° 29′26″ W. 44° 07′38″ N, 068° 31′30″ W. 44° 12′54″ N, 068° 33′46″ W.
8.2 Southport Rowgatta Rowing and Paddling Boat Race	• Event Type: Rowing and Paddling Boat Race. • Date: A one day event in August. [1] • Time (Approximate): 8:00 am to 3:00 pm.

TABLE 1 TO § 100.120—Continued

	• Location: The regulated area includes all waters of Sheepscot Bay and Boothbay, on the shore side of Southport Island, Maine within the following points (NAD 83): 43° 50′26″ N, 069° 39′10″ W. 43° 49′10″ N, 069° 38′35″ W. 43° 46′53″ N, 069° 39′06″ W. 43° 46′50″ N, 069° 39′32″ W. 43° 49′07″ N, 069° 41′43″ W. 43° 50′19″ N, 069° 41′14″ W. 43° 51′11″ N, 069° 40′06″ W.
8.3 Winter Harbor Lobster Boat Races	• Event Type: Power Boat Race. • Date: A one day event in August. [1] • Time (Approximate): 9:00 am to 3:00 pm. • Location: The regulated area includes all waters of Winter Harbor, Maine within the following points (NAD 83): 44° 22′06″ N, 068° 05′13″ W. 44° 23′06″ N, 068° 05′08″ W. 44° 23′04″ N, 068° 04′37″ W. 44° 22′05″ N, 068° 04′44″ W.
8.4 Lake Champlain Dragon Boat Festival	• Event Type: Rowing and Paddling Boat Race. • Date: A one day event in August. [1] • Time (Approximate): 7:00 am to 5:00 pm. • Location: The regulated area includes all waters of Burlington Bay within the following points (NAD 83): 44° 28′49″ N, 073° 13′22″ W. 44° 28′41″ N, 073° 13′36″ W. 44° 28′28″ N, 073° 13′31″ W. 44° 28′38″ N, 073° 13′18″ W.
8.5 Merritt Brackett Lobster Boat Races	• Event Type: Power Boat Race. • Date: A one day event in August. [1] • Time (Approximate): 10:00 am to 3:00 pm. • Location: The regulated area includes all waters of Pemaquid Harbor, Maine within the following points (NAD 83): 43° 52′16″ N, 069° 32′10″ W. 43° 52′41″ N, 069° 31′43″ W. 43° 52′35″ N, 069° 31′29″ W. 43° 52′09″ N, 069° 31′56″ W.
8.6 Multiple Sclerosis Regatta	• Event Type: Regatta and Sailboat Race. • Date: A one day event in August. [1] • Time (Approximate): 10:00 am to 4:00 pm. • Location: The regulated area for the start of the race includes all waters of Casco Bay, Maine in the vicinity of Peaks Island within the following points (NAD 83): 43° 40′24″ N, 070° 14′20″ W. 43° 40′36″ N, 070° 13′56″ W. 43° 39′58″ N, 070° 13′21″ W. 43° 39′46″ N, 070° 13′51″ W.
8.7 Multiple Sclerosis Harborfest Lobster Boat/Tugboat Races	• Event Type: Power Boat Race. • Date: A one day event in August. [1] • Time (Approximate): 10:00 am to 3:00 pm. • Location: The regulated area includes all waters of Portland Harbor, Maine in the vicinity of Maine State Pier within the following points (NAD 83): 43° 40′25″ N, 070° 14′21″ W. 43° 40′36″ N, 070° 13′56″ W. 43° 39′58″ N, 070° 13′21″ W. 43° 39′47″ N, 070° 13′51″ W.
8.8 Long Island Lobster Boat Race	• Event Type: Power Boat Race. • Date: A one day event in August. [1] • Time (Approximate): 10:00 am to 3:00 pm. • Location: The regulated area includes all waters of Casco Bay, Maine in the vicinity of Great Ledge Cove and Dorseys Cove off the north west coast of Long Island, Maine within the following points (NAD 83): 43° 41′59″ N, 070° 08′59″ W. 43° 42′04″ N, 070° 09′10″ W. 43° 41′41″ N, 070° 09′38″ W.

TABLE 1 TO § 100.120—Continued

	43° 41′36″ N, 070° 09′30″ W.

[1] Date subject to change. Exact date will be posted in Notice of Enforcement and Local Notice to Mariners.

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 3. 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.

■ 4. In § 165.171:

■ a. In the introductory text, remove ''Table to § 165.171'' everywhere it appears and adding in its place ''Table 1 to § 165.171;'' and

■ b. Revise the table to the section.

The revision reads as follows:

§ 165.171 Safety Zones for fireworks displays and swim events held in Coast Guard Sector Northern New England Captain of the Port Zone.

* * * * *

TABLE 1 TO § 165.171

6.0	JUNE
6.1 Rotary Waterfront Days Fireworks	• Event Type: Fireworks Display. • Date: Two night event on a Wednesday and Saturday in June. [1] • Time (Approximate): 8:00 pm to 10:00 pm. • Location: In the vicinity of the Gardiner Waterfront, Gardiner, Maine in approximate position: 44° 13′52″ N, 069° 46′08″ W (NAD 83).
6.2 LaKermesse Fireworks	• Event Type: Fireworks Display. • Date: One night event in June. [1] • Time (Approximate): 8:00 pm to 10:00 pm. • Location: Biddeford, Maine in approximate position: 43° 29′37″ N, 070° 26′47″ W (NAD 83).
6.3 Windjammer Days Fireworks	• Event Type: Fireworks Display. • Date: One night event in June. [1] • Time (Approximate): 8:00 pm to 10:30 pm. • Location: In the vicinity of McFarland Island, Boothbay Harbor, Maine in approximate position: 43° 50′38″ N, 069° 37′57″ W (NAD 83).
7.0	JULY
7.1 Vinalhaven 4th of July Fireworks	• Event Type: Firework Display. • Date: One night event in July. [1] • Time (Approximate): 8:00 pm to 10:30 pm. • Location: In the vicinity of Grime's Park, Vinalhaven, Maine in approximate position: 44° 02′34″ N, 068° 50′26″ W (NAD 83).
7.2 Burlington Independence Day Fireworks	• Event Type: Firework Display. • Date: One night event in July. [1] • Time (Approximate): 9:00 pm to 11:00 pm. • Location: From a barge in the vicinity of Burlington Harbor, Burlington, Vermont in approximate position: 44° 28′31″ N, 073° 13′31″ W (NAD 83).
7.3 Camden 3rd of July Fireworks	• Event Type: Fireworks Display. • Date: One night event in July. [1] • Time (Approximate): 8:00 pm to 10:00 pm. • Location: In the vicinity of Camden Harbor, Maine in approximate position: 44° 12′32″ N, 069° 02′58″ W (NAD 83).
7.4 Bangor 4th of July Fireworks	• Event Type: Fireworks Display. • Date: One night event in July. [1] • Time (Approximate): 8:00 pm to 10:30 pm. • Location: In the vicinity of the Bangor Waterfront, Bangor, Maine in approximate position: 44° 47′27″ N, 068° 46′31″ W (NAD 83).
7.5 Bar Harbor 4th of July Fireworks	• Event Type: Fireworks Display. • Date: One night event in July. [1] • Time (Approximate): 8:00 pm to 10:30 pm. • Location: In the vicinity of Bar Harbor Town Pier, Bar Harbor, Maine in approximate position: 44° 23′31″ N, 068° 12′15″ W (NAD 83).
7.6 Boothbay Harbor 4th of July Fireworks	• Event Type: Fireworks Display. • Date: One night event in July. [1] • Time (Approximate): 8:00 pm to 10:30 pm. • Location: In the vicinity of McFarland Island, Boothbay Harbor, Maine in approximate position: 43° 50′38″ N, 069° 37′57″ W (NAD 83).

TABLE 1 TO § 165.171—Continued

7.7 Eastport 4th of July Fireworks	• Event Type: Fireworks Display. • Date: One night event in July. [1] • Time (Approximate): 9:00 pm to 9:30 pm. • Location: From the Waterfront Public Pier in Eastport, Maine in approximate position: 44° 54′25″ N, 066° 58′55″ W (NAD 83).
7.8 Ellis Short Sand Park Trustee Fireworks	• Event Type: Fireworks Display. • Date: One night event in July. [1] • Time (Approximate): 8:30 pm to 11:00 pm. • Location: In the vicinity of York Beach, Maine in approximate position: 43° 10′30″ N, 070° 36′22″ W (NAD 83).
7.9 Hampton Beach 4th of July Fireworks	• Event Type: Fireworks Display. • Date: One night event in July. [1] • Time (Approximate): 8:30 pm to 11:00 pm. • Location: In the vicinity of Hampton Beach, New Hampshire in approximate position: 42° 54′40″ N, 070° 36′25″ W (NAD 83).
7.10 Moosabec 4th of July Committee Fireworks	• Event Type: Fireworks Display. • Date: One night event in July. [1] • Time (Approximate): 8:00 pm to 10:30 pm. • Location: In the vicinity of Beals Island, Jonesport, Maine in approximate position: 44° 31′18″ N, 067° 36′43″ W (NAD 83).
7.11 Lubec 4th of July Fireworks	• Event Type: Fireworks Display. • Date: One night event in July. [1] • Time (Approximate): 8:00 pm to 10:30 pm. • Location: In the vicinity of the Lubec Public Boat Launch in approximate position: 44° 51′52″ N, 066° 59′06″ W (NAD 83).
7.12 Main Street Heritage Days 4th of July Fireworks	• Event Type: Fireworks Display. • Date: One night event in July. [1] • Time (Approximate): 8:00 pm to 10:30 pm. • Location: In the vicinity of Reed and Reed Boat Yard, Woolwich, Maine in approximate position: 43° 54′56″ N, 069° 48′16″ W (NAD 83).
7.13 Portland Harbor 4th of July Fireworks	• Event Type: Fireworks Display. • Date: One night event in July. [1] • Time (Approximate): 8:30 pm to 10:30 pm. • Location: In the vicinity of East End Beach, Portland, Maine in approximate position: 43° 40′16″ N, 070° 14′44″ W (NAD 83).
7.14 St. Albans Day Fireworks	• Event Type: Fireworks Display. • Date: One night event in July. [1] • Time (Approximate): 9:00 pm to 10:00 pm. • Location: From the St. Albans Bay dock in St. Albans Bay, Vermont in approximate position: 44° 48′25″ N, 073° 08′23″ W (NAD 83).
7.15 Stonington 4th of July Fireworks	• Event Type: Fireworks Display. • Date: One night event in July. [1] • Time (Approximate): 8:00 pm to 10:30 pm. • Location: In the vicinity of Two Bush Island, Stonington, Maine in approximate position: 44° 08′57″ N, 068° 39′54″ W (NAD 83).
7.16 Southwest Harbor 4th of July Fireworks	• Event Type: Fireworks Display. • Date: One night event in July. [1] • Time (Approximate): 8:00 pm to 10:30 pm. • Location: Southwest Harbor, Maine in approximate position: 44° 16′25″ N, 068° 19′21″ W (NAD 83).
7.17 Shelburne Triathlons	• Event Type: Swim Event. • Date: Up to three Saturdays throughout July and August. [1] • Time (Approximate): 7:00 am to 11:00 am. • Location: The regulated area includes all waters of Lake Champlain in the vicinity of Shelburne Beach in Shelburne, Vermont within a 400 yard radius of the following point: 44° 21′45″ N, 075° 15′58″ W (NAD 83).
7.18 St. George Days Fireworks	• Event Type: Fireworks. • Date: One night event in July. [1] • Time (Approximate): 8:30 pm to 10:30 pm. • Location: The regulated area includes all waters of Inner Tenants Harbor, ME, in approximate position: 43° 57′41.37″ N, 069° 12′45″ W (NAD 83).
7.190 Tri for a Cure Swim Clinics and Triathlon	• Event Type: Swim Event. • Date: A multi-day event held throughout July. [1]

TABLE 1 TO § 165.171—Continued

		• Time (Approximate): 8:30 am to 11:30 am. • Location: The regulated area includes all waters of Portland Harbor, Maine in the vicinity of Spring Point Light within the following points (NAD 83): 43° 39′01″ N, 070° 13′32″ W. 43° 39′07″ N, 070° 13′29″ W. 43° 39′06″ N, 070° 13′41″ W. 43° 39′01″ N, 070° 13′36″ W.
7.20	Richmond Days Fireworks	• Event Type: Fireworks Display. • Date: A one day event in July. [1] • Time (Approximate): 8:00 pm to 10:00 pm. • Location: From a barge in the vicinity of the inner harbor, Tenants Harbor, Maine in approximate position: 44° 08′42″ N, 068° 27′06″ W (NAD83).
7.21	Colchester Triathlon	• Event Type: Swim Event. • Date: A one day event in July. [1] • Time (Approximate): 7:00 am to 11:00 am. • Location: The regulated area includes all waters of Malletts Bay on Lake Champlain, Vermont within the following points (NAD 83): 44° 32′57″ N, 073° 13′00″ W. 44° 32′46″ N, 073° 13′00″ W. 44° 33′24″ N, 073° 11′43″ W. 44° 33′14″ N, 073° 11′35″ W.
7.22	Peaks to Portland Swim	• Event Type: Swim Event. • Date: A one day event in July. [1] • Time (Approximate): 5:00 am to 1:00 pm. • Location: The regulated area includes all waters of Portland Harbor between Peaks Island and East End Beach in Portland, Maine within the following points (NAD 83): 43° 39′20″ N, 070° 11′58″ W. 43° 39′45″ N, 070° 13′19″ W. 43° 40′11″ N, 070° 14′13″ W. 43° 40′08″ N, 070° 14′29″ W. 43° 40′00″ N, 070° 14′23″ W. 43° 39′34″ N, 070° 13′31″ W. 43° 39′13″ N, 070° 11′59″ W.
7.23	Friendship Days Fireworks	• Event Type: Fireworks Display. • Date: A one day event in July. [1] • Time (Approximate): 8:00 pm to 10:30 pm. • Location: In the vicinity of the Town Pier, Friendship Harbor, Maine in approximate position: 43° 58′23″ N, 069° 20′12″ W (NAD83).
7.24	Bucksport Festival and Fireworks	• Event Type: Fireworks Display. • Date: A one day event in July. [1] • Time (Approximate): 8:00 pm to 10:30 pm. • Location: In the vicinity of the Verona Island Boat Ramp, Verona, Maine, in approximate position: 44° 34′9″ N, 068° 47′28″ W (NAD83).
7.25	Nubble Light Swim Challenge	• Event Type: Swim Event. • Date: A one day event in July. [1] • Time (Approximate): 9:00 am to 12:30 pm. • Location: The regulated area includes all waters around Cape Neddick, Maine and within the following coordinates: 43° 10′28″ N, 070° 36′26″ W. 43° 10′34″ N, 070° 36′06″ W. 43° 10′30″ N, 070° 35′45″ W. 43° 10′17″ N, 070° 35′24″ W. 43° 09′54″ N, 070° 35′18″ W. 43° 09′42″ N, 070° 35′37″ W. 43° 09′51″ N, 070° 37′05″ W.
7.26	Paul Coulombe Anniversary Fireworks	• Event Type: Fireworks Display. • Date: A one day event in July. [1] • Time: 8:00 pm to 11:30 pm. • Location: In the vicinity of Pratt Island, Southport, ME, in approximate position: 43° 48′44″ N, 069° 41′11″ W (NAD83).
7.27	Castine 4th of July Fireworks	• Event Type: Fireworks Display. • Date: One night event in July. [1] • Time (Approximate): 9:00 pm to 10:30 pm. • Location: In the vicinity of the town dock in the Castine Harbor, Castine, Maine in approximate position: 44°23′10″ N, 068°47′28″W (NAD 83).
8.0		AUGUST

TABLE 1 TO § 165.171—Continued

8.1 Westerlund's Landing Party Fireworks	• Event Type: Fireworks Display. • Date: A one day event in August. [1] • Time (Approximate): 8:00 pm to 10:30 pm. • Location: In the vicinity of Westerlund's Landing in South Gardiner, Maine in approximate position: 44° 10′19″ N, 069° 45′24″ W (NAD 83).
8.2 York Beach Fire Department Fireworks	• Event Type: Fireworks Display. • Date: A one day event in August. [1] • Time (Approximate): 8:30 pm to 11:30 pm. • Location: In the vicinity of Short Sand Cove in York, Maine in approximate position: 43° 10′27″ N, 070° 36′25″ W (NAD 83).
8.3 North Hero Air Show	• Event Type: Air Show. • Date: A one day event in August. [1] • Time (Approximate): 10:00 am to 5:00 pm. • Location: In the vicinity of Shore Acres Dock, North Hero, Vermont in approximate position: 44° 48′24″ N, 073° 17′02″ W. 44° 48′22″ N, 073° 16′46″ W. 44° 47′53″ N, 073° 16′54″ W. 44° 47′54″ N, 073° 17′09″ W.
8.4 Islesboro Crossing Swim	• Event Type: Swim Event. • Date: A one day event in August. [1] • Time: (Approximate): 6:00 am to 11:00 am. • Location: West Penobscot Bay from Ducktrap Beach, Lincolnville, ME to Grindel Point, Islesboro, ME, in approximate position: 44° 17′44″ N, 069° 00′11″ W. 44° 16′58″ N, 068° 56′35″ W.
8.5 Paul Columbe Party Fireworks	• Event Type: Fireworks Display. • Date: A one day event in August. [1] • Time (Approximate): 9:00 pm to 10:30 pm. • Location: From a barge in the vicinity of Pratt Island, Southport, Maine in approximate position: 43° 48′69″ N, 069° 41′18″ W (NAD 83)
8.6 Casco Bay Island Swim/Run	• Event Type: Swim/Run Event. • Date: A one day event in August. [1] • Time (Approximate): 7:30 am to 1:00 pm. • Location: All waters of Casco Bay, Maine in the vicinity of Casco Bay Island archipelago and within the following coordinates (NAD 83): 43° 42′47″ N, 070° 07′07″ W. 43° 38′09″ N, 070° 11′57″ W. 43° 34′57″ N, 070° 12′55″ W. 43° 41′31″ N, 070° 11′37″ W. 43° 43′25″ N, 070° 08′25″ W.
8.7 Port Mile Swim	• Event Type: Swim Event. • Date: A one day event August. [1] • Time (Approximate): 7:00 am to 9:00 am. • Location: All waters of Casco Bay, Maine in the vicinity of East End Beach within the following points (NAD 83): 43° 40′09″ N, 070° 14′27″ W. 43° 40′05″ N, 070° 14′01″ W. 43° 40′21″ N, 070° 14′09″ W.
8.8 Challenge Maine Triathlon	• Event Type: Swim Event. • Date: A one day event August. [1] • Time (Approximate): 6:00 am to 08:30 am. • Location: All waters of Saco Bay, Maine in the vicinity of Old Orchard Beach within the following points (NAD 83): 43° 30′57″ N, 070° 22′22″ W. 43° 30′48″ N, 070° 21′58″ W. 43° 30′29″ N, 070° 22′43″ W. 43° 30′19″ N, 070° 22′21″ W.
9.0	SEPTEMBER
9.1 Windjammer Weekend Fireworks	• Event Type: Fireworks Display. • Date: A one night event in September. [1] • Time (Approximate): 8:00 pm to 9:30 pm. • Location: From a barge in the vicinity of Northeast Point, Camden Harbor, Maine in approximate position: 44° 12′10″ N, 069° 03′11″W (NAD 83).
9.2 Eastport Pirate Festival Fireworks	• Event Type: Fireworks Display. • Date: A one night event in September. [1] • Time (Approximate): 7:00 pm to 10:00 pm. • Location: From the Waterfront Public Pier in Eastport, Maine in approximate position:

TABLE 1 TO § 165.171—Continued

	44° 54′17″ N, 066° 58′58″W (NAD 83).
9.3 The Lobsterman Triathlon	• Event Type: Swim Event. • Date: A one day event in September. [1] • Time (Approximate): 8:00 am to 11:00 am. • Location: The regulated area includes all waters in the vicinity of Winslow Park in South Freeport, Maine within the following points (NAD 83): 43° 47′59″ N, 070° 06′56″ W. 43° 47′44″ N, 070° 06′56″ W. 43° 47′44″ N, 070° 07′27″ W. 43° 47′57″ N, 070° 07′27″ W.
9.4 Eliot Festival Day Fireworks	• Event Type: Fireworks Display. • Date: A one night event in September. [1] • Time (Approximate): 8:00 pm to 10:30 pm. • Location: In the vicinity of Eliot Town Boat Launch, Eliot, Maine in approximate position: 43° 08′56″ N, 070° 49′52″ W (NAD 83).
9.5 Lake Champlain Swimming Race	• Event Type: Swim Event. Date: A one day event in September. [1] • Time (Approximate): 9:00 am to 3 pm. • Location: Essex Beggs Point Park, Essex, NY, to Charlotte Beach, Charlotte, VT. 44° 18′32″ N, 073° 20′52″ W. 44° 20′03″ N, 073° 16′53″ W.

[1] Date subject to change. Exact date will be posted in Notice of Enforcement and Local Notice to Mariners.

Dated: June 26, 2017.

M.A. Baroody,

Captain, U.S. Coast Guard, Captain of the Port, Sector Northern New England.

[FR Doc. 2017–20151 Filed 9–20–17; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2017–0855]

Drawbridge Operation Regulation; New Jersey Intracoastal Waterway (NJICW), Beach Thorofare, Margate City, NJ

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 Margate Boulevard/Margate Bridge which carries Margate Boulevard across the NJICW (Beach Thorofare), mile 74.0, at Margate City, NJ. The deviation is necessary to facilitate urgent bridge maintenance. This deviation allows the bridge to remain in the closed-to-navigation position.

DATES: This deviation is effective without actual notice from September 21, 2017 through 7 p.m. on Sunday, October 8, 2017. For the purposes of enforcement, actual notice will be used from 7 a.m. on Monday September 18, 2017 until September 21, 2017.

ADDRESSES: The docket for this deviation, [USCG–2017–0855] is available at *http://www.regulations.gov.* Type the docket number in the ''SEARCH'' box and click ''SEARCH''. Click on Open Docket Folder on the line associated with this deviation.

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

SUPPLEMENTARY INFORMATION: The Margate Bridge Company, owner and operator of the Margate Boulevard/Margate Bridge that carries Margate Boulevard across the NJICW (Beach Thorofare), mile 74.0, at Margate City, NJ, has requested a temporary deviation from the current operating schedule to facilitate urgent maintenance of the structural steel of the bascule spans of the double bascule drawbridge. The bridge has a vertical clearance of 14 feet above mean high water in the closed position and unlimited clearance in the open position.

The current operating schedule is set out in 33 CFR 117.5. Under this temporary deviation, the bridge will be in the closed-to-navigation position from 7 a.m. on Monday, September 18, 2017, through 7 p.m. on Sunday, September 24, 2017, and from 7 a.m. on Monday, October 2, 2017, through 7 p.m. on Sunday, October 8, 2017.

The Beach Thorofare is used by recreational vessels. The Coast Guard has carefully coordinated the restrictions with waterway users in publishing this temporary deviation.

Vessels will not be able to pass through the bridge in the closed-to-navigation position, as two construction barges will be occupying the navigation channel during the closure periods. The bridge will not be able to open for emergencies and there is no immediate alternative route for vessels unable to pass through the bridge in the closed position. The Coast Guard will also inform the users of the waterway through our Local Notice and Broadcast Notices to Mariners of the change in operating schedule for the bridge so that vessel operators can arrange their transits to minimize any impact caused by the temporary deviation.

In accordance with 33 CFR 117.35(e), the 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: September 18, 2017.

Hal R. Pitts,

Bridge Program Manager, Fifth Coast Guard District.

[FR Doc. 2017–20153 Filed 9–20–17; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2017–0889]

Drawbridge Operation Regulation; Sacramento River, Sacramento, CA

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 Tower Drawbridge across the Sacramento River, mile 59.0, at Sacramento, CA. The deviation is necessary to allow the community to participate in the Juvenile Diabetes Research Foundation One Walk event. This deviation allows the bridge to remain in the closed-to-navigation position during the deviation period.

DATES: This deviation is effective from 9 a.m. through 11 a.m. on October 1, 2017.

ADDRESSES: The docket for this deviation, USCG–2017–0889, 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 Carl T. Hausner, Chief, Bridge Section, Eleventh Coast Guard District; telephone 510–437–3516; email *Carl.T.Hausner@uscg.mil.*

SUPPLEMENTARY INFORMATION: The California Department of Transportation has requested a temporary change to the operation of the Tower Drawbridge over the Sacramento River, mile 59.0, at Sacramento, CA. The drawbridge navigation span provides a vertical clearance of 30 feet above Mean High Water in the closed-to-navigation position. The draw operates as required by 33 CFR 117.189(a). Navigation on the waterway is commercial and recreational.

The drawspan will be secured in the closed-to-navigation position from 9 a.m. through 11 a.m. on October 1, 2017, to allow the community to participate in the Juvenile Diabetes Research Foundation One Walk event. This temporary deviation has been coordinated with the waterway users. No objections to the proposed temporary deviation were raised. Vessels able to pass through the bridge in the closed position may do so at anytime. In the event of an emergency the draw can open on signal if at least one hour notice is given to the bridge operator. There are no immediate alternate routes for vessels to pass. The Coast Guard will also inform the users of the waterway 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 the temporary deviation.

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

Dated: September 18, 2017.

Carl T. Hausner,

District Bridge Chief, Eleventh Coast Guard District.

[FR Doc. 2017–20128 Filed 9–20–17; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2017–0161]

Drawbridge Operation Regulation; Canaveral Barge Canal, Canaveral, FL

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 SR 401 Drawbridge, mile 5.5 at Port Canaveral, Florida. The deviation is necessary to allow fuel trucks a less restrictive access to and from Port Canaveral to pick up and deliver fuel due to the critical fuel supply in the region. With the passage of Hurricane Irma, delivery of fuel from the port is critical to the local community and beyond. This deviation allows the bridge to remain closed to navigation the majority of the day to facilitate the safe passage of vehicles picking up and delivering fuel.

DATES: This deviation is effective without actual notice from September 21, 2017 through 6 a.m. on October 14, 2017. For the purposes of enforcement, actual notice will be used from 6 a.m. on September 18, 2017, until October 12, 2017.

ADDRESSES: The docket for this deviation, USCG–2017–0161 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 LT Allan Storm, Sector Jacksonville, Waterways Management Division, U.S. Coast Guard; telephone 904–714–7616, email *Allan.H.Storm@uscg.mil.*

SUPPLEMENTARY INFORMATION: On April 25, 2017, the Coast Guard published a temporary deviation entitled ''Drawbridge Operation Regulation; Canaveral Barge Canal, Canaveral, FL in the **Federal Register** (82 FR 18989). Under that temporary deviation, the bridge would remain in the closed-to-navigation position from 11 a.m. to 2 p.m. on Saturdays and Sundays. On September 14, 2017, the Coast Guard received a request from Florida Department of Transportation the bridge owner, on behalf of the Port of Canaveral and Brevard County Emergency Operations Commission to modify the bridge operation schedule. This temporary deviation would suspend this prior action and allow the bridge to open on demand from 6 a.m. to 6:30 a.m., noon to 2 p.m., 6 p.m. to 6:30 p.m., and 9 p.m. to 9:30 p.m. daily.

Vessels able to pass through the bridge in the closed position may do so at any time. The bridge will be able to open for emergencies and there is no immediate alternate route for vessels to pass through the bridge in closed positions. 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 the temporary deviation.

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

Dated: September 18, 2017.

Barry L. Dragon,

Director, Bridge Branch, Seventh Coast Guard District.

[FR Doc. 2017–20207 Filed 9–20–17; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2017–0791]

RIN 1625–AA00

Safety Zone; Weskeag River, South Thomaston, ME

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for the navigable waters within 50-yards of either side of the Route 73 Weskeag Bridge, at mile 0.1 on the Weskeag River, in South Thomaston, Maine. The safety zone is necessary to protect personnel, vessels, and the marine environment from the potential hazards created by the demolition, subsequent removal, and replacement of the Route 73 Weskeag Bridge. When enforced, this regulation prohibits entry of vessels or people into the safety zone unless authorized by the Captain of the Port (COTP), Sector Northern New England or a designated representative.

DATES: This rule is effective from October 1, 2017 through December 1, 2017.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type USCG–2017–0791 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email LT Matthew Odom, Waterways Management Division, U.S. Coast Guard Sector Northern New England, telephone 207–347–5015, email *Matthew.T.Odom@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
COTP Captain of the Port
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of proposed rulemaking
§ Section
U.S.C. United States Code

II. Background Information and Regulatory History

On July 27, 2017, Sector Northern New England was made aware of the Route 73 Weskeag Bridge replacement project, which spans the Weskeag River in South Thomaston, Maine. The COTP Sector Northern New England has determined that the potential hazards associated with the bridge replacement project will be a safety concern for anyone within the work area.

The project is scheduled to begin on October 1, 2017 and be completed by December 1, 2017. During this project, removal and replacement of the bridge will take place. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative. The safety zone will be enforced during different periods during the bridge demolition or when other hazards to navigation arise during the new bridge construction. The Coast Guard will issue a Broadcast Notice to Mariners via marine channel 16 (VHF–FM) 24 hours in advance to any period of enforcement or as soon as practicable in response to an emergency. If the project is completed prior to December 1, 2017, enforcement of the safety zone will be suspended and notice given via Broadcast Notice to Mariners.

The Coast Guard is issuing this temporary final 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 an NPRM with respect to this rule because doing so would be impracticable and contrary to the public interest. The late finalization of project details did not give the Coast Guard enough time to publish an NPRM, take public comments, and issue a final rule before the construction work is set to begin. It would be impracticable and contrary to the public interest to delay promulgating this rule as it is necessary to respond to the potential safety hazards associated with the bridge replacement project beginning on October 1, 2017.

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**. For reasons stated in the preceding paragraph, delaying the implementation of this rule would be impractical.

III. Legal Authority and Need for Rule

The legal basis for this temporary rule is 33 U.S.C. 1231. The COTP Sector Northern New England has determined that potential hazards associated with the bridge replacement project starting on October 1, 2017 and continuing through December 1, 2017 will be a safety concern for anyone within the work zone. This rule is needed to protect personnel, vessels, and the marine environment within the safety zone while the bridge replacement project is completed.

IV. Discussion of the Rule

This rule establishes a safety zone from October 1, 2017 through December 1, 2017. The safety zone will cover all navigable waters from surface to bottom of 50 yards to either side of the Weskeag Bridge. The duration of the zone is intended to protect people, vessels, and the marine environment in these navigable waters during the bridge replacement project. When enforced, no vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative.

The Coast Guard will notify the public and local mariners of this safety zone through appropriate means, which may include, but are not limited to, publication in the **Federal Register**, the Local Notice to Mariners, and Broadcast Notice to Mariners via marine Channel 16 (VHF–FM) in advance of any scheduled enforcement period. The regulatory text we are enforcing appears at the end of this document.

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 13771 directs agencies to control regulatory costs through a budgeting process. This rule has not been designated a ''significant regulatory action,'' under Executive Order 12866. Accordingly, it has not been reviewed by the Office of Management and Budget (OMB), and pursuant to OMB guidance it is exempt from the requirements of Executive order 13771.

The Coast Guard has determined that this rulemaking is not a significant regulatory action for the following reasons: (1) The safety zone only

impacts a small designated area of the Weskeag River, (2) the zone will only be enforced when work equipment will be placed in the navigable channel during removal and replacement of the bridge or if necessitated by an emergency, (3) persons or vessels desiring to enter the safety zone may do so with permission from the COTP Sector Northern New England or a designated representative. The Coast Guard will notify the public of the enforcement of this rule via appropriate means, such as via Local Notice to Mariners and Broadcast Notice to Mariners.

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., 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 (Public Law 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 this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a temporary safety zone that will prohibit entry within 50 yards of the Weskeag Bridge during its removal and replacement. It is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. A Record of Environmental Consideration for Categorically Excluded Actions will be available in the docket where indicated under **ADDRESSES**.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

List of Subjects in 33 CFR Part 165

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

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T01–0791 to read as follows:

§ 165.T01–0791 Safety Zone—Route 73 Weskeag Bridge, Weskeag River, South Thomaston, ME.

(a) *Location.* The following area is a safety zone. All navigable waters of the Weskeag River, ME within a 50-yard radius of the Route 73 Weskeag Bridge that spans the Weskeag River in South Thomaston, ME in position 44°03′06″ N, 069°07′33″ W (NAD 83).

(b) *Effective and enforcement period.* This rule will be effective on October 1, 2017, through December 1, 2017, but will only be enforced during removal and replacement of the Route 73 Weskeag Bridge or other instances which may cause a hazard to navigation, when deemed necessary by the Captain of the Port (COTP), Northern New England.

(c) *Regulations.* When this safety zone is enforced, the following regulations, along with those contained in § 165.23 apply:

(1) No person or vessel may enter or remain in this safety zone without the permission of the Captain of the Port

(COTP) or a COTP representative. However, any vessel that is granted permission by the COTP or a COTP representative must proceed through the area with caution and operate at a speed no faster than that speed necessary to maintain a safe course, unless otherwise required by the Navigation Rules.

(2) Any person or vessel permitted to enter the safety zone shall comply with the directions and orders of the COTP or a COTP representative. Upon being hailed by a U.S. Coast Guard vessel by siren, radio, flashing lights, or other means, the operator of a vessel within the zone shall proceed as directed. Any person or vessel within the safety zone shall exit the zone when directed by the COTP or a COTP representative.

(3) To obtain permissions required by this regulation, individuals may reach the COTP or a COTP representative via Channel 16 (VHF–FM) or (207) 741–5465 (Sector Northern New England Command Center).

(d) *Penalties.* Those who violate this section are subject to the penalties set forth in 33 U.S.C. 1232.

(e) *Notification.* Coast Guard Sector Northern New England will give notice through the Local Notice to Mariners and Broadcast Notice to Mariners for the purpose of enforcement of temporary safety zone. Sector Northern New England will also notify the public to the greatest extent possible of any period in which the Coast Guard will suspend enforcement of this safety zone.

(f) *COTP representative.* A COTP representative may be any Coast Guard commissioned, or petty officer or any federal, state, or local law enforcement officer who has been designated by the COTP to act on the COTP's behalf. A COTP representative may be on a Coast Guard vessel, a Coast Guard Auxiliary vessel, a state or local law enforcement vessel, or a location on shore.

Dated: September 15, 2017.

M.A. Baroody,

Captain, U.S. Coast Guard, Captain of the Port, Sector Northern New England.

[FR Doc. 2017–20068 Filed 9–20–17; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2017–0731]

RIN 1625–AA00

Safety Zone; Mississippi River, New Orleans, LA

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for all navigable waters on the Mississippi River between mile marker (MM) 96.0 and MM 96.5. This action is necessary to provide for the safety of life on these navigable waters near New Orleans, LA, during a fireworks display. Entry of vessels or persons into this safety zone is prohibited unless authorized by the Captain of the Port Sector New Orleans (COTP) or a designated representative.

DATES: This rule is effective from 7:50 p.m. to 8:50 p.m. on October 28, 2017.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type USCG–2017–0731 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 proposed rulemaking, call or email Lieutenant Commander (LCDR) Howard Vacco, Sector New Orleans, U.S. Coast Guard; at (504) 365–2281, email *Howard.K.Vacco@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
COTP Captain of the Port Sector New Orleans
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 preceded this final rule with a Notice of Proposed Rulemaking (NPRM). The NPRM was published in the **Federal Register** on August 23, 2017, (82 FR 39972). We invited comments on our proposed regulatory action related to work on power lines extending over the Mississippi River in New Orleans, LA. The NPRM listed dates and times of enforcement of the safety zone. During the comment period that ended September 7, 2017, we received one comment.

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 New Orleans (COTP) has determined that potential hazards associated with the fireworks display from 7:50 p.m. to 8:50 p.m. on October 28, 2017 will present a safety concern for all navigable waters on the Mississippi River from mile marker (MM) 96.0 and MM 96.5. The purpose of this rule is to ensure safety of life and vessels on the navigable waters in the safety zone before, during, and after the scheduled event.

IV. Discussion of Comments, Changes, and the Rule

During the comment period, one comment was received. The commenter made a general statement that he or she was against ''safe spaces''. The commenter did not indicate if he or she was against the proposed safety zone or the reasons for it. There are no changes in the regulatory text of this rule from the proposed rule in the NPRM.

The rule establishes a safety zone from 7:50 p.m. through 8:50 p.m. on October 28, 2017. The safety zone would cover all navigable waters between MM 96.0 and 96.5 on the Mississippi River in New Orleans, LA. The duration of the zone is intended to ensure the safety of life and vessels on these navigable waters before, during, and after the scheduled fireworks display. Entry into this safety zone is prohibited 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 13771 directs agencies to control regulatory costs through a budgeting process. This rule has not been designated a ''significant regulatory action,'' under Executive Order 12866. Accordingly, this rule has

not been reviewed by the Office of Management and Budget (OMB), and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

This regulatory action determination is based on the size, location, duration, and time-of-year of the safety zone. This safety zone will be enforced for a period of one hour on one day on one half of one mile of navigable waters. Vessel traffic will be able to safely navigate through the affected area before and after the scheduled event. Entry into the safety zones established through this rulemaking may be requested from the COTP or a designated representative and will be considered on a case-by-case.

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 determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone lasting one hour on one day extending one half of one mile that will prohibit entry on all navigable waters of the Mississippi River from mile marker (MM) 96.0 and MM 96.5. It is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. A Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**.

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

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

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T08–0731 to read as follows:

§ 165.T08–0731 Safety Zone; Mississippi River, New Orleans, LA.

(a) *Location.* The following area is a safety zone: All navigable waters of the Mississippi River between mile marker (MM) 96.0 and MM 96.5.

(b) *Effective period.* This section is effective from 7:50 p.m. through 8:50 p.m. on October 28, 2017.

(c) *Definitions.* As used in this section, a *designated representative* is a commissioned, warrant, or petty officer of the U.S. Coast Guard assigned to Sector New Orleans, U.S. Coast Guard.

(d) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry into this zone is prohibited unless specifically authorized by the Captain of the Port

Sector New Orleans (COTP) or designated representative.

(2) Vessels requiring entry into this safety zone must request permission from the COTP or a designated representative. They may be contacted on VHF–FM Channel 16 or 67.

(3) Persons and vessels permitted to enter this safety zone must transit at their slowest safe speed and comply with all lawful directions issued by the COTP or the designated representative.

(e) *Information broadcasts.* The COTP or a designated representative will inform the public through Broadcast Notices to Mariners of any changes in the planned schedule.

Dated: September 15, 2017.

Wayne R. Arguin,

Captain, U.S. Coast Guard, Captain of the Port New Orleans.

[FR Doc. 2017–20109 Filed 9–20–17; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 9 and 721

[EPA–HQ–OPPT–2016–0331; FRL–9959–81]

RIN 2070–AB27

Significant New Use Rules on Certain Chemical Substances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is promulgating significant new use rules (SNURs) under the Toxic Substances Control Act (TSCA) for 37 chemical substances which were the subject of premanufacture notices (PMNs). The applicable review periods for the PMNs submitted for these 37 chemical substances all ended prior to June 22, 2016 (*i.e.,* the date on which President Obama signed into law the Frank R. Lautenberg Chemical Safety for the 21st Century Act which amends TSCA). Six of these chemical substances are subject to TSCA section 5(e) consent orders issued by EPA. This action requires persons who intend to manufacture (defined by statute to include import) or process any of these 37 chemical substances for an activity that is designated as a significant new use by this rule to notify EPA at least 90 days before commencing that activity. The required notification initiates EPA's evaluation of the intended use within the applicable review period. Manufacture and processing for the significant new use is unable to commence until EPA has conducted a review of the notice, made an appropriate determination on the notice, and take such actions as are required with that determination.

DATES: This rule is effective on November 20, 2017. For purposes of judicial review, this rule shall be promulgated at 1 p.m. (e.s.t.) on October 5, 2017.

Written adverse or critical comments, or notice of intent to submit adverse or critical comments, on one or more of these SNURs must be received on or before October 23, 2017 (see Unit VI. of the **SUPPLEMENTARY INFORMATION**). If EPA receives written adverse or critical comments, or notice of intent to submit adverse or critical comments, on one or more of these SNURs before October 23, 2017, EPA will withdraw the relevant sections of this direct final rule before its effective date.

For additional information on related reporting requirement dates, see Units I.A., VI., and VII. of the **SUPPLEMENTARY INFORMATION**.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPPT–2016–0331, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.
- *Mail:* Document Control Office (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.* Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: *For technical information contact:* Kenneth Moss, Chemical Control Division (7405M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW. Washington, DC 20460–0001; telephone number: (202) 564–9232; email address: *moss.kenneth @epa.gov.*

For general information contact: The TSCA–Hotline, ABVI–Goodwill, 422 South Clinton Ave. Rochester, NY 14620; telephone number: (202) 554–1404; email address: *TSCA-Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you manufacture, process, or use the chemical substances contained in this rule. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Manufacturers or processors of one or more subject chemical substances (NAICS codes 325 and 324110), *e.g.,* chemical manufacturing and petroleum refineries.

This action may also affect certain entities through pre-existing import certification and export notification rules under TSCA. Chemical importers are subject to the TSCA section 13 (15 U.S.C. 2612) import certification requirements promulgated at 19 CFR 12.118 through 12.127 and 19 CFR 127.28. Chemical importers must certify that the shipment of the chemical substance complies with all applicable rules and orders under TSCA. Importers of chemicals subject to these SNURs must certify their compliance with the SNUR requirements. The EPA policy in support of import certification appears at 40 CFR part 707, subpart B. In addition, any persons who export or intend to export a chemical substance that is the subject of this rule on or after October 23, 2017 are subject to the export notification provisions of TSCA section 12(b) (15 U.S.C. 2611(b)) (see § 721.20), and must comply with the export notification requirements in 40 CFR part 707, subpart D.

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

1. *Submitting CBI.* Do not submit this information to EPA through *regulations.gov* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to 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 comment that includes information claimed as CBI, a copy of the comment 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.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at *http://www.epa.gov/dockets/comments.html.*

II. Background

A. What action is the agency taking?

EPA is promulgating these SNURs using direct final procedures. These SNURs will require persons to notify EPA at least 90 days before commencing the manufacture or processing of a chemical substance for any activity designated by these SNURs as a significant new use. Receipt of such notices allows EPA to assess risks that may be presented by the intended uses and, if appropriate, to regulate the proposed use before it occurs. Additional rationale and background to these rules are more fully set out in the preamble to EPA's first direct final SNUR published in the **Federal Register** issue of April 24, 1990 (55 FR 17376). Consult that preamble for further information on the objectives, rationale, and procedures for SNURs and on the basis for significant new use designations, including provisions for developing test data.

B. What is the agency's authority for taking this action?

Section 5(a)(2) of TSCA (15 U.S.C. 2604(a)(2)) authorizes EPA to determine that a use of a chemical substance is a ''significant new use.'' EPA must make this determination by rule after considering all relevant factors, including the four bulleted TSCA section 5(a)(2) factors listed in Unit III. Once EPA determines that a use of a chemical substance is a significant new use, TSCA section 5(a)(1)(B) requires persons to submit a significant new use notice (SNUN) to EPA at least 90 days before they manufacture or process the chemical substance for that use (15 U.S.C. 2604(a)(1)(B)(i)). TSCA furthermore prohibits such manufacturing or processing from commencing until EPA has conducted a review of the notice, made an appropriate determination on the notice, and taken such actions as are required in association with that determination (15 U.S.C. 2604(a)(1)(B)(ii)). As described in Unit V., the general SNUR provisions are found at 40 CFR part 721, subpart A.

C. Applicability of General Provisions

General provisions for SNURs appear in 40 CFR part 721, subpart A. These provisions describe persons subject to the rule, recordkeeping requirements, exemptions to reporting requirements, and applicability of the rule to uses occurring before the effective date of the rule. Provisions relating to user fees appear at 40 CFR part 700. According to § 721.1(c), persons subject to these SNURs must comply with the same SNUN requirements and EPA regulatory procedures as submitters of PMNs under TSCA section 5(a)(1)(A). In particular, these requirements include the information submission requirements of TSCA section 5(b) and 5(d)(1), the exemptions authorized by TSCA section 5(h)(1), (h)(2), (h)(3), and (h)(5), and the regulations at 40 CFR part 720. Once EPA receives a SNUN, EPA must either determine that the significant new use is not likely to present an unreasonable risk of injury or take such regulatory action as is associated with an alternative determination before the manufacture or processing for the significant new use can commence. If EPA determines that the significant new use is not likely to present an unreasonable risk, EPA is required under TSCA section 5(g) to make public, and submit for publication in the **Federal Register**, a statement of EPA's findings.

III. Significant New Use Determination

Section 5(a)(2) of TSCA states that EPA's determination that a use of a chemical substance is a significant new use must be made after consideration of all relevant factors, including:

- The projected volume of manufacturing and processing of a chemical substance.
- The extent to which a use changes the type or form of exposure of human beings or the environment to a chemical substance.
- The extent to which a use increases the magnitude and duration of exposure of human beings or the environment to a chemical substance.
- The reasonably anticipated manner and methods of manufacturing, processing, distribution in commerce, and disposal of a chemical substance.

In addition to these factors enumerated in TSCA section 5(a)(2), the statute authorized EPA to consider any other relevant factors.

To determine what would constitute a significant new use for the 37 chemical substances that are the subject of these SNURs, EPA considered relevant information about the toxicity of the chemical substances, likely human exposures and environmental releases associated with possible uses, and the four bulleted TSCA section 5(a)(2) factors listed in this unit.

IV. Substances Subject to This Rule

EPA is establishing significant new use and recordkeeping requirements for 37 chemical substances in 40 CFR part 721, subpart E. In this unit, EPA provides the following information for each chemical substance:

- PMN number.
- Chemical name (generic name, if the specific name is claimed as CBI).
- Chemical Abstracts Service (CAS) Registry number (if assigned for non-confidential chemical identities).
- Basis for the TSCA section 5(e) consent order or, for non-TSCA section 5(e) SNURs, the basis for the SNUR (*i.e.,* SNURs without TSCA section 5(e) consent orders).
- Tests recommended by EPA to provide sufficient information to evaluate the chemical substance (see Unit VIII. for more information).
- CFR citation assigned in the regulatory text section of this rule.

The regulatory text section of this rule specifies the activities designated as significant new uses. Certain new uses, including production volume limits (*i.e.,* limits on manufacture volume) and other uses designated in this rule, may be claimed as CBI. Unit IX. discusses a procedure companies may use to ascertain whether a proposed use constitutes a significant new use.

This rule includes 6 PMN substances that are subject to ''risk-based'' consent orders under TSCA section 5(e)(1)(A)(ii)(I) where EPA determined that activities associated with the PMN substances may present unreasonable risk to human health or the environment. Those consent orders require protective measures to limit exposures or otherwise mitigate the potential unreasonable risk. The so-called ''TSCA section 5(e) SNURs'' on these PMN substances are promulgated pursuant to § 721.160, and are based on and consistent with the provisions in the underlying consent orders. The TSCA section 5(e) SNURs designate as a ''significant new use'' the absence of the protective measures required in the corresponding consent orders.

Where EPA determined that the PMN substance may present an unreasonable risk of injury to human health via inhalation exposure, the underlying TSCA section 5(e) consent order usually requires, among other things, that potentially exposed employees wear specified respirators unless actual measurements of the workplace air show that air-borne concentrations of the PMN substance are below a New Chemical Exposure Limit (NCEL) that is established by EPA to provide adequate protection to human health. In addition

to the actual NCEL concentration, the comprehensive NCELs provisions in TSCA section 5(e) consent orders, which are modeled after Occupational Safety and Health Administration (OSHA) Permissible Exposure Limits (PELs) provisions, include requirements addressing performance criteria for sampling and analytical methods, periodic monitoring, respiratory protection, and recordkeeping. However, no comparable NCEL provisions currently exist in 40 CFR part 721, subpart B, for SNURs. Therefore, for these cases, the individual SNURs in 40 CFR part 721, subpart E, will state that persons subject to the SNUR who wish to pursue NCELs as an alternative to the § 721.63 respirator requirements may request to do so under § 721.30. EPA expects that persons whose § 721.30 requests to use the NCELs approach for SNURs are approved by EPA will be required to comply with NCELs provisions that are comparable to those contained in the corresponding TSCA section 5(e) consent order for the same chemical substance.

This rule also includes SNURs on 31 PMN substances that are not subject to consent orders under TSCA section 5(e). These cases completed Agency review prior to June 22, 2016. Under TSCA, prior to the enactment of the Frank R. Lautenberg Chemical Safety for the 21st Century Act on June 22, 2016, EPA did not find that the use scenario described in the PMN triggered the determinations set forth under TSCA section 5(e). However, EPA does believe that certain changes from the use scenario described in the PMN could result in increased exposures, thereby constituting a ''significant new use.'' These so-called ''non-TSCA section 5(e) SNURs'' are promulgated pursuant to § 721.170. EPA has determined that every activity designated as a ''significant new use'' in all non-TSCA section-5(e) SNURs issued under § 721.170 satisfies the two requirements stipulated in § 721.170(c)(2), *i.e.,* these significant new use activities, ''(i) are different from those described in the premanufacture notice for the substance, including any amendments, deletions, and additions of activities to the premanufacture notice, and (ii) may be accompanied by changes in exposure or release levels that are significant in relation to the health or environmental concerns identified'' for the PMN substance.

PMN Number P–05–436

Chemical name: Ethylene glycol ester of an aromatic substituted propenoic acid (generic).

CAS number: Not available.

Basis for action: The PMN states that the generic (non-confidential) use of the substance will be as a modifier for polyester polymer. Based on structure activity relationship (SAR) analysis of test data on structurally similar substances, EPA predicts toxicity to aquatic organisms at concentrations that exceed 10 parts per billion (ppb) of the PMN substance in surface waters. As described in the PMN, releases to surface waters of the PMN substance are not expected to exceed 10 ppb. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance may present an unreasonable risk. EPA has determined, however, that any use of the substance resulting in surface water concentrations exceeding 10 ppb may cause significant adverse environmental effects. Based on this information, the PMN substance meets the concern criteria at § 721.170(b)(4)(ii).

Recommended testing: EPA has determined that the results of a fish acute toxicity test, freshwater and marine (Office of Pollution Prevention and Toxics (OPPTS) Test Guideline 850.1075); an acute invertebrate toxicity test, freshwater daphnids (Office of Chemical Safety and Pollution Prevention (OCSPP) Test Guideline 850.1010); and an algal toxicity test (OCSPP Test Guideline 850.4500) would help characterize the environmental effects of the PMN substance.

CFR citation: 40 CFR 721.10961.

PMN Number P–10–504

Chemical name: Phosphoric acid, metal salt (generic).

CAS number: Not available.

Basis for action: The PMN states that the substance will be used as a flame retardant for textiles. Based on SAR analysis of test data on analogous substances, EPA identified eye and dermal irritation as well as immunotoxicity concerns to workers from exposure to the PMN substance via the inhalation route. Additionally, based on SAR analysis of test data on analogous inorganic phosphates, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed 5 ppb of the PMN substance in surface waters. For the use described in the PMN, significant releases of the substance are not expected, and worker dermal and inhalation will be minimal. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance may present an unreasonable risk. EPA has determined, however, that substantial production volume increases, or use of the PMN substance other than as described in the PMN, could change exposure potential, which may cause significant adverse health and environmental effects. Based on this information, the PMN substance meets the concern criteria at § 721.170(b)(3)(ii) and (b)(4)(ii).

Recommended testing: EPA has determined that the results of a 90-day oral toxicity test (OPPTS Test Guideline 870.3100); a fish acute toxicity test, freshwater and marine (OPPTS Test Guideline 850.1075); an acute invertebrate toxicity test, freshwater daphnids (OCSPP Test Guideline 850.1010); and an algal toxicity test (OCSPP Test Guideline 850.4500) would help characterize the human health and environmental effects of the PMN substance. EPA also recommends that the guidance document on aquatic toxicity testing of difficult substances and mixtures (Organisation for Economic Co-operation and Development (OECD) Test Guideline 23) be followed to facilitate solubility in the test media.

CFR citation: 40 CFR 721.10962.

PMN Number P–13–289

Chemical name: Alkanoic acid, tetramethylheteromonocycle ester (generic).

CAS number: Not available.

Basis for action: The PMN states that the generic (non-confidential) use of the substance is as an additive component to engine lubricants. Based on test data on the PMN substance, as well as SAR analysis of test data on analogous aliphatic amines and esters, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed 2 ppb of the PMN substance in surface waters. As described in the PMN, releases of the substance are not expected to result in surface water concentrations that exceed 2 ppb. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance may present an unreasonable risk. EPA has determined, however, that any use of the substance resulting in surface water concentrations exceeding 2 ppb may cause significant adverse environmental effects. Based on this information, the PMN substance meets the concern criteria at § 721.170(b)(4)(i) and (b)(4)(ii).

Recommended testing: EPA has determined that the results of a fish early-life stage toxicity test (OCSPP Test Guideline 850.1400) and a daphnid chronic toxicity test (OCSPP Test Guideline 850.1300) would help characterize the environmental effects of the PMN substance.

CFR citation: 40 CFR 721.10963.

PMN Number P–13–908

Chemical name: Polyether polyester urethane phosphate (generic).

CAS number: Not available.

Basis for action: The PMN states that the generic (non-confidential) use of the substance is as an additive. Based on SAR analysis of test data on analogous inorganic phosphates, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed 5 ppb of the substance in surface waters for greater than 20 days per year. This 20-day criterion is derived from partial life cycle tests (daphnid chronic and fish early life stage tests) that typically range from 21 to 28 days in duration. EPA predicts toxicity to aquatic organisms may occur if releases of the substance to surface water exceed releases from manufacturing, processing, and use levels described in the PMN. For the manufacturing, processing, and use operations described in the PMN, environmental releases did not exceed 5 ppb for more than 20 days per year. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance may present an unreasonable risk. However, EPA has determined that, if in the future there is domestic manufacture, the use changes from that described in the PMN, or if the production volume increases substantially, the potential for release to the environment may change correspondingly and can result in significant adverse environmental effects. Based on this information, the PMN substance meets the concern criteria at § 721.170(b)(4)(ii).

Recommended testing: EPA has determined that the results of an algal toxicity test (OCSPP Test Guideline 850.4500), with the PMN substance substituted for the phosphate nutrient in the algal growth medium, would help characterize the environmental effects of the PMN substance.

CFR citation: 40 CFR 721.10964.

PMN Number P–14–129

Chemical name: Propanamide, 2-hydroxy-N,N-dimethyl-.

CAS number: 35123–06–9.

Basis for action: The PMN states that the generic (non-confidential) use of the substance is as a solvent in pesticide formulations and solvent for fertilizers. Based on test data on the PMN substance, EPA identified concerns for solvent neurotoxicity, blood and liver toxicity, kidney effects, and developmental toxicity. For the uses described in the PMN, EPA does not expect significant dermal or inhalation occupational exposures, nor does it expect consumer exposures. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance may present an unreasonable risk. EPA has determined, however that any use of the substance other than as described in the PMN, any use of the PMN substance without the use of dermal protection, where there is a potential for dermal exposures; or any use of the PMN substance in consumer products may cause serious human health effects. Based on this information, the PMN substance meets the concern criteria at § 721.170(b)(3)(i).

Recommended testing: EPA has determined that the results of a dermal penetration test (OPPTS Test Guideline 870.7600) would help characterize the human health effects of the PMN substance.

CFR citation: 40 CFR 721.10965.

PMN Number P–14–260

Chemical name: 1-Propene, 2-bromo-3,3,3-trifluoro-.

CAS number: 1514–82–5.

Effective date of TSCA section 5(e) consent order: March 7, 2016.

Basis for TSCA section 5(e) consent order: The PMN states that the PMN substance will be used as a fire extinguishing agent for: Portable extinguishers (onboard aviation and all nonresidential); niche systems (aircraft, normally unoccupied systems, self-contained automatic fire extinguishing systems); and streaming systems for aircraft rescue fire fighting vehicles. Based on test data on the PMN substance, EPA predicts reproductive effects to unprotected workers from repeated inhalation exposures. The Order was issued under TSCA sections 5(e)(1)(A)(i) and 5(e)(1)(A)(ii)(I), based on a finding that the substance may present an unreasonable risk of injury to human health. To protect against these risks, the consent order requires:

1. Use of personal protective equipment including a NIOSH–certified respirator with an APF of at least 10 or compliance with a NCEL of 1.0 parts per million (ppm) as an 8-hour time-weighted average, when there is a potential for inhalation exposures.

2. Hazard communication. Establishment and use of a hazard communication program, including human health precautionary statements on each label and in the Safety Data Sheet (SDS).

3. No domestic manufacture of the PMN substance.

4. Processing (including filling of hand-held fire extinguishers or fire extinguishing systems) of the PMN substance in an enclosed process.

5. Use only as either (1) total flooding agent in unoccupied spaces, specifically engine nacelles and auxiliary power units (APUs) in aircraft; or (2) streaming fire extinguishing agent for use only in handheld extinguishers in aircraft.

The SNUR would designate as a ''significant new use'' the absence of these protective measures.

Recommended testing: EPA has determined that inhalation monitoring data, collected according to the EPA draft Inhalation Monitoring Data Collection Guidelines (located in the docket under docket ID number EPA–HQ–OPPT–2016–0331 would help characterize the human health effects of the PMN substance. The Order's restrictions on manufacture, processing, distribution in commerce, and disposal will remain in effect until the Order is modified or revoked by EPA based on submission of this or other relevant information.

CFR citation: 40 CFR 721.10966.

PMN Number P–14–759

Chemical name: Pyrolysis oil product (generic).

CAS number: Not available.

Effective date of TSCA section 5(e) consent order: May 4, 2016.

Basis for TSCA section 5(e) consent order: The PMN states that the generic (non-confidential) use of the substance is as an on-site coolant and petroleum feed-stock. Based on SAR analysis of test data on analogous benzene and alkyl benzenes, EPA identified concerns for oncogenicity, neurological effect, and blood toxicity to unprotected workers from repeated inhalation exposures. Further, based on SAR analysis of test data on analogous neutral organic chemicals, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed 20 ppb of the PMN substance in surface waters. The Order was issued under TSCA sections 5(e)(1)(A)(i) and 5(e)(1)(A)(ii)(I), based on a finding that the substance may present an unreasonable risk of injury to human health and the environment. To protect against these risks, the consent order requires:

1. Use of personal protective equipment including impervious gloves (where there is a potential for dermal exposures) and a NIOSH–certified respirator with an APF of at least 10 (where there is a potential for dermal or inhalation exposures) or compliance with a NCEL of 0.5 ppm as an 8-hour time-weighted average.

2. Manufacture, processing, or use of the PMN substance only for the use specified in the consent order.

3. No use of the PMN substance resulting in releases to surface waters concentrations that exceed 20 ppb.

The SNUR would designate as a ''significant new use'' the absence of these protective measures.

Recommended testing: EPA has determined that the results of a developmental neurotoxicity test (OPPTS Test Guideline 870.6300) with a complete blood count and differential for white blood cells; inhalation monitoring data, collected according to the EPA draft Inhalation Monitoring Data Collection Guidelines (located in the docket under docket ID number EPA–HQ–OPPT–2016–0331; a fish acute toxicity test, freshwater and marine (OPPTS Test Guideline 850.1075); an acute invertebrate toxicity test, freshwater daphnids (OCSPP Test Guideline 850.1010) and an algal toxicity test (OCSPP Test Guideline 850.4500) would help characterize the human health and environmental effects of the PMN substance. The Order's restrictions on manufacture, processing, distribution in commerce, and disposal will remain in effect until the Order is modified or revoked by EPA based on submission of this or other relevant information.

CFR citation: 40 CFR 721.10967.

PMN Number P–15–279

Chemical name: 1-Octanamine, 7 (or 8)-(aminomethyl)-.

CAS number: 1613320–81–2.

Basis for action: The PMN states that the substance is used as a raw material for highly heat resistant plastic. Based on test data on the PMN substance, as well as SAR analysis of test data on analogous aliphatic amines, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed 123 parts per billion of the PMN substance in surface waters. As described in the PMN, releases of the substance during the use described in the PMN are not expected to result in surface water concentrations that exceed 123 ppb. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance for the use described in the PMN may present an unreasonable risk. EPA has determined, however, that any use of the substance resulting in surface water concentrations exceeding 123 ppb may cause significant adverse environmental effects. Based on this information, the PMN substance meets the concern criteria at § 721.170(b)(4)(i) and (b)(4)(ii).

Recommended testing: EPA has determined that the results of a fish early-life stage toxicity test (OCSPP Test Guideline 850.1400) and a daphnid chronic toxicity test (OCSPP Test Guideline 850.1300) would help characterize the environmental effects of the PMN substance.

CFR citation: 40 CFR 721.10968.

PMN Number P–15–409

Chemical name: Substituted alkanolamine ether (generic).

CAS number: Not available.

Effective date of TSCA section 5(e) consent order: March 3, 2016.

Basis for TSCA section 5(e) consent order: The PMN states that the substance will be used as a hydrogen sulfide scavenger. The Order was issued under TSCA sections 5(e)(1)(A)(i) and 5(e)(1)(A)(ii)(II) based on a finding that the substance may be produced in substantial quantities and may reasonably be anticipated to enter the environment in substantial quantities, and there may be significant (or substantial) human exposure to the substance. Based on this finding, the consent order requires:

1. Risk notification. If as a result of the test data required, the company becomes aware that the PMN substances may present a risk of injury to human health or the environment, the company must incorporate this new information, and any information on methods for protecting against such risk into an SDS, within 90 days.

2. Submission of certain toxicity, physical-chemical property, and environmental fate testing on the PMN substance prior to exceeding the confidential production volume limits as specified in the consent order.

The SNUR would designate as a ''significant new use'' the absence of these measures.

Recommended testing: EPA has determined that the results of certain toxicity and environmental fate testing would help characterize the PMN substance. The submitter has agreed to complete the testing identified in the testing section of the consent order by the confidential limits specified.

CFR citation: 40 CFR 721.10969.

PMN Number P–15–583

Chemical name: Butanedioic acid, alkyl amine, dimethylbutyl ester (generic).

CAS number: Not available.

Effective date of TSCA section 5(e) consent order: February 8, 2016.

Basis for TSCA section 5(e) consent order: The PMN states that the substance will be used as an additive to engine motor oil. Based on physical-chemical properties data, EPA predicts that the PMN substance will persist in the environment, could bioaccumulate or biomagnify, and could be toxic (PBT) to people, wild mammals, and birds. Further, based on test data on the PMN, as well as SAR analysis of analogous aliphatic amines, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed 1 ppb of the PMN substance in surface waters. The Order was issued under TSCA sections 5(e)(1)(A)(i), 5(e)(1)(A)(ii)(I), and 5(e)(1)(A)(ii)(II) based on a finding that the substance may present an unreasonable risk of injury to the environment and human health, the substance may be produced in substantial quantities and may reasonably be anticipated to enter the environment in substantial quantities, and there may be significant (or substantial) human exposure to the substance. To protect against these exposures and risks, the consent order requires:

1. Risk notification. If as a result of the test data required, the company becomes aware that the PMN substances may present a risk of injury to human health or the environment, the company must incorporate this new information, and any information on methods for protecting against such risk into an SDS, within 90 days.

2. Submission of certain toxicity, physical-chemical property, and environmental fate testing on the PMN substance prior to exceeding the confidential production volume limits as specified in the consent order.

3. No releases of the PMN substance into the waters of the United States.

The SNUR would designate as a ''significant new use'' the absence of these protective measures.

Recommended testing: EPA has determined that the results of certain toxicity and environmental fate testing would help characterize the PMN substance. The submitter has agreed to complete the testing identified in the testing section of the consent order by the confidential limits specified. In addition, EPA has determined that the results of a fish early-life stage toxicity test (OCSPP Test Guideline 850.1400) and a daphnid chronic toxicity test (OCSPP Test Guideline 850.1300) would help characterize the environmental effects of the PMN substance. The Order's restrictions on manufacture, processing, distribution in commerce, and disposal will remain in effect until the Order is modified or revoked by EPA based on submission of this or other relevant information.

CFR citation: 40 CFR 721.10970.

PMN Number P–15–672

Chemical name: Carbon nanotube (generic).

CAS number: Not available.

Effective date of TSCA section 5(e) consent order: January 15, 2016.

Basis for TSCA section 5(e) consent order: The PMN states that the generic (non-confidential) use of the PMN substance will be in filtration media. Based on test data on analogous respirable, poorly soluble particulates and carbon nanotubes, EPA identified concerns for pulmonary toxicity and oncogenicity. Based on test data for other carbon nanotubes EPA identified concerns for environmental toxicity. The Order was issued under TSCA sections 5(e)(1)(A)(i) and 5(e)(1)(A)(ii)(I), based on a finding that the substance may present an unreasonable risk of injury to human health and the environment. To protect against these risks, the consent order requires:

1. Use of personal protective equipment involving impervious gloves and protective clothing (where there is a potential for dermal exposure) and a NIOSH-certified respirator with N–100, P–100, or R–100 cartridges (where there is a potential for inhalation exposure).

2. Processing and use of the PMN substance only for the use specified in the consent order.

3. Processing and use of the PMN substance only as an aqueous slurry, wet form, or a contained dry form as described in the PMN.

4. No use of the PMN substance resulting in releases to surface waters and disposal of the PMN substance only by landfill or incineration.

The SNUR would designate as a ''significant new use'' the absence of these protective measures.

Recommended testing: EPA has determined that a two-year inhalation bioassay (OPPTS 870.4200); a fish early-life stage toxicity test (OCSPP Test Guideline 850.1400); a daphnid chronic toxicity test (OCSPP Test Guideline 850.1300); and an algal toxicity test (OCSPP Test Guideline 850.4500) would help characterize possible health and environmental effects of the substance. Although the Order does not require these tests, the Order's restrictions on manufacture, processing, distribution in commerce, and disposal will remain in effect until the Order is modified or revoked by EPA based on submission of this or other relevant information.

CFR citation: 40 CFR 721.10971.

PMN Number P–15–678

Chemical name: Metal salt of mineral acid, reaction products with alumina, aluminum hydroxide, aluminum hydroxide oxide (Al(OH)O), silica, titanium oxide (TiO2) and 3-(triethoxysilyl)-1-propanamine (generic).

CAS number: Not available.

Basis for action: The PMN states that the generic (non-confidential) use of the substance is as an industrial paper additive. Based on SAR analysis of test data on analogous respirable, poorly soluble particulates, EPA identified concerns for lung toxicity if inhaled based on lung overload. As described in the PMN, inhalation is expected to be minimal for this use. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance may present an unreasonable risk. EPA has determined, however, that any use of the substance other than as identified in the PMN may result in serious health effects. Based on this information, the PMN meets the concern criteria at § 721.170(b)(3)(ii).

Recommended testing: EPA has determined that the results of a 90-day inhalation toxicity test (OPPTS Test Guideline 870.3465) would help characterize the human health effects of the PMN substance.

CFR citation: 40 CFR 721.10972.

PMN Numbers P–15–766 and P–15–767

Chemical names: Halogenated bisphenol A, polymer with epichlorohydrin, alkenoate (generic) (P–15–766) and Halogenated bisphenol A, polymer with bisphenol A diglycidyl ether and epoxidized phenol-formaldehyde resin, alkenoate (generic) (P–15–767).

CAS numbers: Not available.

Basis for action: The PMNs state that the generic (non-confidential) use of the substances will be as resins for flame retardant polyester. Based on test data on the confidential impurity of the PMN substance, EPA identified concerns for chronic toxicity effects to workers and the general population exposed to the PMN substances. Further, based on the confidential impurity, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed 20 ppb of the impurity in surface waters. As described in the PMNs, EPA does not expect significant occupational exposures, general population exposures, nor releases of the substance to result in surface water concentrations that exceed 20 ppb of the impurity in surface waters. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substances may present an unreasonable risk. EPA has determined, however, that any consumer use, any use other than as described in the PMNs, or any increase in production volume over 10,000 kg/yr may result in serious human health and significant adverse environmental effects. Based on this information, the PMN substances meet the concern criteria at § 721.170(b)(5)(ii).

Recommended testing: EPA has determined that the results of a combined repeated dose toxicity test (OECD Test Guideline 422) with the reproduction/developmental toxicity screening test; a fish early-life stage toxicity test (OCSPP Test Guideline 850.1400); a daphnid chronic toxicity test (OCSPP Test Guideline 850.1300); and an algal toxicity test (OCSPP Test Guideline 850.4500) would help characterize the human health and environmental effects of the PMN substances.

CFR citations: 40 CFR 721.10973 (P–15–766) and 40 CFR 721.10974 (P–15–767).

PMN Number P–16–14

Chemical name: Silicon, tris[dialkyl phenyl]-dialkyl-dioxoalkane-naphthalene disulfonate (generic).

CAS number: Not available.

Basis for action: The PMN states that the generic (non-confidential) use of the substance is as an ink additive. Based on test data on the PMN substance, as well as SAR analysis of test data on analogous diketones, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed 6 ppb of the PMN substance in surface waters. As described in the PMN, releases of the substance during the use described in the PMN are not expected to result in surface water concentrations that exceed 6 ppb. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance for the use described in the PMN may present an unreasonable risk. EPA has determined, however, that any use of the substance resulting in surface water concentrations exceeding 6 ppb may cause significant adverse environmental effects. Based on this information, the PMN substance meets the concern criteria at § 721.170(b)(4)(i) and (b)(4)(ii).

Recommended testing: EPA has determined that the results of a ready biodegradability test (OECD Test Guideline 301); a fish early-life state toxicity test (OCSPP Test Guideline 850.1400); and a daphnid chronic toxicity test (OCSPP Test Guideline 850.1300) would help characterize the environmental effects of the PMN substance.

CFR citation: 40 CFR 721.10975.

PMN Number P–16–40

Chemical name: Tar acids fraction (generic).

CAS number: Not available.

Basis for action: The PMN states that the generic (non-confidential) use of the substance is as a polymer. Based on test data on the PMN substance, as well as SAR analysis of test data on analogous phenols, EPA predicts toxicity to

aquatic organisms may occur at concentrations that exceed 45 ppb of the PMN substance in surface waters. As described in the PMN, releases of the substance during the use described in the PMN are not expected to result in surface water concentrations that exceed 45 ppb. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance for the use described in the PMN may present an unreasonable risk. EPA has determined, however, that any use of the substance resulting in surface water concentrations exceeding 45 ppb may cause significant adverse environmental effects. Based on this information, the PMN substance meets the concern criteria at § 721.170(b)(4)(i) and (b)(4)(ii).

Recommended testing: EPA has determined that the results of a fish early-life state toxicity test (OCSPP Test Guideline 850.1400); a daphnid chronic toxicity test (OCSPP Test Guideline 850.1300); and an algal toxicity test (OCSPP Test Guideline 850.4500) would help characterize the environmental effects of the PMN substance.

CFR citation: 40 CFR 721.10976.

PMN Numbers P–16–59 and P–16–60

Chemical names: Dialkyl fattyalkylamino propanamide alkylamine (generic) (P–16–59) and Fattyalkylaminopropanoate ester (generic) (P–16–60).

CAS numbers: Not available.

Basis for action: The PMNs state that the substances will be used as chemical intermediates. Based on data on the PMN substances, as well as SAR analysis of test data on analogous aliphatic amines, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed 1 ppb of the PMN substances in surface waters. As described in the PMNs, releases of the substance are not expected to result in surface water concentrations that exceed 1 ppb. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance may present an unreasonable risk. EPA has determined, however, that any use of the substances resulting in surface water concentrations exceeding 1 ppb may cause significant adverse environmental effects. Based on this information, the PMN substances meets the concern criteria at § 721.170(b)(4)(i).

Recommended testing: EPA has determined that the results of a fish early-life stage toxicity test (OCSPP Test Guideline 850.1400); a daphnid chronic toxicity test (OCSPP Test Guideline 850.1300); and an algal toxicity test (OCSPP Test Guideline 850.4500) would help characterize the environmental effects of the PMN substances.

CFR citations: 40 CFR 721.10977 (P–16–59) and 40 CFR 721.10978 (P–16–60).

PMN Number P–16–70

Chemical Name: Boron sodium oxide (B5NaO8), labeled with boron-10.

CAS Number: 200443–98–7.

Basis for Action: The PMN states that this substance is to be used as an emergency shutdown coolant in boiling water reactors. Based on test data for boron compounds, the EPA identified potential human health concerns regarding reproductive effects, developmental toxicity, neurotoxicity, and blood effects from exposure to the PMN substance via inhalation exposure. Further, based on SAR analysis of test data on boron compounds, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed 1,240 ppb of the PMN substance in surface waters for greater than 20 days per year. This 20-day criterion is derived from partial life cycle tests (daphnid chronic and fish early life stage tests) that typically range from 21 to 28 days in duration. EPA predicts toxicity to aquatic organisms may occur if releases of the substance to surface water, from uses other than as described in the PMN, exceed releases from the use described in the PMN. For the use described in the PMN, inhalation and dermal exposures are expected to be minimal and environmental releases did not exceed 1,240 ppb for more than 20 days per year. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance may present an unreasonable risk. EPA has determined, however, that any use of the substance other than as listed in the PMN may result in serious human health and significant adverse environmental effects. Based on this information, the PMN substance meet the concern criteria at § 721.170(b)(3)(ii) and (b)(4)(ii).

Recommended Testing: EPA has determined that the results of a reproductive/developmental toxicity screening test (OPPTS 870.3550/OECD Test Guideline 421); a fish acute toxicity test, freshwater and marine (OPPTS Test Guideline 850.1075); an acute invertebrate toxicity test, freshwater daphnids (OPPTS Test Guideline 850.1010); and algal toxicity test (OCSPP Test Guideline 850.4500) would help characterize the human health and environmental effects of the PMN substance.

CFR Citation: 40 CFR 721.10979.

PMN Number P–16–94

Chemical name: Perfluoropolyether modified organosilane (generic).

CAS number: Not available.

Basis for action: The PMN states that the substance will be used as a stain-proof coating agent for touch panel. Based on physical-chemical properties data on the PMN substance, as well as SAR analysis of test data on analogous perfluorinated chemicals and potential perfluorinated degradation products, EPA identified concerns for irritation to skin, eyes, lungs, mucous membranes, lung toxicity, liver toxicity, blood toxicity, male reproductive toxicity, immunosupression, and oncogenicity. EPA has concerns that these degradation products will persist in the environment, could bioaccumulate or biomagnify, and could be toxic (PBT) to people, wild mammals, and birds. EPA predicts adverse effects to human health and the environment may occur if releases of the PMN substance to surface water at production volumes higher than described in the PMN exceed the releases expected from the production volume described in the PMN. For the described production volume in the PMN, significant environmental releases are not expected.

Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance may present an unreasonable risk. EPA has determined, however, that any substantial combined production volume increase could result in exposures which may cause serious human health and significant adverse environmental effects. Based on this information, the PMN substance meets the concern criteria at § 721.170(b)(1)(i)(D), (b)(3)(iii), and (b)(4)(iv).

Recommended testing: EPA has determined that the results of an indirect photolysis screening test: Sunlight photolysis in waters containing dissolved humic substances (OPPTS Test Guideline 835.5270), and simulation tests to assess the primary and ultimate biodegradability of chemicals discharged to wastewater (OPPTS Test Guideline 835.3280/OECD Test Guideline 314) would help characterize the environmental effects of the PMN substance.

CFR citation: 40 CFR 721.10980.

PMN Number P–16–95

Chemical name: Modified phenol-formaldehyde resin (generic).

CAS number: Not available.

Basis for action: The PMN states that the generic (non-confidential) use of the substance is as a flame retardant

additive. Based on SAR analysis of test data on analogous neutral organics, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed 96 ppb of the PMN substance in surface waters. Further, based on the alcohol groups, EPA has concern for irritation to eyes, lungs, and mucous membranes. As described in the PMN, releases of the substance are not expected to result in surface water concentrations that exceed 96 ppb and exposures to workers and general population are minimal due to the use as a flame retardant additive. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance may present an unreasonable risk. EPA has determined, however, that use of the substance other than as stated in the PMN or any use of the substance resulting in surface water concentrations exceeding 96 ppb may result in serious human health and significant adverse environmental effects. Based on this information, the PMN substance meets the concern criteria at § 721.170(b)(3)(ii) and (b)(4)(ii).

Recommended testing: EPA has determined that the results of an acute toxicity test (OPPTS Test Guideline 870.1000); a repeated dose 28-day oral toxicity study (OPPTS Test Guideline 870.3050) in rodents; a bacterial reverse mutation test (OPPTS Test Guideline 870.5100); a mammalian erythrocyte micronucleus test (OPPTS Test Guideline 870.5395); a fish early-life stage toxicity test (OCSPP Test Guideline 850.1400); a daphnid chronic toxicity test (OCSPP Test Guideline 850.1300); and an algal toxicity test (OCSPP Test Guideline 850.4500) would help characterize the human health and environmental effects of the PMN substance.

CFR citation: 40 CFR 721.10981.

PMN Number P–16–101

Chemical name: Disubstituted benzene alkanal (generic).

CAS number: Not available.

Basis for action: The PMN states that the generic (non-confidential) use of the substance will be as a component for household products, including cleaning, fabric and air care. Based on SAR analysis of test data on analogous structurally similar substances, EPA identified concerns for developmental toxicity from dermal exposures of the PMN substance to workers and consumers. For the use described in the PMN, dermal exposures are not expected based on the use of impervious gloves, and consumer dermal exposures are expected to be minimal. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substances may present an unreasonable risk. EPA has determined, however, that any use of the PMN substance without the use of dermal protection, where there is a potential for dermal exposures, or any use of the PMN substance other than for the use specified in the PMN may result in serious human health effects. Based on this information, the PMN substance meet the concern criteria at § 721.170(b)(3)(ii).

Recommended testing: EPA has determined that results of a 90-day oral toxicity test (OPPTS Test Guideline 870.3100) in rats via the gavage route, and a developmental toxicity test OPPTS Test Guideline 870.3650) in rats via the gavage route would help characterize the effects of the PMN substance.

CFR citation: 40 CFR 721.10982.

PMN Number P–16–102

Chemical name: Phthalic anhydride, polymer with alkylene glycol and alkanepolyol, acrylate (generic).

CAS number: Not available.

Basis for action: The PMN states that the generic (non-confidential) use of the substance is as a coating component. Based on SAR analysis of test data on analogous acrylates, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed 1 ppb of the PMN substance in surface waters. As described in the PMN, releases of the substance during the use described in the PMN are not expected to result in surface water concentrations that exceed 1 ppb. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance for the use described in the PMN may present an unreasonable risk. EPA has determined, however, that any use of the substance resulting in surface water concentrations exceeding 1 ppb may cause significant adverse environmental effects. Based on this information, the PMN substance meets the concern criteria at § 721.170(b)(4)(ii).

Recommended testing: EPA has determined that the results of a water solubility test (OPPTS Test Guideline 830.7840, a fish acute toxicity test, freshwater and marine (OPPTS Test Guideline 850.1075); an acute invertebrate toxicity test, freshwater daphnids (OCSPP Test Guideline 850.1010); and algal toxicity test (OCSPP Test Guideline 850.4500); would help characterize the environmental effects of the PMN substance.

CFR citation: 40 CFR 721.10983.

PMN Number P–16–104

Chemical name: 2-Pyridinecarboxylic acid, 4,5-dichloro-6-(4-chloro-2-fluoro-3-methoxyphenyl)-.

CAS number: 1546765–39–2.

Basis for action: The PMN states that the generic (non-confidential) use of the substance is as a feed stock for an intermediate. Based on SAR analysis of test data on analogous halopyridines, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed 8 ppb of the PMN substance in surface waters. Further, based on the acid moiety, EPA has concern for irritation to eyes, lungs, and mucous membranes. As described in the PMN, releases of the substance are not expected to result in surface water concentrations that exceed 8 ppb and exposures to workers and general population are minimal due to the use as an intermediate. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance may present an unreasonable risk. EPA has determined, however, that use of the substance other than as an intermediate or any use of the substance resulting in surface water concentrations exceeding 8 ppb may result in serious human health and significant adverse environmental effects. Based on this information, the PMN substance meets the concern criteria at § 721.170(b)(3)(ii) and (b)(4)(ii).

Recommended testing: EPA has determined that the results of an acute toxicity test (OPPTS Test Guideline 870.1000); a repeated dose 28-day oral toxicity study (OPPTS Test Guideline 870.3050) in rodents; a bacterial reverse mutation test (OPPTS Test Guideline 870.5100); a mammalian erythrocyte micronucleus test (OPPTS Test Guideline 870.5395); a fish acute toxicity test, freshwater and marine (OPPTS Test Guideline 850.1075); an acute invertebrate toxicity test, freshwater daphnids (OCSPP Test Guideline 850.1010); and an algal toxicity test (OCSPP Test Guideline 850.4500) would help characterize the human health and environmental effects of the PMN substance.

CFR citation: 40 CFR 721.10984.

PMN Numbers P–16–136, P–16–139, and P–16–140

Chemical names: Dialkylamino alkylamide inner salt (generic).

CAS numbers: Not available.

Basis for action: The PMNs state that the generic (non-confidential) use of these substances is in oil production. Based on SAR analysis of test data on analogous aliphatic amines, EPA

predicts toxicity to aquatic organisms may occur at concentrations that exceed 1 ppb of the PMN substances in surface waters. As described in the PMNs, releases of these substances are not expected to result in surface water concentrations that exceed 1 ppb. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substances may present an unreasonable risk. EPA has determined, however, that any use of the substances resulting in surface water concentrations exceeding 1 ppb may cause significant adverse environmental effects. Based on this information, the PMN substances meets the concern criteria at § 721.170(b)(4)(ii).

Recommended testing: EPA has determined that the results of a fish early-life stage toxicity test (OCSPP Test Guideline 850.1400); a mysid chronic toxicity test (OCSPP Test Guideline 850.1350); and an algal toxicity test (OCSPP Test Guideline 850.4500) would help characterize the environmental effects of the PMN substances. Testing should be conducted on PMN substance P–16–139.

CFR citation: 40 CFR 721.10985.

PMN Number P–16–170

Chemical name: Nanocarbon (generic).

CAS number: Not available.

Effective date of TSCA section 5(e) consent order: June 21, 2016.

Basis for TSCA section 5(e) consent order: The PMN states that the substance will be used as an additive to composite materials. Based on test data on analogous respirable, poorly soluble particulates and nanocarbon materials, EPA identified concerns for pulmonary toxicity and oncogenicity. Based on test data for other nanocarbon materials EPA identified concerns for environmental toxicity. The Order was issued under TSCA sections 5(e)(1)(A)(i) and 5(e)(1)(A)(ii)(I), based on a finding that the substance may present an unreasonable risk of injury to human health and the environment. To protect against these risks, the consent order requires:

1. Use of personal protective equipment involving impervious gloves and protective clothing (where there is a potential for dermal exposure) and a NIOSH-certified respirator with N–100, P–100, or R–100 cartridges (where there is a potential for inhalation exposure).

2. Submission of a dustiness test within six months of notice of commencement.

3. Submission of a 90-day chronic inhalation study prior to exceeding the confidential production volume limit specified in the consent order.

4. Processing and use of the PMN substance only for the use specified in the consent order including no application method that generates a vapor, mist or aerosol unless the application method occurs in an enclosed process.

5. No use of the PMN substance resulting in releases to surface waters and disposal of the PMN substance only by landfill or incineration.

The SNUR would designate as a ''significant new use'' the absence of these protective measures.

Recommended testing: EPA has determined that the development of data on certain physical-chemical properties, as well as certain human health and environmental toxicity testing would help characterize possible effects of the substance. The submitter has agreed to provide a dustiness test (European Standard EU 15051) by six months from commencement of manufacture. In addition, the submitter has agreed not to exceed the confidential production limit without performing a 90-day inhalation toxicity test (OPPTS Test Guideline 870.3465 or OECD Test Guideline 413) in rats with a post-exposure observation period of up to 9 months (including BALF analysis, a determination of cardiovascular toxicity (clinically-based blood/plasma protein analyses), and histopathology of the heart). Although the order does not require a two-year inhalation bioassay (OPPTS Test Guideline 870.4200), a daphnid chronic toxicity test (OPPTS Test Guideline 850.1300), a fish early-life stage toxicity test (OCSPP Test Guideline 850.1400), or an algal toxicity test (OCSPP Test Guideline 850.4500), the Order's restrictions on manufacture, processing, distribution in commerce, and disposal will remain in effect until the Order is modified or revoked by EPA based on submission of this or other relevant information.

CFR citation: 40 CFR 721.10986.

PMN Number P–16–177

Chemical name: Barium molybdenum niobium tantalum tellurium vanadium zinc oxide.

CAS number: 1440529–21–4.

Basis for action: The PMN states that the generic (non-confidential) use of the substance is as a glass coating. Based on SAR analysis of test data on the analogous respirable, poorly soluble particulates, EPA identified concerns for lung effects to workers exposed to the PMN substance. As described in the PMN, worker exposure will be minimal due to the use of adequate respiratory protection. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance may present an unreasonable risk. EPA has determined, however, that use of the substance without a National Institute for Occupational Safety and Health (NIOSH)-certified respirators with an assigned protection factor (APF) of at least 10, where there is potential respiratory exposure, any use other than in the PMN, or domestic manufacture may result in serious human health effects. Based on this information, the PMN substance meets the concern criteria at § 721.170(b)(3)(ii).

Recommended testing: EPA has determined that the results of a 90-day subchronic toxicity test (OPPTS Test Guideline 870.3465) via the inhalation route with a 60-day holding period would help characterize the human health effects of the PMN substance.

CFR citation: 40 CFR 721.10987.

PMN Number P–16–179

Chemical name: Alkanoic acids, esters with alkanetriol (generic).

CAS number: Not available.

Basis for action: The PMN states that the generic (non-confidential) use of the substance is as a grease. Based on SAR analysis of test data on analogous esters, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed 1 ppb of the PMN substance in surface waters. As described in the PMN, releases of the substance are not expected to result in surface water concentrations that exceed 1 ppb. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance may present an unreasonable risk. EPA has determined, however, that any use of the substance resulting in surface water concentrations exceeding 1 ppb may cause significant adverse environmental effects. Based on this information, the PMN substance meets the concern criteria at § 721.170(b)(4)(ii).

Recommended testing: EPA has determined that the results of a fish early-life stage toxicity test (OCSPP Test Guideline 850.1400); a daphnid chronic toxicity test (OCSPP Test Guideline 850.1300); and an algal toxicity test (OCSPP Test Guideline 850.4500) would help characterize the environmental effects of the PMN substance.

CFR citation: 40 CFR 721.10988.

PMN Number P–16–182

Chemical names: Manganese, tris[.mu.-(2-ethylhexanoato-.kappa.O:.kappa.O')]bis(octahydro-1,4,7-trimethyl-1H-1,4,7-triazonine-.kappa.N1,.kappa.N4,.kappa.N7)di- (P–16–182, chemical A); Manganese, [.mu.-(acetato-.kappa.O:.kappa.O')]bis[.mu.-(2-ethylhexanoato-

.kappa.O:.kappa.O')]bis(octahydro-1,4,7-trimethyl-1H-1,4,7-triazonine-.kappa.N1,.kappa.N4,.kappa.N7)di- (P–16–182, chemical B); Manganese, bis[.mu.-(acetato-.kappa.O:.kappa.O')][.mu.-(2-ethylhexanoato-.kappa.O:.kappa.O')]bis(octahydro-1,4,7-trimethyl-1H-1,4,7-triazonine-.kappa.N1,.kappa.N4,.kappa.N7)di- (P–16–182, chemical C); and Manganese, tris[.mu.-(acetato-.kappa.O:.kappa.O')]bis(octahydro-1,4,7-trimethyl-1H-1,4,7-triazonine-.kappa.N1,.kappa.N4,.kappa.N7)di- (P–16–182, chemical D).

CAS numbers: 2020407–62–7 (P–16–182, chemical A); 2020407–63–8 (P–16–182, chemical B); 2020407–64–9 (P–16–182, chemical C); and 2020407–65–0 (P–16–182, chemical D).

Basis for action: The PMN states that the generic (non-confidential) use of the substances will be as resins. Based on SAR analysis of test data on analogous compounds, EPA identified concerns for systemic effects to the thyroid and pituitary gland, liver toxicity, developmental and reproductive toxicity, and mutagenicity. There are also concerns for immunotoxicity, reproductive and developmental toxicity, neurotoxicity, blood effects, and kidney toxicity, and uncertain concerns for asthma and oncogenicity, based on manganese, and concerns for developmental toxicity for branched acid hydrolysis products, by analogy to valproic acid and other acids that are branched on the carbon adjacent to the acid group, all based on exposure to the PMN substances via inhalation or dermal exposure. As described in the PMN, exposure is expected to be minimal due to negligible inhalation exposures and use of adequate dermal personal protection equipment. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substances may present an unreasonable risk. EPA has determined, however, that any domestic manufacture; any manufacture of the PMN substances at a concentration greater than 10% in any formulation; or any use of the PMN substances without the use of chemical impervious gloves, where there is a potential for dermal exposures may result in serious human health effects. Based on this information, the PMN substances meet the concern criteria at 40 CFR 721.170(b)(3)(ii).

Recommended testing: EPA has determined that the results of a combined repeated dose toxicity reproduction/development toxicity screening test (OECD Test Guideline 422) would help characterize the human health effects of the PMN substances.

CFR citations: 40 CFR 721.10989 (P–16–182, chemical A), 40 CFR 721.10990 (P–16–182, chemical B), 40 CFR 721.10991 (P–16–182, chemical C), and 40 CFR 721.10992 (P–16–182, chemical D).

PMN Number P–16–190

Chemical name: Aryl polyolefin (generic).

CAS number: Not available.

Basis for action: The PMN states that the generic (non-confidential) use of the substance will be as a lubricant. Based on analogy to C10–13 alkyl derivatives of benzene, EPA identified concerns for reproductive and developmental toxicity to workers exposed to the PMN substance based on exposure to the PMN substance via dermal exposure. As described in the PMN, exposure is expected to be minimal due to use of adequate dermal personal protection equipment. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance may present an unreasonable risk. EPA has determined, however, that use of the substance other than as described in the PMN, or any use without the use of dermal protection where there is a potential for dermal exposures may cause serious human health effects. Based on this information, the PMN substance meets the concern criteria at 40 CFR 721.170(b)(3)(ii).

Recommended testing: EPA has determined that the results of a two-generation reproduction toxicity test (OECD Test Guideline 416) would help characterize the human health effects of the PMN substance.

CFR citation: 40 CFR 721.10993.

PMN Number P–16–260

Chemical name: Melamine nitrate (generic).

CAS number: Not available.

Basis for action: The PMN states that the generic (non-confidential) use of the substance is as a gas generant for automobile air bag inflators. Based on test data on the PMN substance, as well as SAR analysis of test data on analogous melamines, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed 14 ppb of the PMN substance in surface waters. As described in the PMN, releases of the substance during the use described in the PMN are not expected to result in surface water concentrations that exceed 14 ppb. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance for the use described in the PMN may present an unreasonable risk. EPA has determined, however, that any use of the substance resulting in surface water concentrations exceeding 14 ppb may cause significant adverse environmental effects. Based on this information, the PMN substance meets the concern criteria at § 721.170(b)(4)(i) and (b)(4)(ii).

Recommended testing: EPA has determined that the results of a fish early-life stage toxicity test (OCSPP Test Guideline 850.1400) and a daphnid chronic toxicity test (OCSPP Test Guideline 850.1300) would help characterize the environmental effects of the PMN substance.

CFR citation: 40 CFR 721.10994.

PMN Number P–16–272

Chemical name: Lecithins, soya, hydrogenated.

CAS number: 308068–11–3.

Basis for action: The PMN states that the generic (non-confidential) use of the substance is an ingredient in a formulated product. Based on SAR analysis of test data on analogous amphoteric surfactants, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed 1 ppb of the PMN substance in surface waters. As described in the PMN, releases of the substance during the use described in the PMN are not expected to result in surface water concentrations that exceed 1 ppb. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance for the use described in the PMN may present an unreasonable risk. EPA has determined, however, that any use of the substance resulting in surface water concentrations exceeding 1 ppb may cause significant adverse environmental effects. Based on this information, the PMN substance meets the concern criteria at § 721.170(b)(4)(ii).

Recommended testing: EPA has determined that the results of a fish acute toxicity test, freshwater and marine (OPPTS Test Guideline 850.1075); an aquatic invertebrate acute toxicity test, freshwater daphnids (OCSPP Test Guideline 850.1010); an algal toxicity test (OCSPP Test Guideline 850.4500); a fish early-life stage toxicity test (OCSPP Test Guideline 850.1400); and a daphnid chronic toxicity test (OCSPP Test Guideline 850.1300) would help characterize the environmental effects of the PMN substance.

CFR citation: 40 CFR 721.10995.

V. Rationale and Objectives of the Rule

A. Rationale

During review of the PMNs submitted for the chemical substances that are subject to these SNURs, EPA concluded that for 6 of the 37 chemical substances, regulation was warranted under TSCA section 5(e), pending the development of information sufficient to make reasoned evaluations of the health or environmental effects of the chemical substances. The basis for such findings is outlined in Unit IV. Based on these findings, TSCA section 5(e) consent orders requiring the use of appropriate exposure controls were negotiated with the PMN submitters. The SNUR provisions for these chemical substances are consistent with the provisions of the TSCA section 5(e) consent orders. These SNURs are promulgated pursuant to § 14;721.160 (see Unit VI.).

In the other 31 cases, where the uses are not regulated under a TSCA section 5(e) consent order, EPA determined that one or more of the criteria of concern established at § 14;721.170 were met, as discussed in Unit IV.

B. Objectives

EPA is issuing these SNURs for specific chemical substances which have undergone premanufacture review because the Agency wants to achieve the following objectives with regard to the significant new uses designated in this rule:

- EPA will receive notice of any person's intent to manufacture or process a listed chemical substance for the described significant new use before that activity begins.
- EPA will have an opportunity to review and evaluate data submitted in a SNUN before the notice submitter begins manufacturing or processing a listed chemical substance for the described significant new use.
- EPA will be able to either determine that the prospective manufacture or processing is not likely to present an unreasonable risk, or to take necessary regulatory action associated with any other determination, before the described significant new use of the chemical substance occurs.
- EPA will ensure that all manufacturers and processors of the same chemical substance that is subject to a TSCA section 5(e) consent order are subject to similar requirements.

Issuance of a SNUR for a chemical substance does not signify that the chemical substance is listed on the TSCA Chemical Substance Inventory (TSCA Inventory). Guidance on how to determine if a chemical substance is on the TSCA Inventory is available on the Internet at *http://www.epa.gov/opptintr/existingchemicals/pubs/tscainventory/index.html.*

VI. Direct Final Procedures

EPA is issuing these SNURs as a direct final rule, as described in § 14;721.160(c)(3) and § 14;721.170(d)(4). In accordance with § 14;721.160(c)(3)(ii) and § 14;721.170(d)(4)(i)(B), the effective date of this rule is November 20, 2017 without further notice, unless EPA receives written adverse or critical comments, or notice of intent to submit adverse or critical comments before October 23, 2017.

If EPA receives written adverse or critical comments, or notice of intent to submit adverse or critical comments, on one or more of these SNURs before October 23, 2017, EPA will withdraw the relevant sections of this direct final rule before its effective date. EPA will then issue a proposed SNUR for the chemical substance(s) on which adverse or critical comments were received, providing a 30-day period for public comment.

This rule establishes SNURs for a number of chemical substances. Any person who submits adverse or critical comments, or notice of intent to submit adverse or critical comments, must identify the chemical substance and the new use to which it applies. EPA will not withdraw a SNUR for a chemical substance not identified in the comment.

VII. Applicability of the Significant New Use Designation

To establish a significant new use, EPA must determine that the use is not ongoing. The chemical substances subject to this rule have undergone premanufacture review. In cases where EPA has not received a notice of commencement (NOC) and the chemical substance has not been added to the TSCA Inventory, no person may commence such activities without first submitting a PMN. Therefore, for chemical substances for which an NOC has not been submitted EPA concludes that the designated significant new uses are not ongoing.

When chemical substances identified in this rule are added to the TSCA Inventory, EPA recognizes that, before the rule is effective, other persons might engage in a use that has been identified as a significant new use. However, TSCA section 5(e) consent orders have been issued for 6 chemical substances, and the PMN submitters are prohibited by the TSCA section 5(e) consent orders from undertaking activities which would be designated as significant new uses. The identities of 26 of the 37 chemical substances subject to this rule have been claimed as confidential and EPA has received no post-PMN *bona fide* submissions (per §§ 720.25 and 721.11). Based on this, the Agency believes that it is highly unlikely that any of the significant new uses described in the regulatory text of this rule are ongoing.

Therefore, EPA designates June 1, 2017 which is the date of public release by posting on EPA's Web site, as the cutoff date for determining whether the new use is ongoing. This designation varies slightly from EPA's past practice of designating the date of **Federal Register** publication as the date for making this determination. The objective of EPA's approach has been to ensure that a person could not defeat a SNUR by initiating a significant new use before the effective date of the direct final rule. In developing this rule, EPA has recognized that, given EPA's practice of now posting rules on its Web site a week or more in advance of **Federal Register** publication, this objective could be thwarted even before that publication. Thus, EPA has slightly modified its approach in this rulemaking and plans to follow this modified approach in future significant new use rulemakings.

Persons who begin commercial manufacture or processing of the chemical substances for a significant new use identified as of that date would have to cease any such activity upon the effective date of the final rule. To resume their activities, these persons would have to first comply with all applicable SNUR notification requirements and wait until the notice review period, including any extensions, expires. If such a person met the conditions of advance compliance under § 721.45(h), the person would be considered exempt from the requirements of the SNUR. Consult the **Federal Register** document of April 24, 1990 for a more detailed discussion of the cutoff date for ongoing uses.

VIII. Development and Submission of Information

EPA recognizes that TSCA section 5 does not require developing any particular new information (*e.g.,* generating test data) before submission of a SNUN. There is an exception: Development of test data is required where the chemical substance subject to the SNUR is also subject to a rule, order or consent agreement under TSCA section 4 (see TSCA section 5(b)(1)).

In the absence of a TSCA section 4 test rule covering the chemical

substance, persons are required only to submit information in their possession or control and to describe any other information known to or reasonably ascertainable by them (see 40 CFR 720.50). However, upon review of PMNs and SNUNs, the Agency has the authority to require appropriate testing. In cases where EPA issued a TSCA section 5(e) consent order that requires or recommends certain testing, Unit IV. lists those tests. Unit IV. also lists recommended testing for non-TSCA section 5(e) SNURs. Descriptions of tests are provided for informational purposes. EPA strongly encourages persons, before performing any testing, to consult with the Agency pertaining to protocol selection. To access the OCSPP test guidelines referenced in this document electronically, please go to *http://www.epa.gov/ocspp* and select ''Test Methods and Guidelines.'' The Organisation for Economic Co-operation and Development (OECD) test guidelines are available from the OECD Bookshop at *http://www.oecdbookshop.org* or SourceOECD at *http://www.sourceoecd.org.*

In the TSCA section 5(e) consent orders for several of the chemical substances regulated under this rule, EPA has established production volume limits in view of the lack of data on the potential health and environmental risks that may be posed by the significant new uses or increased exposure to the chemical substances. These limits cannot be exceeded unless the PMN submitter first submits the results of toxicity tests that would permit a reasoned evaluation of the potential risks posed by these chemical substances. Under recent TSCA section 5(e) consent orders, each PMN submitter is required to submit each study at least 14 weeks (earlier TSCA section 5(e) consent orders required submissions at least 12 weeks) before reaching the specified production limit. Listings of the tests specified in the TSCA section 5(e) consent orders are included in Unit IV. The SNURs contain the same production volume limits as the TSCA section 5(e) consent orders. Exceeding these production limits is defined as a significant new use. Persons who intend to exceed the production limit must notify the Agency by submitting a SNUN at least 90 days in advance of commencement of non-exempt commercial manufacture or processing.

The recommended tests specified in Unit IV. may not be the only means of addressing the potential risks of the chemical substance. However, submitting a SNUN without any test data may increase the likelihood that EPA will take action under TSCA section 5(e), particularly if satisfactory test results have not been obtained from a prior PMN or SNUN submitter. EPA recommends that potential SNUN submitters contact EPA early enough so that they will be able to conduct the appropriate tests.

SNUN submitters should be aware that EPA will be better able to evaluate SNUNs which provide detailed information on the following:

- Human exposure and environmental release that may result from the significant new use of the chemical substances.
- Potential benefits of the chemical substances.
- Information on risks posed by the chemical substances compared to risks posed by potential substitutes.

IX. Procedural Determinations

By this rule, EPA is establishing certain significant new uses which have been claimed as CBI subject to Agency confidentiality regulations at 40 CFR part 2 and 40 CFR part 720, subpart E. Absent a final determination or other disposition of the confidentiality claim under 40 CFR part 2 procedures, EPA is required to keep this information confidential. EPA promulgated a procedure to deal with the situation where a specific significant new use is CBI, at § 721.1725(b)(1).

Under these procedures a manufacturer or processor may request EPA to determine whether a proposed use would be a significant new use under the rule. The manufacturer or processor must show that it has a *bona fide* intent to manufacture or process the chemical substance and must identify the specific use for which it intends to manufacture or process the chemical substance. If EPA concludes that the person has shown a *bona fide* intent to manufacture or process the chemical substance, EPA will tell the person whether the use identified in the *bona fide* submission would be a significant new use under the rule. Since most of the chemical identities of the chemical substances subject to these SNURs are also CBI, manufacturers and processors can combine the *bona fide* submission under the procedure in § 14;721.1725(b)(1) with that under § 14;721.11 into a single step.

If EPA determines that the use identified in the *bona fide* submission would not be a significant new use, *i.e.,* the use does not meet the criteria specified in the rule for a significant new use, that person can manufacture or process the chemical substance so long as the significant new use trigger is not met. In the case of a production volume trigger, this means that the aggregate annual production volume does not exceed that identified in the *bona fide* submission to EPA. Because of confidentiality concerns, EPA does not typically disclose the actual production volume that constitutes the use trigger. Thus, if the person later intends to exceed that volume, a new *bona fide* submission would be necessary to determine whether that higher volume would be a significant new use.

X. SNUN Submissions

According to § 14;721.1(c), persons submitting a SNUN must comply with the same notification requirements and EPA regulatory procedures as persons submitting a PMN, including submission of test data on health and environmental effects as described in 40 CFR 720.50. SNUNs must be submitted on EPA Form No. 7710–25, generated using e-PMN software, and submitted to the Agency in accordance with the procedures set forth in 40 CFR 720.40 and § 721.25. E–PMN software is available electronically at *http://www.epa.gov/opptintr/newchems.*

XI. Economic Analysis

EPA has evaluated the potential costs of establishing SNUN requirements for potential manufacturers and processors of the chemical substances subject to this rule. EPA's complete economic analysis is available in the docket under docket ID number EPA–HQ–OPPT–2016–0331.

XII. Statutory and Executive Order Reviews

A. Executive Order 12866

This action establishes SNURs for several new chemical substances that were the subject of PMNs, or TSCA section 5(e) consent orders. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993).

B. Paperwork Reduction Act (PRA)

According to PRA (44 U.S.C. 3501 *et seq.*), an agency may not conduct or sponsor, and a person is not required to respond to a collection of information that requires OMB approval under PRA, unless it has been approved by OMB and displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register**, are listed in 40 CFR part 9, and included on the related collection instrument or form, if applicable. EPA is amending the table in 40 CFR part 9 to list the OMB approval number for the information collection

requirements contained in this action. This listing of the OMB control numbers and their subsequent codification in the CFR satisfies the display requirements of PRA and OMB's implementing regulations at 5 CFR part 1320. This Information Collection Request (ICR) was previously subject to public notice and comment prior to OMB approval, and given the technical nature of the table, EPA finds that further notice and comment to amend it is unnecessary. As a result, EPA finds that there is ''good cause'' under section 553(b)(3)(B) of the Administrative Procedure Act (5 U.S.C. 553(b)(3)(B)) to amend this table without further notice and comment.

The information collection requirements related to this action have already been approved by OMB pursuant to PRA under OMB control number 2070–0012 (EPA ICR No. 574). This action does not impose any burden requiring additional OMB approval. If an entity were to submit a SNUN to the Agency, the annual burden is estimated to average between 30 and 170 hours per response. This burden estimate includes the time needed to review instructions, search existing data sources, gather and maintain the data needed, and complete, review, and submit the required SNUN.

Send any comments about the accuracy of the burden estimate, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques, to the Director, Collection Strategies Division, Office of Environmental Information (2822T), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001. Please remember to include the OMB control number in any correspondence, but do not submit any completed forms to this address.

C. Regulatory Flexibility Act (RFA)

On February 18, 2012, EPA certified pursuant to RFA section 605(b) (5 U.S.C. 601 *et seq.*), that promulgation of a SNUR does not have a significant economic impact on a substantial number of small entities where the following are true:

1. A significant number of SNUNs would not be submitted by small entities in response to the SNUR.

2. The SNUR submitted by any small entity would not cost significantly more than $8,300.

A copy of that certification is available in the docket for this action.

This action is within the scope of the February 18, 2012 certification. Based on the Economic Analysis discussed in Unit XI. and EPA's experience promulgating SNURs (discussed in the certification), EPA believes that the following are true:

- A significant number of SNUNs would not be submitted by small entities in response to the SNUR.
- Submission of the SNUN would not cost any small entity significantly more than $8,300.

Therefore, the promulgation of the SNUR would not have a significant economic impact on a substantial number of small entities.

D. Unfunded Mandates Reform Act (UMRA)

Based on EPA's experience with proposing and finalizing SNURs, State, local, and Tribal governments have not been impacted by these rulemakings, and EPA does not have any reasons to believe that any State, local, or Tribal government will be impacted by this action. As such, EPA has determined that this action does not impose any enforceable duty, contain any unfunded mandate, or otherwise have any effect on small governments subject to the requirements of UMRA sections 202, 203, 204, or 205 (2 U.S.C. 1501 *et seq.*).

E. Executive Order 13132

This action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999).

F. Executive Order 13175

This action does not have Tribal implications because it is not expected to have substantial direct effects on Indian Tribes. This action does not significantly nor uniquely affect the communities of Indian Tribal governments, nor does it involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000), do not apply to this action.

G. Executive Order 13045

This action is not subject to Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because this is not an economically significant regulatory action as defined by Executive Order 12866, and this action does not address environmental health or safety risks disproportionately affecting children.

H. Executive Order 13211

This action is not subject to Executive Order 13211, entitled ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001), because this action is not expected to affect energy supply, distribution, or use and because this action is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act (NTTAA)

In addition, since this action does not involve any technical standards, NTTAA section 12(d) (15 U.S.C. 272 note), does not apply to this action.

J. Executive Order 12898

This action does not entail special considerations of environmental justice related issues as delineated by Executive Order 12898, entitled ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations'' (59 FR 7629, February 16, 1994).

XIII. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects

40 CFR Part 9

Environmental protection, Reporting and recordkeeping requirements.

40 CFR Part 721

Environmental protection, Chemicals, Hazardous substances, Reporting and recordkeeping requirements.

Dated: April 5, 2017.

Maria J. Doa,

Director, Chemical Control Division, Office of Pollution Prevention and Toxics.

Therefore, 40 CFR parts 9 and 721 are amended as follows:

PART 9—[AMENDED]

■ 1. The authority citation for part 9 continues to read as follows:

Authority: 7 U.S.C. 135 *et seq.,* 136–136y; 15 U.S.C. 2001, 2003, 2005, 2006, 2601–2671; 21 U.S.C. 331j, 346a, 348; 31 U.S.C. 9701; 33 U.S.C. 1251 *et seq.,* 1311, 1313d, 1314, 1318, 1321, 1326, 1330, 1342, 1344, 1345 (d) and (e), 1361; E.O. 11735, 38 FR 21243, 3 CFR,

1971–1975 Comp. p. 973; 42 U.S.C. 241, 242b, 243, 246, 300f, 300g, 300g–1, 300g–2, 300g–3, 300g–4, 300g–5, 300g–6, 300j–1, 300j–2, 300j–3, 300j–4, 300j–9, 1857 *et seq.,* 6901–6992k, 7401–7671q, 7542, 9601–9657, 11023, 11048.

■ 2. In § 9.1, add the following sections in numerical order under the undesignated center heading ''Significant New Uses of Chemical Substances'' to read as follows:

§ 9.1 OMB approvals under the Paperwork Reduction Act.

* * * * *

40 CFR citation	OMB control No.

* * * * *

Significant New Uses of Chemical Substances

* * * * *

721.10961	2070–0012
721.10962	2070–0012
721.10963	2070–0012
721.10964	2070–0012
721.10965	2070–0012
721.10966	2070–0012
721.10967	2070–0012
721.10968	2070–0012
721.10969	2070–0012
721.10970	2070–0012
721.10971	2070–0012
721.10972	2070–0012
721.10973	2070–0012
721.10974	2070–0012
721.10975	2070–0012
721.10976	2070–0012
721.10977	2070–0012
721.10978	2070–0012
721.10979	2070–0012
721.10980	2070–0012
721.10981	2070–0012
721.10982	2070–0012
721.10983	2070–0012
721.10984	2070–0012
721.10985	2070–0012
721.10986	2070–0012
721.10987	2070–0012
721.10988	2070–0012
721.10989	2070–0012
721.10990	2070–0012
721.10991	2070–0012
721.10992	2070–0012
721.10993	2070–0012
721.10994	2070–0012
721.10995	2070–0012

* * * * *

* * * * *

PART 721—[AMENDED]

■ 3. The authority citation for part 721 continues to read as follows:

Authority: 15 U.S.C. 2604, 2607, and 2625(c).

■ 4. Add § 721.10961 to subpart E to read as follows:

§ 721.10961 Ethylene glycol ester of an aromatic substituted propenoic acid (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as ethylene glycol ester of an aromatic substituted propenoic acid (PMN P–05–436) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4) (N=10).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (c) and (k) are applicable to manufacturers and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 5. Add § 721.10962 to subpart E to read as follows:

§ 721.10962 Phosphoric acid, metal salt (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as phosphoric acid, metal salt (PMN P–10–504) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(j) and (s) (100,000 kilograms).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (c) and (i) are applicable to manufacturers and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to paragraph (a)(2)(i) of this section.

■ 6. Add § 721.10963 to subpart E to read as follows:

§ 721.10963 Alkanoic acid, tetramethylheteromonocycle ester (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as alkanoic acid, tetramethylheteromonocycle ester (PMN P–13–289) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4) (N=2).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (c) and (k) are applicable to manufacturers and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 7. Add § 721.10964 to subpart E to read as follows:

§ 721.10964 Polyether polyester urethane phosphate (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as polyether polyester urethane phosphate (PMN P–13–908) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(f), (j) and (s) (1,000 kilograms).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (c) and (i) are applicable to manufacturers and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to paragraph (a)(2)(ii) of this section.

■ 8. Add § 14;721.10965 to subpart E to read as follows:

§ 721.10965 Propanamide, 2-hydroxy-N,N-dimethyl-.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as propanamide, 2-hydroxy-N,N-dimethyl- (PMN P–14–129, CAS No. 35123–06–9) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(2)(i), (a)(3), and (b) (concentration set at 1.0 percent).

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(j) and (o).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (e) and (i) are applicable to manufacturers and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to paragraph (a)(2)(ii) of this section.

■ 9. Add § 14;721.10966 to subpart E to read as follows:

§ 721.10966 1-Propene, 2-bromo-3,3,3-trifluoro-.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as 1-propene, 2-bromo-3,3,3-trifluoro- (PMN P–14–260, CAS No. 1514–82–5) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this rule do not apply to quantities of the PMN substance after they have been charged into a fire extinguisher or fire extinguishing system.

(2) The significant new uses are:

(i) *Protection in the workplace.* (A) Requirements as specified in § 721.63(a)(1), (a)(3), (a)(4), (a)(6)(v), (a)(6)(vi), (b) (concentration set at 1.0 percent), and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1) and (a)(4), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible. The following National Institute for Occupational Safety and Health (NIOSH)-certified respirator with an Applied Protection Factor (APF) of at least 10 meet the requirements of § 721.63(a)(4):

(*1*) NIOSH-certified air-purifying half mask respirator equipped with a gas/vapor (organic vapor) cartridge.

(*2*) NIOSH-certified powered air-purifying respirator with a hood or helmet and with a gas/vapor (organic vapor) cartridge.

(*3*) NIOSH-certified negative pressure (demand) supplied-air respirator with a half-mask.

(*4*) NIOSH-certified continuous flow supplied-air respirator with a loose fitting facepiece, hood, or helmet.

(*5*) NIOSH-certified negative pressure (demand) self-contained breathing apparatus (SCBA) with a half-mask.

(B) As an alternative to the respirator requirements in paragraph (a)(2)(i) of this section, a manufacturer or processor may choose to follow the new chemical exposure limit (NCEL) provision listed in the TSCA section 5(e) consent order for this substance. The NCEL is 1.0 parts per million (ppm) as an 8-hour time weighted average. Persons who wish to pursue NCELs as an alternative to § 721.63 respirator requirements may request to do so under § 721.30. Persons whose § 721.30 requests to use the NCELs approach are approved by EPA will be required to follow NCELs provisions comparable to those contained in the corresponding TSCA section 5(e) consent order.

(ii) *Hazard communication program.* Requirements as specified in § 721.72(a) through (e) (concentration set at 1.0 percent), (f), (g)(1) (cardiac sensitization and reproductive effects), (g)(2)(i), (g)(2)(ii), (g)(2)(iv), (g)(2)(v), and (g)(5).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(c), (f), and (k) (A significant new use is any use other than as either a total flooding agent in unoccupied spaces, specifically engine nacelles and auxiliary power units (APUs) in aircraft; or as a streaming fire extinguishing agent for use only in handheld extinguishers in aircraft).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i) are applicable to manufacturers and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 10. Add § 14;721.10967 to subpart E to read as follows:

§ 721.10967 Pyrolysis oil product (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as pyrolysis oil product (PMN P–14–759) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* (A) Requirements as specified in § 721.63(a)(1), (a)(3), (a)(4), (a)(6) (particulate and gas/vapor), (b) (concentration set at 0.1 percent), and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1) and (a)(4), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible. The following National Institute for Occupational Safety and Health (NIOSH)-certified respirator with an Applied Protection Factor (APF) of at least 10 meet the requirements of § 721.63(a)(4):

(*1*) NIOSH-certified air-purifying half mask respirator equipped with an organic vapor cartridge.

(*2*) NIOSH-certified powered air-purifying respirator with a hood or helmet and with an organic vapor cartridge.

(*3*) NIOSH-certified negative pressure (demand) supplied-air respirator with a half-mask.

(*4*) NIOSH-certified continuous flow supplied-air respirator with a loose fitting facepiece, hood, or helmet.

(*5*) NIOSH-certified negative pressure (demand) self-contained breathing apparatus (SCBA) with a half-mask.

(B) As an alternative to the respirator requirements in paragraph (a)(2)(i) of this section, a manufacturer or processor may choose to follow the new chemical exposure limit (NCEL) provision listed in the TSCA section 5(e) consent order for this substance. The NCEL is 0.5 parts per million (ppm) as an 8-hour time weighted average. Persons who wish to pursue NCELs as an alternative to § 721.63 respirator requirements may request to do so under § 721.30. Persons whose § 721.30 requests to use the NCELs approach are approved by EPA will be required to follow NCELs provisions comparable to those

contained in the corresponding TSCA section 5(e) consent order.

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(k).

(iii) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4) (N=20).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (e), (i) and (k) are applicable to manufacturers and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to paragraph (a)(2)(ii) of this section.

■ 11. Add § 14;721.10968 to subpart E to read as follows:

§ 721.10968 1-Octanamine, 7 (or 8)-(aminomethyl)-.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as 1-octanamine, 7 (or 8)-(aminomethyl)- (PMN P–15–279, CAS No. 1613320–81–2) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4) (N=123).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (c) and (k) are applicable to manufacturers and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 12. Add § 721.10969 to subpart E to read as follows:

§ 721.10969 Substituted alkanolamine ether (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as substituted alkanolamine ether (PMN P–15–409) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Hazard communication program.* A significant new use of the substance is any manner or method of manufacture or processing associated with any use of the substance without providing risk notification as follows:

(A) If as a result of the test data required under TSCA section 5(e) consent order for the substance, the employer becomes aware that the substances may present a risk of injury to human health or the environment, the employer must incorporate this new information, and any information on methods for protecting against such risk, into an SDS as described in § 721.72(c) within 90 days from the time the employer becomes aware of the new information. If the substance is not being manufactured, processed, or used in the employer's workplace, the employer must add the new information to an SDS before the substance is reintroduced into the workplace.

(B) The employer must ensure that persons who will receive the PMN substance from the employer, or who have received the PMN substance from the employer within 5 years from the date the employer becomes aware of the new information described in paragraph (a)(2)(i)(A) of this section, are provided an SDS containing the information required under paragraph (a)(2)(i)(A) of this section within 90 days from the time the employer becomes aware of the new information.

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(q).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (c), (h) and (i) are applicable to manufacturers and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to paragraph (a)(2)(ii) of this section.

■ 13. Add § 721.10970 to subpart E to read as follows:

§ 721.10970 Butanedioic acid, alkyl amine, dimethylbutyl ester (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as butanedioic acid, alkyl amine, dimethylbutyl ester (PMN P–15–583) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this rule do not apply to quantities of the PMN substance after they have been added to engine oil.

(i) *Hazard communication program.* A significant new use of the substance is any manner or method of manufacture or processing associated with any use of the substance without providing risk notification as follows:

(A) If as a result of the test data required under TSCA section 5(e) consent order for the substance, the employer becomes aware that the substances may present a risk of injury to human health or the environment, the employer must incorporate this new information, and any information on methods for protecting against such risk, into an SDS as described in § 721.72(c) within 90 days from the time the employer becomes aware of the new information. If the substance is not being manufactured, processed, or used in the employer's workplace, the employer must add the new information to an SDS before the substance is reintroduced into the workplace.

(B) The employer must ensure that persons who will receive the PMN substance from the employer, or who have received the PMN substance from the employer within 5 years from the date the employer becomes aware of the new information described in paragraph (a)(2)(i)(A) of this section, are provided an SDS containing the information required under paragraph (a)(2)(i)(A) of this section within 90 days from the time the employer becomes aware of the new information.

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(q).

(iii) *Release to water.* Requirements as specified in § 721.90(a)(1), (b)(1), and (c)(1).

(2) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (c), (h), (i) and (k) are applicable to manufacturers and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to paragraph (a)(2)(ii) of this section.

■ 14. Add § 721.10971 to subpart E to read as follows:

§ 721.10971 Carbon nanotube (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as carbon nanotube (PMN P–15–672) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(2)(i), (a)(2)(ii), (a)(3), (a)(4), (a)(6) (particulate), and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1) and (a)(4), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible. A National Institute for Occupational Safety and Health (NIOSH)-certified respirators with an N–100, P–100, or R–100 cartridge meet the requirements of § 721.63(a)(4).

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80. It is a significant new use to process or use the chemical substance other than as an aqueous slurry, wet form, or a contained dry form as described in the PMN.

(iii) *Disposal.* Requirements as specified in § 721.85(a)(1), (a)(2), (b)(1), (b)(2), (c)(1), and (c)(2).

(iv) *Release to water.* Requirements as specified in § 721.90(a)(1), (b)(1), and (c)(1).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (e) and (i) through (k) are applicable to manufacturers and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to paragraph (a)(2)(iii) of this section.

■ 15. Add § 721.10972 to subpart E to read as follows:

§ 721.10972 Metal salt of mineral acid, reaction products with alumina, aluminum hydroxide, aluminum hydroxide oxide (Al(OH)O), silica, titanium oxide (TiO2) and 3-(triethoxysilyl)-1-propanamine (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as metal salt of mineral acid, reaction products with alumina, aluminum hydroxide, aluminum hydroxide oxide (Al(OH)O), silica, titanium oxide (TiO2) and 3-(triethoxysilyl)-1-propanamine (PMN P–15–678) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(j).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (c) and (i) are applicable to manufacturers and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to paragraph (a)(2)(i) of this section.

■ 16. Add § 721.10973 to subpart E to read as follows:

§ 721.10973 Halogenated bisphenol A, polymer with epichlorohydrin, alkenoate (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as halogenated bisphenol A, polymer with epichlorohydrin, alkenoate (PMN P–15–766) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(j), (o) and (s) (10,000 kilograms).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (c) and (i) are applicable to manufacturers and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to paragraph (a)(2)(i) of this section.

■ 17. Add § 721.10974 to subpart E to read as follows:

§ 721.10974 Halogenated bisphenol A, polymer with bisphenol A diglycidyl ether and epoxidized phenol-formaldehyde resin, alkenoate (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substances identified generically as halogenated bisphenol A, polymer with bisphenol A diglycidyl ether and epoxidized phenol-formaldehyde resin, alkenoate (PMN P–15–767) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(j), (o) and (s) (10,000 kilograms).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (c) and (i) are applicable to manufacturers and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to paragraph (a)(2)(i) of this section.

■ 18. Add § 721.10975 to subpart E to read as follows:

§ 721.10975 Silicon, tris[dialkyl phenyl]-dialkyl-dioxoalkane-naphthalene disulfonate (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as silicon, tris[dialkyl phenyl]-dialkyl-dioxoalkane-naphthalene disulfonate (PMN P–16–14) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(j). The significant new use is use other than as described in PMN–16–14 where the surface water concentrations described in paragraph (a)(3)(i) are exceeded.

(ii) [Reserved]

(3) The significant new uses for any use other than as described in PMN–16–14:

(i) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4) (N=6).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (c), (i), and (k) are applicable to manufacturers and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to paragraph (a)(2)(ii) of this section.

■ 19. Add § 721.10976 to subpart E to read as follows:

§ 721.10976 Tar acids fraction (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as tar acids fraction (PMN P–16–40) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4) (N=45).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (c) and (k) are applicable to manufacturers and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 20. Add § 721.10977 to subpart E to read as follows:

§ 721.10977 Dialkyl fattyalkylamino propanamide alkylamine (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as dialkyl fattyalkylamino propanamide alkylamine (PMN P–16–59) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4) (N=1).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (c) and (k) are applicable to manufacturers and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 21. Add § 721.10978 to subpart E to read as follows:

§ 721.10978 Fattyalkylaminopropanoate ester (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as fattyalkylaminopropanoate ester (PMN P–16–60) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4) (N=1).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (c) and (k) are applicable to manufacturers and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 22. Add § 721.10979 to subpart E to read as follows:

§ 721.10979 Boron sodium oxide (B5NaO8), labeled with boron-10.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as boron sodium oxide (B5NaO8), labeled with boron-10 (PMN P–16–70, CAS No. 200443–98–7) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80. A significant new use is any use of the substance other than as an emergency shutdown coolant in boiler water reactors.

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (c) and (i) are applicable to manufacturers and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 23. Add § 721.10980 to subpart E to read as follows:

§ 721.10980 Perfluoropolyether modified organosilane (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as perfluoropolyether modified organosilane (PMN P–16–94) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(s) (500 kilograms).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (c) and (i) are applicable to manufacturers and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 24. Add § 721.10981 to subpart E to read as follows:

§ 721.10981 Modified phenol-formaldehyde resin (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as modified phenol-formaldehyde resin (PMN P–16–95) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(j).

(ii) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4) (N=96).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (c), (i), and (k) are

applicable to manufacturers and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to paragraph (a)(2)(i) of this section.

■ 25. Add § 721.10982 to subpart E to read as follows:

§ 721.10982 Disubstituted benzene alkanal (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as disubstituted benzene alkanal (PMN P–16–101) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(2)(i), (a)(3), (b) (concentration set at 1.0 percent), and (c).

(ii) *Industrial commercial, and consumer activities.* Requirements as specified in § 721.80(j).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (e) and (i) are applicable to manufacturers and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to paragraph (a)(2)(ii) of this section.

■ 26. Add § 721.10983 to subpart E to read as follows:

§ 721.10983 Phthalic anhydride, polymer with alkylene glycol and alkanepolyol, acrylate (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as phthalic anhydride, polymer with alkylene glycol and alkanepolyol, acrylate (PMN P–16–102) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4) (N=1).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (c) and (k) are applicable to manufacturers and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 27. Add § 721.10984 to subpart E to read as follows:

§ 721.10984 2-Pyridinecarboxylic acid, 4,5-dichloro-6-(4-chloro-2-fluoro-3-methoxyphenyl)-.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as 2-pyridinecarboxylic acid, 4,5-dichloro-6-(4-chloro-2-fluoro-3-methoxyphenyl)- (PMN P–16–104, CAS No. 1546765–39–2) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(g).

(ii) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4) (N=8).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (c), (i), and (k) are applicable to manufacturers and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 28. Add § 721.10985 to subpart E to read as follows:

§ 721.10985 Dialkylamino alkylamide inner salt (generic).

(a) Chemical substance and significant new uses subject to reporting. (1) The chemical substances identified generically as dialkylamino alkylamide inner salt (PMNs P–16–136, P–16–139 and P–16–140) are subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4) (N=1).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (c) and (k) are applicable to manufacturers and processors of these substances.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 29. Add § 721.10986 to subpart E to read as follows:

§ 721.10986 Nanocarbon (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as nanocarbon (PMN P–16–170) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this rule do not apply when the PMN substance is incorporated into the composite material allowed by the section 5(e) consent order.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(2)(i), (a)(2)(ii), (a)(3), (a)(4), (a)(6) (particulate), and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1) and (a)(4), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible. A National Institute for Occupational Safety and Health (NIOSH)-certified respirators with an N–100, P–100, or R–100 cartridge meet the requirements of § 721.63(a)(4).

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(k) and (q). A significant new use is any use involving an application method that generates a vapor, mist or aerosol.

(iii) *Disposal.* Requirements as specified in § 721.85(a)(1), (a)(2), (b)(1), (b)(2), (c)(1), and (c)(2).

(iv) *Release to water.* Requirements as specified in § 721.90(a)(1), (b)(1), and (c)(1).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (e) and (i) through (k) are applicable to manufacturers and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to paragraph (a)(2)(iii) of this section.

■ 30. Add § 721.10987 to subpart E to read as follows:

§ 721.10987 Barium molybdenum niobium tantalum tellurium vanadium zinc oxide.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as barium molybdenum niobium tantalum tellurium vanadium zinc oxide (PMN P–16–177, CAS No. 1440529–21–4) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(4), (a)(6)(i), (a)(6)(ii), (b) (concentration set at 1.0 percent) and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(4), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible. The following National Institute for Occupational Safety and Health (NIOSH)-certified respirators with an assigned protection factor (APF) of at least 10 meet the requirements of § 721.63(a)(4).

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified in 721.80(f) and (j).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (d) and (i) are applicable to manufacturers and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to paragraph (a)(2)(i) of this section.

■ 31. Add § 721.10988 to subpart E to read as follows:

§ 721.10988 Alkanoic acids, esters with alkanetriol (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as alkanoic acids, esters with alkanetriol (PMN P–16–179) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4) (N=1).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (c) and (k) are applicable to manufacturers and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 32. Add § 721.10989 to subpart E to read as follows:

§ 721.10989 Manganese, tris[.mu.-(2-ethylhexanoato-.kappa.O:.kappa.O')]bis(octahydro-1,4,7-trimethyl-1H-1,4,7-triazonine-.kappa.N1,.kappa.N4,.kappa.N7)di- (P–16–182, chemical A).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as manganese, tris[.mu.-(2-ethylhexanoato-.kappa.O:.kappa.O')]bis(octahydro-1,4,7-trimethyl-1H-1,4,7-triazonine-.kappa.N1,.kappa.N4,.kappa.N7)di- (PMN P–16–182, chemical A; CAS No. 2020407–62–7) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(3), and (b) (concentration set at 1.0 percent).

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(f) and (j) (a significant new use is any manufacture at a concentration of greater than 10% of the PMN substance in any formulation).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (e) and (i) are applicable to manufacturers and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 33. Add § 721.10990 to subpart E to read as follows:

§ 721.10990 Manganese, [.mu.-(acetato-.kappa.O:.kappa.O')]bis[.mu.-(2-ethylhexanoato-.kappa.O:.kappa.O')]bis(octahydro-1,4,7-trimethyl-1H-1,4,7-triazonine-.kappa.N1,.kappa.N4,.kappa.N7)di- (P–16–182, chemical B).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as manganese, [.mu.-(acetato-.kappa.O:.kappa.O')]bis[.mu.-(2-ethylhexanoato-.kappa.O:.kappa.O')]bis(octahydro-1,4,7-trimethyl-1H-1,4,7-triazonine-.kappa.N1,.kappa.N4,.kappa.N7)di- (PMN P–16–182, chemical B; CAS No. 2020407–63–8) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(3), and (b) (concentration set at 1.0 percent).

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(f) and (j) (a significant new use is any manufacture at a concentration of greater than 10% of the PMN substance in any formulation).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (e) and (i) are applicable to manufacturers and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 34. Add § 721.10991 to subpart E to read as follows:

§ 721.10991 Manganese, bis[.mu.-(acetato-.kappa.O:.kappa.O')][.mu.-(2-ethylhexanoato-.kappa.O:.kappa.O')]bis(octahydro-1,4,7-trimethyl-1H-1,4,7-triazonine-.kappa.N1,.kappa.N4,.kappa.N7)di- (P–16–182, chemical C).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as manganese, bis[.mu.-(acetato-.kappa.O:.kappa.O')][.mu.-(2-ethylhexanoato-.kappa.O:.kappa.O')]bis(octahydro-1,4,7-trimethyl-1H-1,4,7-triazonine-.kappa.N1,.kappa.N4,.kappa.N7)di- (PMN P–16–182, chemical C; CAS No. 2020407–64–9) is subject to reporting

under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(3), and (b) (concentration set at 1.0 percent).

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(f) and (j) (a significant new use is any manufacture at a concentration of greater than 10% of the PMN substance in any formulation).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (e) and (i) are applicable to manufacturers and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 35. Add § 721.10992 to subpart E to read as follows:

§ 721.10992 Manganese, tris[.mu.-(acetato-.kappa.O:.kappa.O')]bis(octahydro-1,4,7-trimethyl-1H-1,4,7-triazonine-.kappa.N1,.kappa.N4,.kappa.N7)di- (P–16–182, chemical D).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as manganese, tris[.mu.-(acetato-.kappa.O:.kappa.O')]bis(octahydro-1,4,7-trimethyl-1H-1,4,7-triazonine-.kappa.N1,.kappa.N4,.kappa.N7)di- (PMN P–16–182, chemical D; CAS No. 2020407–65–0) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(3), and (b) (concentration set at 1.0 percent).

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(f) and (j) (a significant new use is any manufacture at a concentration of greater than 10% of the PMN substance in any formulation).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (e) and (i) are applicable to manufacturers and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 36. Add § 721.10993 to subpart E to read as follows:

§ 721.10993 Aryl polyolefin (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as aryl polyolefin (PMN P–16–190) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(3), and (b) (concentration set at 1.0 percent).

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(j).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (d) and (i) are applicable to manufacturers and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to paragraph (a)(2)(ii) of this section.

■ 37. Add § 721.10994 to subpart E to read as follows:

§ 721.10994 Melamine nitrate (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as melamine nitrate (PMN P–16–260) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4) (N=14).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (c) and (k) are applicable to manufacturers and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 38. Add § 721.10995 to subpart E to read as follows:

§ 721.10995 Lecithins, soya, hydrogenated.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as lecithins, soya, hydrogenated (PMN P–16–272, CAS No. 308068–11–3) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4) (N=1).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (c) and (k) are applicable to manufacturers and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

[FR Doc. 2017–20158 Filed 9–20–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R02–OAR–2017–0044; FRL–9968–05–Region 2]

Approval of Air Quality Implementation Plans; New Jersey, 2011 Periodic Emission Inventory SIP for the Ozone Nonattainment and $PM_{2.5}$/Regional Haze Areas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a State Implementation Plan (SIP) revision submitted by the New Jersey Department of Environmental Protection. The SIP revision consists of the following: 2011 calendar year ozone precursor emission inventories for volatile organic compounds (VOC), oxides of nitrogen (NO_X) and carbon monoxide (CO) for the New York-Northern New Jersey-Long Island area classified as Moderate ozone nonattainment for the 2008 8-hour ozone standard, and the Philadelphia-

Wilmington-Atlantic City ozone nonattainment area classified as Marginal ozone nonattainment for the 2008 8-hour ozone standard. In addition, the SIP revision also consists of the 2011 calendar year statewide periodic emissions inventory for particulate matter with an aerodynamic diameter less than or equal to 2.5 microns ($PM_{2.5}$) and the associated $PM_{2.5}$ and/or Regional Haze precursors. The pollutants included in this inventory include VOC, NO_X, $PM_{2.5}$, particulate matter with an aerodynamic diameter less than or equal to 10 microns (PM_{10}), ammonia (NH3) and sulfur dioxide (SO_2). Emission inventories are needed to develop and assess new control strategies that the states may use in attainment demonstration SIPs for the new National Ambient Air Quality Standards for ozone and $PM_{2.5}$. The inventory may also serve as part of statewide inventories for purposes of regional modeling in ozone and Regional Haze transport areas. The inventory plays an important role in modeling demonstrations for areas classified as nonattainment for ozone, CO and $PM_{2.5}$.

DATES: This final rule is effective on October 23, 2017.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–R02–OAR–2017–0044. All documents in the docket are listed on the *www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available through *www.regulations.gov,* or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Kirk J. Wieber, Air Programs Branch, Environmental Protection Agency, 290 Broadway, 25th Floor, New York, New York 10007–1866, telephone number (212) 637–3381, or by email at *wieber.kirk@epa.gov.*

SUPPLEMENTARY INFORMATION: The supplementary Information section is arranged as follows:

Table of Contents

I. What action is EPA taking?

The New Jersey emissions inventory SIP revision will ensure that the requirements for emissions inventory measures and reporting are adequately met. To comply with the emissions inventory requirements, New Jersey submitted a complete inventory containing point, area, on-road, and non-road mobile source data, and accompanying documentation. EPA is approving the SIP revision submittal as meeting the essential reporting requirements for emission inventories. EPA has also determined that the SIP revision meets the requirements for emission inventories in accordance with EPA guidance.

Therefore, EPA is approving a revision to the New Jersey SIP which pertains to the following: 2011 calendar year summer season daily and annual ozone precursor emission inventories for VOC, NO_X and CO for the New York-Northern New Jersey-Long Island and the Philadelphia-Wilmington-Atlantic ozone nonattainment areas. In addition, the EPA is approving the 2011 calendar year $PM_{2.5}$/Regional Haze emissions inventory that was developed statewide for New Jersey. The pollutants included in the inventory are annual emissions for VOC, NO_X, $PM_{2.5}$, PM_{10}, NH3 and SO_2. The reader is referred to the April 10, 2017 (82 FR 17166) proposal for details on this rulemaking.

II. What comments did EPA receive on its proposal?

EPA did not receive any comments on the April 10, 2017 proposed approval of New Jersey's 2011 emissions inventory.

III. What is EPA's final action?

EPA is approving a revision to the New Jersey SIP which pertains to the following: 2011 calendar year summer season daily and annual ozone precursor emission inventories for VOC, NO_X and CO for the New York-Northern New Jersey-Long Island and the Philadelphia-Wilmington-Atlantic City ozone nonattainment areas. In addition, the EPA is approving the 2011 calendar year $PM_{2.5}$/Regional Haze emissions inventory that was developed statewide for New Jersey. The pollutants included in the inventory are annual emissions for VOC, NO_X, $PM_{2.5}$, PM_{10}, NH3 and SO_2.

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, 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 Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994). In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

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

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

Under section 307(b)(1) of the 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 November 20, 2017. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. See section 307(b)(2).

List of Subjects in 40 CFR Part 52

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

Dated: September 6, 2017.

Catherine R. McCabe,

Acting Regional Administrator, Region 2.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart FF—New Jersey

■ 2. Section 52.1570(e), is amended by adding entries for ''2011 VOC, NO_X and CO ozone summer season and annual emissions inventory'' and ''2011 $PM_{2.5}$/Regional Haze and associated precursors annual emissions inventory'' at the end of the table to read as follows:

§ 52.1570 Identification of plan.

* * * * *

(e) * * *

EPA-APPROVED NEW JERSEY NONREGULATORY AND QUASI-REGULATORY PROVISIONS

SIP element	Applicable geographic or non-attainment area	New Jersey submittal date	EPA approval date	Explanation
* *	* *	*	*	*
2011 VOC, NO_X and CO ozone summer season and annual emissions inventory.	New York-Northern New Jersey-Long Island and the Philadelphia-Wilmington-Atlantic City ozone nonattainment areas.	June 1, 2015	9/21/2017, [Insert **Federal Register** citation].	
2011 $PM_{2.5}$/Regional Haze and associated precursors annual emissions inventory.	State-wide	June 1, 2015	9/21/2017, [Insert **Federal Register** citation].	

[FR Doc. 2017–20066 Filed 9–20–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R01–OAR–2017–0025; FRL–9968–09–Region 1]

Air Plan Approval; Rhode Island; Reasonably Available Control Technology for US Watercraft, LLC

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a State Implementation Plan (SIP) revision submitted by the State of Rhode Island. The revision consists of a reasonably available control technology (RACT) approval for a volatile organic compound (VOC) emission source in Rhode Island, specifically, US Watercraft, LLC. This action is being taken in accordance with the Clean Air Act (CAA).

DATES: This rule is effective on October 23, 2017.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R01–OAR–2017–0025. All documents in the docket are listed on the *http://www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, *i.e.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available at *http://www.regulations.gov* or at the U.S. Environmental Protection Agency, EPA New England Regional Office, Office of Ecosystem Protection, Air Quality Planning Unit, 5 Post Office Square—Suite 100, Boston, MA. EPA requests that if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: David L. Mackintosh, 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, tel. 617–918–1584, email *Mackintosh.David@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA.

Table of Contents

I. Background and Purpose

On July 3, 2017, EPA published a Notice of Proposed Rulemaking (82 FR 30815) and Direct Final Rulemaking (DFRN) (82 FR 30747) proposing to approve and approving, respectively, a RACT approval for a VOC emission source in Rhode Island, specifically, US Watercraft, LLC. The RACT approval was submitted by the Rhode Island Department of Environmental

Management (RI DEM) to EPA as a SIP revision on August 8, 2003, which was amended on February 20, 2004. In the DFRN, EPA stated that if an adverse comment were to be submitted to EPA by August 2, 2017, the action would be withdrawn and not take effect, and a final rule would be issued based on the NPR. EPA received one adverse comment prior to the close of the comment period. Therefore, EPA withdrew the DFRN on September 1, 2017 (82 FR 41526). This action is a final rule based on the NPR.

A detailed discussion of Rhode Island's August 8, 2003 SIP revision and February 20, 2004 amendment, and EPA's rationale for approving the SIP revision were provided in the DFRN and will not be restated here, except to the extent relevant to our response to the public comment we received.

II. Response to Comment

EPA received one adverse comment on its July 3, 2017 (82 FR 30815) Notice of Proposed Rulemaking.

Comment: The commenter raised concerns that the rulemaking identified TPI Composites, Inc. (TPI) as being owned and operated by US Watercraft Inc., and asserted that TPI is an entirely independent and separate corporate entity from US Watercraft, LLC with no common ownership or control of operations between the two companies. The commenter also stated that US Watercraft, LLC purchased and now owns the fiberglass boat manufacturing processes covered by the RACT approval and that TPI is not conducting fiberglass boat manufacturing operations at 373 Market Street in Warren, Rhode Island.

Response: It was not EPA's intention to describe TPI as being owned and operated by US Watercraft, LLC. EPA agrees that the RACT approval being approved into the RI SIP only applies to the fiberglass boat manufacturing operations located at 373 Market Street in Warren, Rhode Island, which are currently known to be owned and operated by US Watercraft, LLC as referenced in the US Watercraft, LLC Operating Permit Number RI–39–09(R1) issued by the RI DEM on April 24, 2009.

III. Final Action

EPA is approving, and incorporating into the Rhode Island SIP, a RACT approval effective July 16, 2003, and a RACT approval amendment effective February 11, 2004, for US Watercraft, LLC. The RACT approval and amendment were submitted by the RI DEM to EPA as a SIP revision on August 8, 2003, and February 20, 2004, respectively. EPA is also removing the previously approved consent agreement File No. 90–1–AP issued to TPI from the Rhode Island SIP.

It should be noted that subsequent to RI DEM's submittal of its SIP revision and amendment in 2003 and 2004, respectively, EPA later issued a Control Techniques Guidelines (CTG) for Fiberglass Boat Manufacturing Materials on October 7, 2008 (73 FR 58481). RI DEM has not yet addressed this CTG. On February 3, 2017 (82 FR 9158), EPA issued a Findings of Failure to Submit State Implementation Plan Submittals for the 2008 Ozone National Ambient Air Quality Standards for Rhode Island's failure to submit a SIP revision to satisfy the 2008 CTG for Fiberglass Boat Manufacturing Materials.

At this time, EPA is taking no action with regard to Rhode Island's obligation to address the 2008 CTG for Fiberglass Boat Manufacturing Materials since Rhode Island has not yet taken formal action to address this CTG. With this action, we are approving the revised RACT approval for US Watercraft as meeting CAA section 110(l) because the SIP revision will not interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable requirement of the CAA. Moreover, approving this RACT approval into the Rhode Island SIP will strengthen the SIP as it is designed to control VOC emissions. However, Rhode Island is still obligated to submit a formal SIP revision to EPA detailing how the State is addressing the Fiberglass Boat Manufacturing Materials CTG for any and all sources in the State covered by that CTG.

IV. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the RACT Approval for US Watercraft, LLC described in the amendments to 40 CFR part 52 set forth below. The EPA has made, and will continue to make, these materials generally available through *www.regulations.gov,* and/or at the EPA Region 1 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 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 action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

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

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement

Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 804, however, exempts from section 801 the following types of rules: Rules of particular applicability; rules relating to agency management or personnel; and rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties. 5 U.S.C. 804(3). Because this is a rule of particular applicability, EPA is not required to submit a rule report regarding this action under section 801.

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 November 20, 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 relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: September 7, 2017.

Deborah A. Szaro,

Acting Regional Administrator, EPA New England.

Part 52 of 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 OO—Rhode Island

■ 2. In § 52.2070, the table in paragraph (d) is amended by:

■ a. Removing the entry ''Tillotson-Pearson in Warren, Rhode Island''.

■ b. Adding the entry ''US Watercraft, LLC in Warren, Rhode Island'' to the end of the table.

The addition reads as follows:

§ 52.2070 Identification of plan.

* * * * *

(d) * * *

EPA-APPROVED RHODE ISLAND SOURCE SPECIFIC REQUIREMENTS

Name of source	Permit No.	State effective date	EPA approval date	Explanations
*	*	*	*	*
US Watercraft, LLC in Warren, Rhode Island.	File No. 01–05–AP	7/16/2003 and 2/11/2004 ..	9/21/2017, [insert **Federal Register** citation].	VOC RACT approval and amendment.

* * * * *

[FR Doc. 2017–20164 Filed 9–20–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R07–OAR–2017–0512; FRL–9967–97–Region 7]

Approval of Kansas Air Quality State Implementation Plans; Construction Permits and Approvals Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: Environmental Protection Agency (EPA) is taking direct final action to approve revisions to the Kansas State Implementation Plan (SIP) and the 112(l) program. The submission revises Kansas' construction permit rules. Specifically, these revisions implement the revised National Ambient Air Quality Standard (NAAQS) for fine particulate matter; clarify and refine applicable criteria for sources subject to the construction permitting program; update the construction permitting program fee structure and schedule; and make minor revisions and corrections. Approval of these revisions will not impact air quality, ensures consistency between the State and Federally-approved rules, and ensures Federal enforceability of the State's rules.

DATES: This direct final rule will be effective November 20, 2017, without further notice, unless EPA receives adverse comment by October 23, 2017. If EPA receives adverse comment, we will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R07–OAR–2017–0512, to *https://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Deborah Bredehoft, Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219 at (913) 551–7164, or by email at *bredehoft.deborah@epa.gov.*

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

I. What is being addressed in this document?

EPA is taking direct final action to approve revisions to the Kansas SIP and 112(l) program submission received on December 5, 2016. The SIP submission requests revisions to K.A.R. 28–19–300 that include: Implementing revisions to include fine particulate matter ($PM_{2.5}$) to implement the prevention of significant deterioration permitting component of section 110(a)(2)(C) for the 1997 and 2006 $PM_{2.5}$ NAAQS, pursuant to EPA's NSR $PM_{2.5}$ Implementation Rule (2008 NSR Rule), (73 FR 28321, May 16, 2008); clarifying and refining applicability criteria for sources subject to construction permitting program by proposing the following: (1) Eliminating the requirements for all Title IV Acid Rain sources to obtain construction permits that would not have otherwise been required; (2) clarifing the construction review requirements for sources emitting hazardous air pollutants, or sources subject to standards promulgated by the USEPA; (3) eliminating the requirement for sources to obtain an approval solely due to being subject to standards promulgated by the EPA without regard to emissions for insignificant activities; and making minor revisions and corrections. The SIP submission also requests revisions to K.A.R. 28–19–304 that include: (1) Updating the construction permitting program fee structure from an estimated capital cost mechanism to one based on complexity of source and permit type and (2) updating the fee schedule to bring in sufficient revenue to adequately administer the Kansas Air Quality Act. The SIP submission also makes minor revisions and corrections.

II. What part 52 revision is EPA approving?

EPA is approving requested revisions to the Kansas SIP relating to the following:

- Construction Permits and Approvals. Kansas Administrative Regulations 28–19–300. Applicability; and
- Construction Permits and Approvals. Kansas Administrative Regulations 28–19–304. Fees.

EPA has conducted analysis on the state's revisions and has found that the revisions would not impact air quality, ensures consistency between the state and Federally-approved rules, and ensures Federal enforceability of the State's rules. Additional information on the EPA's analysis can be found in the Technical Support Document (TSD) included in this docket.

III. What 112(l) revision is EPA approving?

EPA is also taking direct final action to approve a portion of K.A.R. 28–19–300 under the 112(l) program pursuant to 40 CFR part 63, subpart E, as requested by the State of Kansas on April 19, 2017. The State of Kansas is requesting that the applicable portions of K.A.R. 28–19–300 pertaining to limiting the potential-to-emit hazardous air pollutants (HAPs) be approved under CAA 112(l) and 40 CFR part 63, subpart E, in addition to being approved under the SIP.[1] Specifically, K.A.R. 28–19–300(a)(2) and (3) as well as K.A.R. 28–19–300(b)(4) through (6) are also approved under CAA section 112(l) because they require permits or approvals for hazardous air pollutants that may limit the potential-to-emit hazardous air pollutants by establishing permit conditions that are Federally-enforceable.

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

The state submission has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submission also satisfied the completeness criteria of 40 CFR part 51, appendix V. In addition, as explained above and in more detail in the technical support document which is part of this docket, the revision meets the substantive SIP requirements of the CAA, including section 110 and and implementing regulations.

V. What action is EPA taking?

EPA is taking direct final action to amend the Kansas SIP and 112(l) program by approving the State's request to amend K.A.R. 28–19–300 Construction Permits and Approvals—Applicability and to amend the Kansas SIP by approving K.A.R. 28–19–304 Construction Permits and Approvals—Fees. Approval of these revisions will ensure consistency between state and Federally-approved rules. The EPA has determined that these changes will not adversely impact air quality.

We are publishing this direct final rule without a prior proposed rule because we view this as a noncontroversial action and anticipate no adverse comment. However, in the ''Proposed Rules'' section of this **Federal Register**, we are publishing a separate document that will serve as the proposed rule to approve the SIP and 112(l) program revision, if adverse comments are received on this direct final rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. For further information about commenting on this rule, see the **ADDRESSES** section of this document. If EPA receives adverse comment, we will publish a timely withdrawal in the **Federal Register** informing the public that this direct final rule will not take effect. We will address all public comments in any subsequent final rule based on the proposed rule.

VI. Incorporation by Reference

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of the Kansas Regulations described in the direct final amendments to 40 CFR part 52 set forth below. EPA has made, and will continue to make, these materials generally available 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).

Therefore, these materials have been approved by EPA for inclusion in the State implementation plan, have been incorporated by reference by EPA into that plan, are fully Federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference by the Director of the Federal Register in the next update to the SIP compilation.[2]

VII. Statutory and Executive Order reviews

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

[1] State Implementation Plan provisions approved under section 110 of the Clean Air Act are for criteria pollutants. Sections related to hazardous air pollutants are approved under section 112 of the Clean Air Act.

[2] 62 FR 27968 (May 22, 1997).

• Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);

• Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

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

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

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

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

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

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

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

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

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 20, 2017. Filing a petition for reconsideration by the Administrator of this direct final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

List of Subjects in 40 CFR Part 52

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

Dated: September 8, 2017.

Cathy Stepp,

Acting Regional Administrator, Region 7.

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

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart R—Kansas

■ 2. In § 52.870, the table in paragraph (c) is amended by revising the entries ''K.A.R. 28–19–300'' and ''K.A.R. 28–19–304'' to read as follows:

§ 52.870 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED KANSAS REGULATIONS

Kansas citation	Title	State effective date	EPA approval date	Explanation
Kansas Department of Health and Environment Ambient Air Quality Standards and Air Pollution Control				
*	*	*	*	*
Construction Permits and Approvals				
K.A.R. 28–19–300	Applicability	11/18/16	9/21/17, [insert **Federal Register** citation].	
*	*	*	*	*
K.A.R. 28–19–304	Fees	11/18/16	9/21/17, [insert **Federal Register** citation].	
*	*	*	*	*

* * * * *

[FR Doc. 2017–20073 Filed 9–20–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[EPA–HQ–OAR–2013–0696; FRL–9968–02–OAR]

RIN 2060–AS86

Technical Amendments to Procedure 6

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is finalizing minor technical amendments to Procedure 6 that were proposed in the **Federal Register** on May 19, 2016. Procedure 6 includes quality assurance (QA) procedures for hydrogen chloride (HCl) continuous emission monitoring systems (CEMS) used for compliance determination at stationary sources. The QA procedures specify the minimum requirements necessary for the control and assessment of the quality of CEMS data submitted to the EPA. This action establishes consistent requirements for ensuring and assessing the quality of HCl data measured by CEMS that meet initial acceptance requirements in Performance Specification (PS) 18 of appendix B to part 60.

DATES: This final rule is effective on October 23, 2017.

ADDRESSES: The EPA has established a docket for this rulemaking under Docket ID No. EPA–HQ–OAR–2013–0696. All documents in the docket are listed at *https://www.regulations.gov.* Although listed in the index, some information is not publicly available, *e.g.,* Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy at the EPA Docket Center, Room 3334, EPA WJC West Building, 1301 Constitution Avenue NW., Washington, DC 20004. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the EPA Docket Center is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: Mr. Raymond Merrill, Office of Air Quality Planning and Standards, Air Quality Assessment Division, Measurement Technology Group (Mail Code: E143–02), U.S. Environmental Protection Agency, Research Triangle Park, NC 27709; telephone number: (919) 541–5225; fax number: (919) 541–0516; email address: *merrill.raymond@epa.gov.*

SUPPLEMENTARY INFORMATION: The information in this preamble is organized as follows:

I. General Information

A. Does this action apply to me?

The major entities that would potentially be affected by Procedure 6 for gaseous HCl CEMS are those entities that are required to install a new HCl CEMS, relocate an existing HCl CEMS, or replace an existing HCl CEMS under any applicable subpart of 40 CFR parts 60, 61, or 63 that were initially accepted following requirements in PS 18 of appendix B in part 60. Table 1 of this preamble lists the current federal rules by subpart and the corresponding source categories to which Procedure 6 potentially would apply.

TABLE 1—SOURCE CATEGORIES THAT WOULD POTENTIALLY BE SUBJECT TO PROCEDURE 6

Subpart(s)	Source category
40 CFR Part 63	
Subpart LLL	Portland Cement Manufacturing Industry.
Subpart UUUUU.	Coal- and Oil-fired. Electric Utility Steam Generating Units.

The requirements of Procedure 6 may also apply to stationary sources located in a state, district, reservation, or territory that adopts Procedure 6 in its implementation plan.

Table 2 lists the corresponding North American Industry Classification (NAICS) codes for the source categories listed in Table 1 of this preamble.

TABLE 2—NAICS FOR POTENTIALLY REGULATED ENTITIES

Industry	NAICS codes
Fossil Fuel-Fired Electric Utility Steam Generating Units	221112 [a] 921150
Portland Cement Manufacturing Plants	327310

[a] Industry in Indian Country.

Tables 1 and 2 are not intended to be exhaustive, but rather they provide a guide for readers regarding entities potentially affected by this action. If you have any questions regarding the potential applicability of Procedure 6 to a particular entity, consult the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

B. Where can I get a copy of this document and other related information?

In addition to being available in the docket, an electronic copy of this action is available on the Internet through the EPA's Technology Transfer Network (TTN) Web site, a forum for information and technology exchange in various areas of air quality management, measurement standards and implementation, etc. Following publication in the **Federal Register**, the EPA will post the **Federal Register** version of the promulgation and key technical documents on the TTN at *http://www.epa.gov/ttn/emc/promulgated.html.*

C. Judicial Review

Under section 307(b)(1) of the Clean Air Act (CAA), judicial review of this final rule is available only by filing a

petition for review in the U.S. Court of Appeals for the District of Columbia Circuit by November 20, 2017. Under section 307(d)(7)(B) of the CAA, only an objection to this final rule that was raised with reasonable specificity during the period for public comment can be raised during judicial review. Moreover, under section 307(b)(2) of the CAA, the requirements established by this final rule may not be challenged separately in any civil or criminal proceedings brought by the EPA to enforce these requirements. Section 307(d)(7)(B) of the CAA further provides that ''[o]nly an objection to a rule or procedure which was raised with reasonable specificity during the period for public comment (including any public hearing) may be raised during judicial review.'' This section also provides a mechanism for us to convene a proceeding for reconsideration, ''[i]f the person raising an objection can demonstrate to the EPA that it was impracticable to raise such objection within [the period for public comment] or if the grounds for such objection arose after the period for public comment (but within the time specified for judicial review) and if such objection is of central relevance to the outcome of the rule.'' Any person seeking to make such a demonstration to us should submit a Petition for Reconsideration to the Office of the Administrator, U.S. EPA, Room 3000, William Jefferson Clinton Building, 1200 Pennsylvania Avenue NW., Washington, DC 20460, with a copy to both the person(s) listed in the preceding **FOR FURTHER INFORMATION CONTACT** section, and the Associate General Counsel for the Air and Radiation Law Office, Office of General Counsel (Mail Code 2344A), U.S. EPA, 1200 Pennsylvania Avenue NW., Washington, DC 20460.

II. Background

On July 7, 2015, the EPA published Procedure 6, which is a companion to PS 18. Procedure 6 specifies the minimum QA requirements necessary for control and assessment of the quality of CEMS data submitted to the EPA used for HCl emissions compliance determination at stationary sources (80 FR 38628). Performance Specification 18 and Procedure 6 are applicable to the evaluation of HCl continuous monitoring instruments for Portland cement facilities, electric generating units and industrial, commercial, and institutional boilers and process heaters. After publication of Procedure 6, certain minor inconsistencies with treatment of data above span and how to calculate the error of CEMS accuracy using dynamic spiking were identified. The EPA proposed to correct the minor inconsistencies in PS 18 and Procedure 6 through a direct final action titled, ''Technical Amendments to Performance Specification 18 and Procedure 6.'' 81 FR 31515 (May 19, 2016). One substantive comment was received regarding changes to Procedure 6. The EPA finalized PS 18 and withdrew Procedure 6 (81 FR 52348). With this action, the EPA is responding to that comment and finalizing corrections to Procedure 6.

III. Final Revisions to Procedure 6

This action finalizes changes to Procedure 6 that were proposed on May 19, 2016 (81 FR 31577), and responds to the substantive comment received in response to that proposal by:

(1) Clarifying that the QA for data above span is subject to the specific requirements in applicable rules or permits, which supersede the general requirements in Procedure 6 (section 4.1.5);

(2) Clarifying the time that triggers conducting an above span CEMS response check (section 4.1.5.1);

(3) Correcting the incomplete reference to equations used to calculate dynamic spiking error (section 5.2.4.2).

IV. Summary of Major Comments and Responses

A commenter stated that one of the revisions to Procedure 6, as proposed by EPA on May 19, 2016, appeared to significantly change the applicability of certain QA requirements, contending that to do so would be inconsistent with the EPA's justification for the QA procedure originally promulgated in the 2015 final rule (80 FR 38628; July 7, 2015). The EPA agrees with the commenter that the obligation to follow the procedure for treatment of data above span should remain as originally promulgated: As existing only where required by an applicable regulation. The EPA's intent was not to enlarge the applicability of Procedure 6 for treatment of data above span, but simply to make clear that (to the extent this procedure even applies) it is furthermore superseded if alternate terms are specified in another applicable rule or permit. Thus, for example, where an applicable rule or permit accommodates a concentration level between 50 and 150 percent of the highest hourly concentration, during the period of measurements above span, that would be an acceptable implementation of Procedure 6, notwithstanding the default specification of section 4.1.5.1.1 that concentrations must be between 75 percent and 125 percent of the highest hourly concentration. The EPA has revised its proposed change to section 4.1.5 accordingly. It remains the case that the procedure under section 4.1.5 is not required unless separately mandated by an applicable regulation. The EPA also notes that with this amendment to section 4.1.5, the proposed amendment to section 4.1.5.3 (specifically noting that section 4.1.5.3 would not apply if ''otherwise specified in an applicable rule or permit'') is superfluous. The caveat previously proposed specifically for section 4.1.5.3 should apply to *all* of section 4.1.5.

V. Statutory and Executive Order Reviews

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

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

B. Paperwork Reduction Act (PRA)

This action does not impose an information collection burden under the PRA. This action provides performance criteria and QA test procedures for assessing the acceptability of HCl CEMS performance and data quality. These criteria and QA test procedures do not add information collection requirements beyond those currently required under the applicable regulation.

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 provides facilities with an alternative to PS 15 and Fourier transform infrared spectroscopy for measuring HCl, which are currently required in several rules.

D. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. This action 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. This action provides performance criteria and QA test procedures for assessing the acceptability of HCl CEMS performance and data quality. Thus, Executive Order 13175 does not apply to this action.

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

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of ''covered regulatory action'' in section 2–202 of the Executive Order. This action is not subject to Executive Order 13045 because it does not 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 is not subject to Executive Order 12898 (59 FR 7629, February 16, 1994) because it does not establish an environmental health or safety standard. This regulatory action is a technical correction to a previously promulgated regulatory action and does not have any impact on human health or the environment. Documentation for this decision is provided in the Summary of Major Comments and Responses section of this preamble.

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 60

Environmental protection, Administrative practice and procedure, Air pollution control, Continuous emission monitoring systems, Hydrogen chloride, Performance specifications, Test methods and procedures.

Dated: September 13, 2017.

E. Scott Pruitt,

Administrator.

For the reasons stated in the preamble, title 40, chapter I of the Code of Federal Regulations is amended 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. Amend appendix F to part 60 under ''Procedure 6'' by revising sections ''4.1.5'', ''4.1.5.1'' and ''5.2.4.2'' to read as follows:

Appendix F to Part 60—Quality Assurance Procedures

* * * * *

Procedure 6. Quality Assurance Requirements for Gaseous Hydrogen Chloride (HCl) Continuous Emission Monitoring Systems Used for Compliance Determination at Stationary Sources

* * * * *

4.1.5 Additional Quality Assurance for Data above Span. This procedure must be used when required by an applicable regulation and may be used when significant data above span are being collected. Furthermore, the terms of this procedure do not apply to the extent that alternate terms are otherwise specified in an applicable rule or permit.

4.1.5.1 Any time the average measured concentration of HCl exceeds 150 percent of the span value for two consecutive one-hour averages, conduct the following 'above span' CEMS response check.

* * * * *

5.2.4.2 Calculate results as described in section 6.4. To determine CEMS accuracy, you must calculate the dynamic spiking error (DSE) for each of the two upscale audit gases using Equation A5 in appendix A to PS–18 and Equation 6–3 in section 6.4 of Procedure 6 in appendix B to this part.

* * * * *

[FR Doc. 2017–20172 Filed 9–20–17; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

46 CFR Parts 2 and 8

[Docket No. USCG–2016–0880]

RIN 1625–AC35

Adding the Polar Ship Certificate to the List of SOLAS Certificates and Certificates Issued by Recognized Classification Societies

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: This final rule adds the Polar Ship Certificate to a list of certificates that certain U.S. and foreign-flag ships will need to carry on board if they engage in international voyages in polar waters. This rule also enables the Coast Guard to authorize recognized classification societies to issue the Polar Ship Certificate on the Coast Guard's behalf. We are taking this action because the International Convention for Safety of Life at Sea (SOLAS) has been amended to require certain ships operating in Arctic or Antarctic waters to have a Polar Ship Certificate. This rule will help ensure that U.S.-flagged ships that need this certificate—commercial cargo ships greater than 500 gross tonnage and passenger ships carrying more than 12 passengers, that operate in polar waters as defined by SOLAS chapter XIV while engaged in international voyages—will be able to obtain it in a timely manner.

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

ADDRESSES: To view comments and material submitted in response to our proposed rule, as well as documents mentioned in this final rule preamble as being available in the docket, go to *http://www.regulations.gov,* type USCG–2016–0880 in the ''SEARCH'' box and click ''SEARCH.'' Then click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: For information about this document call or email Lieutenant Chris Rabalais, Systems Engineering Division (CG–ENG–3), Coast Guard; telephone 202–372–1485, email *Christopher.P.Rabalais@uscg.mil.*

SUPPLEMENTARY INFORMATION:

Table of Contents for Preamble

I. Abbreviations

BLS Bureau of Labor Statistics
CFR Code of Federal Regulations
DHS Department of Homeland Security
E.O. Executive order
FR Federal Register
GT ITC Gross Tonnage International Tonnage Convention
IMO International Maritime Organization
MARPOL International Convention for the Prevention of Pollution from Ships, 1974
MEPC Marine Environment Protection Committee
MOA Memorandum of Agreement
MSC Maritime Safety Committee
NAICS North American Industry Classification System
OCMI Officer in Charge, Marine Inspection
OMB Office of Management and Budget
Polar Code International Code for Ships Operating in Polar Waters
RA Regulatory Assessment
SBA Small Business Administration
SOLAS International Convention for the Safety of Life at Sea
§ Section
U.S.C. United States Code

II. Regulatory History

Coast Guard regulations for inspecting and certificating vessels are located in subpart 2.01 of title 46 of the Code of Federal Regulations (46 CFR subpart 2.01). Section 2.01–6 in that subpart contains provisions for issuing certificates of compliance to foreign-flagged vessels. Section 2.01–25 identifies certificates required by the International Convention for Safety of Life at Sea (SOLAS) on certain vessels engaged in international voyages. This section also lists SOLAS certificates the Coast Guard issues to vessels that meet applicable SOLAS requirements.

Part 8 of 46 CFR contains Coast Guard regulations for vessel inspection alternatives. Specifically, 46 CFR 8.320 identifies international certificates that the Coast Guard may authorize recognized classification societies to issue on the Coast Guard's behalf.

On November 22, 2016, we published a notice of proposed rulemaking (NPRM) in the **Federal Register** (81 FR 83786) entitled, ''Adding the Polar Ship Certificate to the List of SOLAS Certificates and Certificates Issued by Recognized Classification Societies.'' That NPRM proposed to amend 46 CFR 2.01–6, 2.01–25, and 8.320. We received two written submissions in response to the NPRM.

III. Basis, Purpose, and Background

In 2014 and 2015, the International Maritime Organization (IMO) adopted the International Code for Ships Operating in Polar Waters (Polar Code) and added its requirements to two existing IMO Conventions—SOLAS, and the International Convention for the Prevention of Pollution from Ships (MARPOL)—in consideration of hazards and conditions unique to polar waters, and an expected increase in traffic in Arctic and Antarctic waters. These additional hazards include navigation in ice and low temperatures, high-latitude communications and navigation, remoteness from response resources, and limited hydrographic charting. Copies of the IMO Maritime Safety Committee and Marine Environment Protection Committee resolutions discussed in this paragraph are available in the docket.

The Polar Code took effect on January 1, 2017, and applies to all vessels constructed on or after that date. Beginning on January 1, 2018, the Polar Code will also start applying to existing vessels, based upon the date their SOLAS Certificates were issued.

One of the requirements for ships subject to the Polar Code is to carry a Polar Ship Certificate pursuant to SOLAS. The Polar Ship Certificate attests that the vessel has met applicable requirements of SOLAS. As a signatory to this convention, under Article I of SOLAS, the United States has an obligation to ensure compliance with SOLAS requirements.

This rule creates a certificate that newly constructed U.S.-flagged vessels, certified in accordance with SOLAS chapter I, will need in order to travel internationally within polar waters, beginning January 1, 2017. Existing vessels will need the same certificate by their first intermediate or renewal survey after January 1, 2018. U.S.-flagged vessels that do not carry a Polar Ship Certificate risk detention, denial of entry, or expulsion from the polar waters of other States.

This rulemaking is necessary to allow the Coast Guard to create the new Polar Ship Certificate and add it to the list of certificates required by SOLAS in 46 CFR part 2. Also, this rule allows the Coast Guard to authorize recognized classification societies to issue the Polar Ship Certificate on the Coast Guard's behalf under 46 CFR 8.320.

Foreign-flagged vessels, certified in accordance with SOLAS chapter I and operating in polar waters, are also required to carry the Polar Ship Certificate. However, their certificates will be issued by the vessel's flag state, or a person or an organization authorized by that flag state to issue the certificate. The Coast Guard will examine foreign-flagged vessels during Port State Control boardings to ensure that they are properly certificated.

The Coast Guard is authorized to regulate this subject matter under 33 U.S.C. 1231; 46 U.S.C. 2103, 3306, 3316, and 3703; Department of Homeland Security Delegation No. 0170.1, and Executive Order 12234, ''Enforcement of the Convention for the Safety of Life at Sea'' (45 FR 58801, Sept. 5, 1980).

IV. Discussion of Comments and Changes

We received two written submissions commenting on the proposed rule published on November 22, 2016 (81 FR 83786). The comments raised concerns about four specific items, which we address in this section of the preamble.

Applicability of the SOLAS Polar Code Provisions to U.S.-Flagged Vessels on Domestic Voyages

One of the comments noted concerns about wording in the proposed rule that limits requirements to vessels engaged in international voyages. On this point, the comment also cited a December 2016 Coast Guard Polar Code policy letter (CG–CVC Policy Letter Letter 16–06, available in the docket), which states that U.S.-flag vessels operating on domestic voyages to ports or places in the U.S. Arctic do not need to meet the provisions of SOLAS chapter XIV,[1] but must instead comply with applicable domestic requirements. The commenter concluded that this Coast Guard interpretation, reflected in the proposed rule, does not meet the intent of the IMO in implementation of the Polar Code.

We decline to expand the scope of the proposed rule. The proposed rule is consistent with our view that the SOLAS convention's authority is generally limited to vessels traveling internationally. Based on the intent of the SOLAS convention to ensure safe international shipping, and SOLAS certification as part of voluntary U.S. compliance programs, the United States will not require U.S.-flagged vessels operating on domestic routes through Arctic waters to obtain a Polar Ship Certificate.

[1] SOLAS chapter XIV implements Part I–A, safety provisions, of the Polar Code.

Applicability of the SOLAS Polar Code Provisions in Antarctica

A commenter raised concerns about the lack of clarity regarding the applicability of the Polar Code in Antarctica, given that these waters are not under the jurisdiction of the United States or any other nation. The Polar Code applies to ships engaged in international voyages that are also operating in polar waters. Polar waters include both the Arctic and Antarctic waters. Therefore, a U.S.-flagged vessel that is certified in accordance with SOLAS chapter I and is on an international voyage must have a Polar Ship Certificate if it enters Antarctic waters.

Time Estimates for Issuance of a Polar Ship Certificate

The same commenter also questioned our burden hour estimate for the time required by classification societies to issue the Polar Ship Certificate. The commenter said that the estimate did not include time required for technical approvals or verification of compliance with provisions of the Polar Code.

Cost estimates for verifications of compliance with the Polar Code were not included in the regulatory analysis because these hours are outside the scope of this rulemaking. This rulemaking addresses the issuance of a Polar Ship Certificate, not compliance with substantive safety and environmental provisions or surveys to evaluate compliance with those provisions.

In our NPRM we used an estimate of 40 hours, which we obtained from a classification society and which includes administrative review, stamping the documents, and data input. The commenter, who also represents a classification society, gives a minimum time of 8 to 12 hours for these tasks. We have retained the more conservative 40-hour estimate.

The other hours the commenter discusses, 120 to 230 hours to complete approval work for new construction, risk assessments, and surveys, represent compliance aspects of the safety and environmental provisions of the Polar Code. Again, these compliance aspects are beyond the scope of this rulemaking.

Entry into Force of the SOLAS Polar Code Requirement for Certification

One commenter stated that the language we used in the NPRM implied that all U.S.-flagged vessels subject to the Polar Code will be required to carry a Polar Ship Certificate by January 1, 2017.

The January 1, 2017 date applies to vessels built on or after that date. Vessels built before that date need not comply until after January 1, 2018. Implementation for existing vessels is based on the first renewal or intermediate survey conducted after January 1, 2018. (*See* SOLAS chapter XIV, Reg. 2.2.) For the purposes of the Polar Code, the Cargo Ship Safety Construction or Passenger Ship Safety Certificate is typically the survey used to determine the implementation date for vessels built before January 1, 2017.

We have made no changes from the proposed regulatory text. The regulatory text in this final rule is the same as we proposed in the NPRM.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on these statutes or Executive orders.

A. Regulatory Planning and Review

Executive Orders 12866 (Regulatory Planning and Review) and 13563 (Improving Regulation and Regulatory Review) direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. Executive Order 13771 (Reducing Regulation and Controlling Regulatory Costs) directs agencies to reduce regulation and control regulatory costs and provides that ''for every one new regulation issued, at least two prior regulations be identified for elimination, and that the cost of planned regulations be prudently managed and controlled through a budgeting process.''

The Office of Management and Budget (OMB) has not designated this final rule a significant regulatory action under section 3(f) of Executive Order 12866. Accordingly, OMB has not reviewed it. Because this rule is not a significant regulatory action, this rule is exempt from the requirements of Executive Order 13771. See the OMB Memorandum titled *Guidance Implementing Executive Order 13771, Titled* ''*Reducing Regulation and Controlling Regulatory Costs*'' (April 5, 2017).

Our regulatory analysis (RA) follows.

We only received one comment on our estimates in the regulatory analysis of the proposed rule. That comment related to the number of hours used for the creation and issuance of the certificate. However, the commenter also mentioned some hour burdens that are not associated with the creation, review, and issuance of the Polar Ship certificate, and are beyond the scope of this rulemaking.

In preamble section IV, Discussion of Comments and Changes, we discuss this public comment regarding our estimate of the time it takes a recognized classification society to create a polar certificate—which includes reviewing, printing, stamping of the documents, and data input—and explain why we retained a more conservative estimate used in the NPRM as our primary estimate based on industry input. And as reflected in that discussion, we adopt the costs and benefits in the regulatory analysis of the proposed rule for this final rule.

This final rule adds a new Polar Ship Certificate to the list of existing SOLAS certificates that SOLAS requires to be carried on board all U.S. and foreign-flagged vessels above 500 GT ITC (the International Convention on Tonnage Measurement of Ships 1969 or gross tonnage assigned under this system) [2] or passenger ships carrying more than 12 passengers on international voyages operating in polar waters, generally above 60 degrees north latitude and below 60 degrees south latitude lines. The IMO adopted the Polar Code in 2014 and 2015 to acknowledge that polar waters impose additional operating demands and risks.[3] The United States is signatory to the SOLAS convention and has an obligation to ensure that all U.S.-flagged vessels certified in accordance with SOLAS chapter I that engage on international voyages carry a Polar Ship Certificate when operating in polar waters. Owners and operators of foreign-flagged vessels subject to SOLAS will have their Polar Ship Certificates issued by the ship's flag state or a person or an organization authorized by that flag state to issue the certificate.

This rule amends 46 CFR part 2, ''Vessel Inspections,'' subpart 2.01, ''Inspecting and Certificating of Vessels.'' Specifically, we are adding the Polar Ship Certificate to § 2.01–6, ''Certificates issued to foreign vessels,'' and § 2.01–25, ''International Convention for Safety of Life at Sea.''

[2] This 500 GT ITC threshold comes from an exception in SOLAS Chapter 1 for ships that need to be certified in accordance with that chapter. Regulation 3 of Chapter I has an exception for cargo ships of less than 500 GT ITC.

[3] *See* Resolution MSC.385(94) and paragraph 7 of the Polar Code preamble in MSC.385(94)'s appendix. This resolution is available in the docket.

This rule also amends 46 CFR part 8, ''Vessel Inspection Alternatives,'' subpart C, ''International Convention Certificate Issuance,'' § 8.320, ''Classification Society Authorization to Issue International Certificates,'' at paragraph (b) to include the Polar Ship Certificate as one of the certificates that the Coast Guard may authorize a recognized classification society to issue on behalf of the Coast Guard.

Affected Population

Since the Coast Guard published the NPRM, two vessels in our original population of 41 have been re-flagged and are no longer U.S.-flagged vessels, and one vessel is no longer in service. In addition, this rule does not apply to domestic vessels that operate in polar waters if these vessels do not engage in international voyages. This was not distinguished in the analysis for the NPRM. Based on this factor and further analysis, the population of affected vessels is now estimated to be 23. This is the number of U.S.-flagged vessels that make international voyages in polar waters, which are generally above and below the 60 degree north and 60 degree south latitudes lines, respectively, over the past 5 years. This estimate is based on Coast Guard field data and Coast Guard databases such as the Marine Information for Safety and Law Enforcement, the Ship Arrival Notification System, and data from the Navigation Data Center.

Of the 23 U.S.-flagged vessels that have transited polar waters during the 5-year period, some entered polar waters in the first year and not the following year, but returned in subsequent years. The opposite is also true; some vessels that did not transit polar waters in the first year of the data period did so in the following years of the data period.

Recognized classification societies granted authority from the Coast Guard under provisions of 46 CFR 8.320(a) will issue the Polar Ship Certificate on behalf of the Coast Guard for U.S.-flagged vessels that are classed. Although multiple classification societies could request authorization to issue the Polar Ship Certificate on behalf of the Coast Guard, for the purpose of this analysis, the Coast Guard assumes that only one classification society will do so for the small number of classed U.S.-flagged vessels.

Cost Analysis

Classification Societies Cost

This rule amends 46 CFR 8.320(b) to enable recognized classification societies to request authorization under § 8.240(b), to issue the Polar Ship Certificate on behalf of the Coast Guard. As reflected in 46 CFR 2.01–25, vessels that are not classed can apply to the local Coast Guard Officer in Charge, Marine Inspection (OCMI) to request the Coast Guard to issue the Polar Ship Certificate.

There are two cost elements associated with a classification society issuing a Polar Ship Certificate: The cost to review and return a signed copy of the Memorandum of Agreement (MOA) between the recognized classification society and the Coast Guard, and the cost to create the certificate once the MOA is approved by each party. As stated in 46 CFR 8.320(c), the Coast Guard will enter into an agreement with the classification society to issue international convention certificates such as the Polar Ship Certificate. In this situation, the MOA represents a delegation letter and is a standard document that allows a recognized classification society to issue the Polar Ship Certificate on behalf of the Coast Guard.

Based on Coast Guard data from the Office of Design and Engineering Standards, we estimate it will take a recognized classification society's classification and documentation specialist 1 hour to review the MOA. There is no equivalent labor category in the Bureau of Labor Statistics' (BLS) Occupational Employment Statistics National Industry-Specific Occupational Employment and Wage Estimates for May 2016, so we used the ''Business Operations Specialist, All Other'' (Occupation Code 13–1199) category for Water Transportation with a North American Industry Classification System (NAICS) Code of 483000 as a representative occupation. The mean hourly wage rate for this occupation is $37.55. Because this is an unloaded hourly wage rate, we added a load factor to obtain a loaded hourly wage rate. We used BLS' May 2016 Employer Cost for Employee Compensation databases to calculate and apply a load factor of 1.52 to obtain a loaded hourly labor rate of about $57.08 for this occupation.[4] We also estimate it will take a recognized classification society attorney 1 hour to review the MOA for legal sufficiency. Using the BLS' Occupational Employment Statistics National Occupational Employment and Wage Estimates for May 2016, we used the category ''Lawyers'' (Occupation Code 23–1011). The mean hourly wage for this occupation is $67.25. Because this is an unloaded hourly wage rate, we apply the same load factor of 1.52 as derived above to obtain a loaded hourly wage rate of about $102.22.

We estimate the one-time cost for the classification society to review the MOA to be about $162.30, undiscounted. This cost includes a $3 postage cost to mail the signed MOA to the Coast Guard for approval and signature [($57.08 × 1 hour) + ($102.22 × 1 hour) + $3 for postage].

Based on a recognized classification society estimate, it will take approximately 40 hours to create and review the Polar Ship Certificate once the MOA is approved. We received a lower estimate of 8-to-12 hours from a commenter for work related to this task, but we are maintaining our more conservative 40-hour estimate we obtained from an industry source to specifically address hours needed to create and review the Polar Ship Certificate once the MOA is approved. As with the MOA, a classification and documentation specialist would create the certificate. We again used the ''Business Operations Specialist, All Other'' as a representative occupation. We estimate the one-time labor cost for a documentation specialist to create the certificate to be about $2,283.20 (40 hours[5] × $57.08/hour), undiscounted. Because the certificate is presented to a vessel owner or operator during the normal course of a vessel survey, we did not estimate a cost for this action.

We estimate the total undiscounted cost of the rule to a recognized classification society to be about $2,445.50 ($2,283.20 document development cost + $162.30 MOA review cost). See Table 1.

[4] Information can be viewed at *https://www.bls.gov/oes/2016/may/naics3_483000.htm.* Once on this page scroll down to review the wage rate for 13–1199 Business Operations Specialists, All Other, with a mean hourly wage of $37.55. Please see *https://www.bls.gov/oes/2016/may/oes231011.htm,* for the mean hourly wage rate for a lawyer. A loaded labor rate is what a company pays per hour to employ a person, not the hourly wage. The loaded labor rate includes the cost of benefits (health insurance, vacation, etc.). The load factor for wages is calculated by dividing total compensation by wages and salaries. For this analysis, we used BLS' Employer Cost for Employee Compensation/Transportation and Materials Moving Occupations, Private Industry Report (Series IDs, CMU2010000520000D and CMU2020000520000D for all workers using the multi-screen data search). Using 2016 Q4 data for the cost of compensation and cost per hour worked, we divide the total compensation amount of $28.15 by the wage and salary amount of $18.53 to obtain the load factor of about 1.52, rounded. *See* the following Web sites, *https://beta.bls.gov/dataQuery/find?fq=survey:[oe]&s=popularity:D* and *https://data.bls.gov/cgi-bin/dsrv?cm* Multiplying 1.52 by $37.55, we obtain a loaded hourly wage rate of about $57.08.

[5] Based on an estimate provided by a recognized classification society to the U.S. Coast Guard.

Vessel Cost

There are two cost elements associated with vessel owners and operators: The fee a recognized classification society will charge a vessel owner or operator for issuing the certificate for U.S.-classed vessels only, and the cost associated with a crewmember posting the certificate onboard a vessel. Based on Coast Guard vessel data, approximately 22 percent, or about 5 out of the 23 U.S.-flagged vessels, are not classed by a recognized classification society.

The requirement for the 23 existing ships is to have the certificate by their first renewal or intermediate exam after January 1, 2018. This is a phased-in approach that will likely phase in the issuing of the certificates over a period of about 3 years. Therefore, the Coast Guard would issue the Polar Ship Certificate to vessel owners and operators of those 5 unclassed vessels as part of its routine inspection regime. A recognized classification society will issue the Polar Ship Certificate to the remaining 18 vessel owners and operators in the first, second, third, sixth, seventh, and eighth year of the analysis period.

The Polar Ship Certificate is valid for a 5-year period and, after this time, the recognized classification society and the Coast Guard will issue a new Polar Ship Certificate to vessel owners and operators, depending upon whether a vessel is classed or not classed. Based on information from a recognized classification society, the cost to issue a Polar Ship Certificate is $100 if a recognized classification society issues the certificate (for 18 classed, U.S.-flagged vessels). The cost of the reissued Polar Ship Certificate is also $100; therefore, it will cost each U.S.-classed vessel owner and operator $100 after 5 years to renew the certificate, or in the sixth, seventh, and eighth year of the analysis period. We assume a 3-year phase-in period for owners and operators to obtain the certificates. For the purpose of this analysis, we assume 7 U.S.-flagged vessels owners and operators (6 classed and 1 unclassed) will obtain a certificate in the first year and 8 (6 classed and 2 unclassed) U.S.-flagged vessel owners and operators will obtain one in the second and third years. For reissuance, again, we assume the same 7 vessel owners and operators will obtain a certificate in the sixth year and the same 8 vessel owners and operators will obtain one in the seventh and eighth years each; we divided the population accordingly to obtain even values.

Vessel owners and operators will be required to post the certificate in a conspicuous area onboard the vessel with other applicable operating certificates. Based on the Office of Management and Budget's (OMB) approved collection of information entitled ''Various International Agreement Safety Certificates,'' (OMB control number 1625–0017), a crewmember equivalent to a U.S. Coast Guard cadet will post the Polar Ship Certificate on board a vessel. Using the Coast Guard's Commandant Instruction 7310.1R for loaded hourly wages outside of the Government, the hourly wage rate of a person outside of the Government equivalent to a cadet is $29.00. We estimate it takes a crewmember about 6 minutes, or 0.1 hours, to post the Polar Ship Certificate at a labor cost of about $2.90 per vessel ($29.00 × 0.1 hours). To post the Polar Ship Certificate, we estimate the total initial cost of the final rule to 7 U.S.-flagged vessel owners and operators to be about $20.30 (6 U.S. classed and 1 unclassed vessel × 0.1 hours × $29.00), regardless of whether a recognized classification society or the Coast Guard issues the Polar Ship Certificate. Owners and operators of U.S.-flagged vessels will incur this cost again in the sixth year because a crewmember will review and post the reissued certificate for the same seven vessels.

We estimate the initial cost of the rule to vessel owners and operators to be about $620.30 in the first year [(6 classed vessels × $100) + (6 classed vessels × $2.90 to post the certificate) + 1 unclassed vessel × $2.90 to post the certificate)].[6] The cost for the renewed certificate in the sixth year (or 5 years after the initial year) will also be $620.30 for these seven vessels. In the second, third, seventh, and eighth years, we estimate the cost for eight U.S.-flagged vessel owners and operators to obtain and post a Polar Ship Certificate to be about $623.20 [(6 classed vessels × $100) + (6 classed vessels × $2.90 to post the certificate) + (2 unclassed vessels in each of these years × $2.90 each year to post the certificate)]. See Table 1.

We estimate the total 10-year undiscounted cost to be $3,733.40 for all 23 U.S.-flagged vessel owners and operators ($620.30 in the first and sixth year + $623.20 in the second, third, seventh, and eighth years of the analysis period). Table 1 shows the cost to both class society and vessel owners and operators for this rule.

TABLE 1—SUMMARY OF CLASSIFICATION SOCIETY AND VESSEL OWNERS AND OPERATORS COSTS

[Undiscounted]

Cost item	Unit cost	Labor rate	Hours	Total cost
Classification Society Certificate Creation.	.....	$57.08	40	$2,283.20 (incurred in year 1).
Classification Society Review of MOA.	.....	$102.22 (Attorney)	1	$162.30 (incurred in year 1 and includes $3 postage).
		$57.08 (Business Operations Specialist).	1	
Certificate Fee Charged to Vessel Owners and Operators.	$100	.....	.....	$600 (incurred in years 1 through 3 and 6 through 8); $1,800 for 18 classed vessels in years 1 through 3 and 6 through 8.
Vessel Crewmember Reviews and Posts Certificate.	.....	$27	0.1	$2.90 (incurred in years 1 through 3 and 6 through 8); $20.30 in years 1 and 6 and $23.20 in years 2, 3, 7, and 8.

[6] Vessel owners and operators for ships built on or after January 1, 2017, have been required to carry the Polar Ship Certificate before engaging in international voyages in polar waters. We have not identified any vessels that would be affected by this rule that were built after this date and we do not have data to project how many newly built vessels will be affected or required to carry a Polar Ship Certificate in the future.

TABLE 1—SUMMARY OF CLASSIFICATION SOCIETY AND VESSEL OWNERS AND OPERATORS COSTS—Continued

[Undiscounted]

Cost item	Unit cost	Labor rate	Hours	Total cost
Total Undiscounted Cost (Initial year).	.....	.....	.....	$3,065.80

We estimate the initial undiscounted cost of the final rule to a recognized classification society and to 7 (6 classed and 1 unclassed vessels) U.S.-flagged vessel owners and operators to be about $3,065.80 ($2,283.20 for the classification society to create the certificate + $162.30 for the classification society to review the MOA + $600 fee charged by a classification society to issue the certificate to the 6 classed vessel owners and operators + $20.30 for crewmembers of the seven classed and unclassed vessels to post the certificate). We estimate the total 10-year undiscounted cost of the rule to industry to be about $6,178.90 ($3,065.80 in the first year + $623.20 in the second, third, seventh, and, eighth years + $620.30 in the sixth year). See Table 2.

We estimate the 10-year present value—or discounted cost—of the rule to industry to be between $5,082.42 and $5,652.42 at 7- and 3-percent discount rates, respectively. We estimate the annualized cost to be between $723.62 and $662.64 at 7- and 3- percent discount rates, respectively. See Table 2.

TABLE 2—TOTAL COSTS OF THE RULE TO INDUSTRY

[10-Year period of analysis, 7 and 3 percent discount rates, 2017 dollars]

Period	Cost (undiscounted)	7%	3%
1	$3,065.80	$2,865.23	$2,976.50
2	623.20	544.33	587.43
3	623.20	508.72	570.32
4	.....	.....	.....
5	.....	.....	.....
6	620.30	413.33	519.49
7	623.20	388.10	506.72
8	623.20	362.71	491.96
9	.....	.....	.....
10	.....	.....	.....
Total	6178.90	5,082.42	5,652.42
Annualized	.....	723.62	662.64

Note: Totals may not sum due to independent rounding.

Government Costs

There are three cost elements associated with this rule for the Coast Guard: (1) A one-time cost of creating the Polar Ship Certificate and issuing it (in the initial year, second, third, sixth, seventh, and eighth years) to a vessel owner or operator if a vessel is not classed by a class society; (2) reviewing the certificate onboard a vessel as part of the Coast Guard's routine inspection regime; and (3) a one-time cost of creating and sending the delegation letter or MOA to a classification society for signature.

For the 5 U.S.-flagged vessels that are not classed by a recognized classification society, the Coast Guard will issue the Polar Ship Certificate in the first through the third years and the sixth through the eighth years. Because of the phase-in period, we divided the 5 vessels evenly over 3 years. We determined that 1 vessel will receive its certificate in the first and sixth years, and 2 vessels will receive it in the second, third, seventh, and eighth year, with certificate reissuance occurring during the sixth, seventh, and eighth years. The two vessels in the second and third years are the same two vessels in the seventh and eighth years.

Based on information from the Coast Guard's Office of Vessel Compliance, we estimate it takes Coast Guard personnel with the average equivalence of a GS–15 about 40 hours to create and review a Polar Ship Certificate. Using the Commandant Instruction 7310.1R, we used an average loaded hourly wage rate of $116.00. We estimate the one-time cost for the Coast Guard to create the Polar Ship Certificate to be about $4,640.00 (40 hours × $116.00 hour).

Based on an OMB-approved collection of information (Control Number 1625–0017), we estimate it takes a Coast Guard Officer the Officer in Charge Marine Inspection (OCMI), or more specifically, a Lieutenant with the rank of an O–3, about 30 minutes, or 0.5 hours per vessel, to review the Polar Ship Certificate for validity and correctness (the Coast Guard issues and reviews the certificate at the same time during its normal inspection regime). Using the Coast Guard's Commandant Instruction 7310.1R for loaded hourly wages, an O–3 has a loaded hourly wage rate of $79.00. Therefore, we estimate the total undiscounted cost to the Government to review the Polar Ship Certificate for all 23 affected vessels to be about $908.50 ($79.00× 23 vessels × 0.5 hours), or about $39.50 per vessel.

We use the same methodology noted earlier in this preamble with owners and operators obtaining certificates over a 3-year period (7 in the first and sixth year and 8 in the second, third, seventh and eighth year), with the sixth, seventh and eighth years being the renewal years. Again, 7 inspections (6 classed and 1 unclassed) will take place in the first and sixth year, and 8 (6 classed and 2 unclassed) in the second, third, seventh, and eighth year. We estimate the first year cost to the Government to review the certificate will be about $276.50 (6 classed and 1 unclassed vessels × $39.50). The Government will incur this cost again in the sixth year when the certificate is reissued. In years

two, three, seven, and eight, the Government will incur a certificate review cost of about $316.00 (6 classed and 2 unclassed vessels × $39.50) in each of these years.

The Coast Guard will also examine the certificates of foreign-flagged vessels that enter U.S. ports in polar waters as part of its routine Port State Control vessel boardings. This will take place during routine Coast Guard examinations and for issuing certificates of compliance and is a part of the inspection process. Therefore, we do not estimate a cost to the Government.

This final rule will also enable a recognized classification society to issue the Polar Ship Certificate on behalf of the Coast Guard. As a result, the Coast Guard and a recognized classification society will enter into an MOA that delegates authority to the classification society. This sets forth guidelines for cooperation between the Coast Guard and a classification society with respect to initial and subsequent inspections for certifications and periodic re-inspections or examinations of vessels of the United States, as defined by 46 U.S.C. 116.

Based on information from the Coast Guard's Office of Design and Engineering Standards, Coast Guard personnel with the average equivalence of a GS–15 will prepare the MOA for delivery to a classification society. Again, we used an average loaded hourly labor rate of $116.00 for a GS–15. We estimate it will take Government personnel about 6.25 hours to prepare and review the MOA. We estimate it will cost about $3 in postage for the Government to send the MOA to the classification society.

We estimate the total cost incurred by the Government for the MOA to be about $725.00 plus $3 for postage, or a total cost of $728.00, undiscounted (6.25 hours × $116.00 for the loaded labor rate).

We estimate the total initial cost to the Government to be about $5,644.50 ($4,640 to create and review the certificate, $276.50 to review the certificates for 6 classed and 1 unclassed U.S.-flagged vessels, and $728.00 for the MOA). We estimate the total 10-year undiscounted cost to the Government to be about $7,185.00 ($5,644.50 in the initial year + $316.00 in the second, third, seventh and eighth years + $276.50 in the sixth year). We estimate the 10-year present value, or discounted cost of the rule to the Government, to be between $6374.14 and $6,805.10, using 7- and 3- percent discount rates, respectively. We estimate the annualized cost to be between $907.53 and $797.76, using 7- and 3-percent discount rates, respectively. See Table 3.

TABLE 3—TOTAL COSTS OF THE RULE TO THE GOVERNMENT

[10-Year period of analysis, 7 and 3 percent discount rates, 2017 dollars]

Period	Cost (undiscounted)	7%	3%
1	$5644.50	$5,275.23	$5,480.10
2	316.00	276.01	297.86
3	316.00	257.95	289.18
4	.....	.....	.....
5	.....	.....	.....
6	276.50	184.24	231.56
7	316.00	196.79	256.94
8	316.00	183.91	249.45
9	.....	.....	.....
10	.....	.....	.....
Total	7,185.00	6,374.14	6,805.10
Annualized	.....	907.53	797.76

Note: Totals may not sum due to independent rounding.

Total Cost of the Rule to Industry and Government

We estimate the total 10-year combined undiscounted cost of the rule to industry and the Government to be about $13,364. We estimate the 10-year present value, or discounted cost of the rule to industry and the Government, to be between $11,457 and $12,458 at 7- and 3-percent discount rates, respectively. We estimate the annualized cost to be between $1,631 and $1,460 using the same discount rates. See Table 4.

TABLE 4—SUMMARY OF COSTS OF THE RULE TO INDUSTRY AND GOVERNMENT

[10-Year period of analysis, 2017 dollars]

Type of cost	Industry	Government	Total cost	Annualized
Undiscounted	$6,178.90	$7,185.00	$13,363.90	.....
7%	5,082.42	6,374.14	11,456.55	1,631.16
3%	5,652.42	6,805.10	12,457.51	1,460.40

Benefits

The primary benefit of this rule is to ensure that vessel owners and operators have a valid Polar Ship Certificate on board the vessel. Without a Polar Ship Certificate, a vessel will be subject to deficiencies, detention, denial of entry, or expulsion from the polar waters of other port States. Adherence to SOLAS will ensure vessels are capable of operating in the hazards and adverse weather conditions unique to polar waters.

Alternatives

When creating this rule, the Coast Guard considered several alternatives. The previous analysis represents the preferred alternative, which will help ensure that the United States fulfills its treaty obligations under SOLAS

regarding the Polar Ship Certificate, and that U.S.-flagged vessel owners and operators that operate vessels in polar waters will be able to obtain Polar Ship Certificates and thus operate more efficiently by avoiding the risk of potential negative actions against their vessel by foreign countries (such as, detentions, deficiencies, denial of entry, or expulsions) if their vessel does not have a Polar Ship Certificate on board.

Alternative 1: Preferred Alternative

The analysis for this alternative appears in this, ''Regulatory Analysis,'' section of this preamble.

Alternative 2: No Action Alternative

In this alternative, the United States would take no action to issue a Polar Ship Certificate. None of the costs itemized in the preferred alternative would be incurred, as a result. However, with this alternative, the United States would not be compliant with its international legal obligations as a signatory Government to the SOLAS Convention. Additionally, the lack of appropriate certifications would likely negatively impact U.S.-flagged vessels on international voyages in polar waters of other port States. U.S.-flagged vessels could potentially be subject to deficiencies, detentions, denial of entry, or expulsion from the polar waters of other port states due to the lack of proper certificates.

Because the United States would not meet its international treaty obligations in this alternative, the Coast Guard rejects this alternative.

Alternative 3: Large Scale Regulatory Implementation of the Polar Code

In this alternative, the Coast Guard would implement the entire Polar Code in one regulatory effort. This would create or modify regulations throughout 46 and 33 CFR. The affected vessels, operators, and the Government will also incur the costs and impacts of the implementation of the entire Polar Code from a single regulatory effort.

The Coast Guard rejected this alternative because it would considerably delay the issuance of the certificate beyond the January 1, 2017 effective date of the Polar Code. As stated previously, U.S.-flagged vessels could potentially be subject to deficiencies, detentions, denial of entry, or expulsion from the polar waters of other port states due to the lack of proper certificates.

By moving forward with Alternative 1, U.S.-flagged vessel owners and operators will be able to obtain a Polar Ship Certificate much sooner and thus operate more efficiently in polar waters of foreign nations by avoiding adverse consequences from not having the certificate on board.

B. Small Entities

Under the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612, we have considered whether this rule will have a significant economic impact on a substantial number of small entities. 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. In accordance with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), the Coast Guard prepared this threshold analysis that examines the impacts of the rule on small entities.

Based on our analysis of the entities affected by this rule, all of the 23 affected U.S.-flagged vessels are owned by U.S. entities. To determine which entities are small, we compiled the data used in this analysis from publicly available and proprietary sources such as Manta, ReferenceUSAGov, and Cortera, and from the affected entities' Web sites. We used available owner's business information to identify the entities' primary line of business as coded by the NAICS to find employee and revenue size information. We used this information to determine whether we should consider a business ''small'' by comparing it to the Small Business Administration's (SBA) ''Table of Small Business Size Standards Matched to North American Industry Classification System Codes.'' In some cases, SBA classifies businesses on a standard either based on the number of employees or annual revenues.[7] We found that no small government jurisdictions or non-profits own any of the U.S.-flagged vessels affected by this rule.

We found that 12 companies own the 23 vessels that will be affected by this final rule. Of the 12 different companies, we found only one to be a small entity, or about 8 percent, based on SBA's table of small business size standards. The one small entity that we found has a primary NAICS code of 483111, or ''Deep Sea Freight Transportation.''

We estimate the initial cost to each classed vessel owner and operator (small and not small) to be about $102.90 [$600/6 classed U.S.-flagged vessel owners and operators that have their vessels classed by a class society + $17.40 (6 classed vessels × $2.90)/6 (cost for crewmembers of 6 classed U.S.-flagged vessel owners and operators to post the certificate divided by the number of U.S.-classed vessel owners and operators. Again, in the sixth year, these 6 classed U.S.-flagged vessel owners and operators will incur this cost)]. In the second and third years, the remaining 12 (6 each year) classed U.S.-flagged vessel owners and operators will incur this same cost, and again in the renewal years of seven and eight. The 5 U.S.-flagged vessel owners who own unclassed vessels will only incur a cost of $2.90 per vessel in the each of the years described above. These vessel owners and operators will incur the same cost in the first (one vessel) through third years (two vessels in the second and third year each) and sixth (the same vessel as in the first year) through eighth years (the same two vessels as in the second and third year in the seventh and eighth year each) of the analysis period. See Table 5.

TABLE 5—SUMMARY OF COSTS PER VESSEL THROUGHOUT THE 10-YEAR PERIOD OF ANALYSIS

Period	Classed U.S.-flagged Vessels	Unclassed U.S.-flagged Vessels
Initial and Sixth Year	6	1.
Years 2, 3, 7, and 8	6 (each year)	2 (each year).
Cost	$102.90 (each year per vessel)	$2.90 (each year per vessel).

Note: As described in the text, years six, seven, and eight are renewal years. The one unclassed U.S.-flagged vessel that received a certificate in the first year is the same vessel in the sixth year. The two unclassed U.S.- flagged vessels that receive a certificate in years two and three are the same ones in years seven and eight. The same rationale applies to classed U.S.-flagged vessels.

[7] Readers can access small entity information online at *http://www.sba.gov/size/indextableofsize.html.*

Based on the databases that we searched, the only small entity that we found in our analysis did not have revenue information, but had employee information. This vessel owned by the small entity is a classed vessel, which means the owner of this vessel will incur a cost of $102.90 in the initial year and again in the sixth year of the analysis period when the reissuance of the certificate takes place. We believe the estimated impact on the affected entity is not a significant economic impact.

Based on the preceding analysis and noting that the NPRM received no public comments suggesting this rule would be a significant economic impact on small entities, 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.

C. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104–121, we want to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule will 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 of this rule. 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.

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).

D. Collection of Information

The Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520) requires that the Coast Guard consider the impact of paperwork and other information collection burdens imposed on the public. According to the 1995 amendments to the Paperwork Reduction Act, an agency may not collect or sponsor the collection of information, nor may it impose an information collection requirement unless it displays a currently valid OMB control number.

This action amends the existing information collection requirements that were previously approved under OMB Control Number 1625–0017.

As defined in 5 CFR 1320.3(c), ''collection of information'' comprises reporting, recordkeeping, monitoring, posting, labeling, and other similar actions. The title and description of the information collections, a description of those who must collect the information, and an estimate of the total annual burden follow. The estimate covers the time for reviewing instructions, searching existing sources of data, gathering and maintaining the data needed, and completing and reviewing the collection.

The summary of revised 1625–0017 collection follows:

Title: Various International Agreement Safety Certificates.

OMB Control Number: 1625–0017.

Summary of the Collection of Information: These Coast Guard-issued certificates are used as evidence of compliance with SOLAS by certain U.S.-flagged vessels on international voyages. Without the proper certificates or documents, a U.S. vessel could be detained in a foreign port. SOLAS applies to all mechanically propelled cargo and tank vessels of 500 or more GT ITC, and to all mechanically propelled passenger vessels carrying more than 12 passengers that engage in international voyages. By IMO's definition, an ''international voyage'' means a voyage from a country to which the Convention applies to a port outside the country, or vice versa.

SOLAS currently requires one or more of the following certificates to be carried on onboard certain passenger and cargo ships engaged in international voyages (46 CFR 2.01–25):

(1) Passenger Ship Safety Certificate and Record.

(2) Cargo Ship Safety Construction Certificate.

(3) Cargo Ship Safety Equipment Certificate and Record.

(4) Cargo Ship Safety Radio Certificate (issued by Federal Communications Commission (FCC)).

(5) Nuclear Passenger Ship Safety Certificate.

(6) Nuclear Cargo Ship Safety Certificate.

(7) Safety Management Certificate.

(8) International Ship Security Certificate.

(9) High-Speed Craft Safety Certificate.

The Coast Guard is adding the Polar Ship Certificate to the list of certificates that it can issue.

Need for Information: In 2014 and 2015, in resolutions MSC.385(94) and MEPC.264(68), IMO adopted the Polar Code. The Polar Code raises the safety standards for commercial ships operating in or transiting through polar waters, both Arctic and Antarctic, and enhances environmental protection for polar waters that include coastal communities in the U.S. Arctic. As a signatory to SOLAS, the United States has a treaty obligation to ensure compliance with SOLAS requirements.

All mechanically propelled passenger vessels carrying more than 12 passengers that engage in international voyages and all mechanically propelled cargo vessels of more than 500 GT ITC that engage in international voyages and operate within polar waters as defined by the Polar Code will be required to have the Polar Ship Certificate. The Polar Ship Certificate is valid for 5 years.

The purpose of this rulemaking is to ensure that U.S. marine inspectors can issue certificates required by SOLAS Polar Code provisions and that these certificates are being carried on all covered vessels. Additionally, this rulemaking will add the Polar Ship Certificate to the list of certificates that classification societies can issue on behalf of the Coast Guard in consideration of hazards and conditions unique to polar waters and a potential increase in traffic in Arctic and Antarctic waters. These additional hazards include navigation in ice and low temperatures, high latitude communications and navigation, remoteness from response resources, and limited hydrographic charting.

We calculate the hour burden on an annual basis to review and post the Polar Ship Certificate, which takes into account the reissuance of the certificate every fifth year. The estimated burden is 1/10 of an hour or 6 minutes. About 5 vessels (23 total vessels/5 years) annually equates to 30 minutes or 0.5 hours for the hour burden. Equivalently, 7 classed and unclassed U.S.-flagged vessels (6 classed and 1 unclassed) × 6 minutes in the first and sixth years + 8 classed and unclassed U.S.-flagged vessels (6 classed and 2 unclassed) × 6 minutes in the second, third, seventh and eighth year for a total of 276 minutes divided by 46 vessels (7 in the first and sixth years and 8 in the second, third, seventh, and eighth year of the analysis period). Because vessel owners and operators will have 3 years to obtain a certificate, we divided the population essentially into thirds, with 7 in the first and sixth years and 8 in the second, third, and seventh and eighth years.

Proposed Use of Information: The Polar Ship Certificate attests that the vessel has met applicable requirements of SOLAS to the satisfaction of the U.S. Government. Without the certificate, U.S.-flagged vessels could be detained in foreign ports as being unsafe.

Description of the Respondents: Respondents are the owner, agent, Master, operator, or person in charge of a U.S.-flagged vessel that transits in polar waters while engaged in an international voyage.

Number of Respondents: The existing OMB-approved number of respondents is 413. This rule will not change the number of respondents because the vessel population that will be affected is a subset of the existing number of respondents; this rule is not adding new respondents to this collection.

Frequency of Response: The existing OMB-approved number of responses is 912. This rule will increase the number of responses by about 8 annually (23 vessels/3-year renewal period) to 920.

Burden of Response: The existing OMB-approved burden of response is 6 minutes, or 0.1 hours, or the time it takes for a crewmember of a vessel to post the Polar Ship Certificate onboard the vessel.

Estimate of Total Annual Burden: The existing OMB-approved total annual burden is 94.4 hours. Due to rounding, this rule will increase the burden hours annually by one hour. The estimated total annual burden will be 95 hours annually.

As required by 44 U.S.C. 3507(d), we will submit a copy of this rule to OMB for its review of the collection of information.

You need not respond to a collection of information unless it displays a currently valid control number from OMB. Before the Coast Guard can enforce the collection of information requirements in this rule, OMB will have to approve the Coast Guard's request to collect this information.

E. Federalism

A rule has implications for federalism under Executive Order 13132 (''Federalism'') if it has a substantial direct effect on 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 Executive Order 13132 and have determined that it is consistent with the fundamental federalism principles and preemption requirements as described in Executive Order 13132. Our analysis follows.

It is well settled that States may not regulate in categories reserved for regulation by the Coast Guard. It is also well settled that Coast Guard regulations regarding vessel design, construction, alteration, repair, maintenance, operation, equipping, personnel qualification, and manning issued under the authority of 46 U.S.C. 3306, 3703, 7101, and 8101 are within fields foreclosed from regulation by the States. *See United States* v. *Locke,* 529 U.S. 89, 90 (2000) (stating ''Congress has left no room for state regulation of these matters.''). This rule adds the Polar Ship Certificate to the list of certificates required, if applicable, by SOLAS. Also, this rule adds this certificate to the list of SOLAS certificates that the Coast Guard may authorize recognized classification societies to issue on behalf of the Coast Guard. The issuance of international certificates is within the sole purview of the Coast Guard to regulate pursuant to 46 U.S.C. 3306, 3703, 7101, and 8101; 33 U.S.C. 1230 and 1231, Executive Order 12234; and the principles discussed in *Locke.* Thus, the regulations are consistent with the principles for federalism and preemption requirements in Executive Order 13132.

F. 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.

G. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630 (''Governmental Actions and Interference with Constitutionally Protected Property Rights'').

H. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, (''Civil Justice Reform''), to minimize litigation, eliminate ambiguity, and reduce burden.

I. Protection of Children

We analyzed this rule under Executive Order 13045 (''Protection of Children from Environmental Health Risks and Safety Risks''). This rule is not an economically significant rule and will not create an environmental risk to health or risk to safety that might disproportionately affect children.

J. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175 (''Consultation and Coordination with Indian Tribal Governments''), because it will 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.

K. Energy Effects

We have analyzed this rule under Executive Order 13211 (''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use''). We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

L. Technical Standards

The National Technology Transfer and Advancement Act, codified as a note to 15 U.S.C. 272, directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through OMB, with an explanation of why using these standards will be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (for example, specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

M. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD (COMDTINST M16475.1D), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and concluded that this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. A Record of Environmental Consideration

supporting this determination is available in the docket where indicated under the **ADDRESSES** section of this preamble.

This rule involves: (1) Adding a Polar Ship Certificate to the list of certificates required, if applicable, by SOLAS; and (2) adding the Polar Ship Certificate to the list of SOLAS certificates that the Coast Guard is allowed to authorize recognized classification societies to issue on behalf of the Coast Guard. This action constitutes editorial or procedural changes concerning vessel documentation requirements (that is, issuance of Polar Ship Certificates) and the delegation of authority for issuing such certificates. Thus, as reflected in the Record of Environmental Consideration, this rule is categorically excluded under chapter 2, Section B, Paragraph 2 Categorical Exclusions (CEs) and Figure 2–1 (Coast Guard Categorical Exclusions), paragraphs (34)(a), (b), and (d) of COMDTINST M16475.1D. This rule promotes the Coast Guard's maritime safety and environmental protection missions.

List of Subjects

46 CFR Part 2

Marine Safety, Reporting and recordkeeping requirements, Vessels.

46 CFR Part 8

Administrative practice and procedure, Organization and functions (Government agencies), Reporting and recordkeeping requirements, Vessels.

For the reasons discussed in the preamble, the Coast Guard amends 46 CFR parts 2 and 8 as follows:

Title 46—Shipping

PART 2—VESSEL INSPECTIONS

■ 1. The authority citation for 46 CFR part 2 is revised to read as follows:

Authority: Sec. 622, Pub. L. 111–281; 33 U.S.C. 1231, 1903; 43 U.S.C. 1333; 46 U.S.C. 2103, 2110, 3306, 3703; Department of Homeland Security Delegation No. 0170.1(II)(77), (90), (92)(a), (92)(b); E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277, sec. 1–105.

§ 2.01–6 [Amended]

■ 2. In § 2.01–6(a)(1), after the words ''passengers in U.S. ports'' and before the words ''holds a valid'', remove the word ''and''; and after the text ''Passenger Ship Safety Certificate'', add the text '', and, if applicable, holds a valid Polar Ship Certificate''.

■ 3. Amend § 2.01–25 by adding paragraphs (a)(1)(x) and (a)(2)(x) to read as follows:

§ 2.01–25 International Convention for Safety of Life at Sea, 1974.

(a) * * *

(1) * * *

(x) Polar Ship Certificate.

(2) * * *

(x) Polar Ship Certificate.

* * * * *

PART 8—VESSEL INSPECTION ALTERNATIVES

■ 4. The authority citation for 46 CFR part 8 is revised to read as follows:

Authority: 33 U.S.C. 1231, 1903, 1904, 3803 and 3821; 46 U.S.C. 3103, 3306, 3316, and 3703; Department of Homeland Security Delegation No. 0170.1 and Aug. 8, 2011 Delegation of Authority, Anti-Fouling Systems.

■ 5. Amend § 8.320 as follows:

■ a. In paragraph (b)(13), remove the word ''and'';

■ b. In paragraph (b)(14), remove the period at the end of the paragraph and add, in its place, ''; and''; and

■ c. Add paragraph (b)(15).

The addition reads as follows:

§ 8.320 Classification society authorization to issue international certificates.

* * * * *

(b) * * *

(15) Polar Ship Certificate.

* * * * *

Dated: September 18, 2017.

J.G. Lantz,

Director, Commercial Regulations and Standards, U.S. Coast Guard.

[FR Doc. 2017–20155 Filed 9–20–17; 8:45 am]

BILLING CODE 9110–04–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[WC Docket No. 16–106; FCC 16–148]

Protecting the Privacy of Customers of Broadband and Other Telecommunications Services

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Under the Congressional Review Act, Congress has passed, and the President has signed, Public Law 115–22, a resolution of disapproval of the rule that the Federal Communications Commission (FCC) submitted pursuant to such Act relating to ''Protecting the Privacy of Customers of Broadband and Other Telecommunications Services.'' By operation of the Congressional Review Act, the rule submitted by the FCC shall be treated as if it had never taken effect. However, because the Congressional Review Act does not direct the Office of the Federal Register to remove the voided regulatory text and reissue the pre-existing regulatory text, the FCC issues this document to effect the removal of any amendments, deletions, or other modifications made by the nullified rule, and the reversion to the text of the regulations in effect immediately prior to the effect date of the Report and Order relating to ''Protecting the Privacy of Customers of Broadband and Other Telecommunications Services.''

DATES: This action is effective September 21, 2017.

FOR FURTHER INFORMATION CONTACT: For further information about this proceeding, please contact Melissa Kirkel, FCC Wireline Competition Bureau, Competition Policy Division, 445 12th St. SW., Washington, DC 20554, (202) 418–1580.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, adopted on October 27, 2016 in WC Docket No. 16–106, FCC 16–148, which amended the rules under 47 CFR part 64, subpart U. It published a summary of the Report and Order on December 2, 2016 (81 FR 87274), and thereafter submitted it to Congress pursuant to the Congressional Review Act, 5 U.S.C. 801(a)(1)(A). On March 23, 2017, the Senate passed a resolution of disapproval (S.J. Res. 34) of the Report and Order under the Congressional Review Act. The House of Representatives then passed S.J. Res. 34 on March 28, 2017. President Trump signed the resolution into law as Public Law 115–22 on April 3, 2017. Therefore, under the terms of the Congressional Review Act, the Report and Order shall be ''treated as though such a rule had never taken effect.'' 5 U.S.C. 801(f).

However, because the CRA does not include direction regarding the removal, by the Office of the Federal Register or otherwise, of the voided language from the Code of Federal Regulations, the FCC must publish this document to effect the removal of the voided text. This document will enable the Office of the Federal Register to effectuate congressional intent to remove the voided text of the rules adopted in the Report and Order as if it had never taken effect, and to restore the previous language in 47 CFR part 64, subpart U and prior state of the Code of Federal Regulations.

This action is not an exercise of the FCC's rulemaking authority under the Administrative Procedure Act, because

the Commission is not ''formulating, amending, or repealing a rule'' under 5 U.S.C. 551(5). Rather, the FCC is effectuating changes to the Code of Federal Regulations to reflect what congressional action has already accomplished—namely, the nullification of any changes purported to have been made to the CFR by the Report and Order and the reversion to the regulatory text in effect immediately prior to adoption of the Report and Order. Accordingly, the FCC is not soliciting comments on this action. Moreover, this action is not a final agency action subject to judicial review.

List of Subjects in 47 CFR Part 64

Claims, Communications common carriers, Computer technology, Credit, Foreign relations, Individuals with disabilities, Political candidates, Radio, Reporting and recordkeeping requirements, Telecommunications, Telegraph, Telephone.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

Final Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 64 as follows:

PART 64—MISCELLANEOUS RULES RELATING TO COMMON CARRIERS

■ 1. The authority citation for part 64 is revised to read as follows:

Authority: 47 U.S.C. 154, 254(k), 403(b)(2)(B), (c), Pub. L. 104–104, 110 Stat. 56. Interpret or apply 47 U.S.C. 201, 218, 222, 225, 226, 227, 228, 254(k), 276, 616, 620, and the Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. 112–96, unless otherwise noted.

■ 2. In part 64, revise subpart U to read as follows:

Subpart U—Customer Proprietary Network Information

Sec.

Subpart U—Customer Proprietary Network Information

§ 64.2001 Basis and purpose.

(a) *Basis.* The rules in this subpart are issued pursuant to the Communications Act of 1934, as amended.

(b) *Purpose.* The purpose of the rules in this subpart is to implement section 222 of the Communications Act of 1934, as amended, 47 U.S.C. 222.

§ 64.2003 Definitions.

(a) *Account information.* ''Account information'' is information that is specifically connected to the customer's service relationship with the carrier, including such things as an account number or any component thereof, the telephone number associated with the account, or the bill's amount.

(b) *Address of record.* An ''address of record,'' whether postal or electronic, is an address that the carrier has associated with the customer's account for at least 30 days.

(c) *Affiliate.* The term ''affiliate'' has the same meaning given such term in section 3(1) of the Communications Act of 1934, as amended, 47 U.S.C. 153(1).

(d) *Call detail information.* Any information that pertains to the transmission of specific telephone calls, including, for outbound calls, the number called, and the time, location, or duration of any call and, for inbound calls, the number from which the call was placed, and the time, location, or duration of any call.

(e) *Communications-related services.* The term ''communications-related services'' means telecommunications services, information services typically provided by telecommunications carriers, and services related to the provision or maintenance of customer premises equipment.

(f) *Customer.* A customer of a telecommunications carrier is a person or entity to which the telecommunications carrier is currently providing service.

(g) *Customer proprietary network information (CPNI).* The term ''customer proprietary network information (CPNI)'' has the same meaning given to such term in section 222(h)(1) of the Communications Act of 1934, as amended, 47 U.S.C. 222(h)(1).

(h) *Customer premises equipment (CPE).* The term ''customer premises equipment (CPE)'' has the same meaning given to such term in section 3(14) of the Communications Act of 1934, as amended, 47 U.S.C. 153(14).

(i) *Information services typically provided by telecommunications carriers.* The phrase ''information services typically provided by telecommunications carriers'' means only those information services (as defined in section 3(20) of the Communication Act of 1934, as amended, 47 U.S.C. 153(20)) that are typically provided by telecommunications carriers, such as Internet access or voice mail services. Such phrase ''information services typically provided by telecommunications carriers,'' as used in this subpart, shall not include retail consumer services provided using Internet Web sites (such as travel reservation services or mortgage lending services), whether or not such services may otherwise be considered to be information services.

(j) *Local exchange carrier (LEC).* The term ''local exchange carrier (LEC)'' has the same meaning given to such term in section 3(26) of the Communications Act of 1934, as amended, 47 U.S.C. 153(26).

(k) *Opt-in approval.* The term ''opt-in approval'' refers to a method for obtaining customer consent to use, disclose, or permit access to the customer's CPNI. This approval method requires that the carrier obtain from the customer affirmative, express consent allowing the requested CPNI usage, disclosure, or access after the customer is provided appropriate notification of the carrier's request consistent with the requirements set forth in this subpart.

(l) *Opt-out approval.* The term ''opt-out approval'' refers to a method for obtaining customer consent to use, disclose, or permit access to the customer's CPNI. Under this approval method, a customer is deemed to have consented to the use, disclosure, or access to the customer's CPNI if the customer has failed to object thereto within the waiting period described in § 64.2008(d)(1) after the customer is provided appropriate notification of the carrier's request for consent consistent with the rules in this subpart.

(m) *Readily available biographical information.* ''Readily available biographical information'' is information drawn from the customer's life history and includes such things as the customer's social security number, or the last four digits of that number; mother's maiden name; home address; or date of birth.

(n) *Subscriber list information (SLI).* The term ''subscriber list information (SLI)'' has the same meaning given to such term in section 222(h)(3) of the Communications Act of 1934, as amended, 47 U.S.C. 222(h)(3).

(o) *Telecommunications carrier or carrier.* The terms ''telecommunications carrier'' or ''carrier'' shall have the same meaning as set forth in section 3(44) of

the Communications Act of 1934, as amended, 47 U.S.C. 153(44). For the purposes of this subpart, the term ''telecommunications carrier'' or ''carrier'' shall include an entity that provides interconnected VoIP service, as that term is defined in section 9.3 of these rules.

(p) *Telecommunications service.* The term ''telecommunications service'' has the same meaning given to such term in section 3(46) of the Communications Act of 1934, as amended, 47 U.S.C. 153(46).

(q) *Telephone number of record.* The telephone number associated with the underlying service, not the telephone number supplied as a customer's ''contact information.''

(r) *Valid photo ID.* A ''valid photo ID'' is a government-issued means of personal identification with a photograph such as a driver's license, passport, or comparable ID that is not expired.

§ 64.2005 Use of customer proprietary network information without customer approval.

(a) Any telecommunications carrier may use, disclose, or permit access to CPNI for the purpose of providing or marketing service offerings among the categories of service (*i.e.,* local, interexchange, and CMRS) to which the customer already subscribes from the same carrier, without customer approval.

(1) If a telecommunications carrier provides different categories of service, and a customer subscribes to more than one category of service offered by the carrier, the carrier is permitted to share CPNI among the carrier's affiliated entities that provide a service offering to the customer.

(2) If a telecommunications carrier provides different categories of service, but a customer does not subscribe to more than one offering by the carrier, the carrier is not permitted to share CPNI with its affiliates, except as provided in § 64.2007(b).

(b) A telecommunications carrier may not use, disclose, or permit access to CPNI to market to a customer service offerings that are within a category of service to which the subscriber does not already subscribe from that carrier, unless that carrier has customer approval to do so, except as described in paragraph (c) of this section.

(1) A wireless provider may use, disclose, or permit access to CPNI derived from its provision of CMRS, without customer approval, for the provision of CPE and information service(s). A wireline carrier may use, disclose or permit access to CPNI derived from its provision of local exchange service or interexchange service, without customer approval, for the provision of CPE and call answering, voice mail or messaging, voice storage and retrieval services, fax store and forward, and protocol conversion.

(2) A telecommunications carrier may not use, disclose or permit access to CPNI to identify or track customers that call competing service providers. For example, a local exchange carrier may not use local service CPNI to track all customers that call local service competitors.

(c) A telecommunications carrier may use, disclose, or permit access to CPNI, without customer approval, as described in this paragraph (c).

(1) A telecommunications carrier may use, disclose, or permit access to CPNI, without customer approval, in its provision of inside wiring installation, maintenance, and repair services.

(2) CMRS providers may use, disclose, or permit access to CPNI for the purpose of conducting research on the health effects of CMRS.

(3) LECs, CMRS providers, and entities that provide interconnected VoIP service as that term is defined in § 9.3 of this chapter, may use CPNI, without customer approval, to market services formerly known as adjunct-to-basic services, such as, but not limited to, speed dialing, computer-provided directory assistance, call monitoring, call tracing, call blocking, call return, repeat dialing, call tracking, call waiting, caller I.D., call forwarding, and certain centrex features.

(d) A telecommunications carrier may use, disclose, or permit access to CPNI to protect the rights or property of the carrier, or to protect users of those services and other carriers from fraudulent, abusive, or unlawful use of, or subscription to, such services.

§ 64.2007 Approval required for use of customer proprietary network information.

(a) A telecommunications carrier may obtain approval through written, oral or electronic methods.

(1) A telecommunications carrier relying on oral approval shall bear the burden of demonstrating that such approval has been given in compliance with the Commission's rules in this part.

(2) Approval or disapproval to use, disclose, or permit access to a customer's CPNI obtained by a telecommunications carrier must remain in effect until the customer revokes or limits such approval or disapproval.

(3) A telecommunications carrier must maintain records of approval, whether oral, written or electronic, for at least one year.

(b) *Use of opt-out and opt-in approval processes.* A telecommunications carrier may, subject to opt-out approval or opt-in approval, use its customer's individually identifiable CPNI for the purpose of marketing communications-related services to that customer. A telecommunications carrier may, subject to opt-out approval or opt-in approval, disclose its customer's individually identifiable CPNI, for the purpose of marketing communications-related services to that customer, to its agents and its affiliates that provide communications-related services. A telecommunications carrier may also permit such persons or entities to obtain access to such CPNI for such purposes. Except for use and disclosure of CPNI that is permitted without customer approval under § 64.2005, or that is described in this paragraph, or as otherwise provided in section 222 of the Communications Act of 1934, as amended, a telecommunications carrier may only use, disclose, or permit access to its customer's individually identifiable CPNI subject to opt-in approval.

§ 64.2008 Notice required for use of customer proprietary network information.

(a) *Notification, generally.* (1) Prior to any solicitation for customer approval, a telecommunications carrier must provide notification to the customer of the customer's right to restrict use of, disclosure of, and access to that customer's CPNI.

(2) A telecommunications carrier must maintain records of notification, whether oral, written or electronic, for at least one year.

(b) Individual notice to customers must be provided when soliciting approval to use, disclose, or permit access to customers' CPNI.

(c) *Content of notice.* Customer notification must provide sufficient information to enable the customer to make an informed decision as to whether to permit a carrier to use, disclose, or permit access to, the customer's CPNI.

(1) The notification must state that the customer has a right, and the carrier has a duty, under federal law, to protect the confidentiality of CPNI.

(2) The notification must specify the types of information that constitute CPNI and the specific entities that will receive the CPNI, describe the purposes for which CPNI will be used, and inform the customer of his or her right to disapprove those uses, and deny or withdraw access to CPNI at any time.

(3) The notification must advise the customer of the precise steps the customer must take in order to grant or deny access to CPNI, and must clearly state that a denial of approval will not affect the provision of any services to which the customer subscribes. However, carriers may provide a brief statement, in clear and neutral language, describing consequences directly resulting from the lack of access to CPNI.

(4) The notification must be comprehensible and must not be misleading.

(5) If written notification is provided, the notice must be clearly legible, use sufficiently large type, and be placed in an area so as to be readily apparent to a customer.

(6) If any portion of a notification is translated into another language, then all portions of the notification must be translated into that language.

(7) A carrier may state in the notification that the customer's approval to use CPNI may enhance the carrier's ability to offer products and services tailored to the customer's needs. A carrier also may state in the notification that it may be compelled to disclose CPNI to any person upon affirmative written request by the customer.

(8) A carrier may not include in the notification any statement attempting to encourage a customer to freeze third-party access to CPNI.

(9) The notification must state that any approval, or denial of approval for the use of CPNI outside of the service to which the customer already subscribes from that carrier is valid until the customer affirmatively revokes or limits such approval or denial.

(10) A telecommunications carrier's solicitation for approval must be proximate to the notification of a customer's CPNI rights.

(d) *Notice requirements specific to opt-out.* A telecommunications carrier must provide notification to obtain opt out approval through electronic or written methods, but not by oral communication (except as provided in paragraph (f) of this section). The contents of any such notification must comply with the requirements of paragraph (c) of this section.

(1) Carriers must wait a 30-day minimum period of time after giving customers notice and an opportunity to opt-out before assuming customer approval to use, disclose, or permit access to CPNI. A carrier may, in its discretion, provide for a longer period. Carriers must notify customers as to the applicable waiting period for a response before approval is assumed.

(i) In the case of an electronic form of notification, the waiting period shall begin to run from the date on which the notification was sent; and

(ii) In the case of notification by mail, the waiting period shall begin to run on the third day following the date that the notification was mailed.

(2) Carriers using the opt-out mechanism must provide notices to their customers every two years.

(3) Telecommunications carriers that use email to provide opt-out notices must comply with the following requirements in addition to the requirements generally applicable to notification:

(i) Carriers must obtain express, verifiable, prior approval from consumers to send notices via email regarding their service in general, or CPNI in particular;

(ii) Carriers must allow customers to reply directly to emails containing CPNI notices in order to opt-out;

(iii) Opt-out email notices that are returned to the carrier as undeliverable must be sent to the customer in another form before carriers may consider the customer to have received notice;

(iv) Carriers that use email to send CPNI notices must ensure that the subject line of the message clearly and accurately identifies the subject matter of the email; and

(v) Telecommunications carriers must make available to every customer a method to opt-out that is of no additional cost to the customer and that is available 24 hours a day, seven days a week. Carriers may satisfy this requirement through a combination of methods, so long as all customers have the ability to opt-out at no cost and are able to effectuate that choice whenever they choose.

(e) *Notice requirements specific to opt-in.* A telecommunications carrier may provide notification to obtain opt-in approval through oral, written, or electronic methods. The contents of any such notification must comply with the requirements of paragraph (c) of this section.

(f) *Notice requirements specific to one-time use of CPNI.* (1) Carriers may use oral notice to obtain limited, one-time use of CPNI for inbound and outbound customer telephone contacts for the duration of the call, regardless of whether carriers use opt-out or opt-in approval based on the nature of the contact.

(2) The contents of any such notification must comply with the requirements of paragraph (c) of this section, except that telecommunications carriers may omit any of the following notice provisions if not relevant to the limited use for which the carrier seeks CPNI:

(i) Carriers need not advise customers that if they have opted-out previously, no action is needed to maintain the opt-out election;

(ii) Carriers need not advise customers that they may share CPNI with their affiliates or third parties and need not name those entities, if the limited CPNI usage will not result in use by, or disclosure to, an affiliate or third party;

(iii) Carriers need not disclose the means by which a customer can deny or withdraw future access to CPNI, so long as carriers explain to customers that the scope of the approval the carrier seeks is limited to one-time use; and

(iv) Carriers may omit disclosure of the precise steps a customer must take in order to grant or deny access to CPNI, as long as the carrier clearly communicates that the customer can deny access to his CPNI for the call.

§ 64.2009 Safeguards required for use of customer proprietary network information.

(a) Telecommunications carriers must implement a system by which the status of a customer's CPNI approval can be clearly established prior to the use of CPNI.

(b) Telecommunications carriers must train their personnel as to when they are and are not authorized to use CPNI, and carriers must have an express disciplinary process in place.

(c) All carriers shall maintain a record, electronically or in some other manner, of their own and their affiliates' sales and marketing campaigns that use their customers' CPNI. All carriers shall maintain a record of all instances where CPNI was disclosed or provided to third parties, or where third parties were allowed access to CPNI. The record must include a description of each campaign, the specific CPNI that was used in the campaign, and what products and services were offered as a part of the campaign. Carriers shall retain the record for a minimum of one year.

(d) Telecommunications carriers must establish a supervisory review process regarding carrier compliance with the rules in this subpart for outbound marketing situations and maintain records of carrier compliance for a minimum period of one year. Specifically, sales personnel must obtain supervisory approval of any proposed outbound marketing request for customer approval.

(e) A telecommunications carrier must have an officer, as an agent of the carrier, sign and file with the Commission a compliance certificate on an annual basis. The officer must state

in the certification that he or she has personal knowledge that the company has established operating procedures that are adequate to ensure compliance with the rules in this subpart. The carrier must provide a statement accompanying the certificate explaining how its operating procedures ensure that it is or is not in compliance with the rules in this subpart. In addition, the carrier must include an explanation of any actions taken against data brokers and a summary of all customer complaints received in the past year concerning the unauthorized release of CPNI. This filing must be made annually with the Enforcement Bureau on or before March 1 in EB Docket No. 06–36, for data pertaining to the previous calendar year.

(f) Carriers must provide written notice within five business days to the Commission of any instance where the opt-out mechanisms do not work properly, to such a degree that consumers' inability to opt-out is more than an anomaly.

(1) The notice shall be in the form of a letter, and shall include the carrier's name, a description of the opt-out mechanism(s) used, the problem(s) experienced, the remedy proposed and when it will be/was implemented, whether the relevant state commission(s) has been notified and whether it has taken any action, a copy of the notice provided to customers, and contact information.

(2) Such notice must be submitted even if the carrier offers other methods by which consumers may opt-out.

§ 64.2010 Safeguards on the disclosure of customer proprietary network information.

(a) *Safeguarding CPNI.* Telecommunications carriers must take reasonable measures to discover and protect against attempts to gain unauthorized access to CPNI. Telecommunications carriers must properly authenticate a customer prior to disclosing CPNI based on customer-initiated telephone contact, online account access, or an in-store visit.

(b) *Telephone access to CPNI.* Telecommunications carriers may only disclose call detail information over the telephone, based on customer-initiated telephone contact, if the customer first provides the carrier with a password, as described in paragraph (e) of this section, that is not prompted by the carrier asking for readily available biographical information, or account information. If the customer does not provide a password, the telecommunications carrier may only disclose call detail information by sending it to the customer's address of record, or by calling the customer at the telephone number of record. If the customer is able to provide call detail information to the telecommunications carrier during a customer-initiated call without the telecommunications carrier's assistance, then the telecommunications carrier is permitted to discuss the call detail information provided by the customer.

(c) *Online access to CPNI.* A telecommunications carrier must authenticate a customer without the use of readily available biographical information, or account information, prior to allowing the customer online access to CPNI related to a telecommunications service account. Once authenticated, the customer may only obtain online access to CPNI related to a telecommunications service account through a password, as described in paragraph (e) of this section, that is not prompted by the carrier asking for readily available biographical information, or account information.

(d) *In-store access to CPNI.* A telecommunications carrier may disclose CPNI to a customer who, at a carrier's retail location, first presents to the telecommunications carrier or its agent a valid photo ID matching the customer's account information.

(e) *Establishment of a password and back-up authentication methods for lost or forgotten passwords.* To establish a password, a telecommunications carrier must authenticate the customer without the use of readily available biographical information, or account information. Telecommunications carriers may create a back-up customer authentication method in the event of a lost or forgotten password, but such back-up customer authentication method may not prompt the customer for readily available biographical information, or account information. If a customer cannot provide the correct password or the correct response for the back-up customer authentication method, the customer must establish a new password as described in this paragraph.

(f) *Notification of account changes.* Telecommunications carriers must notify customers immediately whenever a password, customer response to a back-up means of authentication for lost or forgotten passwords, online account, or address of record is created or changed. This notification is not required when the customer initiates service, including the selection of a password at service initiation. This notification may be through a carrier-originated voicemail or text message to the telephone number of record, or by mail to the address of record, and must not reveal the changed information or be sent to the new account information.

(g) *Business customer exemption.* Telecommunications carriers may bind themselves contractually to authentication regimes other than those described in this section for services they provide to their business customers that have both a dedicated account representative and a contract that specifically addresses the carriers' protection of CPNI.

§ 64.2011 Notification of customer proprietary network information security breaches.

(a) A telecommunications carrier shall notify law enforcement of a breach of its customers' CPNI as provided in this section. The carrier shall not notify its customers or disclose the breach publicly, whether voluntarily or under state or local law or these rules, until it has completed the process of notifying law enforcement pursuant to paragraph (b) of this section.

(b) As soon as practicable, and in no event later than seven (7) business days, after reasonable determination of the breach, the telecommunications carrier shall electronically notify the United States Secret Service (USSS) and the Federal Bureau of Investigation (FBI) through a central reporting facility. The Commission will maintain a link to the reporting facility at *http://www.fcc.gov/eb/cpni.*

(1) Notwithstanding any state law to the contrary, the carrier shall not notify customers or disclose the breach to the public until 7 full business days have passed after notification to the USSS and the FBI except as provided in paragraphs (b)(2) and (b)(3) of this section.

(2) If the carrier believes that there is an extraordinarily urgent need to notify any class of affected customers sooner than otherwise allowed under paragraph (b)(1) of this section, in order to avoid immediate and irreparable harm, it shall so indicate in its notification and may proceed to immediately notify its affected customers only after consultation with the relevant investigating agency. The carrier shall cooperate with the relevant investigating agency's request to minimize any adverse effects of such customer notification.

(3) If the relevant investigating agency determines that public disclosure or notice to customers would impede or compromise an ongoing or potential criminal investigation or national security, such agency may direct the carrier not to so disclose or notify for an initial period of up to 30 days. Such

period may be extended by the agency as reasonably necessary in the judgment of the agency. If such direction is given, the agency shall notify the carrier when it appears that public disclosure or notice to affected customers will no longer impede or compromise a criminal investigation or national security. The agency shall provide in writing its initial direction to the carrier, any subsequent extension, and any notification that notice will no longer impede or compromise a criminal investigation or national security and such writings shall be contemporaneously logged on the same reporting facility that contains records of notifications filed by carriers.

(c) *Customer notification.* After a telecommunications carrier has completed the process of notifying law enforcement pursuant to paragraph (b) of this section, it shall notify its customers of a breach of those customers' CPNI.

(d) *Recordkeeping.* All carriers shall maintain a record, electronically or in some other manner, of any breaches discovered, notifications made to the USSS and the FBI pursuant to paragraph (b) of this section, and notifications made to customers. The record must include, if available, dates of discovery and notification, a detailed description of the CPNI that was the subject of the breach, and the circumstances of the breach. Carriers shall retain the record for a minimum of 2 years.

(e) *Definitions.* As used in this section, a ''breach'' has occurred when a person, without authorization or exceeding authorization, has intentionally gained access to, used, or disclosed CPNI.

(f) This section does not supersede any statute, regulation, order, or interpretation in any State, except to the extent that such statute, regulation, order, or interpretation is inconsistent with the provisions of this section, and then only to the extent of the inconsistency.

[FR Doc. 2017–20137 Filed 9–20–17; 8:45 am]

BILLING CODE 6712–01–P

Proposed Rules

Federal Register
Vol. 82, No. 182
Thursday, September 21, 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 HOMELAND SECURITY

Office of the Secretary

6 CFR Part 5

[Docket No. DHS 2017–0026]

Privacy Act of 1974: Implementation of Exemptions; Department of Homeland Security (DHS)/U.S. Customs and Border Protection (CBP)-024 CBP Intelligence Records System (CIRS) System of Records

AGENCY: Department of Homeland Security, Privacy Office.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Department of Homeland Security is giving concurrent notice of a newly established system of records pursuant to the Privacy Act of 1974 for the ''Department of Homeland Security (DHS)/U.S. Customs and Border Protection (CBP)-024 CBP Intelligence Records System (CIRS) System of Records'' and this proposed rulemaking. In this proposed rulemaking, the Department proposes to exempt portions of the system of records from one or more provisions of the Privacy Act because of criminal, civil, and administrative enforcement requirements.

DATES: Comments must be received on or before October 23, 2017.

ADDRESSES: You may submit comments, identified by docket number DHS 2017–0026, by one of the following methods:

- *Federal e-Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–343–4010.
- *Mail:* Jonathan R. Cantor, Acting Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, DC 20528.

Instructions: All submissions received must include the agency name and docket number for this notice. All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: For general questions please contact: Debra L. Danisek (202) 344–1610, Privacy Officer, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW., Washington, DC 20229. For privacy issues please contact: Jonathan R. Cantor, (202) 343–1717, Acting Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, DC 20528.

SUPPLEMENTARY INFORMATION:

I. Background

In accordance with the Privacy Act of 1974, 5 U.S.C. 552a, the Department of Homeland Security (DHS)/U.S. Customs and Border Protection (CBP) proposes to concurrently establish a new DHS system of records titled, ''DHS/CBP–024 CBP Intelligence Records System (CIRS) System of Records'' and this notice of proposed rulemaking to exempt portions of the system of records from one or more provisions of the Privacy Act because of criminal, civil, and administrative enforcement requirements.

The CIRS system of records is owned by CBP's Office of Intelligence (OI). CIRS contains information collected by CBP to support CBP's law enforcement intelligence mission. This information includes raw intelligence information collected by CBP's OI, public source information, and information initially collected by CBP pursuant to its immigration and customs authorities. This information is analyzed and incorporated into intelligence products. CBP currently uses the Analytical Framework for Intelligence (AFI) and the Intelligence Reporting System (IRS) information technology (IT) systems to facilitate the development of finished intelligence products. These products are disseminated to various stakeholders including CBP executive management, CBP operational units, various government agencies, and the Intelligence Community. Information collected by CBP for an intelligence purpose that is not covered by an existing DHS System of Records Notice (SORN) and is not incorporated into a finished intelligence product is retained and disseminated in accordance with this SORN. Finished intelligence products, and the information contained in those products, regardless of the original source system of that information, are also retained and disseminated in accordance with this SORN.

CIRS is the exclusive CBP SORN for finished intelligence products and any raw intelligence information, public source information, or other information collected by CBP for an intelligence purpose that is not subject to an existing DHS SORN. CIRS records were previously covered by CBP's Automated Targeting System SORN, DHS/CBP–006, 77 FR 30297 (May 22, 2012), and CBP's Analytical Framework for Intelligence System SORN, DHS/CBP–017, 77 FR 13813 (June 7, 2012). As part of the intelligence process, CBP investigators and analysts must review large amounts of data to identify and understand relationships between individuals, entities, threats, and events to generate law enforcement intelligence products that provide CBP operational units with actionable information for law enforcement purposes.

DHS is claiming exemptions from certain requirements of the Privacy Act for DHS/CBP–024 CBP Intelligence Records System (CIRS) System of Records. Some information in CIRS relates to official DHS national security, law enforcement, immigration, and intelligence activities. These exemptions are needed to protect information relating to DHS activities from disclosure to subjects or others related to these activities. Specifically, the exemptions are required to preclude subjects of these activities from frustrating these processes; to avoid disclosure of activity techniques; to protect the identities and physical safety of confidential informants and law enforcement personnel; to ensure DHS retains the ability to obtain information from third parties and other sources; and to protect the privacy of third parties. Disclosure of information to the subject of the inquiry could also permit the subject to avoid detection or apprehension.

In appropriate circumstances, when compliance would not appear to interfere with or adversely affect the law enforcement purposes of this system and the overall law enforcement

process, the applicable exemptions may be waived on a case by case basis.

A notice of system of records for DHS/CBP–024 CIRS System of Records is also published in this issue of the **Federal Register**.

II. Privacy Act

The Privacy Act embodies fair information practice principles in a statutory framework governing the means by which Federal Government agencies collect, maintain, use, and disseminate individuals' records. The Privacy Act applies to information that is maintained in a ''system of records.'' A ''system of records'' is a group of any records under the control of an agency from which information is retrieved by the name of an individual or by some identifying number, symbol, or other identifying particular assigned to the individual. In the Privacy Act, an individual is defined to encompass U.S. citizens and lawful permanent residents. Additionally, and similarly, the Judicial Redress Act (JRA) provides a statutory right to covered persons to make requests for access and amendment to covered records, as defined by the JRA, along with judicial review for denials of such requests. In addition, the JRA prohibits disclosures of covered records, except as otherwise permitted by the Privacy Act.

The Privacy Act allows government agencies to exempt certain records from the access and amendment provisions. If an agency claims an exemption, however, it must issue a Notice of Proposed Rulemaking to make clear to the public the reasons why a particular exemption is claimed.

List of Subjects in 6 CFR Part 5

Freedom of information; Privacy.

For the reasons stated in the preamble, DHS proposes to amend chapter I of title 6, Code of Federal Regulations, as follows:

PART 5—DISCLOSURE OF RECORDS AND INFORMATION

■ 1. The authority citation for part 5 continues to read as follows:

Authority: 6 U.S.C. 101 *et seq.;* Pub. L. 107–296, 116 Stat. 2135; 5 U.S.C. 301. Subpart A also issued under 5 U.S.C. 552. Subpart B also issued under 5 U.S.C. 552a.

■ 2. In appendix C to part 5, add paragraph 78:

Appendix C to Part 5—DHS Systems of Records Exempt From the Privacy Act

* * * * *

78. The DHS/CBP–024 CBP Intelligence Records System (CIRS) System of Records consists of electronic and paper records and will be used by DHS and its components. The CIRS is a repository of information held by DHS in connection with its several and varied missions and functions, including, but not limited to the enforcement of civil and criminal laws; investigations, inquiries, and proceedings there under; and national security and intelligence activities. The CIRS contains information that is collected by, on behalf of, in support of, or in cooperation with DHS and its components and may contain personally identifiable information collected by other Federal, state, local, tribal, foreign, or international government agencies. The Secretary of Homeland Security, pursuant to 5 U.S.C. 552a(j)(2), has exempted this system from the following provisions of the Privacy Act: 5 U.S.C. 552a(c)(3) and (4); (d); (e)(1), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(4)(I), (e)(5), and (e)(8); (f); and (g). Additionally, the Secretary of Homeland Security, pursuant to 5 U.S.C. 552a(k)(1) and (k)(2), has exempted this system from the following provisions of the Privacy Act, 5 U.S.C. 552a(c)(3); (d); (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I), and (f). When this system receives a record from another system exempted in that source system under 5 U.S.C. 552a(k)(1), (k)(2), or (j)(2), DHS will claim the same exemptions for those records that are claimed for the original primary systems of records from which they originated and claims any additional exemptions set forth here. Exemptions from these particular subsections are justified, on a case by case basis to be determined at the time a request is made, for the following reasons:

(a) From subsection (c)(3) and (4) (Accounting for Disclosures) because release of the accounting of disclosures could alert the subject of an investigation of an actual or potential criminal, civil, or regulatory violation to the existence of that investigation and reveal investigative interest on the part of DHS as well as the recipient agency. Disclosure of the accounting would therefore present a serious impediment to law enforcement efforts and/or efforts to preserve national security. Disclosure of the accounting would also permit the individual who is the subject of a record to impede the investigation, to tamper with witnesses or evidence, and to avoid detection or apprehension, which would undermine the entire investigative process.

(b) From subsection (d) (Access and Amendment to Records) because access to the records contained in this system of records could inform the subject of an investigation of an actual or potential criminal, civil, or regulatory violation to the existence of that investigation and reveal investigative interest on the part of DHS or another agency. Access to the records could permit the individual who is the subject of a record to impede the investigation, to tamper with witnesses or evidence, and to avoid detection or apprehension. Amendment of the records could interfere with ongoing investigations and law enforcement activities and would impose an unreasonable administrative burden by requiring investigations to be continually reinvestigated. In addition, permitting access and amendment to such information could disclose security-sensitive information that could be detrimental to homeland security.

(c) From subsection (e)(1) (Relevancy and Necessity of Information) because in the course of investigations into potential violations of Federal law, the accuracy of information obtained or introduced occasionally may be unclear, or the information may not be strictly relevant or necessary to a specific investigation. In the interests of effective law enforcement, it is appropriate to retain all information that may aid in establishing patterns of unlawful activity.

(d) From subsection (e)(2) (Collection of Information from Individuals) because requiring that information be collected from the subject of an investigation would alert the subject to the nature or existence of the investigation, thereby interfering with that investigation and related law enforcement activities.

(e) From subsection (e)(3) (Notice to Subjects) because providing such detailed information could impede law enforcement by compromising the existence of a confidential investigation or reveal the identity of witnesses or confidential informants.

(f) From subsections (e)(4)(G), (e)(4)(H), and (e)(4)(I) (Agency Requirements) and (f) (Agency Rules) because portions of this system are exempt from the individual access and amendment provisions of subsection (d) for the reasons noted above, and therefore DHS is not required to establish requirements, rules, or procedures with respect to such access. Providing notice to individuals with respect to existence of records pertaining to them in the system of records or otherwise setting up procedures pursuant to which individuals may access, amend, and view records pertaining to themselves in the system would undermine investigative efforts and reveal the identities of witnesses, and potential witnesses, and confidential informants.

(g) From subsection (e)(5) (Collection of Information) because with the collection of information for law enforcement purposes, it is impossible to determine in advance what information is accurate, relevant, timely, and complete. Compliance with subsection (e)(5) would preclude DHS agents from using their investigative training and exercise of good judgment to both conduct and report on investigations.

(h) From subsection (e)(8) (Notice on Individuals) because compliance would interfere with DHS's ability to obtain, serve, and issue subpoenas, warrants, and other law enforcement mechanisms that may be filed under seal and could result in disclosure of investigative techniques, procedures, and evidence.

(i) From subsection (g) to the extent that the system is exempt from other specific subsections of the Privacy Act relating to individuals' rights to access and amend their records contained in the system. Therefore DHS is not required to establish rules or procedures pursuant to which individuals may seek a civil remedy for the agency's: Refusal to amend a record; refusal to comply with a request for access to records; failure to maintain accurate, relevant timely and

complete records; or failure to otherwise comply with an individual's right to access or amend records.

Jonathan R. Cantor

Acting Chief Privacy Officer, Department of Homeland Security.

[FR Doc. 2017–19717 Filed 9–20–17; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 21

[Docket No. FAA–2017–0851]

Airworthiness Criteria: Glider Design Criteria for DG Flugzeugbau GmbH Model DG–1000M Glider

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed design criteria.

SUMMARY: This notice announces the availability of and requests comments on the proposed design criteria for the DG Flugzeugbau GmbH model DG–1000M glider. The Administrator finds the proposed design criteria, which make up the certification basis for the DG–1000M glider, acceptable. These final design criteria will be published in the **Federal Register**.

DATES: Comments must be received on or before October 23, 2017.

ADDRESSES: Send comments identified by docket number FAA–2017–0851 using any of the following methods:

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

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

Docket: Background documents or comments received may be read at *http://www.regulations.gov* at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m., and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Jim Rutherford, AIR–692, Federal Aviation Administration, Policy & Innovation Division, Small Airplane Standards Branch, 901 Locust, Room 301, Kansas City, MO 64106, telephone (816) 329–4165, facsimile (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite interested people to take part in this rulemaking by sending written comments, data, or views. The most helpful comments reference a specific portion of the design criteria, explain the reason for any recommended change, and include supporting data. We ask that you send us two copies of written comments.

We will consider all comments received on or before the closing date for comments. We will consider comments filed late if it is possible to do so without incurring expense or delay. We may change these airworthiness design criteria based on received comments.

Background

On May 18, 2011, DG Flugzeugbau GmbH submitted an application for type validation of the DG–1000M glider in accordance with the Technical Implementation Procedures for Airworthiness and Environmental Certification Between the FAA and the European Aviation Safety Agency (EASA), dated May 05, 2011. This model is a variant of the DG–1000T powered glider and will be added to existing Type Certificate No. G20CE. The model DG–1000M is a two-seat, mid-wing, self-launching, powered glider with a retractable engine and fixed-pitch propeller. It is constructed from carbon and glass fiber reinforced plastic, and features a conventianl T-type tailplane. The glider also features a 65.6 foot (20 meter) wingspan and a maximum weight of 1,742 pounds (790 kilograms).

The EASA type certificated the DG–1000M powered glider under Type Certificate Number (No.) EASA.A.072 on March 17, 2011. The associated EASA Type Certificate Data Sheet (TCDS) No. EASA.A.072 defines the DG Flugzeubau GmbH certification basis submitted to the FAA for review and acceptance.

The applicable requirements for glider certification in the United States can be found in FAA Advisory Circular (AC) 21.17–2A, ''Type Certification—Fixed-Wing Gliders (Sailplanes), Including Powered Gliders,'' dated February 10, 1993. AC 21.17–2A has been the basis for certification of gliders and powered gliders in the United States for many years. AC 21.17–2A states that applicants may utilize the Joint Aviation Requirements (JAR)–22, ''Sailplanes and Powered Sailplanes,'' or another accepted airworthiness criteria, or a combination of both, as the accepted means for showing compliance for glider type certification.

Type Certification Basis

The applicant proposed a Certification Basis based on JAR–22, amendment 6, dated August 01, 2001. In addition to JAR–22 requirements, the applicant proposed to comply with other requirements from the certification basis referenced in EASA TCDS No. EASA.A.072, including an equivalent safety finding.

List of Subjects in 14 CFR Part 21

Aircraft, Aviation safety, Reporting and record keeping requirements.

The authority citation for these airworthiness criteria is as follows:

Authority: 42 U.S.C. 7572; 49 U.S.C. 106(f), 106(g), 40105, 40113, 44701–44702, 44704, 44707, 44709, 44711, 44713, 44715, 45303.

The Proposed Design Criteria

Applicable Airworthiness Criteria under § 21.17(b).

Based on the Special Class provisions of § 21.17(b), the following airworthiness requirements form the FAA Certification Basis for this design:

1. 14 CFR part 21, effective February 1, 1965, including amendments 21–1 through 21–92 as applicable.
2. JAR–22, amendment 6, dated August 01, 2001.
3. EASA Equivalent Safety Finding to JAR 22.207(c)—Stall warning. (FAA issued corresponding Equivalent Level of Safety (ELOS) Memorandum No. ACE–07–01A, dated April 02, 2012, as an extension to an existing ELOS finding).
4. ''Standards for Structural Substantiation of Sailplane and Powered Sailplane Parts Consisting of Glass or Carbon Fiber

Reinforced Plastics,'' Luftfahrt-Bundesamt (LBA) document no. I4–FVK/91, issued July 1991.

5. ''Guideline for the analysis of the electrical system for powered sailplanes,'' LBA document no. I334–MS 92, issued September 15, 1992.

6. Operations allowed: VFR–Day, and ''Cloud Flying'' where ''Cloud Flying'' is considered flying in Instrument Meteorological Conditions (IMC) and requires an Instrument Flight Rules (IFR) clearance in the United States. This is permissible provided the pilot has the appropriate rating per 14 CFR 61.3, the glider contains the necessary equipment specified under 14 CFR 91.205, and the pilot complies with IFR requirements.

7. EASA Type Certificate Data Sheet No. EASA.A.072, Issue 03, dated March 17, 2011.

8. Date of application for FAA Type Certificate: May 18, 2011.

Issued in Kansas City, Missouri on September 12, 2017.

Pat Mullen,

Manager, Small Airplane Standards Branch, Aircraft Certification Service.

[FR Doc. 2017–19951 Filed 9–20–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2017–0668; Product Identifier 2017–NE–17–AD]

RIN 2120–AA64

Airworthiness Directives; General Electric Company Turbofan Engines

Correction

In Proposed Rule document 2017–19250 appearing on pages 42752–42754 in the issue of Wednesday, September 12, 2017, make the following correction:

On page 42752, in the second column, the document heading should appear as set forth above.

[FR Doc. C1–2017–19250 Filed 9–20–17; 8:45 am]

BILLING CODE 1301–00–D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2017–0342; Airspace Docket No. 17–AGL–6]

Proposed Amendment of Class E Airspace for the Following Ohio Towns; Millersburg, OH and Coshocton, OH

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to modify Class E airspace extending upward from 700 feet above the surface at Holmes County Airport, Millersburg, OH; and at Richard Downing Airport, Coshocton, OH due to the decommissioning of Tiverton VHF Omnidirectional Range (VOR) and Distance Measuring Equipment (DME), cancellation of the VOR approaches, and implementation of area navigation (RNAV) procedures have made this action necessary for the safety and management of instrument flight rules (IFR) operations at these airports. Additionally, the geographic coordinates at Richard Downing Airport would be adjusted to coincide with the FAA's aeronautical database.

DATES: Comments must be received on or before November 6, 2017.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590; telephone (202) 366–9826, or 1–800–647–5527. You must identify FAA Docket No. FAA–2017–0342; Airspace Docket No. 17–AGL–6, at the beginning of your comments. You may also submit comments through the Internet at *http://www.regulations.gov.*

FAA Order 7400.11B, 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: Walter Tweedy, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX, 76177; telephone (817) 222–5900.

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 E airspace extending upward from 700 feet above the surface at Holmes County Airport, Millersburg, OH and Richard Downing Airport, Coshocton, OH to support IFR operations at these airports.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2017–0342/Airspace Docket No. 17–AGL–6.'' 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.regulations.gov.*

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 Federal Aviation Administration, Air Traffic Organization, Central Service Center, Operations Support Group, 10101 Hillwood Parkway, Fort Worth, TX 76177.

Availability and Summary of Documents for Incorporation by Reference

This document proposes to amend FAA Order 7400.11B, Airspace Designations and Reporting Points, dated August 3, 2017, and effective September 15, 2017. FAA Order 7400.11B is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11B 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 extending upward from 700 feet above the surface within a 6.5-mile radius (reduced from a 6.7-mile radius) of the Holmes County Airport, Millersburg, OH. The segment within 2.7 miles either side of the 085° bearing from the airport, extending from the 6.7-mile radius to 10.5 miles east of the airport, and within 1.8 miles either side of the 236° bearing from the airport, extending from the 6.7-mile radius to 8 miles southwest of the airport would be removed.

This action also proposes to modify Class E airspace extending upward from 700 feet above the surface within a 6.5-mile radius (increased from a 6.3-mile radius) of Richard Downing Airport, Coshocton, OH, with a segment within 2.0 miles (reduced from 4-miles) either side of the 037° bearing from the airport extending from the 6.5-mile radius to 8.6 miles (reduced from a 10-miles) northeast of the airport, and updating the geographic coordinates of Richard Downing Airport to coincide with the FAA's aeronautical database.

Airspace reconfiguration is necessary due to the decommissioning of the Tiverton VOR/DME, cancellation of VOR approaches, and implementation of RNAV procedures at these airports. Controlled airspace is necessary for the safety and management of standard instrument approach procedures for IFR operations at these airports.

Class E airspace designations are published in paragraph 6005 of FAA Order 7400.11B, dated August 3, 2017, and effective September 15, 2017, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

Regulatory Notices and Analyses

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

Environmental Review

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11B, Airspace Designations and Reporting Points, dated August 3, 2017, and effective September 15, 2017, is amended as follows:

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

* * * * *

AGL OH E5 Millersburg, OH [Amended]

Millersburg, Holmes County Airport, OH
(Lat. 40°32′14″ N., long. 81°57′16″ W.)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Holmes County Airport.

* * * * *

AGL OH E5 Coshocton, OH [Amended]

Richard Downing Airport, OH
(Lat. 40°18′37″ N., long. 81°51′09″ W.)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Richard Downing Airport and within 2.0 miles either side of the 037° bearing from the airport extending from the 6.5-mile radius to 8.6 miles northeast of the airport.

Issued in Fort Worth, Texas, on September 12, 2017.

Vonnie Royal,

Acting Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2017–19947 Filed 9–20–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 573

[Docket No. FDA–2017–N–5476]

Akzo Nobel Surface Chemistry AB; Filing of Food Additive Petition (Animal Use)

AGENCY: Food and Drug Administration, HHS.

ACTION: Notification; petition for rulemaking.

SUMMARY: The Food and Drug Administration (FDA or the Agency) is announcing that Akzo Nobel Surface Chemistry AB has filed a petition proposing that the food additive regulations be amended to provide for the safe use of glyceryl polyethylene glycol (15) ricinoleate as an emulsifier in animal food that does not include food for cats, dogs, vitamin premixes, or aquaculture.

DATES: Submit either electronic or written comments on the petitioner's

environmental assessment by October 23, 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 October 23, 2017. The *https://www.regulations.gov* electronic filing system will accept comments until midnight Eastern Time at the end of October 23, 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 comment, 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–5476 for ''Food Additives Permitted in Feed and Drinking Water of Animals; glyceryl polyethylene glycol (15) ricinoleate.'' 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 comment 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.

FOR FURTHER INFORMATION CONTACT: Chelsea Trull, Center for Veterinary Medicine, Food and Drug Administration, 7519 Standish Pl., Rockville, MD 20855, 240–402–6729, *Chelsea.trull@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (section 409(b)(5) (21 U.S.C. 348(b)(5)), notice is given that a food additive petition (FAP 2297) has been filed by Akzo Nobel Surface Chemistry AB, Stenungsunds fabriker, 444 85 Stenungsund, Sweden. The petition proposes to amend Title 21 of the Code of Federal Regulations (CFR) in part 573 *Food Additives Permitted in Feed and Drinking Water of Animals* (21 CFR part 573) to provide for the safe use of glyceryl polyethylene glycol (15) ricinoleate as an emulsifier in animal food that does not include food for cats, dogs, vitamin premixes, or aquaculture.

The potential environmental impact of this action is being reviewed. To encourage public participation consistent with regulations issued under the National Environmental Policy Act (40 CFR 1501.4(b)), the Agency is placing the environmental assessment (EA) submitted with the petition that is the subject of this notice on public display at the Dockets Management Staff (see **DATES** and **ADDRESSES**) for public review and comment.

FDA will also place on public display, at the Dockets Management Staff, and at *https://www.regulations.gov,* any amendments to, or comments on, the petitioner's EA without further announcement in the **Federal Register**.

If, based on its review, the Agency finds that an environmental impact statement is not required, and this petition results in a regulation, the notice of availability of the Agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.51(b).

Dated: September 14, 2017.

Anna K. Abram,

Deputy Commissioner for Policy, Planning, Legislation, and Analysis.

[FR Doc. 2017–20062 Filed 9–20–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 573

[Docket No. FDA–2017–F–4375]

Akzo Nobel Surface Chemistry AB; Filing of Food Additive Petition (Animal Use)

AGENCY: Food and Drug Administration, HHS.

ACTION: Notification; petition for rulemaking.

SUMMARY: The Food and Drug Administration (FDA or the Agency) is announcing that Akzo Nobel Surface Chemistry AB has filed a petition

proposing that the food additive regulations be amended to provide for the safe use of glyceryl polyethylene glycol (200) ricinoleate as an emulsifier in animal food that does not include food for cats, dogs, vitamin premixes, or aquaculture.

DATES: Submit either electronic or written comments on the petitioner's environmental assessment by October 23, 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 October 23, 2017. The *https://www.regulations.gov* electronic filing system will accept comments until midnight Eastern Time at the end of October 23, 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 comment, 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–F–4375 for ''Food Additives Permitted in Feed and Drinking Water of Animals; glyceryl polyethylene glycol (200) ricinoleate.'' 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 comment 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.

FOR FURTHER INFORMATION CONTACT: Chelsea Trull, Center for Veterinary Medicine, Food and Drug Administration, 7519 Standish Pl., Rockville, MD 20855, 240–402–6729, *Chelsea.trull@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (section 409(b)(5) (21 U.S.C. 348(b)(5)), notice is given that a food additive petition (FAP 2296) has been filed by Akzo Nobel Surface Chemistry AB, Stenungsunds fabriker, 444 85 Stenungsund, Sweden. The petition proposes to amend Title 21 of the Code of Federal Regulations (CFR) in part 573 *Food Additives Permitted in Feed and Drinking Water of Animals* (21 CFR part 573) to provide for the safe use of glyceryl polyethylene glycol (200) ricinoleate as an emulsifier in animal food that does not include food for cats, dogs, vitamin premixes, or aquaculture.

The potential environmental impact of this action is being reviewed. To encourage public participation consistent with regulations issued under the National Environmental Policy Act (40 CFR 1501.4(b)), the Agency is placing the environmental assessment (EA) submitted with the petition that is the subject of this notice on public display at the Dockets Management Staff for public review and comment (see **DATES** and **ADDRESSES**).

FDA will also place on public display, at the Dockets Management Staff, and at *https://www.regulations.gov,* any amendments to, or comments on, the petitioner's EA without further announcement in the **Federal Register**.

If, based on its review, the Agency finds that an environmental impact statement is not required, and this petition results in a regulation, the notice of availability of the Agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.51(b).

Dated: September 14, 2017.

Anna K. Abram,

Deputy Commissioner for Policy, Planning, Legislation, and Analysis.

[FR Doc. 2017–20049 Filed 9–20–17; 8:45 am]

BILLING CODE 4164–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R07–OAR–2017–0512; FRL–9967–96–Region 7]

Air Plan Promulgation and Approval; Kansas; Revisions to the Construction Permits and Approvals Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Environmental Protection Agency (EPA) is proposing to approve revisions to the Kansas State Implementation Plan (SIP) and the 112(l) program submitted on December 5, 2016, by the State of Kansas. In the ''Rules and Regulations'' section of this **Federal Register**, we are approving the State's SIP revisions as a direct final rule without a prior proposed rule. If we receive no adverse comment, we will not take further action on this proposed rule. The submission revises Kansas' construction permit rules. Specifically, these revisions implement the revised National Ambient Air Quality Standard (NAAQS) for fine particulate matter; clarify and refine applicable criteria for sources subject to the construction permitting program; update the construction permitting program fee structure and schedule; and make minor revisions and corrections. Approval of these revisions will not impact air quality, ensures consistency between the State and Federally-approved rules, and ensures Federal enforceability of the State's rules.

DATES: Comments must be received by October 23, 2017.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R07–OAR–2017–0512, 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: Deborah Bredehoft, Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219 at (913) 551–7164, or by email at *bredehoft.deborah@epa.gov.*

SUPPLEMENTARY INFORMATION: This document proposes to take action on the SIP and 112(l) program revisions submitted by the State of Kansas for Kansas Air Regionations 28–19–300, ''Construction Permits and Approvals; Applicability'', and Kansas Air Regionations 28–19–304, ''Construction Permits and Approvals; Fees''. We have published a direct final rule approving the State's SIP revision (s) in the ''Rules and Regulations'' section of this **Federal Register**, because we view this as a noncontroversial action and anticipate no relevant 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, we will withdraw the direct final rule and it will not take effect. We would address all public comments in any subsequent final rule based on this proposed rule. We do not intend to institute a second comment period on this action. Any parties interested in commenting must do so at this time. For further information, please see the information provided in the **ADDRESSES** section of this document.

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: September 8, 2017.

Cathy Stepp,

Acting Regional Administrator, Region 7.

[FR Doc. 2017–20075 Filed 9–20–17; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

47 CFR Part 400

[Docket No. 170420407–7407–01]

RIN 0660–AA33; RIN 2127–AL86

911 Grant Program

AGENCY: National Telecommunications and Information Administration (NTIA), Department of Commerce (DOC); and National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes revised implementing regulations for the 911 Grant Program, as a result of the enactment of the Next Generation 911 (NG911) Advancement Act of 2012. The 911 Grant Program provides grants to improve 911 services, E–911 services, and NG911 services and applications. NTIA and NHTSA (the Agencies) request comments on this proposed rule.

DATES: Comments must be received by November 6, 2017 at 5:00 p.m. Eastern Standard Time.

ADDRESSES: You may submit comments identified by Docket No. 170420407–7407–01 by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Mail:* National Telecommunications and Information Administration, U.S. Department of Commerce, Attn: NG911 Grant Program, 1401 Constitution Avenue NW., Room 4076, Washington, DC 20230.

Instructions: Please note that all material sent via the U.S. Postal Service (including Overnight or Express Mail) is subject to delivery delays of up to two weeks due to mail security procedures. Responders should include the name of the person or organization filing the comment, as well as a page number, on each page of their submissions. Paper submissions should also include an electronic version on CD or DVD in .txt, .pdf, or Word format (please specify version), which should be labeled with the name and organizational affiliation of the filer and the name of the word

processing program used to create the document. Note that all comments received are a part of the public record and will be posted without change to *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT:

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For media inquiries: Stephen F. Yusko, Public Affairs Specialist, Office of Public Affairs, National Telecommunications and Information Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Room 4897, Washington, DC 20230; telephone: (202) 482–7002; email: *press@ntia.doc.gov;* or Karen Aldana, Public Affairs Specialist, Office of Communications and Consumer Information, National Highway Traffic Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE., Room W52–306, Washington DC 20590; telephone: (202) 366–3280; email: *karen.aldana@dot.gov.*

SUPPLEMENTARY INFORMATION:

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I. Background

In 2009, NTIA and NHTSA issued regulations implementing the E–911 Grant Program enacted in the Ensuring Needed Help Arrives Near Callers Employing 911 (ENHANCE 911) Act of 2004 (Pub. L. 108–494, codified at 47 U.S.C. 942) (74 FR 26965, June 5, 2009). Accordingly, in 2009, NTIA and NHTSA made more than $40 million in grants available to 30 States and Territories to help 911 call centers nationwide upgrade equipment and operations through the E–911 Grant Program.

In 2012, the NG911 Advancement Act of 2012 (Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. 112–96, Title VI, Subtitle E (codified at 47 U.S.C. 942)) enacted changes to the program. The NG911 Advancement Act provides new funding for grants to be used for the implementation and operation of 911 services, E–911 services, migration to an IP-enabled emergency network, and adoption and operation of NG911 services and applications; the implementation of IP-enabled emergency services and applications enabled by Next Generation 911 services, including the establishment of IP backbone networks and the application layer software infrastructure needed to interconnect the multitude of emergency response organizations; and training public safety personnel, including call-takers, first responders, and other individuals and organizations who are part of the emergency response chain in 911 services. In 2016, about $115 million from spectrum auction proceeds were deposited into the Public Safety Trust Fund and made available to NTIA and NHTSA for the 911 Grant Program.[1]

For more than 40 years, local and state 911 call centers, also known as Public Safety Answering Points (PSAPs), have served the public in emergencies. PSAPs receive incoming 911 calls from the public and dispatch the appropriate emergency responders, such as police, fire, and emergency medical services, to the scene of emergencies. The purpose of the 911 Grant Program is to provide federal funding to support the transition of PSAPs and their interconnecting 911 network and core services, to facilitate migration to an IP-enabled emergency network, and adoption and operation of NG911 services and applications.

There are approximately 6,000 PSAPs nationwide that are responsible for answering and processing 911 calls requiring a response from police, fire, and emergency medical services agencies.[2] PSAPs collectively handle more than an estimated 240 million 911 calls each year.[3] About 70 percent of all 911 calls annually are placed from wireless phones.[4] Besides the public, PSAPs communicate with third-party call centers, other PSAPs, emergency service providers (*e.g.,* dispatch agencies, first responders, and other public safety entities), and State emergency operations centers.[5] Most PSAPs rely on decades-old, narrowband, circuit-switched networks capable of carrying only voice calls and very limited amounts of data.[6] Advances in consumer technology offering capabilities such as text messaging and video communications have quickly outpaced those of PSAPs, which often cannot support callers who wish to send text messages, images, video, and other communications that utilize large amounts of data (*e.g.,* telematics, sensor information).[7]

While there are still an estimated 50 counties that are using ''Basic'' 911 infrastructure, the majority of State and local jurisdictions have completed the process of updating their 911 network's infrastructure since the ENHANCE 911 Act was passed in 2004.[8] As of January 2017, data collected by the National Emergency Number Association (NENA) show that 98.6 percent of PSAPs are capable of receiving Phase II E–911[9] calls, providing E–911 service to 98.6 percent of the U.S. population and 96.5

[1] The Public Safety Trust Fund (TAS 13–12/22–8233) is an account established in the Treasury and managed by NTIA. From this account, NTIA makes available funds for a number of public safety related programs, including the 911 Grant Program. *See* 47 U.S.C. 1457(b)(6).

[2] Federal Communications Commission (FCC), Final Report of the Task Force on Optimal PSAP Architecture (TFOPA) at 15 (Jan. 29, 2016), *available at https://transition.fcc.gov/pshs/911/TFOPA/TFOPA_FINALReport_012916.pdf* (TFOPA Final Report). The National Emergency Number Association (NENA) estimates that there are 5,874 primary and secondary PSAPs as of January 2017. NENA 9-1-1 Statistics, *available at http://www.nena.org/?page=911Statistics.*

[3] TFOPA Final Report at 15. See also, NENA 9-1-1 Statistics, *available at http://www.nena.org/?page=911Statistics.*

[4] *Id.*

[5] TFOPA Final Report at 15.

[6] *Id.*

[7] *Id.*

[8] NENA 9-1-1 Statistics, *available at http://www.nena.org/?page=911Statistics.*

[9] *See* 47 CFR 20.18(e), (h) (defining Phase II enhanced 911 service).

percent of our country's counties.[10] With the transition to E–911 essentially completed, State and local jurisdictions are now focused on migrating to NG911 infrastructure.

NG911 is an initiative to modernize today's 911 services so that citizens, first responders, and 911 call-takers can use IP-based, broadband-enabled technologies to coordinate emergency responses.[11] Using multiple formats, such as voice, text messages, photos, and video, NG911 enables 911 calls to contain real-time caller location and emergency information, improve coordination among the nation's PSAPs, dynamically re-route calls based on location and PSAP congestion, and connect first responders to key health and government services in the event of an emergency.[12]

Data collected by the National 911 Profile Database in 2016 show that 20 of the 46 States submitting data have adopted a statewide NG911 plan, 17 of 46 States are installing and testing basic components of the NG911 infrastructure, 10 of 45 States have 100 percent of their PSAPs connected to an Emergency Services IP Network, and 9 of 45 States are using NG911 infrastructure to receive and process 911 voice calls.[13] These data suggest that most State and local jurisdictions have already invested in and completed implementation of both basic 911 services and E–911 services and are focused on migration to NG911. The 911 Grant Program now seeks to provide financial support for investment in the forward-looking technology of NG911 as contemplated by the NG911 Advancement Act.

II. Summary of the NG911 Advancement Act of 2012

The NG911 Advancement Act modifies the 911 Grant Program to incorporate NG911 services while preserving the basic structure of the program, which provided matching grants to eligible State and local governments and Tribal Organizations for the implementation and operation of Phase II services, E–911 services, or migration to an IP-enabled emergency network.

The NG911 Advancement Act, however, broadens the eligible uses of funds from the 911 Grant Program to include: Adoption and operation of NG911 services and applications; the implementation of IP-enabled emergency services and applications enabled by NG911 services, including the establishment of IP backbone networks and the application layer software infrastructure needed to interconnect the multitude of emergency response organizations; and training public safety personnel, including call-takers, first responders, and other individuals and organizations who are part of the emergency response chain in 911 services.[14] The NG911 Advancement Act also increases the maximum Federal share of the cost of a project eligible for a grant from 50 percent to 60 percent.[15]

States or other taxing jurisdictions that have diverted fees collected for 911 services remain ineligible for grants under the program and a State or jurisdiction that diverts fees during the term of the grant must repay all grant funds awarded.[16] The NG911 Advancement Act further clarifies that prohibited diversion of 911 fees includes elimination of fees as well as redesignation of fees for purposes other than implementation or operation of 911 services, E–911 services, or NG911 services during the term of the grant.[17]

III. Proposed Regulations

This NPRM proposes modifications to the E–911 Grant Program regulations to implement the changes to the program enacted in the NG911 Advancement Act. With the exception of the proposed changes discussed below, the Agencies propose to retain the E–911 Grant Program regulations set forth at 47 CFR part 400. The Agencies seek comments on this proposal.

A. Heading (47 CFR Part 400)

The Agencies propose to amend the heading of Part 400 from ''E–911 Grant Program'' to ''911 Grant Program'' to reflect the reauthorization of the grant program.

B. Purpose (47 CFR 400.1)

The Agencies propose to update the Purpose section of the 911 Grant Program regulations set forth at § 400.1 to conform to the NG911 Advancement Act.

C. Definitions (47 CFR 400.2)

The NG911 Advancement Act includes new definitions and makes changes to current definitions to include NG911 services in the 911 Grant Program. The Agencies therefore propose to add definitions for: 911 services, emergency call, Next Generation 911 services, and Tribal Organization. The Agencies also propose to revise the definitions for: Designated E–911 charges, E–911 Coordinator, E–911 services, integrated telecommunications services, ICO, PSAP, and State. The Agencies also propose to remove the definitions for eligible entity and Phase II E–911 services.

D. Who May Apply (47 CFR 400.3)

The E–911 Grant Program regulations only permit States to apply for grant funds on behalf of all local governments, Tribal Organizations, and PSAPs located within their jurisdiction. States were required to coordinate their applications with these entities. This approach streamlined the prior grant process and minimized administrative costs of the program, while at the same time, providing safeguards to ensure participation by local governments, Tribal Organizations, and PSAPs. While the Agencies recognize the importance of coordination between States and Tribal Organizations, directing States to coordinate with Tribal Organizations did not result in adequate funding to improve PSAPs serving tribal areas. The fact that tribes are sovereign nations and that some tribal areas cross State lines further complicated this issue.

The Agencies seek to provide equitable funding in a practical manner to ensure the most efficient use of funds to produce maximum benefit in implementing NG911 services. In this NPRM, the Agencies propose to retain the ability of States to apply for funding on behalf of all entities within their jurisdiction, but also to permit Tribal Organizations to apply directly for 911 grants under certain circumstances. The Agencies seek comment on this proposal as well as on any challenges that Tribal Organizations may face under this grant program. Specifically, the Agencies ask commenters to address the following questions:

i. If the 911 Grant Program were open to Tribal Organizations directly, would tribal PSAPs be able to meet the application requirements provided in proposed 47 CFR 400.4, including statutory requirements such as the matching requirement and non-

[10] NENA 9–1–1 Statistics.

[11] National 911 Program, Next Generation 911 for Leaders in Law Enforcement Educational Supplement at 3, *available at https://www.911.gov/ng911_law/download/NG911_Resize_Mar2013_FINAL_LR.pdf.*

[12] *Id.* at 4–5.

[13] National 911 Program, 2016 National 911 Progress Report at 3, 85, 89 (Dec. 2016), *available at https://www.911.gov/pdf/National-911-Program-2016-ProfileDatabaseProgressReport-120516-1.pdf.*

[14] 47 U.S.C. 942(b)(1).

[15] 47 U.S.C. 942(b)(2).

[16] 47 U.S.C. 942(c). *See also* FCC, Eighth Annual Report to Congress on State Collection and Distribution of 911 and Enhanced 911 Fees and Charges (Dec. 30, 2016), *available at https://apps.fcc.gov/edocs_public/attachmatch/DA-17-61A2.pdf* (reporting that, of the 53 states and territories that reported information for the 2015 calendar year, eight states and Puerto Rico diverted or transferred 911 fees).

[17] 47 U.S.C. 942(c)(3).

diversion certifications? What would be the challenges with providing the necessary certifications, if any?

ii. A Tribal Organization applying for a 911 Program Grant must identify the designated State 911 Coordinator(s) and provide certifications that the Tribal Organization has not diverted designated 911 charges. What would be the challenges associated with providing this information, if any?

iii. Do the tribal PSAPs collect 911 surcharge fees and/or receive State-provided 911 surcharge funds? If so, are Tribal Organizations able to certify that tribal sub-entities are not diverting 911 surcharge fees?

iv. What other tribal PSAP issues or challenges should NHTSA and NTIA consider when determining how to involve tribal entities in this grant program?

E. Application Requirements (47 CFR 400.4)

The Agencies propose to retain, with some modifications as specified below, the general components of an application for a 911 grant. In order to accommodate applications from Tribal Organizations, the Agencies propose to reorganize § 400.4 to provide separate application requirement instructions for State (§ 400.4(a)) and Tribal Organization (§ 400.4(b)) applicants. The Agencies seek specific comments on the application of these requirements to Tribal Organizations (see questions concerning Tribal Organizations above).

1. State/Tribal 911 Plan

The Agencies propose to retain the State 911 Plan requirements with minor modifications. Specifically, the Agencies propose to update references to E–911 and migration to an IP-enabled emergency network to reflect statutory language in the NG911 Advancement Act. In addition, the Agencies propose to remove the requirement to give priority to communities without 911 from the current E–911 Grant Program regulations, § 400.4(a)(1)(iii), to conform to the NG911 Advancement Act.

The Agencies propose similar Tribal 911 Plan requirements in § 400.4(b).

2. Project Budget

The Agencies propose to retain the project budget requirements. However, the NG911 Advancement Act increased the maximum Federal share of the total cost of a project undertaken as a result of this grant program from 50 percent to 60 percent. The Agencies propose to amend § 400.4(a) accordingly.

3. Supplemental Project Budget and Proposed Two-Step Application Process

In 2009, the Agencies allocated E–911 Grant Program funding to all States under the assumption that all States would qualify for an award. Those preliminary funding levels were published in Appendix A to the rule. *Some States, however, were unable to meet the non-Federal matching requirement or to make the required certifications, and therefore rendered the initial funding allocations inaccurate.* While the Agencies were able to adjust the funding allocations, this caused some delay in providing full funding to those States participating in the program. The Agencies seek comment on whether to retain the single application structure that requires an applicant to provide a supplemental budget submission in addition to the project budget in the event that additional funds become available for any reason.

Alternatively, the Agencies seek comment on whether a two-step application process should be used. As an example of a possible two-step application process, the Agencies would publish a Notice of Funding Opportunity (NOFO) for the 911 Grant Program providing additional details and deadlines for the application process. As a first step, interested State and Tribal Organization applicants would submit the required certifications set forth at Appendix A or B, respectively. Then, the Agencies would provide preliminary funding allocations for each of the States or Tribal Organizations that meets the certification requirements. As a second step, those States or Tribal Organizations would then submit a complete application packet, including a project budget based on the preliminary funding level. Because of the possibility that additional funds may become available if certain states are unable to meet the certification requirements, these States or Tribal Organizations could also include a supplemental project budget as part of their complete application packet. The Agencies seek comment on this proposed two-step application process and funding allocation determination as set forth in the proposed regulatory text.

4. Designated 911 Coordinator

The Agencies propose to retain the requirement for a Designated 911 Coordinator for State applicants. The NG911 Advancement Act requires, as a condition of eligibility for a non-State applicant, that the State in which it is located has designated a 911 Coordinator. Therefore, for the purpose of applications by Tribal Organizations, the Agencies propose that the Tribal Organization identify the Designated State 911 Coordinator. Although a Tribal Organization applicant would not have to designate its own 911 Coordinator, the Agencies propose that it designate a responsible official to execute the grant agreement and sign the required certifications.

5. Certifications

The Agencies propose to retain the certification requirements in § 400.4(a)(5) with updates to allow for certification by Tribal Organizations and to reflect the statutory requirements in the NG911 Advancement Act.

6. Due Date

The Agencies also propose to amend the 911 Grant Program regulations to provide that the deadlines for the initial and subsequent submission requirements will be contained in the NOFO.

F. Approval and Award (47 CFR 400.5)

The Agencies propose to update the Approval and Award section of the 911 Grant Program regulations set forth at § 400.5 to account for Tribal Organization applicants as described above.

G. Distribution of Grant Funds (47 CFR 400.6)

The E–911 Grant Program distributed grant funds to eligible States using a formula based on State population and public road mileage. The Agencies propose to apply the same formula for distribution of grant funds to States and Territories in the new round of funding under the 911 Grant Program. As in the E–911 Grant Program, the formula will provide for a minimum grant amount of $500,000 for States and $250,000 for Territories.

In the E–911 Grant Program, population and road miles were used as the basis for the formula because 911 services are used by people, and because the ability to make any phone calls (therefore to make 911 calls) in 2009 was dependent upon the presence of copper land lines and/or cell towers. Road miles were used as a surrogate for cell tower coverage in the 2009 regulation because at that time, cell towers were the primary means of transmitting 911 calls to PSAPs, and were likely to be built along roadways—especially in rural areas. Ultimately, though, the combination of population and road miles favored urban areas over rural and remote areas.

Telecommunications technology has evolved tremendously since 2009. The placement of phone calls is now much less dependent upon the presence of copper facilities. In fact, the Federal Communications Commission (FCC) has observed that, as of 2015, almost 75 percent of U.S. residential customers (approximately 88 million households) no longer received telephone service over traditional copper facilities and relied increasingly on wireless, Voice over Internet Protocol (VoIP) and satellite technologies, including hybrid cell tower/satellite technology.[18] In recognition of this continuing technological displacement, the FCC in 2016 issued an order streamlining legacy regulations to make it easier for carriers to retire copper, landline telephone networks and replace them with fiber or wireless technology.[19] Although delivery of location information has improved with the use of Assisted Global Position System (A–GPS), in rural and remote areas, location-finding technology is less accurate, since cell towers are typically placed along major highways and there may not be a sufficient number of towers to provide accurate triangulation to locate callers.[20] Rural public safety agencies and PSAPs are finding creative solutions, such as satellite-based communications technologies, to overcome these communications challenges.[21]

Additionally, research shows that rural and tribal 911 call centers face significant challenges because they serve larger geographical areas and, as a result, first responders may take more time to reach the scene of the emergency. PSAP call takers in rural areas may be required to stay on the phone longer and provide more extensive emergency instructions until help arrives.[22] Additionally, since the bulk of funding to 911 call centers comes from states and municipalities, rural 911 centers may lack the resources needed for technology upgrades, equipment, and training.[23]

The Agencies propose to retain the formula used for distribution in the E–911 grant program, however, given the advances in technology and the unique challenges faced by rural and remote PSAPs, the Agencies are seeking comment on whether other factors should be considered as part of the formula for distribution of grant funds or whether the current formula is the best framework to distribute the up to $110 million available in new funding for the program. Specifically, the Agencies ask commenters to address the following questions:

i. Do the existing factors of State population and public road mileage adequately account for remote and rural areas? If not, would the factor of land area, as determined by the Census Bureau, improve the accounting for rural and remote areas?

ii. Given the evolution in technology since the previous grants were awarded (*e.g.,* less dependence on cell towers and increased adoption of satellite and hybrid technologies), are there other factors that the program should consider and what weight should the formula give to each factor and why?

To accommodate grant awards to Tribal Organizations, the proposal would authorize the Agencies to set aside 2 percent of available grant funds for distribution to Tribal Organizations with maximum awards of no more than $250,000. The Agencies propose to allocate funding based on a formula as follows: (1) 50 percent in the ratio to which the population of the Tribal Organization bears to the total population of all Tribal Organizations, as determined by the most recent population data on American Indian/Alaska Native Reservation of Statistical Area,[24] and (2) 50 percent in the ratio which the public road mileage in each Tribal Organization bears to the total public road mileage in tribal areas, using the most recent national tribal transportation facility inventory data. The Agencies seek comment on this proposal for distribution to Tribal Organizations. The Agencies further seek comment on whether a formula-based approach is the most equitable and/or efficient way to distribute new grant funds. If yes, what factors should the program consider and what weight should the formula give to each factor and why? If not, please identify other allocation methods that the Agencies should consider adopting for use in this grant program.

H. Eligible Uses for Grant Funds (47 CFR 400.7)

The NG911 Advancement Act has broadened the eligible uses of grant funds to include: Adoption and operation of NG911 services and applications; and the implementation of IP-enabled emergency services and applications enabled by NG911 services, including the establishment of IP backbone networks and the application layer software infrastructure needed to interconnect the multitude of emergency response organizations. Accordingly, the Agencies propose to modify § 400.7 to include these new eligible uses. The Agencies also provide clarification on the following specific uses:

1. NG911 Services

The NG911 Advancement Act, by name and intent, was established to facilitate implementation of NG911 services, and the acquisition of such NG911 services is allowable as an eligible use of 911 Grant Program funds. Some grant recipients may choose to purchase the hardware and software that perform the necessary functions enabling NG911 calls to be received, processed and dispatched and use their own staff to operate and maintain the NG911 system. Other recipients may choose to contract with vendors that own the hardware and software, and provide NG911 enabling functions as a service to State or local 911 entities. Still other recipients may choose to enter into subaward relationships with local jurisdictions to implement the purposes of the grant. The Agencies propose that any of these options, alone or in combination, would be an eligible use of grant funds. To ''facilitate coordination and communication between Federal, State, and local emergency communications systems [and] emergency services personnel,'' the Agencies propose that recipients be required to specify the purchase of hardware, software, and/or services that comply with current NG911 standards,

[18] *In the Matter of Technology Transitions,* GN Docket No. 13–5; *In the Matter of US Telecom Petition for Declaratory Ruling that Incumbent Local Exchange Carriers are Non-Dominant in the Provision of Switched Access Services,* WC Docket No. 13–3; *In the Matter of Policies and Rules Governing Retirement of Copper Loops by Incumbent Local Exchange Carriers,* RM–11358, Declaratory Ruling, Second Report and Order, and Order on Reconsideration, at ¶ 16 (July 15, 2016) (hereinafter Declaratory Ruling), *available at https://apps.fcc.gov/edocs_public/attachmatch/FCC-16-90A1.pdf.*

[19] *See id.*

[20] *See* Congressional Research Service, *An Emergency Communications Safety Net: Integrating 911 and Other Services,* CRS Report at 5–6 (Aug. 25, 2008), *available at, https://www.everycrsreport.com/files/20080825_RL32939_a6d2f372243a38357f5104b181e8fa326481e3ac.pdf.*

[21] *See* James J. Augustine, Rural Coverage: Communications Challenges for EMS (Oct. 17, 2012), *available at https://www.ems1.com/ems-products/communications/articles/1356405-Rural-coverage-Communications-challenges-for-EMS/.*

[22] *Id.*

[23] Linda K. Moore, Congressional Research Service, *Emergency Communications: The Future of 911,* CRS Report at 9–10 (Mar. 16, 2010), *available at https://c.ymcdn.com/sites/www.nena.org/resource/collection/F203778C-3D83-4118-B5E3-3A95819586E1/CRS_911_Report_3.16.10.pdf.*

[24] As computed under the Native American Housing Assistance and Self-Determination Act of 1996, 25 U.S.C. 4101 *et seq.*

as listed in the Department of Homeland Security's SAFECOM Guidance.[25]

2. Training

Given that the intent of this grant program is specifically to improve the technology and operation of the 911 system, the NG911 Advancement Act permits grant funds to be used for training directly related to 911 services for public safety personnel, including call-takers, first responders, and other individuals and organizations that are part of the emergency response chain in 911 services. The Agencies seek comment on what, if any, limitations should be imposed on such costs.

As part of a three-year, multi-stakeholder effort, the National 911 program office facilitated the development of the ''Recommended Minimum Training Guidelines for Telecommunicators'' that identified nationally recognized, universally accepted minimum topics that can be used to train aspiring and current 911 telecommunications professionals, and to provide the foundation for ongoing professional development.[26] The Agencies seek comment on whether use of 911 Grant Program funds for training should be limited to training designed to meet these minimum training guidelines. If these minimum training guidelines are required, what, if any, challenges would this condition impose on PSAPs? What should the Agencies consider as appropriate documentation of the PSAPs' compliance in meeting the minimum training guidelines?

3. Planning and Administration

The Agencies intend to continue to allow recipients to use up to 10 percent of grant funds to cover administrative expenses incurred as a direct result of participation in the grant program. The Agencies propose allowing recipients to use a portion of the 10 percent maximum for administrative costs to perform an assessment of their current 911 system, using the ''NG9–1–1 Readiness Scorecard'' produced by the FCC's Task Force for Optimal PSAP Architecture,[27] which includes the ongoing activities necessary to develop, modify, and improve the framework for State and Tribal NG911 governance, strategic planning, and coordination.

4. Operation of 911 System

The NG911 Advancement Act provides that 911 grant funds are intended to assist in implementation of NG911 systems and anticipates that jurisdictions will use fees collected by State and local governments to fund operations of 911 services.[28] In order to maximize use of funds to meet this goal, eligible entities may only use grant funds to assist in the implementation of an NG911 system.[29] However, as the implementation of NG911 occurs, States, local, and tribal 911 authorities and PSAPs are required to operate parallel NG911 and legacy E–911 or 911 systems while the transition is being completed. While surcharges collected by State and local governments already pay for the operation of a current legacy system, grant funds can be used only to cover the cost of operating the NG911 system until such time as the current legacy system is shut down and the system is fully operational using only NG911 technology.

I. Continuing Compliance (47 CFR 400.8)

The Agencies propose to amend the Non-compliance section of the 911 Grant Program regulations as set forth at § 400.8 to conform to the NG911 Advancement Act and to reflect the proposed ability of Tribal Organizations to apply directly for grant funds. Any applicant or grant recipient that provides a certification knowing that the information provided in the certification is false (1) will not be eligible to receive the grant; (2) must return any grant awarded under this part during the time that the certification is not valid; and (3) will not be eligible to receive any subsequent grants under this part.[30]

J. Financial and Administrative Requirements (47 CFR 400.9)

In 2014, the Department of Commerce and the Department of Transportation, among other executive branch agencies, adopted the Office of Management and Budget's Uniform Administrative Requirements, Cost Principles, and Audit Requirements (OMB Uniform Guidance). *See* OMB Uniform Guidance, 2 CFR part 200, 2 CFR part 1327 (DOC's implementing regulations), *and* 2 CFR part 1201 (DOT's implementing regulation). Accordingly, the Agencies propose to amend the financial and administrative requirements section of the 911 Grant Program as set forth at 47 CFR 400.9 to conform to the OMB Uniform Guidance. Because this is a joint rulemaking, the Agencies will apply the OMB Uniform Guidance without any agency-specific deviations.

K. Closeout (47 CFR 400.10)

The funds made available from the Public Safety Trust Fund for the new grants are available for obligation until September 30, 2022, and will be cancelled and returned to the Treasury no later than September 30, 2027. The recipients' right to incur costs under this part will expire as of the end of the period of performance announced in the Notice of Funding Opportunity, but in no event later than July 2, 2027. The Agencies are amending this section to reflect this new date and to update the reference to the new OMB Uniform Guidance.

L. Waiver Authority (47 CFR 400.11)

It is the general intent of the Agencies that the provisions of the 911 Grant Program regulations not be waived. The Agencies, however, recognize that there may be extraordinary circumstances in which it is in the best interest of the federal government to waive program regulations. Accordingly, the Agencies propose to permit applicants or grant recipients to request waiver of any of the provisions of the program regulations and also to reserve the right for the Agencies to do so on their own initiative. The Agencies recognize that such waiver authority may only be exercised for requirements that are discretionary and not mandated by statute or other applicable law. The Agencies seek comment on this proposal.

M. Appendices (47 CFR Part 400, App. A, B, C, and D)

The Agencies propose to delete and replace the Appendices from the E–911 Grant Program. In their place, the Agencies propose to insert the following Appendices to conform to the certification requirements contained in the NG911 Advancement Act and to reflect the proposed ability of Tribal Organizations to apply directly for grant funds: Appendix A (Initial Certification

[25] 47 U.S.C. 942(a)(1). *See also* Department of Homeland Security, ''Fiscal Year 2016 SAFECOM Guidance on Emergency Communications Grants,'' at Appendix B—Technology and Equipment Standards (2016), *available at https://www.dhs.gov/sites/default/files/publications/FY%202016%20SAFECOM%20Guidance%20FINAL%20508C.pdf.*

[26] *See* National 911 Program, ''Recommended Minimum Training Guidelines for Telecommunicators'' (May 19, 2016), *available at http://www.911.gov/pdf/Recommended_Minimum_Training_Guidelines_for_the_911_Telecommunicator_FINAL_May_19_2016.pdf.*

[27] *See* FCC, TFOPA Working Group 2 Phase II Supplemental Report: NG9–1–1 Readiness Scorecard (Dec. 2, 2016), *available at https://transition.fcc.gov/pshs/911/TFOPA/TFOPA_WG2_Supplemental_Report-120216.pdf.* The Task Force developed the NG911 Readiness Scorecard with extensive participation from the 911 stakeholder community, and in conjunction with the National 911 Program.

[28] *See* 47 U.S.C. 942(b)(1) and (c). *See also* ENHANCE 911 Act of 2004, Public Law 108–494, Title I, § 102, 118 Stat. 3986 (2004).

[29] Implementation of a NG911 system does not include construction of new PSAPs. Thus, the Agencies do not propose to permit the use of grant funds for purposes of such construction.

[30] *See* 47 U.S.C. 942(c)(4).

For 911 Grant Applicants—States), Appendix B (Initial Certification For 911 Grant Applicants—Tribal Organizations), Appendix C (Annual Certification For 911 Grant Recipients—States), and Appendix D (Annual Certification For 911 Grant Recipients—Tribal Organizations).

IV. Public Participation

A. How do I prepare and submit comments?

Your comments must be written in English. To ensure that your comments are correctly filed in the Docket, please include the docket number listed in this document in your comments. Your primary comments should be no longer than 15 pages. You may attach additional documents to your primary comments. There is no limit on the length of the attachments.

You may submit comments identified by Docket No. 170420407–7407–01 by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Mail:* National Telecommunications and Information Administration, U.S. Department of Commerce, Attn: NG911 Grant Program, 1401 Constitution Avenue NW., Room 4076, Washington, DC 20230.

B. How can I be sure my comments were received?

All comments received are a part of the public record and will be posted without change to *http://www.regulations.gov.*

If you submit your comments by mail, enclose a self-addressed, stamped postcard in the envelope containing your comments. Upon receiving your comments, you will be notified with the postcard by mail.

C. Will the Agencies consider late comments?

The Agencies will consider all comments received before the close of business on the comment closing date indicated above under **DATES**. To the extent possible, the Agencies will also consider comments received after that date.

D. How can I read the comments submitted by other people?

Comments will be available on *http://www.regulations.gov.* Follow the online instructions for accessing the docket. Please note that even after the comment closing date, the Agencies may continue to file relevant information on the docket as it becomes available. Accordingly, the Agencies recommend that you periodically check the docket for new material.

V. Statutory Basis for This Action

The Agencies' proposal would implement modifications to the E–911 Grant Program as required by the NG911 Advancement Act of 2012 (Pub. L. 112–96, Title VI, Subtitle E, codified at 47 U.S.C. 942).

VI. Regulatory Analyses and Notices

Executive Order 12866 (Regulatory Policies and Procedures)

This rulemaking has been determined to be significant under section 3(f) of Executive Order 12866, and therefore, has been reviewed by the Office of Management and Budget (OMB).

Executive Order 13771

This rulemaking is exempt from the requirements of Executive Order 13771 because it is a ''transfer rule.''

Regulatory Flexibility Act

The Chief Counsel for Regulation of the Department of Commerce and the Assistant Chief Counsel for the National Highway Traffic Safety Administration have certified to the Small Business Administration Office of Advocacy that this proposed rule would not have a significant economic impact on a substantial number of small entities. Congress enacted the Regulatory Flexibility Act of 1980 (RFA), as amended, 5 U.S.C. 601–612, to ensure that Government regulations do not unnecessarily or disproportionately burden small entities. The RFA requires a regulatory flexibility analysis if a rule would have a significant economic impact on a substantial number of small entities. The majority of potential applicants (56) for 911 grants are U.S. States and Territories, which are not ''small entities'' for the purposes of the RFA. See 5 U.S.C. 601(5). The remaining potential grant applicants are a small number of Tribal Organizations (approximately 13) with a substantial emergency management/public safety presence within their jurisdictions. Like States, Tribal Organizations are not ''small entities'' for the purposes of the RFA. *See* Small Business Regulatory Flexibility Improvements Act of 2015, S. 1536, 114th Cong. § 2(d) (2015) (proposing to add Tribal Organizations to the RFA's ''small governmental jurisdiction'' definition, one of three categories of ''small entities'' in the RFA). Therefore, we have determined under the RFA that this proposed rule would not have a significant economic impact on a substantial number of small entities. Accordingly, no Regulatory Flexibility Analysis is required, and none has been prepared.

Congressional Review Act

This rulemaking has not been determined to be major under the Congressional Review Act, 5 U.S.C. 801 *et seq.*

Executive Order 13132 (Federalism)

This proposed rule does not contain policies having federalism implications requiring preparations of a Federalism Summary Impact Statement.

Executive Order 12988 (Civil Justice Reform)

This rulemaking has been reviewed under Executive Order 12988, Civil Justice Reform, as amended by Executive Order 13175. The Agencies have determined that the proposed rule meets the applicable standards provided in section 3 of the Executive Order to minimize litigation, eliminate ambiguity, and reduce burden.

Executive Order 12372 (Intergovernmental Consultation)

Applications under this program are subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs,'' which requires intergovernmental consultation with State and local officials. All applicants are required to submit a copy of their applications to their designated State Single Point of Contact (SPOC) offices. *See* 7 CFR part 3015, subpart V.

Executive Order 12630

This proposed rule does not contain policies that have takings implications.

Executive Order 13175 (Consultation and Coordination With Indian Tribes)

The Agencies have analyzed this proposed rule under Executive Order 13175, and have determined that the proposed action would not have a substantial direct effect on one or more Indian tribes, would not impose substantial direct compliance costs on Indian tribal governments, and would not preempt tribal law. The program is voluntary and any Tribal Organization that chooses to apply and subsequently qualifies would receive grant funds. Therefore, a tribal summary impact statement is not required.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) requires each Federal agency to seek and obtain OMB approval before collecting information from the public. Federal agencies may not collect information unless it displays a currently valid OMB control

number. The Agencies' proposed use of Standard Forms 424 (Application for Federal Assistance), 424A (Budget Information for Non-Construction Programs), 424B (Assurances for Non-Construction Programs), 424C (Budget Information for Construction Programs), 425 (Federal Financial Report), and SF–LLL (Disclosure for Lobbying Activities) has been approved previously by OMB under the respective control numbers 4040–0004, 4040–0005, 4040–0006, 4040–0007, 4040–0014, and 4040–0013. The Agencies will submit a Request for Common Form to OMB to use the previously-approved information collection instruments.

The Agencies obtained OMB approval previously for an information collection related to the annual progress reporting and closeout reporting requirements and State 911 Plans for the E–911 Grant Program, under OMB Control Number 2127–0661. At the request of NHTSA, OMB discontinued this information collection on January 31, 2012. The Agencies are seeking a new information collection that will operate as a reinstatement with change of the previously approved information collection. With the new information collection that will operate as a reinstatement with change, the Agencies propose to collect information for the State 911 Plans, and Annual Performance Reports. As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), the Agencies have submitted the proposed new information collection that will operate as a reinstatement with change to OMB for its review. The Agencies will use the collection of information to ensure that grant recipients are effectively monitored and evaluated against the core purposes of the 911 Grant Program. The Agencies are seeking OMB approval for a period of three years.

OMB Control Number: None.

Form Number(s): None.

Type of Review: Regular.

Affected Public: State, local, and Tribal Organizations.

Frequency: Once, State 911 Plan; Annually, Annual Performance Report.

Number of Respondents: 60 (42 States, District of Columbia, 4 Territories, 13 Tribal Organizations).

Average Time per Response: 154 hours (State 911 Plan—94 hours and Annual Performance Report—60 hours).

Estimated Total Annual Burden Hours: 9,240 hours.

Estimated Total Annual Cost to Public: $400,000 ($244,156 for the State 911 Plan; $155,844 for the Annual Performance Report).

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Individuals and organizations may send comments on the information collection to the close of the proposed rule's comment period. Direct all written comments regarding the collection of information to the Office of Information and Regulatory Affairs of OMB, Attention: Desk officer for Department of Commerce, Nicholas A. Fraser. OMB may file public comments, in the form of a Notice of Action, on the collection of information within 60 days of the publication of this NPRM. *See* 5 CFR 1320.11(c).

Unfunded Mandates Reform Act

This proposed rule contains no Federal mandates (under the regulatory provision of Title II of the Unfunded Mandates Reform Act of 1995) for State, local, and tribal governments or the private sector. The program is voluntary and States and Tribal Organizations that choose to apply and qualify would receive grant funds. Thus, this rulemaking is not subject to the requirements of sections 202 and 205 of the Unfunded Mandates Reform Act of 1995.

National Environmental Policy Act

The Agencies have reviewed this rulemaking action for the purposes of the National Environmental Policy Act. The Agencies have determined that this proposal would not have a significant impact on the quality of the human environment.

Dated: September 14, 2017.

Leonard Bechtel,

Chief Financial Officer and Director of Administration, Performing the non-exclusive duties of the Assistant Secretary for Communications and Information, National Telecommunications and Information Administration.

Jack Danielson,

Acting Deputy Administrator, National Highway Traffic Safety Administration.

List of Subjects in 47 CFR Part 400

Grant programs, Telecommunications, Emergency response capabilities (911).

■ In consideration of the foregoing, the National Telecommunications and Information Administration, Department of Commerce, and the National Highway Traffic Safety Administration, Department of Transportation, propose to revise part 400 in title 47 of the Code of Federal Regulations to read as follows:

PART 400—911 GRANT PROGRAM

Sec.

Authority: 47 U.S.C. 942.

§ 400.1 Purpose.

This part establishes uniform application, approval, award, financial and administrative requirements for the grant program authorized under the ''Ensuring Needed Help Arrives Near Callers Employing 911 Act of 2004'' (ENHANCE 911 Act), as amended by the ''Next Generation 911 Advancement Act of 2012'' (NG911 Advancement Act).

§ 400.2 Definitions.

As used in this part—

911 Coordinator means a single officer or governmental body of the State in which the applicant is located that is responsible for coordinating implementation of 911 services in that State.

911 services means both E–911 services and Next Generation 911 services.

Administrator means the Administrator of the National Highway Traffic Safety Administration (NHTSA), U.S. Department of Transportation.

Assistant Secretary means the Assistant Secretary for Communications and Information, U.S. Department of Commerce, and Administrator of the National Telecommunications and Information Administration (NTIA).

Designated 911 charges means any taxes, fees, or other charges imposed by

a State or other taxing jurisdiction that are designated or presented as dedicated to deliver or improve 911, E–911 or NG911 services.

E–911 services means both phase I and phase II enhanced 911 services, as described in § 20.18 of this title, as subsequently revised.

Emergency call refers to any real-time communication with a public safety answering point or other emergency management or response agency, including—

(1) Through voice, text, or video and related data; and

(2) Nonhuman-initiated automatic event alerts, such as alarms, telematics, or sensor data, which may also include real-time voice, text, or video communications.

ICO means the 911 Implementation Coordination Office established under 47 U.S.C. 942 for the administration of the 911 grant program, located at the National Highway Traffic Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE., NTI–140, Washington, DC 20590.

Integrated telecommunications services means one or more elements of the provision of multiple 911 systems' or PSAPs' infrastructure, equipment, or utilities, such as voice, data, image, graphics, and video network, customer premises equipment (such as consoles, hardware, or software), or other utilities, which make common use of all or part of the same transmission facilities, switches, signaling, or control devices (*e.g.,* database, cybersecurity).

IP-enabled emergency network or IP-enabled emergency system means an emergency communications network or system based on a secured infrastructure that allows secured transmission of information, using Internet Protocol, among users of the network or system.

Next Generation 911 services means an IP-based system comprised of hardware, software, data, and operational policies and procedures that—

(1) Provides standardized interfaces from emergency call and message services to support emergency communications;

(2) Processes all types of emergency calls, including voice, data, and multimedia information;

(3) Acquires and integrates additional emergency call data useful to call routing and handling;

(4) Delivers the emergency calls, messages, and data to the appropriate public safety answering point and other appropriate emergency entities;

(5) Supports data or video communications needs for coordinated incident response and management; and

(6) Provides broadband service to public safety answering points or other first responder entities.

PSAP means a public safety answering point, a facility that has been designated to receive emergency calls and route them to emergency service personnel.

State means any State of the United States, the District of Columbia, Puerto Rico, American Samoa, Guam, the United States Virgin Islands, the Northern Mariana Islands, and any other territory or possession of the United States.

Tribal Organization means the recognized governing body of any Indian tribe; any legally established organization of Indians which is controlled, sanctioned, or chartered by such governing body or which is democratically elected by the adult members of the Indian community to be served by such organization and which includes the maximum participation of Indians in all phases of its activities: Provided, that in any case where a contract is let or grant made to an organization to perform services benefiting more than one Indian tribe, the approval of each such Indian tribe shall be a prerequisite to the letting or making of such contract or grant.

§ 400.3 Who may apply.

In order to apply for a grant under this part, an applicant must be a State or Tribal Organization as defined in § 400.2.

§ 400.4 Application requirements.

(a) *Contents for a State application.* An application for funds for the 911 Grant Program from a State must consist of the following components:

(1) *State 911 plan.* A plan that—

(i) Details the projects and activities proposed to be funded for:

(A) The implementation and operation of 911 services, E–911 services, migration to an IP-enabled emergency network, and adoption and operation of Next Generation 911 services and applications;

(B) The implementation of IP-enabled emergency services and applications enabled by Next Generation 911 services, including the establishment of IP backbone networks and the application layer software infrastructure needed to interconnect the multitude of emergency response organizations; and

(C) Training public safety personnel, including call-takers, first responders, and other individuals and organizations who are part of the emergency response chain in 911 services.

(ii) Establishes metrics and a time table for grant implementation; and

(iii) Describes the steps the applicant has taken to—

(A) Coordinate its application with local governments, Tribal Organizations, and PSAPs within the State;

(B) Ensure that at least 90 percent of the grant funds will be used for the direct benefit of PSAPs and not more than 10 percent of the grant funds will be used for the applicant's administrative expenses related to the 911 Grant Program; and

(C) Involve integrated telecommunications services in the implementation and delivery of 911 services, E–911 services, and Next Generation 911 services.

(2) *Project budget.* A project budget for all proposed projects and activities to be funded by the grant funds. Specifically, for each project or activity, the applicant must:

(i) Demonstrate that the project or activity meets the eligible use requirement in § 400.7; and

(ii) Identify the non-Federal sources, which meet the requirements of 2 CFR 200.306, that will fund at least 40 percent of the cost; except that as provided in 48 U.S.C. 1469a, the requirement for non-Federal matching funds (including in-kind contributions) is waived for American Samoa, Guam, the Northern Mariana Islands, and the U.S. Virgin Islands for grant amounts up to $200,000.

(3) *Supplemental project budget.* States that qualify for a grant under the program may also qualify for additional grant funds that may become available. To be eligible for any such additional grant funds that may become available in accordance with § 400.6, a State must submit, with its application, a supplemental project budget that identifies the maximum dollar amount the State is able to match from non-Federal sources meeting the requirements of 2 CFR 200.306, and includes projects or activities for those grant and matching amounts, up to the total amount in the project budget submitted under paragraph (a)(2) of this section. This information must be provided to the same level of detail as required under paragraph (a)(2) of this section and be consistent with the State 911 Plan required under paragraph (a)(1) of this section.

(4) *Designated 911 Coordinator.* The identification of a single officer or government body to serve as the 911 Coordinator of implementation of 911 services and to sign the certifications required under this part. Such designation need not vest such coordinator with legal authority to

implement 911 services, E–911 services, or Next Generation 911 services or to manage emergency communications operations. If a State applicant has established by law or regulation an office or coordinator with the authority to manage 911 services, that office or coordinator must be identified as the designated 911 Coordinator and apply for the grant on behalf of the State. If a State applicant does not have such an office or coordinator established, the Governor of the State must appoint a single officer or governmental body to serve as the 911 Coordinator in order to qualify for a 911 grant. If the designated 911 Coordinator is a governmental body, an official representative of the governmental body shall be identified to sign the certifications for the 911 Coordinator. The State must notify NHTSA in writing within 30 days of any change in appointment of the 911 Coordinator.

(5) *Certifications.* The certification in Appendix A of this part, signed by the 911 Coordinator, certifying that the applicant has complied with the required statutory and programmatic conditions in submitting its application. The applicant must certify that during the time period 180 days immediately preceding the date of the initial application, the State has not diverted any portion of designated 911 charges imposed by the State for any purpose other than the purposes for which such charges are designated or presented, that no taxing jurisdiction in the State that will be a recipient of 911 grant funds has diverted any portion of designated 911 charges imposed by the taxing jurisdiction for any purpose other than the purposes for which such charges are designated or presented, and that, continuing through the time period during which grant funds are available, neither the State nor any taxing jurisdiction in the State that is a recipient of 911 grant funds will divert designated 911 charges for any purpose other than the purposes for which such charges are designated or presented.

(b) *Contents for a Tribal Organization application.* An application for funds for the 911 Grant Program from a Tribal Organization must consist of the following components:

(1) Tribal Organization 911 Plan. A plan that—

(i) Details the projects and activities proposed to be funded for:

(A) The implementation and operation of 911 services, E–911 services, migration to an IP-enabled emergency network, and adoption and operation of Next Generation 911 services and applications;

(B) The implementation of IP-enabled emergency services and applications enabled by Next Generation 911 services, including the establishment of IP backbone networks and the application layer software infrastructure needed to interconnect the multitude of emergency response organizations; and

(C) Training public safety personnel, including call-takers, first responders, and other individuals and organizations who are part of the emergency response chain in 911 services.

(ii) Establishes metrics and a time table for grant implementation; and

(iii) Describes the steps the applicant has taken to—

(A) Coordinate its application with PSAPs within the Tribal Organization's jurisdiction;

(B) Ensure that at least 90 percent of the grant funds will be used for the direct benefit of PSAPs and not more than 10 percent of the grant funds will be used for the applicant's administrative expenses related to the 911 Grant Program; and

(C) Involve integrated telecommunications services in the implementation and delivery of 911 services, E–911 services, and Next Generation 911 services.

(2) *Project budget.* A project budget for all proposed projects and activities to be funded by the grant funds. Specifically, for each project or activity, the applicant must:

(i) Demonstrate that the project or activity meets the eligible use requirement in § 400.7; and

(ii) Identify the allowable sources, which meet the requirements of 2 CFR 200.306, that will fund at least 40 percent of the cost.

(3) *Supplemental project budget.* Tribal Organizations that qualify for a grant under the program may also qualify for additional grant funds that may become available. To be eligible for any such additional grant funds that may become available in accordance with § 400.6, a Tribal Organization must submit, with its application, a supplemental project budget that identifies the maximum dollar amount the Tribal Organization is able to match from allowable sources meeting the requirements of 2 CFR 200.306, and includes projects or activities for those grant and matching amounts, up to the total amount in the project budget submitted under paragraph (b)(2) of this section. This information must be provided to the same level of detail as required under paragraph (b)(2) of this section and be consistent with the Tribal Organization 911 Plan required under paragraph (b)(1) of this section.

(4)(a) *Designated 911 Coordinator.* Written identification of the single State officer or government body serving as the 911 Coordinator of implementation of 911 services in the State (or States) in which the Tribal Organization is located. If a State has not designated an officer or government body to coordinate such services, the Governor of the State must appoint a single officer or governmental body to serve as the 911 Coordinator in order for the Tribal Organization to qualify for a 911 grant. The Tribal Organization must notify NHTSA in writing within 30 days of any change in appointment of the 911 Coordinator.

(b) *Responsible Tribal Organization Official.* Written identification of the official responsible for executing the grant agreement and signing the required certifications on behalf of the Tribal Organization.

(5) *Certifications.* The certification in Appendix B of this part, signed by the responsible official of the Tribal Organization, certifying that the applicant has complied with the required statutory and programmatic conditions in submitting its application. The applicant must certify that during the time period 180 days immediately preceding the date of the initial application, the taxing jurisdiction (or jurisdictions) within which the applicant is located has not diverted any portion of designated 911 charges imposed by the taxing jurisdiction (or jurisdictions) within which the applicant is located for any purpose other than the purposes for which such charges are designated or presented and that, continuing through the time period during which grant funds are available, the taxing jurisdiction (or jurisdictions) within which the applicant is located will not divert designated 911 charges for any purpose other than the purposes for which such charges are designated or presented.

(c) *Due dates*—(1) *Initial application deadline.* The applicant must submit the certification set forth in Appendix A of this part if a State, or Appendix B of this part if a Tribal Organization, no later than the initial application deadline published in the Notice of Funding Opportunity. Failure to meet this deadline will preclude the applicant from receiving consideration for a 911 grant award.

(2) *Final application deadline.* After publication of the funding allocation for the 911 Grant Program in a revised Notice of Funding Opportunity, applicants that have complied with paragraph (c)(1) of this section will be given additional time in which to submit remaining application

documents in compliance with this section, including a supplemental project budget. The revised Notice of Funding Opportunity will provide such deadline information. Failure to meet this deadline will preclude the applicant from receiving consideration for a 911 grant award.

§ 400.5 Approval and award.

(a) The ICO will review each application for compliance with the requirements of this part.

(b) The ICO may request additional information from the applicant, with respect to any of the application submission requirements of § 400.4, prior to making a recommendation for an award. Failure to submit such additional information may preclude the applicant from further consideration for award.

(c) The Administrator and Assistant Secretary will jointly approve and announce, in writing, grant awards to qualifying applicants.

§ 400.6 Distribution of grant funds.

(a) *Funding allocation.* Except as provided in paragraph (b) of this section—

(1) Grant funds for each State that meets the certification requirements set forth in § 400.4 will be allocated—

(i) 50 percent in the ratio which the population of the State bears to the total population of all the States, as shown by the latest available Federal census; and

(ii) 50 percent in the ratio which the public road mileage in each State bears to the total public road mileage in all States, as shown by the latest available Federal Highway Administration data.

(2) Grant funds for each Tribal Organization that meets the certification requirements set forth in § 400.4 will be allocated—

(i) 50 percent in the ratio to which the population of the Tribal Organization bears to the total population of all Tribal Organizations, as determined by the most recent population data on American Indian/Alaska Native Reservation of Statistical Area; and

(ii) 50 percent in the ratio which the public road mileage in each Tribal Organization bears to the total public road mileage in tribal areas, using the most recent national tribal transportation facility inventory data.

(2) *Supplemental project budgets.* As set forth in § 400.4(a)(3) and (b)(3), the Agencies reserve the right to allocate additional funds based on supplemental project budgets.

(b)(1) *Minimum distribution.* The distribution to each qualifying State under paragraph (b) of this section shall not be less than $500,000, except that the distribution to American Samoa, Guam, the Northern Mariana Islands, and the U.S. Virgin Islands shall not be less than $250,000.

(2) *Tribal Organization set-aside.* Up to 2 percent of grant funds available under this part will be set aside for distribution to qualifying Tribal Organizations for a 911 grant. The distribution to each qualifying Tribal Organization shall not be more than $250,000. Any remaining funds after distribution to qualifying Tribal Organizations under this subparagraph will be released for distribution to the States consistent with paragraph (a) of this section.

(c) *Additional notices of funding opportunity.* Grant funds that are not distributed under paragraph (a) of this section may be made available to States and Tribal Organizations through subsequent Notices of Funding Opportunity.

§ 400.7 Eligible uses for grant funds.

Grant funds awarded under this part may be used only for:

(a) The implementation and operation of 911 services, E–911 services, migration to an IP-enabled emergency network, and adoption and operation of Next Generation 911 services and applications;

(b) The implementation of IP-enabled emergency services and applications enabled by Next Generation 911 services, including the establishment of IP backbone networks and the application layer software infrastructure needed to interconnect the multitude of emergency response organizations; and

(c) 911-related training of public safety personnel, including call-takers, first responders, and other individuals and organizations who are part of the emergency response chain in 911 services.

§ 400.8 Continuing compliance.

(a) A grant recipient must submit on an annual basis 30 days after the end of each fiscal year during which grant funds are available, the certification set forth in Appendix C of this part if a State, or Appendix D of this part if a Tribal Organization, making the same certification concerning the diversion of designated 911 charges.

(b) In accordance with 47 U.S.C. 942(c), where a recipient knowingly provides false or inaccurate information in its certification related to the diversion of designated 911 charges, the recipient shall—

(1) Not be eligible to receive the grant under this part;

(2) Return any grant awarded under this part during the time that the certification was not valid; and

(3) Not be eligible to receive any subsequent grants under this part.

§ 400.9 Financial and administrative requirements.

(a) *General.* The requirements of 2 CFR part 200, the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, including applicable cost principles referenced at subpart E, govern the implementation and management of grants awarded under this part.

(b) *Reporting requirements*—(1) *Performance reports.* Each grant recipient shall submit an annual performance report to NHTSA, following the procedures of 2 CFR 200.328, within 90 days after each fiscal year that grant funds are available, except when a final report is required under § 400.10(b)(2).

(2) *Financial reports.* Each recipient shall submit quarterly financial reports to NHTSA, following the procedures of 2 CFR 200.327, within 30 days after each fiscal quarter that grant funds are available, except when a final voucher is required under § 400.10(b)(1).

§ 400.10 Closeout.

(a) *Expiration of the right to incur costs.* The right to incur costs under this part will expire as of the end of the period of performance. The grant recipient and its subrecipients and contractors may not incur costs for Federal reimbursement past the expiration date.

(b) *Final submissions.* Within 90 days after the completion of projects and activities funded under this part, but in no event later than the expiration date identified in paragraph (a) of this section, each grant recipient must submit—

(1) A final voucher for the costs incurred. The final voucher constitutes the final financial reconciliation for the grant award.

(2) A final report to NHTSA, following the procedures of 2 CFR 200.343(a).

(c) *Disposition of unexpended balances.* Any funds that remain unexpended after closeout shall cease to be available to the recipient and shall be returned to the government.

§ 400.11 Waiver authority.

It is the general intent of the ICO not to waive any of the provisions set forth in this part. However, under extraordinary circumstances and when it is in the best interest of the federal

government, the ICO, upon its own initiative or when requested, may waive the provisions in this part. Waivers may only be granted for requirements that are discretionary and not mandated by statute or other applicable law. Any request for a waiver must set forth the extraordinary circumstances for the request.

Appendix A To Part 400—Initial Certification For 911 Grant Applicants—States

(To be submitted as part of the initial application)

I. On behalf of [*State/Territory*], I, [*print name*], hereby certify that:

(check *only one* box below)

☐ [*State or Territory*] has established by law or regulation [*name of 911 office/coordinator*] with the authority to manage 911 services in the State, and I am its representative. *See* [*citation to State law or rule*]. [*Name of 911 office/coordinator*] will serve as the designated 911 Coordinator.

☐ [*State or Territory*] does not have an office or coordinator with the authority to manage 911 services, and the Governor of [*State or Territory*] has designated

(check *only one* circle below)

○ me as the State's single officer to serve as the 911 Coordinator of 911 services implementation; or

○ [*governmental body*] as the State's single governmental body, to serve as the 911 Coordinator of 911 services implementation, and I am its representative.

(check *all* boxes below)

☐ The State has coordinated the application with local governments, Tribal Organizations and PSAPs within the State.

☐ The State has established a State 911 Plan, consistent with the implementing regulations, for the coordination and implementation of 911 services, E–911 services, and Next Generation 911 services.

☐ The State will ensure that at least 90 percent of the grant funds are used for the direct benefit of PSAPs.

☐ The State has integrated telecommunications services involved in the implementation and delivery of 911 services, E–911 services, and Next Generation 911 services.

II. I further certify that the State has not diverted and will not divert any portion of designated 911 charges imposed by the State for any purpose other than the purposes for which such charges are designated or presented from the time period 180 days preceding the date of the application and continuing through the time period during which grant funds are available.

I further certify that no taxing jurisdiction in the State that will receive 911 grant funds has diverted any portion of the designated 911 charges for any purpose other than the purposes for which such charges are designated or presented from the time period 180 days preceding the date of the application.

I further certify that the State will ensure that each taxing jurisdiction in the State that receives 911 grant funds does not divert any portion of designated 911 charges imposed by the taxing jurisdiction for any purpose other than the purposes for which such charges are designated during the time period which grant funds are available.

I agree that, as a condition of receipt of the grant, the State will return all grant funds if the State obligates or expends, at any time for the full duration of this grant, designated 911 charges for any purpose other than the purposes for which such charges are designated or presented, eliminates such charges, or redesignates such charges for purposes other than the implementation or operation of 911 services, E–911 services, or Next Generation 911 services, and that if a taxing jurisdiction in the State that receives 911 grant funds diverts any portion of designated 911 charges imposed by the taxing jurisdiction for any purpose other than the purposes for which such charges are designated during the time period which grant funds are available, the State will ensure that 911 grant funds distributed to that taxing jurisdiction are returned.

III. I further certify that the State will comply with all applicable laws and regulations and financial and programmatic requirements for Federal grants.

_____

Signature of State 911 Coordinator (or representative of single governmental body)

_____

Title

_____

Date

Appendix B To Part 400—Initial Certification For 911 Grant Applicants—Tribal Organizations

(To be submitted as part of the initial application)

I. On behalf of [*Tribal Organization*], I, [*print name*], hereby certify that:

(check *all* boxes below)

☐ The Tribal Organization has coordinated the application with PSAPs within its jurisdiction.

☐ The Tribal Organization has established a 911 Plan, consistent with the implementing regulations, for the coordination and implementation of 911 services, E–911 services, and Next Generation 911 services.

☐ The Tribal Organization will ensure that at least 90 percent of the grant funds are used for the direct benefit of PSAPs.

☐ The Tribal Organization has integrated telecommunications services involved in the implementation and delivery of 911 services, E–911 services, and Next Generation 911 services.

II. I further certify that the taxing jurisdiction (or jurisdictions) within which the Tribal Organization is located has not diverted and will not divert any portion of designated 911 charges imposed by the taxing jurisdiction (or jurisdictions) within which the Tribal Organization is located for any purpose other than the purposes for which such charges are designated or presented from the time period 180 days preceding the date of the application and continuing through the time period during which grant funds are available.

III. I agree that, as a condition of receipt of the grant, the Tribal Organization will return all grant funds if the taxing jurisdiction (or jurisdictions) within which the Tribal Organization is located obligates or expends, at any time for the full duration of this grant, designated 911 charges for any purpose other than the purposes for which such charges are designated or presented, eliminates such charges, or redesignates such charges for purposes other than the implementation or operation of 911 services, E–911 services, or Next Generation 911 services.

IV. I further certify that the Tribal Organization will comply with all applicable laws and regulations and financial and programmatic requirements for Federal grants.

V. The single State officer or government body serving as the 911 Coordinator of implementation of 911 services in each State in which the Tribal Organization is located is ___.

_____

Signature of Responsible Official

_____

Title

_____

Date

Appendix C To Part 400—Annual Certification For 911 Grant Recipients—States

(To be submitted annually after grant award while grant funds are available)

On behalf of [*State/Territory*], I, [*print name*], hereby certify that the State has not diverted any portion of designated 911 charges imposed by the State for any purpose other than the purposes for which such charges are designated or presented from the time period 180 days preceding the date of the application and continuing throughout the time period during which grant funds are available.

I further certify that no taxing jurisdiction in the State that will receive 911 grant funds has diverted any portion of the designated 911 charges for any purpose other than the purposes for which such charges are designated or presented from the time period 180 days preceding the date of the application.

I further certify that the State will ensure that each taxing jurisdiction in the State that receives 911 grant funds does not divert any portion of designated 911 charges imposed by the taxing jurisdiction for any purpose other than the purposes for which such charges are designated during the time period which grant funds are available.

I agree that, as a condition of receipt of the grant, the State will return all grant funds if the State obligates or expends, at any time for the full duration of this grant, designated 911 charges for any purpose other than the purposes for which such charges are designated or presented, eliminates such charges, or redesignates such charges for purposes other than the implementation or

operation of 911 services, E–911 services, or Next Generation 911 services, and that if a taxing jurisdiction in the State that receives 911 grant funds diverts any portion of designated 911 charges imposed by the taxing jurisdiction for any purpose other than the purposes for which such charges are designated during the time period which grant funds are available, the State will ensure that 911 grant funds distributed to that taxing jurisdiction are returned.

Signature of State 911 Coordinator (or representative of single governmental body)

Title

Date

Appendix D To Part 400—Annual Certification For 911 Grant Recipients—Tribal Organizations

(To be submitted annually after grant award while grant funds are available)

On behalf of [*Tribal Organization*], I, [*print name*], hereby certify that the taxing jurisdiction (or jurisdictions) within which the Tribal Organization is located has not diverted and will not divert any portion of designated 911 charges imposed by the taxing jurisdiction (or jurisdictions) within which the Tribal Organization is located for any purpose other than the purposes for which such charges are designated or presented from the time period 180 days preceding the date of the application and continuing through the time period during which grant funds are available.

I further certify that the Tribal Organization will ensure that the taxing jurisdiction (or jurisdictions) within which the Tribal Organization is located that receives 911 grant funds does not divert any portion of designated 911 charges imposed by the taxing jurisdiction (or jurisdictions) for any purpose other than the purposes for which such charges are designated during the time period which grant funds are available.

I agree that, as a condition of receipt of the grant, the Tribal Organization will return all grant funds if the taxing jurisdiction (or jurisdictions) within which the Tribal Organization is located obligates or expends, at any time for the full duration of this grant, designated 911 charges for any purpose other than the purposes for which such charges are designated or presented, eliminates such charges, or redesignates such charges for purposes other than the implementation or operation of 911 services, E–911 services, or Next Generation 911 services.

Signature of Responsible Official

Title

Date

[FR Doc. 2017–19944 Filed 9–20–17; 8:45 am]

BILLING CODE 3510–60–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Part 367

[Docket No. FMCSA–2017–0118]

RIN 2126–AC03

Fees for the Unified Carrier Registration Plan and Agreement

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of proposed rulemaking; request for comments.

SUMMARY: FMCSA proposes to establish reductions in the annual registration fees collected from motor carriers, motor private carriers of property, brokers, freight forwarders, and leasing companies for the Unified Carrier Registration (UCR) Plan and Agreement for the registration years 2018, 2019 and subsequent years. For the 2018 registration year, the fees would be reduced below the current level by approximately 9.10% to ensure that fee revenues do not exceed the statutory maximum, and to account for the excess funds held in the depository. For the 2019 registration year, the fees would be reduced below the current level by approximately 4.55% to ensure the fee revenues in that and future years do not exceed the statutory maximum.

DATES: Comments on this notice of proposed rulemaking must be received on or before October 2, 2017.

ADDRESSES: You may submit comments identified by Docket Number FMCSA–2017–0118 using any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building, Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* 202–493–2251.

To avoid duplication, please use only one of these four methods. See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section for instructions on submitting comments, including collection of information comments for the Office of Information and Regulatory Affairs, OMB.

FOR FURTHER INFORMATION CONTACT: Mr. Gerald Folsom, Office of Registration and Safety Information, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590–0001 by telephone at 202–385–2405. If you have questions on viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

This notice of proposed rulemaking (NPRM) is organized as follows:

I. Public Participation and Request for Comments

A. Submitting Comments

If you submit a comment, please include the docket number for this NPRM (Docket No. FMCSA–2017–0118), indicate the specific section of this document to which each section applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of

these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov,* put the docket number, FMCSA–2017–0118, in the keyword box, and click ''Search.'' When the new screen appears, click on the ''Comment Now!'' button and type your comment into the text box on the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

FMCSA will consider all comments and material received during the comment period and may change this proposed rule based on your comments. FMCSA may issue a final rule at any time after the close of the comment period.

Confidential Business Information

Confidential Business Information (CBI) is commercial or financial information that is customarily not made available to the general public by the submitter. Under the Freedom of Information Act, CBI is eligible for protection from public disclosure. If you have CBI that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Accordingly, please mark each page of your submission as ''confidential'' or ''CBI.'' Submissions designated as CBI and meeting the definition noted above will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Brian Dahlin, Chief, Regulatory Analysis Division, 1200 New Jersey Avenue SE., Washington, DC 20590. Any commentary that FMCSA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking. FMCSA will consider all comments and material received during the comment period.

B. Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov.* Insert the docket number, FMCSA–2017–0118, in the keyword box, and click ''Search.'' Next, click the ''Open Docket Folder'' button and choose the document to review. If you do not have access to the Internet, you may view the docket online by visiting the Docket Management Facility in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

C. 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.*

D. Advanced Notice of Proposed Rulemaking Not Required

Under section 5202 of the FAST Act, Public Law, 114–94 (FAST Act), FMCSA is required to publish an advance notice of proposed rulemaking for any major or significant rules, unless the Agency finds good cause that an ANPRM is impracticable, unnecessary, or contrary to the public interest. FMCSA has determined that this proposed rule is not significant; therefore, it is not a major rule that requires an ANPRM.

II. Executive Summary

A. Purpose and Summary of the Major Provisions

The UCR Plan and the 41 States participating in the UCR Agreement establish and collect fees from motor carriers, motor private carriers of property, brokers, freight forwarders, and leasing companies. The UCR Plan and Agreement are administered by a 15-member board of directors (UCR Board); 14 appointed from the participating States and the industry, plus the Deputy Administrator of FMCSA. Revenues collected are allocated to the participating States and the UCR Plan. In accordance with the statute, adjustments must be requested by the UCR Plan when annual revenues exceed the maximum allowed in accordance with 49 U.S.C. 14504a(f)(1)(E)(ii). Also, excess funds held by the UCR Plan after payments to the States and for administrative costs are retained in its depository and subsequent fees charged are reduced as required by 49 U.S.C. 14504a(h)(4). These two distinct provisions are the reasons for the two-stage adjustment proposed in this rule. The NPRM proposes to provide for a reduction for at least the next two registration years to the annual registration fees established for the Unified Carrier Registration (UCR) Agreement.

The UCR Plan collects registration fees for each registration year. Collection begins on or about October 1st of the previous year, and continues until December 31st of the following year. For example, collection for the 2016 registration year began on October 1st, 2015, and will end on December 31st 2017. Currently the UCR Plan estimates that by December 31st of 2017, total revenues will exceed the statutory maximum for the 2016 registration year by $5.13 million, or approximately 4.55%. This is the first time that revenues collected will exceed the statutory maximum. Therefore, in March 2017, the UCR Board requested that FMCSA adjust the fees in a two-stage process. For the 2018 registration year, with collection beginning on or about October 1st of 2017, the fees would be reduced below the current level by approximately 9.10% to ensure that fee revenues do not exceed the statutory maximum, and to reduce the excess funds held in the depository. For the 2019 registration year, with collection beginning on or about October 1st of 2018, the fees would be reduced below the current level by approximately 4.55% to ensure the fee revenues in that and future years do not exceed the statutory maximum. The UCR Plan requested that the reduction for 2018 be adopted no later than August 31, 2017, to enable the participating States and the UCR Plan to reflect the new fees when collections for the 2018 registration year begins on or about October 1, 2017. The adoption of the adjusted fees must be accomplished by rulemaking by FMCSA under authority delegated from the Secretary of Transportation.

B. Benefits and Costs

The changes proposed in this NPRM will reduce the fees paid by motor carriers, motor private carriers of property, brokers, freight forwarders, and leasing companies to the participating States. Fees are considered by the Office of Management and Budget (OMB) Circular A–4, Regulatory Analysis, as transfer payments, not costs. Transfer payments are payments from one group to another that do not affect total resources available to society. Therefore, transfers are not considered in the monetization of

societal costs and benefits of rulemakings.

The UCR Plan's formal recommendation requested that FMCSA publish a rule reducing the fees paid per motor carrier, motor private carrier of property, broker, freight forwarder, and leasing company based on an analysis of current collections and past trends. The Agency reviewed the UCR Plan's formal recommendation and concluded that the UCR Plan's projection of the total revenues received for registration year 2016 may have been understated. This understatement would result in slightly higher fees for certain brackets. FMCSA conducted its own analysis, adjusted the methodology for projecting collections through the remainder of 2017, and updated the fees accordingly. The total amount targeted for collection by the UCR Plan will not change as a result of this rule, but the fees paid, or transfers, per affected entity will be reduced.

III. Abbreviations and Acronyms

The following is a list of abbreviations used in this document

Board Unified Carrier Registration Board of Directors
CAA Clean Air Act
CE Categorical Exclusion
FAST Act Fixing America's Surface Transportation Act, Public Law 114–94, 129 Stat. 1312 (Dec. 2, 2015)
FMCSA Federal Motor Carrier Safety Administration
NCSTS National Conference of State Transportation Specialists
OMB Office of Management and Budget
PIA Privacy Impact Assessment
PRA Paperwork Reduction Act
RFA Regulatory Flexibility Act
SBA Small Business Administration
SBREFA Small Business Regulatory Enforcement Fairness Act
SSRS Single State Registration System
UCR Unified Carrier Registration
UCR Agreement Unified Carrier Registration Agreement
UCR Plan Unified Carrier Registration Plan

IV. Legal Basis for the Rulemaking

This rule proposes to make adjustments in the annual registration fees for the UCR Agreement established by 49 U.S.C. 14504a. The requested fee adjustments are required by 49 U.S.C. 14504a because, for the registration year 2016, the total revenues collected are expected to exceed for the first time the total revenue entitlements of $107.78 million distributed to the 41 participating States plus the $5 million established for the administrative costs associated with the UCR Plan and Agreement. The requested adjustments have been submitted by the UCR Plan in accordance with 49 U.S.C. 14504a(f)(1)(E)(ii), which requires the Plan to request an adjustment by the Secretary when the annual revenues exceed the maximum allowed. In addition, 49 U.S.C. 14504a(h)(4) states that any excess funds held by the UCR Plan in its depository, after payments to the States and for administrative costs, shall be retained ''and the fees charged . . . shall be reduced by the Secretary accordingly.''

The Secretary also has broad rulemaking authority in 49 U.S.C. 13301(a) to carry out 49 U.S.C. 14504a, which is part of 49 U.S.C. subtitle IV, part B. Authority to administer these statutory provisions has been delegated to the FMCSA Administrator by 49 CFR 1.87(a)(2) and (7).

V. Statutory Requirements for the UCR Fees

A. Legislative History

The statute states that the ''Unified Carrier Registration Plan . . . mean[s] the organization . . . responsible for developing, implementing, and administering the unified carrier registration agreement'' (49 U.S.C. 14504a(a)(9)) (UCR Plan). The UCR Agreement developed by the UCR Plan is the ''interstate agreement governing the collection and distribution of registration and financial responsibility information provided and fees paid by motor carriers, motor private carriers, brokers, freight forwarders, and leasing companies. . .'' (49 U.S.C. 14504a(a)(8)).

The legislative history of the statute indicates that the purpose of the UCR Plan and Agreement is both to replace the Single State Registration System (SSRS) for registration of interstate motor carrier entities with the States and to ''ensure that States don't lose current revenues derived from SSRS'' (S. Rep. 109–120, at 2 (2005)). The statute provides for a 15-member Board of Directors for the UCR Plan to be appointed by the Secretary of Transportation. The statute specifies that the UCR Board should consist of one individual (either the Federal Motor Carrier Safety Administration (FMCSA) Deputy Administrator or another Presidential appointee) from the Department of Transportation; four directors from among the chief administrative officers of the State agencies responsible for administering the UCR Agreement (one from each of the four FMCSA service areas); five directors from among the professional staffs of State agencies responsible for administering the UCR Agreement, to be nominated by the National Conference of State Transportation Specialists (NCSTS); and five directors from the motor carrier industry, of whom at least one must be from a national trade association representing the general motor carrier of property industry and one from a motor carrier that falls within the smallest fleet fee bracket.

The UCR Plan and the participating States are authorized by 49 U.S.C. 14504a(f) to establish and collect fees from motor carriers, motor private carriers of property, brokers, freight forwarders, and leasing companies. The current annual fees charged are set out in 49 CFR 367.30. These fees were adopted by FMCSA in 2010 after a rulemaking proceeding that considered the substantial increase in fees over the fees initially established in 2007. Compare 75 FR 21993 (Apr. 27, 2010) with 72 FR 48585 (Aug. 24, 2007).

For carriers and freight forwarders, the fees vary according to the size of the vehicle fleets, as required by 49 U.S.C. 14504a(f). The fees collected are allocated to the States and the UCR Plan in accordance with 49 U.S.C. 14504a(h).

B. Fee Requirements

The statute specifies that fees are to be based upon the recommendation of the UCR Board, 49 U.S.C. 14504a(f)(1)(E)(ii). In recommending the level of fees to be assessed in any agreement year, and in setting the fee level, both the Board and the Agency shall consider the following factors:

- Administrative costs associated with the UCR Plan and Agreement.
- Whether the revenues generated in the previous year and any surplus or shortage from that or prior years enable the participating States to achieve the revenue levels set by the Board; and.
- Provisions governing fees in 49 U.S.C. 14504a(f)(1).

The fees may be adjusted within a reasonable range on an annual basis if the revenues derived from the fees are either insufficient to provide the participating States with the revenues they are entitled to receive or exceed those revenues (49 U.S.C. 14504a(f)(1)(E)).

Overall, the fees assessed under the UCR Agreement must produce the level of revenue established by statute. Section 14504a(g) establishes the revenue entitlements for States that choose to participate in the UCR Plan. That section provides that a participating State, which participated in SSRS in the registration year prior to the enactment of the Unified Carrier Registration Act of 2005 is entitled to receive revenues under the UCR Agreement equivalent to the revenues it received in the year before that enactment. Participating States that also collected intrastate registration fees from interstate motor carrier entities

(whether or not they participated in SSRS) are also entitled to receive revenues of this type under the UCR Agreement, in an amount equivalent to the amount received in the previous registration year. The section also requires that States that did not participate in SSRS previously, but which choose to participate in the UCR Plan, may receive revenues not to exceed $500,000 per year.

FMCSA's interpretation of its responsibilities under 49 U.S.C. 14504a in setting fees for the UCR Plan and Agreement is guided by the primacy the statute places on the need both to set and to adjust the fees so that they ''provide the revenues to which the States are entitled.'' The statute links the requirement that the fees be adjusted ''within a reasonable range'' to the provision of sufficient revenues to meet the entitlements of the participating States (49 U.S.C. 14504a(f)(1)(E), See also 49 U.S.C. 14504a(d)(7)(A)(ii)).

Section 14504a(h)(4) gives additional support for this interpretation. This provision explicitly requires FMCSA to reduce the fees for all motor carrier entities in the year following any year in which the depository retains any funds in excess of the amount necessary to satisfy the revenue entitlements of the participating States and the UCR Plan's administrative costs.

VI. Background

On March 14, 2017, the UCR Board voted unanimously to submit a recommendation to the Secretary for a reduction of registration fees collected by the Plan for 2018, with a subsequent upward adjustment in 2019. The recommendation was submitted to the Secretary on March 22, 2017, and a copy has been placed in the docket.[1] The requested fee adjustments are required by 49 U.S.C. 14504a because, for the registration year 2016, the total revenues collected have exceeded for the first time the total revenue entitlements of $107.78 million distributed to the 41 participating States plus the $5 million established for ''the administrative costs associated with the unified carrier registration plan and agreement.'' 49 U.S.C. 14504a((d)(7)(A)(i)). The maximum revenue entitlements for each of the 41 participating States, totaling $107.78 million and established in accordance with 49 U.S.C. 14504a(g), are set out in the table attached to the March 22, 2017 recommendation.

As indicated in the analysis attached to the March 22, 2017 letter, as of the end of February 2017, the UCR Plan had already collected for 2016 $4.15 million more than the statutory maximum of $112.78 million. The UCR Plan estimates that by the end of 2017, total revenues will exceed the statutory maximum for 2016 by $5.13 million, or approximately 4.55%. The excess revenues collected will be held in a depository maintained by the Plan as required by 49 U.S.C. 14504a(h)(4).

The requested adjustments have been submitted by the UCR Plan in accordance with 49 U.S.C. 14504a(f)(1)(E)(ii), which requires it to request an adjustment when the annual revenues exceed the maximum allowed. In addition, 49 U.S.C. 14504a(h)(4) states that any excess funds held by the UCR Plan in its depository, after payments to the States and for administrative costs, shall be retained ''and the fees charged . . . shall be reduced by the Secretary accordingly.'' These two provisions are distinct, and are the basis for the two-stage adjustment in the recommendation.

The requested adjustments would occur in two stages; an initial reduction below the current level by approximately 9.10% for 2018, followed by a reduction below the current level by approximately 4.55% for 2019. The adjusted fees recommended for each bracket for 2018 and 2019 are shown in the analysis attached to the March 22 letter. The UCR Plan has requested that the reduction for the 2018 registration year be adopted not later than August 31, 2017, to enable the participating States and the UCR Plan to reflect the new fees when fee collection for the 2018 registration year begins on October 1, 2017.

VII. Discussion of Proposed Rulemaking

The Agency reviewed the UCR Plan's formal recommendation and concluded that the UCR Plan's estimate of the total revenues received by the end of 2017 may have been understated. In order to estimate the revenue collections for the 2016 registration year, the UCR Plan's recommendation looks across years to find the minimum amount collected in each month, and then sums the minimum from each month to develop the total minimum projection. This method ignores the relationship between each month's registrations within a given registration year. Within each registration year there is a set number of carriers that would register; therefore, the number of registrations in each month is related to the number of registrations in previous months. FMCSA believes that using the proposed method artificially reduces the total minimum projection, thereby increasing the fees charged. This understatement would result in slightly higher fees for certain brackets.

FMCSA conducted its own analysis, adjusted the methodology for projecting collections for the 2016 registration year, and updated the fees accordingly. FMCSA estimated the minimum projection of revenue collections for March through December of 2017 by summing the collections within each registration year (2013–2015) and then compared across years to find the minimum total amount. FMCSA projected that for the 2016 registration year, the minimum revenue collection for March through December of 2017 when the collection period would end would be $1,035,305, which is $55,000 more than the Plan's projection of $980,139. Ultimately, the slightly higher minimum projection then results in a slightly lower fee for certain brackets. Where it exists, the resulting fee difference between the Plan's method and FMCSA's method is minimal.

VIII. Section-by-Section Analysis

For this NPRM, FMCSA proposes that the provisions of 49 CFR 367.30 will be revised to apply to registration years 2010 to 2017, inclusive. A proposed new 49 CFR 367.40 establishes the reduced fees for registration year 2018. A second proposed new section, 49 CFR 367.50, establishes fees for 2019, which will remain in effect in subsequent registration years unless and until revised in the future.

IX. Regulatory Analyses

A. E.O. 12866 (Regulatory Planning and Review and DOT Regulatory Policies and Procedures as Supplemented by E.O. 13563)

This proposed rule is not a significant regulatory action under section 3(f) of Executive Order (E.O.) 12866, (58 FR 51735, October 4, 1993), Regulatory Planning and Review, as supplemented by E.O. 13563 (76 FR 3821, January 21, 2011), Improving Regulation and Regulatory Review, and is also not significant within the meaning of DOT regulatory policies and procedures (DOT Order 2100.5 dated May 22, 1980; 44 FR 11034, February 26, 1979) and does not require an assessment of potential costs and benefits under section 6(a)(4) of that Order. The Office of Management and Budget has not reviewed it under that Order.

The changes proposed by this rule would adjust the registration fees paid by motor carriers, motor private carriers of property, brokers, freight forwarders, and leasing companies to the UCR Plan

[1] The UCR recommendation submitted March 22, 2017 including the letter request from the Board and all related tables is located in docket FMCSA–2017–0118 at: *www.regulations.gov.*

and the participating States. Fees are considered by OMB Circular A–4, Regulatory Analysis, as transfer payments, not costs. Transfer payments are payments from one group to another that do not affect total resources available to society. By definition, transfers are not considered in the monetization of societal costs and benefits of rulemakings.

This rule would establish adjustments in the annual registration fees for the UCR Plan and Agreement. The total amount targeted for collection by the UCR Plan will not change as a result of this rule, but the fees paid, or transfers, per affected entity will be reduced. The primary entities affected by this rule are the participating States, motor carriers, motor private carriers of property, brokers, freight forwarders, and leasing companies. Because the total amount collected will continue to be the statutory maximum, the participating States will not be impacted by this rule. The primary impact of this rule would be a reduction in fees paid by individual motor carriers, motor private carriers of property, brokers, freight forwarders, and leasing companies. The reduction will range from approximately $7 to $6,700 per entity in the first year, and from approximately $3 to $3,400 per entity in subsequent years, depending on the number of vehicles owned and/or operated by the affected entities.

B. E.O. 13771 Reducing Regulation and Controlling Regulatory Costs

E.O. 13771 requires that for ''every one new [E.O. 13771 regulatory action] 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.'' [2] Implementation guidance for E.O. 13771 issued by the Office of Management and Budget (OMB) on April 5, 2017, defines two different types of E.O. 13771 actions: an E.O. 13771 deregulatory action, and an E.O. 13771 regulatory action.[3]

An E.O. 13771 deregulatory action is defined as ''an action that has been finalized and has total costs less than zero.'' This rulemaking does not have total costs less than zero, and therefore is not an E.O. 13771 deregulatory action.

An E.O. 13771 regulatory action is defined as:

(i) A significant action as defined in Section 3(f) of E.O. 12866 that has been finalized, and that imposes total costs greater than zero; or

(ii) a significant guidance document (*e.g.,* significant interpretive guidance) reviewed by Office of Information and Regulatory Affairs under the procedures of E.O. 12866 that has been finalized and that imposes total costs greater than zero.

The Agency action, in this case a rulemaking, must meet both the significance and the total cost criteria to be considered an E.O. 13771 regulatory action. This rulemaking is not a significant regulatory action as defined in Section 3(f) of E.O. 12866, and therefore does not meet the significance criterion for being an E.O. 13771 regulatory action. Consequently, this rulemaking is not an E.O. 13771 regulatory action and no further action under E.O. 13771 is required.

C. Regulatory Flexibility Act (Small Entities)

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121, 110 Stat. 857) requires Federal agencies to consider the effects of the regulatory action on small business and other small entities and to minimize any significant economic impact. The term ''small entities'' comprises small businesses and 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. [4] Accordingly, DOT policy requires an analysis of the impact of all regulations on small entities, and mandates that agencies strive to lessen any adverse effects on these businesses. Section 605 of the RFA allows an agency to certify a rule, in lieu of preparing an analysis, if the rulemaking is not expected to have a significant economic impact on a substantial number of small entities.

This proposed rule will directly affect the participating States, motor carriers, motor private carriers of property, brokers, freight forwarders, and leasing companies. Under the standards of the RFA, as amended by the SBREFA, the participating States are not small entities. States are not considered small entities because they do not meet the definition of a small entity in Section 601 of the RFA. Specifically, States are not considered small governmental jurisdictions under Section 601(5) of the RFA, both because State government is not included among the various levels of government listed in Section 601(5), and because, even if this were the case, no State nor the District of Columbia has a population of less than 50,000, which is the criterion by which a governmental jurisdiction is considered small under Section 601(5) of the RFA.

The Small Business Administration (SBA) size standard for a small entity (13 CFR 121.201) differs by industry code. The entities affected by this rule fall into many different industry codes. In order to determine if this rule would have an impact on a significant number of small entities, FMCSA examined the 2012 Economic Census [5] data for two different industries; truck transportation (Subsector 484) and transit and ground transportation (Subsector 485). According to the 2012 Economic Census, approximately 99 percent of truck transportation firms, and approximately 97 percent of transit and ground transportation firms, had annual revenue less than the SBA revenue threshold of $27.5 million and $15 million, respectively. Therefore, FMCSA has determined that this rule will impact a substantial number of small entities.

However, FMCSA has determined that this rule will not have a significant impact on the affected entities. The effect of this rule will be to reduce the annual registration fee motor carriers, motor private carriers of property, brokers, freight forwarders, and leasing companies are currently required to pay. The reduction will range from approximately $7 to $6,700 per entity, in the first year, and from approximately $3 to $3,400 per entity in subsequent years, depending on the number of vehicles owned and/or operated by the affected entities. FMCSA asserts that the reduction in fees will be entirely beneficial to these entities, and will not have a significant impact on the affected small entities. Accordingly, I hereby certify that this rule will not have a significant economic impact on a substantial number of small entities.

D. Assistance for Small Entities

In accordance with section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996, FMCSA wants to assist small entities in understanding this proposed rule so that they can better evaluate its effects on themselves and participate in the

[2] Executive Office of the President. *Executive Order 13771 of January 30, 2017. Reducing Regulation and Controlling Regulatory Costs.* 82 FR 9339–9341. February 3, 2017.

[3] Executive Office of the President. Office of Management and Budget. *Guidance Implementing Executive Order 13771, Titled ''Reducing Regulation and Controlling Regulatory Costs.''* Memorandum M–17–21. April 5, 2017.

[4] Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) see National Archives at *http://www.archives.gov/federal-register/laws/regulaotry-flexibility/601.html.*

[5] U.S. Census Bureau, *2012 US Economic Census.* Available at: *https://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_48SSSZ4&prodType=table* (accessed April 27th, 20217).

rulemaking initiative. If the proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance; please consult the FMCSA point of contact, Gerald Folsom, listed in the **FOR FURTHER INFORMATION CONTACT** section of this proposed rule.

Small businesses may send comments on the actions of Federal employees who enforce or otherwise determine compliance with Federal regulations to the Small Business Administration's 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 FMCSA, call 1–888–REG–FAIR (1–888–734–3247). DOT has a policy regarding the rights of small entities to regulatory enforcement fairness and an explicit policy against retaliation for exercising these rights.

E. Unfunded Mandates Reform Act of 1995

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 $155 million (which is the value equivalent of $100,000,000 in 1995, adjusted for inflation to 2015 levels) or more in any one year. Though this proposed rule would not result in such an expenditure, the Agency does discuss the effects of this rule elsewhere in this preamble.

F. Paperwork Reduction Act

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

G. E.O. 13132 (Federalism)

A rule has implications for Federalism under Section 1(a) of Executive Order 13132 if it has ''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.'' FMCSA determined that this proposal would not have substantial direct costs on or for States, nor would it limit the policymaking discretion of States. Nothing in this document preempts any State law or regulation. Therefore, this rule does not have sufficient Federalism implications to warrant the preparation of a Federalism Impact Statement.

H. E.O. 12988 (Civil Justice Reform)

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of E.O. 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

I. E.O. 13045 (Protection of Children)

E.O. 13045, Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), requires agencies issuing ''economically significant'' rules, if the regulation also concerns an environmental health or safety risk that an agency has reason to believe may disproportionately affect children, to include an evaluation of the regulation's environmental health and safety effects on children. The Agency determined this proposed rule is not economically significant. Therefore, no analysis of the impacts on children is required. In any event, the Agency does not anticipate that this regulatory action could in any respect present an environmental or safety risk that could disproportionately affect children.

J. E.O. 12630 (Taking of Private Property)

FMCSA reviewed this proposed rule in accordance with E.O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights, and has determined it will not effect a taking of private property or otherwise have taking implications.

K. Privacy

The Consolidated Appropriations Act, 2005, (Pub. L. 108–447, 118 Stat. 2809, 3268, 5 U.S.C. 552a note) requires the Agency to conduct a privacy impact assessment (PIA) of a regulation that will affect the privacy of individuals. This rule does not require the collection of personally identifiable information (PII).

The Privacy Act (5 U.S.C. 552a) applies only to Federal agencies and any non-Federal agency which receives records contained in a system of records from a Federal agency for use in a matching program.

The E-Government Act of 2002, Public Law 107–347, § 208, 116 Stat. 2899, 2921 (Dec. 17, 2002), requires Federal agencies to conduct a privacy impact assessment for new or substantially changed technology that collects, maintains, or disseminates information in an identifiable form. No new or substantially changed technology would collect, maintain, or disseminate information as a result of this rule. As a result, FMCSA has not conducted a privacy impact assessment.

L. E.O. 12372 (Intergovernmental Review)

The regulations implementing E.O. 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this program.

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

FMCSA has analyzed this proposed rule under E.O. 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. The Agency has determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' likely to have a significant adverse effect on the supply, distribution, or use of energy. Therefore, it does not require a Statement of Energy Effects under E.O. 13211.

N. E.O. 13175 (Indian Tribal Governments)

This proposed rule does not have tribal implications under E.O. 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.

O. National Technology Transfer and Advancement Act (Technical Standards)

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through OMB, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards (*e.g.,* specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) are standards that are developed or adopted by voluntary consensus standards bodies. This rule does not use technical standards. Therefore, FMCSA did not consider the use of voluntary consensus standards.

P. Environment (NEPA, CAA, Environmental Justice)

FMCSA analyzed this NPRM for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and determined this action is categorically excluded from further analysis and documentation in an environmental assessment or environmental impact statement under FMCSA Order 5610.1 (69 FR 9680, March 1, 2004), Appendix 2, paragraph 6.(h). The Categorical Exclusion (CE) in paragraph 6.(h) covers regulations and actions taken pursuant to the regulations implementing procedures to collect fees that will be charged for motor carrier registrations. The proposed requirements in this rule are covered by this CE and the NPRM does not have any effect on the quality of the environment. The CE determination is available for inspection or copying in the regulations.gov Web site listed under **ADDRESSES**.

FMCSA also analyzed this rule under the Clean Air Act, as amended (CAA), section 176(c) (42 U.S.C. 7401 *et seq.*), and implementing regulations promulgated by the Environmental Protection Agency. Approval of this action is exempt from the CAA's general conformity requirement since it does not affect direct or indirect emissions of criteria pollutants.

Under E.O. 12898, each Federal agency must identify and address, as appropriate, ''disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations'' in the United States, its possessions, and territories. FMCSA evaluated the environmental justice effects of this proposed rule in accordance with the E.O., and has determined that no environmental justice issue is associated with this proposed rule, nor is there any collective environmental impact that would result from its promulgation.

List of Subjects in 49 CFR Part 367

Insurance, Intergovernmental relations, Motor carriers, Surety bonds.

In consideration of the foregoing, FMCSA proposes to amend 49 CFR chapter III, part 367 to read as follows:

PART 367—STANDARDS FOR REGISTRATION WITH STATES

■ 1. The authority citation for part 367 continues to read as follows:

Authority: 49 U.S.C. 13301, 14504a; and 49 CFR 1.87.

■ 2. Revise § 367.30 to read as follows:

§ 367.30 Fees under the Unified Carrier Registration Plan and Agreement for registration years beginning in 2010 and ending in 2017.

FEES UNDER THE UNIFIED CARRIER REGISTRATION PLAN AND AGREEMENT FOR EACH REGISTRATION YEAR 2010–2017

Bracket	Number of commercial motor vehicles owned or operated by exempt or non-exempt motor carrier, motor private carrier, or freight forwarder	Fee per entity for exempt or non-exempt motor carrier, motor private carrier, or freight forwarder	Fee per entity for broker or leasing company
B1	0–2	$76	$76
B2	3–5	227	.....
B3	6–20	452	.....
B4	21–100	1,576	.....
B5	101–1,000	7,511	.....
B6	1,001 and above	73,346	.....

■ 3. Add new § 367.40 and § 367.50 to subpart B to read as follows:

§ 367.40 Fees under the Unified Carrier Registration Plan and Agreement for registration year 2018.

FEES UNDER THE UNIFIED CARRIER REGISTRATION PLAN AND AGREEMENT FOR REGISTRATION YEAR 2018

Bracket	Number of commercial motor vehicles owned or operated by exempt or non-exempt motor carrier, motor private carrier, or freight forwarder	Fee per entity for exempt or non-exempt motor carrier, motor private carrier, or freight forwarder	Fee per entity for broker or leasing company
B1	0–2	$69	$69
B2	3–5	206	.....
B3	6–20	410	.....
B4	21–100	1,431	.....
B5	101–1,000	6,820	.....
B6	1,001 and above	66,597	.....

§ 367.50 Fees under the Unified Carrier Registration Plan and Agreement for registration years beginning in 2019.

FEES UNDER THE UNIFIED CARRIER REGISTRATION PLAN AND AGREEMENT FOR REGISTRATION YEAR 2019 AND EACH SUBSEQUENT REGISTRATION YEAR THEREAFTER

Bracket	Number of commercial motor vehicles owned or operated by exempt or non-exempt motor carrier, motor private carrier, or freight forwarder	Fee per entity for exempt or non-exempt motor carrier, motor private carrier, or freight forwarder	Fee per entity for broker or leasing company
B1	0–2	$73	$73
B2	3–5	217	.....
B3	6–20	431	.....
B4	21–100	1,503	.....
B5	101–1,000	7,165	.....
B6	1,001 and above	69,971	.....

Issued under authority delegated in 49 CFR 1.87 on: September 14, 2017.

Daphne Y. Jefferson,

Deputy Administrator.

[FR Doc. 2017–20079 Filed 9–20–17; 8:45 am]

BILLING CODE 4910–EX–P

Notices

Federal Register
Vol. 82, No. 182
Thursday, September 21, 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

Animal and Plant Health Inspection Service

[Docket No. APHIS–2017–0063]

Addition of Uganda to the List of Regions Affected by Highly Pathogenic Avian Influenza

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that we are adding Uganda to the list of regions that the Animal and Plant Health Inspection Service considers to be affected by highly pathogenic avian influenza (HPAI). This action follows our imposition of HPAI-related restrictions on avian commodities originating from or transiting Uganda as a result of the confirmation of HPAI in Uganda.

DATES: Uganda was added the list of regions under temporary restrictions on January 14, 2017. Uganda is added to the list of regions considered to be affected by HPAI as of September 21, 2017.

FOR FURTHER INFORMATION CONTACT: Dr. Rebecca Gordon, Import Risk Analyst, National Import Export Services, 920 Main Campus Drive, Suite 200, Raleigh, North Carolina, 27606; phone (919) 855–7741; *rebecca.k.gordon@aphis.usda.gov.*

SUPPLEMENTARY INFORMATION: The regulations in 9 CFR part 94 (referred to below as the regulations) govern the importation of certain animals and animal products into the United States to prevent the introduction of various animal diseases, including Newcastle disease and highly pathogenic avian influenza (HPAI). The regulations prohibit or restrict the importation of live poultry, poultry meat, and other poultry products from regions where these diseases are considered to exist.

Section 94.6 contains requirements governing the importation into the United States of carcasses, meat, parts or products of carcasses, and eggs (other than hatching eggs) of poultry, game birds, or other birds from regions of the world where HPAI exists or is reasonably believed to exist. HPAI is an extremely infectious and potentially fatal form of avian influenza in birds and poultry that, once established, can spread rapidly from flock to flock. A list of regions that the Animal and Plant Health Inspection Service (APHIS) considers affected with HPAI of any subtype is maintained on the APHIS Web site at *https://www.aphis.usda.gov/aphis/ourfocus/animalhealth/animal-and-animal-product-import-information/ct_animal_disease_status.*

APHIS receives notice of HPAI outbreaks from veterinary officials of the exporting country, from the World Organization for Animal Health (OIE), or from other sources the Administrator determines to be reliable. On January 15, 2017, the veterinary authorities of Uganda reported to the OIE the confirmation on January 14, 2017, of HPAI H5 in domestic ducks and chickens in Bukakata (Masaka District). The report indicated 30,000 domestic birds were susceptible. The OIE followup report dated January 27, 2017, confirmed the HPAI subtype H5N8.

In response to that outbreak, APHIS placed restrictions on the importation of poultry, commercial birds, other types of birds (research, performing), ratites, any avian hatching eggs, unprocessed avian products and byproducts, and certain fresh poultry products from Uganda to mitigate risk of HPAI introduction into the United States. Those restrictions went into effect on January 14, 2017. With the publication of this notice, we are adding Uganda to the list of regions APHIS considers affected with HPAI of any subtype.

Authority: 7 U.S.C. 450, 7701–7772, 7781–7786, and 8301–8317; 21 U.S.C. 136 and 136a; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.4.

Done in Washington, DC, this 15th day of September 2017.

Jere L. Dick,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2017–20121 Filed 9–20–17; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2017–0053]

Availability of an Environmental Assessment and Finding of No Significant Impact for a Biological Control Agent for Swallow-Worts

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that an environmental assessment and finding of no significant impact have been prepared by the Animal and Plant Health Inspection Service relative to the release of a leaf-feeding moth, *Hypena opulenta,* for the biological control of swallow-worts (*Vincetoxicum nigrum* and *Vincetoxicum rossicum*). Based on its finding of no significant impact, the Animal and Plant Health Inspection Service has determined that an environmental impact statement need not be prepared.

FOR FURTHER INFORMATION CONTACT: Dr. Colin D. Stewart, Assistant Director, Pests, Pathogens, and Biocontrol Permits, Permitting and Compliance Coordination, PPQ, APHIS, 4700 River Road, Unit 133, Riverdale, MD 20737–1231; (301) 851–2327, email: *Colin.Stewart@aphis.usda.gov.*

SUPPLEMENTARY INFORMATION: The Animal and Plant Health Inspection Service (APHIS) is proposing to issue permits for the release of a leaf-feeding moth, *Hypena opulenta,* into the continental United States for use as a biological control agent to reduce the severity of swallow-wort (*Vincetoxicum nigrum* and *Vincetoxicum rossicum*) infestations.

On July 13, 2017, we published in the **Federal Register** (82 FR 32318, Docket No. APHIS–2017–0053) a notice [1] in which we announced the availability, for public review and comment, of an environmental assessment (EA) that examined the potential environmental impacts associated with the proposed release of the biological control agent into the continental United States.

[1] To view the notice, EA, FONSI, and the comments we received, go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2017-0053.*

We solicited comments on the EA for 30 days ending August 14, 2017. We received 28 comments by that date. With one exception, the comments supported the proposed release.

In this document, we are advising the public of our finding of no significant impact (FONSI) regarding the release of *Hypena opulenta* into the continental United States for use as a biological control agent to reduce the severity of swallow-wort infestations. The finding, which is based on the EA, reflects our determination that release of this biological control agent will not have a significant impact on the quality of the human environment. Written responses to comments we received on the EA can be found in appendix 4 of the EA.

The EA and FONSI may be viewed on the *Regulations.gov* Web site (see footnote 1). Copies of the EA and FONSI are also available for public inspection in our reading room, which is located in Room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming. In addition, copies may be obtained by calling or writing to the individual listed under **FOR FURTHER INFORMATION CONTACT**.

The EA and FONSI have been prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*), (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

Done in Washington, DC, this 15th day of September 2017.

Jere L. Dick,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2017–20122 Filed 9–20–17; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2017–0059]

International Sanitary and Phytosanitary Standard-Setting Activities

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with legislation implementing the results of the Uruguay Round of negotiations under the General Agreement on Tariffs and Trade, we are informing the public of the international standard-setting activities of the World Organization for Animal Health, the Secretariat of the International Plant Protection Convention, and the North American Plant Protection Organization, and we are soliciting public comment on the standards to be considered.

ADDRESSES: You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2017-0059.*
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2017–0059, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road, Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at *http://www.regulations.gov/#!docketDetail;D=APHIS-2017-0059* or in our reading room, which is located in Room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: For general information on the topics covered in this notice, contact Ms. Jessica Mahalingappa, Assistant Deputy Administrator for Trade and Capacity Building, International Services, APHIS, Room 1132, USDA South Building, 14th Street and Independence Avenue SW., Washington, DC 20250; (202) 799–7121.

For specific information regarding standard-setting activities of the World Organization for Animal Health, contact Dr. Michael David, Director, International Animal Health Standards Team, National Import Export Services, VS, APHIS, 4700 River Road, Unit 33, Riverdale, MD 20737–1231; (301) 851–3302.

For specific information regarding the standard-setting activities of the International Plant Protection Convention, contact Dr. Marina Zlotina, IPPC Technical Director, International Phytosanitary Standards, PPQ, APHIS, 4700 River Road Unit 130, Riverdale, MD 20737; (301) 851–2200.

For specific information on the North American Plant Protection Organization, contact Ms. Patricia Abad, NAPPO Technical Director, International Phytosanitary Standards, PPQ, APHIS, 4700 River Road, Unit 130, Riverdale, MD, 20737; (301) 851–2264.

SUPPLEMENTARY INFORMATION:

Background

The World Trade Organization (WTO) was established as the common international institutional framework for governing trade relations among its members in matters related to the Uruguay Round Agreements. The WTO is the successor organization to the General Agreement on Tariffs and Trade. U.S. membership in the WTO was approved by Congress when it enacted the Uruguay Round Agreements Act (Pub. L. 103–465), which was signed into law on December 8, 1994. The WTO Agreements, which established the WTO, entered into force with respect to the United States on January 1, 1995. The Uruguay Round Agreements Act amended Title IV of the Trade Agreements Act of 1979 (19 U.S.C. 2531 *et seq.*). Section 491 of the Trade Agreements Act of 1979, as amended (19 U.S.C. 2578), requires the President to designate an agency to be responsible for informing the public of the sanitary and phytosanitary (SPS) standard-setting activities of each international standard-setting organization. The designated agency must inform the public by publishing an annual notice in the **Federal Register** that provides the following information: (1) The SPS standards under consideration or planned for consideration by the international standard-setting organization; and (2) for each SPS standard specified, a description of the consideration or planned consideration of that standard, a statement of whether the United States is participating or plans to participate in the consideration of that standard, the agenda for U.S. participation, if any, and the agency responsible for representing the United States with respect to that standard.

''International standard'' is defined in 19 U.S.C. 2578b as any standard, guideline, or recommendation: (1) Adopted by the Codex Alimentarius Commission (Codex) regarding food safety; (2) developed under the auspices of the World Organization for Animal Health (OIE, formerly known as the Office International des Epizooties) regarding animal health and welfare and zoonoses; (3) developed under the auspices of the Secretariat of the International Plant Protection Convention (IPPC) and the North American Plant Protection Organization (NAPPO) regarding plant health; or (4)

established by or developed under any other international organization agreed to by the member countries of the North American Free Trade Agreement (NAFTA) or the member countries of the WTO.

The President, pursuant to Proclamation No. 6780 of March 23, 1995 (60 FR 15845), designated the Secretary of Agriculture as the official responsible for informing the public of the SPS standard-setting activities of Codex, OIE, IPPC, and NAPPO. The United States Department of Agriculture's (USDA's) Food Safety and Inspection Service (FSIS) informs the public of Codex standard-setting activities, and USDA's Animal and Plant Health Inspection Service (APHIS) informs the public of OIE, IPPC, and NAPPO standard-setting activities.

FSIS publishes an annual notice in the **Federal Register** to inform the public of SPS standard-setting activities for Codex. Codex was created in 1962 by two United Nations organizations, the Food and Agriculture Organization and the World Health Organization. It is the major international organization for encouraging international trade in food and protecting the health and economic interests of consumers.

APHIS is responsible for publishing an annual notice of OIE, IPPC, and NAPPO activities related to international standards for plant and animal health and representing the United States with respect to these standards. Following are descriptions of the OIE, IPPC, and NAPPO organizations and the standard-setting agenda for each of these organizations. We have described the agenda that each of these organizations will address at their annual general sessions, including standards that may be presented for adoption or consideration, as well as other initiatives that may be underway at the OIE, IPPC, and NAPPO.

The agendas for these meetings are subject to change, and the draft standards identified in this notice may not be sufficiently developed and ready for adoption as indicated. Also, while it is the intent of the United States to support adoption of international standards and to participate actively and fully in their development, it should be recognized that the U.S. position on a specific draft standard will depend on the acceptability of the final draft. Given the dynamic and interactive nature of the standard-setting process, we encourage any persons who are interested in the most current details about a specific draft standard or the U.S. position on a particular standard-setting issue, or in providing comments on a specific standard that may be under development, to contact APHIS. Contact information is provided at the beginning of this notice under **FOR FURTHER INFORMATION CONTACT**.

OIE Standard-Setting Activities

The OIE was established in Paris, France, in 1924 with the signing of an international agreement by 28 countries. It is currently composed of 181 Members, each of which is represented by a delegate who, in most cases, is the chief veterinary officer of that country or territory. The WTO has recognized the OIE as the international forum for setting animal health standards, reporting global animal disease events, and presenting guidelines and recommendations on sanitary measures relating to animal health.

The OIE facilitates intergovernmental cooperation to prevent the spread of contagious diseases in animals by sharing scientific research among its Members. The major functions of the OIE are to collect and disseminate information on the distribution and occurrence of animal diseases and to ensure that science-based standards govern international trade in animals and animal products. The OIE aims to achieve these through the development and revision of international standards for diagnostic tests, vaccines, and the safe international trade of animals and animal products.

The OIE provides annual reports on the global distribution of animal diseases, recognizes the free status of Members for certain diseases, categorizes animal diseases with respect to their international significance, publishes bulletins on global disease status, and provides animal disease control guidelines to Members. Various OIE commissions and working groups undertake the development and preparation of draft standards, which are then circulated to Members for consultation (review and comment). Draft standards are revised accordingly and are then presented to the OIE World Assembly of Delegates (all the Members) for review and adoption during the General Session, which meets annually every May. Adoption, as a general rule, is based on consensus of the OIE membership.

The next OIE General Session is scheduled for May 20 to May 25, 2018, in Paris, France. The Chief Trade Advisor for APHIS' Veterinary Services program serves as the official U.S. Delegate to the OIE at this General Session. The Deputy Administrator for APHIS' Veterinary Services program serves as the Alternate Delegate. Information about OIE draft Terrestrial and Aquatic Animal Health Code chapters may be found on the Internet at *http://www.aphis.usda.gov/animal-health/export-animals-oie* or by contacting Dr. Michael David (see **FOR FURTHER INFORMATION CONTACT** above).

OIE Terrestrial and Aquatic Animal Health Code Chapters Adopted During the May 2017 General Session

Sixteen Code chapters were amended, rewritten, or newly proposed and presented for adoption at the General Session. The following Code chapters are of particular interest to the United States:

1. Glossary

Several definitions, including the definitions for *infection, infestation* and *animal health* were updated and adopted.

2. Chapter 1.2., Criteria for the Inclusion of Diseases, Infections and Infestations in the OIE List

Text in this existing chapter was modified for clarity and consistency and was adopted by the Members.

3. Chapter 1.3., Diseases, Infections and Infestations Listed by the OIE

Text in this Code chapter had a minor modification for clarity.

4. Chapter 2.X., Criteria Applied by the OIE on Assessing the Safety of Commodities

This is a new Code chapter that was adopted this year. It provides clear guidance for determining general treatments and procedures for the safe trade of animal products.

5. Chapter 4.16., High Health Status Horse Subpopulation

A minor change was made in this existing chapter that was adopted and supported by the Members.

6. Chapter 5.3., OIE Procedures Relevant to the Agreement on the Application of SPS Measures of the World Trade Organization

Text in this existing Code chapter was modified for clarity and consistency.

7. Chapter 6.X., Prevention and Control of Salmonella in Bovines and Chapter 6.Y., Prevention and Control of Salmonella in Pigs

These two chapters are new Code chapters that were adopted this year and are intended to provide Member countries with guidance for preventing and controlling Salmonella in cattle and pig herds.

8. Chapter 7.11., Animal Welfare and Dairy Cattle Production Systems

This chapter was adopted in 2015. Some additional changes were made and adopted that clarified the space requirement recommendations.

9. Chapter 7.12., Welfare of Working Equids

This chapter was adopted in 2016. Changes were made this year to further clarify the influencing factors that determine work and resting requirements for working equids.

10. Chapter 8.X., Infection With Mycobacterium Tuberculosis Complex

This chapter was completely revised to bring the recommendations up to date with current scientific knowledge.

11. Chapter 10.4., Infection With Avian Influenza

The text in this existing chapter was changed to update the heat treatment parameters for inactivating the virus in certain egg products. The modified text was accepted and adopted.

12. Chapter 11.11., Infection With Lumpy Skin Disease Virus

The text in this existing chapter was updated to reflect current control and testing methods. The updated chapter was accepted and adopted.

13. Chapter 15.1., Infection With African Swine Fever Virus

The text in this existing chapter was updated to incorporate state of the art science and terminology for clarity and consistency. The modified text was accepted and adopted.

14. Chapter 15.X., Infection With Porcine Reproductive and Respiratory Syndrome (PRRS) Virus

This is a newly adopted chapter and includes recommendations for the safe trade of meat, as well as a listing of safe commodities that can be traded regardless of the PRRS situation in a country.

The following Aquatic chapters were revised and adopted, and are of particular interest to the United States:

- Chapter 1.5., Criteria for Listing Species as Susceptible to Infection with a Specific Pathogen.
- Chapter 2.2.7., Infection for White Spot syndrome Virus.

OIE Terrestrial Animal Health Code Chapters for Upcoming and Future Review

- Glossary.
- Chapter 4.3., Zoning and Compartmentalization.
- Chapter 4.8., Collection and Processing of *In Vitro* Embryos from Livestock and Equids.
- Chapter 4.X., Vaccination.
- Chapter 4.Y., Management of Outbreaks of Listed Diseases.
- Chapter 6.1., The Role of Veterinary Services in Food Safety.
- Chapter 6.7., Harmonization of National AMR Surveillance and Monitoring Program.
- Chapter 6.Z., Introduction Veterinary Public Health.
- Chapter 7.1., Guiding Principle on the Use of Animal-Based Measures.
- Chapter 7.X., Animal Welfare and Pig Production Systems.
- Chapter 8.3., Infection with Bluetongue Virus.
- Chapter 8.4., Infection with *Brucella abortus, B. melitensis* and *B. suis.*
- Chapter 8.8., Infection with Foot and Mouth Disease.
- Chapter 8.15., Infection with Rinderpest Virus.
- Chapter 15.1., Infection with African Swine Fever Virus.
- Chapter 15.2., Infection with Classical Swine Fever Virus.

IPPC Standard-Setting Activities

The IPPC is a multilateral convention adopted in 1952 to prevent the spread and introduction of pests of plants and plant products and to promote appropriate measures for their control. The WTO recognizes the IPPC as the standard setting body for plant health. Under the IPPC, the understanding of plant protection encompasses the protection of both cultivated and non-cultivated plants from direct or indirect injury by plant pests. The IPPC addresses the following activities: Developing, adopting, and implementing international standards for phytosanitary (plant health) measures (ISPMs); harmonizing phytosanitary activities through emerging standards; facilitating the exchange of official and scientific information among countries; and providing technical assistance to developing countries that are contracting parties to the Convention.

The IPPC is deposited within the Food and Agriculture Organization of the United Nations, and is an international agreement of 183 contracting parties. National plant protection organizations (NPPOs), in cooperation with regional plant protection organizations, the Commission on Phytosanitary Measures (CPM), and the Secretariat of the IPPC, implement the Convention. The IPPC continues to be administered at the national level by plant quarantine officials, whose primary objective is to safeguard plant resources from injurious pests. In the United States, the NPPO is APHIS' Plant Protection and Quarantine (PPQ) program.

The 12th Session of the CPM took place from April 5 to 11, 2017, in Incheon, Republic of Korea. The Deputy Administrator for APHIS' PPQ program was the U.S. delegate to the CPM.

The CPM adopted the following standards at its 2017 meeting. The United States, represented by the Deputy Administrator for APHIS' PPQ program, participated in deliberations of these standards. The United States developed its position on each of these issues prior to the CPM session, which were based on APHIS' analyses and other relevant information from other U.S. Government agencies and interested stakeholders:

- ISPM 38: International movement of seeds
- Annex 1: Arrangements for verification of compliance of consignments by the importing country in the exporting country to ISPM 20 (Guidelines for a phytosanitary import regulatory system)
- ISPM 39: International movement of wood
- ISPM 40: International movement of growing media in association with plants for planting
- ISPM 41: International movement of used vehicles, machinery and equipment
- Phytosanitary treatments (PTs) as Annexes to ISPM 28: Phytosanitary treatments for regulated pests
  - PT 22-Sulfuryl fluoride fumigation treatment for insects in debarked wood
  - PT 23-Sulfuryl fluoride fumigation treatment for nematodes and insects in debarked wood
  - PT 24-Cold treatment for *Ceratitis capitata* on *Citrus sinensis*
  - PT 25-Cold treatment for *Ceratitis capitata* on *Citrus reticulata* x *C. sinensis*
  - PT 26-Cold treatment for *Ceratitis capitata* on *Citrus limon*
  - PT 27-Cold treatment for *Ceratitis capitata* on *Citrus paradisi*
  - PT 28-Cold treatment for *Ceratitis capitata* on *Citrus reticulata*
  - PT 29-Cold treatment for *Ceratitis capitata* on *Citrus clementina*
  - PT 30-Vapour heat treatment for *Ceratitis capitata* on *Mangifera indica*
  - PT 31-Vapour heat treatment for *Bactrocera tryoni* on *Mangifera indica*
- Diagnostic protocols (DPs) as Annexes to ISPM 27: Diagnostic protocols for regulated pests

- DP 13: *Erwinia amylovora*
- DP 14: *Xanthomonas fragariae*
- DP 15: *Citrus tristeza virus*
- DP 16: Genus *Liriomyza* Mik
- DP 17: *Aphelenchoides besseyi, A. ritzemabosi* and *A. fragariae*
- DP 18: *Anguina* spp.
- DP 19: *Sorghum halepense*
- DP 20: *Dendroctonus ponderosae*
- DP 21: *Candidatus* Liberibacter solanacearum
- DP 22: *Fusarium circinatum*

In addition to adopting 25 plant health standards, the 2017 Commission meeting also progressed a number of plant health initiatives strategically important to the United States. These initiatives include advancing the development of a new IPPC strategic framework for 2020–2030 to set the top priorities for plant health and trade, launching a pilot of a global electronic certification system to support trade (ePhyto), developing programs aimed at improving the use and implementation of standards around the world, and creating a task force for addressing pests issues associated with the international movement of sea containers.

New IPPC Standard-Setting Initiatives, Including Those in Development

A number of expert working group (EWG) meetings or other technical consultations took place during 2017 on the topics listed below. These standard-setting initiatives are under development and may be considered for future adoption. APHIS intends to participate actively and fully in each of these working groups. APHIS developed its position on each of the topics prior to the working group meetings. The APHIS position was based on technical analyses, information from other U.S. Government agencies, and relevant scientific information from interested stakeholders:

- EWG meeting on the Authorization of Entities to Perform Phytosanitary Actions
- EWG meeting on the Revision of ISPM 8: Determination of pest status in an area
- Technical Panel for the Glossary of Phytosanitary Terms
- Technical Panel on Diagnostic Protocols
- Technical Panel on Phytosanitary Treatments

For more detailed information on the above, contact Dr. Marina Zlotina (see **FOR FURTHER INFORMATION CONTACT** above).

PPQ actively works to achieve broad participation by States, industry, and other stakeholders in the development and use of international and regional plant health standards. Plant health stakeholders are strongly encouraged to comment on draft standards, documents, and specifications during the consultation periods. In 2017, 13 standards (including phytosanitary treatments and pest diagnostic protocols) and 3 draft specifications were open for first and second consultation. APHIS posts links to draft standards on the Internet as they become available and provides information on the due dates for comments.[1] Additional information on IPPC standards (including the IPPC work program (list of topics),[2] standard-setting process, and adopted standards) is available on the IPPC Web site.[3] For the most current information on official U.S. participation in IPPC activities, including U.S. positions on standards being considered, contact Dr. Marina Zlotina (see **FOR FURTHER INFORMATION CONTACT** above). Those wishing to provide comments on any of the areas of work being undertaken by the IPPC may do so at any time by responding to this notice (see **ADDRESSES** above) or by providing comments through Dr. Zlotina.

NAPPO Standard-Setting Activities

NAPPO, a regional plant protection organization created in 1976 under the IPPC, coordinates the efforts among the United States, Canada, and Mexico to protect their plant resources from the entry, establishment, and spread of harmful plant pests, while facilitating intra- and inter-regional trade. As the NPPO of the United States, APHIS–PPQ is the organization officially identified to participate in NAPPO. Through NAPPO, APHIS works closely with its regional counterparts and industries to develop harmonized regional standards and approaches for managing pest threats. NAPPO conducts its work through priority-driven annual projects approved by the NAPPO Executive Committee and conducted by expert groups, including subject matter experts from each member country and regional industry representatives. Project results and updates are provided during the NAPPO annual meeting. Projects can include the development of positions, policies, or technical documents, or the development or revision of regional standards for phytosanitary measures (RSPMs). Projects can also include implementation of standards or other capacity development activities such as workshops.

The 41st NAPPO annual meeting will be held October 16 to 19, 2017, in Merida, Yucatan, Mexico. The NAPPO Executive Committee meetings will take place on October 16 and 20, 2017. The Deputy Administrator for PPQ is the U.S. member of the NAPPO Executive Committee.

The NAPPO expert groups (including member countries' subject matter experts) finalized the following regional standards, documents, or projects in 2016:

- *Grains:* Finalized a NAPPO discussion document that supported the development of a draft IPPC standard for the international movement of grain in an effort to be consistent with North American grain trade objectives and reviewed and updated RSPM 13: Guidelines to establish, maintain and verify Karnal bunt pest free areas in North America.
- *Biological Control:* Developed an English online training course on preparing a petition for the first release of an entomophagous biological control agent, based on RSPM 12. The module is aimed to educate stakeholders on the petition process for new biocontrol products and to help NAPPO member countries improve the quality of petitions received for consideration.
- *Diversion from Intended Use:* Drafted a discussion document on diversion from intended use aimed to inform NAPPO member countries on this phytosanitary concept.
- *Forestry:* NAPPO partnered with the Inter-American Institute for Cooperation on Agriculture and other regional plant protection organizations in the Americas to hold a regional workshop in August 2016 aimed at enhancing global compliance with the IPPC international standard for wood packaging materials (ISPM 15) to further reduce the threat of wood and forest pests in trade.
- *Potato:* Revised the pest list for RSPM 3: Movement of potatoes into a NAPPO member country and eliminated Annex 6 of RSPM 3 on pre-shipment testing for PVY^N during the 5-year review. Continued to review RSPM 3 in light of ISPM 33: Pest free potato (*Solanum* sp.) micropropagative material and minitubers for international trade.
- *Foundational documents:* Updated the NAPPO Constitution and By-Laws and approved the NAPPO 2016–2020 Strategic Plan.

[1] For more information on the IPPC draft ISPM consultation: *https://www.aphis.usda.gov/aphis/ourfocus/planthealth/sa_international/sa_phytostandards/ct_draft_standards.*

[2] IPPC List of topics: *https://www.ippc.int/en/core-activities/standards-setting/list-topics-ippc-standards/.*

[3] IPPC Web site: *https://www.ippc.int/.*

New NAPPO Standard-Setting Initiatives, Including Those in Development

The 2017 work program [4] includes the following topics being worked on by NAPPO expert groups. APHIS intends to participate actively and fully in the 2017 NAPPO work program. The APHIS position on each topic will be guided and informed by the best technical and scientific information available, as well as on relevant input from stakeholders. For each of the following, the United States will consider its position on any draft standard after it reviews a prepared draft. Information regarding the following NAPPO projects, assignments, activities, and updates on meeting times and locations may be obtained from the NAPPO Web site or by contacting Ms. Patricia Abad (see **FOR FURTHER INFORMATION CONTACT** above).

1. *Asian Gypsy Moth:* Develop a NAPPO document on validation of the specified risk periods for Asian gypsy moth in countries of origin.

2. *Biological Control:* Develop a Spanish module on preparing a petition for first release of entomophagous biological control agents, based on the English module prepared in 2016.

3. *Electronic Phytosanitary Certification:* Provide assistance and technical support to the IPPC ePhyto Steering Group.

4. *Forestry:* Work to finalize a NAPPO standard on the potential use of systems approaches to manage pest risks associated with the movement of wood, taking into account comments received from April to June 2017 country consultation period.

5. *Grains:* Develop a NAPPO discussion document on a harmonized approach to prevent introduction and spread of Khapra beetle (*Trogoderma granarium*).

6. *Lymantriids:* Develop a NAPPO Science and Technology paper on the risks associated with Lymantriids of potential concern to the NAPPO region.

7. *Phytosanitary Alert System (PAS):* Manage the NAPPO pest reporting system.

8. *Advancing key phytosanitary concepts:* (a) Review stakeholder input on topic of diversion from intended use; (b) Finalize a discussion document on ''interpretation of existing guidance'' in standards on evaluation of the likelihood of establishment component of a pest risk analysis (PRA) for quarantine pests, taking into account comments received from April to May 2017 country consultation period; and (c) Organize an international symposium on inspection sampling to support proper and harmonized implementation of ISPM 23: Guidelines for Inspection and ISPM 31: Methodologies for sampling of consignments in the NAPPO region and internationally. NAPPO, with substantial APHIS–PPQ support, welcomed 122 participants from 27 countries to the first-ever International Symposium for Risk-Based Sampling, held from June 16–21, 2017.

9. *Potato:* Continue to review RSPM 3 to align it with ISPM 33: Pest free potato (*Solanum* sp.) micropropagative material and minitubers for international trade.

10. *Seeds:* Finalize NAPPO discussion document on harmonized criteria for evaluating phytosanitary seed treatments, taking into account comments received from April to May 2017 country consultation period.

11. *Foundation and Procedure documents:* Update various foundation or procedure documents.

The PPQ Assistant Deputy Administrator, as the official U.S. delegate to NAPPO, intends to participate in the adoption of these regional plant health standards and projects, including the work described above, once they are completed and ready for such consideration.

The information in this notice contains all the information available to us on NAPPO standards under development or consideration. For updates on meeting times and for information on the expert groups that may become available following publication of this notice, visit the NAPPO Web site or contact Ms. Patricia Abad (see **FOR FURTHER INFORMATION CONTACT** above). PPQ actively works to achieve broad participation by States, industry, and other stakeholders in the development and use of international and regional plant health standards. Plant health stakeholders are strongly encouraged to comment on draft standards, documents, and specifications. APHIS posts links to draft standards on the Internet as they become available and provides information on the due dates for comments.[5] Additional information on NAPPO standards (including the NAPPO Work Program, standard setting process, and adopted standards) is available on the NAPPO Web site.[6] Information on official U.S. participation in NAPPO activities, including U.S. positions on standards being considered, may also be obtained from Ms. Abad. Those wishing to provide comments on any of the topics being addressed in the NAPPO work program may do so at any time by responding to this notice (see **ADDRESSES** above) or by transmitting comments through Ms. Abad.

Done in Washington, DC, this 18th day of September 2017.

Jere L. Dick,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2017–20119 Filed 9–20–17; 8:45 am]

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[4] NAPPO Work Program: *http://nappo.org/english/710/status-current-nappo-projects/.*

[5] For more information on the NAPPO draft RSPM consultation: *https://www.aphis.usda.gov/aphis/ourfocus/planthealth/sa_international/sa_phytostandards/ct_draft_standards.*

[6] NAPPO Web site: *http://nappo.org/.*

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2017–0060]

Addition of Zimbabwe to the List of Regions Affected by Highly Pathogenic Avian Influenza

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that we are adding Zimbabwe to the list of regions that the Animal and Plant Health Inspection Service considers to be affected by highly pathogenic avian influenza (HPAI). This action follows our imposition of HPAI-related restrictions on avian commodities originating from or transiting Zimbabwe as a result of the confirmation of HPAI in Zimbabwe.

DATES: Zimbabwe was added to the list of regions under temporary restrictions on June 1, 2017. Zimbabwe is added to the list of regions considered to be affected by HPAI as of September 21, 2017.

FOR FURTHER INFORMATION CONTACT: Mr. Javier Vargas, Import Risk Analyst, National Import Export Services, VS, APHIS, 4700 River Road, Unit 38, Riverdale, MD 20737; (301) 851–3300; *Javier.Vargas@aphis.usda.gov*.

SUPPLEMENTARY INFORMATION: The regulations in 9 CFR part 94 (referred to below as the regulations) govern the importation of certain animals and animal products into the United States to prevent the introduction of various animal diseases, including Newcastle disease and highly pathogenic avian influenza (HPAI). The regulations prohibit or restrict the importation of live poultry, poultry meat, and other poultry products from regions where these diseases are considered to exist.

Section 94.6 of part 94 of the regulations contains requirements governing the importation into the United States of carcasses, meat, parts or products of carcasses, and eggs (other than hatching eggs) of poultry, game birds, or other birds from regions of the world where HPAI exists or is reasonably believed to exist. HPAI is an extremely infectious and potentially fatal form of avian influenza in birds and poultry that, once established, can spread rapidly from flock to flock. A list of regions that the Animal and Plant Health Inspection Service (APHIS) considers affected with HPAI of any subtype is maintained on the APHIS Web site at *https://www.aphis.usda.gov/aphis/ourfocus/animalhealth/animal-and-animal-product-import-information/ct_animal_disease_status*.

APHIS receives notice of HPAI outbreaks from veterinary officials of the exporting country, from the World Organization for Animal Health (OIE), or from other sources the Administrator determines to be reliable. On June 1, 2017, the veterinary authorities of Zimbabwe reported to the OIE the confirmation of a highly pathogenic H5N8 strain of avian influenza in the Province of Mashonaland East that affected a commercial poultry breeding farm for broilers and layers with a total census of approximately 2 million birds.

In response to that outbreak, APHIS placed restrictions on the importation of poultry, commercial birds, other types of birds (research, performing), ratites, any avian hatching eggs, unprocessed avian products and byproducts, and certain fresh poultry products from Zimbabwe to mitigate risk of HPAI introduction into the United States. Those restrictions went into effect on June 1, 2017. With the publication of this notice, we are adding Zimbabwe to the list of regions APHIS considers affected with HPAI of any subtype.

Authority: 7 U.S.C. 450, 7701–7772, 7781–7786, and 8301–8317; 21 U.S.C. 136 and 136a; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.4.

Done in Washington, DC, this 18th day of September 2017.

Jere L. Dick,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2017–20120 Filed 9–20–17; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Information Collection Activity; Comment Request

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Rural Utilities Service (RUS) invites comments on this information collection for which RUS intends to request approval from the Office of Management and Budget (OMB).

DATES: Comments on this notice must be received by November 20, 2017.

FOR FURTHER INFORMATION CONTACT: Thomas Dickson, Acting Director, Program Development and Regulatory Analysis, Rural Utilities Service, USDA, 1400 Independence Avenue SW., STOP 1522, Room 5164, South Building, Washington, DC 20250–1522. Telephone: (202) 690–4492. Fax: (202) 720–8435 or email *Thomas.Dickson@wdc.usda.gov.*

SUPPLEMENTARY INFORMATION: The Office of Management and Budget's (OMB) regulation (5 CFR part 1320) implementing provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13) requires that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8(d)). This notice identifies an information collection that RUS is submitting to OMB for extension.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (b) the accuracy of the Agency's estimate of the burden of the collection including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to: Thomas Dickson, Acting Director, Program Development and Regulatory Analysis, Rural Utilities Service, U.S. Department of Agriculture, Stop 1522, 1400 Independence Avenue SW., Washington, DC 20250–1522. Telephone: (202) 690–4493, Fax: (202) 720–8435. Email: *Thomas.Dickson@wdc.usda.gov*.

Title: 7 CFR 1726, Electric System Construction Policies and Procedures.

OMB Control Number: 0572–0107.

Type of Request: Extension of a currently approved collection.

Abstract: In order to facilitate the programmatic interest of the Rural Electrification Act of 1936, 7 U.S.C. 901 *et seq.* (RE Act), and, in order to assure that loans made or guaranteed by RUS are adequately secured, RUS, as a secured lender, has established certain standards and specifications for materials, equipment, and construction of electric systems. The use of standard forms, construction contracts, and procurement procedures helps assure that appropriate standards and specification are maintained, that RUS' loan security is not adversely affected, and the loan and loan guarantee funds are used effectively and for the intended purposes. The list of forms and corresponding purposes for this information collection are as follows:

1. RUS Form 168b, Contractor's Bond

This form is used to provide a surety bond for contracts on RUS Forms 200, 257, 786, 790, & 830.

2. RUS Form 168c, Contractor's Bond (less than $1 million)

This form is used to provide a surety bond in lieu of RUS Form 168b, when contractor's surety has accepted a small business administration guarantee.

3. RUS Form 187, Certificate of Completion-Contract Construction

This form is used for the closeout of RUS Forms 200, 257, 786, and 830.

4. RUS Form 198, Equipment Contract

This form is used for equipment purchases.

5. RUS Form 200, Construction Contract-Generating

This form is used for generating plant construction or for the furnishing and installation of major items of equipment.

6. RUS Form 213, Certificate (''Buy American'')

This form is used to document compliance with the ''Buy American'' requirement.

7. RUS Form 224, Waiver and Release of Lien

This form is used by subcontractors to provide a release of lien in connection with the closeout of RUS Forms 198, 200, 257, 786, 790, and 830.

8. RUS Form 231, Certificate of Contractor

This form is used for the closeout of RUS Forms 198, 200, 257, 786, and 830.

9. RUS Form 238, Construction or Equipment Contract Amendment

This form is used to amend contracts except for distribution line construction contracts.

10. RUS Form 254, Construction Inventory

This form is used to document the final construction in connection with the closeout of RUS Form 830.

11. RUS Form 257, Contract to Construct Buildings

This form is used to construct headquarter buildings, generating plant buildings and other structure construction.

12. RUS Form 307, Bid Bond

This form is used to provide a bid bond in RUS Forms 200, 257, 786, 790 and 830.

13. RUS Form 786, Electric System Communications and Control Equipment Contract

This form is used for delivery and installation of equipment for system communications.

14. RUS Form 790, Electric System Construction Contract Non-Site Specific Construction (Notice and Instructions to Bidders)

This form is used for limited distribution construction accounted for under work order procedure.

15. RUS Form 792b, Certificate of Contractor and Indemnity Agreement (Line Extensions)

This form is used in the closeout of RUS Form 790.

16. RUS Form 830, Electric System Construction Contract (labor & material)

This form is used for distribution and/or transmission project construction.

Respondents: Businesses or other for profits; Not-for-profit institutions.

Estimated Number of Respondents: 1,161.

Estimated Number of Responses per Respondent: 4.

Estimate of Burden: Average of 1.5 minutes per response.

Estimated number of Total Responses: 4.063

Estimated Total Annual Burden on Respondents: 98 hours.

Copies of this information collection, and related forms and instructions, can be obtained from MaryPat Daskal, Program Development and Regulatory Analysis, at (202) 720–7853. All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Dated: September 13, 2017.

Christopher A. McLean,

Acting Administrator, Rural Utilities Service.

[FR Doc. 2017–20076 Filed 9–20–17; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Information Collection Activity; Comment Request

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Rural Utilities Service (RUS) invites comments on this information collection for which RUS intends to request approval from the Office of Management and Budget (OMB).

DATES: Comments on this notice must be received by November 20, 2017.

FOR FURTHER INFORMATION CONTACT: Thomas Dickson, Acting Director, Program Development and Regulatory Analysis, Rural Utilities Service, USDA, 1400 Independence Avenue SW., STOP 1522, Room 5164–South Building, Washington, DC 20250–1522. Telephone: (202) 690–4492. Fax: (202) 720–8435 or email *Thomas.Dickson@wdc.usda.gov.*

SUPPLEMENTARY INFORMATION: The Office of Management and Budget's (OMB) regulation (5 CFR part 1320) implementing provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13) requires that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8(d)). This notice identifies an information collection that RUS is submitting to OMB for extension.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (b) the accuracy of the Agency's estimate of the burden of the collection including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to: Thomas Dickson, Acting Director, Program Development and Regulatory Analysis, Rural Utilities Service, U.S. Department of Agriculture, Stop 1522, 1400 Independence Avenue SW., Washington, DC 20250–1522. Telephone: (202) 690–4493, Fax: (202) 720–8435. Email: *Thomas.Dickson@wdc.usda.gov*.

Title: RUS Electric Loan Application and Related Reporting.

OMB Control Number: 0572–0032.

Type of Request: Extension of an existing information collection.

Abstract: The Rural Utilities Service (RUS) was established in 1994 by the Federal Crop Insurance Reform and Department of Agriculture Reorganization Act of 1994 (Pub. L. 103–354, 108 Stat. 3178, 7 U.S.C. 6941 *et. seq.*) as successor to the Rural Electrification Administration (REA) with respect to certain programs, including the electric loan and loan guarantee program authorized under the Rural Electrification Act of 1936 (7 U.S.C. 901 *et seq.,* as amended) (RE Act).

The RE Act authorizes and empowers the Administrator of RUS to make and guarantee loans to furnish and improve electric service in rural areas. These loans are amortized over a period of up to 35 years and secured by the borrower's electric assets and/or revenue. In the interest of protecting loan security, monitoring compliance with debt covenants, and ensuring that RUS loan funds are used for purposes authorized by law, RUS requires that borrowers prepare and submit for RUS evaluation certain studies and reports. Some of these studies and reports are required only once for each loan application; others must be submitted periodically until the loan is completely repaid. These forms and documents serve as support for electric loan applications and summarizes the types and estimated costs of facilities and equipment for which RUS financing is being requested.

The RE Act also authorizes and empowers the Administrator of RUS to make or cause to be made, studies, investigations, and reports concerning the condition and progress of the electrification of the several States and Territories; and to publish and disseminate information with respect thereto. Information supplied by borrowers forms the basis of many of these reports.

In the past two years, RUS has implemented an application intake system called RDApply that allows applicants to create an online application for RUS loans and grants as well upload attachments, sign

certifications, and draw service areas, to name a few features. RDApply streamlines the application process, as well as provides identity security, reduces paper consumption and is expected to reduce the burden associated with this information collection package over time.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 16.10 hours per response.

Respondents: Not for profit organizations, business or other for profit.

Estimated Number of Respondents: 625.

Estimated Number of Responses per Respondent: 5.19.

Estimated Annual Responses: 3245.

Estimated Total Annual Burden on Respondents: 52,239 hours.

Copies of this information collection, and related forms and instructions, can be obtained from MaryPat Daskal, Program Development and Regulatory Analysis, at (202) 720–7853. All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Dated: September 13, 2017.

Christopher A. McLean,

Acting Administrator, Rural Utilities Service.

[FR Doc. 2017–20157 Filed 9–20–17; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–057–2017]

Foreign-Trade Zone (FTZ) 35—Philadelphia, Pennsylvania; Notification of Proposed Production Activity; Estee Lauder Inc. (Skin Care, Fragrance, and Cosmetic Products) Bristol and Trevose, Pennsylvania

Estee Lauder Inc. (Estee Lauder) submitted a notification of proposed production activity to the FTZ Board for its facilities in Bristol and Trevose, Pennsylvania, under FTZ 35. The notification conforming to the requirements of the regulations of the FTZ Board (15 CFR 400.22) was received on August 30, 2017.

Estee Lauder indicates that it submitted a separate application for usage-driven FTZ site designation at its facilities under FTZ 35. The facilities will be used for production of skin care, fragrance, and cosmetic products. Pursuant to 15 CFR 400.14(b), FTZ activity would be limited to the specific foreign-status materials and components and specific finished products described in the submitted notification (as described below) and subsequently authorized by the FTZ Board.

Production under FTZ procedures could exempt Estee Lauder from customs duty payments on the foreign-status components used in export production. On its domestic sales, for the foreign-status materials/components noted below, Estee Lauder would be able to choose the duty rates during customs entry procedures that apply to: Perfumes; Fragrance; Lip Make-up; Eye Make-up; Manicure/Pedicure Preparation Pads; Rouge Powder; Non-Rouge Cosmetic Powder; Cosmetic Make-up; Bath Products; Body Wash, Skin Brightening Agent; Brightening Serum; Skin Lightening Agent; Cosmetic Foundation (duty rate ranges from duty-free to 6.5%). Estee Lauder would be able to avoid duty on foreign-status components which become scrap/waste. Customs duties also could possibly be deferred or reduced on foreign-status production equipment.

The components and materials sourced from abroad include: Ginseng Extract; Crude Mica; Mica Powder; Talc Powder; Silicon Dioxide; Iron Oxide; Titanium Oxides Other Than Titanium Dioxide; Caprylyl Glycol; Zinc Stearate; Potassium Sorbate; Amino Acids; Vitamin C; Vitamin E; Food Coloring; Preparations based on Iron Oxides; Preparations based on Hexacyanoferrates; Gamma Oryzanol; Glyceryl Stearate; Glyceryl Laurate; Sorbitan Palmitate; Algae Extract; Butylene Glycol; Bifidus Extract and Liposome Blend; Caffeine Extract; Centaurium Erythraea Extract; Glycereth Hydroxystearate; Ethyl Macadamiate; Butylene Glycol Extracts; Glyceryl; Rooibois Tea Leaf Extract; Willow Bark Extract; Phospholipid; Protein Complexed Vitamins; Isopropyl Isostearate; Yeast Extract; Dimer Diol Building Block; Sorbitan Stearate; Synthetic Beeswax; Sodium Hyaluronate Solution; Grapefruit Seed Extract; Oat Kernel Extract; Carnosine; Emollient; Hydroglycolic Solution; Caprylic/Capric Triglyceride and Plankton Extract Blend; Polyglycol; Menthyl Pyrrolidone Carboxylate; Salicylic Acid Liposomes; Plant Growth Stimulant; Tribehenin; Polyamide Gellants; Tricontanyl Polyvinylpyrrolidone; 1-Decene Homopolymer Hydrogenated; Olive Leaf Extract; Lipid Synthesis Stimulant; Cosmetic Extenders; Polyethylene Glycols; Trioctyldodecyl Citrate; Sorbitan Tristearate; Agar Microspheres; Anti-Wrinkle Agent; Soy Milk Culture; Glyceryl Behenate; Polydecene; Sucrose Polystearate; Hexyldecyl Stearate; Rose of Jericho; Isopropyl Titanium Triisostearate; Extensins (Plant Cell Wall Glycoprotein); Liquid Polymer for Sprayable, Pourable, or Spreadable Formulae; Vitamin A; Thermochromic Liquid Crystals; Fatty Acid; Glycol Stearate; Glyceryl Dimyristate; Sodium Ribonucleic Acid; Octadecanoic Acid Cetyl Ricinoleate; Chemical Extender; Polyglyceryl; Glycol Distearate; Eye Cream; Glycerin; Phenoxyethanol; Chemical Preservatives; Squalane Butter Treated Powders; Lanolin Substitute; Anti-Aging Complex; Sorbitan; Disteardimomium Hectorite; Sunscreen Dispersion Agent; Sunstone; Oil Absorber; Surfactant; Lime Tea; Carcinine; Skin Firming Agent; Iron Oxide Blend; Glyceryl Ester; Cosmetic Silt; Bifidus Extract; Cosmetic Stabilizer; Corn Extract; Zeolites; Emulsifier; Date Palm Kernel Extract; Moisturizing Agent; Polyglyceryl-2 Isostearate/Dimer Dilinoleate Copolymer; Diisopropyl Dimer Dilinoleate; Petrolatum; Porphyra Extract; Cleansing Oil; Liposomes; Castor Oil; Polyglyceryl-2 Triisostearate; Coagulant; Skin Smoothening Agent; Eye Shadow Binder; Octocrylene; Wild Mint Extract; Tepezcohuite; Bamboo Charcoal Powder; Gel Solvent; Silicone Gel; Phytosterols; Isononyl Isononanoate; Biomimetic Collagen; Sun-Protecting Agent; Retinoids; Antioxidant; Alumina Hydrate Extract; Salicylic Acid and Acacia Senegal Gum Molecular Association; Moisturizing Gel; Elastomer Dispersion; Smoothing Emulsion; Gelator; Skin and Lip Smoothening Powder; Fine Polyamide Powders; Silicones in Primary Form; Plastic Compact; Plastic Bottle; Plastic Cap; Plastic Tube; Paper Packing Containers; Ribbon; Framed Mirrors; Glass Bottle; Brass Compacts; Aluminum Cosmetic Pans; Compact Powder Case; Metal Stoppers, Caps, and Lids; Cosmetic Applicator Powder Puffs and Pads (duty rate ranges from duty-free to 7.8%); and, Mascara Brush (duty rate ranges from 0.2¢ each + 7% to 0.3¢ each + 3.6%).

The request indicates that Ribbon is subject to antidumping/countervailing duty (AD/CVD) orders on certain countries. The FTZ Board's regulations (15 CFR 400.14(e)) require that merchandise subject to AD/CVD orders be admitted to the zone in privileged foreign status (19 CFR 146.41).

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 October 31, 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 Juanita Chen at *juanita.chen@trade.gov* or (202) 482–1378.

Dated: September 14, 2017.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2017–20083 Filed 9–20–17; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–063]

Cast Iron Soil Pipe Fittings From the People's Republic of China: Postponement of Preliminary Determination in the Countervailing Duty Investigation

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

DATES: Applied September 21, 2017.

FOR FURTHER INFORMATION CONTACT: Dennis McClure at (202) 482–5973 or Jinny Ahn at (202) 482–0339, 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 August 2, 2017, the Department initiated a countervailing duty (CVD) investigation of cast iron soil pipe fittings from the People's Respublic of China.[1] Currently, the preliminary determination is due no later than October 6, 2017.

Postponement of Preliminary Determinations

Section 703(b)(1) of the Tariff Act of 1930, as amended (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, section 703(c)(1) of the Act permits the Department to postpone the preliminary determination until no later than 130 days after the date on which the Department initiated the investigation if: (A) The petitioner[2] makes a timely request for a postponement; or (B) the Department concludes that the parties concerned are cooperating, that the investigation is extraordinarily complicated, and that additional time is necessary to make a preliminary determination. Under 19 CFR 351.205(e), the petitioner must submit a request for postponement 25 days or more before the scheduled date of the preliminary determination and must state the reasons for the request. The Department will grant the request unless it finds compelling reasons to deny the request.

On September 5, 2017, the petitioner submitted a timely request that the Department postpone the preliminary CVD determination.[3] The petitioner stated that it requests postponement of the preliminary determination because the Department selected at least one trading company as a mandatory respondent, and has not yet received questionnaire responses. Therefore, postponing the preliminary determination would allow for receipt and review of these responses.

In accordance with 19 CFR 351.205(e), the petitioner stated the reasons for requesting a postponement of the preliminary determination, and the Department finds no compelling reason to deny the request. Therefore, in accordance with section 703(c)(1)(A) of the Act, the Department is postponing the deadline for the preliminary determination to no later than 130 days after the date on which this investigation was initiated, *i.e.,* December 11, 2017.[4] Pursuant to section 705(a)(1) of the Act and 19 CFR 351.210(b)(1), the deadline for the final determination of this investigation will continue to be 75 days after the date of the preliminary determination.

This notice is issued and published pursuant to section 703(c)(2) of the Act and 19 CFR 351.205(f)(1).

Dated: September 15, 2017.

Gary Taverman

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive duties of the Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2017–20085 Filed 9–20–17; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–549–821]

Polyethylene Retail Carrier Bags From Thailand: Final Results of Antidumping Duty Administrative Review, Final Determination of No Shipments; 2015–2016

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: On June 8, 2017, the Department of Commerc published the preliminary results of the administrative review (AR) of the antidumping duty (AD) order on polyethylene retail carrier bags (PRCBs) from Thailand. The period of review (POR) is August 1, 2015, through July 31, 2016. We invited parties to comment on the preliminary results. We received no comments. Accordingly, the final results remain unchanged from the preliminary results.

DATES: Applicable September 21, 2017.

FOR FURTHER INFORMATION CONTACT: Shanah Lee, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Ave. NW., Washington, DC 20230; telephone: (202) 482–6386.

SUPPLEMENTARY INFORMATION:

Background

On June 8, 2017, the Department published in the **Federal Register** the preliminary results of the 2015–2016 administrative review of the AD order on PRCBs from Thailand.[1] In the *Preliminary Results,* we rescinded the review for mandatory respondent, Sahachit Watana Plastic Ind. Co. Ltd. (Sahachit) in accordance with 19 CFR 351.213(d)(1).[2] In the *Preliminary Results,* we also preliminarily applied adverse facts available to mandatory

[1] *See Cast Iron Soil Pipe Fittings From the People's Republic of China: Initiation of Countervailing Duty Investigation,* 82 FR 37048 (August 8, 2017) (*Initiation Notice*).

[2] The petitioner is Cast Iron Soil Pipe Institute (CISPI).

[3] *See* the petitioner's letter, ''Re: Cast Iron Soil Pipe Fittings from the People's Republic of China: Request to Extend the Preliminary Determination,'' dated September 5, 2017.

[4] Postponing the preliminary determination to 130 days after initiation would place the deadline on Sunday, December 10, 2017. 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).

[1] *See Polyethylene Retail Carrier Bags from Thailand: Preliminary Results and Partial Rescission of the Antidumping Duty Administrative Review and Preliminary Determination of No Shipments; 2015–2016,* 82 FR 26666 (June 8, 2017) (*Preliminary Results*) and accompanying Preliminary Decision Memorandum (PDM).

[2] *Id.* at 26667.

respondent Landblue (Thailand) Co., Ltd. (Landblue), pursuant to section 776(a) and (b) of the Tariff Act of 1930, as amended (the Act).[3] In addition, in accordance with section 735(c)(5)(B) of the Act, the Department preliminarily assigned to the non-selected companies the only rate determined for an individual respondent in this review, 122.88 percent.[4] Finally, in the *Preliminary Results,* we preliminarily determined that Super Grip Co., Ltd. (Super Grip) had no shipments during the POR.[5] The Department gave interested parties an opportunity to comment on the *Preliminary Results.* None were received. The Department conducted this review in accordance with section 751(a)(2) of the Act.

Scope of the Order

The merchandise subject to this order is PRCBs, which may be referred to as t-shirt sacks, merchandise bags, grocery bags, or checkout bags. The subject merchandise is defined as nonsealable sacks and bags with handles (including drawstrings), without zippers or integral extruded closures, with or without gussets, with or without printing, of polyethylene film having a thickness no greater than 0.035 inch (0.889 mm) and no less than 0.00035 inch (0.00889 mm), and with no length or width shorter than 6 inches (15.24 cm) or longer than 40 inches (101.6 cm). The depth of the bag may be shorter than 6 inches but not longer than 40 inches (101.6 cm).

PRCBs are typically provided without any consumer packaging and free of charge by retail establishments, *e.g.,* grocery, drug, convenience, department, specialty retail, discount stores, and restaurants, to their customers to package and carry their purchased products. The scope of the order excludes (1) polyethylene bags that are not printed with logos or store names and that are closeable with drawstrings made of polyethylene film and (2) polyethylene bags that are packed in consumer packaging with printing that refers to specific end-uses other than packaging and carrying merchandise from retail establishments, *e.g.,* garbage bags, lawn bags, trash-can liners.

As a result of changes to the Harmonized Tariff Schedule of the United States (HTSUS), imports of the subject merchandise are currently classifiable under statistical category 3923.21.0085 of the HTSUS. Furthermore, although the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope of the order is dispositive.

Final Determination of No Shipments

As noted above, in the *Preliminary Results,* we preliminarily determined that Super Grip had no shipments during the POR.[6] We received no comments from interested parties with respect to this claim. Therefore, because the record indicates that Super Grip did not export subject merchandise to the United States during the POR, and the Department has not received any information that would cause it to alter its *Preliminary Results,* we continue to find that Super Grip had no shipments during the POR.

Final Results of Review

Because the Department received no comments after the *Preliminary Results* for consideration for these final results, we have made no changes to the *Preliminary Results.* We continue to determine that Landblue did not act to the best of its ability by failing to respond to the Department's questionnaires, pursuant to section 776(a) and (b) of the Act; that the application of adverse facts available to Landblue is warranted; and that the rate of 122.88 percent is appropriate to apply to Landblue as adverse facts available. This rate is the highest rate calculated in the *Final LTFV*[7] and has been applied in each successive administrative review of this proceeding.[8] Accordingly, pursuant to section 776(c)(2) of the Act, this rate does not require corroboration.

In addition, consistent with the Court of Appeals for the Federal Circuit's decision in *Albemarle Corp.* v. *United States,*[9] we have determined that a reasonable method for determining the rate for the non-selected companies is to use the rate applied to the mandatory respondent (Landblue) in this administrative review.[10] This is the only rate determined in this review for an individual respondent and, thus, should be applied to the 26 non-selected companies under section 735(c)(5)(B) of the Act. Accordingly, we are assigning to the non-selected companies the dumping margin of 122.88 percent.

We therefore determine for these final results that the following weighted-average dumping margins on PRCBs from Thailand exist for the POR:

Exporter/Producer	Weighted-average dumping margins (percent)
Landblue (Thailand) Co., Ltd	122.88
Apple Film Company, Ltd	122.88
Dpac Inter Corporation Co., Ltd	122.88
Elite Poly and Packaging Co., Ltd	122.88
Film Master Co., Ltd	122.88
Inno Cargo Co., Ltd	122.88
Innopack Industry Co., Ltd	122.88
K. International Packaging Co., Ltd	122.88
King Bag Co., Ltd	122.88
King Pac Industrial Co., Ltd	122.88
M & P World Polymer Co., Ltd	122.88
Minigrip (Thailand) Co., Ltd	122.88
Multibax Public Co., Ltd	122.88
Naraipak Co., Ltd	122.88
PMC Innopack Co., Ltd	122.88
Poly Plast (Thailand) Co., Ltd	122.88
Poly World Co., Ltd	122.88
Prepack Thailand Co., Ltd	122.88
Print Master Co., Ltd	122.88
Siam Best Products Trading Limited Partnership	122.88
Sun Pack Inter Co., Ltd	122.88
Superpac Corporation Co., Ltd	122.88
Thai Origin Co., Ltd	122.88
Thantawan Industry Public Co., Ltd	122.88
Triple B Pack Co., Ltd	122.88
Two Path Plaspack Co. Ltd	122.88
Wing Fung Adhesive Manufacturing (Thailand) Co., Ltd	122.88

Assessment

The Department has determined, and CBP shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review.[11] The Department intends to issue assessment instructions to CBP 15 days after the

[3] *Id.* at 26667, 26668.

[4] *Id.* at 26667.

[5] *Id.*

[6] *Id.*

[7] *See Notice of Final Determination of Sales at Less Than Fair Value: Polyethylene Retail Carrier Bags from Thailand,* 69 FR 34122, 34125 (June 18, 2004) (*Final LTFV*).

[8] *See Final LTFV,* 69 FR at 34123–34124; *Polyethylene Retail Carrier Bags from Thailand: Final Results of Antidumping Duty Administrative Review,* 72 FR 1982, 1983 (January 17, 2007); *Polyethylene Retail Carrier Bags from Thailand: Final Results of Antidumping Duty Administrative Review and Partial Rescission of Antidumping Duty Administrative Review,* 72 FR 64580, 64582 (November 16, 2007); *Polyethylene Retail Carrier Bags from Thailand: Final Results of Antidumping Duty Administrative Review and Partial Rescission of Antidumping Duty Administrative Review,* 74 FR 2511, 2512 (January 15, 2009) (2006–2007 Final Results); and *Polyethylene Retail Carrier Bags from Thailand: Final Results of Antidumping Duty Administrative Review,* 74 FR 65751, 65752 (December 11, 2009).

[9] *See Albermarle Corp. & Subsidiaries* v. *United States,* 821 F.3d 1345 (Fed. Cir. 2016).

[10] *See, e.g., Certain Small Diameter Carbon and Alloy Seamless Standard, Line, and Pressure Pipe (Under 4½ Inches) From Japan: Preliminary Results of Antidumping Duty Administrative Review and Preliminary Determination of No Shipments; 2014–2015,* 81 FR 45124, 45124 (July 12, 2016), unchanged in *Certain Small Diameter Carbon and Alloy Seamless Standard, Line, and Pressure Pipe (Under 4½ Inches) From Japan: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2014–2015,* 81 FR 80640, 80641 (November 16, 2016).

[11] *See* 19 CFR 351.212(b).

date of publication of these final results of review. We will instruct CBP to apply an *ad valorem* assessment rate of 122.88 percent to all entries of subject merchandise during the POR which were produced and/or exported by Landblue, and *ad valorem* assessment rate of 122.88 percent to all entries of subject merchandise during the POR which were produced and/or exported by the 26 companies that were not selected for individual examination.[12] Additionally, because the Department determined that Super Grip had no shipments of subject merchandise during the POR, for entries of merchandise produced by Super Grip, for which it did not know that the merchandise was destined for the United States, we will instruct CBP to liquidate unreviewed entries at the all-others rate in effect during the POR if there is no rate for the intermediate company(ies) involved in the transaction.[13]

Cash Deposit Requirements

The following deposit requirements will be effective upon publication of the notice of final results of administrative review for all shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(2) of the Act: (1) The cash deposit rates for the reviewed companies will be the rates established in the final results of this review; (2) for merchandise exported by manufacturers or exporters not covered in this review but covered in a prior segment of the proceeding, the cash deposit rate will continue to be the company-specific rate published for the most recently completed segment of this proceeding; (3) if the exporter is not a firm covered in this review, a prior review, or the less-than-fair-value investigation but the manufacturer is, the cash deposit rate will be the rate established for the most recently completed segment of this proceeding for the manufacturer of the merchandise; (4) if neither the exporter nor the manufacturer has its own rate, the cash deposit rate will continue to be 4.69 percent, the all-others rate established in the order.[14] These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification Regarding Administrative Protective Orders

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation subject to sanctions.

We are issuing and publishing these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.221(b)(5).

Dated: September 14, 2017.

Gary Taverman,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2017–20125 Filed 9–20–17; 8:45 am]

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[12] *See* PDM, at ''Rate for Non-Examined Companies'' (for an explanation of how we preliminarily determined the rate of non-selected companies).

[13] *See Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003).

[14] *See Notice of Implementation of Determination Under Section 129 of the Uruguay Round Agreements Act and Partial Revocation of the Antidumping Duty Order on Polyethylene Retail Carrier Bags from Thailand,* 75 FR 48940 (August 12, 2010).

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF680

Schedules for Atlantic Shark Identification Workshops and Protected Species Safe Handling, Release, and Identification Workshops

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

ACTION: Notice of public workshops.

SUMMARY: Free Atlantic Shark Identification Workshops and Protected Species Safe Handling, Release, and Identification Workshops will be held in October, November, and December of 2017. Certain fishermen and shark dealers are required to attend a workshop to meet regulatory requirements and to maintain valid permits. Specifically, the Atlantic Shark Identification Workshop is mandatory for all federally permitted Atlantic shark dealers. The Protected Species Safe Handling, Release, and Identification Workshop is mandatory for vessel owners and operators who use bottom longline, pelagic longline, or gillnet gear, and who have also been issued shark or swordfish limited access permits. Additional free workshops will be conducted during 2018 and will be announced in a future notice.

DATES: The Atlantic Shark Identification Workshops will be held on October 26, November 16, and December 14, 2017.

The Protected Species Safe Handling, Release, and Identification Workshops will be held on October 12, October 25, November 8, November 14, December 8, and December 13, 2017.

See **SUPPLEMENTARY INFORMATION** for further details.

ADDRESSES: The Atlantic Shark Identification Workshops will be held in Somerville, MA; Mount Pleasant, SC; and Largo, FL.

The Protected Species Safe Handling, Release, and Identification Workshops will be held in Largo, FL; Manahawkin, NJ; Port St. Lucie, FL; Kitty Hawk, NC; Ronkonkoma, NY; and Kenner, LA.

See **SUPPLEMENTARY INFORMATION** for further details on workshop locations.

FOR FURTHER INFORMATION CONTACT: Rick Pearson by phone: (727) 824–5399, or by fax: (727) 824–5398.

SUPPLEMENTARY INFORMATION: The workshop schedules, registration information, and a list of frequently asked questions regarding these workshops are posted on the Internet at: *http://www.nmfs.noaa.gov/sfa/hms/compliance/workshops/index.html.*

Atlantic Shark Identification Workshops

Since January 1, 2008, Atlantic shark dealers have been prohibited from receiving, purchasing, trading, or bartering for Atlantic sharks unless a valid Atlantic Shark Identification Workshop certificate is on the premises of each business listed under the shark dealer permit that first receives Atlantic sharks (71 FR 58057; October 2, 2006). Dealers who attend and successfully complete a workshop are issued a certificate for each place of business that is permitted to receive sharks. These certificate(s) are valid for 3 years. Approximately 136 free Atlantic Shark

Identification Workshops have been conducted since January 2007.

Currently, permitted dealers may send a proxy to an Atlantic Shark Identification Workshop. However, if a dealer opts to send a proxy, the dealer must designate a proxy for each place of business covered by the dealer's permit which first receives Atlantic sharks. Only one certificate will be issued to each proxy. A proxy must be a person who is currently employed by a place of business covered by the dealer's permit; is a primary participant in the identification, weighing, and/or first receipt of fish as they are offloaded from a vessel; and who fills out dealer reports. Atlantic shark dealers are prohibited from renewing a Federal shark dealer permit unless a valid Atlantic Shark Identification Workshop certificate for each business location that first receives Atlantic sharks has been submitted with the permit renewal application. Additionally, trucks or other conveyances that are extensions of a dealer's place of business must possess a copy of a valid dealer or proxy Atlantic Shark Identification Workshop certificate.

Workshop Dates, Times, and Locations

1. October 26, 2017, 12 p.m.–4 p.m., LaQuinta Inn, 23 Cummings Street, Somerville, MA 02145.

2. November 16, 2017, 12 p.m.–4 p.m., Hilton Garden Inn, 300 Wingo Way, Mount Pleasant, SC 29464.

3. December 14, 2017, 12 p.m.–4 p.m., Hampton Inn, 100 East Bay Drive, Largo, FL 33770.

Registration

To register for a scheduled Atlantic Shark Identification Workshop, please contact Eric Sander at *ericssharkguide@yahoo.com* or at (386) 852–8588.

Registration Materials

To ensure that workshop certificates are linked to the correct permits, participants will need to bring the following specific items to the workshop:

- Atlantic shark dealer permit holders must bring proof that the attendee is an owner or agent of the business (such as articles of incorporation), a copy of the applicable permit, and proof of identification.
- Atlantic shark dealer proxies must bring documentation from the permitted dealer acknowledging that the proxy is attending the workshop on behalf of the permitted Atlantic shark dealer for a specific business location, a copy of the appropriate valid permit, and proof of identification.

Workshop Objectives

The Atlantic Shark Identification Workshops are designed to reduce the number of unknown and improperly identified sharks reported in the dealer reporting form and increase the accuracy of species-specific dealer-reported information. Reducing the number of unknown and improperly identified sharks will improve quota monitoring and the data used in stock assessments. These workshops will train shark dealer permit holders or their proxies to properly identify Atlantic shark carcasses.

Protected Species Safe Handling, Release, and Identification Workshops

Since January 1, 2007, shark limited-access and swordfish limited-access permit holders who fish with longline or gillnet gear have been required to submit a copy of their Protected Species Safe Handling, Release, and Identification Workshop certificate in order to renew either permit (71 FR 58057; October 2, 2006). These certificate(s) are valid for 3 years. As such, vessel owners who have not already attended a workshop and received a NMFS certificate, or vessel owners whose certificate(s) will expire prior to the next permit renewal, must attend a workshop to fish with, or renew, their swordfish and shark limited-access permits. Additionally, new shark and swordfish limited-access permit applicants who intend to fish with longline or gillnet gear must attend a Protected Species Safe Handling, Release, and Identification Workshop and submit a copy of their workshop certificate before either of the permits will be issued. Approximately 262 free Protected Species Safe Handling, Release, and Identification Workshops have been conducted since 2006.

In addition to certifying vessel owners, at least one operator on board vessels issued a limited-access swordfish or shark permit that uses longline or gillnet gear is required to attend a Protected Species Safe Handling, Release, and Identification Workshop and receive a certificate. Vessels that have been issued a limited-access swordfish or shark permit and that use longline or gillnet gear may not fish unless both the vessel owner and operator have valid workshop certificates onboard at all times. Vessel operators who have not already attended a workshop and received a NMFS certificate, or vessel operators whose certificate(s) will expire prior to their next fishing trip, must attend a workshop to operate a vessel with swordfish and shark limited-access permits that uses longline or gillnet gear.

Workshop Dates, Times, and Locations

1. October 12, 2017, 9 a.m.–5 p.m., Holiday Inn Express, 210 Seminole Boulevard, Largo, FL 33770.

2. October 25, 2017, 9 a.m.–5 p.m., Holiday Inn, 151 Route 72 West, Manahawkin, NJ 08050.

3. November 8, 2017, 9 a.m.–5 p.m., Holiday Inn, 10120 South Federal Highway, Port St. Lucie, FL 34952.

4. November 14, 2017, 9 a.m.–5 p.m., Hilton Garden Inn, 5353 North Virginia Dare Trail, Kitty Hawk, NC 27949.

5. December 8, 2017, 9 a.m.–5 p.m., Hilton Garden Inn, 3485 Veteran's Memorial Highway, Ronkonkoma, NY 11779. 6. December 13, 2017, 9 a.m.–5 p.m., Hilton Hotel, 901 Airline Drive, Kenner, LA 70062.

Registration

To register for a scheduled Protected Species Safe Handling, Release, and Identification Workshop, please contact Angler Conservation Education at (386) 682–0158.

Registration Materials

To ensure that workshop certificates are linked to the correct permits, participants will need to bring the following specific items with them to the workshop:

- Individual vessel owners must bring a copy of the appropriate swordfish and/or shark permit(s), a copy of the vessel registration or documentation, and proof of identification.
- Representatives of a business-owned or co-owned vessel must bring proof that the individual is an agent of the business (such as articles of incorporation), a copy of the applicable swordfish and/or shark permit(s), and proof of identification.
- Vessel operators must bring proof of identification.

Workshop Objectives

The Protected Species Safe Handling, Release, and Identification Workshops are designed to teach longline and gillnet fishermen the required techniques for the safe handling and release of entangled and/or hooked protected species, such as sea turtles, marine mammals, and smalltooth sawfish, and prohibited sharks. In an effort to improve reporting, the proper identification of protected species and prohibited sharks will also be taught at these workshops. Additionally, individuals attending these workshops will gain a better understanding of the requirements for participating in these

fisheries. The overall goal of these workshops is to provide participants with the skills needed to reduce the mortality of protected species and prohibited sharks, which may prevent additional regulations on these fisheries in the future.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: September 18, 2017.

Emily H. Menashes,

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

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF340

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Mukilteo Multimodal Construction Project in Washington State

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

ACTION: Notice; issuance of an incidental harassment authorization.

SUMMARY: In accordance with the regulations implementing the Marine Mammal Protection Act (MMPA) as amended, notification is hereby given that we have issued an incidental harassment authorization (IHA) to Washington State Department of Transportation (WSDOT) to take small numbers of marine mammals, by harassment, incidental to Mukilteo Multimodal Construction Project in Washington State.

DATES: This authorization is effective from August 1, 2017, through July 31, 2018.

FOR FURTHER INFORMATION CONTACT: Shane Guan, Office of Protected Resources, NMFS, (301) 427–8401. Electronic copies of the application and supporting documents, as well as the issued IHA, may be obtained online at: *www.nmfs.noaa.gov/pr/permits/incidental/construction.htm*. In case of problems accessing these documents, please call the contact listed above.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (as delegated to NMFS) to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

An authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth.

NMFS has defined ''negligible impact'' in 50 CFR 216.103 as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.

The MMPA states that the term ''take'' means to harass, hunt, capture, kill or attempt to harass, hunt, capture, or kill any marine mammal.

Except with respect to certain activities not pertinent here, the MMPA defines ''harassment'' as: Any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

National Environmental Policy Act

Issuance of an MMPA 101(a)(5) authorization requires compliance with the National Environmental Policy Act.

NMFS determined the issuance of the IHA is consistent with categories of activities identified in CE B4 (issuance of incidental harassment authorizations under section 101(a)(5)(A) and (D) of the MMPA for which no serious injury or mortality is anticipated) of the Companion Manual for NAO 216–6A and we have not identified any extraordinary circumstances listed in Chapter 4 of the Companion Manual for NAO 216–6A that would preclude this categorical exclusion.

Summary of Request

NMFS received a request from WSDOT for an IHA to take marine mammals incidental to Mukilteo Multimodal Project in Mukilteo, Washington. WSDOT's request was for harassment only and NMFS concurs that serious injury or mortality is not expected to result from this activity. Therefore, an IHA is appropriate.

On April 7, 2016, WSDOT submitted a request to NMFS requesting an IHA for the possible harassment of small numbers of marine mammal species incidental to construction associated with the Mukilteo Multimodal Project in Mukilteo, Washington, between August 1, 2017, and July 31, 2018. WSDOT subsequently updated its project scope and submitted a revised IHA application on April 10, 2017. NMFS determined the IHA application was complete on April 14, 2017. NMFS is proposing to authorize the take by Level A and Level B harassment of the following marine mammal species: Harbor seal (*Phoca vitulina*), California sea lion (*Zalophus californianus*), Steller sea lion (*Eumetopias jubatus*), northern elephant seal (*Mirounga angustirostris*), killer whale (*Orcinus orca*), gray whale (*Eschrichtius robustus*), humpback whale (*Megaptera novaeangliae*), harbor porpoise (*Phocoena phocoena*), and Dall's porpoise (*P. dalli*).

Description of Proposed Activity

Overview

The purpose of the Mukilteo Multimodal Project is to provide safe, reliable, and effective service and connection for general-purpose transportation, transit, high occupancy vehicles (HOV), pedestrians, and bicyclists traveling between Island County and the Seattle/Everett metropolitan area and beyond by constructing a new ferry terminal. The current Mukilteo Ferry Terminal has not had significant improvements for almost 30 years and needs key repairs. The existing facility is deficient in a number of aspects, such as safety, multimodal connectivity, capacity, and the ability to support the goals of local and regional long-range transportation and comprehensive plans. The project is intended to:

- Reduce conflicts, congestion, and safety concerns for pedestrians, bicyclists, and motorists by improving local traffic and safety at the terminal and the surrounding area that serves these transportation needs.
- Provide a terminal and supporting facilities with the infrastructure and operating characteristics needed to improve the safety, security, quality, reliability, efficiency, and effectiveness of multimodal transportation.

• Accommodate future demand projected for transit, HOV, pedestrian, bicycle, and general-purpose traffic.

The proposed Mukilteo Multimodal Project would involve in-water impact and vibratory pile driving and vibratory pile removal. Details of the proposed construction project are provided below.

Dates and Duration

Due to NMFS and the U.S. Fish and Wildlife Service (USFWS) in-water work timing restrictions to protect ESA-listed salmonids, planned WSDOT in-water construction is limited each year to July 16 through February 15. For this project, in-water construction is planned to take place between August 1, 2017 and February 15, 2018. The total worst-case time for pile installation and removal is 175 days (Table 1).

Specified Geographic Region

The Mukilteo Ferry Terminal is located in the City of Mukilteo, Snohomish County, Washington. The terminal is located in Township 28 North, Range 4 East, Section 3, in Possession Sound. The new terminal will be approximately 1,700 feet (ft) east of the existing terminal in Township 28 North, Range 4 East, Section 33 (Figure 1–2 of the IHA application). Land use in the Mukilteo area is a mix of residential, commercial, industrial, and open space and/or undeveloped lands.

Detailed Description of In-Water Pile Driving Associated With Mukilteo Multimodal Project

The proposed project has two elements involving noise production that may affect marine mammals: Vibratory hammer driving and removal, and impact hammer driving. Details of the pile driving and pile removal activities are provided in the **Federal Register** notice (82 FR 21793; May 10, 2017) for the proposed IHA and is summarized in Table 1 below.

TABLE 1—SUMMARY OF IN-WATER PILE DRIVING DURATIONS

Method	Pile type	Pile size (inch)	Pile number	Duration (min./sec.) per pile (vib.) or strikes per pile (impact)	Duration (days)
Vibratory driving	Steel	24	117	60/3,600	39
Vibratory removal	Steel	24	69	15/900	23
Vibratory driving	Steel	30	40	60/3,600	14
Vibratory removal	Steel	30	2	30/1,800	1
Vibratory removal	Steel	30	7	15/1,800	1
Vibratory driving	Steel	36	6	60/3,600	2
Vibratory driving	Steel shaft	78	2	60/3,600	2
Vibratory driving	Steel shaft	120	1	60/3,600	1
Vibratory driving	Steel H-pile	12	139	30/1,800	14
Vibratory driving	Steel sheet		90	30/1,800	30
Vibratory removal	Steel sheet		90	15/900	15
Impact proofing	Steel	24	68	300	23
Impact driving	Steel	30	25	3,000	9
Impact proofing	Steel	30	5	300	1
Total			661		175

Comments and Responses

A notice of NMFS' proposal to issue an IHA was published in the **Federal Register** on May 10, 2017 (82 FR 21793). During the 30-day public comment period, NMFS received a comment letter from the Marine Mammal Commission (Commission). No other comments were received. Specific comments and responses are provided below.

Comment 1: The Commission noted several typographic errors in the **Federal Register** notice for the proposed IHA. Specifically, Level B harassment for Steller sea lion, gray whales, harbor porpoise, and Dall's porpoise should be 320, 44, 6,650, and 414, instead of 323, 45, 6,698, and 417, respectively. Further, the Commission recommends that NMFS issue the incidental harassment authorization, subject to the inclusion of the proposed mitigation, monitoring, and reporting measures.

Response: NMFS agrees with the Commission's assessment and made corrections to these errors. Specifically, Level B harassment for Steller sea lion, gray whales, harbor porpoise, and Dall's porpoise are changed to 320, 44, 6,650, and 414, from the previous 323, 45, 6,698, and 417, respectively. All these corrections are included in this document in the Estimated Takes section. The reduced takes do not affect our analysis of negligible impact determination and small number conclusion as discussed later in this document.

Comment 2: The Commission had questions about the method used to estimate the numbers of takes during the proposed activities, which summed fractions of takes for each species across project days. The Commission had concerns that this method does not account for and negates the intent of NMFS's 24-hour reset policy.

Response: While for certain projects NMFS has rounded to the whole number for daily takes, for projects like this one, when the objective of take estimation is to provide more accurate assessments of potential impacts to marine mammals for the entire project, rounding in the middle of a calculation would introduce large errors into the process. In addition, while NMFS uses a 24-hour reset for its take calculation to ensure that individual animals are not counted as a take more than once per day, that fact does not make the calculation of take across the entire activity period inherently incorrect. There is no need for daily (24-hour) rounding in this case because there is no daily limit of takes, as long as total authorized takes of marine mammal are not exceeded.

Description of Marine Mammals in the Area of Specified Activities

The marine mammal species under NMFS jurisdiction that have the potential to occur in the proposed construction area include Pacific harbor seal (*Phoca vitulina*), California sea lion (*Zalophus californianus*), northern elephant seal (*Mirounga angustirostris*), Steller sea lion (*Eumetopias jubatus*), killer whale (*Orcinus orca*), gray whale (*Eschrichtius robustus*), humpback

whale (*Megaptera novaeangliae*), harbor porpoise (*Phocoena phocoena*), and Dall's porpoise (*P. dalli*). A list of marine mammals that have the potential to occur in the vicinity of the action and their legal status under the MMPA and ESA are provided in Table 2.

TABLE 2—MARINE MAMMALS WITH POTENTIAL PRESENCE WITHIN THE PROPOSED PROJECT AREA

Common name	Scientific name	Stock	ESA/MMPA status; strategic (Y/N) [1]	Stock abundance (CV, N_{min}, most recent abundance survey) [2]	PBR	Annual M/SI [3]
Order Cetartiodactyla—Cetacea—Superfamily Mysticeti (baleen whales)						
Family Eschrichtiidae						
Gray whale	*Eschrichtius robustus*	Eastern North Pacific	N	20,990	624	132
Family Balaenopteridae (rorquals)						
Humpback whale	*Megaptera novaeangliae*	California/Oregon/Washington	Y	1,918	11.0	6.5
Superfamily Odontoceti (toothed whales, dolphins, and porpoises)						
Family Delphinidae						
Killer whale	*Orcinus orca*	Eastern North Pacific Southern Resident.	Y	78	0	0
		West coast transient	N	243	2.4	0
Family Phocoenidae (porpoises)						
Harbor porpoise	*Phocoena phocoena*	Washington inland waters	N	11,233	66	7.2
Dall's porpoise	*P. dalli*	California/Oregon/Washington	N	25,750	172	0.3
Order Carnivora—Superfamily Pinnipedia						
Family Otariidae (eared seals and sea lions)						
California sea lion	*Zalophus californianus*	U.S	N	296,750	9,200	389
Steller sea lion	*Eumetopias jubatus*	Eastern U.S	N	71,562	2,498	108
Family Phocidae (earless seals)						
Harbor seal	*Phoca vitulina*	Washington northern inland waters.	N	[4] 11,036	1,641	43
Elephant seal	*Mirounga angustirostris*	California breeding	N	179,000	2,882	8.8

[1] Endangered Species Act (ESA) status: Endangered (E), Threatened (T)/MMPA status: Depleted (D). A dash (-) indicates that the species is not listed under the ESA or designated as depleted under the MMPA. Under the MMPA, a strategic stock is one for which the level of direct human-caused mortality exceeds PBR or which is determined to be declining and likely to be listed under the ESA within the foreseeable future. Any species or stock listed under the ESA is automatically designated under the MMPA as depleted and as a strategic stock.

[2] NMFS marine mammal stock assessment reports online at: *www.nmfs.noaa.gov/pr/sars/.* CV is coefficient of variation; N_{min} is the minimum estimate of stock abundance.

[3] These values, found in NMFS's SARs, represent annual levels of human-caused mortality plus serious injury from all sources combined (*e.g.,* commercial fisheries, ship strike). Annual M/SI often cannot be determined precisely and is in some cases presented as a minimum value or range. A CV associated with estimated mortality due to commercial fisheries is presented in some cases.

[4] Harbor seal estimate is based on data that are 8 years old, but this is the best available information for use here.

General information on the marine mammal species found in Washington coastal waters can be found in Caretta *et al.* (2016), which is available online at: *http://www.nmfs.noaa.gov/pr/sars/pdf/pacific2015_final.pdf.* Refer to that document for information on these species. Specific information concerning these species in the vicinity of the proposed action area is provided in detail in the WSDOT's IHA application and in the **Federal Register** notice for the proposed IHA (82 FR 21793; May 10, 2017).

Marine Mammal Hearing

Hearing is the most important sensory modality for marine mammals underwater, and exposure to anthropogenic sound can have deleterious effects. To appropriately assess the potential effects of exposure to sound, it is necessary to understand the frequency ranges marine mammals are able to hear. Current data indicate that not all marine mammal species have equal hearing capabilities (*e.g.,* Richardson *et al.,* 1995; Wartzok and Ketten 1999; Au and Hastings 2008). To reflect this, Southall *et al.* (2007) recommended that marine mammals be divided into functional hearing groups based on directly measured or estimated hearing ranges on the basis of available behavioral response data, audiograms derived using auditory evoked potential techniques, anatomical modeling, and other data. Note that no direct measurements of hearing ability have been successfully completed for mysticetes (*i.e.,* low-frequency cetaceans). Subsequently, NMFS (2016) described generalized hearing ranges for these marine mammal hearing groups. Generalized hearing ranges were chosen based on the approximately 65 decibels (dB) threshold from the normalized composite audiograms, with the exception for lower limits for low-frequency cetaceans where the lower bound was deemed to be biologically implausible and the lower bound from Southall *et al.* (2007) retained. The functional groups and the associated frequencies are indicated below (note that these frequency ranges correspond to the range for the composite group, with the entire range not necessarily reflecting the capabilities of every species within that group):

- Low-frequency cetaceans (mysticetes): Generalized hearing is estimated to occur between

approximately 7 hertz (Hz) and 35 kilohertz (kHz), with best hearing estimated to be from 100 Hz to 8 kHz;

- Mid-frequency cetaceans (larger toothed whales, beaked whales, and most delphinids): Generalized hearing is estimated to occur between approximately 150 Hz and 160 kHz, with best hearing from 10 to less than 100 kHz;
- High-frequency cetaceans (porpoises, river dolphins, and members of the genera Kogia and Cephalorhynchus; including two members of the genus Lagenorhynchus, on the basis of recent echolocation data and genetic data): Generalized hearing is estimated to occur between approximately 275 Hz and 160 kHz.
- Pinnipeds in water; Phocidae (true seals): Generalized hearing is estimated to occur between approximately 50 Hz to 86 kHz, with best hearing between 1–50 kHz;
- Pinnipeds in water; Otariidae (eared seals): Generalized hearing is estimated to occur between 60 Hz and 39 kHz, with best hearing between 2–48 kHz.

The pinniped functional hearing group was modified from Southall *et al.* (2007) on the basis of data indicating that phocid species have consistently demonstrated an extended frequency range of hearing compared to otariids, especially in the higher frequency range (Hemilä *et al.,* 2006; Kastelein *et al.,* 2009; Reichmuth and Holt, 2013).

For more detail concerning these groups and associated frequency ranges, please see NMFS (2016) for a review of available information. Nine marine mammal species (5 cetacean and 4 pinniped (2 otariid and 2 phocid) species) have the reasonable potential to co-occur with the proposed construction activities. Please refer to Table 2. Of the cetacean species that may be present, 2 are classified as low-frequency cetaceans (*i.e.,* all mysticete species), 1 is classified as mid-frequency cetaceans (*i.e.,* killer whale), and 2 are classified as high-frequency cetaceans (*i.e.,* harbor porpoise and Dall's porpoise).

Potential Effects of Specified Activities on Marine Mammals and Their Habitat

This section includes a summary and discussion of the ways that components of the specified activity may impact marine mammals and their habitat. The ''Estimated Take by Incidental Harassment'' section later in this document includes a quantitative analysis of the number of individuals that are expected to be taken by this activity. The ''Negligible Impact Analysis and Determination'' section considers the content of this section, the ''Estimated Take by Incidental Harassment'' section, and the ''Mitigation'' section, to draw conclusions regarding the likely impacts of these activities on the reproductive success or survivorship of individuals and how those impacts on individuals are likely to impact marine mammal species or stocks.

The WSDOT's Mukilteo Multimodal construction work using in-water pile driving and pile removal could adversely affect marine mammal species and stocks by exposing them to elevated noise levels in the vicinity of the activity area.

Exposure to high intensity sound for a sufficient duration may result in auditory effects such as a noise-induced threshold shift—an increase in the auditory threshold after exposure to noise (Finneran *et al.,* 2005). Factors that influence the amount of threshold shift include the amplitude, duration, frequency content, temporal pattern, and energy distribution of noise exposure. The magnitude of hearing threshold shift normally decreases over time following cessation of the noise exposure. The amount of threshold shift just after exposure is the initial threshold shift. If the threshold shift eventually returns to zero (*i.e.,* the threshold returns to the pre-exposure value), it is a temporary threshold shift (Southall *et al.,* 2007).

Threshold Shift (noise-induced loss of hearing)—When animals exhibit reduced hearing sensitivity (*i.e.,* sounds must be louder for an animal to detect them) following exposure to an intense sound or sound for long duration, it is referred to as a noise-induced threshold shift (TS). An animal can experience temporary threshold shift (TTS) or permanent threshold shift (PTS). TTS can last from minutes or hours to days (*i.e.,* there is complete recovery), can occur in specific frequency ranges (*i.e.,* an animal might only have a temporary loss of hearing sensitivity between the frequencies of 1 and 10 kHz), and can be of varying amounts (for example, an animal's hearing sensitivity might be reduced initially by only 6 dB or reduced by 30 dB). PTS is permanent, but some recovery is possible. PTS can also occur in a specific frequency range and amount as mentioned above for TTS.

For marine mammals, published data are limited to the captive bottlenose dolphin, beluga, harbor porpoise, and Yangtze finless porpoise (Finneran *et al.,* 2000, 2002, 2003, 2005, 2007, 2010a, 2010b; Finneran and Schlundt, 2010; Lucke *et al.,* 2009; Mooney *et al.,* 2009a, 2009b; Popov *et al.,* 2011a, 2011b; Kastelein *et al.,* 2012a; Schlundt *et al.,* 2000; Nachtigall *et al.,* 2003, 2004). For pinnipeds in water, data are limited to measurements of TTS in harbor seals, an elephant seal, and California sea lions (Kastak *et al.,* 1999, 2005; Kastelein *et al.,* 2012b).

Lucke *et al.* (2009) found a TS of a harbor porpoise after exposing it to airgun noise with a received sound pressure level (SPL) at 200.2 dB (peak-to-peak) re: 1 micropascal (μPa), which corresponds to a sound exposure level of 164.5 dB re: 1 μPa^2 s after integrating exposure. Because the airgun noise is a broadband impulse, one cannot directly determine the equivalent of rms SPL from the reported peak-to-peak SPLs. However, applying a conservative conversion factor of 16 dB for broadband signals from seismic surveys (McCauley, *et al.,* 2000) to correct for the difference between peak-to-peak levels reported in Lucke *et al.* (2009) and rms SPLs, the rms SPL for TTS would be approximately 184 dB re: 1 μPa, and the received levels associated with PTS (Level A harassment) would be higher. Therefore, based on these studies, NMFS recognizes that TTS of harbor porpoises is lower than other cetacean species empirically tested (Finneran & Schlundt, 2010; Finneran *et al.,* 2002; Kastelein and Jennings, 2012).

Marine mammal hearing plays a critical role in communication with conspecifics, and interpretation of environmental cues for purposes such as predator avoidance and prey capture. Depending on the degree (elevation of threshold in dB), duration (*i.e.,* recovery time), and frequency range of TTS, and the context in which it is experienced, TTS can have effects on marine mammals ranging from discountable to serious (similar to those discussed in auditory masking, below). For example, a marine mammal may be able to readily compensate for a brief, relatively small amount of TTS in a non-critical frequency range that occurs during a time where ambient noise is lower and there are not as many competing sounds present. Alternatively, a larger amount and longer duration of TTS sustained during time when communication is critical for successful mother/calf interactions could have more serious impacts. Also, depending on the degree and frequency range, the effects of PTS on an animal could range in severity, although it is considered generally more serious because it is a permanent condition. Of note, reduced hearing sensitivity as a simple function of aging has been observed in marine mammals, as well as humans and other taxa (Southall *et al.,* 2007), so one can infer that strategies exist for coping with this condition to some degree, though likely not without cost.

In addition, chronic exposure to excessive, though not high-intensity, noise could cause masking at particular frequencies for marine mammals, which utilize sound for vital biological functions (Clark *et al.,* 2009). Acoustic masking is when other noises such as from human sources interfere with animal detection of acoustic signals such as communication calls, echolocation sounds, and environmental sounds important to marine mammals. Therefore, under certain circumstances, marine mammals whose acoustical sensors or environment are being severely masked could also be impaired from maximizing their performance fitness in survival and reproduction.

Masking occurs at the frequency band that the animals utilize. Therefore, since noise generated from vibratory pile driving is mostly concentrated at low frequency ranges, it may have less effect on high frequency echolocation sounds by odontocetes (toothed whales). However, lower frequency man-made noises are more likely to affect detection of communication calls and other potentially important natural sounds such as surf and prey noise. It may also affect communication signals when they occur near the noise band and thus reduce the communication space of animals (*e.g.,* Clark *et al.,* 2009) and cause increased stress levels (*e.g.,* Foote *et al.,* 2004; Holt *et al.,* 2009).

Unlike TS, masking, which can occur over large temporal and spatial scales, can potentially affect the species at population, community, or even ecosystem levels, as well as individual levels. Masking affects both senders and receivers of the signals and could have long-term chronic effects on marine mammal species and populations. Recent science suggests that low frequency ambient sound levels have increased by as much as 20 dB (more than three times in terms of sound pressure level) in the world's ocean from pre-industrial periods, and most of these increases are from distant shipping (Hildebrand 2009). For WSDOT's Mukilteo Multimodal construction activities, noises from vibratory pile driving and pile removal contribute to the elevated ambient noise levels in the project area, thus increasing potential for or severity of masking. Baseline ambient noise levels in the vicinity of project area are high due to ongoing shipping, construction and other activities in the Puget Sound.

Finally, marine mammals' exposure to certain sounds could lead to behavioral disturbance (Richardson *et al.,* 1995), such as: Changing durations of surfacing and dives, number of blows per surfacing, or moving direction and/or speed; reduced/increased vocal activities; changing/cessation of certain behavioral activities (such as socializing or feeding); visible startle response or aggressive behavior (such as tail/fluke slapping or jaw clapping); avoidance of areas where noise sources are located; and/or flight responses (*e.g.,* pinnipeds flushing into water from haulouts or rookeries).

The onset of behavioral disturbance from anthropogenic noise depends on both external factors (characteristics of noise sources and their paths) and the receiving animals (hearing, motivation, experience, demography) and is also difficult to predict (Southall *et al.,* 2007). Currently NMFS uses a received level of 160 dB re 1 µPa (root mean squared (rms)) to predict the onset of behavioral harassment from impulse noises (such as impact pile driving), and 120 dB re 1 µPa (rms) for continuous noises (such as vibratory pile driving). For the WSDOT's Mukilteo Multimodal construction activities, both of these noise levels are considered for effects analysis because WSDOT plans to use both impact and vibratory pile driving, as well as vibratory pile removal.

The biological significance of many of these behavioral disturbances is difficult to predict, especially if the detected disturbances appear minor. However, the consequences of behavioral modification could be biologically significant if the change affects growth, survival, and/or reproduction, which depends on the severity, duration, and context of the effects.

Potential Effects on Marine Mammal Habitat

The primary potential impacts to marine mammal habitat are associated with elevated sound levels produced by vibratory pile removal and pile driving in the area. However, other potential impacts to the surrounding habitat from physical disturbance are also possible.

With regard to fish as a prey source for cetaceans and pinnipeds, fish are known to hear and react to sounds and to use sound to communicate (Tavolga *et al.,* 1981) and possibly avoid predators (Wilson and Dill 2002). Experiments have shown that fish can sense both the strength and direction of sound (Hawkins 1981). Primary factors determining whether a fish can sense a sound signal, and potentially react to it, are the frequency of the signal and the strength of the signal in relation to the natural background noise level.

The level of sound at which a fish will react or alter its behavior is usually well above the detection level. Fish have been found to react to sounds when the sound level increased to about 20 dB above the detection level of 120 dB (Ona 1988); however, the response threshold can depend on the time of year and the fish's physiological condition (Engas *et al.,* 1993). In general, fish react more strongly to pulses of sound (such as noise from impact pile driving) rather than continuous signals (such as noise from vibratory pile driving) (Blaxter *et al.,* 1981), and a quicker alarm response is elicited when the sound signal intensity rises rapidly compared to sound rising more slowly to the same level.

During the coastal construction only a small fraction of the available habitat would be ensonified at any given time. Disturbance to fish species would be short-term and fish would return to their pre-disturbance behavior once the pile driving activity ceases. Thus, the proposed construction would have little, if any, impact on marine mammals' prey availability in the area where construction work is planned.

Finally, the time of the proposed construction activity would avoid the spawning season of the ESA-listed salmonid species.

Estimated Take

This section provides an estimate of the number of incidental takes authorized through this IHA, which will inform both NMFS' consideration of whether the number of takes is ''small'' and the negligible impact determination.

Harassment is the only type of take expected to result from these activities. Except with respect to certain activities not pertinent here, section 3(18) of the MMPA defines ''harassment'' as: Any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

Authorized takes would primarily be by Level B harassment, as noise from pile driving and removal has the potential to result in disruption of behavioral patterns for individual marine mammals. There is also some potential for auditory injury (Level A harassment) to result, primarily for high frequency cetaceans and phocids due to larger predicted auditory injury zones. Auditory injury is unlikely to occur for low- and mid-frequency cetaceans and otariids. The prescribed mitigation and monitoring measures are expected to

minimize the severity of such taking to the extent practicable.

As described previously, no mortality is anticipated or authorized for this activity. Below we describe how the take is estimated.

Described in the most basic way, we estimate take by considering: (1) Acoustic thresholds above which NMFS believes the best available science indicates marine mammals will be behaviorally harassed or incur some degree of permanent hearing impairment; (2) the area or volume of water that will be ensonified above these levels in a day; (3) the density or occurrence of marine mammals within these ensonified areas; and, (4) and the number of days of activities. Below, we describe these components in more detail and present the take estimate.

Acoustic Thresholds

Using the best available science, NMFS has developed acoustic thresholds that identify the received level of underwater sound above which exposed marine mammals would be reasonably expected to be behaviorally harassed (equated to Level B harassment) or to incur PTS of some degree (equated to Level A harassment).

Level B Harassment for non-explosive sources—Though significantly driven by received level, the onset of behavioral disturbance from anthropogenic noise exposure is also informed to varying degrees by other factors related to the source (*e.g.,* frequency, predictability, duty cycle), the environment (*e.g.,* bathymetry), and the receiving animals (hearing, motivation, experience, demography, behavioral context) and can be difficult to predict (Southall *et al.,* 2007, Ellison *et al.,* 2011). Based on what the available science indicates and the practical need to use a threshold based on a factor that is both predictable and measurable for most activities, NMFS uses a generalized acoustic threshold based on received level to estimate the onset of behavioral harassment. NMFS predicts that marine mammals are likely to be behaviorally harassed in a manner we consider Level B harassment when exposed to underwater anthropogenic noise above received levels of 120 dB re 1 μPa (rms) for continuous (*e.g.* vibratory pile-driving, drilling) and above 160 dB re 1 μPa (rms) for non-explosive impulsive (*e.g.,* seismic airguns) or intermittent (*e.g.,* scientific sonar) sources.

Applicant's proposed activity includes the use of continuous (vibratory pile driving and removal) and impulsive (impact pile driving) sources, and therefore the 120 and 160 *160* dB re 1 μPa (rms) are applicable.

Level A harassment for non-explosive sources—NMFS' Technical Guidance for Assessing the Effects of Anthropogenic Sound on Marine Mammal Hearing (Technical Guidance, 2016) identifies dual criteria to assess auditory injury (Level A harassment) to five different marine mammal groups (based on hearing sensitivity) as a result of exposure to noise from two different types of sources (impulsive or non-impulsive). Applicant's proposed activity includes the use of impulsive (impact pile driving) and non-impulsive (vibratory pile driving and pile removal) sources.

These thresholds were developed by compiling and synthesizing the best available science and soliciting input multiple times from both the public and peer reviewers to inform the final product, and are provided in the table below. The references, analysis, and methodology used in the development of the thresholds are described in NMFS 2016 Technical Guidance, which may be accessed at: *http://www.nmfs.noaa.gov/pr/acoustics/guidelines.htm.*

TABLE 3—CURRENT ACOUSTIC EXPOSURE CRITERIA FOR NON-EXPLOSIVE SOUND UNDERWATER

Hearing group	PTS onset thresholds		Behavioral thresholds	
	Impulsive	Non-impulsive	Impulsive	Non-impulsive
Low-Frequency (LF) Cetaceans	$L_{pk,flat}$: 219 dB; $L_{E,LF,24h}$: 183 dB	$L_{E,LF,24h}$: 199 dB	$L_{rms,flat}$: 160 dB	$L_{rms,flat}$: 120 dB.
Mid-Frequency (MF) Cetaceans	$L_{pk,flat}$: 230 dB; $L_{E,MF,24h}$: 185 dB	$L_{E,MF,24h}$: 198 dB.		
High-Frequency (HF) Cetaceans	$L_{pk,flat}$: 202 dB; $L_{E,HF,24h}$: 155 dB	$L_{E,HF,24h}$: 173 dB.		
Phocid Pinnipeds (PW) (Underwater)	$L_{pk,flat}$: 218 dB; $L_{E,PW,24h}$: 185 dB	$L_{E,PW,24h}$: 201 dB.		
Otariid Pinnipeds (OW) (Underwater)	$L_{pk,flat}$: 232 dB; $L_{E,OW,24h}$: 203 dB	$L_{E,OW,24h}$: 219 dB.		

* Dual metric acoustic thresholds for impulsive sounds: Use whichever results in the largest isopleth for calculating PTS onset. If a non-impulsive sound has the potential of exceeding the peak sound pressure level thresholds associated with impulsive sounds, these thresholds should also be considered.

Note: Peak sound pressure (L_{pk}) has a reference value of 1 μPa, and cumulative sound exposure level (L_E) has a reference value of 1μPa_2s. In this Table, thresholds are abbreviated to reflect American National Standards Institute standards (ANSI 2013). However, peak sound pressure is defined by ANSI as incorporating frequency weighting, which is not the intent for this Technical Guidance. Hence, the subscript ''flat'' is being included to indicate peak sound pressure should be flat weighted or unweighted within the generalized hearing range. The subscript associated with cumulative sound exposure level thresholds indicates the designated marine mammal auditory weighting function (LF, MF, and HF cetaceans, and PW and OW pinnipeds) and that the recommended accumulation period is 24 hours. The cumulative sound exposure level thresholds could be exceeded in a multitude of ways (*i.e.,* varying exposure levels and durations, duty cycle). When possible, it is valuable for action proponents to indicate the conditions under which these acoustic thresholds will be exceeded.

Ensonified Area

Here, we describe operational and environmental parameters of the activity that will feed into identifying the area ensonified above the acoustic thresholds.

Source Levels

The project includes vibratory pile driving and removal of 24-, 30-, and 36-inch (in) steel piles, vibratory driving of 78- and 120-in steel shaft, vibratory driving of steel H-piles, vibratory driving and removal of steel sheet piles, and impact pile driving and proofing of 24- and 30-in steel piles.

Source levels of the above pile driving activities are based on measurements of the same material types and same or similar dimensions of piles measured at Mukilteo or elsewhere. Specifically, the source level for vibratory pile driving and removal of the 24-in steel pile is based on vibratory test pile driving of the same pile at the Friday Harbor (WSDOT 2010a). The unweighted SPL_{rms} source level at 10 meters (m) from the pile is 162 dB re 1 re 1 μPa. We consider that using vibratory pile installation source level as a proxy for vibratory pile removal is conservative.

The source level for vibratory pile driving and removal of the 30-in steel pile is based on vibratory pile driving of the same pile at Port Townsend (WSDOT, 2010b). The unweighted SPL_{rms} source level at 10 m from the pile is 174 dB re 1 re 1 μPa.

The source level for vibratory pile driving the 36-in steel piles is based on vibratory test pile driving of 36-in steel piles at Port Townsend in 2010 (Laughlin 2011). Recordings of vibratory pile driving were made at a distance of 10 m from the pile. The results show that the unweighted SPL_{rms} for vibratory pile driving of 36-in steel pile was 177 dB re 1 µPa.

Source level for vibratory pile driving of the 78- and 120-in steel shaft is based on measurements of 72-in steel piles vibratory driving conducted by CALTRANS. The unweighted SPL_{rms} source level ranged between 170 and 180 dB re 1 µPa at 10 m from the pile (CALTRANS 2012). The value of 180 dB is chosen to be more conservative.

The source level for vibratory pile driving of steel H-piles is based on measurements conducted by the California Department of Transportation (CALTRANS). The unweighted SPL_{rms} source level is 150 dB re 1 re 1 µPa at 10 m from the pile (CALTRANS, 2012).

The source level for vibratory sheet pile driving and removal is based on measurements at the Elliott Bay Seawall Project. The unweighted SPL_{rms} source level is 164 dB re 1 re 1 µPa at 10 m from the pile (Greenbusch 2015).

Source levels for impact pile driving of the 24-in steel piles are based on impact test pile driving of the same steel pile during the Vashon Acoustic Monitoring by WSDOT (Laughlin, 2015). The unweighted back-calculated source levels at 10 m are 174 dB re 1 μPa^2-s for single strike SEL (SEL_{ss}) and 189 dB re 1 µPa for SPL_{rms}.

Source levels for impact pile driving of the 30-in steel pile are based on impact test pile driving for the 36-in steel pile at Mukilteo in November 2006. Recordings of the impact pile driving that were made at a distance of 10 m from the pile were analyzed using Matlab. The results show that the unweighted source levels are 178 dB re 1 μPa^2-s for SEL_{ss} and 193 dB re 1 µPa for SPL_{rms}.

A summary of source levels from different pile driving and pile removal activities is provided in Table 4.

TABLE 4—SUMMARY OF IN-WATER PILE DRIVING SOURCE LEVELS

[At 10 m from source]

Method	Pile type/size (inch)	SEL (SEL_{ss} for impact pile driving), dB re 1 μPa^2-s	SPL_{rms}, dB re 1 μPa^2
Vibratory driving/removal	Steel, 24	162	162
Vibratory driving/removal	Steel, 30	174	174
Vibratory driving	Steel, 36	177	177
Vibratory driving	Steel shaft, 78	180	180
Vibratory driving	Steel shaft, 120	180	180
Vibratory driving	Steel H-pile, 12	150	150
Vibratory driving/removal	Steel sheet	164	164
Impact driving	Steel, 24	174	189
Impact driving	Steel, 30	178	193

These source levels are used to compute the Level A ensonified zones and to estimate the Level B harassment zones. For Level A harassment zones, zones calculated using cumulative SEL are all larger than those calculated using SPL_{peak}, therefore, only zones based on cumulative SEL for Level A harassment are used.

Source spectrum of the 36-in steel pile recording is used for spectral modeling for the 24-, 30-, and 36-in steel pile vibratory pile driving and removal to calculate Level A exposure distances based on cumulative SEL metric (see below).

For other piles where no recording is available, source modeling cannot be performed. In such cases, the weighting factor adjustment (WFA) recommended by NMFS acoustic guidance (NMFS 2016) was used to determine Level A exposure distances.

Estimating Injury Zones

Calculation and modeling of applicable ensonified zones are based on source measurements of comparable types and sizes of piles driven by different methods (impact vs. vibratory hammers) as described above.

When NMFS Technical Guidance (2016) was published, in recognition of the fact that ensonified area/volume could be more technically challenging to predict because of the duration component in the new thresholds, we developed a User Spreadsheet that includes tools to help predict a simple isopleth that can be used in conjunction with marine mammal density or occurrence to help predict takes. We note that because of some of the assumptions included in the methods used for these tools, we anticipate that isopleths produced are typically going to be overestimates of some degree, which will result in some degree of overestimate of Level A take. However, these tools offer the best way to predict appropriate isopleths when more sophisticated 3D modeling methods are not available, and NMFS continues to develop ways to quantitatively refine these tools, and will qualitatively address the output where appropriate.

For peak SPL (L_{pk}), distances to marine mammal injury thresholds were calculated using a simple geometric spreading model using a transmission loss coefficient of 15. For cumulative SEL (L_E), distances to marine mammal injury thresholds were computed using spectral modeling that incorporates frequency specific absorption.

Isopleths to Level B behavioral zones are based on root-mean-square SPL (SPL_{rms}) that are specific for impulse (impact pile driving) and non-impulse (vibratory pile driving) sources. Distances to marine mammal behavior thresholds were calculated using practical spreading.

A summary of the measured and modeled harassment zones is provided in Table 5. The maximum distance is 20,500 m from the source, since this is where landmass intercepts underwater sound propagation.

TABLE 5—DISTANCES TO HARASSMENT ZONES

Pile type, size and pile driving method	Injury zone (m)					Behavior zone (m)
	LF cetacean	MF cetacean	HF cetacean	Phocid	Otariid	
Vibratory removal, 24-in steel pile, 3 piles/day	10	10	55	10	10	6,040
Vibratory driving, 24-in steel pile, 3 piles/day	175	45	995	85	10	6,040
Vibratory removal, 30-in steel pile, 2 piles/day	55	10	345	25	10	*20,500
Vibratory removal, 30-in steel pile, 7 piles/day	125	35	725	55	10	*20,500
Vibratory driving, 30-in steel pile, 3 piles/day	175	45	995	85	10	*20,500
Vibratory driving, 36-in steel pile, 3 piles/day	175	45	995	85	10	*20,500
Vibratory driving, 78-in steel shaft, 1 pile/day	126	11	186	77	5	*20,500
Vibratory driving, 120-in steel shaft, 1 pile/day	126	11	186	77	5	*20,500
Vibratory driving, steel 12-in H-pile, 10 piles/day	4	1	6	2	0	1,000
Vibratory driving, steel sheet, 3 piles/day	14	1	21	9	1	8,577
Vibratory removal, steel sheet, 6 piles/day	23	2	33	14	1	8,577
Impact proofing, 24-in steel pile, 3 piles/day	135	10	75	35	10	875
Impact driving, 30-in steel pile, 3 piles/day	1,065	10	505	225	10	1,585
Impact proofing, 30-in steel pile, 5 piles/day	355	10	175	75	10	1,585

*Landmass intercepts at a distance of 20,500 m from project area.

Marine Mammal Occurrence

In this section we provide the information about the presence, density, or group dynamics of marine mammals that will inform the take calculations.

Incidental take is estimated for each species by estimating the likelihood of a marine mammal being present within a Level A or Level B harassment zone during active pile driving or removal. The Level A calculation includes a duration component, along with an assumption (which can lead to overestimates in some cases) that animals within the zone stay in that area for the whole duration of the pile driving activity within a day. For all marine mammal species except harbor seals, California sea lions, and northern elephant seals, estimated takes are calculated based on ensonified area for a specific pile driving activity multiplied by the marine mammal density in the action area, multiplied by the number of pile driving (or removal) days. In most cases, marine mammal density data are from the U.S. Navy Marine Species Density Database (Navy 2015). Harbor porpoise density is based on a recent study by Jefferson *et al.* (2016) for the Eastern Whidbey area near the Mukilteo Ferry Terminal. Harbor seal, northern elephant seal, and California sea lion takes are based on observations in the Mukilteo area, since these data provide the best information on distribution and presence of these species that are often associated with nearby haulouts (see below).

The Level A take total was further adjusted by subtracting animals expected to occur within the exclusion zone, where pile driving activities are suspended when an animal is observed in or approaching the zone (see Mitigation section). Further, the number of Level B takes was adjusted to exclude those already counted for Level A takes.

Take Calculation and Estimation

Here we describe how the information provided above is brought together to produce a quantitative take estimate.

The harbor seal take estimate is based on local seal abundance information from monitoring during the Mukilteo pier removal project. Marine mammal visual monitoring during Mukilteo Ferry Terminal pier removal project showed an average daily observation of 7 harbor seals (WSDOT 2015). Based on a total of 175 pile driving days for the WSDOT Mukilteo Multimodal Phase 2 project, it is estimated that up to 1,225 harbor seals could be exposed to noise levels associated with ''take.'' Since 9 days would involve impact pile driving of 30-in piles with Level A harassment zones beyond the required shutdown zones (225 m vs 160 m shutdown zone), we consider that 63 harbor seals exposed during these 9 days would experience Level A harassment.

The California sea lion take estimate is based on local sea lion abundance information during the Mukilteo Ferry Terminal pier removal project (WSDOT 2015). Marine mammal visual monitoring during the Mukilteo pier removal project indicates on average 7 sea lions were observed in the general area of the Mukilteo Ferry Terminal per day (WSDOT 2015). Based on a total of 175 pile driving days for the WSDOT Mukilteo Multimodal project, it is estimated that up to 1,225 California sea lions could be exposed to noise levels associated with ''take''. Since the Level A harassment zones of otarids are all very small (max. 10 m, Table 5), we do not consider it likely that any sea lions would be taken by Level A harassment. Therefore, all California sea lion takes estimated here are expected to be by Level B harassment.

Northern elephant seal is not common in the Mukilteo Multimodal Project area, however, their presence has been observed in Edmonds area just south of Mukilteo (Huey, Pers. Comm. April 2017). Therefore, a potential take of 20 animals by Level B harassment during the project period is assessed. Since

northern elephant seal is very uncommon in the project area, we do not consider it likely that any elephant seal would be taken by Level A harassment.

However, the method used in take estimates does not account for single individuals being taken multiple times during the entire project period of 175 days. Therefore, the percent of marine mammals that are likely to be taken for a given population would be far less than the ratio of numbers of animals taken divided by the population size. For harbor porpoise, the estimated incidences of takes at 6,759 animals would be 60.2 percent of the population, if each single take were a unique individual. However, this is highly unlikely because the results of telemetry and photo-identification studies in Washington waters have demonstrated that harbor porpoise shows site fidelity to small areas for periods of time that can extend between seasons (Hanson *et al.* 1999; Hanson 2007a, 2007b). Based on studies by Jefferson *et al.* (2016), harbor porpoise abundance in the East Whidbey region, which is adjunct to the Mukilteo Ferry Terminal construction, is 497, and harbor porpoise abundance in the entire surrounding area of North Puget Sound is 1,798.

For Southern Resident killer whales, potential takes based on density calculation showed that 4 animals could be exposed to noise levels for Level B harassment. However, mitigation measures prescribed below are expected to prevent such takes.

A summary of estimated marine mammal takes is listed in Table 6.

TABLE 6—ESTIMATED NUMBERS OF MARINE MAMMALS THAT MAY BE EXPOSED TO RECEIVED NOISE LEVELS THAT CAUSE LEVEL A OR LEVEL B HARASSMENT

Species	Estimated Level A take	Estimated Level B take	Estimated total take	Abundance	Percentage
Pacific harbor seal	63	1,162	1,225	11,036	11.1
California sea lion	0	1,225	1,225	296,750	0.41
Northern elephant seal	0	20	20	179,000	0.01
Steller sea lion	0	320	320	71,562	0.32
Killer whale, transient	0	21	21	243	8.64
Killer whale, Southern Resident	0	0	0	78	0
Gray whale	0	44	44	20,990	0.21
Humpback whale	0	6	6	1,918	0.31
Harbor porpoise	61	6,650	6,711	11,233	60.2
Dall's porpoise	4	414	418	25,750	1.63

Mitigation

In order to issue an IHA under Section 101(a)(5)(D) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to such activity, ''and other means of effecting the least practicable impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stock for taking'' for certain subsistence uses (latter not applicable for this action). NMFS regulations require applicants for incidental take authorizations to include information about the availability and feasibility (economic and technological) of equipment, methods, and manner of conducting such activity or other means of effecting the least practicable adverse impact upon the affected species or stocks and their habitat (50 CFR 216.104(a)(11)).

In evaluating how mitigation may or may not be appropriate to ensure the least practicable adverse impact on species or stocks and their habitat, as well as subsistence uses where applicable, we carefully consider two primary factors:

(1) The manner in which, and the degree to which, the successful implementation of the measure(s) is expected to reduce impacts to marine mammals, marine mammal species or stocks, and their habitat. This considers the nature of the potential adverse impact being mitigated (likelihood, scope, range). It further considers the likelihood that the measure will be effective if implemented (probability of accomplishing the mitigating result if implemented as planned) the likelihood of effective implementation. and;

(2) The practicability of the measures for applicant implementation, which may consider such things as cost, impact on operations, and, in the case of a military readiness activity, personnel safety, practicality of implementation, and impact on the effectiveness of the military readiness activity.

Mitigation for Marine Mammals and Their Habitat

1. Time Restriction

Work would occur only during daylight hours, when visual monitoring of marine mammals can be conducted. In addition, all in-water construction will be limited to the period between August 1, 2017, and February 15, 2018.

2. Use of Noise Attenuation Devices

To reduce impact on marine mammals, WSDOT shall use a marine pile driving energy attenuator (*i.e.,* air bubble curtain system), or other equally effective sound attenuation method (*e.g.,* dewatered cofferdam) for all impact pile driving.

3. Establishing and Monitoring Level A, Level B Harassment Zones, and Exclusion Zones

Before the commencement of in-water construction activities, which include impact pile driving and vibratory pile driving and pile removal, WSDOT shall establish Level A harassment zones where received underwater SPLs or SEL_{cum} could cause PTS (see above).

WSDOT shall also establish Level B harassment zones where received underwater SPLs are higher than 160 dB_{rms} and 120 dB_{rms} re 1 µPa for impulse noise sources (impact pile driving) and non-impulses noise sources (vibratory pile driving and pile removal), respectively.

WSDOT shall establish a maximum 160-m Level A exclusion zone for all marine mammals except low-frequency baleen whales. For Level A harassment zones that are smaller than 160 m from the source, WSDOT shall establish exclusion zones that correspond to the estimated Level A harassment distances, but shall not be less than 10 m. For low-frequency baleen whales, WSDOT shall establish exclusion zones that correspond to the actual Level A harassment distances, but shall not be less than 10 m.

A summary of exclusion zones is provided in Table 7.

TABLE 7—EXCLUSION ZONES FOR VARIOUS PILE DRIVING ACTIVITIES AND MARINE MAMMAL HEARING GROUPS

Pile type, size and pile driving method	Exclusion zone (m)				
	LF cetacean	MF cetacean	HF cetacean	Phocid	Otariid
Vibratory removal, 24-in steel pile, 3 piles/day	10	10	55	10	10
Vibratory removal, 30-in steel pile, 2 piles/day	55	10	160	25	10
Vibratory removal, 30-in steel pile, 7 piles/day	125	35	160	55	10
Vibratory driving, 24-, 30- & 36-in steel pile, 3 piles/day	175	45	160	85	10
Vibratory driving, 78-, 120-in steel shaft, 1 pile/day	126	11	160	77	10
Vibratory driving, steel 12-in H-pile, 10 piles/day	4	1	6	2	1
Vibratory driving, steel sheet, 3 piles/day	14	1	21	9	1
Vibratory removal, steel sheet, 6 piles/day	23	2	33	14	1
Impact proofing, 24-in steel pile, 3 piles/day	135	10	75	35	10
Impact driving, 30-in steel pile, 3 piles/day	1,065	10	160	160	10
Impact proofing, 30-in steel pile, 5 piles/day	355	10	160	75	10

NMFS-approved protected species observers (PSO) shall conduct an initial survey of the exclusion zones to ensure that no marine mammals are seen within the zones before pile driving and pile removal of a pile segment begins. If marine mammals are found within the exclusion zone, pile driving of the segment would be delayed until they move out of the area. If a marine mammal is seen above water and then dives below, the contractor would wait 30 minutes. If no marine mammals are seen by the observer in that time it can be assumed that the animal has moved beyond the exclusion zone.

If pile driving of a segment ceases for 30 minutes or more and a marine mammal is sighted within the designated exclusion zone prior to commencement of pile driving, the observer(s) must notify the pile driving operator (or other authorized individual) immediately and continue to monitor the exclusion zone. Operations may not resume until the marine mammal has exited the exclusion zone or 30 minutes have elapsed since the last sighting.

4. Soft Start

A ''soft-start'' technique is intended to allow marine mammals to vacate the area before the impact pile driver reaches full power. Whenever there has been downtime of 30 minutes or more without impact pile driving, the contractor will initiate the driving with ramp-up procedures described below.

Soft start for impact hammers requires contractors to provide an initial set of three strikes from the impact hammer at 40 percent energy, followed by a 1-minute waiting period, then two subsequent three-strike sets. Each day, WSDOT will use the soft-start technique at the beginning of impact pile driving, or if pile driving has ceased for more than 30 minutes.

5. Shutdown Measures

WSDOT shall implement shutdown measures if a marine mammal is detected within an exclusion zone or is about to enter an exclusion zone listed in Table 6.

WSDOT shall also implement shutdown measures if southern resident killer whales are sighted within the vicinity of the project area and are approaching the Level B harassment zone (or Zone of Influence, ZOI) during in-water construction activities.

If a killer whale approaches the ZOI during pile driving or removal, and it is unknown whether it is a Southern Resident killer whale or a transient killer whale, it shall be assumed to be a Southern Resident killer whale and WSDOT shall implement the shutdown measure.

If a Southern Resident killer whale or an unidentified killer whale enters the ZOI undetected, in-water pile driving or pile removal shall be suspended until the whale exits the ZOI to avoid further level B harassment.

Further, WSDOT shall implement shutdown measures if the number of authorized takes for any particular species reaches the limit under the IHA (if issued) and if such marine mammals are sighted within the vicinity of the project area and are approaching the Level B harassment zone during in-water construction activities.

6. Coordination With Local Marine Mammal Research Network

Prior to the start of pile driving for the day, the Orca Network and/or Center for Whale Research will be contacted by WSDOT to find out the location of the nearest marine mammal sightings. The Orca Sightings Network consists of a list of over 600 (and growing) residents, scientists, and government agency personnel in the U.S. and Canada. Sightings are called or emailed into the Orca Network and immediately distributed to other sighting networks including: The NMFS Northwest Fisheries Science Center, the Center for Whale Research, Cascadia Research, the Whale Museum Hotline and the British Columbia Sightings Network.

Sightings information collected by the Orca Network includes detection by hydrophone. The SeaSound Remote Sensing Network is a system of interconnected hydrophones installed in the marine environment of Haro Strait (west side of San Juan Island) to study orca communication, in-water noise, bottom fish ecology and local climatic conditions. A hydrophone at the Port Townsend Marine Science Center measures average in-water sound levels and automatically detects unusual sounds. These passive acoustic devices allow researchers to hear when different marine mammals come into the region. This acoustic network, combined with the volunteer (incidental) visual sighting network allows researchers to document presence and location of various marine mammal species.

Based on our evaluation of the required measures, NMFS has determined that the prescribed mitigation measures provide the means effecting the least practicable impact on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

Monitoring and Reporting

In order to issue an IHA for an activity, Section 101(a)(5)(D) of the MMPA states that NMFS must set forth,

requirements pertaining to the monitoring and reporting of such taking. The MMPA implementing regulations at 50 CFR 216.104(a)(13) indicate that requests for authorizations must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present in the proposed action area. Effective reporting is critical both to compliance as well as ensuring that the most value is obtained from the required monitoring.

Monitoring and reporting requirements prescribed by NMFS should contribute to improved understanding of one or more of the following:

- Occurrence of marine mammal species or stocks in the area in which take is anticipated (*e.g.,* presence, abundance, distribution, density).
- Nature, scope, or context of likely marine mammal exposure to potential stressors/impacts (individual or cumulative, acute or chronic), through better understanding of: (1) Action or environment (*e.g.,* source characterization, propagation, ambient noise); (2) affected species (*e.g.,* life history, dive patterns); (3) co-occurrence of marine mammal species with the action; or (4) biological or behavioral context of exposure (*e.g.,* age, calving or feeding areas).
- Individual marine mammal responses (behavioral or physiological) to acoustic stressors (acute, chronic, or cumulative), other stressors, or cumulative impacts from multiple stressors.
- How anticipated responses to stressors impact either: (1) Long-term fitness and survival of individual marine mammals; or (2) populations, species, or stocks.
- Effects on marine mammal habitat (*e.g.,* marine mammal prey species, acoustic habitat, or other important physical components of marine mammal habitat).
- Mitigation and monitoring effectiveness.

Monitoring Measures

WSDOT shall employ NMFS-approved PSOs to conduct marine mammal monitoring for its Mukilteo Multimodal Project. The PSOs will observe and collect data on marine mammals in and around the project area for 30 minutes before, during, and for 30 minutes after all pile removal and pile installation work. NMFS-approved PSOs shall meet the following requirements:

1. Independent observers (*i.e.,* not construction personnel) are required;
2. At least one observer must have prior experience working as an observer;
3. Other observers may substitute education (undergraduate degree in biological science or related field) or training for experience;
4. Where a team of three or more observers are required, one observer should be designated as lead observer or monitoring coordinator. The lead observer must have prior experience working as an observer; and
5. NMFS will require submission and approval of observer CVs;

Monitoring of marine mammals around the construction site shall be conducted using high-quality binoculars (*e.g.,* Zeiss, 10 × 42 power). Due to the different sizes of ZOIs from different pile sizes, several different ZOIs and different monitoring protocols corresponding to a specific pile size will be established.

- For Level A zones less than 160 m and Level B zones less than 1,000 m (*i.e.,* vibratory 12-in H pile driving, 10 piles/day; impact proofing of 24-in steel piles, 3 piles/day), two land-based PSOs will monitor the exclusion zones and Level B harassment zone.
- For Level A zones between 160 and 500 m, and Level B zones between 1,000 and 10,000 m (*i.e,* vibratory pile driving and removal of 24-in steel piles, 3 piles/day; vibratory driving and removal of steel sheet; and impact proofing of 30-in steel piles, 5 piles/day), 5 land-based PSOs and 1 vessel-based PSO on a ferry will monitor the Level A and Level B harassment zones.
- For the rest of the pile driving and pile removal scenario, 5 land-based PSOs and 2 vessel-based PSOs on ferries will monitor the Level A and Level B harassment zones.

Locations of the land-based PSOs and routes of monitoring vessels are shown in WSDOT's Marine Mammal Monitoring Plan, which is available online at *www.nmfs.noaa.gov/pr/permits/incidental/construction.htm.*

To verify the required monitoring distance, the exclusion zones and ZOIs will be determined by using a range finder or hand-held global positioning system device.

Reporting Measures

WSDOT is required to submit a draft monitoring report within 90 days after completion of the construction work or the expiration of the IHA, whichever comes earlier. This report would detail the monitoring protocol, summarize the data recorded during monitoring, and estimate the number of marine mammals that may have been harassed. NMFS would have an opportunity to provide comments on the report, and if NMFS has comments, WSDOT would address the comments and submit a final report to NMFS within 30 days.

In addition, NMFS would require WSDOT to notify NMFS' Office of Protected Resources and NMFS' West Coast Stranding Coordinator within 48 hours of sighting an injured or dead marine mammal in the construction site. WSDOT shall provide NMFS and the Stranding Network with the species or description of the animal(s), the condition of the animal(s) (including carcass condition, if the animal is dead), location, time of first discovery, observed behaviors (if alive), and photo or video (if available).

In the event that WSDOT finds an injured or dead marine mammal that is not in the construction area, WSDOT would report the same information as listed above to NMFS as soon as operationally feasible.

Negligible Impact Analysis and Determination

NMFS has defined negligible impact as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival (50 CFR 216.103). A negligible impact finding is based on the lack of likely adverse effects on annual rates of recruitment or survival (*i.e.,* population-level effects). An estimate of the number of takes alone is not enough information on which to base an impact determination. In addition to considering estimates of the number of marine mammals that might be ''taken'' through harassment, NMFS considers other factors, such as the likely nature of any responses (*e.g.,* intensity, duration), the context of any responses (*e.g.,* critical reproductive time or location, migration), as well as effects on habitat, and the likely effectiveness of the mitigation. We also assess the number, intensity, and context of estimated takes by evaluating this information relative to population status. Consistent with the 1989 preamble for NMFS's implementing regulations (54 FR 40338; September 29, 1989), the impacts from other past and ongoing anthropogenic activities are incorporated into this analysis via their impacts on the environmental baseline (*e.g.,* as reflected in the regulatory status of the species, population size and growth rate where known, ongoing sources of human-caused mortality, or ambient noise levels).

To avoid repetition, this introductory discussion of our analyses applies to all the species listed in Table 6, given that the anticipated effects of WSDOT's Mukilteo Multimodal Project activities involving pile driving and pile removal on marine mammals are expected to be relatively similar in nature. There is no information about the nature or severity of the impacts, or the size, status, or structure of any species or stock that would lead to a different analysis by species for this activity, or else species-specific factors would be identified and analyzed.

Although a few marine mammal species (63 harbor seals, 61 harbor porpoises, and 4 Dall's porpoise) are estimated to experience Level A harassment in the form of PTS if they stay within the Level A harassment zone during the entire pile driving for the day, the degree of injury is expected to be mild and is not likely to affect the reproduction or survival of the individual animals because most animals will avoid the area, and thus avoid injury. It is expected that, if hearing impairments occurs, most likely the affected animal would lose a few dB in its hearing sensitivity, which in most cases is not likely to affect its survival and recruitment. Hearing impairment that occur for these individual animals would be limited to the dominant frequency of the noise sources, *i.e.,* in the low-frequency region below 2 kHz. Therefore, the degree of PTS is not likely to affect the echolocation performance of the two porpoise species, which use frequencies mostly above 100 kHz. Nevertheless, for all marine mammal species, it is known that in general animals avoid areas where sound levels could cause hearing impairment. Therefore, it is not likely that an animal would stay in an area with intense noise that could cause severe levels of hearing damage.

For the rest of the three marine mammal species, takes that are anticipated and authorized are expected to be limited to short-term Level B harassment. Marine mammals present in the vicinity of the action area and taken by Level B harassment would most likely show overt brief disturbance (startle reaction) and avoidance of the area from elevated noise levels during pile driving and pile removal and the implosion noise. These behavioral distances are not expected to affect marine mammals' growth, survival, and reproduction due to the limited geographic area that would be affected in comparison to the much larger habitat for marine mammals in the Puget Sound.

The project also is not expected to have significant adverse effects on affected marine mammals' habitat, as analyzed in detail in the ''Anticipated Effects on Marine Mammal Habitat'' section. The project activities would not permanently modify existing marine mammal habitat. The activities may kill some fish and cause other fish to leave the area temporarily, thus impacting marine mammals' foraging opportunities in a limited portion of the foraging range; but, because of the short duration of the activities and the relatively small area of the habitat that may be affected, the impacts to marine mammal habitat are not expected to cause significant or long-term negative consequences. Therefore, given the consideration of potential impacts to marine mammal prey species and their physical environment, WSDOT's proposed construction activity at Mukilteo Ferry Terminal would not adversely affect marine mammal habitat.

In summary and as described above, the following factors primarily support our determination that the impacts resulting from this activity are not expected to adversely affect the species or stock through effects on annual rates of recruitment or survival:

- No mortality is anticipated or authorized;
- Level A harassment is expected in the form of elevated hearing threshold of a few dBs within limited frequency range, and is limited to a few individual animals of three species; and
- The majority of harassment is Level B harassment in the form of short-term behavioral modification.

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the prescribed monitoring and mitigation measures, NMFS finds that the total take from the proposed activity will have a negligible impact on all affected marine mammal species or stocks.

Small Numbers

As noted above, only small numbers of incidental take may be authorized under Section 101(a)(5)(D) of the MMPA for specified activities other than military readiness activities. The MMPA does not define small numbers and so, in practice, NMFS compares the number of individuals taken to the most appropriate estimation of abundance of the relevant species or stock in our determination of whether an authorization is limited to small numbers of marine mammals.

The estimated takes are below 12 percent of the population for all marine mammals except harbor porpoise (Table 6). For harbor porpoise, the estimate of 6,759 incidences of takes would be 60.2 percent of the population, if each single take were a unique individual. However, this is highly unlikely because the harbor porpoise in Washington waters shows site fidelity to small areas for periods of time that can extend between seasons (Hanson *et al.* 1999; Hanson 2007a, 2007b). For example, Hanson *et al.* (1999) tracked a female harbor porpoise for 215 days, during which it remained exclusively within the southern Strait of Georgia region. Based on studies by Jefferson *et al.* (2016), harbor porpoise abundance in the East Whidbey region, which is adjunct to the Mukilteo Ferry Terminal construction, is 497, and harbor porpoise abundance in the entire surrounding area of North Puget Sound is 1,798. Therefore, if the estimated incidents of take accrued to all the animals expected to occur in the entire North Puget Sound area (1,798 animals), it would be 16.01 percent of the Washington inland water stock of the harbor porpoise.

Based on the analysis contained herein of the proposed activity (including the prescribed mitigation and monitoring measures) and the anticipated take of marine mammals, NMFS finds that small numbers of marine mammals will be taken relative to the population size of the affected species or stocks.

Unmitigable Adverse Impact Analysis and Determination

There are no relevant subsistence uses of the affected marine mammal stocks or species implicated by this action. Therefore, NMFS has determined that the total taking of affected species or stocks would not have an unmitigable adverse impact on the availability of such species or stocks for taking for subsistence purposes.

Endangered Species Act (ESA)

Section 7(a)(2) of the Endangered Species Act of 1973 (ESA: 16 U.S.C. 1531 *et seq.*) requires that each Federal agency insure that any action it authorizes, funds, or carries out is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of designated critical habitat. To ensure ESA compliance for the issuance of IHAs, NMFS consults internally, in this case with West Coast Regional Office Protected Resources Division Office, whenever we propose to authorize take for endangered or threatened species.

The humpback whale and the killer whale (southern resident distinct population segment (DPS)) are the only marine mammal species listed under the ESA that could occur in the vicinity of WSDOT's proposed construction project. Two DPSs of the humpback whale stock, the Mexico DPS and the Central America DPS, are listed as threatened and endangered under the ESA, respectively. NMFS' Office of Protected Resources has initiated consultation with NMFS' West Coast Regional Office under section 7 of the ESA on the issuance of an IHA to WSDOT under section 101(a)(5)(D) of the MMPA for this activity.

In July 2017, NMFS finished conducting its section 7 consultation and issued a Biological Opinion concluding that the issuance of the IHA associated with WSDOT's Mukilteo Multimodal Project is not likely to jeopardize the continued existence of the endangered humpback and the Southern Resident killer whales.

Authorization

As a result of these determinations, NMFS has issued an IHA to the Washington State Department of Transportation for the Mukilteo Multimodal Construction Project in Washington State, provided the previously described mitigation, monitoring, and reporting requirements are incorporated.

Dated: September 18, 2017.

Donna S. Wieting,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2017–20144 Filed 9–20–17; 8:45 am]

BILLING CODE 3510–22–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–R10–OW–2017–0369; FRL9968–06–Region 10]

Public Hearings: Proposal To Withdraw Proposed Determination To Restrict the Use of an Area as a Disposal Site; Pebble Deposit Area, Southwest Alaska

AGENCY: Environmental Protection Agency (EPA).

ACTION: Announcement of public hearing dates.

SUMMARY: The Environmental Protection Agency (EPA) will hold two public hearings to obtain public testimony and comment on its proposal to withdraw the EPA Region 10 July 2014 Proposed Determination that was issued pursuant to the Clean Water Act. The public hearings will be held on October 11, 2017, from 6:00–9:00 p.m. Alaska Daylight Time (AKDT) in Dillingham, Alaska, and October 12, 2017, from 1:00–4:00 p.m. AKDT in Iliamna, Alaska. The EPA will continue to accept written public comments through the close of the public comment period on October 17, 2017.

DATES: Comments must be received on or before October 17, 2017.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R10–OW–2017–0369, to the *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or withdrawn. 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: Visit *www.epa.gov/bristolbay* or contact a Bristol Bay-specific phone line, (206) 553–0040, or email address, *r10bristolbay@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Public Hearings

The EPA will hold two public hearings on its proposal to withdraw the EPA Region 10 July 2014 Proposed Determination. The hearing dates and locations are as follows:

October 11, 2017—6:00–9:00 p.m. AKDT, Dillingham Middle School Gym, Dillingham, Alaska

October 12, 2017—1:00–4:00 p.m. AKDT, Iliamna Community Center, Iliamna, Alaska

Additional hearing details and any changes to the schedule are available at *www.epa.gov/bristolbay.* The purpose of the public hearings is to obtain public testimony and comment on the proposal to withdraw the EPA Region 10 July 2014 Proposed Determination that was issued pursuant to Section 404(c) of the Clean Water Act. Senior leadership from EPA Headquarters and Region 10 will be in attendance, along with staff from both EPA Headquarters and Region 10. Any person may attend the hearings and submit oral and/or written statements or data and may be represented by counsel or other authorized representatives. If you would like to submit written comments, you may do so at the public hearings or by one of the methods described in the section of this public notice entitled: How to Submit Comments to the Docket at *www.regulations.gov.*

The EPA will not respond to questions/comments during the hearing. The EPA will consider the oral and written statements received at the public hearings and other written comments submitted pursuant to the instructions set forth in the section of this public notice entitled: How to Submit Comments to the Docket at *www.regulations.gov.*

B. Background

On July 19, 2017, EPA published a public notice and request for comment in the **Federal Register**, entitled ''Proposal to Withdraw Proposed Determination to Restrict the Use of an Area as a Disposal Site; Pebble Deposit Area, Southwest Alaska'' (82 FR 33123). The EPA Administrator and Region 10 Acting Regional Administrator are requesting public comment on this proposal to withdraw the EPA Region 10 July 2014 Proposed Determination that was issued pursuant to Section 404(c) of the Clean Water Act, to restrict the use of certain waters in the South Fork Koktuli River, North Fork Koktuli River, and Upper Talarik Creek watersheds in southwest Alaska as disposal sites for dredged or fill material associated with mining the Pebble deposit, a copper-, gold-, and molybdenum-bearing ore body. The EPA agreed to initiate this proposed withdrawal process pursuant to policy direction from EPA's Administrator and as part of a May 11, 2017 settlement agreement with the Pebble Limited Partnership (PLP), whose subsidiaries own the mineral claims to the Pebble deposit. The Agency is accepting public comment through the aforementioned notice to afford the public an opportunity to comment on:

- Whether to withdraw the July 2014 Proposed Determination at this time for the reasons stated in the aforementioned notice; and
- if a final withdrawal decision is made following this comment period,

whether the Administrator should review and reconsider the withdrawal decision.

C. How To Submit Comments to the Docket

In addition to submitting your comments during the hearing, you may also submit your comments, identified by Docket ID No. EPA–R10–OW–2017–0369, by one of the following methods:

a. *Federal eRulemaking Portal (recommended method of comment submission):* Go to *http://www.regulations.gov* and follow the online instructions for submitting comments.

b. *Email:* Send email to *ow-docket@epa.gov.* Include the docket number EPA–R10–OW–2017–0369 in the subject line of the message.

c. *Mail:* Send your comments to: Water Docket, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Avenue NW., Washington, DC 20460, Attention: Docket ID No. EPA–R10–OW–2017–0369.

d. *Hand Delivery/Courier:* Deliver your comments to EPA Docket Center, EPA West, Room 3334, 1301 Constitution Avenue NW., Washington, DC 20460, Attention: Docket ID No. EPA–R10–OW–2017–0369. Such deliveries are accepted only during the Docket's normal hours of operation, 8:30 a.m. to 4:30 p.m. ET, Monday through Friday (excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The telephone number for the Water Docket is (202) 566–2426.

Dated: September 13, 2017.

Michelle Pirzadeh

Acting Regional Administrator, EPA Region 10.

[FR Doc. 2017–20065 Filed 9–20–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–R10–OAR–2017–0516; FRL–9967–44–Region 10]

Proposed Information Collection Request; Comment Request; Federal Implementation Plans Under the Clean Air Act for Indian Reservations in Idaho, Oregon and Washington; EPA ICR No. 2020.06, OMB Control No. 2060–0558

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) is planning to submit an information collection request (ICR), ''Proposed Information Collection Request; Comment Request; Federal Implementation Plans under the Clean Air Act for Indian Reservations in Idaho, Oregon and Washington'' (EPA ICR No. 2020.06, OMB Control No. 2060–0558) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. Before doing so, EPA is soliciting public comments on specific aspects of the proposed information collection as described below. This is a proposed extension of the ICR, which is currently approved through March 31, 2018. 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: Comments must be submitted on or before November 20, 2017.

ADDRESSES: Submit your comments, referencing Docket ID No. EPA–R10–OAR–2017–0516, online using *www.regulations.gov* (our preferred method), by email to *R10-Public_Comments@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460.

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: Andra Bosneag, Office of Air and Waste, Environmental Protection Agency Region 10, 1200 Sixth Ave, Seattle, WA 98101; telephone number: (206) 553–1226; fax number: (206) 553–0110; email address: *bosneag.andra@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents 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.*

Pursuant to section 3506(c)(2)(A) of the PRA, EPA is soliciting comments and information to enable it to: (i) 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; (ii) 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; (iii) enhance the quality, utility, and clarity of the information to be collected; and (iv) 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. EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval. At that time, EPA will issue another **Federal Register** notice to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB.

Abstract: EPA promulgated Federal Implementation Plans (FIPs) under the Clean Air Act for Indian reservations located in Idaho, Oregon, and Washington in 40 CFR part 49 (70 FR 18074, April 8, 2005). The FIPs in the final rule, also referred to as the Federal Air Rules for Indian Reservations in Idaho, Oregon, and Washington (FARR), include information collection requirements associated with the partial delegation of administrative authority to a Tribe in § 49.122; the rule for limiting visible emissions at § 49.124; fugitive particulate matter rule in § 49.126, the wood waste burner rule in § 49.127; the rule for limiting sulfur in fuels in § 49.130; the rule for open burning in § 49.131; the rules for general open burning permits, agricultural burning permits, and forestry and silvicultural burning permits in §§ 49.132, 49.133, and 49.134; the rule for emissions detrimental to human health and welfare in § 49.135; the registration rule in § 49.138; and the rule for non-Title V operating permits in § 49.139. EPA uses this information to manage the activities and sources of air pollution on the Indian reservations in Idaho, Oregon, and Washington. EPA believes these information collection requirements are appropriate because they will enable EPA to develop and maintain accurate records of air pollution sources and their emissions, track emissions trends and changes, identify potential air quality problems, allow EPA to issue permits or approvals, and ensure appropriate records are available to verify compliance with these FIPs. The

information collection requirements listed above are all mandatory. Regulated entities can assert claims of business confidentiality and EPA will address these claims in accordance with the provisions of 40 CFR part 2, subpart B.

Form Numbers:

The forms associated with this ICR are:

EPA Form 7630–1—Nez Perce Reservation Air Quality Permit: Agricultural Burn
EPA Form 7630–2—Nez Perce Reservation Air Quality Permit: Forestry Burn
EPA Form 7630–3—Nez Perce Reservation Air Quality Permit: Large Open Burn
EPA Form 7630–4—Initial or Annual Source Registration
EPA Form 7630–5—Report of Change of Ownership
EPA Form 7630–6—Report of Closure
EPA Form 7630–7—Report of Relocation
EPA Form 7630–9—Non-Title V Operating Permit Application Form
EPA Form 7630–10—Umatilla Indian Reservation: Agricultural Burn Permit Application
EPA Form 7630–11—Umatilla Indian Reservation: Forestry Burn Permit Application
EPA Form 7630–12—Umatilla Indian Reservation Large Open Burn Permit Application

The forms listed above are available for review in the EPA docket.

Respondents/affected entities: Respondents or affected entities potentially affected by this action include owners and operators of emission sources in all industry groups and tribal governments, located in the identified Indian reservations. Categories and entities potentially affected by this action are expected to include:

Category	NAICS [a]	Examples of regulated entities
Industry	11211	Beef Cattle Ranching and Farming.
	212313	Crushed and Broken Granite Mining and Quarrying.
	212319	Other Crushed and Broken Stone Mining and Quarrying.
	212321	Construction Sand and Gravel Mining.
	221210	Natural Gas Distribution.
	31142	Fruit and Vegetable Canning, Pickling, and Drying.
	311421	Fruit and Vegetable Canning.
	311710	Seafood Product Preparation and Packaging.
	311942	Spice and Extract Manufacturing.
	321113	Sawmills.
	321212	Softwood Veneer and Plywood Manufacturing.
	321999	All Other Miscellaneous Wood Product Manufacturing.
	324121	Asphalt Paving Mixture and Block Manufacturing.
	325199	All Other Basic Organic Chemical Manufacturing.
	326199	All Other Plastics Product Manufacturing.
	327320	Ready-Mix Concrete Manufacturing.
	332117	Powder Metallurgy Part Manufacturing.
	332431	Metal Can Manufacturing.
	332813	Electroplating, Plating, Polishing, Anodizing, and Coloring.
	332999	All Other Miscellaneous Fabricated Metal Product Manufacturing.
	337110	Wood Kitchen Cabinet and Countertop Manufacturing.
	424510	Grain and Field Bean Merchant Wholesalers.
	447190	Other Gasoline Stations.
	454310	Fuel Dealers.
	488190	Other Support Activities for Air Transportation.
	721120	Casino Hotels.
	811121	Automotive Body, Paint, and Interior Repair and Maintenance.
	81121	Electronic and Precision Equipment Repair and Maintenance.
Federal government	924110	Administration of Air and Water Resources and Solid Waste Management Programs.
State/local/tribal government	924110	Administration of Air and Water Resources and Solid Waste Management Programs

[a] North American Industry Classification System.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities potentially affected by this action.

Respondent's obligation to respond: Respondents obligation to respond is mandatory. See 40 CFR 49.122, 49.124, 49.126, 49.130–135, 49.138, and 49.139.

Estimated number of respondents: 1,766 (total).

Frequency of response: Annual or on occasion

Total estimated burden: 5,436 hours (per year). Burden is defined at 5 CFR 1320.03(b)

T*otal estimated cost:* $388,457 (per year), includes $0 annualized capital or operation & maintenance costs.

Changes in Estimates: There is an increase of 367 hours in the total estimated respondent burden compared with the ICR currently approved by OMB. This increase is based on an increase in the estimated number of sources subject to the requirements in §§ 49.126, 49.130, 49.131, 49.132A, 49.138, and 49.139 since the ICR was updated in 2015.

Dated: August 30, 2017.

Tim Hamlin,

Director, Office of Air and Waste.

[FR Doc. 2017–20167 Filed 9–20–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OLEM–2017–0444; FRL–9967–75–OLEM]

Proposed Information Collection Request; Comment Request; Survey on Clean Water Act Hazardous Substances and Spill Impacts

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency is planning to submit an information collection request (ICR), ''Survey on Clean Water Act Hazardous Substances and Spill Impacts'' (EPA ICR

No. 2566.01, OMB Control No. 2050–New) 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.*). Before doing so, EPA is soliciting public comments on specific aspects of the proposed information collection as described below. This is a request for approval of a new collection. 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: Comments must be submitted on or before November 20, 2017.

ADDRESSES: Submit your comments, referencing Docket ID No. EPA–HQ–OLEM–2017–0444 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.

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: Joe Beaman, OLEM/OEM/RID, (5104A), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: 202–566–0420; email address: *beaman.joe@epa.gov.*

SUPPLEMENTARY INFORMATION:

Supporting documents 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.*

Pursuant to section 3506(c)(2)(A) of the Paperwork Reduction Act, EPA is soliciting comments and information to enable it to: (i) 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; (ii) 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; (iii) enhance the quality, utility, and clarity of the information to be collected; and (iv) 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. EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval. At that time, EPA will issue another **Federal Register** notice to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB.

Abstract: The Clean Water Act (CWA) directs the President to issue regulations ''establishing procedures, methods, and equipment and other requirements for equipment to prevent discharges of oil and hazardous substances from . . . onshore facilities and offshore facilities, and to contain such discharges'' (33 U.S.C. 1321(j)(1)(C)).

In 1978, EPA promulgated a list of hazardous substances under CWA section 311(b)(2)(A). This list is found at 40 CFR part 116. EPA concurrently proposed requirements to prevent the discharge of listed hazardous substances from facilities subject to permitting requirements under the National Pollutant Discharge Elimination System (NPDES) of the CWA (43 FR 39276); the proposed regulations were never finalized.

On July, 21, 2015, several parties filed a lawsuit against EPA for unreasonable delay/failure to perform a non-discretionary duty to establish regulations for hazardous substances under CWA section 311(j)(1)(C). According to a settlement agreement reached in that case and filed with the United States District Court, Southern District of New York, on February 16, 2016, EPA is to issue a proposed regulatory action no later than June 2018. This action date factors in a 10-month extension for the conduct of an ICR.

EPA is developing a regulatory proposal regarding the spill prevention of hazardous substances. However, EPA does not directly receive reports on specific types and amounts of hazardous substances stored and used at facilities across the country. Much of that information is collected under the Emergency Planning and Community Right-to-Know Act (42 U.S. Code Chapter 116; EPCRA) which requires Tier II facilities to report the maximum and average daily amounts of hazardous chemicals on-site during the preceding year to their respective state or territorial authority. Therefore, the Agency has developed a short voluntary survey to be sent to states, tribes and territories of the United States requesting information on their number and type of EPCRA Tier II facilities with CWA hazardous substances onsite, historical discharges of CWA hazardous substances, the ecological and human health impacts of those discharges, and existing state and tribal programs that address spill prevention of hazardous substances.

This information will assist EPA in determining the universe of facilities nationwide that could potentially be subject to spill prevention regulations for hazardous substances listed at 40 CFR part 116. We anticipate this information will inform the rulemaking process, assisting in the identification of affected entities, evaluation of potential regulatory approaches, and estimating economic impacts.

Form numbers: None.

Respondents/affected entities: Respondents to this voluntary ICR are state, territorial, and tribal government agencies with Emergency Response Commission duties (*e.g.,* State Emergency Response Commission [SERCs], Tribal Emergency Response Commissions [TERCs]), as well as sister agencies within the respective jurisdictions that may have additional information. The state SERC staff identified by EPA Regional liaisons will be the agency's primary point of contact (POC). EPA will assist state POCs in identifying other state and tribal agencies that may have data that would assist in responding to this survey. Examples of other agencies that may assist in responding to this ICR include:

Department of Natural Resources—*e.g.,* fish kill investigations

Department of Environmental Quality—*e.g.,* drinking water alerts, fish kill investigations

Department of Environmental Health—*e.g.,* human health impacts; drinking water shutdowns

Respondent's obligation to respond: Voluntary.

Estimated number of respondents: Approximately 52 (total).

Frequency of response: Once.

Total estimated burden: 82 hours/respondent, 4284 hours total. Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $1,784.00/respondent, $92,762.00 total, includes $0 annualized capital or operation & maintenance costs.

Dated: September 6, 2017.

Reggie Cheatham,

Director, Office of Emergency Management.

[FR Doc. 2017–20170 Filed 9–20–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9967–63–OA]

Children's Health Protection Advisory Committee (CHPAC); Notice of Charter Renewal

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of charter renewal.

Notice is hereby given that the Environmental Protection Agency (EPA) has determined that, in accordance with the provisions of the Federal Advisory Committee Act (FACA), the Children's Health Protection Advisory Committee (CHPAC) is in the public interest and is necessary in connection with the performance of EPA's duties. Accordingly, CHPAC will be renewed for an additional two-year period. The purpose of CHPAC is to provide advice and recommendations to the Administrator of EPA on issues associated with development of regulations, guidance and policies to address children's health risks. Inquiries may be directed to Angela Hackel, Designated Federal Officer, CHPAC, U.S. EPA, OCHP, MC 1107A, 1200 Pennsylvania Avenue NW., Washington, DC 20460, Email: *hackel.angela@epa.gov,* Telephone 202–566–2977.

Dated: August 31, 2017.

Ruth Etzel,

Director, Office of Children's Health Protection.

[FR Doc. 2017–20162 Filed 9–20–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA R9–2017–04; FRL–9967–31–Region 9]

Notice of Proposed Administrative Settlement Agreement and Order on Consent for Removal Action for the Cordero-McDermitt Calcine Pile Site, McDermitt, Nevada

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed settlement; request for public comment.

SUMMARY: In accordance with the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (''CERCLA''), notice is hereby given that the Environmental Protection Agency (''EPA''), United States Department of the Interior (''DOI'') and Bureau of Land Management (''BLM''), an agency of DOI, have entered into a proposed settlement, embodied in an Administrative Settlement Agreement and Order on Consent for Removal Action (''Settlement Agreement''), with Barrick Gold, U.S., Inc. (''Barrick''). Under the Settlement Agreement, Barrick agrees to carry out a removal action involving the grading, capping and fencing of a mercury calcine tailings pile located at the former Cordero and McDermitt mercury mine sites near McDermitt, Nevada. In addition, Barrick agrees to pay EPA compromised past costs incurred by EPA at the site and future response costs incurred by BLM and EPA during the cleanup.

DATES: Comments must be received on or before October 23, 2017.

ADDRESSES: The Settlement Agreement is available for public inspection at the United States Environmental Protection Agency, Superfund Records Center, 75 Hawthorne Street, Room 3110, San Francisco, California 94105. Telephone: 415–947–8717. Comments should be addressed to Larry Bradfish, Assistant Regional Counsel, Office of Regional Counsel (ORC–3), U.S. Environmental Protection Agency, 75 Hawthorne Street, San Francisco, CA 94105; or Email: *bradfish.larry@epa.gov;* and should reference the Cordero-McDermitt Mine Calcine Pile Site, EPA R9–2017–04. EPA's response to any comments received will be available for public inspection at the same address.

FOR FURTHER INFORMATION CONTACT: Larry Bradfish, Assistant Regional Counsel (ORC–3), Office of Regional Counsel, U.S. EPA Region IX, 75 Hawthorne Street, San Francisco, CA 94105; Email: *bradfish.larry@epa.gov;* Phone (415) 972–3934.

SUPPLEMENTARY INFORMATION: Notice of this proposed administrative settlement is made in accordance with the Section 122(i) of CECLA. The Settlement Agreement concerns work to be done by Barrick in connection with the Cordero-McDermitt Calcine Pile Site (''Site''), located near the town of McDermitt, Nevada. Parties to the Settlement Agreement include the EPA, BLM, DOI, and Barrick. The Site that is the subject of this Settlement Agreement includes all portions of the Cordero Mercury Mine calcine tailings pile where CERCLA hazardous substances are located. Under this Settlement Agreement, Barrick agrees to carry out a removal action involving the grading, capping and fencing of the calcine tailings pile. The performance of this work by Barrick shall be approved and monitored by BLM in consultation with DOI and EPA. The settlement includes a covenant not to sue Barrick pursuant to Sections 106 or 107(a) of CERCLA.

Under the Settlement Agreement, Barrick also agrees to pay EPA $230,000 in past response costs. This represents a compromise payment for past costs incurred by EPA. In addition, Barrick agrees to pay BLM $50,000 in prepayment of anticipated future response costs. Both EPA and BLM are entitled to reimbursement of additional future response costs, but EPA will not seek reimbursement for the first $30,000 of any future response costs that it incurs. EPA will consider all comments received on the Settlement Agreement in accordance with the **DATES** and **ADDRESSES** sections of this Notice and may modify or withdraw its consent to the Settlement Agreement if comments received disclose facts or considerations that indicate that the settlement is inappropriate, improper, or inadequate.

Dated: August 16, 2017.

Enrique Manzanilla,

Director, Superfund Division, EPA Region 9.

[FR Doc. 2017–20161 Filed 9–20–17; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–1108]

Information Collection Being Reviewed by the Federal Communications Commission Under Delegated Authority

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize

the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written comments should be submitted on or before November 20, 2017. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contacts below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION: As part of its continuing effort to reduce paperwork burdens, and as required by the PRA of 1995 (44 U.S.C. 3501–3520), the FCC invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

OMB Control No.: 3060–1108.

Title: Consummation of Assignments and Transfers of Control of Authorization.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 163 respondents; 163 responses.

Estimated Time per Response: 1 hour.

Frequency of Response: On occasion reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. The Commission has authority for this information collection pursuant to 47 U.S.C. 154(i) of the Communications Act of 1934, as amended.

Total Annual Burden: 163 hours.

Annual Cost Burden: $48,900.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: In general, there is no need for confidentiality.

Needs and Uses: This collection will be submitted to the Office of Management and Budget (OMB) as an extension after this 60 day comment period has ended in order to obtain the full three-year clearance from OMB.

Without this collection of information, the Commission would not have critical information such as a change in a controlling interest in the ownership of the licensee. The Commission would not be able to carry out its duties under the Communications Act and to determine the qualifications of applicants to provide international telecommunications service, including applicants that are affiliated with foreign entities, and to determine whether and under what conditions the authorizations are in the public interest, convenience, and necessity. Furthermore, without this collection of information, the Commission would not be able to maintain effective oversight of U.S. providers of international telecommunications services that are affiliated with, or involved in certain co-marketing or similar arrangements with, foreign entities that have market power.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2017–20138 Filed 9–20–17; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0411]

Information Collection Being Reviewed by the Federal Communications Commission Under Delegated Authority

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

DATES: Written PRA comments should be submitted on or before November 20, 2017. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicole Ongele, FCC, via email *PRA@fcc.gov* and to *Nicole.Ongele@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Nicole Ongele at (202) 418–2991.

SUPPLEMENTARY INFORMATION: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's

burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

OMB Control Number: 3060–0411.

Title: Procedures for Formal Complaints.

Form Number: FCC Form 485.

Type of Review: Extension of a currently approved collection.

Respondents: Individuals or households, business or other for-profit entities, not-for-profit institutions, federal government, and state, local, or tribal Governments.

Number of Respondents and Responses: 5 respondents; 77 responses.

Estimated Time per Response: 1–60 hours.

Frequency of Response: Recordkeeping requirement, on-occasion reporting requirement, and third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. 151, 154(i), 154(j), 206, 207, 208, 209, 301, 303, 304, 309, 316, 332, and 1302.

Total Annual Burden: 367 hours.

Total Annual Cost: $475,650.

Nature and Extent of Confidentiality: 47 CFR 1.731 provides for confidential treatment of materials disclosed or exchanged during the course of formal complaint proceedings when the disclosing party has identified the materials as proprietary or confidential. In the rare case in which a producing party believes that section 1.731 will not provide adequate protection for its assorted confidential material, it may request either that the opposing party consent to greater protection, or that the staff supervising the proceeding order greater protection.

Privacy Act Impact Assessment: The information collection requirements may affect individuals or households. As required by the Privacy Act of 1974, as amended, 5 U.S.C. 552a, and OMB regulations, M–03–22 (September 22, 2003), the FCC has completed both a system of records, FCC/EB–5, ''Enforcement Bureau Activity Tracking System,'' and a Privacy Impact Assessment (PIA), to cover the collection, maintenance, use, and disposal of all personally identifiable information (PII) that may be submitted as part of a formal complaint filed against a common carrier:

(a) The system of records notice (SORN), FCC/EB–5, ''Enforcement Bureau Activity Tracking System (EBATS),'' was published in the **Federal Register** on December 14, 2010 (75 FR 77872) and became effective on January 24, 2011. It is posted on the FCC's Privacy Act Web page at: *http://www.fcc.gov/omd/privacyact/records-systems.html.*

(b) The initial Privacy Impact Assessment (PIA) was completed on May 22, 2009. However, with the approval of the FCC/EB–5, ''EBATS,'' on January 24, 2011 and supplementation expected in early Fall 2017, the Commission is now updating the PIA to include the information that is contained in this SORN.

Statutory authority for this information collection is contained in 47 U.S.C. 151, 154(i), 154(j), 206, 207, 208, 209, 301, 303, 304, 309, 316, 332, and 1302.

Needs and Uses: Sections 206–209 of the Communications Act of 1934, as amended (the ''Act''), provide the statutory framework for adjudicating formal complaints against common carriers. To resolve complaints between providers regarding compliance with data roaming obligations, Commission Rule 20.12(e) adopts by reference the procedures already in place for resolving Section 208 formal complaints against common carriers, except that the remedy of damages, is not available for complaints against commercial mobile data service providers.

Section 208(a) authorizes complaints by any person ''complaining of anything done or omitted to be done by any common carrier'' subject to the provisions of the Act.

Section 208(a) states that if a carrier does not satisfy a complaint or there appears to be any reasonable ground for investigating the complaint, the Commission shall ''investigate the matters complained of in such manner and by such means as it shall deem proper.'' Certain categories of complaints are subject to a statutory deadline for resolution. *See, e.g.,* 47 U.S.C. 208(b)(1) (imposing a five-month deadline for complaints challenging the ''lawfulness of a charge, classification, regulation, or practice''); 47 U.S.C. 271(d)(6) (imposing a 90-day deadline for complaints alleging that a Bell Operating Company has ceased to meet conditions imposed in connection with approval to provide in-region interLATA services).

Formal complaint proceedings before the Commission are similar to civil litigation in federal district court. In fact, under section 207 of the Act, a party claiming to be damaged by a common carrier may file its complaint with the Commission or in any district court of the United States, ''but such person shall not have the right to pursue both such remedies'' (47 U.S.C. 207). The Commission has promulgated rules (Formal Complaint Rules) to govern its formal complaint proceedings that are similar in many respects to the Federal Rules of Civil Procedure. *See* 47 CFR 1.720–1.736. These rules require the submission of information from the parties necessary to create a record on which the Commission can decide complex legal and factual issues. As described in section 1.720 of the rules, the Commission resolves formal complaint proceedings on a written record consisting of a complaint, answer or response, and joint statement of stipulated facts, disputed facts and key legal issues, along with all associated affidavits, exhibits and other attachments.

This collection of information includes the process for electronically submitting a formal complaint against a common carrier. The Commission uses this information to determine the sufficiency of complaints and to resolve the merits of disputes between the parties. The Commission bases its orders in formal complaint proceedings upon evidence and argument produced by the parties in accordance with the Formal Complaint Rules. If the information were not collected, the Commission would not be able to resolve common carrier-related complaint proceedings, as required by section 208 of the Act.

In addition, the Commission has adopted most of this formal complaint process to govern data roaming complaints. Specifically, the Commission has extended, as applicable, the procedural rules in the Commission's Part I, Subpart E rules, 47 CFR 1.716–1.718, 1.720, 1.721, and 1.723–1.735, to disputes arising out of the data roaming rule contained in 47 CFR 20.12(e). Therefore, in addition to being necessary to resolve common carrier-related complaint proceedings, this collection of information is also necessary to resolve data roaming-related complaint proceedings.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2017–20139 Filed 9–20–17; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL MARITIME COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Federal Maritime Commission.

TIME AND DATE: September 20, 2017; 10:00 a.m.

PLACE: 800 N. Capitol Street NW., First Floor Hearing Room, Washington, DC.

STATUS: The meeting agenda originally published September 18, 2017, 82 FR 43541, is revised to add item 2 in the Open Session. The change was made upon a unanimous vote of the Commission. Parts of this meeting will be open to the public and streamed live at *http://fmc.capitolconnection.org/.* The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions Open to the Public

1. Briefing by Commissioner Dye on the Supply Chain Innovation Teams and Update from Global Liner Shipping Asia Conference.
2. Updates from Acting Chairman Khouri on United States—European Union and United States—United Kingdom Maritime Bilateral Discussions and London International Shipping Week.
3. Staff Briefing on Review Process for Carrier and Marine Terminal Operator Agreements.

Portions Closed to the Public

1. Staff Update on Petition of the Coalition for Fair Port Practices (P4–16).

CONTACT PERSON FOR MORE INFORMATION: Rachel E. Dickon, Assistant Secretary, (202) 523 5725.

Rachel E. Dickon,

Assistant Secretary.

[FR Doc. 2017–20344 Filed 9–19–17; 4:15 pm]

BILLING CODE 6731–AA–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 October 18, 2017.

A. Federal Reserve Bank of Philadelphia (William Spaniel, Senior Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105–1521. Comments can also be sent electronically to *Comments.applications@phil.frb.org:*

1. *Meridian Corporation,* Malvern, Pennsylvania; to become a bank holding company by acquiring 100 percent of the voting shares of Meridian Bank, Malvern, Pennsylvania.

B. Federal Reserve Bank of Atlanta (Chapelle Davis, Assistant Vice President) 1000 Peachtree Street NE., Atlanta, Georgia 30309. Comments can also be sent electronically to *Applications.Comments@atl.frb.org:*

1. *Robertson Holding Company, L.P., and Unified Shares, LLC and Commercial Bancgroup,* all of Harrogate, Tennessee; to acquire 100 percent of the voting shares of Citizens Bancorp, Inc., and thereby indirectly acquire Citizens Bank, both of New Tazewell, Tennessee.

Board of Governors of the Federal Reserve System, September 18, 2017.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2017–20132 Filed 9–20–17; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL TRADE COMMISSION

SES Performance Review Board

AGENCY: Federal Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given of the appointment of members to the FTC Performance Review Board.

FOR FURTHER INFORMATION CONTACT: Vicki Barber, Chief Human Capital Officer, 600 Pennsylvania Avenue NW., Washington, DC 20580, (202) 326–2700.

SUPPLEMENTARY INFORMATION: Publication of the Performance Review Board (PRB) membership is required by 5 U.S.C. 4314(c)(4). The PRB reviews and evaluates the initial appraisal of a senior executive's performance by the supervisor, and makes recommendations regarding performance ratings, performance awards, and pay-for-performance pay adjustments to the Chairman.

The following individuals have been designated to serve on the Commission's Performance Review Board:

David Robbins, Executive Director, Chairman
David Shonka, Acting General Counsel
Marian Bruno, Deputy Director, Bureau of Competition
Thomas Pahl, Acting Director, Bureau of Consumer Protection
Michael Vita, Acting Director, Bureau of Economics

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 2017–20077 Filed 9–20–17; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Board of Scientific Counselors, Office of Public Health Preparedness and Response, (BSC, OPHPR)

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice of meeting.

SUMMARY: In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC), announces the following meeting for the Board of Scientific Counselors, Office of Public Health Preparedness and Response, (BSC, OPHPR). This meeting is open to the public, limited only by the space available. The meeting room accommodates up to 75 people. Public participants should pre-register for the meeting as described below.

Members of the public that wish to attend this meeting in person should pre-register by submitting the following information by email, facsimile, or phone (see Contact Person for More Information) no later than 12:00 noon (EDT) on Tuesday, October 23, 2017:

- Full Name
- Organizational Affiliation
- Complete Mailing Address
- Citizenship
- Phone Number or Email Address

The public is also welcome to listen to the meeting via Adobe Connect. Pre-registration is required by clicking the links below.

WEB ID for October 30, 2017: (100 seats) *https://adobeconnect.cdc.gov/e7yrlzismvq/event/registration.html.*

WEB ID for October 31, 2017: (100 seats) *https://adobeconnect.cdc.gov/e4icit9ctcz/event/registration.html.*

Dial in number: 888–324–3809 (100 seats).

Participant code: 3293468.

DATES: The meeting will be held on October 30, 2017, 10:00 a.m. to 5:00 p.m., ET; October 31, 2017, 8:30 a.m. to 3:30 p.m., ET.

ADDRESSES: Centers for Disease Control and Prevention (CDC), Global Communications Center, Building 19, Auditorium B3, 1600 Clifton Road NE., Atlanta, Georgia 30329.

FOR FURTHER INFORMATION CONTACT: Dometa Ouisley, Office of Science and Public Health Practice, Centers for Disease Control and Prevention, 1600 Clifton Road NE., Mailstop D–44, Atlanta, Georgia 30329, Telephone: (404) 639–7450; Facsimile: (404) 471–8772; Email: *OPHPR.BSC.Questions@cdc.gov.*

SUPPLEMENTARY INFORMATION:

Purpose: This Board is charged with providing advice and guidance to the Secretary, Department of Health and Human Services (HHS), the Assistant Secretary for Health (ASH), the Director, Centers for Disease Control and Prevention (CDC), and the Director, Office of Public Health Preparedness and Response (OPHPR), concerning strategies and goals for the programs and research within OPHPR, monitoring the overall strategic direction and focus of the OPHPR Divisions and Offices, and administration and oversight of peer review for OPHPR scientific programs. For additional information about the Board, please visit: *http://www.cdc.gov/phpr/science/counselors.htm.*

Matters To Be Considered: The agenda for day one of the meeting will include discussions that will cover briefings and BSC deliberation on the following topics: Interval updates from OPHPR Divisions and Offices; updates from the Biological Agent Containment working group; overview of OPHPR division roles and responsibilities during complex emergencies; and Preparedness Updates from Liaison Representatives.

Day two of the meeting will cover briefings and BSC deliberation on the following topics: OPHPR Office of Policy, Planning and Evaluation Stories Project; Public Health Preparedness and Response Social Media and Communications Metrics; Incident Management Training Development Program updates, OPHPR Practice-based Research Agenda and Synthesis and Translation of Public Health Preparedness and Response Research. Agenda items are subject to change as priorities dictate.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Claudette Grant,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2017–20082 Filed 9–20–17; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–17–17ADR]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The notice for the proposed information collection is published to obtain comments from the public and affected agencies.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address any of the following: (a) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) Enhance the quality, utility, and clarity of the information to be collected; (d) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses; and (e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570 or send an email to *omb@cdc.gov.* Direct written comments and/or suggestions regarding the items contained in this notice to the Attention: CDC Desk Officer, Office of Management and Budget, Washington, DC 20503 or by fax to (202) 395–5806. Written comments should be received within 30 days of this notice.

Proposed Project

Study to Explore Early Development, Teen Follow-Up Study (SEED Teen)—New—National Center on Birth Defects and Developmental Disabilities (NCBDDD), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Autism spectrum disorder (ASD) is a neurodevelopmental disorder characterized by impairments in social interaction and communication and stereotyped behaviors and interests. The U.S. prevalence of ASD is estimated at 1% to 2%. In addition to the profound, lifelong impacts on individuals' functioning given the core deficits in social-communication abilities, a high proportion of children with ASD also have one or more other developmental impairments such as intellectual disability or attention-deficit-hyperactivity-disorder and children with ASDs have higher than expected prevalences of health conditions such as obesity, asthma and respiratory disorders, eczema and skin allergies, migraine headaches, and gastrointestinal symptoms and disorders.

Historically, young children have been the focus of ASD research: Diagnosis and symptom detection at young ages, prenatal or early-life risk factors, and the effect of early intervention programs. Meanwhile, the number of children diagnosed with ASD each year has steadily increased and, as children age, the prevalence of adults diagnosed with ASD will likewise increase for several decades. Despite this ongoing demographic shift—which some have called ''the autism tsunami''—there has been relatively

little research on ASD in adolescence and adulthood.

While there is research showing that the majority of ASD diagnoses made in early childhood are retained in adolescence with mostly stable in symptom severity, there are major gaps in our understanding of the health, functioning, and experiences of adolescents with ASD and other developmental disabilities. Many of these topics are especially relevant to public health: Adolescents and adults with ASD have been shown to have frequent health problems, high healthcare utilization and specialized service needs, high caregiving burden, require substantial supports to perform daily activities, are likely to be bullied, or isolated from society, and are likely to have food allergies or put on restrictive diets of questionable benefit. Many of these problems emerge after early childhood, and more studies are needed to estimate the frequency, severity, and predictive factors for these important outcomes in diverse cohorts of individuals with autism and other developmental conditions.

SEED Teen is a follow-up study of children who participated in the first phase of the SEED case-control study (SEED 1) in 2007–2011 when they were 2 to 5 years of age. SEED includes one of the largest cohorts of children assembled with ASD. Children will be identified from four SEED sites in Georgia, Maryland, North Carolina, and Pennsylvania. Three groups of children will be included: Children with ASD, children with other developmental (non-ASD) conditions (DD comparison group), and children from the general population who were initially sampled from birth records (POP comparison group).

The children and parents previously enrolled in SEED 1 represent a unique opportunity to better understand the long term trajectory of children identified as having ASD at early ages. Mothers or other primary caregivers who participated in SEED 1 will be re-contacted when their child is 13–17 years of age and asked to complete two self-administered questionnaires (SEED Teen Health and Development Survey and the Social Responsiveness Scale) about their child's health, development, education, and current functioning. Information from this study will allow researchers to assess the long term health and functioning of children with ASD and other developmental disabilities, family impacts associated with ASD and other DDs, and service needs and use associated with having and ASD and other DDs, particularly during the teen years.

We estimate that 1,410 SEED families are potentially eligible to participate in SEED Teen. Reading the letter and other materials in the invitation mailing will take approximately five minutes. We estimate that a minimum of 60% of parents/caregivers will be sent the invitation mailing or will be successfully contacted and participate in the invitation call (approximately 15 minutes). We estimate that 80% of the families who participate in the invitation call will meet the eligibility criteria for SEED Teen and 70% of those will enroll in SEED Teen. We assume all enrolled families will complete the follow-up call to confirm data collection packet receipt (approximately 10 minutes) and will review the materials in the data collection packet. Finally, we estimate that 90% of enrolled parents/caregivers will complete two self-administered questionnaires (SEED Teen Health and Development Survey and the Social Responsiveness Scale) and two supplemental consent forms. The two questionnaires will take approximately 60 minutes to complete, plus an additional 5 minutes to read and sign the informed consent. Therefore, we estimate the total burden hours are 303.

There are no costs to participants other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
Eligible families who were enrolled in SEED 1	Invitation Packet	470	1	5/60
Eligible families who were enrolled in SEED 1	Invitation Call Script	282	1	15/60
Families who agreed to participate in SEED Teen.	Follow-up Call	158	1	10/60
Families who agreed to participate in SEED Teen.	Data Collection Packet	158	1	5/60
Families who agreed to participate in SEED Teen.	SEED Teen Health and Development Survey	142	1	40/60
Families who agreed to participate in SEED Teen.	Social Responsive-ness Scale	142	1	20/60
Families who agreed to participate in SEED Teen.	Supplemental Consent forms	142	1	5/60

Leroy A. Richardson,

Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2017–20067 Filed 9–20–17; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2017–N–5526]

Department of Health and Human Services, Supply Service Center et al.; Withdrawal of Approval of 27 Abbreviated New Drug Applications

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of 27 abbreviated new drug applications (ANDAs) from multiple applicants. The holders of the applications notified the Agency in writing that the drug products were no longer marketed and requested that the approval of the applications be withdrawn.

DATES: *Applied Date:* October 23, 2017.

FOR FURTHER INFORMATION CONTACT: Trang Tran, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 75, Rm. 1671, Silver Spring, MD 20993–0002, 240–402–7945.

SUPPLEMENTARY INFORMATION: The holders of the applications listed in table 1 have informed FDA that these drug products are no longer marketed and have requested that FDA withdraw approval of the applications under the process in § 314.150(c) (21 CFR 314.150(c)). The applicants have also, by their requests, waived their opportunity for a hearing. Withdrawal of approval of an abbreviated application under § 314.150(c) is without prejudice to refiling.

TABLE 1

Application No.	Drug	Applicant
ANDA 061071	Tetracycline Hydrochloride (HCl) Tablets, 250 milligrams (mg).	Department of Health and Human Services, Supply Service Center, PSC Bldg. 14 Boiler House Rd., Perry Point, MD 21902.
ANDA 062279	Grifulvin V (griseofulvin microsize) Tablets USP,125 mg, 250 mg, and 500 mg.	Valeant Pharmaceuticals North America, LLC, 400 Somerset Corporate Blvd., Bridgewater, NJ 08807.
ANDA 062398	Cephalexin Capsules, 250 mg and 500 mg	Department of Health and Human Services, Supply Service Center, PSC Bldg. 14 Boiler House Rd., Perry Point, MD 21902.
ANDA 062756	Primaxin (cilastatin sodium and imipenem) for Injection, Equivalent to (EQ) 250 mg base/vial; 250 mg/vial and EQ 500 mg base/vial; 500 mg/vial.	Merck Sharp & Dohme Corp., Subsidiary of Merck & Co., Inc., 1 Merck Dr., P.O. Box 100, Whitehouse Station, NJ 08889.
ANDA 062814	Gentamicin Sulfate in 0.9% Sodium Chloride Injection, EQ 0.8 mg base/milliliter (mL), EQ 1.2 mg base/mL, EQ 1.4 mg base/mL, EQ 1.6 mg base/mL, EQ 1.8 mg base/mL, EQ 2 mg base/mL, EQ 2.4 mg base/mL, EQ 40 mg base/100 mL, EQ 60 mg base/100 mL, EQ 70 mg base/100 mL, EQ 80 mg base/100 mL, EQ 90 mg base/100 mL, EQ 100 mg base/100 mL, and EQ 120 mg base/100 mL.	B. Braun Medical Inc., 901 Marcon Blvd., Allentown, PA 18109.
ANDA 063239	Rocephin (ceftriaxone sodium) for Injection USP, EQ 250 mg base/vial, EQ 500 mg base/vial, and EQ 1 gram (g) base/vial.	Hoffmann-La Roche, Inc., c/o Genentech Inc., 1 DNA Way, MS 241B, South San Francisco, CA 94080.
ANDA 064127	Erythromycin Topical Solution, 2%	Renaissance Pharma, Inc., 411 South State St., Suite E–100, Newton, PA 18940.
ANDA 064146	Amikacin Sulfate in Sodium Chloride 0.9% Injection, EQ 500 mg base/100 mL.	Hospira, Inc., Subsidiary of Pfizer Inc., 375 N. Field Dr., Lake Forest, IL 60045.
ANDA 070598	Metoclopramide HCl Tablets, EQ 10 mg base	Merck Sharp & Dohme Corp., Subsidiary of Merck & Co., Inc.
ANDA 072080	Furosemide Injection USP, 10 mg/mL	Hospira, Inc., Subsidiary of Pfizer Inc.
ANDA 074601	Dipyridamole Injection, 5 mg/mL	Do.
ANDA 074720	Acyclovir Sodium Injection, EQ 25 mg base/mL	Do.
ANDA 076564	Adenosine Injection USP, 3 mg/mL	Teva Pharmaceuticals USA, Inc., 425 Privet Rd., Horsham, PA 19044.
ANDA 078211	Quinapril HCl and Hydrochlorothiazide Tablets, EQ 10 mg base/12.5 mg, EQ 20 mg base/12.5 mg, and EQ 20 mg base/25 mg.	Sun Pharmaceutical Industries Ltd., c/o Sun Pharmaceutical Industries, Inc., 2 Independence Way, Princeton, NJ 08540.
ANDA 078935	Tramadol HCl Tablets USP, 50 mg	Northstar Healthcare Holdings, c/o Quality Regulatory Consultants, 1966 Anglers Cove, Vero Beach, FL 32963.
ANDA 080810	Halothane USP, 99.99%	Halocarbon Products Corp., 1100 Dittman Ct., North Augusta, SC 29841.
ANDA 085458	Dexamethasone Tablets USP, 0.5 mg	Watson Laboratories, Inc., Subsidiary of Teva Pharmaceuticals USA, Inc., 425 Privet Rd., Horsham, PA 19044.
ANDA 085883	Acetaminophen and Codeine Phosphate Oral Suspension USP, 120 mg/5 mL and 12 mg/5 mL.	Actavis Mid Atlantic LLC, Subsidiary of Teva Pharmaceuticals USA, Inc., 425 Privet Rd., Horsham, PA 19044.
ANDA 085884	Cortisone Acetate Tablets USP, 25 mg	Watson Laboratories, Inc., Subsidiary of Teva Pharmaceuticals USA, Inc.
ANDA 086179	Carisoprodol Tablets USP, 350 mg	Do.
ANDA 086440	Atropine Sulfate and Diphenoxylate HCl Capsules, 0.025 mg/2.5 mg.	Catalent Pharma Solutions, Inc., 2725 Scherer Dr. North, St. Petersburg, FL 33716.
ANDA 087535	Methylprednisolone Sodium Succinate for Injection USP, EQ 500 mg base/vial and EQ 1 g base/vial.	Organon USA, Inc., Subsidiary of Merck and Co., Inc., 126 E. Lincoln Ave., P.O. Box 2000, Rahway, NJ 07065.
ANDA 087711	Dexamethasone Acetate Injectable Suspension USP, EQ 16 mg base/mL.	Watson Laboratories, Inc., Subsidiary of Teva Pharmaceuticals USA, Inc.
ANDA 088346	Heparin Lock Flush Solution USP and 0.9% Sodium Chloride Injection USP, 10 USP heparin units/mL and 100 USP heparin units/mL.	Hospira, Inc.
ANDA 088852	Chlorpropamide Tablets USP, 100 mg	Watson Laboratories, Inc., Subsidiary of Teva Pharmaceuticals USA, Inc.

TABLE 1—Continued

Application No.	Drug	Applicant
ANDA 091201	Meropenem for Injection USP, 500 mg/vial and 1 g/vial	Sandoz Inc., 100 College Rd. West, Princeton, NJ 08540.
ANDA 200156	Armodafinil Tablets, 100 mg and 200 mg	Watson Laboratories, Inc., Subsidiary of Teva Pharmaceuticals USA, Inc.

Therefore, approval of the applications listed in table 1, and all amendments and supplements thereto, is hereby withdrawn, effective October 23, 2017. Introduction or delivery for introduction into interstate commerce of products without approved new drug applications violates section 301(a) and (d) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331(a) and (d)). Drug products that are listed in table 1 that are in inventory on the date that this notice becomes effective (see the **DATES** section) may continue to be dispensed until the inventories have been depleted or the drug products have reached their expiration dates or otherwise become violative, whichever occurs first.

Dated: September 15, 2017.

Anna K. Abram,

Deputy Commissioner for Policy, Planning, Legislation, and Analysis.

[FR Doc. 2017–20107 Filed 9–20–17; 8:45 a.m.]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2017–N–5255]

Dermatologic and Ophthalmic Drugs Advisory Committee; Notice of Meeting; Establishment of a Public Docket; Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; establishment of a public docket; request for comments.

SUMMARY: The Food and Drug Administration (FDA or Agency) announces a forthcoming public advisory committee meeting of the Dermatologic and Ophthalmic Drugs Advisory Committee. The general function of the committee is to provide advice and recommendations to the Agency on FDA's regulatory issues. The meeting will be open to the public. FDA is establishing a docket for public comment on this document.

DATES: The public meeting will be held on October 13, 2017, from 8:30 a.m. to 4 p.m.

ADDRESSES: FDA White Oak Campus, 10903 New Hampshire Ave., Bldg. 31 Conference Center, the Great Room (Rm. 1503), Silver Spring, MD 20993–0002. Answers to commonly asked questions including information regarding special accommodations due to a disability, visitor parking, and transportation may be accessed at: *https://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm408555.htm.*

FDA is establishing a docket for public comment on this meeting. The docket number is FDA–2017–N–5255. The docket will close on October 12, 2017. Submit either electronic or written comments on this public meeting by October 12, 2017. Late, untimely filed comments will not be considered. Electronic comments must be submitted on or before October 12, 2017. The *https://www.regulations.gov* electronic filing system will accept comments until midnight Eastern Time at the end of October 12, 2017. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Comments received on or before September 28, 2017, will be provided to the committee. Comments received after that date will be taken into consideration by the Agency.

You may submit comments as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- Mail/Hand delivery/Courier (for written/paper submissions): 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–5255 for ''Dermatologic and Ophthalmic Drugs Advisory Committee; Notice of Meeting; Establishment of a Public Docket; Request for Comments.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the 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.

FOR FURTHER INFORMATION CONTACT: LaToya Bonner, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 31, Rm. 2417, Silver Spring, MD 20993–0002, 301–796–9001, FAX: 301–847–8533, email: *DODAC@fda.hhs.gov,* or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area). A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the Agency's Web site at *https://www.fda.gov/AdvisoryCommittees/default.htm* and scroll down to the appropriate advisory committee meeting link, or call the advisory committee information line to learn about possible modifications before coming to the meeting.

SUPPLEMENTARY INFORMATION:

Agenda: The committee will discuss the safety and efficacy of new drug application (NDA) 208254, for netarsudil ophthalmic solution 0.02%, submitted by Aerie Pharmaceuticals Inc., for the proposed indication to reduce elevated intraocular pressure (IOP) in patients with open-angle glaucoma (OAG) or ocular hypertension (OHT).

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its Web site prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's Web site after the meeting. Background material is available at *https://www.fda.gov/AdvisoryCommittees/Calendar/default.htm.* Scroll down to the appropriate advisory committee meeting link.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. All electronic and written submissions submitted to the Docket (see the **ADDRESSES** section) on or before September 28, 2017, will be provided to the committee. Oral presentations from the public will be scheduled between approximately 1 p.m. and 2 p.m. Those individuals interested in making formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before September 20, 2017. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by September 21, 2017.

Persons attending FDA's advisory committee meetings are advised that the Agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with disabilities. If you require special accommodations due to a disability, please contact LaToya Bonner at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at *https://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: September 15, 2017.

Anna K. Abram,

Deputy Commissioner for Policy, Planning, Legislation, and Analysis.

[FR Doc. 2017–20105 Filed 9–20–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2017–N–0001]

Drug Development in Pediatric Heart Failure: Extrapolation, Clinical Trial Design, and Endpoints; Public Workshop

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public workshop.

SUMMARY: The Food and Drug Administration (FDA) is announcing the following public workshop entitled ''FDA-University of Maryland CERSI Drug Development in Pediatric Heart Failure: Extrapolation, Clinical Trial Design, and Endpoints.'' The purpose of the public workshop is to address challenges related to the evaluation of products in pediatric heart failure including population to study, endpoints, and extrapolation of adult efficacy data. The workshop will also provide a forum for discussion on the use of registry data, as well as alternative trial designs and statistical methods.

DATES: The public workshop will be held on Friday, October 27, 2017, from 8 a.m. to 5 p.m.

ADDRESSES: The public workshop will be held at FDA's White Oak Campus, 10903 New Hampshire Ave., Bldg. 31, Rm. 1503A, Silver Spring, MD 20993–0002. Entrance for the public workshop participants (non-FDA employees) is through Building 1, where routine security check procedures will be performed. For parking and security information, please refer to *https://www.fda.gov/AboutFDA/WorkingatFDA/BuildingsandFacilities/WhiteOakCampusInformation/ucm241740.htm.*

FOR FURTHER INFORMATION CONTACT: Jacqueline Yancy, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, Rm. 6319, Silver Spring, MD 20993–0002, 301–796–7068, *Jacqueline.Yancy@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The purpose of this public workshop is to provide an opportunity for relevant stakeholders, including clinicians, academia, industry, and FDA, to discuss alternative trial designs for product development in pediatric heart failure.

II. Topics for Discussion at the Public Workshop

Specifically, the workshop will include application of pediatric extrapolation in drug development for pediatric heart failure and a discussion of alternative approaches to establishing effectiveness in pediatric heart failure, including the use of Bayesian approaches. Cases will be presented to exemplify various approaches.

The agenda is located at *http://www.cersi.umd.edu/events/index.php?mode=4&id=12500.*

III. Participating in the Public Workshop

Registration: To register for the public workshop, visit the following Web site: *http://www.cersi.umd.edu/events/index.php?mode=4&id=12500.* Registrants will receive confirmation when they have been accepted. There will be no onsite registration.

There is a registration fee to attend this public workshop in person. Seats are limited and registration will be on a first-come, first-served basis. The cost to attend in person is as follows:

Category	Cost
Industry Representative	$50
Nonprofit Organization and Academic Other Than University of Maryland	50
University of Maryland, College Park and Baltimore	0
Federal Government	0

If you need special accommodations due to a disability, please contact Jacquline Yancy (see **FOR FURTHER INFORMATION CONTACT**) at least 7 days in advance.

Streaming Webcast of the Public Workshop: This public workshop will also be webcast. There is no registration fee for attending the workshop via the webcast, but registration is still required. Information regarding access to the webcast link is available at *http://www.cersi.umd.edu/events/index.php?mode=4&id=12500.*

If you have never attended a Connect Pro event before, test your connection at *https://collaboration.fda.gov/common/help/en/support/meeting_test.htm.* To get a quick overview of the Connect Pro program, visit *https://www.adobe.com/go/connectpro_overview.* FDA has verified the Web site addresses in this document, as of the date this document publishes in the **Federal Register**, but Web sites are subject to change over time.

Transcripts: Please be advised that as soon as a transcript of the public workshop is available, it will be accessible at *https://www.regulations.gov.* It may be viewed at the Dockets Management Staff Office (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

Dated: September 15, 2017.

Anna K. Abram,

Deputy Commissioner for Policy, Planning, Legislation, and Analysis.

[FR Doc. 2017–20106 Filed 9–20–17; 8:45 a.m.]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2017–N–5056]

2017 Scientific Meeting of the National Antimicrobial Resistance Monitoring System; 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), together with the NARMS partner agencies, is announcing a public meeting entitled ''2017 Scientific Meeting of the National Antimicrobial Resistance Monitoring System.'' The purpose of the public meeting is to discuss the current status of the National Antimicrobial Resistance Monitoring System (NARMS) and directions for the future.

DATES: The public meeting will be held on October 24 and 25, 2017, from 8:30 a.m. to 5 p.m. Eastern Time. Submit either electronic or written comments on this public meeting by November 24, 2017. See the **SUPPLEMENTARY INFORMATION** section for registration date and information.

ADDRESSES: The public meeting will be held at the Jefferson Auditorium in the South Building, U.S. Department of Agriculture (USDA), 14th and Independence Avenue SW., Washington, DC 20250. The South Building is a Federal facility, and attendees should plan adequate time to pass through the security screening systems. Attendance is free. Non-USDA employees must enter through the Wing 3 entrance on Independence Avenue. Attendees must be pre-registered for the meeting (and check-in outside the day of the meeting) and show a valid photo ID to enter the building. Only registered attendees will be permitted to enter the building. For parking and security information, please refer to *https://smithsonianassociates.org/ticketing/help/locations/jefferson.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 24, 2017. The *https://www.regulations.gov* electronic filing system will accept comments until midnight Eastern Time at the end of November 24, 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–5056 for ''2017 Scientific Meeting of the National Antimicrobial Resistance Monitoring System; Public Meeting; Request for Comments.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the 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.

FOR FURTHER INFORMATION CONTACT: Laura Bradbard, Center for Veterinary Medicine, Food and Drug Administration, 7500 Standish Pl. (HFV–1), Rockville, MD 20855, 240–402–5672, email: *laura.bradbard@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background and Topics for Discussion

NARMS periodically conducts public meetings to inform stakeholders of NARMS activities and receive comments on ways to improve. The last NARMS public meeting (held in 2014) focused on the achievement of several 2012–2016 NARMS Strategic Plan objectives and interagency research. The purpose of this meeting will be to summarize NARMS progress since that meeting, to present recommendations made by the recent FDA Science Board review of NARMS in 2017, and to explore new directions for NARMS within a One Health paradigm. Items that will be discussed during this meeting include an update on the development of new analytical and reporting tools, the latest advances in the use of DNA sequencing technologies, and new surveillance results. The meeting agenda will be posted no later than 5 days before the meeting at *https://www.fda.gov/AnimalVeterinary/SafetyHealth/AntimicrobialResistance/NationalAntimicrobialResistanceMonitoringSystem/ucm576281.htm.*

In addition to discussion generated through this public meeting, FDA and the NARMS partners are interested in receiving stakeholder input on the following questions through electronic or written comments, which can be submitted to the Dockets Management Staff (see **ADDRESSES**).

1. Recently, NARMS modified its Integrated Reports and online data display tools (*https://www.fda.gov/AnimalVeterinary/SafetyHealth/AntimicrobialResistance/NationalAntimicrobialResistanceMonitoringSystem/ucm416741.htm*). Do you find this more user-friendly and informative? Please explain.

2. How can NARMS accomplish better stakeholder engagement, which modes of engagement are preferred, and how frequent?

3. Where should the NARMS program focus over the next 5–10 years? What are the top three gaps in the NARMS program and how should they be addressed?

4. Which of the Science Board recommendations do you see as highest priority, and how should they be achieved?

At the conclusion of this meeting, a separate interagency meeting on whole genome sequencing will be held in the Jefferson Auditorium on October 26 and 27, 2017. A notice will be published in the **Federal Register** by the Food Safety Inspection Service to announce this meeting.

II. Participating in the Public Meeting

Registration: Persons interested in attending this public meeting must register online by October 10, 2017. Please provide complete contact information for each attendee, including name, title, affiliation, address, email, and telephone.

There is no fee to register for the public meeting, but pre-registration by October 10, 2017, is mandatory for participants attending in person. Onsite registration will not be permitted. Early registration is recommended as space is limited. All attendees must pre-register online by emailing *laura.bradbard@fda.hhs.gov* with the subject line ''NARMS Public Meeting 2017'' with information including name, title, organization, address, and telephone and Fax numbers. If you need special accommodations due to a disability, please contact Laura Bradbard (see **FOR FURTHER INFORMATION CONTACT**) no later than October 2, 2017.

Requests for Oral Presentations: Interested persons may make oral presentations on the topic of the discussion of the meeting. Oral presentations from the public during the open public comment period will be scheduled between 4:00 p.m. and 4:50 p.m. on October 25, 2017. Those desiring to make oral presentations should notify Laura Bradbard (see **FOR FURTHER INFORMATION CONTACT**) by October 2, 2017, and submit a brief statement of the general nature of information they wish to present. In an effort to accommodate all who desire to speak, time allotted for each presentation may be limited. The contact person will inform each speaker of their schedule prior to the meeting. If selected for presentation, speakers will be contacted by October 13, 2017, and presentation material should be submitted by email to Laura Bradbard (see **FOR FURTHER INFORMATION CONTACT**) by October 20, 2017. No commercial or promotional material will be permitted to be presented or distributed at the public meeting.

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 on the internet at *https://www.fda.gov/AnimalVeterinary/SafetyHealth/AntimicrobialResistance/NationalAntimicrobialResistanceMonitoringSystem/ucm059172.htm*.

Dated: September 15, 2017.

Anna K. Abram,

Deputy Commissioner for Policy, Planning, Legislation, and Analysis.

[FR Doc. 2017–20108 Filed 9–20–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Notice of Single-Award Deviation From Competition Requirements for the Severe Combined Immunodeficiency (SCID) Newborn Screening Program at the Jeffrey Modell Foundation

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services.

ACTION: Notice of award.

SUMMARY: HRSA announces the award of an extension in the amount of $2,000,000 for the Severe Combined Immunodeficiency (SCID) Newborn Screening program at the Jeffrey Modell Foundation (JMF). The extension will allow JMF, the cooperative agreement recipient, during the budget period of May 1, 2017 to April 30, 2018, to provide technical assistance and support to states for the implementation of population based newborn screening for SCID.

FOR FURTHER INFORMATION CONTACT: Jill F. Shuger, ScM, Division of Services for Children with Special Health Needs, MCHB, HRSA, 5600 Fishers Lane, Rockville, Maryland 20857, Phone: (301) 443–3247, Email: *JShuger@hrsa.gov.*

SUPPLEMENTARY INFORMATION:

Intended Recipient of the Award: Jeffrey Modell Foundation.

Amount of Non-Competitive Awards: $2,000,000.

Budget Period of Supplemental Funding: May 1, 2017 to April 30, 2018.

CFDA Number: 93.110.

Authority: Public Health Service Act, § 1109, as amended by the Newborn Screening Saves Lives Reauthorization Act of 2014 (Public Law 110–204) (42 U.S.C. 300b–8).

Justification: The Maternal and Child Health Bureau (MCHB) is proposing that JMF continue activities under the current cooperative agreement to ensure the implementation of newborn screening for SCID in all 50 states, particularly in the states that have yet to implement SCID screening (*i.e.,* Alabama, Arizona, Indiana, Kansas, Louisiana, Nevada and North Carolina). Using its resources and centers, JMF will provide technical assistance in areas of funding, state government education, and linkage to expert care and patient access to a national network of specialized treatment centers. Further, JMF will continue to support states with implementation of SCID screening and follow up as well as the immediate treatment of infants identified with SCID. JMF will use the data collected from the states to educate clinical immunologists, neonatologists and other providers on effective screening for SCID. Additionally, JMF will continue to support education and awareness of newborn screening for SCID to families and health care providers and provide education to primary care providers and medically underserved populations.

Grantee/organization name	Grant No.	State	Fiscal year 2017 authorized funding level	Fiscal year 2017 estimated supplemental funding
Jeffrey Modell Foundation	UG5MC28325	UT	$2,000,000	$2,000,000

Dated: September 7, 2017.

George Sigounas,

Administrator.

[FR Doc. 2017–20116 Filed 9–20–17; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Arthritis and Musculoskeletal and Skin Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Arthritis and Musculoskeletal and Skin Diseases Special Emphasis Panel; T32 Institutional Training Grant Review.

Date: October 6, 2017.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Dental and Craniofacial Research, Democracy One, 6701 Democracy Blvd., Suite 602, Bethesda, MD 20892.

Contact Person: Kan Ma, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institute of Arthritis, Musculoskeletal and Skin Diseases, NIH, 6701 Democracy Boulevard, Suite 814, Bethesda, MD 20892, 301–451–4838, *mak2@mail.nih.gov.*

Name of Committee: National Institute of Arthritis and Musculoskeletal and Skin Diseases Special Emphasis Panel; Division of Musculoskeletal Diseases RISK R61/R33 Peer Review.

Date: October 11, 2017.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda North Marriott Hotel & Conference Center, 5701 Marinelli Rd, Bethesda, MD 20852.

Contact Person: Xincheng Zheng, MD, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institute of Arthritis, Musculoskeletal and Skin Diseases, NIH, 6701 Democracy Boulevard, Suite 820, Bethesda, MD 20892, 301–451–4838, *xincheng.zheng@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.846, Arthritis, Musculoskeletal and Skin Diseases Research, National Institutes of Health, HHS)

Dated: September 15, 2017.

Sylvia L. Neal,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–20095 Filed 9–20–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy And Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the Microbiology, Infectious Diseases and AIDS Initial Review Group Microbiology and Infectious Diseases B Subcommittee.

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: Microbiology, Infectious Diseases and AIDS Initial Review Group, Microbiology and Infectious Diseases B Subcommittee MID–B October 2017.

Date: October 16–17, 2017.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda North Marriott Hotel & Conference Center, 5701 Marinelli Road, Bethesda, MD 20852 (Telephone Conference Call).

Contact Person: Ellen S. Buczko, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institutes of Health/NIAID, 6700B Rockledge Drive, MSC 7616, Bethesda, MD 20892–7616, 301–451–2676, *ebuczko1@niaid.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: September 15, 2017.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–20078 Filed 9–20–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4337–DR; Docket ID FEMA–2017–0001]

Florida; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Florida (FEMA–4337–DR), dated September 10, 2017, and related determinations.

DATES: The declaration was issued September 10, 2017.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated September 10, 2017, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the ''Stafford Act''), as follows:

I have determined that the damage in certain areas of the State of Florida resulting from Hurricane Irma beginning on September 4, 2017, and continuing, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the ''Stafford Act''). Therefore, I declare that such a major disaster exists in the State of Florida.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance, assistance for debris removal and emergency protective measures (Categories A and B) under the Public Assistance program in the designated areas, Hazard Mitigation throughout the State, and any other forms of assistance under the Stafford Act that you deem appropriate subject to completion of Preliminary Damage Assessments (PDAs). Direct Federal assistance is authorized.

Consistent with the requirement that Federal assistance is supplemental, any Federal funds provided under the Stafford Act for Public Assistance, Hazard Mitigation, and Other Needs Assistance will be limited to 75 percent of the total eligible costs. For a period of 30 days from the start of the incident period, you are authorized to fund assistance for emergency protective measures, including direct Federal assistance, at 100 percent of the total eligible costs. Federal funding for debris removal will remain at 75 percent.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Justo Hernández, of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

The following areas of the State of Florida have been designated as adversely affected by this major disaster:

Charlotte, Collier, Hillsborough, Lee, Manatee, Miami-Dade, Monroe, Pinellas, and Sarasota Counties for Individual Assistance.

All 67 counties in the State of Florida for debris removal and emergency protective measures (Categories A and B), including direct federal assistance, under the Public Assistance program.

All areas within the State of Florida are eligible for assistance under the Hazard Mitigation Grant Program.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Brock Long,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2017–20134 Filed 9–20–17; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2017–0002]

Changes in Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final Notice.

SUMMARY: New or modified Base (1-percent annual chance) Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, and/or regulatory floodways (hereinafter referred to as flood hazard determinations) as shown on the indicated Letter of Map Revision (LOMR) for each of the communities listed in the table below are finalized. Each LOMR revises the Flood Insurance Rate Maps (FIRMs), and in some cases the Flood Insurance Study (FIS) reports, currently in effect for the listed communities. The flood hazard determinations modified by each LOMR will be used to calculate flood insurance premium rates for new buildings and their contents.

DATES: Each LOMR was finalized as in the table below.

ADDRESSES: Each LOMR is available for inspection at both the respective Community Map Repository address listed in the table below and online through the FEMA Map Service Center at *www.msc.fema.gov.*

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW., Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final flood hazard determinations as shown in the LOMRs for each community listed in the table below. Notice of these modified flood hazard determinations has been published in newspapers of local circulation and 90 days have elapsed since that publication. The Deputy Associate Administrator for Insurance and Mitigation has resolved any appeals resulting from this notification.

The modified flood hazard determinations are made pursuant to section 206 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.,* and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The new or modified flood hazard information is the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to remain qualified for participation in the National Flood Insurance Program (NFIP).

This new or modified flood hazard information, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities.

This new or modified flood hazard determinations are used to meet the floodplain management requirements of the NFIP and also are used to calculate the appropriate flood insurance premium rates for new buildings, and for the contents in those buildings. The changes in flood hazard determinations are in accordance with 44 CFR 65.4.

Interested lessees and owners of real property are encouraged to review the final flood hazard information available at the address cited below for each community or online through the FEMA Map Service Center at *www.msc.fema.gov.*

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: August 25, 2017.

Roy E. Wright,

Deputy Associate Administrator for Insurance and Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

State and county	Location and case No.	Chief executive officer of community	Community map repository	Date of modification	Community No.
Colorado:					
Arapahoe, (FEMA Docket No.: B–1725)..	City of Aurora (16–08–0957P).	The Honorable Steve Hogan, Mayor, City of Aurora, 15151 East Alameda Parkway, Aurora, CO 80012.	Public Works Department, Engineering Division, 15151 East Alameda Parkway, Aurora, CO 80012.	Aug. 11, 2017	080002
Denver, (FEMA Docket No.: B–1721)..	City and County of Denver (17–08–0150P).	The Honorable Michael Hancock, Mayor, City and County of Denver, 1437 Bannock Street, Room 350, Denver, CO 80202.	Department of Public Works, 201 West Colfax Avenue, Denver, CO 80202.	Aug. 11, 2017	080046
Weld, (FEMA Docket No.: B–1725)..	Town of Severance (17–08–0609X).	The Honorable Don Brookshire, Mayor, Town of Severance, P.O. Box 339, Severance, CO 80546.	Town Hall, 3 South Timber Ridge Parkway, Severance, CO 80546.	Aug. 11, 2017	080317
Florida:					
Duval, (FEMA Docket No.: B–1721)..	City of Jacksonville (17–04–0145P).	The Honorable Lenny Curry, Mayor, City of Jacksonville, 117 West Duval Street, Suite 400, Jacksonville, FL 32202.	Development Services Department, 214 North Hogan Street, Suite 2100, Jacksonville, FL 32202.	Jul. 19, 2017	120077
Lee, (FEMA Docket No.: B–1721)..	City of Bonita Springs (17–04–0901P).	The Honorable Peter Simmons, Mayor, City of Bonita Springs, 9101 Bonita Beach Road, Bonita Springs, FL 34135.	Community Development Department, 9220 Bonita Beach Road, Bonita Springs, FL 34135.	Aug. 9, 2017	120680
Lee, (FEMA Docket No.: B–1721)..	City of Bonita Springs (17–04–2066P).	The Honorable Peter Simmons, Mayor, City of Bonita Springs, 9101 Bonita Beach Road, Bonita Springs, FL 34135.	Community Development Department, 9220 Bonita Beach Road, Bonita Springs, FL 34135.	Aug. 11, 2017	120680
Lee, (FEMA Docket No.: B–1721)..	City of Sanibel (17–04–0705P).	The Honorable Kevin Ruane, Mayor, City of Sanibel, 800 Dunlop Road, Sanibel, FL 33957.	Planning and Code Enforcement Department, 800 Dunlop Road, Sanibel, FL 33957.	Aug. 11. 2017	120402

State and county	Location and case No.	Chief executive officer of community	Community map repository	Date of modification	Community No.
Monroe, (FEMA Docket No.: B–1721)..	Unincorporated areas of Monroe County (17–04–0652P).	The Honorable George Neugent, Mayor, Monroe County Board of Commissioners, 25 Ships Way, Big Pine Key, FL 33043.	Monroe County Building Department, 2798 Overseas Highway, Marathon, FL 33050.	Aug. 4. 2017	125129
St. Johns, (FEMA Docket No.: B–1721)..	Unincorporated areas of St. Johns County (17–04–0145P).	The Honorable James K. Johns, Chairman, St. Johns County Board of Commissioners, 500 San Sebastian View, St. Augustine, FL 32084.	St. Johns County Building Services Division, 4040 Lewis Speedway, St. Augustine, FL 32084.	Jul. 19, 2017	125147
Sarasota, (FEMA Docket No.: B–1727)..	Unincorporated areas of Sarasota County (17–04–0651P).	The Honorable Paul Caragiulo, Chairman, Sarasota County Board of Commissioners, 1660 Ringling Boulevard, Sarasota, FL 34236.	Sarasota County Development Services Department, 1001 Sarasota Center Boulevard, Sarasota, FL 34236.	Aug. 11, 2017	125144
Massachusetts:					
Essex, (FEMA Docket No.: B–1725)..	City of Gloucester (17–01–0572X).	The Honorable Sefatia Romeo Theken, Mayor, City of Gloucester, 9 Dale Avenue, Gloucester, MA 01930.	City Hall, 9 Dale Avenue, Gloucester, MA 01930.	Jul. 25. 2017	250082
Essex, (FEMA Docket No.: B–1725)..	City of Salem (17–01–0158P).	The Honorable Kimberley Driscoll, Mayor, City of Salem, 93 Washington Street, Salem, MA 01970.	Department of Planning and Community Development, 93 Washington Street, Salem, MA 01970.	Jul. 25. 2017	250102
Essex, (FEMA Docket No.: B–1725)..	Town of Manchester-by-the-Sea (17–01–0572X).	The Honorable Eli G. Boling, Chairman, Town of Manchester-by-the-Sea, Board of Selectmen, 10 Central Street, Manchester-by-the-Sea, MA 01944.	Town Hall, 10 Central Street, Manchester-by-the-Sea, MA 01944.	Jul. 25. 2017	250090
North Carolina: Onslow, (FEMA Docket No.: B–1725)..	Town of North Topsail Beach (17–04–0912P).	The Honorable Fred J. Burns, Mayor, Town of North Topsail Beach, 2008 Loggerhead Court, North Topsail Beach, NC 28460.	Planning Department, 2008 Loggerhead Court, North Topsail Beach, NC 28460.	Jul. 21. 2017	370466
Oklahoma:					
Oklahoma, (FEMA Docket No.: B–1721)..	City of Edmond (16–06–3164P).	The Honorable Charles Lamb, Mayor, City of Edmond, P.O. Box 2970, Edmond, OK 73083.	Engineering Department, 10 South Littler Avenue, Edmond, OK 73084.	Aug. 7. 2017	400252
Tulsa, (FEMA Docket No.: B–1721)..	City of Bixby (16–06–2420P).	The Honorable John Easton, Mayor, City of Bixby, P.O. Box 70, Bixby, OK 74008.	City Hall, 116 West Needles Avenue, Bixby, OK 74008.	Aug. 14. 2017	400207
South Carolina: Clarendon, (FEMA Docket No.: B–1721)..	Unincorporated areas of Clarendon County (16–04–7377P).	The Honorable Dwight L. Stewart, Chairman, Clarendon County Council, 411 Sunset Drive, Manning, SC 29102.	Clarendon County Planning Commission, 411 Sunset Drive, Manning, SC 29102.	Jul. 14, 2017	450051
South Dakota: Lincoln, (FEMA Docket No.: B–1725)..	Unincorporated areas of Lincoln County (16–08–0908P).	The Honorable Dan King, Chairman, Lincoln County Board of Commissioners, 104 North Main Street, Suite 110, Canton, SD 57013.	Lincoln County Commission, 104 North Main Street, Suite 240, Canton, SD 57013.	Aug. 11. 2017	460277
Texas:					
Bexar, (FEMA Docket No.: B–1721)..	City of San Antonio (17–06–0117P).	The Honorable Ivy R. Taylor, Mayor, City of San Antonio, P.O. Box 839966, San Antonio, TX 78283.	Transportation and Capital Improvements Department, Stormwater Division, 1901 South Alamo Street, 2nd Floor, San Antonio, TX 78204.	Aug. 10, 2017	480045
Bexar, (FEMA Docket No.: B–1721)..	Unincorporated areas of Bexar County (17–06–0117P).	The Honorable Nelson W. Wolff, Bexar County Judge, 101 West Nueva Street, 10th Floor, San Antonio, TX 78205.	Bexar County Public Works Department, 233 North Pecos-La Trinidad Street, Suite 420, San Antonio, TX 78207.	Aug. 10, 2017	480035
Dallas, (FEMA Docket No.: B–1721)..	City of Rowlett (16–06–3341P).	The Honorable Todd W. Gottel, Mayor, City of Rowlett, 4000 Main Street, Rowlett, TX 75088.	City Hall, 4000 Main Street, Rowlett, TX 75088.	Aug. 11, 2017	480185
Ellis, (FEMA Docket No.: B–1721)..	City of Waxahachie (17–06–0456P).	The Honorable Kevin Strength, Mayor, City of Waxahachie, 401 South Rogers Street, Waxahachie, TX 75165.	Municipal Court, 101 West Main Street, Waxahachie, TX 75165.	Aug. 9, 2017	480211
Goliad, (FEMA Docket No.: B–1725)..	Unincorporated areas of Goliad County (16–06–4108P).	The Honorable P.T. Calhoun, Goliad County Judge, P.O. Box 677, Goliad, TX 77963.	Goliad County Court House, 127 North Courthouse Square, Goliad, TX 77963.	Aug. 11. 2017	480827
Harris, (FEMA Docket No.: B–1725)..	Unincorporated areas of Harris County (17–06–0430X).	The Honorable Edward M. Emmett, Harris County Judge, 1001 Preston Street, Houston, TX 77002.	Harris County Permit Office, 10555 Northwest Freeway, Houston, TX 77092.	Aug. 14. 2017	480287
Rockwall, (FEMA Docket No.: B–1721)..	City of Rockwall (17–06–0142P).	The Honorable Jim Pruitt, Mayor, City of Rockwall, 385 South Goliad Street, Rockwall, TX 75087.	City Hall, 385 South Goliad Street, Rockwall, TX 75087.	Aug. 14, 2017	480547
Utah:					
Kane, (FEMA Docket, No.: B–1721)..	City of Kanab (16–08–1149P).	The Honorable Robert D. Houston, Mayor, City of Kanab, 26 North 100 East, Kanab, UT 84741.	City Hall, 26 North 100 East, Kanab, UT 84741.	Aug. 11, 2017	490085
Kane, (FEMA Docket No.: B–1721)..	Unincorporated areas of Kane County (16–08–1149P).	The Honorable Dirk Clayson, Chairman, Kane County Board of Commissioners, 76 North Main Street, Kanab, UT 84741.	Kane County Recorders Office, 76 North Main Street, Kanab, UT 84741.	Aug. 11, 2017	490083

State and county	Location and case No.	Chief executive officer of community	Community map repository	Date of modification	Community No.
Virginia:					
Spotsylvania, (FEMA Docket No.: B–1725)..	Unincorporated areas of Spotsylvania County (17–03–0692P).	Mr. Mark B. Taylor, Spotsylvania County Administrator, P.O. Box 99, Spotsylvania, VA 22553.	Spotsylvania County Zoning Department, 9019 Old Battlefield Boulevard, Suite 300, Spotsylvania, VA 22553.	Aug. 14. 2017	510308
Stafford, (FEMA Docket No.: B–1725)..	Unincorporated areas of Stafford County (16–03–1916P).	Mr. Thomas C. Foley, Stafford County Administrator, P.O. Box 339, Stafford, VA 22555.	Stafford County Planning and Zoning Department, 1300 Courthouse Road, Stafford, VA 22554.	Aug. 3. 2017	510154

[FR Doc. 2017–20193 Filed 9–20–17; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4337–DR; Docket ID FEMA–2017–0001]

Florida; Amendment No. 3 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Florida (FEMA–4337–DR), dated September 10, 2017, and related determinations.

DATES: This amendment was issued September 13, 2017.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Florida is hereby amended to include the following areas among those areas determined to have been adversely affected by the event declared a major disaster by the President in his declaration of September 10, 2017.

Polk County for Individual Assistance (already designated for debris removal and emergency protective measures [Categories A and B], including direct federal assistance, under the Public Assistance program).

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Brock Long,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2017–20146 Filed 9–20–17; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4337–DR; Docket ID FEMA–2017–0001]

Florida; Amendment No. 2 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Florida (FEMA–4337–DR), dated September 10, 2017, and related determinations.

DATES: This amendment was issued September 11, 2017.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Florida is hereby amended to include the following areas among those areas determined to have been adversely affected by the event declared a major disaster by the President in his declaration of September 10, 2017.

Broward and Palm Beach Counties for Individual Assistance (already designated for debris removal and emergency protective measures [Categories A and B], including direct federal assistance, under the Public Assistance program).

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050 Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Brock Long,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2017–20189 Filed 9–20–17; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4337–DR; Docket ID FEMA–2017–0001]

Florida; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Florida (FEMA–4337–DR), dated September 10, 2017, and related determinations.

DATES: This amendment was issued September 11, 2017.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Florida is hereby amended to include the following areas among those areas determined to have been adversely affected by the event declared a major disaster by the President in his declaration of September 10, 2017.

Clay, Duval, Flagler, Putnam, and St. Johns Counties for Individual Assistance (already designated for debris removal and emergency protective measures [Categories A and B], including direct federal assistance, under the Public Assistance program).

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Brock Long,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2017–20145 Filed 9–20–17; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–3385–EM; Docket ID FEMA–2017–0001]

Florida; Emergency and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of an emergency for the State of Florida (FEMA–3385–EM), dated September 5, 2017, and related determinations.

DATES: The declaration was issued September 5, 2017.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated September 5, 2017, the President issued an emergency declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5207 (the Stafford Act), as follows:

I have determined that the emergency conditions in certain areas of the State of Florida resulting from Hurricane Irma beginning on September 4, 2017, and continuing, are of sufficient severity and magnitude to warrant an emergency declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (''the Stafford Act''). Therefore, I declare that such an emergency exists in the State of Florida.

You are authorized to provide appropriate assistance for required emergency measures, authorized under Title V of the Stafford Act, to save lives and to protect property and public health and safety, and to lessen or avert the threat of a catastrophe in the designated areas. Specifically, you are authorized to provide assistance for debris removal and emergency protective measures (Categories A and B), including direct Federal assistance, under the Public Assistance program.

Consistent with the requirement that Federal assistance is supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, Department of Homeland Security, under Executive Order 12148, as amended, Justo Hernández, of FEMA is appointed to act as the Federal Coordinating Officer for this declared emergency.

The following areas of the State of Florida have been designated as adversely affected by this declared emergency:

All 67 counties in the State Florida for debris removal and emergency protective measures (Categories A and B), including direct federal assistance, under the Public Assistance program.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Brock Long,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2017–20133 Filed 9–20–17; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2017–0002]

Changes in Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final Notice.

SUMMARY: New or modified Base (1-percent annual chance) Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, and/or regulatory floodways (hereinafter referred to as flood hazard determinations) as shown on the indicated Letter of Map Revision (LOMR) for each of the communities listed in the table below are finalized. Each LOMR revises the Flood Insurance Rate Maps (FIRMs), and in some cases the Flood Insurance Study (FIS) reports, currently in effect for the listed communities. The flood hazard determinations modified by each LOMR will be used to calculate flood insurance premium rates for new buildings and their contents.

DATES: Each LOMR was finalized as in the table below.

ADDRESSES: Each LOMR is available for inspection at both the respective Community Map Repository address listed in the table below and online through the FEMA Map Service Center at *www.msc.fema.gov.*

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW., Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final flood hazard determinations as shown in the LOMRs for each community listed in the table below. Notice of these modified flood hazard determinations has been published in newspapers of local circulation and 90 days have elapsed since that publication. The Deputy Associate Administrator for Insurance and Mitigation has resolved any appeals resulting from this notification.

The modified flood hazard determinations are made pursuant to

section 206 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.,* and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The new or modified flood hazard information is the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to remain qualified for participation in the National Flood Insurance Program (NFIP).

This new or modified flood hazard information, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities.

This new or modified flood hazard determinations are used to meet the floodplain management requirements of the NFIP and also are used to calculate the appropriate flood insurance premium rates for new buildings, and for the contents in those buildings. The changes in flood hazard determinations are in accordance with 44 CFR 65.4.

Interested lessees and owners of real property are encouraged to review the final flood hazard information available at the address cited below for each community or online through the FEMA Map Service Center at *www.msc.fema.gov.*

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: August 25, 2017.

Roy E. Wright,

Deputy Associate Administrator for Insurance and Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

State and county	Location and case No.	Chief executive officer of community	Community map repository	Date of modification	Community No.
Alabama:					
St. Clair (FEMA Docket No.: B–1717)..	City of Springville (16–04–8225P).	The Honorable William Isley, Jr., Mayor, City of Springville, 160 Walker Drive, Springville, AL 35146.	City Hall, 6327 U.S. Highway 11, Springville, AL 35146.	Jul. 14, 2017	010289
St. Clair (FEMA Docket No.: B–1717)..	Unincorporated areas of St. Clair County (16–04–8225P).	The Honorable Paul Manning, Chairman, St. Clair County Board of Commissioners, 165 5th Avenue, Suite 100, Ashville, AL 35953.	St. Clair County Courthouse, 100 6th Avenue, Suite 400, Ashville, AL 35953.	Jul. 14, 2017	010290
Shelby (FEMA Docket No.: B–1717)..	City of Helena (16–04–8436P).	The Honorable Mark R. Hall, Mayor, City of Helena, 816 Highway 52 East, Helena, AL 35080.	City Hall, 816 Highway 52 East, Helena, AL 35080.	Jul. 24, 2017	010294
Arkansas: Benton (FEMA Docket No.: B–1717)..	Unincorporated areas of Benton County (17–06–0070P).	The Honorable Barry Moehring, Benton County Judge, 215 East Central Avenue, Bentonville, AR 72712.	Benton County Department of Development, 905 Northwest 8th Street, Bentonville, AR 72712.	Jul. 20, 2017	050419
Colorado: Douglas (FEMA Docket No.: B–1717)..	Town of Castle Rock (17–08–0328P).	The Honorable Jennifer Green, Mayor, Town of Castle Rock, 100 North Wilcox Street, Castle Rock, CO 80104.	Water Department, 175 Kellogg Court, Castle Rock, CO 80109.	Aug. 4, 2017	080050
Connecticut:					
Fairfield (FEMA Docket No.: B–1717)..	City of Norwalk (17–01–0383P).	The Honorable Harry W. Rilling, Mayor, City of Norwalk, 125 East Avenue, Norwalk, CT 06851.	Planning and Zoning Department, 125 East Avenue, Norwalk, CT 06851.	Jun. 29, 2017	090012
New Haven (FEMA Docket No.: B–1717)..	City of New Haven (17–01–0377P).	The Honorable Toni Harp, Mayor, City of New Haven, 165 Church Street, New Haven, CT 06510.	Planning Department, 165 Church Street, New Haven, CT 06510.	Jun. 29, 2017	090084
Florida:					
Collier (FEMA Docket No.: B–1717)..	City of Marco Island (17–04–0636P).	The Honorable Larry Honig, Chairman, City of Marco Island Council, 50 Bald Eagle Drive, Marco Island, FL 34145.	City Hall, 50 Bald Eagle Drive, Marco Island, FL 34145.	Jul. 27, 2017	120426
Lee (FEMA Docket No.: B–1717)..	City of Sanibel (17–04–0681P).	The Honorable Kevin Ruane, Mayor, City of Sanibel, 800 Dunlop Road, Sanibel, FL 33957.	Planning and Code Enforcement Department, 800 Dunlop Road, Sanibel, FL 33957.	Aug. 3, 2017	120402
Lee (FEMA Docket No.: B–1717)..	City of Sanibel (17–04–1647P).	The Honorable Kevin Ruane, Mayor, City of Sanibel, 800 Dunlop Road, Sanibel, FL 33957.	Planning and Code Enforcement Department, 800 Dunlop Road, Sanibel, FL 33957.	Jul. 31, 2017	120402
Orange (FEMA Docket No.: B–1717)..	Unincorporated areas of Orange County (16–04–7503P).	The Honorable Teresa Jacobs, Mayor, Orange County, 201 South Rosalind Avenue, 5th Floor, Orlando, FL 32801.	Orange County Stormwater Management Division, 4200 South John Young Parkway, Orlando, FL 32839.	Jul. 21, 2017	120179
Osceola (FEMA Docket No.: B–1717)..	City of Kissimmee (17–04–1694P).	The Honorable Jose A. Alvarez, Mayor, City of Kissimmee, 101 Church Street, Kissimmee, FL 34741.	Public Works and Engineering Department, 101 Church Street, Kissimmee, FL 34741.	Aug. 4, 2017	120190
Osceola (FEMA Docket No.: B–1717)..	Unincorporated areas of Osceola County (17–04–1694P).	The Honorable Brandon Arrington, Chairman, Osceola County Board of Commissioners, 1 Courthouse Square, Suite 4700, Kissimmee, FL 34741.	Osceola County Development Review Department, 1 Courthouse Square, Kissimmee, FL 34741.	Aug. 4, 2017	120189
Sarasota (FEMA Docket No.: B–1717)..	Unincorporated areas of Sarasota County (17–04–0650P).	The Honorable Paul Caragiulo, Chairman, Sarasota County Board of Commissioners, 1660 Ringling Boulevard, Sarasota, FL 34236.	Sarasota County Development Services Department, 1001 Sarasota Center Boulevard, Sarasota, FL 34240.	Jul. 27, 2017	125144
Massachusetts: Essex (FEMA Docket No.: B–1717)..	Town of Nahant (16–01–2425P).	Mr. Jeff A. Chelgren, Administrator, Town of Nahant, 334 Nahant Road, Nahant, MA 01908.	Town Hall, 334 Nahant Road, Nahant, MA 01908.	Jul. 7, 2017	250095
North Carolina:					

State and county	Location and case No.	Chief executive officer of community	Community map repository	Date of modification	Community No.
Jackson (FEMA Docket No.: B–1717)..	Town of Dillsboro (16–04–8525P).	The Honorable Mike Fitzgerald, Mayor, Town of Dillsboro, P.O. Box 1088, Dillsboro, NC 28725.	Town Hall, 42 Front Street, Dillsboro, NC 28725.	Aug. 4, 2017	370136
Jackson (FEMA Docket No.: B–1717)..	Unincorporated areas of Jackson County (16–04–8525P).	The Honorable Brian T. McMahan, Chairman, Jackson County Board of Commissioners, 401 Grindstaff Cove Road, Sylva, NC 28779.	Jackson County Justice and Administration Department, 401 Grindstaff Cove Road, Sylva, NC 28779.	Aug. 4, 2017	370282
Transylvania (FEMA Docket No.: B–1735)..	Unincorporated areas of Transylvania County (17–04–1024P).	The Honorable Larry Chapman, Chairman, Transylvania County Board of Commissioners, 101 South Broad Street, Brevard, NC 28712.	Transylvania County Planning and Community Development Department, 106 East Morgan Street, Brevard, NC 28712.	Jun. 27, 2017	370230
Wake (FEMA Docket No.: B–1717)..	City of Raleigh (16–04–4436P).	The Honorable Nancy McFarlane, Mayor, City of Raleigh, P.O. Box 590, Raleigh, NC 27602.	Stormwater Management Division, 1 Exchange Plaza, Suite 304, Raleigh, NC 27601.	Jul. 25, 2017	370243
Tennessee:					
Williamson (FEMA Docket No.: B–1717)..	City of Franklin (16–04–8246P).	The Honorable Ken Moore, Mayor, City of Franklin, 109 3rd Avenue South, Franklin, TN 37064.	City Hall, 109 3rd Avenue South, Franklin, TN 37064.	Jul. 7, 2017	470206
Williamson (FEMA Docket No.: B–1717)..	City of Franklin (17–04–0761P).	The Honorable Ken Moore, Mayor, City of Franklin, 109 3rd Avenue South, Franklin, TN 37064.	City Hall, 109 3rd Avenue South, Franklin, TN 37064.	Jul. 5, 2017	470206
Williamson (FEMA Docket No.: B–1717)..	Unincorporated areas of Williamson County (16–04–8246P).	The Honorable Rogers Anderson, Mayor, Williamson County Board of Commissioners, 1320 West Main Street, Suite 125, Franklin, TN 37064.	Williamson County Engineering Department, 1320 West Main Street, Suite 400, Franklin, TN 37064.	Jul. 7, 2017	470204
Texas:					
Collin (FEMA Docket No.: B–1717)..	City of Dallas (17–06–0184P).	The Honorable Michael S. Rawlings, Mayor, City of Dallas, 1500 Marilla Street, Suite 5EN, Dallas, TX 75201.	Engineering Department, 320 East Jefferson Boulevard, Suite 200, Dallas, TX 75203.	Jul. 10, 2017	480171
Collin (FEMA Docket No.: B–1717)..	Unincorporated areas of Collin County (16–06–4303P).	The Honorable Keith Self, Collin County Judge, 2300 Bloomdale Road, Suite 4192, McKinney, TX 75071.	Collin County Engineering Department, 4690 Community Avenue, Suite 200, McKinney, TX 75091.	Jul. 17, 2017	480130
Dallas (FEMA Docket No.: B–1717)..	City of Dallas (16–06–3968P).	The Honorable Michael S. Rawlings, Mayor, City of Dallas, 1500 Marilla Street, Suite 5EN, Dallas, TX 75201.	Engineering Department, 320 East Jefferson Boulevard, Suite 200, Dallas, TX 75203.	Jul. 10, 2017	480171
Guadalupe (FEMA Docket No.: B–1717)..	City of Schertz (16–06–4291P).	The Honorable Michael Carpenter, Mayor, City of Schertz, 1400 Schertz Parkway, Schertz, TX 78154.	Public Works Department, 10 Commercial Place, Schertz, TX 78154.	Jul. 28, 2017	480269
Kendall (FEMA Docket, No.: B–1717)..	City of Boerne (16–06–2380P).	Mr. Ronald Bowman, Manager, City of Boerne, 402 East Blanco Road, Boerne, TX 78006.	City Hall, 402 East Blanco Road, Boerne, TX 78006.	Aug. 2, 2017	480418
Kendall (FEMA Docket, No.: B–1717)..	Unincorporated areas of Kendall County (16–06–2380P).	The Honorable Darrel L. Lux, Kendall County Judge, 201 East San Antonio Avenue, Suite 122, Boerne, TX 78006.	Kendall County Planning Department, 201 East San Antonio Avenue, Suite 101, Boerne, TX 78006.	Aug. 2, 2017	480417
Tarrant (FEMA Docket No.: B–1717)..	City of Haltom City (16–06–3443P).	The Honorable David Averitt, Mayor, City of Haltom City, 5024 Broadway Avenue, Haltom City, TX 76117.	Public Works Department, 4200 Hollis Street, Haltom City, TX 76111.	Aug. 3, 2017	480599

[FR Doc. 2017–20192 Filed 9–20–17; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

[Docket No. DHS–2017–0027]

Privacy Act of 1974; DHS/CBP–024 Intelligence Records System (CIRS) System of Records

AGENCY: Privacy Office, Department of Homeland Security.

ACTION: Notice of new Privacy Act System of Records.

SUMMARY: In accordance with the Privacy Act of 1974, the Department of Homeland Security (DHS)/U.S. Customs and Border Protection (CBP) proposes to establish a new DHS CBP system of records titled, ''DHS/CBP–024 CBP Intelligence Records System (CIRS).'' As a new SORN in the CBP inventory, CBP will carefully consider public comments, apply appropriate revisions, and republish the CIRS SORN, if necessary, within 180 days of receipt of comments. A Notice of Proposed Rulemaking is also published in this issue of the **Federal Register** in which the Department proposes to exempt portions of this system of records from one or more provisions of the Privacy Act because of criminal, civil, and administrative enforcement requirements. This new system will be included in the Department of Homeland Security's inventory of record systems.

DATES: Submit comments on or before October 23, 2017. This new system will be effective upon publication. New or modified routine uses will be effective October 23, 2017.

ADDRESSES: You may submit comments, identified by docket number DHS–2017–0027 by one of the following methods:

- *Federal e-Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–343–4010.
- *Mail:* Jonathan R. Cantor, Acting Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, DC 20528.

FOR FURTHER INFORMATION CONTACT: For general questions, please contact: Debra L. Danisek (202) 344–1610, CBP Privacy Officer, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW., Washington, DC 20229. For privacy questions, please contact: Jonathan R. Cantor, (202) 343–1717, Acting Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, DC 20528.

SUPPLEMENTARY INFORMATION:

I. Background

In accordance with the Privacy Act of 1974, 5 U.S.C. 552a, the Department of Homeland Security (DHS)/U.S. Customs and Border Protection (CBP) proposes to establish a new DHS system of records titled, ''DHS/CBP–024 CBP Intelligence Records System (CIRS) System of Records.''

The CBP Intelligence Records System (CIRS) system of records is owned by CBP's Office of Intelligence (OI). CIRS contains information collected by CBP to support CBP's law enforcement intelligence mission. This information includes raw intelligence information collected by CBP's OI, public source information, and information initially collected by CBP pursuant to its immigration and customs authorities. This information is analyzed and incorporated into intelligence products. CBP currently uses the Analytical Framework for Intelligence (AFI) and the Intelligence Reporting System (IRS) information technology (IT) systems to facilitate the development of finished intelligence products. These products are disseminated to various stakeholders including CBP executive management, CBP operational units, various government agencies, and the Intelligence Community (IC).

CIRS is the exclusive CBP System of Records Notice for finished intelligence products and any raw intelligence information, public source information, or other information collected by CBP for an intelligence purpose that is not subject to an existing DHS SORN. Information collected by CBP for an intelligence purpose that is not covered by an existing DHS SORN and is not incorporated into a finished intelligence product is retained and disseminated in accordance with this SORN. In addition, finished intelligence products, and the information contained in those products, regardless of the original source system of that information, is retained and disseminated in accordance with this SORN. CIRS records were previously covered by the Automated Targeting System SORN and the Analytical Framework for Intelligence System SORN.

As part of the intelligence process, CBP investigators and analysts must review large amounts of data to identify and understand relationships between individuals, entities, threats, and events to generate law enforcement intelligence products that provide CBP operational units with actionable information for law enforcement purposes. If performed manually, this process can involve hours of analysis of voluminous data. To automate and expedite this process, CBP uses several IT systems to allow for the efficient research and analysis of data from a variety of sources. Existing IT systems that CBP uses to analyze and produce intelligence information include AFI and IRS.

AFI is specifically designed to make the intelligence research and analysis process more efficient by allowing searches of a broad range of data through a single interface. AFI can also identify links (relationships) between individuals or entities based on commonalities, such as identification numbers, addresses, or other information. These commonalities in and of themselves are not suspicious, but in the context of additional information they sometimes help DHS agents and analysts to identify potentially criminal activity and identify other suspicious activities. These commonalities can also form the basis for a DHS-generated intelligence product that may lead to further investigation or other appropriate follow-up action by CBP, DHS, or other federal, state, or local agencies. DHS/CBP has published a Privacy Impact Assessment (PIA) for AFI, which is available on *www.dhs.gov/privacy*. A PIA for IRS is forthcoming.

Individuals may request information about records pertaining to themselves stored in CIRS as outlined in the ''Notification Procedure'' section below. CBP reserves the right to exempt various records from release pursuant to exemptions 5 U.S.C. 552a(j)(2), (k)(1) and (k)(2) of the Privacy Act.

Consistent with DHS's information sharing mission, information stored in the DHS/CBP–024 CIRS System of Records may be shared with other DHS Components that have a need to know the information to carry out their national security, law enforcement, immigration, intelligence, or other homeland security functions. In addition, DHS/CBP may share information with appropriate federal, state, local, tribal, territorial, foreign, or international government agencies consistent with the routine uses set forth in this SORN.

Additionally, DHS is issuing a Notice of Proposed Rulemaking to exempt this system of records from certain provisions of the Privacy Act elsewhere in the **Federal Register**. This newly established system will be included in DHS's inventory of record systems.

II. Privacy Act

The Privacy Act embodies fair information practice principles in a statutory framework governing the means by which Federal Government agencies collect, maintain, use, and disseminate individuals' records. The Privacy Act applies to information that is maintained in a ''system of records.'' A ''system of records'' is a group of any records under the control of an agency from which information is retrieved by the name of an individual or by some identifying number, symbol, or other identifying particular assigned to the individual. In the Privacy Act, an individual is defined to encompass U.S. citizens and lawful permanent residents. Additionally, and similarly, the Judicial Redress Act (JRA) provides a statutory right to covered persons to make requests for access and amendment to covered records, as defined by the JRA, along with judicial review for denials of such requests. In addition, the JRA prohibits disclosures of covered records, except as otherwise permitted by the Privacy Act.

Below is the description of the DHS/CBP–024 Intelligence Records System (CIRS) System of Records.

In accordance with 5 U.S.C. 552a(r), DHS has provided a report of this system of records to the Office of Management and Budget and to Congress.

SYSTEM NAME AND NUMBER:

Department of Homeland Security (DHS)/U.S. Customs and Border Protection (CBP)–024 CBP Intelligence Records System (CIRS) System of Records.

SECURITY CLASSIFICATION:

Unclassified, Sensitive, For Official Use Only, Law Enforcement—Sensitive, and Classified.

SYSTEM LOCATION:

CBP maintains CIRS records at the CBP Headquarters in Washington, DC and field offices. CBP uses the Analytical Framework for Intelligence (AFI) and the Intelligence Reporting System (IRS) to facilitate the development of finished intelligence products and maintain a repository of intelligence information records. Records may also be stored on paper within the Office of Intelligence (OI) or in CBP field offices.

SYSTEM MANAGER:

Assistant Commissioner for the Office of Intelligence, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW., Washington, DC 20229.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title II of the Homeland Security Act of 2002 (Pub. L. 107–296), as amended by the Intelligence Reform and Terrorism Prevention Act of 2004 (Pub. L. 108–458, 118 Stat. 3638); the Trade Facilitation and Trade Enforcement Act of 2015 (Pub. L. 114–125); the Tariff Act of 1930, as amended; the Immigration and Nationality Act (''INA''), 8 U.S.C. 1101, *et seq.;* the Implementing Recommendations of the 9/11 Commission Act of 2007 (Pub. L. 110–53); the Antiterrorism and Effective Death Penalty Act of 1996 (Pub. L. 104–132, 110 Stat. 1214); the SAFE Port Act of 2006 (Pub. L. 109–347); the Aviation and Transportation Security Act of 2001 (Pub. L. 107–71); 6 U.S.C. 202; and 6 U.S.C. 211.

PURPOSE(S) OF THE SYSTEM:

This system of records allows CBP to collect and consolidate information from multiple sources, including law enforcement agencies and agencies of the U.S. Intelligence Community, in order to enhance CBP's ability to: Identify, apprehend, or prosecute individuals who pose a potential law enforcement or security risk; aid in the enforcement of the customs and immigration laws, and other laws enforced by DHS at the border; and enhance U.S. border security.

CBP maintains intelligence information to:

(a) Support CBP's collection, analysis, reporting, and distribution of law enforcement, immigration administration, terrorism, intelligence, and homeland security information in support of CBP's law enforcement, customs and immigration, counterterrorism, national security, and other homeland security missions.

(b) Produce law enforcement intelligence reporting that provides actionable information to CBP's law enforcement and immigration administration personnel and to other appropriate government agencies.

(c) Enhance the efficiency and effectiveness of the research and analysis process for DHS law enforcement, immigration, and intelligence personnel through information technology tools that provide for advanced search and analysis of various datasets.

(d) Identify potential criminal activity, violations of federal law, and threats to homeland security; provide overall situational awareness for the CBP enterprise; to uphold and enforce the law; and to ensure public safety.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Categories of individuals covered by this system include the following:

1. Individuals (*e.g.,* subjects, witnesses, associates, informants) associated with border security, immigration or customs enforcement, or other law enforcement investigations/activities conducted by CBP;

2. Individuals associated with law enforcement investigations or activities conducted by other federal, state, tribal, territorial, local, or foreign agencies when there is a potential nexus to national security, CBP's law enforcement responsibilities, or homeland security in general;

3. Individuals known or appropriately suspected to be or have been engaged in conduct constituting, in preparation for, in aid of, or related to terrorism;

4. Individuals involved in, associated with, or who have reported suspicious activities, threats, or other incidents reported by domestic and foreign government agencies, multinational or non-governmental organizations, critical infrastructure owners and operators, private sector entities and organizations, and individuals;

5. Individuals not implicated in narcotics trafficking or related activities, but with pertinent knowledge of some circumstance of a case or record subject. Such records may contain any information, including personal identification data, that may assist CBP in discharging its responsibilities generally (*e.g.,* information which may assist in identifying and locating such persons);

6. Individuals who are the subjects of or otherwise identified in classified or unclassified intelligence reporting received or reviewed by CBP OI;

7. Individuals identified in law enforcement, intelligence, crime, and incident reports (including financial reports under the Bank Secrecy Act and law enforcement bulletins) produced by DHS and other government agencies;

8. Individuals identified in U.S. visa, border, immigration, and naturalization benefit data, including arrival and departure data;

9. Individuals identified in DHS law enforcement and immigration records;

10. Individuals not authorized to work in the United States;

11. Individuals whose passports have been lost or stolen; and

12. Individuals identified in public news reports.

CATEGORIES OF RECORDS IN THE SYSTEM:

Categories of records in this system include information collected by CBP for an intelligence purpose that is not covered by an existing DHS SORN and finished intelligence products. This information may include:

1. Biographic information (name, date of birth, Social Security number, alien registration number, citizenship/immigration status, passport information, addresses, phone numbers, etc.);

2. Records of immigration enforcement activities or law enforcement investigations/activities;

3. Information (including documents and electronic data) collected by CBP from or about individuals during investigative activities and border searches;

4. Records of immigration enforcement activities and law enforcement investigations/activities that have a possible nexus to CBP's law enforcement and immigration enforcement responsibilities or homeland security in general;

5. Law enforcement, intelligence, crime, and incident reports (including financial reports under the Bank Secrecy Act and law enforcement bulletins) produced by DHS and other government agencies;

6. U.S. visa, border, immigration, and naturalization benefit data, including arrival and departure data;

7. Terrorist watchlist information and other terrorism-related information regarding threats, activities, and incidents;

8. Lost and stolen passport data;

9. Records pertaining to known or suspected terrorists, terrorist incidents, activities, groups, and threats;

10. CBP-generated intelligence requirements, analysis, reporting, and briefings;

11. Information from investigative and intelligence reports prepared by law enforcement agencies and agencies of the U.S. foreign intelligence community;

12. Articles, public-source data (including information from social media), and other published information on individuals and events of interest to CBP;

13. Audio and video records retained in support of CBP's law enforcement, national security, or other homeland security missions;

14. Records and information from government data systems or retrieved from commercial data providers in the course of intelligence research, analysis, and reporting;

15. Reports of suspicious activities, threats, or other incidents generated by CBP or third parties;

16. Additional information about confidential sources or informants; and

17. Metadata, which may include but is not limited to transaction date, time, location, and frequency.

RECORD SOURCE CATEGORIES:

Federal, state, local, territorial, tribal, or other domestic agencies, foreign agencies, multinational or non-governmental organizations, critical infrastructure owners and operators, private sector entities and organizations, individuals, commercial data providers, and public sources such as social media, news media outlets, and the Internet.

CBP will abide by the safeguards, retention schedules, and dissemination requirements of DHS source system SORNs to the extent those systems are applicable and the information is not incorporated into a finished intelligence product. For additional information, please see the Privacy Impact Assessment for the Analytical Framework for Intelligence and the forthcoming Privacy Impact Assessment for the Intelligence Reporting System.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

Source data are to be handled consistent with the published system of records notice as noted in ''Source Category Records.'' Source data that is not part of or incorporated into a finished intelligence product, a response to a request for information (RFI), project, or the index shall not be disclosed external to DHS. The routine uses below apply only to finished intelligence products, responses to RFIs, projects, and responsive compilations of the index and only as explicitly stated in each routine use.

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside DHS as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

A. To the Department of Justice (DOJ), including Offices of the U.S. Attorneys, or other federal agency conducting litigation or in proceedings before any court, adjudicative, or administrative body, when it is relevant or necessary to the litigation and one of the following is a party to the litigation or has an interest in such litigation:

1. DHS or any component thereof;

2. Any employee or former employee of DHS in his/her official capacity;

3. Any employee or former employee of DHS in his/her individual capacity when DOJ or DHS has agreed to represent the employee; or

4. The United States or any agency thereof.

B. To a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of the individual to whom the record pertains.

C. To the National Archives and Records Administration (NARA) or General Services Administration pursuant to records management inspections being conducted under the authority of 44 U.S.C. 2904 and 2906.

D. To an agency or organization for the purpose of performing audit or oversight operations as authorized by law, but only such information as is necessary and relevant to such audit or oversight function.

E. To appropriate agencies, entities, and persons when:

1. DHS determines that information from this system of records is reasonably necessary and otherwise compatible with the purpose of collection to assist another federal 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; or

2. DHS suspects or has confirmed that there has been a breach of this system of records; and (a) DHS has determined that as a result of the suspected or confirmed breach, there is a risk of harm to individuals, harm to DHS (including its information systems, programs, and operations), the Federal Government, or national security; and (b) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with DHS's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

F. To contractors and their agents, grantees, experts, consultants, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for DHS, when necessary to accomplish an agency function related to this system of records. Individuals provided information under this routine use are subject to the same Privacy Act requirements and limitations on disclosure as are applicable to DHS officers and employees.

G. To appropriate federal, state, local, international, tribal, or foreign governmental agencies or multilateral governmental organizations responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, license, or treaty when DHS determines that the information would assist in the enforcement of civil or criminal laws.

H. To a federal, state, territorial, tribal, local, international, or foreign government agency or entity for the purpose of consulting with that agency or entity: (1) To assist in making a determination regarding redress for an individual in connection with the operations of a DHS component or program; (2) for the purpose of verifying the identity of an individual seeking redress in connection with the operations of a DHS component or program; or (3) for the purpose of verifying the accuracy of information submitted by an individual who has requested such redress on behalf of another individual.

I. To a former employee of DHS, in accordance with applicable regulations, for purposes of responding to an official inquiry by a federal, state or local government entity or professional licensing authority; or facilitating communications with a former employee that may be necessary for personnel-related or other official purposes when the Department requires information or consultation assistance from the former employee regarding a matter within that person's former area of responsibility.

J. To an appropriate federal, state, local, tribal, foreign, or international agency, if the information is relevant and necessary to the agency's decision concerning the hiring or retention of an individual or the issuance, grant, renewal, suspension, or revocation of a security clearance, license, contract, grant, or other benefit; or if the information is relevant and necessary to a DHS decision concerning the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit and when disclosure is appropriate to the proper performance of the official duties of the person receiving the information.

K. To appropriate federal, state, local, tribal, or foreign governmental agencies or multilateral governmental organizations for the purpose of protecting the vital interests of a data subject or other persons, including to assist such agencies or organizations in preventing exposure to or transmission of a communicable or quarantinable disease or to combat other significant public health threats; appropriate notice will be provided of any identified health risk.

L. To a public or professional licensing organization when such information indicates, either by itself or in combination with other information, a violation or potential violation of professional standards, or reflects on the moral, educational, or professional qualifications of an individual who is licensed or who is seeking to become licensed.

M. To a federal, state, tribal, local, or foreign government agency or organization, or international organization, lawfully engaged in collecting law enforcement intelligence information, whether civil or criminal, or charged with investigating, prosecuting, enforcing, or implementing civil or criminal laws, related rules, regulations or orders, to enable these entities to carry out their law enforcement responsibilities, including the collection of law enforcement intelligence.

N. To appropriate federal, state, local, tribal, or foreign governmental agencies or multilateral governmental organizations responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, license, or treaty when DHS determines that the information would assist in the enforcement of civil, criminal, or regulatory laws.

O. To third parties during the course of an investigation by DHS, a proceeding within the purview of the immigration and nationality laws, or a matter under DHS's jurisdiction, to the extent necessary to obtain information pertinent to the investigation, provided disclosure is appropriate to the proper performance of the official duties of the officer making the disclosure.

P. To a federal, state, or local agency, or other appropriate entity or individual, or through established liaison channels to selected foreign governments, in order to provide intelligence, counterintelligence, or other information for the purposes of intelligence, counterintelligence, or antiterrorism activities authorized by U.S. law, Executive Order, or other applicable national security directive.

Q. To federal and foreign government intelligence or counterterrorism agencies when DHS reasonably believes there to be a threat or potential threat to national or international security for which the information may be useful in countering the threat or potential threat, when DHS reasonably believes such use is to assist in anti-terrorism efforts, and disclosure is appropriate to the proper performance of the official duties of the person making the disclosure.

R. To an organization or individual in either the public or private sector, either foreign or domestic, when there is a reason to believe that the recipient is or could become the target of a particular terrorist activity or conspiracy, to the extent the information is relevant to the protection of life or property and disclosure is appropriate to the proper performance of the official duties of the person making the disclosure.

S. To the Department of State in the processing of petitions or applications for benefits under the Immigration and Nationality Act, and all other immigration and nationality laws including treaties and reciprocal agreements.

T. To appropriate federal, state, local, tribal, or foreign governmental agencies or multilateral governmental organizations, with the approval of the Chief Privacy Officer, when DHS is aware of a need to use relevant data for purposes of testing new technology and systems designed to enhance national security or identify other violations of law.

V. To the news media and the public, with the approval of the Chief Privacy Officer in consultation with counsel, when there exists a legitimate public interest in the disclosure of the information, when disclosure is necessary to preserve confidence in the integrity of DHS, or when disclosure is necessary to demonstrate the accountability of DHS's officers, employees, or individuals covered by the system, except to the extent the Chief Privacy Officer determines that release of the specific information in the context of a particular case would constitute a clearly unwarranted invasion of personal privacy.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

DHS/CBP stores records in this system electronically or on paper in secure facilities in a locked drawer behind a locked door. The records may be stored on magnetic disc, tape, and digital media.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

DHS/CBP may retrieve records by personal identifiers such as but not limited to name, alien registration number, phone number, address, Social Security number, or passport number. DHS/CBP may retrieve records by non-personal information such as transaction date, entity/institution name, description of goods, value of transactions, and other information.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

To the extent that CBP accesses and incorporates information from other DHS systems of records as sources of information for finished intelligence products, CBP will abide by the safeguards, retention schedules, and dissemination requirements of those underlying source systems of record. For additional information, please see the Privacy Impact Assessment for the Analytical Framework for Intelligence and the forthcoming Privacy Impact Assessment for the Intelligence Reporting System.

Consistent with the DHS N1–563–07–016 records schedule, CBP will retain information consistent with the same retention requirements of the DHS Office of Intelligence and Analysis:

1. Dissemination Files and Lists: CBP will retain finished and current intelligence report information distributed to support the Intelligence Community, DHS Components, and federal, state, local, tribal, and foreign Governments and includes contact information for the distribution of finished and current intelligence reports for two (2) years.

2. Raw Reporting Files: CBP will retain raw, unevaluated information on threat reporting originating from operational data and supporting documentation that are not covered by an existing DHS system of records for thirty (30) years.

3. Finished Intelligence Case Files: CBP will retain finished intelligence and associated background material for products such as Warning Products identifying imminent homeland security threats, Assessments providing intelligence analysis on specific topics, executive products providing intelligence reporting to senior leadership, intelligence summaries about current intelligence events, and periodic reports containing intelligence awareness information for specific region, sector, or subject/area of interest as permanent records and will transfer the records to the NARA after twenty (20) years.

4. Requests for Information/Data Calls: CBP will retain requests for information and corresponding research, responses, and supporting documentation for ten (10) years.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

DHS/CBP safeguards records in this system according to applicable rules and policies, including all applicable DHS automated systems security and access policies. DHS/CBP has imposed strict controls to minimize the risk of

compromising the information that is being stored. Access to the computer system containing the records in this system is limited to those individuals who have a need to know the information for the performance of their official duties and who have appropriate clearances or permissions.

RECORD ACCESS PROCEDURES:

The Secretary of Homeland Security has exempted this system from the notification, access, and amendment procedures of the Privacy Act, and the Judicial Redress Act if applicable, because it is a law enforcement system. However, DHS/CBP will consider individual requests to determine whether or not information may be released. Thus, individuals seeking access to and notification of any record contained in this system of records, or seeking to contest its content, may submit a request in writing to the Chief Privacy Officer and CBP Freedom of Information Act (FOIA) Officer, whose contact information can be found at *http://www.dhs.gov/foia* under ''Contacts Information.'' If an individual believes more than one component maintains Privacy Act records concerning him or her, the individual may submit the request to the Chief Privacy Officer and Chief FOIA Officer, Department of Homeland Security, Washington, DC 20528. Even if neither the Privacy Act nor the Judicial Redress Act provide a right of access, certain records about you may be available under the Freedom of Information Act.

When seeking records about yourself from this system of records or any other Departmental system of records, your request must conform with the Privacy Act regulations set forth in 6 CFR part 5. You must first verify your identity, meaning that you must provide your full name, current address, and date and place of birth. You must sign your request, and your signature must either be notarized or submitted under 28 U.S.C. 1746, a law that permits statements to be made under penalty of perjury as a substitute for notarization. While no specific form is required, you may obtain forms for this purpose from the Chief Privacy Officer and Chief FOIA Officer, *http://www.dhs.gov/foia* or (866) 431–0486. In addition, you should:

- Explain why you believe the Department would have information on you;
- Identify which component(s) of the Department you believe may have the information about you;
- Specify when you believe the records would have been created; and
- Provide any other information that will help the FOIA staff determine which DHS component agency may have responsive records;

If your request is seeking records pertaining to another living individual, you must include a statement from that individual certifying his/her agreement for you to access his/her records.

Without the above information, the component(s) may not be able to conduct an effective search, and your request may be denied due to lack of specificity or lack of compliance with applicable regulations.

CONTESTING RECORD PROCEDURES:

For records covered by the Privacy Act or covered JRA records, see ''Record Access Procedures'' above. For records not covered by the Privacy Act or JRA, individuals may submit an inquiry to the DHS Traveler Redress Inquiry Program (DHS TRIP) at *https://www.dhs.gov/dhs-trip* or the CBP INFO CENTER at *www.help.cbp.gov* or (877) 227–5511 (international callers may use (202) 325–8000 and TTY users may dial (866) 880–6582).

NOTIFICATION PROCEDURES:

See ''Record Access Procedures.''

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

The Secretary of Homeland Security, pursuant to 5 U.S.C. 552a(j)(2), has exempted this system from the following provisions of the Privacy Act: 5 U.S.C. 552a(c)(3) and (4); (d); (e)(1), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(4)(I), (e)(5) and (e)(8); (f); and (g). Additionally, the Secretary of Homeland Security, pursuant to 5 U.S.C. 552a(k)(1) and (k)(2), has exempted this system from the following provisions of the Privacy Act, 5 U.S.C. 552a(c)(3); (d); (e)(1), (e)(4)(G), and (e)(4)(H); (e)(4)(I), and (f). When this system receives a record from another system exempted in that source system under 5 U.S.C. 552a(k)(1); (k)(2); or (j)(2), DHS will claim the same exemptions for those records that are claimed for the original primary systems of records from which they originated and claims any additional exemptions set forth here.

HISTORY:

None.

Jonathan R. Cantor,

Acting Chief Privacy Officer, Department of Homeland Security.

[FR Doc. 2017–19718 Filed 9–20–17; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

[Docket No. TSA–2001–11120]

Intent To Request Extension From OMB of One Current Public Collection of Information: Imposition and Collection of Passenger Civil Aviation Security Service Fees

AGENCY: Transportation Security Administration, DHS.

ACTION: 60-day notice.

SUMMARY: The Transportation Security Administration (TSA) invites public comment on one currently approved Information Collection Request (ICR), Office of Management and Budget (OMB) control number 1652–0001, abstracted below that we will submit to OMB for an extension in compliance with the Paperwork Reduction Act (PRA). The ICR describes the nature of the information collection and its expected burden. The collection involves air carriers maintaining an accounting system to account for the passenger civil aviation security service fees collected and reporting this information to TSA on a quarterly basis, as well as retaining the data used for these reports for three fiscal years.

DATES: Send your comments by November 20, 2017.

ADDRESSES: Comments may be emailed to *TSAPRA@tsa.dhs.gov* or delivered to the TSA PRA Officer, Office of Information Technology (OIT), TSA–11, Transportation Security Administration, 601 South 12th Street, Arlington, VA 20598–6011.

FOR FURTHER INFORMATION CONTACT: Christina A. Walsh at the above address, or by telephone (571) 227–2062.

SUPPLEMENTARY INFORMATION:

Comments Invited

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The ICR documentation will be available at *http://www.reginfo.gov* upon its submission to OMB. Therefore, in preparation for OMB review and approval of the following information collection, TSA is soliciting comments to—

(1) Evaluate whether the proposed information requirement is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Consistent with the requirements of Executive Order (EO) 13771, Reducing Regulation and Controlling Regulatory Costs, and EO 13777, Enforcing the Regulatory Reform Agenda, TSA is also requesting comments on the extent to which this request for information could be modified to reduce the burden on respondents.

Information Collection Requirement

OMB Control Number 1652–0001; Imposition and Collection of Passenger Civil Aviation Security Service Fees. In accordance with the Aviation Transportation Security Act (ATSA) (49 U.S.C. 44940) and relevant TSA Regulations (49 CFR part 1510), TSA imposes a Passenger Civil Aviation Security Service Fee (September 11th Security Fee) on passengers of both foreign and domestic air carriers (''air carriers'') on air transportation originating at airports in the United States.

The September 11th Security Fee is used to help defray the costs of providing Federal services including civil aviation security services. This information collection requires air carriers to submit to TSA the amount of September 11th Security Fees an air carrier has imposed, collected, refunded to passengers, and remitted to TSA. The retention of this data is necessary for TSA to ensure the proper imposition, collection, and regulation the Security Fee. Additionally, TSA collects the information to monitor carrier compliance with the fee requirements and for auditing purposes. Air carriers are required to retain this information for three years. Specifically, information collected during a given fiscal year (October 1 through September 30) must be retained through three subsequent fiscal years. For example, information collected during fiscal year 2017 must be retained through fiscal year 2020.

TSA rules require air carriers to impose and collect the fee on passengers, and to submit the fee to TSA by the final day of the calendar month following the month in which the fee was collected. 49 CFR 1510.13. Air carriers are further required to submit quarterly reports to TSA, which indicate the amount of the fees imposed, collected, and refunded to passengers, and remitted to TSA. 49 CFR 1510.17. In December 2013, the fee was statutorily restructured to be based on one-way trips rather than enplanements. The statute was further amended in December 2014 to include a round-trip limitation on the security service fee. TSA published two interim final rules (IFRs) [1] to implement changes to the regulations required by these amendments to 49 U.S.C. 44940. Thus, the fee is currently imposed at $5.60 per one-way trip for air transportation originating at an airport in the United States, and passengers may not be charged more than $5.60 per one-way trip or $11.20 per round trip. 49 CFR 1510.5.

Each air carrier that collects security service fees from more than 50,000 passengers annually is also required under 49 CFR 1510.15 to submit to TSA an annual independent audit, performed by an independent certified public accountant, of its security service fee activities and accounts. Although the annual independent audit requirements were suspended on January 23, 2003 (68 FR 3192), TSA conducts its own audits of the air carriers. 49 CFR 1510.11. Notwithstanding the suspension of the audit requirements, air carriers must establish and maintain an accounting system to account for the security service fees imposed, collected, refunded to passengers and remitted to TSA. 49 CFR 1510.15(a).

TSA is seeking an extension of this collection to require air carriers to continue submitting the quarterly reports to TSA, and to require air carriers to retain the information for three fiscal years after the fiscal year in which the information was collected. This requirement includes retaining the source information for the quarterly reports remitted to TSA as well as the calculations performed to create the reports submitted to TSA. Should the annual audit requirement be reinstated, the requirement would include information and documents reviewed and prepared for the independent audit; the accountant's working papers, notes, worksheets, and other relevant documentation used in the audit; and, if applicable, the specific information leading to the accountant's opinion, including any determination that the accountant could not provide an audit opinion. Although TSA suspended the independent audit requirement, TSA conducts audits of the air carriers, and therefore, requires air carriers to retain and provide the same information as required for the quarterly reports and independent audits.

TSA has incorporated minor adjustments to the figures used to estimate the costs of this ICR. The adjustments consider changes in the number of regulated air carriers and various administrative cost rates since the previous extension. TSA estimates that 195 total respondent air carriers will each spend approximately 1 hour to prepare and submit each quarterly report. TSA estimates that these respondents will incur a total of 780 hours (195 carriers × 4 quarterly reports × 1 hour per report) to satisfy the quarterly reporting requirements annually.

Should TSA reinstate the audit requirement, TSA estimates that 105 air carriers, of the 195 total respondent carriers that collect fees from more than 50,000 passengers annually, would be required to submit annual audits. These carriers would take approximately 20 hours for audit preparation, for a total of 2,100 hours (105 carriers × 20 hours per audit) annually.

TSA estimates 300 total responses from all respondent air carriers (195 plus 105, should the annual audit requirement be reinstated), with 2,880 burden hours (780 hours for quarterly reports and 2,100 hours for audits) annually to satisfy the quarterly report and audit requirements.

TSA estimates that the 195 air carriers will each incur an average cost of $413.76 annually to satisfy the quarterly reporting requirement. This estimate includes $340.80 in labor for preparation of each quarterly report (4 reports × $85.20 per hour, each quarterly report is estimated to take 1 hour to prepare), $71.00 in annual records storage related costs, and $1.96 for postage to submit the report (4 stamps at 49 cents each). TSA estimates an aggregate annual cost of $80,683.20 ($413.76 cost × 195 air carriers) for all air carriers to prepare, store, and submit quarterly reports and a cost of $242,049.60 for the three-year extension period requested.

Should TSA reinstate the annual audit requirement, TSA estimates that 105 air carriers would be required to submit annual audits and would incur an average cost of $3,187.30 per audit. This estimate includes $3,112.80 in labor for preparation of each audit (20 hours per report × $155.64 per hour), $71.00 in annual records storage related costs, and $3.50 for postage to submit the report. TSA estimates an aggregate annual cost of $22,322.26 ($3,187.30 cost × 105 air carriers × .0667 likelihood of audit to occur) for all air carriers to

[1] 79 FR 35461 (June 20, 2014) and 80 FR 31850 (June 4, 2015).

prepare, store, and summit the annual audit should the requirement be reinstated and $66,966.76 for the three-year extension period requested.

Dated: September 15, 2017.

Christina A. Walsh,

TSA Paperwork Reduction Act Officer, Office of Information Technology.

[FR Doc. 2017–20094 Filed 9–20–17; 8:45 am]

BILLING CODE 9110–05–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[CIS No. 2611–17; DHS Docket No. USCIS–2014–0004]

RIN 1615–ZB67

Extension of South Sudan for Temporary Protected Status

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: Notice.

SUMMARY: Through this Notice, the Department of Homeland Security (DHS) announces that the Secretary of Homeland Security (Secretary) is extending the designation of South Sudan for Temporary Protected Status (TPS) for 18 months, from November 3, 2017, through May 2, 2019. This Notice also sets forth procedures necessary for nationals of South Sudan (or aliens having no nationality who last habitually resided in South Sudan) to re-register for TPS and to apply for Employment Authorization Documents (EADs) with U.S. Citizenship and Immigration Services (USCIS). USCIS will issue new EADs with a May 2, 2019 expiration date to eligible South Sudan TPS beneficiaries who timely re-register and apply for EADs under this extension. Provided a South Sudan TPS beneficiary timely re-registers and properly files an application for an EAD during the 60-day re-registration period, his or her EAD will be automatically extended for an additional period not to exceed 180 days from the date the current EAD expires, *i.e.,* through May 1, 2018. See 8 CFR 274a.13(d)(1).

DATES: *Extension of Designation of South Sudan for TPS:* The 18-month extension of the TPS designation of South Sudan is effective on November 3, 2017, and will remain in effect through May 2, 2019. The 60-day re-registration period runs from September 21, 2017 through November 20, 2017. (**Note:** It is important for re-registrants to timely re-register during this 60-day period and not to wait until their EADs expire.)

FOR FURTHER INFORMATION CONTACT:

- For further information on TPS, including guidance on the application process and additional information on eligibility, please visit the USCIS TPS Web page at *http://www.uscis.gov/tps.* You can find specific information about this extension of South Sudan's TPS designation by selecting ''South Sudan'' from the menu on the left side of the TPS Web page.
- You can also contact Alexander King, Branch Chief, Waivers and Temporary Services Branch, Service Center Operations Directorate, U.S. Citizenship and Immigration Services, Department of Homeland Security, 20 Massachusetts Avenue NW., Washington, DC 20529–2060; or by phone at (202) 272–8377 (this is not a toll-free number). **Note:** The phone number provided here is solely for questions regarding this TPS Notice. It is not for individual case status inquiries.
- Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS Web site at *http://www.uscis.gov,* or call the USCIS National Customer Service Center at 800–375–5283 (TTY 800–767–1833). Service is available in English and Spanish.
- Further information will also be available at local USCIS offices upon publication of this Notice.

SUPPLEMENTARY INFORMATION:

Table of Abbreviations

BIA—Board of Immigration Appeals
DHS—Department of Homeland Security
DOS—Department of State
EAD—Employment Authorization Document
FNC—Final Nonconfirmation
Government—U.S. Government
IJ—Immigration Judge
INA—Immigration and Nationality Act
IER—U.S. Department of Justice Civil Rights Division, Immigrant and Employee Rights Section (IER)
SAVE—USCIS Systematic Alien Verification for Entitlements Program
Secretary—Secretary of Homeland Security
TNC—Tentative Nonconfirmation
TPS—Temporary Protected Status
TTY—Text Telephone
USCIS—U.S. Citizenship and Immigration Services

The extension allows currently eligible TPS beneficiaries to retain TPS through May 2, 2019, so long as they otherwise continue to meet the eligibility requirements for TPS. The Secretary determined that an extension of the current designation of South Sudan for TPS is warranted because the ongoing armed conflict and extraordinary and temporary conditions that prompted the 2016 TPS redesignation have persisted, and in some cases deteriorated, and would pose a serious threat to the personal safety of South Sudanese nationals if they were required to return to their country. The Secretary also has determined that permitting such South Sudanese nationals to continue to remain in the United States is not contrary to the national interest of the United States.

Through this Notice, DHS sets forth procedures necessary for eligible nationals of South Sudan (or aliens having no nationality who last habitually resided in South Sudan) to re-register under the extension if they already have TPS and to apply for renewal of their EADs with USCIS. Certain individuals may be eligible to file a late initial application for TPS if they meet the conditions described in 8 CFR 244.2(f)(2). Information on late initial filing is also available on the USCIS TPS Web site link at *www.uscis.gov/tps.*

For individuals who have already been granted TPS, the 60-day re-registration period runs from September 21, 2017 through November 20, 2017. USCIS will issue new EADs with a May 2, 2019 expiration date to eligible South Sudan TPS beneficiaries who timely re-register and apply for EADs under this extension. Given the timeframes involved with processing TPS re-registration applications, DHS recognizes that not all re-registrants will receive new EADs before their current EADs expire on November 2, 2017. However, provided a South Sudan TPS beneficiary timely re-registers and properly files an application for an EAD during the 60-day re-registration period, his or her EAD will be automatically extended for an additional period not to exceed 180 days from the date the current EAD expires, *i.e.,* through May 1, 2018. This notice explains how TPS beneficiaries and their employers may determine which EADs are automatically extended and their impact on Employment Eligibility Verification (Form I–9) and the E-Verify processes. Approximately 70 South Sudan TPS beneficiaries are expected to file for re-registration under the extension.

Individuals who have a pending initial South Sudan TPS application will not need to file a new Application for Temporary Protected Status (Form I–821). DHS provides additional instructions in this Notice for individuals whose TPS applications remain pending and who would like to obtain an EAD valid through May 2, 2019.

What is Temporary Protected Status (TPS)?

- TPS is a temporary immigration status granted to eligible nationals of a country designated for TPS under the Immigration and Nationality Act (INA), or to eligible persons without nationality who last habitually resided in the designated country.
- During the TPS designation period and so long as a TPS beneficiary continues to meet the requirements of TPS, he or she is eligible to remain in the United States, may not be removed, and is authorized to work and obtain an EAD.
- TPS beneficiaries may also apply for and be granted travel authorization as a matter of discretion.
- The granting of TPS does not result in or lead to lawful permanent resident status.
- To qualify for TPS, beneficiaries must meet the eligibility standards at INA section 244(c)(2), 8 U.S.C. 1254a(c)(2).
- When the Secretary terminates a country's TPS designation, beneficiaries return to the same immigration status they maintained before TPS, if any (unless that status has since expired or been terminated), or to any other lawfully obtained immigration status they received while registered for TPS that is still valid on the date TPS terminates.

When was South Sudan designated for TPS?

On October 13, 2011, the Secretary designated South Sudan for TPS, effective November 3, 2011, based on an ongoing armed conflict and extraordinary and temporary conditions within South Sudan. *See Designation of Republic of South Sudan for Temporary Protected Status,* 76 FR 63629 (Oct. 13, 2011). Following the initial designation, the Secretary has extended and redesignated South Sudan for TPS three times. Most recently, in 2016, the Secretary both extended South Sudan's designation and redesignated South Sudan for TPS for 18 months through November 2, 2017. *See Extension and Redesignation of South Sudan for Temporary Protected Status,* 81 FR 4051 (Jan. 25, 2016).

What authority does the Secretary have to extend the designation of South Sudan for TPS?

Section 244(b)(1) of the INA, 8 U.S.C. 1254a(b)(1), authorizes the Secretary, after consultation with appropriate agencies of the U.S. Government (Government), to designate a foreign state (or part thereof) for TPS if the Secretary determines that certain country conditions exist.[1] The Secretary may then grant TPS to eligible nationals of that foreign state (or eligible aliens having no nationality who last habitually resided in the designated country). *See* INA section 244(a)(1)(A), 8 U.S.C. 1254a(a)(1)(A).

At least 60 days before the expiration of a country's TPS designation or extension, the Secretary, after consultation with appropriate Government agencies, must review the conditions in a foreign state designated for TPS to determine whether the conditions for the TPS designation continue to be met. *See* INA section 244(b)(3)(A), 8 U.S.C. 1254a(b)(3)(A). If the Secretary does not determine that a foreign state no longer meets the conditions for TPS designation, the designation will be extended for an additional period of 6 months or, in the Secretary's discretion, 12, or 18 months. *See* INA section 244(b)(3)(A), (C), 8 U.S.C. 1254a(b)(3)(A), (C). If the Secretary determines that the foreign state no longer meets the conditions for TPS designation, the Secretary must terminate the designation. *See* INA section 244(b)(3)(B), 8 U.S.C. 1254a(b)(3)(B).

Why is the Secretary extending the TPS designation for South Sudan through May 2, 2019?

DHS and the Department of State (DOS) have reviewed conditions in South Sudan. Based on the reviews and after consulting with DOS, the Secretary has determined that an 18-month extension is warranted because the ongoing armed conflict and extraordinary and temporary conditions that prompted the May 3, 2016 redesignation have persisted, and, in many cases, deteriorated.

South Sudan is engulfed in an ongoing civil war marked by brutal violence against civilians, egregious human rights violations and abuses, and a humanitarian disaster on a devastating scale across the country. In July 2016, following a failed peace agreement, fighting broke out in Juba between the Sudan People's Liberation Army (SPLA) and the Sudan People's Liberation Army—In Opposition (SPLA–IO). During and after the battle, there were widespread attacks on civilians, including ethnically based killings and sexual assaults, resulting in significant displacement. After the battle ended in Juba, violence escalated and expanded to other parts of the country, with the government's counter-insurgency operations reportedly entailing mass atrocities and destruction of villages.

Women and children have been particularly affected by the conflict. Sexual and gender-based violence is widespread, and rape is used widely as a weapon of war. In March 2017, the United Nations Human Rights Council reported that there had been a 61 percent increase in the number of incidents of sexual or gender-based violence reported between 2015 and 2016. The conflict has deprived children of education and basic health services, and left them at risk of being killed, abducted, sexually assaulted, and recruited as child soldiers.

South Sudan is the largest source of displacement in Africa. At the end of August 2017, approximately 3.9 million people had been displaced, including 2 million who fled to neighboring states and 1.9 million internally displaced persons, of which at least 50 percent were children.

South Sudan is experiencing an unprecedented level of food insecurity due to the protracted violence, displacement, and the lack of access for humanitarian actors to deliver aid. As of August 2017, about 50 percent of the population (6 million people) was estimated to be acutely food insecure.

In addition to the ongoing conflict, South Sudan is experiencing a severe economic crisis. In 2016, the South Sudanese pound depreciated 70 percent against the dollar. Year-on-year inflation from January 2016 to January 2017 was around 400 percent.

Based upon this review and after consultation with appropriate Government agencies, the Secretary has determined that:

- The conditions that prompted the 2016 redesignation of South Sudan for TPS continue to be met. *See* INA section 244(b)(3)(A) and (C), 8 U.S.C. 1254a(b)(3)(A) and (C).
- There continues to be an ongoing armed conflict in South Sudan and, due to such conflict, requiring the return of South Sudanese nationals (or aliens having no nationality who last habitually resided in South Sudan) to South Sudan would pose a serious threat to their personal safety. *See* INA section 244(b)(1)(A), 8 U.S.C. 1254a(b)(1)(A).
- There continue to be extraordinary and temporary conditions in South Sudan that prevent South Sudanese nationals (or aliens having no

[1] As of March 1, 2003, in accordance with section 1517 of title XV of the Homeland Security Act of 2002, Public Law 107–296, 116 Stat. 2135, any reference to the Attorney General in a provision of the INA describing functions transferred from the Department of Justice to DHS ''shall be deemed to refer to the Secretary'' of Homeland Security. *See* 6 U.S.C. 557 (codifying the Homeland Security Act of 2002, tit. XV, section 1517).

nationality who last habitually resided in South Sudan) from returning to South Sudan in safety. *See* INA section 244(b)(1)(C), 8 U.S.C. 1254a(b)(1)(C).

- It is not contrary to the national interest of the United States to permit South Sudanese (or aliens having no nationality who last habitually resided in South Sudan) who meet the eligibility requirements of TPS to remain in the United States temporarily. *See* INA section 244(b)(1)(C), 8 U.S.C. 1254a(b)(1)(C).
- The designation of South Sudan for TPS should be extended for an 18-month period from November 3, 2017, through May 2, 2019. *See* INA section 244(b)(3)(C), 8 U.S.C. 1254a(b)(3)(C).

Notice of Extension of the TPS Designation of South Sudan

By the authority vested in me as Secretary under INA section 244, 8 U.S.C. 1254a, I have determined, after consultation with the appropriate Government agencies, that the conditions that prompted the redesignation of TPS for South Sudan in 2016 not only continue to be met, but have significantly deteriorated. *See* INA section 244(b)(3)(A), 8 U.S.C. 1254a(b)(3)(A). On the basis of this determination, I am extending the existing designation of TPS for South Sudan for 18 months, from November 3, 2017, through May 2, 2019. *See* INA section 244(b)(1)(A), (b)(1)(C); 8 U.S.C. 1254a(b)(1)(A), (b)(1)(C).

Elaine C. Duke,

Acting Secretary.

Required Application Forms and Application Fees to Register or Re-Register for TPS

To file a late initial registration or re-register for TPS based on the designation of South Sudan, you must submit each of the following applications:

1. Application for Temporary Protected Status (Form I–821):

- If you are filing a late initial application, you must pay the fee (or request a fee waiver) for the Form I–821. *See* 8 CFR 244.2(f)(2) and 244.6.
- If you are filing an application for re-registration, you do not need to pay the fee for the Form I–821. *See* 8 CFR 244.17.

2. Application for Employment Authorization (Form I–765):

- If you are applying for late initial registration and want an EAD, you must pay the fee (or request a fee waiver) for the Form I–765 only if you are age 14 through 65. You do not need to pay the Form I–765 fee if you are under the age of 14 or are 66 and older, applying for late initial registration and you want an EAD.
- If you are applying for re-registration and want an EAD, you must pay the fee (or request a fee waiver) for the Form I–765, regardless of your age.
- If you are applying for late initial registration or re-registration and do not want an EAD, you do not have to pay the Form I–765 fee.
- If you do not want to request an EAD now, you may also file Form I–765 later to request an EAD and pay the fee (or request a fee waiver), provided that you still have TPS or a pending TPS application. Your EAD application will be considered timely filed even if the date on your current TPS-related EAD has expired. But unless you timely re-register and properly file an EAD application, the validity of your current EAD will end on November 2, 2017. Accordingly, you must also properly file your EAD application during the 60-day re-registration period for your current employment authorization document to be automatically extended for 180 days (*i.e.,* through May 1, 2018). You are strongly encouraged to properly file your EAD application as early as possible during the 60-day re-registration period to avoid lapses in your employment authorization and to ensure that you receive your Form I–797C, Notice of Action, prior to November 2, 2017.

You must submit both completed Forms I–821 and I–765 together. If you are unable to pay for the application fee and/or biometrics fee, you may complete a Request for Fee Waiver (Form I–912) or submit a personal letter requesting a fee waiver with satisfactory supporting documentation. For more information on the application forms and fees for TPS, please visit the USCIS TPS Web page at *http://www.uscis.gov/tps.* Fees for the Form I–821, the Form I–765, and biometric services are also described in 8 CFR 103.7(b)(1)(i).

Biometric Services Fee

Biometrics (such as fingerprints) are required for all applicants 14 years of age or older. Those applicants must submit a biometric services fee. As previously stated, if you are unable to pay for the biometric services fee, you may apply for a fee waiver by completing a Form I–912 or by submitting a personal letter requesting a fee waiver, and providing satisfactory supporting documentation. For more information on the biometric services fee, please see the Instructions to Form I–821 or visit the USCIS Web site at *http://www.uscis.gov.* If necessary, you may be required to visit an Application Support Center (ASC) to have your biometrics captured. In such case, USCIS will send you an ASC scheduling notice.

Re-Filing a Re-Registration TPS Application After Receiving a Denial of a Fee Waiver Request

You should file as soon as possible within the 60-day period so that USCIS can process your application and issue any EAD promptly. Properly filing early will also allow you time to re-file your application before the deadline and receive a Form I–797C demonstrating your EAD's automatic extension, should USCIS deny your fee waiver request. If, however, you receive a denial of your fee waiver request and you are unable to re-file by the re-registration deadline, you may still re-file your application. This situation will be reviewed to determine whether you have established good cause for late re-registration. However, you are urged to re-file within 45 days of the date on any USCIS fee waiver denial notice, if at all possible. *See* INA section 244(c)(3)(C); 8 U.S.C. 1254a(c)(3)(C); 8 CFR 244.17(b). For more information on good cause for late re-registration, visit the USCIS TPS Web page at *http://www.uscis.gov/tps.* **Note:** Although a re-registering TPS beneficiary age 14 and older must pay the biometric services fee (but not the initial Form I–821 fee) when filing a TPS re-registration application, you may decide to wait to request an EAD, and therefore not pay the Form I–765 fee until after USCIS has approved your TPS re-registration, if you are eligible. If you choose to do this, you would file the Form I–821 with the biometrics services fee, if applicable, (or request a fee waiver) and the Form I–765 without the fee and without requesting an EAD.

Mailing Information

Mail your application for TPS to the proper address in Table 1.

TABLE 1—MAILING ADDRESSES

If . . .	Mail to . . .
You are applying through the U.S. Postal Service	USCIS, Attn: TPS South Sudan, P.O. Box 6943, Chicago, IL 60680–6943.
For FedEx, UPS, and DHL deliveries:	USCIS, Attn: TPS South Sudan, 131 S. Dearborn Street, 3rd Floor, Chicago, IL 60603–5517.

If you were granted TPS by an Immigration Judge (IJ) or the Board of Immigration Appeals (BIA) and wish to request an EAD or are re-registering for the first time following a grant of TPS by an IJ or the BIA, please mail your application to the appropriate mailing address in Table 1. When re-registering and/or requesting an EAD based on an IJ/BIA grant of TPS, please include a copy of the IJ or BIA order granting you TPS with your application. This will aid in the verification of your grant of TPS and processing of your application, as USCIS may not have received records of your grant of TPS by either the IJ or the BIA.

Supporting Documents

Do I need to submit additional supporting documentation when reregistering for TPS?

If one or more of the questions listed in Part 4, Question 2 of the Form I–821 applies to you, then you must submit an explanation on a separate sheet(s) of paper and/or additional documentation.

Employment Authorization Document (EAD)

How can I get information on the status of my EAD request?

To get case status information about your TPS application, including the status of a request for an EAD, you can check Case Status Online, available at *http://www.uscis.gov,* or call the USCIS National Customer Service Center at 800–375–5283 (TTY 800–767–1833). If your Form I–765 has been pending for more than 90 days, and you still need assistance, you may request an EAD inquiry appointment with USCIS by using the InfoPass system at *https://infopass.uscis.gov.* However, we strongly encourage you first to check Case Status Online or call the USCIS National Customer Service Center for assistance before making an InfoPass appointment.

Am I eligible to receive an extension of my current EAD while I wait for my new one to arrive?

Provided that you currently have a South Sudan TPS-based EAD, you may be eligible to have the validity of your current EAD extended for 180 days (through May 1, 2018) if you:

- Are a national of South Sudan (or an alien having no nationality who last habitually resided in South Sudan);
- Received an EAD under the designation of South Sudan for TPS;
- Have an EAD with a marked expiration date of November 2, 2017, bearing the notation ''A–12'' or ''C–19'' on the face of the card under ''Category;''
- Timely re-registered for TPS during the 60-day re-registration period; and
- Properly filed an application for an EAD during the 60-day re-registration period.

You must timely re-register for TPS in accordance with the procedures described in this Notice if you would like to maintain your TPS and in order to have the validity of your current EAD extended by 180 days. You are strongly encouraged to file your EAD renewal application as early as possible during the 60-day re-registration period to avoid lapses in documentation of your employment authorization.

When hired, what documentation may I show to my employer as proof of employment authorization and identity when completing Employment Eligibility Verification (Form I–9)?

You can find a list of acceptable document choices on the ''Lists of Acceptable Documents'' for Form I–9. You can find additional detailed information about Form I–9 on the USCIS I–9 Central Web page at *http://www.uscis.gov/I-9Central.* Employers are required to verify the identity and employment authorization of all new employees by using Form I–9. Within three days of hire, an employee must present evidence of identity and employment authorization to his or her employer by presenting documentation sufficient to satisfy Form I–9 requirements.

You may present any document from List A (which provides evidence of both identity and employment authorization), or one document from List B (which provides evidence of your identity) together with one document from List C (which is evidence of employment authorization), or you may present an acceptable receipt for List A, List B, or List C documents as described in the Form I–9 Instructions. An EAD is an acceptable document under List A. Employers may not reject a document based on a future expiration date.

If your EAD has an expiration date of November 2, 2017, and states ''A–12'' or ''C–19'' under ''Category,'' and you timely and properly filed an EAD renewal application during the 60-day re-registration period, you may choose to present your EAD to your employer together with the Form I–797C Notice of Action (showing the qualifying eligibility category of either A12 or C19) as a List A document that provides evidence of your identity and employment authorization for Form I–9 through May 1, 2018, unless your TPS has been finally withdrawn or your request for TPS has been finally denied. See the subsection titled, ''*How do my employer and I complete the Employment Eligibility Verification (Form I–9) using an automatically extended EAD for a new job?*'' for further information.

To minimize confusion over this extension at the time of hire, you should explain to your employer that your EAD has been automatically extended through May 1, 2018. You may also provide your employer with a copy of this **Federal Register** Notice which explains how your EAD could be automatically extended; however, this **Federal Register** Notice is not acceptable evidence that your EAD has been automatically extended. As an alternative to presenting evidence of your automatically extended EAD, you may choose to present any other acceptable document from List A, a combination of one selection from List B and one selection from List C, or a valid receipt.

What documentation may I show my employer for my Employment Eligibility Verification (Form I–9) if I am already employed but my current TPS-related EAD is set to expire?

Even though you may be eligible to have your EAD automatically extended, your employer will need to ask you about your continued employment authorization no later than before you start work on November 3, 2017 to meet its responsibilities for Form I–9. You

will need to present your employer with evidence that you are still authorized to work. Once presented, you may correct your employment authorization expiration date in Section 1, and your employer should correct the employment authorization document expiration date in Section 2 of Form I–9. See the subsection titled, ''*What corrections should my current employer and I make to Employment Eligibility Verification (Form I–9) if my employment authorization has been automatically extended?*'' for further information. In addition, you may also show this Notice to your employer to explain what to do for Form I–9.

When you properly file your Form I–765 to renew your current EAD, you will receive a USCIS receipt notice (Form I–797C). The receipt notice will state that your current ''A–12'' or ''C–19'' coded EAD is automatically extended for 180 days. You may show this receipt notice to your employer along with your EAD to confirm your EAD has been automatically extended through May 1, 2018, unless your TPS has been finally withdrawn or your request for TPS has been finally denied. You may also show this **Federal Register** Notice to your employer to minimize confusion; however, this **Federal Register** Notice is not acceptable evidence that your EAD has been automatically extended. To avoid delays in receiving the Form I–797C and a lapse in your employment authorization, you should file your EAD renewal application as early as possible during the re-registration period.

The last date of the automatic EAD extension is May 1, 2018. Before you start work on May 2, 2018, your employer must reverify your employment authorization. At that time, you must present any document from List A or any document from List C on Form I–9 Lists of Acceptable Documents, or an acceptable List A or List C receipt described in the Form I–9 Instructions to reverify employment authorization. Your employer should either complete Section 3 of the Form I–9 originally completed for you; or if this section has already been completed or if the version of Form I–9 has expired (check the date in the bottom left-hand corner of the form), complete Section 3 of a new Form I–9, ensuring it is the most current version. Note that your employer may not specify which List A or List C document you must present and cannot reject an acceptable receipt.

Can my employer require that I provide any other documentation to prove my status, such as proof of my South Sudanese citizenship?

No. When completing Form I–9, including reverifying employment authorization, employers must accept any documentation that appears on the appropriate ''Lists of Acceptable Documents'' for Form I–9 that reasonably appears to be genuine and that relates to you, or an acceptable List A, List B, or List C receipt. Employers may not request documentation that does not appear on the ''Lists of Acceptable Documents.'' Therefore, employers may not request proof of South Sudanese citizenship or proof of re-registration for TPS when completing Form I–9 for new hires or reverifying the employment authorization of current employees. If the expired EAD with category A–12 or C–19 is presented with the Form I–797C Notice of Action as described herein, an employer should accept this document combination as a valid List A document so long as the EAD reasonably appears to be genuine and to relate to the employee. Refer to the Note to Employees section of this Notice for important information about your rights if your employer rejects lawful documentation, requires additional documentation, or otherwise discriminates against you based on your citizenship or immigration status, or your national origin.

How do my employer and I complete Employment Eligibility Verification (Form I–9) on the basis of automatically extended employment authorization for a new job?

As proof of the automatic extension of your employment authorization, you may present your expired EAD with category A–12 or C–19 in combination with the Form I–797C Notice of Action showing that the EAD renewal application was timely filed and that the qualifying eligibility category is either A–12 or C–19. Unless your TPS has been finally withdrawn or your request for TPS has been finally denied, this document combination is considered an unexpired Employment Authorization Document (Form I–766) under List A. When completing Form I–9 for a new job you are starting before May 2, 2018, you and your employer should do the following:

1. For Section 1, you should:

a. Check ''An alien authorized to work until'' and enter the date that is 180 days from the date your current EAD expires (May 1, 2018) as the ''expiration date, if applicable, mm/dd/yyyy''; and

b. Enter your Alien Number/USCIS number or A-Number where indicated (your EAD or other document from DHS will have your USCIS Number or A-Number printed on it; the USCIS number is the same as your A-Number without the A prefix).

2. When completing Section 2, employers should:

a. Determine if the EAD is auto-extended for 180 days by ensuring:

- It is in category A–12 or C–19;
- The ''received date'' on Form I–797 is on or before the end of the 60-day re-registration period stated in this Notice; and
- The category code on the EAD is the same category code on Form I–797C, noting that employers should consider category codes A–12 and C–19 to be the same category code.

b. Write in the document title;

c. Enter the issuing authority;

d. Provide the document number; and

e. Insert May 1, 2018, the date that is 180 days from the date the current EAD expires.

By the start of work on May 2, 2018, employers must reverify the employee's employment authorization in Section 3 of the Form I–9.

What corrections should my current employer and I make to Employment Eligibility Verification (Form I–9) if my employment authorization has been automatically extended?

If you are an existing employee who presented a TPS-related EAD that was valid when you first started your job and your employment authorization has now been automatically extended because you timely and properly filed a new application for employment authorization during the 60-day re-registration period, you may present your expired EAD with category A–12 or C–19 in combination with the Form I–797C Notice of Action. The Form I–797C should show that the EAD renewal application was timely filed and that the qualifying eligibility category is either A–12 or C–19. To avoid confusion, you may also provide your employer a copy of this **Federal Register** Notice; however, this **Federal Register** Notice is not acceptable evidence that your EAD has been automatically extended. Your employer may need to re-inspect your current EAD if your employer does not have a copy of the EAD on file. You and your employer should correct your previously completed Form I–9 as follows:

1. For Section 1, you may:

a. Draw a line through the expiration date in Section 1;

b. Write the date that is 180 days from the date your current EAD expires (May

1, 2018) above the previous date (November 2, 2017); and

c. Initial and date the correction in the margin of Section 1.

2. For Section 2, employers should:

a. Determine if the EAD is auto-extended for 180 days by ensuring:

- It is in category A12 or C19;
- The ''received date'' on Form I–797 is on or before the end of the 60-day re-registration period stated in this Notice; and
- The category code on the EAD is the same category code on Form I–797C, noting that employers should consider category codes A–12 and C–19 to be the same category code.

b. Draw a line through the expiration date written in Section 2;

c. Write the date that is 180 days from the date the employee's current EAD expires (May 1, 2018) above the previous date (November 2, 2017); and

d. Initial and date the correction in the margin of Section 2.

Note: This is not considered a reverification. Employers do not need to complete Section 3 until either the 180-day extension has ended or the employee presents a new document to show continued employment authorization, whichever is sooner.

By May 2, 2018, when the employee's automatically extended employment authorization has ended, employers must reverify the employee's employment authorization in Section 3.

If I am an employer enrolled in E-Verify, how do I verify a new employee whose EAD has been automatically extended?

Employers may create a case in E-Verify for a new employee using the Form I–797C receipt information provided on Form I–9. The receipt number entered as the document number on Form I–9 should be entered into the document number field in E-Verify.

If I am an employer enrolled in E-Verify, what do I do when I receive a ''Work Authorization Documents Expiration'' alert for an automatically extended EAD?

E-Verify automated the verification process for employees whose TPS-related EAD was automatically extended. If you have an employee who is a TPS beneficiary who provided a TPS-related EAD when he or she first started working for you, you will receive a ''Work Authorization Documents Expiring'' case alert when the auto-extension period for this EAD is about to expire. This indicates that you should update Form I–9 in accordance with the instructions above. By the employee's start of work on May 2, 2018, employment authorization must be reverified in Section 3. Employers should not use E-Verify for reverification.

Note to All Employers

Employers are reminded that the laws requiring proper employment eligibility verification and prohibiting unfair immigration-related employment practices remain in full force. This Notice does not supersede or in any way limit applicable employment verification rules and policy guidance, including those rules setting forth reverification requirements. For general questions about the employment eligibility verification process, employers may call USCIS at 888–464–4218 (TTY 877–875–6028) or email USCIS at *I9Central@dhs.gov.* Calls and emails are accepted in English and many other languages. For questions about avoiding discrimination during the employment eligibility verification process (Form I–9 and E-Verify), employers may call the U.S. Department of Justice's Civil Rights Division, Immigrant and Employee Rights Section (IER) (formerly the Office of Special Counsel for Immigration-Related Unfair Employment Practices) Employer Hotline at 800–255–8155 (TTY 800–237–2515). IER offers language interpretation in numerous languages. Employers may also email IER at *IER@usdoj.gov.*

Note to Employees

For general questions about the employment eligibility verification process, employees may call USCIS at 888–897–7781 (TTY 877–875–6028) or email USCIS at *I-9Central@dhs.gov.* Calls are accepted in English, Spanish, and many other languages. Employees or applicants may also call the IER Worker Hotline at 800–255–7688 (TTY 800–237–2515) for information regarding employment discrimination based upon citizenship, immigration status, or national origin, including discrimination related to Employment Eligibility Verification (Form I–9) and E-Verify. The IER Worker Hotline provides language interpretation in numerous languages.

To comply with the law, employers must accept any document or combination of documents from the Lists of Acceptable Documents if the documentation reasonably appears to be genuine and to relate to the employee, or an acceptable List A, List B, or List C receipt as described in the Employment Eligibility Verification (Form I–9) Instructions. Employers may not require extra or additional documentation beyond what is required for Employment Eligibility Verification (Form I–9) completion. Further, employers participating in E-Verify who receive an E-Verify case result of ''Tentative Nonconfirmation'' (TNC) must promptly inform employees of the TNC and give such employees an opportunity to contest the TNC. A TNC case result means that the information entered into E-Verify from Employment Eligibility Verification (Form I–9) differs from Federal or state government records.

Employers may not terminate, suspend, delay training, withhold pay, lower pay, or take any adverse action against an employee based on the employee's decision to contest a TNC or because the case is still pending with E-Verify. A Final Nonconfirmation (FNC) case result is received when E-Verify cannot verify an employee's employment eligibility. An employer may terminate employment based on a case result of FNC. Work-authorized employees who receive an FNC may call USCIS for assistance at 888–897–7781 (TTY 877–875–6028). For more information about E-Verify-related discrimination or to report an employer for discrimination in the E-Verify process based on citizenship, immigration status, or national origin, contact IER's Worker Hotline at 800–255–7688 (TTY 800–237–2515). Additional information about proper nondiscriminatory Employment Eligibility Verification (Form I–9) and E-Verify procedures is available on the IER Web site at *https://www.justice.gov/ier* and the USCIS Web site at *http://www.dhs.gov/E-verify.*

Note Regarding Federal, State, and Local Government Agencies (Such as Departments of Motor Vehicles)

While Federal Government agencies must follow the guidelines laid out by the Federal Government, state and local government agencies establish their own rules and guidelines when granting certain benefits. Each state may have different laws, requirements, and determinations about what documents you need to provide to prove eligibility for certain benefits. Whether you are applying for a Federal, state, or local government benefit, you may need to provide the government agency with documents that show you are a TPS beneficiary and/or show you are authorized to work based on TPS. Examples of such documents are:

(1) Your current EAD;

(2) A copy of your receipt notice (Form I–797C) for your application to renew your current EAD providing an automatic extension of your currently expired or expiring EAD;

(3) A copy of your Application for Temporary Protected Status Notice of Action (Form I–797) for this re-registration; and

(4) A copy of your past or current Application for Temporary Protected Status Notice of Action (Form I–797), if you received one from USCIS.

Check with the government agency regarding which document(s) the agency will accept. Some benefit-granting agencies use the USCIS Systematic Alien Verification for Entitlements (SAVE) program to confirm the current immigration status of applicants for public benefits. In most cases, SAVE provides an automated electronic response to benefit-granting agencies within seconds, but, occasionally, verification can be delayed. You can check the status of your SAVE verification by using CaseCheck at the following link: *https://save.uscis.gov/casecheck/,* then by clicking the ''Check Your Case'' button. CaseCheck is a free service that lets you follow the progress of your SAVE verification using your date of birth and one immigration identifier number. If an agency has denied your application based solely or in part on a SAVE response, the agency must offer you the opportunity to appeal the decision in accordance with the agency's procedures. If the agency has received and acted upon or will act upon a SAVE verification and you do not believe the response is correct, you may make an InfoPass appointment for an in-person interview at a local USCIS office. Detailed information on how to make corrections, make an appointment, or submit a written request to correct records under the Freedom of Information Act can be found on the SAVE Web site at *http://www.uscis.gov/save,* then by choosing ''For Benefits Applicants'' from the menu on the left, selecting ''Save Resources,'' followed by ''SAVE Fact Sheet for Benefit Applicants.''

[FR Doc. 2017–20174 Filed 9–19–17; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5997–N–56]

30-Day Notice of Proposed Information Collection: State Community Development Block Grant (CDBG) Program

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 30 days of public comment.

DATES: *Comments Due Date:* October 23, 2017.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax:202–395–5806, Email: *OIRA Submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Anna P. Guido, Reports Management Officer, QMAC, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email Anna P. Guido at *Anna.P.Guido@hud.gov* or telephone 202–402–5535. This is not a toll-free number. Person with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. Copies of available documents submitted to OMB may be obtained from Ms. Guido.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on June 16, 2017 at 81 FR 27715.

A. Overview of Information Collection

Title of Information Collection: State Community Development Block Grant (CDBG) Program.

OMB Approval Number: 2506–0085.

Type of Request: Reinstatement with change of a previously approved collection.

Form Number: HUD–40108.

Description of the need for the information and proposed use: The Housing and Community Development Act of 1974, as amended (HCDA), requires grant recipients that receive CDBG funding to retain records necessary to document compliance with statutory and regulatory requirements on an on-going basis. The statute also requires [Section 104(e)(2)] that HUD conduct an annual review to determine whether states have distributed funds to units of general local government in a timely manner. Additionally, Section 916 of the Cranston-Gonzalez National Affordable Housing Act of 1990, prescribes a consultation with representatives of the interests of the residents of the colonias.

Respondents (i.e. affected public): This information collection applies to 50 State CDBG Grantees (49 states and Puerto Rico but not Hawaii).

Information collection	Number of respondents	Frequency of response	Burden hour per response	Annual burden hours	Hourly cost per response	Annual cost
Record-Keeping:						
—*State*	50	1	126.00	6,300	$34.58	$217,854.00
—*Local Government*	3,500	1	26.13	91,455	34.58	3,162,513.90
Timely Distribution	50	1	2.60	130	34.58	4,495.40
Colonias Consultation	54	1	4.00	216	34.58	7,469.28
Total				98,101		3,392,332.58

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: September 13, 2017.

Anna P. Guido,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2017–20154 Filed 9–20–17; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5997–N–57]

30-Day Notice of Proposed Information Collection: Housing Counseling Program—Application for Approval as a Housing Counseling Agency

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: HUD submitted the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, in accordance with the Paperwork Reduction Act. The purpose of this notice is to allow for 30 days of public comment.

DATES: *Comments Due Date:* October 23, 2017.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806, Email: *OIRASubmission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Inez C. Downs, Reports Management Officer, QMAC, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email *Inez.C.Downs@hud.gov,* or telephone 202–402–8046. This is not a toll-free number. Person with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

Copies of available documents submitted to OMB may be obtained from Ms. Downs.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on July 14, 2017 at 82 FR 32568.

A. Overview of Information Collection

Title of Information Collection: Housing Counseling Program—Application for Approval as a Housing Counseling Agency.

OMB Approval Number: 2502–0573.

Type of Request: Revision of a currently approved collection.

Form Number: HUD–9900.

Description of the need for the information and proposed use: The Office of Housing Counseling is responsible for administration of the Department's Housing Counseling Program, authorized by Section 106 of the Housing and Urban Development Act of 1968 (12 U.S.C. The Housing Counseling Program supports the delivery of a wide variety of housing counseling services to homebuyers, homeowners, low- to moderate-income renters, and the homeless. The primary objective of the program is to educate families and individuals in order to help them make smart decisions regarding improving their housing situation and meeting the responsibilities of tenancy and homeownership, including through budget and financial counseling. Counselors also help borrowers avoid predatory lending practices, such as inflated appraisals, unreasonably high interest rates, unaffordable repayment terms, and other conditions that can result in a loss of equity, increased debt, default, and possible foreclosure. Counselors may also provide reverse mortgage counseling to elderly homeowners who seek to convert equity in their homes to pay for home improvements, medical costs, living expenses or other expenses. Additionally, housing counselors may distribute and be a resource for information concerning Fair Housing and Fair Lending. The Housing Counseling Program is instrumental to achievement of HUD's mission. The Program's far-reaching effects support numerous departmental programs, including Federal Housing Administration (FHA) single family housing programs.

Approximately 1,900 HUD-participating agencies provide housing counseling services nation-wide currently. Of these, approximately 920 have been directly approved by HUD. HUD maintains a list of these agencies so that individuals in need of assistance can easily access the nearest HUD-approved housing counseling agency via HUD's Web site, an automated 1–800 Hotline, or a smart phone application. HUD Form 9900, Application for Approval as a Housing Counseling Agency, is necessary to make sure that people who contact a HUD approved agency can have confidence they will receive quality service and these agencies meet HUD requirements for approval.

To participate in HUD's Housing Counseling Program, a housing counseling agency must first be approved by HUD. Approval entails meeting various requirements relating to experience and capacity, including nonprofit status, a minimum of one year of housing counseling experience in the target community, and sufficient resources to implement a housing counseling plan. Eligible organizations include local housing counseling agencies, private or public organizations (including grassroots, faith-based and other community-based organizations) such as nonprofit, state, or public housing authorities that meet the Program criteria. HUD uses form HUD–9900 to evaluate whether applying organizations meet minimum requirements to participate in the Housing Counseling Program. The instruction on how to become a HUD approved Housing Counseling Agency is found at *https://www.hudexchange.info/programs/housing-counseling/agency-application/*. HUD is seeking a revision for the Application for Approval as a Housing Counseling Agency, form HUD–9900. There have been no changes in program eligibility requirements. The form will be updated to reflect a streamlined, fillable PDF interactive version and will continue to require electronic submission of applications through email in place of paper submissions.

Respondents (i.e. affected public): Not for profit institution.

Estimated Number of Respondents: 800.

Estimated Number of Responses: 800.

Frequency of Response: 1.

Average Hours per Response: 8.

Total Estimated Burden: 6,400.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of

information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond: Including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: September 15, 2017.

Inez C. Downs,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2017–20152 Filed 9–20–17; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLORV00000.L10200000.DF0000 .LXSSH1040000.17X.HAG 17–0168]

Notice of Public Meeting for the John Day—Snake Resource Advisory Council, Oregon

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act of 1976, the Federal Lands Recreation Enhancement Act of 2004, and the Federal Advisory Committee Act of 1972, the U.S. Department of the Interior, Bureau of Land Management (BLM) John Day—Snake Resource Advisory Council (RAC) will meet as indicated below.

DATES: The RAC will hold a public meeting on Thursday, October 12, 2017, from 12:00 p.m. until 5 p.m., and on Friday, October 13, 2017, from 8 a.m. until 1 p.m. A public comment period will be held during Friday's meeting from 10 a.m. to 10:30 a.m.

ADDRESSES: The meeting will take place at the Springhill Suites, 551 Industrial Way, Bend, OR 97702. If you cannot attend the meeting in person, you may call in on the telephone conference line number at 1–877–989–1244, Participant Code: 3005406#. The agenda will be posted online by September 11, 2017, at *https://www.blm.gov/site-page/get-involved-resource-advisory-council-near-you-oregon-washington-john-day-rac.*

FOR FURTHER INFORMATION CONTACT: Lisa Clark, Public Affairs Officer, BLM Prineville District Office, 3050 NE 3rd St., Prineville, Oregon 97754; 541–416–6700; *lmclark@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1(800) 877–8339 to contact the above individual during normal business hours. The FRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The 15-member John Day—Snake RAC was chartered to provide advice to BLM and U.S. Forest Service resource managers regarding management plans and proposed resource actions on public land in central and eastern Oregon. All advisory council meetings are open to the public. If you have information that you wish to distribute to the RAC, please do so prior to the start of each meeting.

Agenda items for the meeting include: A presentation on the Ochoco National Forest sustainable recreation strategy and subsequent fee proposal; a subcommittee report on the Lower Deschutes River Fee Proposal and potential decision; an update on Central and Eastern Oregon Greater sage-grouse populations, including an overview of the causal factor analysis process and any plans for reducing impacts to local Sage-Grouse populations; a presentation by the South Fork John Day Watershed Council; a fee proposal by the Wallowa-Whitman National Forest; an update on the Blue Mountain Forest Resiliency project; and an update on Torrefied Biomass as a fuel commodity by Matt Krumenauer, Principle, Oregon Torrefaction, LLC. In addition, RAC members will set the 2018 meeting schedule and will identify future-topic presentations for the RAC meetings. Any other matters that may reasonably come before the RAC may also be addressed. A public comment period will be available on October 13 from 10:00–10:30 a.m. During this time, each speaker may address the RAC for a maximum of 5 minutes. Meeting times and the duration of the public comment period may be extended or altered when the authorized representative considers it necessary to accommodate business and all who seek to be heard regarding matters before the RAC.

Before including your address, phone number, email address, or other personal identifying information in your comments, please be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority: 43 CFR 1784.4–2.

Donald Gonzalez,

Vale District Manager.

[FR Doc. 2017–20149 Filed 9–20–17; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLORB07000.L17110000.PH0000. LXSSH1060000.17XL1109AF.HAG 17–0106]

Notice of Meeting for the Steens Mountain Advisory Council's Public Land Access Subcommittee, Oregon

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act of 1976 and the Federal Advisory Committee Act of 1972, the U.S. Department of the Interior, Bureau of Land Management's (BLM) Steens Mountain Advisory Council's (SMAC) Public Land Access subcommittee will meet as indicated below.

DATES: The SMAC Public Land Access subcommittee will have a field trip on Thursday, September 21, 2017, from 9 a.m. to 5 p.m. Pacific Daylight Time, and a public meeting on Friday, September 22, 2017, from 8:30 a.m. to 3:30 p.m. The meeting may end early if all business items are accomplished ahead of schedule, or may be extended if discussions warrant more time.

ADDRESSES: The field trip will begin at 9 a.m. at the Roaring Springs Ranch, 31437 Highway 205, Frenchglen, Oregon, 97736. The meeting will be held at the same location. Written comments may be sent to the BLM Burns District office, 28910 Highway 20 West, Hines, Oregon 97738.

FOR FURTHER INFORMATION CONTACT: Tara Thissell, Public Affairs Specialist, 28910 Highway 20 West, Hines, Oregon 97738; telephone 541–573–4519; email *tthissell@blm.gov.* Persons who use a telecommunications device for the deaf

(TDD) may call the Federal Relay Service (FRS) at 1(800) 877–8339 to contact the above individual during normal business hours. The FRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The SMAC was initiated August 14, 2001, pursuant to the Steens Mountain Cooperative Management and Protection Act of 2000 (Pub. L. 106–399). The SMAC provides representative counsel and advice to the BLM regarding new and unique approaches to management of the land within the bounds of the Steens Mountain Cooperative Management and Protection Area (CMPA), recommends cooperative programs and incentives for landscape management that meet human needs, and advises the BLM on maintenance and improvement of the ecological and economic integrity of the area.

On September 21, 2017, the SMAC Public Land Access subcommittee will have an all day field tour of the private inholdings in the Steens Mountain Wilderness. Both the field trip and the meeting on September 22 are open to the public. However, the public is required to provide its own transportation for the field trip. Agenda items for the meeting include: A discussion on the Ruby Springs Allotment Management Plan; an update from the Designated Federal Official; discussion of the Nature's Advocate Environmental Assessment (inholder access); discussion on public access at Pike Creek Canyon; follow-up on issues that may need legislative attention; and regular business items such as approving the previous meeting's minutes, member round-table, and planning the next meeting's agenda. Any other matters that may reasonably come before the SMAC may also be included.

A public comment period will be available on September 22 from 11:00 to 11:30 a.m. Unless otherwise approved by the SMAC Chair, the public comment period will last no longer than 30 minutes, and each speaker may address the SMAC for a maximum of 5 minutes.

Before including your address, phone number, email address, or other personal identifying information in your comments, please be aware that your entire comment-including your personal identifying information-may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority: 43 CFR 1784.4–2.

Rhonda Karges,

Andrews/Steens Resource Area Field Manager.

[FR Doc. 2017–20150 Filed 9–20–17; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLNV912000 L13400000.PQ0000 LXSS0006F0000; 12–08807; MO#; TAS: 14X1109]

Public Meeting for the Mojave-Southern Great Basin Resource Advisory Council and Its Planning and Recreation Subcommittees, Nevada

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act (FLPMA), the Federal Lands Recreation Enhancement Act, and the Federal Advisory Committee Act, the U.S. Department of the Interior, Bureau of Land Management (BLM) Mojave-Southern Great Basin Resource Advisory Council (RAC) and its Planning and Recreation Subcommittees will meet as indicated below.

DATES: The RAC and its Planning and Recreation Subcommittees will meet on September 27, 2017. The Planning Subcommittee will meet from 10:30 to 11:30 a.m., the Recreation Subcommittee will meet from 12 to 1:30 p.m., and the RAC will meet from 1:45 to 4:30 p.m.

ADDRESSES: The meetings will be held at the Rainbow Library, 3150 N Buffalo Drive, Las Vegas, NV 89128.

FOR FURTHER INFORMATION CONTACT: Tim Smith, District Manager, at 702–515–5000, Southern Nevada District Office, 4701 North Torrey Pines Drive, Las Vegas, NV 89130, email: *tsmith@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The 15-member RAC was chartered to serve in an advisory capacity concerning the planning and management of the public land resources located within Nevada. Members represent an array of stakeholder interests in the land and resources from within the local area and statewide. All advisory council meetings are open to the public.

A public comment period will be available from 3:45 to 4:15 p.m. Persons wishing to make comments during the public comment period of the meeting should register in person with the BLM, at the meeting location, before the meeting's public comment period. Depending on the number of people wishing to comment, the length of comments may be limited.

Topics for discussion at each meeting will include, but are not limited to:

- Planning Subcommittee—Update and discussion regarding utility/transmission corridor planning, update on planning efforts such as Las Vegas In-Valley Area Multi-Action Analysis Environmental Assessment, and discuss Resource Management Plans and make any necessary recommendations.
- Recreation Subcommittee—Review of BLM recreation fee proposals and step-by-step approval process, and presentation and update on Red Rock Canyon National Conservation Area recreation fee business plan with discussion and discussion of any motions the Recreation Subcommittee wants to advance to the RAC.
- RAC—District Manager reports, committee reports, schedule of Fiscal Year 2018 RAC and Subcommittee meetings, and discuss and vote on Red Rock Canyon National Conservation Area recreation fee business plan.

The RAC may raise other topics at the meeting. Final agendas are posted on-line at the BLM Mojave-Southern Great Basin RAC Web site at *http://bit.ly/2j8vR3Y.* Individuals who need special assistance such as sign language interpretation or other reasonable accommodations, or who wish to receive a copy of each agenda, may contact the person listed above no later than 10 days prior to the meeting.

Before including your address, phone number, email address, or other personal information in your comments, please be aware that your entire comment, including your personal identifying information, may be made publicly available at any time. While you can ask us in your comment to withhold your personal information from public review, we cannot guarantee that will be able to do so.

Chris Rose,

Acting Deputy Chief, Office of Communications.

[FR Doc. 2017–20148 Filed 9–20–17; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[17X.LLAZ956000.L14400000.BJ0000. LXSSA225000.241A]

Notice of Filing of Plats of Survey; Arizona

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of official filing.

SUMMARY: The plats of survey of the following described lands were officially filed in the Bureau of Land Management (BLM), Arizona State Office, Phoenix, Arizona, on the dates indicated. Surveys announced in this notice are necessary for the management of lands administered by the agencies indicated.

ADDRESSES: These plats will be available for inspection in the Arizona State Office, Bureau of Land Management, One North Central Avenue, Suite 800, Phoenix, Arizona 85004–4427. Protests of the survey should be sent to the Arizona State Director at this address.

FOR FURTHER INFORMATION CONTACT: Gerald Davis, Chief Cadastral Surveyor of Arizona; (602) 417–9558; *gtdavis@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION:

The Gila and Salt River Meridian, Arizona

The plat representing the dependent resurvey of portions of the east and north boundaries, a portion of the subdivisional lines, the subdivision of section 1, and a metes-and-bounds survey in section 1, Township 3 North, Range 4 East, accepted June 29, 2017, and officially filed July 5, 2017, for Group 1159, Arizona.

This plat was prepared at the request of the Bureau of Reclamation.

The plat representing the dependent survey of a portion of the subdivisional lines, and the subdivision of sections 15 and 16, Township 11 North, Range 4 East, accepted June 29, 2017, and officially filed July 5, 2017, for Group 1167, Arizona.

This plat was prepared at the request of the United States Forest Service.

The plat, in two sheets, representing the recovery and rehabilitation of certain corners in section 10, Township 21 North, Range 6 East, accepted June 29, 2017, and officially filed July 5, 2017, for Group 1123, Arizona.

This plat was prepared at the request of the United States Forest Service.

The plat representing the dependent resurvey of a portion of the subdivisional lines, and the subdivision of section 12, Township 28 North, Range 8 East, accepted January 24, 2017, and officially filed January 25, 2017, for Group 1157, Arizona.

This plat was prepared at the request of the Bureau of Indian Affairs.

The plat representing the dependent resurvey of a portion of the subdivisional lines, and the dependent resurvey of Homestead Entry No. 391, Township 14 North, Range 10 East, accepted January 6, 2017, and officially filed January 9, 2017, for Group 1123, Arizona.

This plat was prepared at the request of the United States Forest Service.

The plat representing the dependent resurvey of portions of Mineral Survey No. 4442, Township 11 North, Range 15 East, accepted June 29, 2017, and officially filed July 5, 2017, for Group 1155, Arizona.

This plat was prepared at the request of the United States Forest Service.

The plat showing the dependent resurvey of a portion of the Fourth Standard Parallel North (south boundary), and a portion of the east boundary, Township 17 North, Range 24 East, accepted February 21, 2017, and officially filed February 23, 2017, for Group 1163, Arizona.

This plat was prepared at the request of the National Park Service.

The plat showing the dependent resurvey of a portion of the south boundary, a portion of the subdivisional lines, and the subdivision of section 28, 29 and 33, Township 15 North, Range 5 West, accepted February 21, 2017, and officially filed February 23, 2017, for Group 1148, Arizona.

This plat was prepared at the request of the United States Forest Service.

The plat showing the dependent resurvey of a portion of the Fifth Standard Parallel North (north boundary), a portion of the west boundary, and a portion of the subdivisional lines, Township 20 North, Range 7 West, accepted June 29, 2017, and officially filed July 5, 2017, for Group 1156, Arizona.

This plat was prepared at the request of the United States Forest Service.

The plat showing the dependent resurvey of a portion of the subdivisional lines, and the subdivision of section 4, Township 24 North, Range 16 West, accepted January 27, 2017, and officially filed January 30, 2017, for Group 1151, Arizona.

This plat was prepared at the request of the Bureau of Land Management.

The plat showing the dependent resurvey of a portion of the Sixth Standard Parallel North (south boundary), and a portion of the subdivisional lines, Township 25 North, Range 16 West, accepted January 27, 2017, and officially filed January 30, 2017, for Group 1151, Arizona.

This plat was prepared at the request of the Bureau of Land Management.

The plat showing the dependent resurvey of a portion of the subdivisional lines, and the subdivision of section 23, Township 7 North, Range 17 West, accepted June 29, 2017, and officially filed July 5, 2017, for Group 1161, Arizona.

This plat was prepared at the request of the Bureau of Land Management.

The plat showing the dependent resurvey of a portion of the subdivisional lines, Township 25 North, Range 17 West, accepted June 27, 2017, and officially filed January 30, 2017, for Group 1151, Arizona.

This plat was prepared at the request of the Bureau of Land Management.

The plat showing the dependent resurvey of a portion of the subdivisional lines, Township 25 North, Range 17 West, accepted January 27, 2017, and officially filed January 30, 2017, for Group 1151, Arizona.

This plat was prepared at the request of the Bureau of Land Management.

The plat showing the dependent resurvey of a portion of the subdivisional lines, Township 26 North, Range 17 West, accepted January 27, 2017, and officially filed January 30, 2017, for Group 1151, Arizona.

This plat was prepared at the request of the Bureau of Land Management.

The plat showing the dependent resurvey of a portion of the subdivisional lines, Township 27 North, Range 17 West, accepted January 27, 2017, and officially filed January 30, 2017, for Group 1151, Arizona.

This plat was prepared at the request of the Bureau of Land Management.

The plat showing the dependent resurvey of a portion of the Gila and Salt River Meridian (east boundary), a portion of the north boundary, and a portion of the subdivisional lines, Township 2 South, Range 1 West, accepted January 27, 2017, and officially filed January 30, 2017, for Group 1149, Arizona.

This plat was prepared at the request of the Bureau of Indian Affairs.

The plat showing the dependent resurvey of a portion of the subdivisional lines, and the subdivision of section 7, Township 1 South, Range 23 West, accepted June 29, 2017, and officially filed July 5, 2017, for Group 1152, Arizona.

This plat was prepared at the request of the United States Fish and Wildlife Service.

The plat showing the dependent resurvey of a portion of the south boundary of the Gila River Indian Reservation, a portion of the subdivisional lines, and the subdivision of sections 16 and 17, Township 5 South, Range 5 East, accepted January 27, 2017, and officially filed January 30, 2017, for Group 1149, Arizona.

This plat was prepared at the request of the Bureau of Indian Affairs.

The plat showing the metes-and-bounds survey of the Calabazas National Historical Park, in a portion of Lot A, Block 211, of the Rio Rico Estates, Unit 10 subdivision, being a portion of Baca Float No. 3, Township 23 South, Ranges 13 and 14 East, accepted March 21, 2017, and officially filed March 23, 2017, for Group 1162, Arizona.

This plat was prepared at the request of the National Park Service.

The plat showing the dependent resurvey of a portion of the subdivisional lines, and the subdivision of section 29, Township 6 South, Range 22 East, accepted February 21, 2017, and officially filed February 23, 2017, for Group 1166, Arizona.

This plat was prepared at the request of the Bureau of Land Management.

A person or party who wishes to protest against any of these surveys must file a written notice of protest

within 30 calendar days from the date of this publication with the Arizona State Director, Bureau of Land Management, stating that they wish to protest.

A statement of reasons for a protest may be filed with the notice of protest to the State Director, or the statement of reasons must be filed with the State Director within thirty (30) days after the protest is filed. Before including your address, or other personal information in your protest, please be aware that your entire protest, including your personal identifying information, may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority: 43 U.S.C. Chap. 3.

Gerald T. Davis,

Chief Cadastral Surveyor of Arizona.

[FR Doc. 2017–20110 Filed 9–20–17; 8:45 am]

BILLING CODE 4310–32–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLORW00000.L16100000 .DF0000.17XL1109AF.HAG17–0156]

Notice of Public Meeting for the San Juan Islands National Monument Advisory Committee

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act of 1976 and the Federal Advisory Committee Act of 1972, the U.S. Department of the Interior, Bureau of Land Management's (BLM), San Juan Islands National Monument Advisory Committee (MAC) will meet as indicated below:

DATES: The MAC will hold a public meeting on Thursday, October 19, 2017. The meeting will be held from 8:30 a.m. to 3:30 p.m. Pacific Daylight Time. A public comment period will be available from 1:45 until 2:30 p.m.

ADDRESSES: The meeting will be held at the Friday Harbor Grange, 152 First Street, Friday Harbor, WA 98250.

FOR FURTHER INFORMATION CONTACT: Marcia deChadenèdes, San Juan Islands National Monument Manager, P.O. Box 3, Lopez Island, WA 98261; 360–468–3051; *mdechade@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service at 1 (800) 877–8339 to contact the above individual during normal business hours. The FRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The 12-member MAC was appointed by the Secretary of the Interior to provide information and advice regarding the development of the San Juan Islands National Monument's Resource Management Plan (RMP). Members represent an array of stakeholder interests in the land and resources from within the local area. All advisory committee meetings are open to the public. Agenda items include the potential impacts of the RMP's alternatives to recreation, vegetation communities, cultural resources and wildlife. Potential impacts to socioeconomics, tribal interests, and lands with wilderness characteristics will also be discussed.

At 1:45 p.m. members of the public will have the opportunity to make comments to the MAC during a public comment period. Persons wishing to make comments during the public comment period should register in person with the BLM by 1 p.m. on the meeting day, at the meeting location. Depending on the number of persons wishing to comment, the length of comments may be limited. The public may send written comments to the MAC at San Juan Islands National Monument, Attn. MAC, P.O. Box 3, Lopez Island, WA 98261. The BLM appreciates all comments. Before including your address, phone number, email address, or other personal identifying information in your comments, please be aware that your entire comment–including your personal identifying information–may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority: 43 CFR 1784.4–2.

Linda Clark,

Spokane District Manager.

[FR Doc. 2017–20147 Filed 9–20–17; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLORW00000.L16100000.DF0000 .17XL1109AF.HAG17–0157]

Notice of Public Meeting for the Eastern Washington Resource Advisory Council

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act of 1976 and the Federal Advisory Committee Act of 1972, the U.S. Department of the Interior, Bureau of Land Management (BLM), Eastern Washington Resource Advisory Council (EWRAC) will meet as indicated below.

DATES: The EWRAC will hold a public meeting on Thursday, October 26, 2017, in Spokane Valley, Washington. The meeting will run from 9:30 a.m. to 3:30 p.m. Pacific Daylight Time, with a 60 minute public comment period at 12:00 p.m.

ADDRESSES: The meeting will be held at the BLM Spokane District Office, 1103 North Fancher, Spokane Valley, WA 99212.

FOR FURTHER INFORMATION CONTACT: Jeff Clark, Spokane District Public Affairs Officer, 1103 North Fancher, Spokane Valley, WA 99212, 509–536–1297, *jeffclark@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service at 1 (800) 877–8339 to contact the above individual during normal business hours. This FRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The 15-member EWRAC was chartered to provide information and advice regarding the use and development of the lands administered by the Spokane District in central and eastern Washington. Members represent an array of stakeholder interests in the land and resources from within the local area and statewide. All advisory council meetings are open to the public. At noon members of the public will have the opportunity to make comments to the EWRAC during a one hour public comment period. Persons wishing to make comments during the public comment period should register in person with the BLM by 11 a.m. on the meeting day, at the meeting location. Depending on the number of persons wishing to comment, the length of

comments may be limited. The public may send written comments to the EWRAC at BLM Spokane District, Attn. EWRAC, 1103 North Fancher, Spokane Valley, WA 99212.

Before including your address, phone number, email address, or other personal identifying information in your comments, please be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority: 43 CFR 1784.4–2.

Linda Clark,

Spokane District Manager.

[FR Doc. 2017–20194 Filed 9–20–17; 8:45 am]

BILLING CODE 4310–33–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1037]

Certain Graphic Processors, DDR Memory Controllers, and Products Containing the Same; Termination of Investigation on the Basis of Settlement

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review the presiding administrative law judge's (''ALJ'') initial determination (''ID'') (Order No. 26) terminating the investigation on the basis of settlement.

FOR FURTHER INFORMATION CONTACT: Sidney A. Rosenzweig, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 708–2532. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000. General information concerning the Commission may also be obtained by accessing its Internet server at *https://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on January 24, 2017, based on a complaint filed by ZiiLabs Inc. of Hamilton, Bermuda (''ZiiLabs''). 82 FR 8207 (Jan. 24, 2017). The complaint alleged violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, by reason of infringement of certain claims of four United States Patents. *Id.* The notice of investigation named seventeen respondents: Advanced Micro Devices, Inc. of Sunnyvale, California; Lenovo Group Ltd. of Beijing, China, Lenovo Holding Co., Inc. and Lenovo (United States) Inc., both of Morrisville, North Carolina; LG Electronics, Inc. of Seoul, Republic of Korea; LG Electronics U.S.A., Inc. of Englewood Cliffs, New Jersey; LG Electronics MobileComm U.S.A. of San Diego, California; MediaTek, Inc. of Hsinchu City, Taiwan; MediaTek USA Inc. of San Jose, California; Motorola Mobility LLC of Libertyville, Illinois; Qualcomm Inc. of San Diego, California; Sony Corporation of Tokyo, Japan; Sony Corporation of America of New York, New York; Sony Electronics, Inc. of San Diego, California; Sony Mobile Communications (USA) Inc. of San Mateo, California; Sony Computer Entertainment Inc. of Tokyo, Japan; and Sony Interactive Entertainment LLC of San Mateo, California. The Office of Unfair Import Investigations was also named as a party.

The investigation has previously been terminated as to Lenovo Group Ltd. and MediaTek USA Inc. Order No. 7 (Feb. 28, 2017), *not reviewed,* Notice (Mar. 22, 2017) (Lenovo Group Ltd.); Order No. 21 (June 19, 2017), *reviewed in part,* Notice (July 10, 2017) (MediaTek USA Inc.).

On August 9, 2017, ZiiLabs moved to terminate the investigation based upon settlement. *See* 19 CFR 210.21(b). The respondents did not oppose the motion, and the Commission investigative attorney responded in support of the motion. On August 28, 2017, the ALJ granted the motion as the subject ID (Order No. 26). The ID finds that the motion complies with Commission Rules, and that granting the motion would not be contrary to the public interest. ID at 2–3; *see* 19 CFR 210.50(b)(2).

No petitions for review of the ID were filed. The Commission has determined not to review the ID.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in Part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: September 15, 2017.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2017–20100 Filed 9–20–17; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree and Settlement Agreement Under the Comprehensive Environmental Response, Compensation, and Liability Act and Chapter 11 of The United States Bankruptcy Code

On September 15, 2017, the Department of Justice lodged a proposed consent decree with the United States District Court for the District of New Jersey in the lawsuit entitled *United States* v. *Alsol Corporation, SB Building Associates, LP, SB Building GP, LLC, United States Land Resources, L.P., United States Realty Resources, Inc., Lawrence S. Berger, and 3.60 Acres of Land, More or Less, located at Block 58, Lot 1.01, at 2 through 130 Ford Avenue in Milltown, Middlesex County, New Jersey,* Civil Action Number 2:13–cv–00380. This consent decree incorporates terms of a proposed settlement agreement lodged on May 15, 2017, with the United States Bankruptcy Court for the District of New Jersey in three jointly administered Chapter 11 bankruptcy cases, *In re S B Building Associates Limited Partnership,* Case No. 13–12682–VFP, *In re SB Milltown Industrial Realty Holdings, LLC,* Case No. 13–12685–VFP and *In re Alsol Corporation,* Case No. 13–12689–VFP. The proposed settlement agreement is incorporated into the proposed consent decree and is attached thereto.

The proposed consent decree and proposed settlement agreement would resolve claims of the United States brought against the Defendants in the district court case under Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9607 (''CERCLA''), seeking reimbursement of response costs incurred or to be incurred for response actions taken at or in connection with the release or threatened release of hazardous substances at the Michelin Powerhouse Site and the Michelin Building 3 Vat Site located within Tax Map Block 58, Lot 1.01, in the Borough of Milltown, Middlesex County, New Jersey. Under

the terms of the proposed consent decree and proposed settlement agreement, Defendants SB Building GP, LLC, United States Land Resources, L.P., United States Realty Resources, Inc., and Lawrence S. Berger have agreed, as provided by and subject to the terms and conditions of the Consent Decree and attached Settlement Agreement, that they are liable for the payment of $2,450,000 plus interest and certain costs in settlement of the claims alleged in the complaint filed in the district court case. Of this amount, $2,429,000, or 99.1428%, will be deposited into the Hazardous Substance Superfund established by the Internal Revenue Code, 26 U.S.C. 9507, and $21,000, or 0.8571%, will be deposited into the Oil Spill Liability Trust Fund established by the Internal Revenue Code, 26 U.S.C. 9509.

The proposed settlement agreement in the bankruptcy case would resolve the bankruptcy claims of the United States against two of the Defendants in the district court case, Alsol Corporation and S B Building Associates, LP., which are claims based on the CERCLA claims brought against these Defendants in the district court case. The proposed settlement agreement would also resolve the liability of Defendants SB Building GP, LLC, United States Land Resources, L.P., United States Realty Resources, Inc., and Lawrence S. Berger for payment of the judgment entered in *United States* v. *Alsol Corp., et al.,* No. 2:09–cv–03026 (D.N.J.), an access case under Section 104(e) of CERCLA, 42 U.S.C. 9604(e). The proposed settlement agreement would become effective upon the date of entry of a final and non-appealable order confirming a Plan of Reorganization that incorporates the terms of the settlement agreement.

The publication of this notice opens a period for public comment on the proposed consent decree and proposed settlement agreement. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States* v. *Alsol Corporation, et al.,* Civil Action Number 2:13–cv–00380, D.J. Ref. No. 90–11–3–09697/1. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By email	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the proposed consent decree and proposed settlement agreement may be examined and downloaded at this Justice Department Web site: *https://www.justice.gov/enrd/consent-decrees.* We will provide a paper copy of these documents upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $7.75 (25 cents per page reproduction cost) payable to the United States Treasury.

Robert E. Maher, Jr.,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2017–20097 Filed 9–20–17; 8:45 am]

BILLING CODE 4410–15–P

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Polar Programs; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation (NSF) announces the following meeting:

Name and Committee Code: Advisory Committee for Polar Programs (1130).

Date and Time: October 19, 2017, 2:00 p.m.–6:00 p.m., October 20, 2017, 9:00 a.m.–2:00 p.m.

Place: National Science Foundation, 2415 Eisenhower Avenue, Alexandria, Virginia 22314, Room C 2010 (October 19) and E 2020 (October 20).

Type of Meeting: Open.

Contact Person: Andrew Backe, National Science Foundation, Room W 7134, 2415 Eisenhower Avenue, Alexandria, Virginia 22314; Phone 703–292–2454.

Minutes: May be obtained from the contact person listed above.

Purpose of Meeting: To provide advice and recommendations to the National Science Foundation concerning support for polar research, education, infrastructure and logistics, and related activities.

Agenda

October 19, 2017; 2 p.m.–6:00 p.m.

- Opening Remarks and Introductions
- Harassment Policy
- Polar Data/Cyberinfrastructure
- Antarctic Infrastructure Modernization for Science (AIMS)
- Strategic Planning—Part 1

October 20, 2017; 9 a.m.–2 p.m.

- Community Engagement in Research in Alaska
- Navigating the New Arctic
- Strategic Planning—Part 2
- Meeting with the NSF Director and COO
- Thwaites Project
- Wrap-up and Action Items

Dated: September 18, 2017.

Crystal Robinson,

Committee Management Officer.

[FR Doc. 2017–20123 Filed 9–20–17; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 72–16; NRC–2015–0237]

Virginia Electric and Power Company; North Anna Power Station Independent Spent Fuel Storage Installation

AGENCY: Nuclear Regulatory Commission.

ACTION: License amendment application; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) reviewed an application by Virginia Electric and Power Company (Dominion) for an amendment to License No. SNM–2507 in the form of changes to the Technical Specifications (TS). Under this license, Dominion is authorized to receive, possess, store, and transfer spent nuclear fuel and associated radioactive materials at the North Anna Power Station (NAPS) Independent Spent Fuel Storage Installation (ISFSI). Dominion requested approval of the TS changes to allow storage of spent fuel in a modified TN–32B bolted lid cask as part of the High Burn-up Dry Storage Cask Research and Development Project sponsored by the U.S. Department of Energy and the Electric Power Research Institute. Data gathered from the cask will be used to confirm the effects of long-term dry storage on high burn-up assemblies.

DATES: September 21, 2017.

ADDRESSES: Please refer to Docket ID NRC–2015–0237 when contacting the NRC about the availability of

information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

• *Federal Rulemaking Web site*: Go to *http://www.regulations.gov* and search for Docket ID NRC–2015–0237. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

• *NRC's Agencywide Documents Access and Management System (ADAMS)*: You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents*'' and then select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document. In addition, for the convenience of the reader, the ADAMS accession numbers are provided in a table in the ''Availability of Documents'' section of this document.

• *NRC's PDR*: You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Chris Allen, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–6877; email: *William.Allen@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Discussion

By letter dated August 24, 2015, as supplemented October 8, November 18, November 19, December 1, and December 28, 2015; January 14, March 22, March 23, April 21, June 21, July 26, September 23, November 22, 2016, and April 10, 2017, Dominion submitted to the NRC, in accordance with part 72 of title 10 of the *Code of Federal Register* (10 CFR), a request to amend License No. SNM–2507 for its NAPS ISFSI located in Louisa County, Virginia. This ISFSI contains spent fuel that was generated at the NAPS Unit 1 and 2 reactors. License No. SNM–2507 authorizes Dominion to receive, possess, store, and transfer spent nuclear fuel and associated radioactive materials at the NAPS ISFSI. Specifically, Dominion requested approval to revise the NAPS ISFSI TS to allow storage of spent fuel in a modified TN–32B bolted lid cask as part of the High Burn-up Dry Storage Cask Research and Development Project sponsored by the Department of Energy and the Electric Power Research Institute.

The NRC issued a letter dated September 25, 2015, notifying Dominion that the application was acceptable for review. In accordance with 10 CFR 72.46(a), a notice of proposed action and opportunity for hearing was published in the **Federal Register** on October 13, 2015 (80 FR 61500). No requests for a hearing or for leave to intervene were submitted. Accordingly, pursuant to 10 CFR 72.46(d), the NRC is publishing this notice that the action proposed by Dominion in its license amendment request has been taken.

The NRC prepared a safety evaluation report that documents its review and evaluation of the amendment request. Also in connection with this action, the NRC prepared an Environmental Assessment containing a Finding of No Significant Impact. The Notice of Availability of the Environmental Assessment and Finding of No Significant Impact for the NAPS ISFSI was published in the **Federal Register** on June 30, 2016 (81 FR 42743).

Upon completing its review, the staff determined that the amendment request complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), as well as the NRC's applicable regulations. As required by the Act and such regulations, the staff made the appropriate findings which are contained in the safety evaluation report and the Environmental Assessment. Based on these findings, the NRC approved Dominion's amendment request and accordingly issued Amendment No. 5 to License No. SNM–2507. Amendment No. 5 was effective as of its date of issuance.

II. Availability of Documents

The following table includes the ADAMS accession numbers for the documents referenced in this notice. For additional information on accessing ADAMS, see the **ADDRESSES** section of this document.

Document	ADAMS accession No.
Dominion application, dated August 24, 2015	ML15239B260
Acceptance Letter Issued, dated September 25, 2015	ML15271A044
Supplemental Information Submittal, dated October 8, 2015	ML15289A189
Supplemental Information Submittal, dated November 18, 2015	ML15328A483
Supplemental Information Submittal, dated November 19, 2015	ML16022A073
Re-Submittal of Clean and Marked-Up Technical Specifications, dated December 1, 2015	ML15342A065
Supplemental Structural Information Submittal, dated December 28, 2015	ML16004A108
Supplemental Information Submittal, dated January 14, 2016	ML16019A335
Request for Additional Information Responses, dated March 22, 2016	ML16089A091
Responses to Environmental Review Questions for North Anna HBU Amendment, dated March 23, 2016	ML16083A527
Supplemental Information for Request for Additional Information Responses, dated April 21, 2016	ML16118A205
Supplemental Information for Request for Additional Information Responses, dated June 21, 2016	ML16176A239
Final Environmental Assessment, dated June 24, 2016	ML16168A104
Supplemental Information Submittal, dated July 26, 2016	ML16211A077
Second Request for Additional Information Responses, dated September 23, 2016	ML16272A388
Supplemental Information for Second Request for Additional Information Responses, dated November 22, 2016	ML16330A654
Supplemental Information for Second Request for Additional Information Responses, dated April 10, 2017	ML17109A469
Revised Technical Specifications and Transmittal E-Mail	ML17165A454
Amended License, dated September 13, 2017	ML17234A534

Dated at Rockville, Maryland, this 13 day of September, 2017.

For the Nuclear Regulatory Commission.

John McKirgan,

Chief, Spent Fuel Licensing Branch, Division of Spent Fuel Management, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 2017–20156 Filed 9–20–17; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2017–0040]

Initiatives To Address Gas Accumulation Following Generic Letter 2008–01

AGENCY: Nuclear Regulatory Commission.

ACTION: Draft regulatory issue summary; withdrawal.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is withdrawing draft Regulatory Issue Summary (RIS) 2017–XX, ''Status of Regulatory Actions Taken to Address Gas Accumulation in Emergency Core Cooling, Decay Heat Removal, and Containment Spray Systems.'' The NRC has decided to withdraw this RIS after reviewing the comments received during the public comment period.

DATES: The date of the withdrawal is September 21, 2017.

ADDRESSES: Please refer to Docket ID NRC–2017–0040 when contacting the NRC about the availability of information regarding this document. You may obtain publicly available information related to this document using any of the following methods:

• *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2017–0040. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

• *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents*'' and then select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced in this notice (if that document is available in ADAMS) is provided the first time that a document is referenced.

• *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Diana Woodyatt, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington DC 20555–000; telephone: 301–415–1245, email: *Diana.Woodyatt@nrc.gov*.

SUPPLEMENTARY INFORMATION: The NRC is withdrawing draft RIS 2017–XX ''Status of Regulatory Actions Taken to Address Gas Accumulation in Emergency Core Cooling, Decay Heat Removal, and Containment Spray Systems'' (ADAMS Accession No. ML16244A787). The NRC published a notice requesting public comment on this RIS in the **Federal Register** on February 13, 2017 (82 FR 10504). The NRC issues RISs to communicate with stakeholders on a broad range of matters. The draft RIS informed affected entities that licensees who choose not to implement two voluntary industry efforts to address gas accumulation issues must ensure that systems remain operable with respect to the potential for accumulation of gas, in accordance with their plant-specific technical specifications and their plants' licensing basis. Generic programmatic and licensing concerns with respect to gas accumulation were identified through the NRC's review of responses to Generic Letter (GL) 2008–01, ''Managing Gas Accumulation in Emergency Core Cooling, Decay Heat Removal, and Containment Spray Systems,'' dated January 11, 2008 (ADAMS Accession No. ML072910759).

As a result of its review of comments received on the RIS, the NRC has determined that final issuance of this RIS is not necessary. The agency received comments on the RIS from the Nuclear Energy Institute (ADAMS Accession No. ML17079A134), Southern Nuclear (ADAMS No. ML17081A016), and the Tennessee Valley Authority (ADAMS No. ML17081A017). Among other things, these comments pointed out that much of the guidance discussed in the RIS was issued after GL 2008–01, and suggested that discussing that guidance might confuse licensees about whether they need to perform additional actions in response to GL 2008–01. The NRC previously issued plant-specific closure letters following its review of licensee information submitted in response to GL 2008–01 and determined that no additional action was required.

Dated at Rockville, Maryland, this 8th day of September 2017.

For the Nuclear Regulatory Commission.

Alexander D. Garmoe,

Chief (Acting), Generic Communications Branch, Division of Policy and Rulemaking, Office of Nuclear Reactor Regulation.

[FR Doc. 2017–20118 Filed 9–20–17; 8:45 am]

BILLING CODE 7590–01–P

OVERSEAS PRIVATE INVESTMENT CORPORATION

[OPIC–252, OMB 3420–0036]

Submission for OMB Review; Comments Request

AGENCY: Overseas Private Investment Corporation (OPIC).

ACTION: Notice and request for comments.

SUMMARY: Under the provisions of the Paperwork Reduction Act, agencies are required to publish a Notice in the **Federal Register** notifying the public that the agency is renewing an existing information collection form for OMB review and approval and requests public review and comment on the submission. Comments are being solicited on the need for the information; the accuracy of OPIC's burden estimate; the quality, practical utility, and clarity of the information to be collected; and ways to minimize reporting the burden, including automated collected techniques and uses of other forms of technology.

DATES: Comments must be received within sixty (60) calendar days of publication of this Notice.

ADDRESSES: Mail all comments and requests for copies of the subject form to OPIC's Agency Submitting Officer: James Bobbitt, Overseas Private Investment Corporation, 1100 New York Avenue NW., Washington, DC 20527. See **SUPPLEMENTARY INFORMATION** for other information about filing.

FOR FURTHER INFORMATION CONTACT: OPIC Agency Submitting Officer: James Bobbitt, (202) 336–8558.

SUPPLEMENTARY INFORMATION: All mailed comments and requests for copies of the subject form should include form number OPIC–252 on both the envelope and in the subject line of the letter. Electronic comments and requests for copies of the subject form may be sent to *James.Bobbitt@opic.gov,* subject line OPIC–252.

Summary Form Under Review

Type of Request: Extension without change of a currently approved information collection.

Title: U.S. Effects Screening Questionnaire.

Form Number: OPIC–252.

Frequency of Use: One per investor per project per year (as needed) and OPIC-supported financial intermediaries (as required by finance agreement or insurance contract).

Type of Respondents: Business or other institutions; individuals.

Standard Industrial Classification Codes: All.

Description of Affected Public: U.S. companies or citizens investing overseas.

Reporting Hours: 200 (2 hours per form).

Number of Responses: 100 per year.

Federal Cost: $15,276.

Authority for Information Collection: Sections 231 (k)–(m) of the Foreign Assistance Act of 1961, as amended.

Abstract (Needs and Uses): The U.S. Effects Screening Questionnaire is used to identify potential negative impacts on the U.S. economy and employment which could result from the investment. This form is submitted prior to a formal OPIC application or as required by OPIC-supported financial intermediaries. Title VI of the Foreign Assistance Act of 1961, as amended, (codified as 22 U.S.C. 2191 *et seq.*) prohibits OPIC from supporting investments that are likely to cause the loss of U.S. jobs, or that have performance requirements that may reduce substantially the positive trade benefits likely to accrue to the U.S. from the investment.

Dated: September 18, 2017.

Nichole Skoyles,

Administrative Counsel, Department of Legal Affairs.

[FR Doc. 2017–20124 Filed 9–20–17; 8:45 am]

BILLING CODE 3210–01–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for Review: Federal Employees Health Benefits (FEHB) Open Season Express Interactive Voice Response (IVR) System and Open Season Web Site

AGENCY: Office of Personnel Management.

ACTION: 30-Day notice and request for comments.

SUMMARY: The Retirement Services, Office of Personnel Management (OPM) offers the general public and other federal agencies the opportunity to comment on a revised information collection request (ICR), Federal Employees Health Benefits (FEHB) Open Season Express Interactive Voice Response (IVR) System and the Open Season Web site, Open Season Online.

DATES: Comments are encouraged and will be accepted until October 23, 2017.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503, Attention: Desk Officer for the Office of Personnel Management or sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: A copy of this ICR, with applicable supporting documentation, may be obtained by contacting the Retirement Services Publications Team, Office of Personnel Management, 1900 E Street NW., Room 3316–L, Washington, DC 20415, Attention: Cyrus S. Benson, or sent via electronic mail to *Cyrus.Benson@opm.gov* or faxed to (202) 606–0910.

SUPPLEMENTARY INFORMATION: As required by the Paperwork Reduction Act of 1995, (Pub. L. 104–13, 44 U.S.C. chapter 35) as amended by the Clinger-Cohen Act (Pub. L. 104–106), OPM is soliciting comments for this collection. The information collection (OMB No. 3206–0201) was previously published in the **Federal Register** on May 17, 2017, at 82 FR 22678, allowing for a 60-day public comment period. No comments were received for this collection. The purpose of this notice is to allow an additional 30 days for public comments. The Office of Management and Budget is particularly interested in comments that:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Minimize the burden of the collection of information on 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 submissions of responses.

Federal Employees Health Benefits (FEHB) Open Season Express Interactive Voice Response (IVR) System, and the Open Season Web site, Open Season Online, are used by retirees and survivors. They collect information for changing FEHB enrollments, collecting dependent and other insurance information for self and family enrollments, requesting plan brochures, requesting a change of address, requesting cancellation or suspension of FEHB benefits, asking to make payment to the Office of Personnel Management when the FEHB payment is greater than the monthly annuity amount, or for requesting FEHB plan accreditation and Customer Satisfaction Survey information.

Analysis

Agency: Retirement Operations, Retirement Services, Office of Personnel Management.

Title: Federal Employees Health Benefits (FEHB) Open Season Express Interactive Voice Response (IVR) System and Open Season Online.

OMB Number: 3206–0201.

Frequency: On occasion.

Affected Public: Individual or Households.

Number of Respondents: 350,100.

Estimated Time per Respondent: 10 minutes.

Total Burden Hours: 58,350 hours.

U.S. Office of Personnel Management.

Kathleen M. McGettigan,

Acting Director.

[FR Doc. 2017–20096 Filed 9–20–17; 8:45 am]

BILLING CODE 6325–38–P

POSTAL REGULATORY COMMISSION

[Docket Nos. CP2016–93; CP2016–138; MC2017–203 and CP2017–310; CP2017–311]

New Postal Products

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing for the Commission's consideration concerning a negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* September 25, 2017.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://*

www.prc.gov. Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction

The Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service agreement from the market dominant or the competitive product list, or the modification of an existing product currently appearing on the market dominant or the competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's Web site (*http://www.prc.gov*). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3007.40.

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern market dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3010, and 39 CFR part 3020, subpart B. For request(s) that the Postal Service states concern competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comment deadline(s) for each request appear in section II.

II. Docketed Proceeding(s)

1. *Docket No(s).:* CP2016–93; *Filing Title:* Notice of United States Postal Service of Change in Prices Pursuant to Amendment to Parcel Select Contract 13; *Filing Acceptance Date:* September 15, 2017; *Filing Authority:* 39 CFR 3015.5, *Public Representative:* Matthew R. Ashford; *Comments Due:* September 25, 2017.

2. *Docket No(s).:* CP2016–138; *Filing Title:* Notice of United States Postal Service of Change in Prices Pursuant to Amendment to Priority Mail Contract 203; *Filing Acceptance Date:* September 15, 2017; *Filing Authority:* 39 CFR 3015.5, *Public Representative:* Matthew R. Ashford; *Comments Due:* September 25, 2017.

3. *Docket No(s).:* MC2017–203 and CP2017–310; *Filing Title:* Request of the United States Postal Service to Add First-Class Package Service Contract 81 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data; *Filing Acceptance Date:* September 15, 2017; *Filing Authority:* 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq., Public Representative:* Katalin K. Clendenin; *Comments Due:* September 25, 2017.

4. *Docket No(s).:* CP2017–311; *Filing Title:* Notice of United States Postal Service of Filing a Functionally Equivalent Global Expedited Package Services 3 Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal; *Filing Acceptance Date:* September 15, 2017; *Filing Authority:* 39 CFR 3015.5, *Public Representative:* Katalin K. Clendenin; *Comments Due:* September 25, 2017.

This notice will be published in the **Federal Register**.

Stacy L. Ruble,

Secretary.

[FR Doc. 2017–20129 Filed 9–20–17; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL SERVICE

Product Change—First-Class Package Service Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of notice required under 39 U.S.C. 3642(d)(1):* September 21, 2017.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on September 15, 2017, it filed with the Postal Regulatory Commission a *Request of the United States Postal Service to Add First-Class Package Service Contract 81 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2017–203, CP2017–310.

Elizabeth A. Reed,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2017–20063 Filed 9–20–17; 8:45 am]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81630; File No. SR–PHLX–2017–56]

Self-Regulatory Organizations; NASDAQ PHLX LLC; Order Approving Proposed Rule Change to a Proposal To Amend Rule 1027, Discretionary Accounts, To Conform It More Closely to a Comparable Rule of the Chicago Board Options Exchange (''CBOE'') and To Make Minor Corrections and Clarifications

September 15, 2017.

I. Introduction

On July 20, 2017, NASDAQ PHLX LLC (''Phlx'' or ''Exchange'') 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] proposed rule changes to amend Phlx Rule 1027 (Discretionary Accounts).

The proposed rule changes were published for comment in the **Federal Register** on August 4, 2017.[3] The public comment period closed on August 25, 2017. The Commission received no comments on the proposed rule changes. This order approves the proposed rule changes.

II. Description of the Proposed Rule Changes [4]

Rule 1027 generally imposes restrictions and various requirements on

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Exchange Act Release No. 81270 (Jul. 31, 2017), 82 FR 36469 (Aug. 4, 2017) (''Notice'').

[4] The subsequent description of the proposed rule change is substantially excerpted from the

members [5] and partners and employees of member organizations [6] regarding the exercise of discretionary power with respect to trading in options in a customer's accounts. The Exchange proposes to amend Rule 1027 in a number of respects to eliminate redundant rule text, clarify certain rule text, and conform parts of the rule more closely to CBOE Rule 9.10, Discretionary Accounts.[7]

Rule 1027(a) Authorization and Approval Required

Rules 1027(a)(i) and (ii) apply to stock or exchange-traded fund share options and foreign currency options, respectively. These provisions prohibit the exercise of any discretionary power with respect to trading in options contracts in a customer's account unless such customer has given prior written authorization with respect to such trading and the account has been accepted in writing by a designated Registered Options Principal or, in the case of foreign currency options, a Foreign Currency Options Principal.

The Exchange proposes to amend Rule 1027(a)(i) to include index options, as their current exclusion from the rule is without a rational basis and was likely an oversight. The Exchange also proposes to expand the rule to cover member organizations, to be more consistent with the comparable CBOE rule which applies to CBOE Trading Permit Holder (''TPH'') organizations.[8] References to Registered Options Principal ''qualified persons'' or ''qualified individuals'' in Rule 1027(a)(i) are proposed to be amended in order to refer only to ''Registered Options Principals,'' in order to eliminate needless ambiguity and lack of clarity as to who is a Registered Options Principal ''qualified person'' or ''qualified individual.'' Additionally, the last two sentences of Rule 1027(a)(i) currently provide that every discretionary order shall be identified as discretionary at the time of entry, and that discretionary accounts shall receive frequent review by a Registered Options Principal qualified person specifically delegated such responsibilities under Rule 1025, who is not exercising the discretionary authority. These sentences are largely duplicative of existing Rule 1027(a)(iii) and are therefore proposed to be deleted.

The Exchange proposes to delete from Rule 1027(a)(iii) a reference to ''Compliance Registered Option Principal,'' a term which the Exchange no longer uses, and proposes to substitute the term ''Registered Options Principal.'' It also proposes to amend that section by adding language requiring the Registered Options Principal providing appropriate supervisory review to be specifically delegated such responsibilities under Rule 1025 and not be the Registered Options Principal exercising the discretionary review. These changes would conform Rule 1027(a)(iii) to the duplicative language deleted from Rule 1027(a)(i) as described above. The Exchange also proposes to delete the last sentence of Rule 1027(a)(iii), which provides that the provisions of paragraph (a) shall not apply to discretion as to the price at which or the time when an order given by a customer for the purchase or sale of a definite number of option contracts in a specified security or foreign currency shall be executed. This sentence is largely duplicative of existing language in Rule 1027(e), Discretion as to Time or Price Excepted. Rule 1027(e), however, is proposed to be amended by the addition of a reference to ''foreign currency'' which was present in the deleted sentence of Rule 1027(a)(iii).

The Exchange is proposing no changes to Rule 1027(a)(iv), which extends the provisions of Rule 1027 to index warrants, as no changes are required.

Rule 1027(c) Prohibited Transactions

Currently, Rule 1027(c) prohibits members as well as partners, officers and employees of a member organization having discretionary power over a customer's account from, in the exercise of such discretion, executing or causing to be executed therein any purchases or sales of option contracts which are excessive in size or frequency in view of the financial resources in such account. The prohibition is proposed to be reworded, to conform Phlx Rule 1027(c) more closely to CBOE Rule 9.10, Discretionary Accounts, section (c). Additionally, the rule would be expanded to cover member organizations as well as members and partners and employees of member organizations.

Rule 1027(d) Record of Transactions

Rule 1027(d) currently requires a record to be made of every transaction in option contracts in respect to which a member or a partner, officer or employee of a member organization has exercised discretionary authority, clearly reflecting such fact and indicating the name of the customer, the designation and number of the option contracts, the premium and the date and time when such transaction was effected. The Exchange proposes to reword the rule so that it applies to option transactions for an account in respect to which a member or member organization or a partner, officer or employee of a member organization is vested with any discretionary authority, and to detail the required content of the record. The revision proposed for Rule 1027(d) would conform the rule more closely to CBOE Rule 9.10, Discretionary Accounts, section (b), which extends to CBOE TPH organizations, except that the Exchange proposes to retain the existing requirement that the transaction record clearly reflect that the member (or, as the rule is proposed to be amended, member organization) or a partner,

Exchange's description in the Notice. *See* Notice, 82 FR 36469–71.

[5] Exchange Rule 1(n) defines ''member'' as a permit holder which has not been terminated in accordance with the By-Laws and Rules of the Exchange. The Exchange has issued ''Series A–1'' permits, which confer on the holder rights and privileges, and impose on the holder the obligations, set forth in Exchange Rule 908. Under Exchange Rule 908(b), a Series A–1 permit may only be issued to an individual who is a natural person of at least twenty-one (21) years of age, or to a corporation meeting the eligibility and application requirements set forth in the By-Laws and Rules.

[6] Rule 1(o) defines ''member organization'' as ''a corporation, partnership (general or limited), limited liability partnership, limited liability company, business trust or similar organization, transacting business as a broker or a dealer in securities and which has the status of a member organization by virtue of (i) admission to membership given to it by the Membership Department pursuant to the provisions of Rules 900.1 or 900.2 or the By-Laws or (ii) the transitional rules adopted by the Exchange pursuant to Section 6–4 of the By-Laws.'' Rule 901(a) provides in part that ''[t]he Membership Department shall have jurisdiction over the issuance of memberships (in respect of members and member organizations) and permits and over applications by non-members for admission as members.'' Rule 901(c) provides that ''[a]ll applications to qualify and register a corporation or other entity as a member organization and all applications for reinstatement of any qualification or registration of a member organization shall be referred to the Membership Department which shall investigate and act thereon.''

[7] CBOE Rule 9.10 was substantially amended in Securities Exchange Act Release No. 56492 (September 21, 2007), 72 FR 54952 (September 27, 2007) (SR–CBOE–2007–106) to create a supervisory structure for options that is similar to that required by New York Stock Exchange (''NYSE'') and National Association of Securities Dealers (''NASD'') rules. On July 26, 2007, the Commission approved a proposed rule change filed by NASD to amend NASD's Certificate of Incorporation to reflect its name change to Financial Industry Regulatory Authority Inc., or FINRA, in connection with the consolidation of the member firm regulatory functions of NASD and NYSE Regulation, Inc. *See* Securities Exchange Act Release No. 56146 (July 26, 2007).

[8] Rule 1027(a)(ii) addresses foreign currency options and has no counterpart in CBOE Rule 9.10(a). The Exchange is nevertheless proposing to revise Rule 1027(a)(ii) by expanding its scope to include member organizations for consistency with Rule 1027(a)(i) in terms of extent of coverage of the rule.

officer or employee of a member organization has exercised discretionary authority, as the Exchange believes this to be important information with respect to a transaction.

Rule 1027(e) Discretion as to Time or Price Excepted

As discussed above the Exchange proposes to amend Rule 1027(e), which generally excludes price and time discretion from the requirements of Rule 1027, to cover foreign currency options. The Exchange also proposes to correct an internal cross reference to ''this paragraph (d)'' which should read ''this paragraph (e).''

III. Discussion and Commission Findings

After careful review of the proposed rule change, 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 exchange.[9] Specifically, the Commission finds that the proposed rule changes are consistent with Section 6(b)(5) of the Exchange Act,[10] which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices; 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. Section 6(b)(5) also requires that the rules of an exchange not be designed to permit unfair discrimination among customers, issuers, brokers, or dealers.

The proposal is designed to ''remove impediments to and perfect the mechanism of a free and open market and a national market system, by eliminating redundant rule text, clarifying certain rule text, and conforming parts of the rule more closely to CBOE Rule 9.10, Discretionary Accounts.'' [11] The Commission notes that Phlx believes that harmonizing its rule regarding discretionary accounts with its CBOE counterpart will create ''more efficient regulatory compliance by members of both exchanges due to reduction of differences in wording and consequent potential for inadvertent regulatory noncompliance.'' [12] The Commission further notes that Phlx believes that harmonizing Rule 1027 with its CBOE counterpart will ''further the goal of harmonized examinations and enforcement of similar rules, thus reducing duplicative regulatory efforts'' and thus lowering overall regulatory costs imposed on member organizations and, by extension, the general public.[13] The Commission notes that the proposal received no comments from the public. Taking into consideration the Exchange's views about the proposed amendments, the Commission believes that the proposal will promote regulatory efficiency through more streamlined rule text that avoids unnecessary redundancy, clarification of the meaning and scope of the rule, and greater harmonization of regulatory requirements across national securities exchanges, thereby reducing regulatory burdens, without undermining strong regulatory protections for investors. The Commission believes that the approach proposed by the Exchange is appropriate and designed to protect investors and the public interest, consistent with Section 6(b)(5) 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.

IV. Conclusion

It is therefore ordered pursuant to Section 19(b)(2) [14] of the Exchange Act that the proposal (SR–PHLX–2017–56), be and hereby is approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–20087 Filed 9–20–17; 8:45 am]

BILLING CODE 8011–01–P

[9] 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).

[10] 15 U.S.C. 78f(b)(5).

[11] Notice, 82 FR at 36471.

[12] *Id.*

[13] *See id.*

[14] 15 U.S.C. 78s(b)(2).

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34- 81635; File Nos. SR–DTC–2017–013; SR–NSCC–2017–012; SR–FICC–2017–016]

Self-Regulatory Organizations; The Depository Trust Company; National Securities Clearing Corporation; Fixed Income Clearing Corporation; Order Approving Proposed Rule Changes To Adopt the Clearing Agency Risk Management Framework

September 15, 2017.

I. Introduction

On July 14, 2017, The Depository Trust Company (''DTC''), National Securities Clearing Corporation (''NSCC''), and Fixed Income Clearing Corporation (''FICC,'' each a ''Clearing Agency,'' and collectively the ''Clearing Agencies''), filed with the Securities and Exchange Commission (''Commission'') proposed rule changes SR–DTC–2017–013, SR–NSCC–2017–012, and SR–FICC–2017–016, respectively, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder.[2] The proposed rule changes were published for comment in the **Federal Register** on August 2, 2017.[3] The Commission did not receive any comment letters on the proposed rule changes. For the reasons discussed below, the Commission approves the proposed rule changes.

II. Description of the Proposed Rule Changes

The proposed rule changes are proposals by the Clearing Agencies to adopt the Clearing Agency Risk Management Framework (''Framework'') of the Clearing Agencies, as described below.

A. Overview of the Framework

The Framework would describe how each Clearing Agency (i) comprehensively manages legal, credit, liquidity, operational, general business, investment, custody, and other risks that arise in or are borne by it (''Key Clearing Agency Risks''); (ii) manages risks posed by its participants; [4] (iii)

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 81248 (July 28, 2017), 82 FR 36049 (August 2, 2017) (SR–DTC–2017–013, SR–NSCC–2017–012, SR–FICC–2017–016) (''Notice'').

[4] FICC and NSCC refer to their participants as ''Members,'' while DTC refers to its participants as ''Participants.'' These terms are defined in the Clearing Agencies' Rules. In this filing, as well as in the Framework, ''participant'' or ''participants'' refers to both the Members of FICC and NSCC, and the Participants of DTC.

manages risks related to material interdependencies and external links; and (iv) provides services responsive to market needs.[5] The Framework would be maintained by the General Counsel's Office (''GCO'') of DTCC.[6] The Framework would provide that GCO reviews the Framework at least annually, in coordination with all departments responsible for the processes described in the Framework.[7]

B. Comprehensive Management of Key Clearing Agency Risks

The Framework would state that the Boards of Directors of the Clearing Agencies (each a ''Board'' and together, the ''Boards'') have delegated to DTCC management, on behalf of the Clearing Agencies, the responsibility for identifying, assessing, measuring, monitoring, mitigating, and reporting Key Clearing Agency Risks through a process of developing individual risk tolerance statements for identified risks.[8] The Framework would state that these risk tolerance statements describe the applicable risk controls and other measures used to manage risks.[9] If needed, residual risks may be identified for either further management or acceptance, which then follows a defined escalation and approval process.[10] The Framework would also state that DTCC management, on behalf of the Clearing Agencies, is responsible for the day-to-day management of those residual risks.[11] Finally, the Framework would describe the governance around updating risk tolerance statements, which are reviewed and approved by a management committee, the Risk Committee of the Boards, and the Boards at least annually.[12] The Framework would provide that the Clearing Agencies manage Key Clearing Agency Risks through (i) a ''Three Lines of Defense'' approach, as described below, and (ii) the maintenance of risk management policies, procedures, Clearing Agencies' Rules, and frameworks, as described below.

1. Three Lines of Defense

The Framework would provide that the Clearing Agencies employ a ''Three Lines of Defense'' approach for comprehensively managing Key Clearing Agency Risks.[13] The Framework would describe the roles of personnel and business units in this risk management approach, which includes (i) a first line of defense comprised of the various business lines and functional units that support the products and services offered by the Clearing Agencies (collectively, ''Clearing Agency Business/Support Areas''); (ii) a second line of defense comprised of control functions that support the Clearing Agencies, including the organization's legal, privacy and compliance areas, as well as the DTCC Risk Department, which is specifically dedicated to risk management concerns (collectively, ''Clearing Agency Control Functions''); and (iii) a third line of defense, which is performed by DTCC Internal Audit.[14]

For the first line of defense, the Framework would state that each Clearing Agency Business/Support Area would, for example, identify Key Clearing Agency Risks applicable to its function, determine the best way to mitigate such risks, self-test internal controls, and create and implement actions plans for risk mitigation.[15] For the second line of defense, the Framework would state that each Clearing Agency's Control Functions would, for example, work with the Clearing Agency Business/Support Areas on efforts to mitigate Key Clearing Agency Risks, and provide tools to those groups to enable them to analyze, monitor and proactively manage those risks.[16] Finally, for the third line of defense, the Framework would identify the role of DTCC Internal Audit as including, for example, directing its own resources to review and test key controls that help mitigate significant Key Clearing Agency Risks, then reporting on the results of that testing.[17]

In connection with a description of the second and the third lines of defense, the Framework would state that personnel within the DTCC Risk Department and the DTCC Internal Audit are provided with sufficient authority, resources, independence from management, and access to the Boards.[18] The Framework would provide that the DTCC Risk Department and the DTCC Internal Audit are functionally independent from all other Clearing Agency Business/Support Areas.[19] The Framework would also explain that the personnel within the DTCC Risk Department and the DTCC Internal Audit have a direct reporting line to, and oversight by, the Risk Committee of the Boards and the Audit Committee of the Boards, respectively, which is supported by the charters of these committees.[20] The Framework would state that a set of senior management committees provide oversight of the Three Lines of Defense approach to manage Key Clearing Agency Risks as well as other aspects of the Clearing Agencies' risk management.[21]

2. Policies, Procedures, Clearing Agencies' Rules, and Risk Management Frameworks

The Framework would provide that the Clearing Agencies maintain a policy to govern the requirements for establishing, managing, and assessing the performance of internal committees and councils.[22] The Framework would also describe the process by which the Clearing Agencies maintain risk management policies, procedures, Clearing Agencies' Rules, frameworks, and other documents designed to identify, measure, monitor, and manage Key Clearing Agency Risks.[23]

The Framework would describe policies maintained by the Clearing Agencies that (i) govern the steps taken to meet their regulatory requirements related to proposed rule change and advance notice filings pursuant to Section 19(b)(1) of the Act,[24] and Section 806(e)(1) of Title VIII of the Dodd-Frank Wall Street Reform and Consumer Protection Act, entitled the Payment, Clearing, and Settlement Supervision Act of 2010,[25] and the rules thereunder (collectively, ''Filing Requirements''); and (ii) establish standards and a holistic approach for creating and managing risk management policies, procedures, Clearing Agencies' Rules, frameworks, and other documents, including periodic reviews and governance approval of such documents (''Document Standards'').[26] The Framework would provide that, with respect to those documents that address Key Clearing Agency Risks, the

[5] Notice, 82 FR at 36050.

[6] *Id.* The parent company of the Clearing Agencies is The Depository Trust & Clearing Corporation (''DTCC''). DTCC operates on a shared services model with respect to the Clearing Agencies. Most corporate functions are established and managed on an enterprise-wide basis pursuant to intercompany agreements under which it is generally DTCC that provides a relevant service to a Clearing Agency.

[7] Notice, 82 FR at 36050.

[8] *Id.*

[9] *Id.*

[10] *Id.*

[11] *Id.*

[12] *Id.*

[13] *Id.*

[14] *Id.*

[15] *Id.*

[16] *Id.*

[17] *Id.*

[18] *Id.*

[19] *Id.*

[20] Notice, 82 FR at 36050–51.

[21] Notice, 82 FR at 36051.

[22] *Id.*

[23] *Id.*

[24] *Id.;* 15 U.S.C. 78s(b)(1).

[25] Notice, 82 FR at 36051; 12 U.S.C. 5465(e)(1).

[26] Notice, 82 FR at 36051.

Document Standards require annual approval by the Boards.[27]

The Framework would describe how the Clearing Agencies maintain the Clearing Agencies' Rules, which support the Clearing Agencies' ability to provide for a well-founded, clear, transparent and enforceable legal basis for each aspect of their activities in all relevant jurisdictions.[28] Maintenance of the Clearing Agencies' Rules is supported by the policy governing the Filing Requirements and the Document Standards, described above.[29] The Framework would state that the Clearing Agencies' Rules establish the membership onboarding process of the Clearing Agencies.[30] The Framework would also state that the Clearing Agencies may adopt and maintain other risk management frameworks, separate from the Framework, that address, in whole or in part, the management of other Key Clearing Agency Risks such as the management of operational, liquidity, and market risks.[31]

C. Information and Incentives for Management of Risks by Participants

The Framework would describe how the Clearing Agencies provide their respective participants with information and incentives to enable them to monitor, manage, and contain the risks they pose (including the risks by their customers) to the respective Clearing Agencies.[32] The Framework would identify some of the sources of the information that are made available to the Clearing Agencies' participants, including, for example, (i) materials on the DTCC Web site, such as the Clearing Agencies' Rules, user guides, and training courses, and regularly updated disclosures made pursuant to the guidelines published by the Committee on Payment and Settlement Systems and the Technical Committee of the International Organization of Securities Commissions; and (ii) reports regarding the Clearing Agencies' margin and liquidity requirements and their transaction volumes and values, as applicable.[33]

The Framework would also describe some of the incentives used by the Clearing Agencies to enable their participants to monitor, manage, and contain risks they pose to the Clearing Agencies, including, for example, (i) daily margin requirements, pursuant to the Clearing Agencies' Rules, which are calculated in close correlation to the risk each participant poses to the relevant Clearing Agency; and (ii) other tools within the Clearing Agencies' Rules that enable the Clearing Agencies to enforce their respective Rules against their participants.[34]

D. Management of Risks Related to Material Interdependencies and External Links

The Framework would describe how the Clearing Agencies regularly review the material risks they bear from and pose to other entities as a result of material interdependencies and external links.[35] The Framework would identify some of the Clearing Agencies' material interdependencies between the Clearing Agencies and other entities which may include, for example, Clearing Agencies' participants, settling banks, investment counterparties, liquidity providers, vendors, and service providers.[36] With respect to the links between the Clearing Agencies and material external interdependent entities, the Framework would describe how the Clearing Agencies review and monitor any resulting risks that are driven by the nature of the relationship.[37] For example, risks related to the Clearing Agencies' link to their respective participants and settling banks are addressed through tools found within the Clearing Agencies' Rules, as these entities are bound by the Rules.[38] The Framework would also describe the Clearing Agencies' management and monitoring of risks that have the potential of creating systemic risks.[39] In addition, the Framework would provide how the Clearing Agencies utilize a series of comprehensive reviews that include input from a cross-functional group to identify, monitor, and manage risks related to all external links of the Clearing Agencies.[40]

The Framework would provide that risks arising from links to vendors are identified, assessed, controlled, and monitored through a comprehensive review and vetting process.[41] The Framework would describe how a risk-based approach is employed to assess the need and level of due diligence activities associated with the evaluation of potential vendors and with the re-evaluation of existing vendors.[42] The Framework would state that this process involves the review of certain information related to a proposed vendor relationship, which should focus on confidentiality, integrity, availability, and recoverability related to that relationship.[43] The Framework would also describe how risk related to existing vendor relationships is reviewed periodically, throughout the lifecycle of the relationship.[44]

E. Scope of Services Responsive to Market Needs

The Framework would describe how the Clearing Agencies meet the requirements of their participants and the markets they serve.[45] The Framework would describe the Clearing Agencies' structured approach for the implementation of new initiatives, which includes conducting a comprehensive risk assessment of new initiatives.[46] These reviews address, among other matters, compliance with applicable laws, regulations, and standards.[47]

The Framework would also describe the Clearing Agencies' role in industry-wide strategic initiatives through participation on industry working groups and the development and publication of concept papers.[48] The Framework would describe how the Clearing Agencies use periodic surveys and employ product-aligned customer service representatives to ensure clients receive the support they need.[49] The Framework would describe the Clearing Agencies' process for escalating and responding to certain customer complaints.[50] The Framework would also describe the Clearing Agencies' ''Core Balanced Business Scorecard,'' which is used by the Clearing Agencies to review and track the effectiveness of their operations, information technology service levels, financial performance, human capital, as well as their participants' experiences.[51]

F. Recovery and Orderly Wind-Down

The Framework would provide that the Clearing Agencies may maintain policies and procedures to govern the development of plans for recovery and orderly wind-down.[52] Such documents would define the roles and responsibilities of relevant business

[27] *Id.*
[28] *Id.*
[29] *Id.*
[30] *Id.*
[31] *Id.*
[32] *Id.*
[33] *Id.*
[34] *Id.*
[35] *Id.*
[36] *Id.*
[37] *Id.*
[38] *Id.*
[39] *Id.*
[40] Notice, 82 FR at 36051–52.
[41] Notice, 82 FR at 36051.
[42] *Id.*
[43] *Id.*
[44] *Id.*
[45] Notice, 82 FR at 36052.
[46] *Id.*
[47] *Id.*
[48] *Id.*
[49] *Id.*
[50] *Id.*
[51] *Id.*
[52] *Id.*

units in the development and documentation of the plans and would outline the general content of the plans.[53]

III. Discussion and Commission Findings

Section 19(b)(2)(C) of the Act directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that such proposed rule change is consistent with the requirements of the Act and rules and regulations thereunder applicable to such organization.[54] After carefully considering the proposed rule changes, the Commission finds that the proposed rule changes are consistent with the requirements of the Act and the rules and regulations thereunder applicable to the Clearing Agencies. Specifically, the Commission finds that the proposed rule changes are consistent with Section 17A(b)(3)(F) of the Act[55] and Rules 17Ad–22(e)(1), (e)(3)(i), (e)(3)(iii), (e)(3)(iv), (e)(20), and (e)(21) under the Act.[56]

A. Consistency With Section 17A(b)(3)(F) of the Act

Section 17A(b)(3)(F) of the Act requires, in part, that the rules of a registered clearing agency be designed to assure the safeguarding of securities and funds which are in the custody or control of the Clearing Agencies or for which they are responsible.[57]

As described above, the Framework would provide some of the ways the Clearing Agencies comprehensively manage Key Clearing Agency Risks, which include legal, credit, liquidity, operational, general business, investment, custody, and other risks that arise in or are borne by the Clearing Agencies. For example, the Framework would describe how the Clearing Agencies use the ''Three Lines of Defense'' approach to assessing, measuring, monitoring, mitigating, and reporting those risks, and would identify the roles and responsibilities of each line of defense within that approach. The Framework would also provide other risk management activities, including the establishment and maintenance of certain management committees that would perform oversight of the Clearing Agencies' businesses and related risk management. Furthermore, the Framework would describe information and incentives offered by the Clearing Agencies to their participants to manage and contain the risks. The Framework would also describe some of the ways to manage risks posed by material interdependency relationships and external links, and address the market needs efficiently and effectively.

By providing transparency to their risk management practices, the Framework is designed to help the Clearing Agencies be in a better position to prevent and manage the risks that arise in or are borne by the Clearing Agencies. By better managing the risks that arise in or are borne by the Clearing Agencies, the Framework is designed to help reduce the possibility that a Clearing Agency fails. By better positioning the Clearing Agencies to continue their critical operations and services, and mitigating the risk of financial loss contagion caused by a Clearing Agency failure, the Framework is designed to help assure the safeguarding of securities and funds which are in the custody or control of the Clearing Agencies, or for which they are responsible. Accordingly, the Commission believes that the proposed rule changes are consistent with Section 17A(b)(3)(F) of the Act.[58]

B. Consistency With Rule 17Ad–22(e)(1)

Rule 17Ad–22(e)(1) under the Act requires that each covered clearing agency establish, implement, maintain and enforce written policies and procedures reasonably designed to, provide for a well-founded, clear, transparent and enforceable legal basis for each aspect of its activities in all relevant jurisdictions.[59]

As described above, the Framework would describe the policies maintained by the Clearing Agencies that govern the Filing Requirements and the Document Standards. In addition, the Framework would describe how the Clearing Agencies maintain the Clearing Agencies' Rules. The Clearing Agencies' Rules are the key legal basis for each of the Clearing Agencies' respective activities described in the Clearing Agencies' Rules. For example, as part of the membership onboarding process, all participants must execute membership agreements, which binds them to the relevant Clearing Agency's Rules and subjects them to an enforceable contract governing the rights and obligations of the Clearing Agencies and those participants. The Framework would also describe how the Clearing Agencies' Rules are published on the DTCC Web site, and how the Clearing Agencies adhere to the Filing Requirements. The Framework would also describe how the Clearing Agencies review and assess risk related to their contractual arrangements with vendors, service providers, and other external parties with which the Clearing Agencies may establish links. The Framework would also describe the process by which the Clearing Agencies review new initiatives prior to implementation, which include a review of the legal risks that may be posed by those initiatives.

By organizing and describing in a central location the policies and procedures that the Clearing Agencies use to manage Key Clearing Agency Risks, as well as the Clearing Agencies' policies, procedures, Rules, frameworks, and other documents, the Framework is designed to help the Clearing Agencies manage, in a more clear and transparent way, the policies and procedures that define the rights and obligations of the Clearing Agencies, their participants, and other external parties. In doing so, the Framework also helps provide for a well-founded and enforceable legal basis for the activities of the Clearing Agencies. Therefore, the Commission believes that the Framework is consistent with the requirements of Rule 17Ad–22(e)(1).[60]

C. Consistency With Rule 17Ad–22(e)(3)(i), (e)(3)(iii), and (e)(3)(iv)

Rule 17Ad–22(e)(3)(i) under the Act requires, in part, that each covered clearing agency establish, implement, maintain and enforce written policies and procedures reasonably designed to maintain a sound risk management framework for comprehensively managing legal, credit, liquidity, operational, general business, investment, custody and other risks that arise in or are borne by the covered clearing agency, which includes risk management policies, procedures and systems designed to identify, measure, monitor and manage the range of risks that arise in or are borne by the covered clearing agency, that are subject to review on a specified periodic basis and approved by the board of directors annually.[61]

As described above, the Framework would describe how the Clearing Agencies maintain comprehensive policies, procedures, and other documents, including the Framework and certain other risk management frameworks, which are designed to help identify, measure, monitor, and manage Key Clearing Agency Risks. The Framework would state that the documents that address Key Clearing

[53] *Id.*

[54] 15 U.S.C. 78s(b)(2)(C).

[55] 15 U.S.C. 78q–1(b)(3)(F).

[56] 17 CFR 240.17Ad–22(e)(1), (e)(3)(i), (e)(3)(iii), (e)(3)(iv), (e)(20), and (e)(21).

[57] 15 U.S.C. 78q–1(b)(3)(F).

[58] *Id.*

[59] 17 CFR 240.17Ad–22(e)(1).

[60] *Id.*

[61] 17 CFR 240.17Ad–22(e)(3)(i).

Agency Risks are subject to annual approval by each of the Boards pursuant to the Document Standards. Furthermore, the Framework would describe how the Clearing Agencies identify, assess, measure, monitor, mitigate, and report risks through individual risk tolerance statements for identified risks, which are reviewed and approved by the Boards at least annually. Accordingly, the Commission believes that the Framework is consistent with Rule 17Ad–22(e)(3)(i).[62]

Rule 17Ad–22(e)(3)(iii) under the Act requires, in part, that each covered clearing agency establish, implement, maintain and enforce written policies and procedures reasonably designed to maintain a sound risk management framework for comprehensively managing legal, credit, liquidity, operational, general business, investment, custody and other risks that arise in or are borne by the covered clearing agency, which provides risk management and internal audit personnel with sufficient authority, resources, independence from management, and access to the board of directors.[63]

As described above, in connection with a description of the second and the third lines of defense, the Framework would state that personnel within the DTCC Risk Department and the DTCC Internal Audit are provided with sufficient authority, resources, independence from management, and access to the Boards. In particular, the Framework would describe how both the DTCC Risk Department and the DTCC Internal Audit are functionally independent from all other Clearing Agency Business/Support Areas. The Framework would also indicate how the senior management within both of those groups report directly to appropriate committees of the Boards. Accordingly, the Commission believes that the Framework is consistent with Rule 17Ad–22(e)(3)(iii).[64]

Rule 17Ad–22(e)(3)(iv) under the Act requires, in part, that each covered clearing agency establish, implement, maintain and enforce written policies and procedures reasonably designed to maintain a sound risk management framework for comprehensively managing legal, credit, liquidity, operational, general business, investment, custody and other risks that arise in or are borne by the covered clearing agency, which provides risk management and internal audit personnel with a direct reporting line to, and oversight by, a risk management committee and an independent audit committee of the board of directors, respectively.[65]

As described above, the Framework would describe, as the third line of defense, how senior management within the DTCC Risk Department and the DTCC Internal Audit have a direct reporting line to, and oversight by, the Risk Committee of the Boards and the Audit Committee of the Boards, respectively, which is supported by the charters of these committees. Accordingly, the Commission believes that the Framework is consistent with Rule 17Ad–22(e)(3)(iv).[66]

D. Consistency With Rule 17Ad–22(e)(20)

Rule 17Ad–22(e)(20) under the Act requires that each covered clearing agency establish, implement, maintain and enforce written policies and procedures reasonably designed to identify, monitor and manage risks related to any link the covered clearing agency establishes with one or more other clearing agencies, financial market utilities, or trading markets.[67]

As described above, the Framework would describe how the Clearing Agencies review both proposed and existing links with other entities, including those links that may result in material interdependencies. For example, the Framework would describe some of the ways the Clearing Agencies manage risks related to their links with, as applicable, participants, settling banks, investment counterparties, liquidity providers, vendors, and service providers, and would also describe how the Clearing Agencies identify and address risks that have the potential of creating systemic impact. With respect to links with vendors, the Framework would describe how the Clearing Agencies apply a comprehensive vendor review and vetting process.

By providing written policies and procedures to identify, monitor, and manage risks related to links that the Clearing Agencies' establish, the Commission believes that the Framework is consistent with Rule 17Ad–22(e)(20).[68]

E. Consistency With Rule 17Ad–22(e)(21)

Rule 17Ad–22(e)(21) under the Act requires that each covered clearing agency establish, implement, maintain and enforce written policies and procedures reasonably designed to be efficient and effective in meeting the requirements of its participants and the markets it serves, and have the covered clearing agency's management regularly review the efficiency and effectiveness of its (i) clearing and settlement arrangements; (ii) operating structure, including risk management policies, procedures, and systems; (iii) scope of products cleared or settled; and (iv) use of technology and communication procedures.[69]

As described above, the Framework would describe some of the ways in which the Clearing Agencies review the efficiency and effectiveness of their businesses and operations. For example, the Framework would describe how the Clearing Agencies employ a structured approach to the pre-implementation reviews of new initiatives (including initiatives related to their clearing and settlement arrangements, scope of products cleared or settled, and use of technology and communication procedures). The Framework would also describe the Clearing Agencies' Core Balanced Business Scorecard, which is used to review the effectiveness of the Clearing Agencies' operations, information technology services levels, financial performance, and other aspects of their business, including their respective participants' experiences. The Framework would also describe some of the steps the Clearing Agencies take in order to be efficient and effective in reviewing and meeting the requirements of their participants and the markets they serve, including the maintenance of a policy to address escalation, tracking, and resolution of certain customer complaints.

By establishing a framework that would (i) help support bring initiatives to market in a more timely and efficient manner through the pre-implementation reviews; (ii) help provide the Clearing Agencies insight into the efficiency and effectiveness of their businesses and operations through the Core Balanced Business Scorecard; and (iii) help manage the Clearing Agencies' participants' complaints through a specific policy, the Commission believes that the Framework is consistent with Rule 17Ad–22(e)(21).[70]

IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule changes are consistent with the requirements of the Act and in particular with the requirements of

[62] *Id.*

[63] 17 CFR 240.17Ad–22(e)(3)(iii).

[64] *Id.*

[65] 17 CFR 240.17Ad–22(e)(3)(iv).

[66] *Id.*

[67] 17 CFR 240.17Ad–22(e)(20).

[68] *Id.*

[69] 17 CFR 240.17Ad–22(e)(21).

[70] *Id.*

Section 17A of the Act[71] and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that proposed rule changes SR–DTC–2017–013, SR–NSCC–2017–012, and SR–FICC–2017–016 be, and hereby are, *approved*.[72]

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[73]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–20089 Filed 9–20–17; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81640; File No. SR–NYSE–2017–30]

Self-Regulatory Organizations; New York Stock Exchange LLC; Order Instituting Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change, as Modified by Amendment No. 2, To Amend Section 102.01B of the NYSE Listed Company Manual To Provide for the Listing of Companies That List Without a Prior Exchange Act Registration and That Are Not Listing in Connection With an Underwritten Initial Public Offering and Related Changes to Rules 15, 104, and 123D

September 15, 2017.

I. Introduction

On June 13, 2017, New York Stock Exchange LLC (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC''), pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the ''Exchange Act'')[2] and Rule 19b–4 thereunder,[3] a proposed rule change to amend (i) Footnote (E) to Section 102.01B of the NYSE Listed Company Manual (the ''Manual'') to modify the provisions relating to the qualification of companies listing without a prior Exchange Act registration; (ii) Rule 15 to add a Reference Price for when a security is listed under Footnote (E) to Section 102.01B; (iii) Rule 104 to specify DMM requirements when a security is listed under Footnote (E) to Section 102.10B and there has been no trading in the private market for such security; and (iv) Rule 123D to specify that the Exchange may declare a regulatory halt in a security that is the subject of an initial listing on the Exchange.

The proposed rule change was published for comment in the **Federal Register** on June 20, 2017.[4] The Exchange filed Amendment No. 1 to the proposed rule change on July 28, 2017 which, as noted below, was later withdrawn. On August 3, 2017, the Commission extended the time period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to approve or disapprove the proposed rule change, to September 18, 2017.[5] On August 16, 2017, the Exchange withdrew Amendment No. 1 and filed Amendment No. 2 to the proposed rule change, which amended and replaced the proposed rule change as originally filed.[6] Amendment No. 2 was published for comment in the **Federal Register** on August 24, 2017.[7] The Commission received one comment on the proposal.[8] This order institutes proceedings under Section 19(b)(2)(B) of the Exchange Act to determine whether to approve or disapprove the proposal.

II. Description of the Amended Proposal

1. Listing Standards

Generally, Section 102 of the Manual sets forth the minimum numerical standards for domestic companies, or foreign private issuers that choose to follow the domestic standards, to list equity securities on the Exchange. Section 102.01B of the Manual requires a listed company to demonstrate at the time of listing an aggregate market value of publicly-held shares of either $40 million or $100 million, depending on the type of listing.[9] Section 102.01B also states that, in these cases, the Exchange relies on written representations from the underwriter, investment banker or other financial advisor, as applicable, with respect to this valuation.[10] While Footnote (E) to Section 102.01B states that the Exchange generally expects to list companies in connection with a firm commitment underwritten initial public offering (''IPO''), upon transfer from another market, or pursuant to a spin-off, Section 102.01B of the Manual also contemplates that companies that have not previously had their common equity securities registered under the Exchange Act, but which have sold common equity securities in a private placement, may wish to list their common equity securities on the Exchange at the time of effectiveness of a registration statement[11] filed solely for the purpose of allowing existing shareholders to sell their shares.[12] Specifically, Footnote (E) to Section 102.01B of the Manual permits the Exchange, on a case by case basis, to exercise discretion to list such companies and provides that the Exchange will determine that such a company has met the $100 million aggregate market value of publicly-held shares requirement based on a combination of both (i) an independent third-party valuation (a ''Valuation'')[13] of the company and (ii) the most recent trading price for the company's common stock in a trading system for unregistered securities operated by a national securities exchange or a registered broker-dealer (a ''Private Placement Market'').[14] Under the

[71] 15 U.S.C. 78q–1.

[72] In approving the Proposed Rule Changes, the Commission considered the proposals' impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

[73] 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 No. 80933 (June 15, 2017), 82 FR 28200 (June 20, 2017).

[5] *See* Securities Exchange Act Release No. 81309 (August 3, 2017), 82 FR 37244 (August 9, 2017).

[6] *See* Notice, *infra* note 7, at n. 8, which describes the changes proposed in Amendment No. 2 from the original proposal. Amendment No. 2 replaced the original proposal in its entirety so the description below describes the proposal, as modified by Amendment No. 2.

[7] *See* Securities Exchange Act Release No. 81440 (August 18, 2017), 82 FR 40183 (August 24, 2017) (''Notice'').

[8] *See* Letter from James J. Angel, Associate Professor of Finance, Georgetown University, to SEC (July 28, 2017).

[9] Section 102.01B of the Manual states that a company must demonstrate ''. . . an aggregate market value of publicly-held shares of $40 million for companies that list either at the time of their IPO (C) or as a result of a spin-off or under the Affiliated Company standard or, for companies that list at the time of their Initial Firm Commitment Underwritten Public Offering (C), and $100,000,000 for other companies (D)(E).'' Section 102.01B also requires a company to have a closing price, or if listing in connection with an IPO or Initial Firm Commitment Underwritten Public Offering, a price per share of at least $4.00 at the time of initial listing.

[10] *See* Section 102.01B, Footnote (C) of the Manual which states that for companies listing at the time of their IPO or Initial Firm Commitment Underwritten Public Offering, the Exchange will rely on a written commitment from the underwriter to represent the anticipated value of the company's offering. For spin-offs, the Exchange will rely on a representation from the parent company's investment banker (or other financial advisor) in order to estimate the market value based upon the distribution ratio.

[11] The reference to a registration statement refers to a registration statement effective under the Securities Act of 1933 (''Securities Act'').

[12] *See* Section 102.01B, Footnote (E) of the Manual.

[13] *See* Section 102.01B, Footnote (E) of the Manual which sets forth specific requirements for the Valuation. Among other factors, any Valuation used for purposes of Footnote (E) must be provided by an entity that has significant experience and demonstrable competence in the provision of such valuations.

[14] Section 102.01B, Footnote (E) also sets forth specific factors for relying on a Private Placement Market Price including that such price must be a

Continued

current rules, the Exchange will attribute a market value of publicly-held shares to the company equal to the lesser of (i) the value calculable based on the Valuation and (ii) the value calculable based on the most recent trading price in a Private Placement Market.

The Exchange has proposed three changes to Footnote (E) to Section 102.01B of the Manual. First, the Exchange has proposed to amend such Footnote to explicitly permit the Exchange, on a case by case basis, to exercise its discretion to list companies whose stock is not previously registered under the Exchange Act upon effectiveness of only an Exchange Act registration statement, without any concurrent IPO or Securities Act registration, provided the company meets all other listing requirements. The Exchange noted that a company is able to become an Exchange Act registrant without a concurrent public offering by filing a Form 10 (or, in the case of a foreign private issuer, a Form 20–F) with the Commission, and expressed its belief that it is appropriate to list such companies immediately upon effectiveness of an Exchange Act registration statement without a concurrent Securities Act registration statement provided the company meets all other listing requirements.[15] In articulating the statutory basis for its proposal, the Exchange stated that permitting companies to list upon effectiveness of an Exchange Act registration statement without a concurrent public offering or Securities Act registration is designed to protect investors and the public interest because such companies will be required to meet all of the same quantitative requirements met by other listing companies.[16]

Second, the Exchange has proposed to amend Footnote (E) to provide that, in the absence of any recent trading in a Private Placement Market, the Exchange will determine that a company has met its market value of publicly-held shares requirement if the company provides a recent Valuation evidencing a market value of publicly-held shares of at least $250 million. In proposing this change, the Exchange expressed the view that the current requirement of Footnote (E) to rely on recent Private Placement Market trading in addition to a Valuation may cause difficulties for certain companies that are otherwise clearly qualified for listing.[17] The Exchange stated that some companies that are clearly large enough to be suitable for listing on the Exchange do not have their securities traded at all on a Private Placement Market prior to going public and, in other cases, the Private Placement Market trading is too limited to provide a reasonable basis for reaching conclusions about a company's qualification.[18] In proposing to adopt a Valuation that must be at least two-and-a-half times the $100 million requirement of Section 102.01B of the Manual, the Exchange stated that this amount ''will give a significant degree of comfort that the market value of the company's shares will meet the [$100 million] standard upon commencement of trading on the Exchange,'' particularly because any such valuation ''must be provided by an entity that has significant experience and demonstrable competence in the provision of such valuations.'' [19]

Lastly, the Exchange proposed to further amend Footnote (E) by establishing certain criteria that would preclude a valuation agent from being considered ''independent'' for purposes of Footnote (E), which the Exchange believes will provide a significant additional guarantee of the independence of any entity providing such a Valuation. Specifically, the Exchange proposed that a valuation agent will not be deemed to be independent if:

- At the time it provides such valuation, the valuation agent or any affiliated person or persons beneficially own in the aggregate as of the date of the valuation, more than 5% of the class of securities to be listed, including any right to receive any such securities exercisable within 60 days.
- The valuation agent or any affiliated entity has provided any investment banking services to the listing applicant within the 12 months preceding the date of the valuation.[20]
- The valuation agent or any affiliated entity has been engaged to provide investment banking services to the listing applicant in connection with the proposed listing or any related financings or other related transactions.

2. Trading Rules

The Exchange also proposed to amend Exchange Rules 15, 104 and 123D, governing the opening of trading, to specify procedures for the opening trade on the day of initial listing of a company that lists under the proposed amendments to Footnote (E) to Section 102.01B of the Manual, and did not have any recent trading in a Private Placement Market.

Rule 15(b) provides that a designated market maker (''DMM'') will publish a pre-opening indication before a security opens if the opening transaction on the Exchange is anticipated to be at a price that represents a change of more than the ''Applicable Price Range,'' as specified in Rule 15(d), from a specified ''Reference Price,'' as specified in Rule 15(c).[21] Rule 15(c)(1) specifies the Reference Price for a security other than an American Depository Receipt, which would be either (A) the security's last reported sale price on the Exchange; (B) the security's offering price in the case of an IPO; or (C) the security's last reported sale price on the securities market from which the security is being transferred to the Exchange, on the security's first day of trading on the Exchange.

The Exchange proposed to amend Rule 15(c)(1) to add new sub-paragraph (D) to specify the Reference Price for a security that is listed under Footnote (E) to Section 102.01B of the Manual. The Exchange proposed that if such security has had recent sustained trading in a Private Placement Market prior to listing the Reference Price in such scenario would be the most recent transaction price in that market or, if not, the Reference Price used would be a price determined by the Exchange in consultation with a financial advisor to the issuer of such security.

Rule 104(a)(2) provides that the DMM has a responsibility for facilitating openings and reopenings for each of the securities in which the DMM is registered as required under Exchange rules, which includes supplying liquidity as needed. The Exchange proposed to amend Rule 104(a)(2) to require the DMM to consult with the issuer's financial advisor when

consistent with a sustained history of trading over several months prior to listing.

[15] *See* Notice *supra* note 7 at 40184.

[16] *Id.* at 40186.

[17] *Id.* at 40184.

[18] *Id.*

[19] *Id.* In its proposal, the Exchange stated that it believed that it is unlikely that any Valuation would reach a conclusion that was incorrect to the degree necessary for a company using this provision to fail to meet the $100 million requirement upon listing, in particular because any Valuation used for this purpose must be provided by an entity that has significant experience and demonstrable competence in the provision of such valuations.

[20] For purposes of this provision, ''investment banking services'' includes, without limitation, acting as an underwriter in an offering for the issuer; acting as a financial adviser in a merger or acquisition; providing venture capital, equity lines of credit, PIPEs (private investment, public equity transactions), or similar investments; serving as placement agent for the issuer; or acting as a member of a selling group in a securities underwriting.

[21] Rule 15(b) also provides that a DMM will publish a pre-opening indication before a security opens if a security has not opened by 10:00 a.m. Eastern Time.

facilitating the opening on the first day of trading of a security that is listing under Footnote (E) to Section 102.01B of the Manual and that has not had recent sustained history of trading in a Private Placement Market prior to listing, in order to effect a fair and orderly opening of such security.[22]

The Exchange stated that it believes that such a financial advisor would have an understanding of the status of ownership of outstanding shares in the company and would have been working with the issuer to identify a market for the securities upon listing.[23] As a result, it believes such financial advisor would be able to provide input to the DMM regarding expectations of where such a new listing should be priced, based on pre-listing selling and buying interest and other factors that would not be available to the DMM through other sources.[24]

In its proposal, the Exchange stated that the proposed amendments to both Rule 15 and Rule 104 are designed to provide DMMs with information to assist them in meeting their obligations to open a new listing under the proposed amended text of Footnote (E) to Section 102.01B of the Manual.[25]

The Exchange further proposed to amend its rules to provide authority to declare a regulatory halt for a non-IPO new listing. As proposed, Rule 123D(d) would provide that the Exchange may declare a regulatory halt in a security that is the subject of an initial pricing on the Exchange that has not been listed on a national securities exchange or traded in the over-the-counter market pursuant to FINRA Form 211 (''OTC market'') immediately prior to the initial pricing.[26] In addition, proposed Rule 123D(d) would provide that this regulatory halt would be terminated when the DMM opens the security.[27]

The Exchange stated its belief that it would be consistent with the protection of investors and the public interest for the Exchange, as a primary listing exchange, to have the authority to declare a regulatory halt for a security that is the subject of a non-IPO listing because it would ensure that a new listing that is not the subject of an IPO could not be traded before the security opens on the Exchange.[28]

III. Summary of Comment Letter Received

The Commission received one comment letter on the proposal urging the Commission to approve the proposal promptly and without further delay.[29] The commenter stated the belief that there is no public interest served in excluding the listing of a large company with many investors that does not need to raise additional capital through an IPO.[30] The commenter further stated that in determining whether a company is large enough to meet the listing standards, if a company were to trade at a market capitalization far below the thresholds, it would harm the Exchange's reputation not the investing public.[31] The commenter further discussed concerns about how the NYSE will open the market for a security under the proposal when there is no reliable previous price or offering price.[32] The commenter stated that if NYSE gets the ''offering price 'wrong,' secondary market trading will quickly find the market price at which supply equals demand within a few minutes if not a few seconds.'' [33]

IV. Proceedings To Determine Whether To Approve or Disapprove SR–NYSE–2017–30 and Grounds for Disapproval Under Consideration

The Commission is instituting proceedings pursuant to Section 19(b)(2)(B) of the Exchange Act [34] to determine whether the proposal should be approved or disapproved. Institution of such proceedings is appropriate at this time in view of the legal and policy issues raised by the proposal, as discussed below. Institution of disapproval proceedings does not indicate that the Commission has reached any conclusions with respect to any of the issues involved.

Pursuant to Section 19(b)(2)(B) of the Exchange Act, the Commission is providing notice of the grounds for disapproval under consideration. The Commission is instituting proceedings to allow for additional analysis and input concerning the proposed rule change's consistency with the Exchange Act.[35] In particular, the Commission is instituting proceedings to allow for additional analysis of the proposed rule change's consistency with Section 6(b)(5) of the Act which requires, among other things, that the rules of a national securities exchange be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.[36]

The Commission notes that NYSE has proposed to adopt listing standards that would permit broadly, for the first time, the listing on the Exchange of a company immediately upon effectiveness of an Exchange Act registration statement for the purpose of creating a liquid trading market without any concurrent Securities Act registration. NYSE states that its proposal to list such companies is designed to protect investors and the public interest, consistent with Section 6(b)(5) of the Act, because such companies will be required to meet all of the same quantitative requirements that are met by other listing applicants.

The Commission notes, however, that a direct listing of this sort based only on an Exchange Act registration without prior trading and Securities Act registration may raise a number of unique considerations, including with respect to the role of various distribution participants, the extent and nature of pricing information available to market participants prior to the commencement of trading, and the availability of information indicative of the number of shares that are likely to be made available for sale at the commencement of trading.

[22] The Exchange stated that this requirement is based in part on Nasdaq Rule 4120(c)(9), which requires that a new listing on Nasdaq that is not an IPO have a financial advisor willing to perform the functions performed by an underwriter in connection with pricing an IPO on Nasdaq.

[23] *See* Notice *supra* note 7 at 40185.

[24] *Id.* The Exchange noted that despite the proposed obligation to consult with the financial advisor, the DMM would remain responsible for facilitating the opening of trading of such security, and the opening of such security must take into consideration the buy and sell orders available on the Exchange's book. *Id.* Accordingly, the Exchange stated that just as a DMM is not bound by an offering price in an IPO, and will open such a security at a price dictated by the buying and selling interest entered on the Exchange in that security, a DMM would not be bound by the input he or she receives from the financial advisor. *Id.* at 40185–86.

[25] *Id.* at 40186.

[26] *Id.*

[27] The Exchange stated that proposed Rule 123D(d) is based in part on (i) Nasdaq Rule 4120(c)(9), which provides that the process for halting and initial pricing of a security that is the subject of an IPO on Nasdaq is also available for the initial pricing of any other security that has not been listed on a national securities exchange or traded in the OTC market immediately prior to the initial public offering, provided that a broker-dealer serving in the role of financial advisor to the issuer of the securities being listed is willing to perform the functions under Rule 4120(c)(7)(B) that are performed by an underwriter with respect to an initial public offering and (ii) Nasdaq Rule 4120(c)(8)(A), which provides that such halt condition shall be terminated when the security is released for trading on Nasdaq.

[28] *Id.*

[29] *See supra* note 8.

[30] *Id.* at 2.

[31] *Id.* at 3.

[32] *Id.*

[33] *Id.*

[34] 15 U.S.C. 78s(b)(2)(B).

[35] 15 U.S.C. 78f(b)(5).

[36] *Id.*

V. Commission's Solicitation of Comments

The Commission requests that interested persons provide written submissions of their views, data, and arguments with respect to the issues identified above, as well as any other concerns they may have with the proposal. In particular, the Commission invites the written views of interested persons concerning whether the proposal is consistent with Section 6(b)(5), or any other provision of the Exchange Act, or the rules and regulations thereunder. Although there do not appear to be any issues relevant to approval or disapproval that would be facilitated by an oral presentation of views, data, and arguments, the Commission will consider, pursuant to Rule 19b-4, any request for an opportunity to make an oral presentation.[37]

Interested persons are invited to submit written data, views, and arguments regarding whether the proposal should be approved or disapproved by October 12, 2017. Any person who wishes to file a rebuttal to any other person's submission must file that rebuttal by October 26, 2017. The Commission asks that commenters address the sufficiency of the Exchange's statements in support of the proposal which are set forth in the Notice, in addition to any other comments they may wish to submit about the proposed rule change. In particular, the Commission seeks comment, including, where relevant, any specific data, statistics, or studies, on the following:

1. Would a direct listing based only on an Exchange Act registration without prior trading and Securities Act registration present unique considerations, including with respect to the role of various distribution participants, the extent and nature of pricing information available to market participants prior to the commencement of trading, and the availability of information indicative of the number of shares that are likely to be made available for sale at the commencement of trading? Would these considerations raise any concerns, including with respect to promoting just and equitable principles of trade, 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? If so, please identify those risks and explain their significance.

2. To what extent would a direct listing impact the ability of the DMM to facilitate the opening (or otherwise fulfill its obligations as a DMM) on the first day of trading of a security listed only with an Exchange Act registration? To the extent there would be an impact, please identify it and explain its significance. To what extent would any such impact be mitigated by the proposed requirement that the DMM consult with a financial adviser to the issuer in order to effect a fair and orderly opening of the security?

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–NYSE–2017–30 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 Numbers SR–NYSE–2017–30. 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 these filings 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–NYSE–2017–30 and should be submitted on or before October 12, 2017. Rebuttal comments should be submitted by October 26, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[38]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–20101 Filed 9–20–17; 8:45 am]

BILLING CODE 8011–01–P

[37] Section 19(b)(2) of the Exchange Act, as amended by the Securities Act Amendments of 1975, Public Law 94–29 (June 4, 1975), grants the Commission flexibility to determine what type of proceeding—either oral or notice and opportunity for written comments—is appropriate for consideration of a particular proposal by a self-regulatory organization. *See* Securities Act Amendments of 1975, Senate Comm. on Banking, Housing & Urban Affairs, S. Rep. No. 75, 94th Cong., 1st Sess. 30 (1975).

[38] 17 CFR 200.30–3(a)(57).

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 32820; 812–14696]

Active Weighting Funds ETF Trust and Active Weighting Advisors LLC

September 18, 2017.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice.

Notice of an application for an order under section 6(c) of the Investment Company Act of 1940 (the ''Act'') for an exemption from sections 2(a)(32), 5(a)(1), 22(d), and 22(e) of the Act and rule 22c–1 under the Act, under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and 17(a)(2) of the Act, and under section 12(d)(1)(J) for an exemption from sections 12(d)(1)(A) and 12(d)(1)(B) of the Act. The requested order would permit (a) actively-managed series of certain open-end management investment companies (''Funds'') to issue shares redeemable in large aggregations only (''Creation Units''); (b) secondary market transactions in Fund shares to occur at negotiated market prices rather than at net asset value (''NAV''); (c) certain Funds to pay redemption proceeds, under certain circumstances, more than seven days after the tender of shares for redemption; (d) certain affiliated persons of a Fund to deposit securities into, and receive securities from, the Fund in connection with the purchase and redemption of Creation Units; and (e) certain registered management investment companies and unit investment trusts outside of the same group of investment companies as the Funds (''Acquiring Funds'') to acquire shares of the Funds.

APPLICANTS: Active Weighting Funds ETF Trust (the ''Trust''), a Delaware statutory trust registered under the Act as an open-end management investment company with multiple series, and Active Weighting Advisors LLC (the ''Initial Adviser''), a Delaware limited liability company registered as an investment adviser under the Investment Advisers Act of 1940.

FILING DATE: The application was filed on August 31, 2016, and amended on January 13, 2017, May 25, 2017, and September 15, 2017.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on October 10, 2017, and should be accompanied by proof of service on applicants, in the form of an affidavit, or for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090; Applicants, 200 Vesey Street, 24th Floor, New York, NY 10281.

FOR FURTHER INFORMATION CONTACT: Christine Y. Greenlees, Senior Counsel, at (202) 551–6879, or Robert H. Shapiro, Branch Chief, at (202) 551–6821 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or for an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Summary of the Application

1. Applicants request an order that would allow Funds to operate as actively-managed exchange traded funds (''ETFs'').[1] Fund shares will be purchased and redeemed at their NAV in Creation Units only. All orders to purchase Creation Units and all redemption requests will be placed by or through an ''Authorized Participant,'' which will have signed a participant agreement with a broker-dealer registered under the Securities Exchange Act of 1934 (''Exchange Act'') (together with any future distributor, the ''Distributor''). Shares will be listed and traded individually on a national securities exchange, where share prices will be based on the current bid/offer market. Any order granting the requested relief would be subject to the terms and conditions stated in the application.

2. Each Fund will consist of a portfolio of securities and other assets and investment positions (''Portfolio Positions''). Each Fund will disclose on its Web site the identities and quantities of the Portfolio Positions that will form the basis for the Fund's calculation of NAV at the end of the day.

3. Shares will be purchased and redeemed in Creation Units and generally on an in-kind basis. Except where the purchase or redemption will include cash under the limited circumstances specified in the application, purchasers will be required to purchase Creation Units by depositing specified instruments (''Deposit Instruments''), and shareholders redeeming their shares will receive specified instruments (''Redemption Instruments''). The Deposit Instruments and the Redemption Instruments will each correspond pro rata to the positions in the Fund's portfolio (including cash positions) except as specified in the application.

4. Because shares will not be individually redeemable, applicants request an exemption from section 5(a)(1) and section 2(a)(32) of the Act that would permit the Funds to register as open-end management investment companies and issue shares that are redeemable in Creation Units only.

5. Applicants also request an exemption from section 22(d) of the Act and rule 22c–1 under the Act as secondary market trading in shares will take place at negotiated prices, not at a current offering price described in a Fund's prospectus, and not at a price based on NAV. Applicants state that (a) secondary market trading in shares does not involve a Fund as a party and will not result in dilution of an investment in shares, and (b) to the extent different prices exist during a given trading day, or from day to day, such variances occur as a result of third-party market forces, such as supply and demand. Therefore, applicants assert that secondary market transactions in shares will not lead to discrimination or preferential treatment among purchasers. Finally, applicants represent that share market prices will be disciplined by arbitrage opportunities, which should prevent shares from trading at a material discount or premium from NAV.

6. With respect to Funds that hold non-U.S. Portfolio Positions and that effect creations and redemptions of Creation Units in kind, applicants request relief from the requirement imposed by section 22(e) in order to allow such Funds to pay redemption proceeds within fifteen calendar days following the tender of Creation Units for redemption. Applicants assert that the requested relief would not be inconsistent with the spirit and intent of section 22(e) to prevent unreasonable, undisclosed or unforeseen delays in the actual payment of redemption proceeds.

7. Applicants request an exemption to permit Acquiring Funds to acquire Fund shares beyond the limits of section 12(d)(1)(A) of the Act; and the Funds, and any principal underwriter for the Funds, and/or any broker or dealer registered under the Exchange Act, to sell shares to Acquiring Funds beyond the limits of section 12(d)(1)(B) of the Act. The application's terms and conditions are designed to, among other things, help prevent any potential (i) undue influence over a Fund through control or voting power, or in connection with certain services, transactions, and underwritings, (ii) excessive layering of fees, and (iii) overly complex fund structures, which are the concerns underlying the limits in sections 12(d)(1)(A) and (B) of the Act.

8. Applicants request an exemption from sections 17(a)(1) and 17(a)(2) of the Act to permit persons that are affiliated persons, or second tier affiliates, of the Funds, solely by virtue of certain ownership interests, to effectuate purchases and redemptions in-kind. The deposit procedures for in-kind purchases of Creation Units and the redemption procedures for in-kind redemptions of Creation Units will be the same for all purchases and redemptions and Deposit Instruments and Redemption Instruments will be valued in the same manner as those

[1] Applicants request that the order apply to future series of the Trust or of other open-end management investment companies that currently exist or that may be created in the future (each, included in the term ''Fund''), each of which will operate as an actively-managed ETF. Any Fund will (a) be advised by the Initial Adviser or an entity controlling, controlled by, or under common control with the Initial Adviser (each such entity or any successor thereto is included in the term ''Adviser'') and (b) comply with the terms and conditions of the application. For purposes of the requested order, the term ''successor'' is limited to an entity that results from a reorganization into another jurisdiction or a change in the type of business organization.

Portfolio Positions currently held by the Funds. Applicants also seek relief from the prohibitions on affiliated transactions in section 17(a) to permit a Fund to sell its shares to and redeem its shares from an Acquiring Fund, and to engage in the accompanying in-kind transactions with the Acquiring Fund.[2] The purchase of Creation Units by an Acquiring Fund directly from a Fund will be accomplished in accordance with the policies of the Acquiring Fund and will be based on the NAVs of the Funds.

9. Section 6(c) of the Act permits the Commission to exempt any persons or transactions from any provision of the Act if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Section 12(d)(1)(J) of the Act provides that the Commission may exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision of section 12(d)(1) if the exemption is consistent with the public interest and the protection of investors. Section 17(b) of the Act authorizes the Commission to grant an order permitting a transaction otherwise prohibited by section 17(a) if it finds that (a) the terms of the proposed transaction are fair and reasonable and do not involve overreaching on the part of any person concerned; (b) the proposed transaction is consistent with the policies of each registered investment company involved; and (c) the proposed transaction is consistent with the general purposes of the Act.

For the Commission, by the Division of Investment Management, under delegated authority.

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–20143 Filed 9–20–17; 8:45 am]

BILLING CODE 8011–01–P

[2] The requested relief would apply to direct sales of shares in Creation Units by a Fund to an Acquiring Fund and redemptions of those shares. Applicants, moreover, are not seeking relief from section 17(a) for, and the requested relief will not apply to, transactions where a Fund could be deemed an affiliated person, or a second-tier affiliate, of an Acquiring Fund because an Adviser or an entity controlling, controlled by or under common control with an Adviser provides investment advisory services to that Acquiring Fund.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81638; File No. SR–FICC–2017–002]

Self-Regulatory Organizations; Fixed Income Clearing Corporation; Notice of Designation of Longer Period for Commission Action on Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change To Implement the Capped Contingency Liquidity Facility in the Government Securities Division Rulebook

September 15, 2017.

On March 1, 2017, Fixed Income Clearing Corporation (''FICC'') filed with the Securities and Exchange Commission (''Commission'') proposed rule change SR–FICC–2017–002 (''Proposed Rule Change'') pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] to implement a Capped Contingency Liquidity Facility in FICC's Government Securities Division Rulebook.[3] The Proposed Rule Change was published for comment in the **Federal Register** on March 20, 2017.[4] The Commission received five comment letters [5] to the Proposed Rule Change, including a response letter from FICC. On May 30, 2017, the Commission instituted proceedings under Section 19(b)(2)(B)(i) of the Act [6] to determine whether to approve or disapprove the Proposed Rule Change.[7]

Section 19(b)(2)(B)(ii) of the Act provides that, after initiating proceedings, the Commission shall issue an order approving or disapproving the proposed rule change not later than 180 days after the date of publication of notice of filing of the proposed rule change.[8] The Commission may, however, extend the period for issuing an order approving or disapproving the proposed rule change by not more than 60 days if the Commission determines that a longer period is appropriate and publishes the reasons for such determination.[9]

The 180th day after publication of the notice for the Proposed Rule Change in the **Federal Register** is September 16, 2017. The Commission finds it appropriate to designate a longer period within which to issue an order approving or disapproving the Proposed Rule Change so that it has sufficient time to consider the Proposed Rule Change and the comments received. Accordingly, the Commission, pursuant to Section 19(b)(2)(B)(ii) of the Act,[10] designates November 15, 2017 as the date by which the Commission shall either approve or disapprove the Proposed Rule Change.

The Commission also seeks additional comment to help further inform its analysis of the Proposed Rule Change. Specifically, the Commission invites interested persons to provide views, data, and arguments concerning the Proposed Rule Change, including whether the Proposed Rule Change is consistent with the Act and the applicable rules or regulations thereunder. Please note that comments previously received on the substance of the Proposed Rule Change will be considered together with comments submitted in response to this notice. Therefore, while commenters are free to

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] FICC also filed the Proposed Rule Change as advance notice SR–FICC–2017–802 (''Advance Notice'') pursuant to Section 806(e)(1) of the Payment, Clearing, and Settlement Supervision Act of 2010, 12 U.S.C. 5465(e)(1), and Rule 19b–4(n)(1)(i) under the Act, 17 CFR 240.19b–4(n)(1)(i). Notice of filing of the Advance Notice was published for comment in the **Federal Register** on March 15, 2017. Securities Exchange Act Release No. 80191 (March 9, 2017), 82 FR 13876 (March 15, 2017) (SR–FICC–2017–802). The Commission extended the deadline for its review period of the Advance Notice from April 30, 2017 to June 29, 2017. Securities Exchange Act Release No. 80520 (April 25, 2017), 82 FR 20404 (May 1, 2017) (SR–FICC–2017–802). The Commission issued a notice of no objection to the Advance Notice on June 29, 2017. Securities Exchange Act Release No. 81054 (June 29, 2017), 82 FR 31356 (July 6, 2017). The proposal in the Proposed Rule Change and the Advance Notice shall not take effect until all regulatory actions required with respect to the proposal are completed.

[4] Securities Exchange Act Release No. 80234 (March 14, 2017), 82 FR 14401 (March 20, 2017) (SR–FICC–2017–002).

[5] *See* letter from Robert E. Pooler Jr., Chief Financial Officer, Ronin Capital LLC (''Ronin''), dated April 10, 2017, to Robert W. Errett, Deputy Secretary, Commission; letter from Alan B. Levy, Managing Director, Industrial and Commercial Bank of China Financial Services LLC (''ICBC''), Philip Vandermause, Director, Aardvark Securities LLC (''Aardvark''), David Rutter, Chief Executive Officer, LiquidityEdge LLC, Robert Pooler, Chief Financial Officer, Ronin, Jason Manumaleuna, Chief Financial Officer and EVP, Rosenthal Collins Group LLC, and Scott Skyrm, Managing Director, Wedbush Securities Inc. (''Wedbush''); letter from Timothy J. Cuddihy, Managing Director, FICC, dated April 25, 2017, to Robert W. Errett, Deputy Secretary, Commission; letter from Robert E. Pooler Jr., Chief Financial Officer, Ronin, dated June 19, 2017, to Robert W. Errett, Deputy Secretary, Commission; and letter from Alan B. Levy, Managing Director, ICBC, Philip Vandermause, Director, Aardvark, Robert Pooler, Chief Financial Officer, Ronin, and Scott Skyrm, Managing Director, Wedbush, dated June 27, 2017, to Robert W. Errett, Deputy Secretary, Commission, *available at https://www.sec.gov/comments/sr-ficc-2017-002/ficc2017002.htm.*

[6] 15 U.S.C. 78s(b)(2)(B)(i).

[7] *See* Securities Exchange Act Release No. 80812 (May 30, 2017), 82 FR 25642 (June 2, 2017) (SR–FICC–2017–002).

[8] 15 U.S.C. 78s(b)(2)(B)(ii).

[9] *Id.*

[10] *Id.*

submit additional comments at this time, they need not re-submit earlier comments. In addition, the Commission seeks comment on the following:

1. The Proposed Rule Change would require each Netting Member to attest that its Individual Total Amount has been incorporated into its liquidity plans (''Attestation Requirement'').[11] The Commission requests comment on the means by which the various types of Netting Members anticipate complying with the Proposed Rule Change, including the Attestation Requirement, and the expected cost (monetary or otherwise) of such compliance. To the extent possible, please provide specific data, analyses, or studies for support.

2. The Proposed Rule Change would require FICC to provide each Netting Member with a daily ''liquidity funding report'' to help the Netting Member monitor and manage the liquidity risk it presents to FICC. The Commission requests comment on the value of such daily reporting to Netting Members and the extent to which and, if so, how Netting Members anticipate adjusting their trading behavior or otherwise managing the liquidity risk they present to FICC, whether in reliance on the daily liquidity funding report or otherwise. Please explain and, to the extent possible, provide specific data, analyses, or studies on potential changes to trading behavior or other adjustments to manage liquidity obligations to FICC for support.

a. If such adjustments would include changes in market participation, participation in certain market segments, or the quantity or price of services offered to clients, please provide information of such changes, in addition to any supporting data, analyses, or studies.

b. If such adjustments would include deciding to clear repo transactions bilaterally, instead of centrally through FICC, please provide the rationale and factors considered in making that decision, in addition to any supporting data, analyses, or studies.

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–FICC–2017–002 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–FICC–2017–002. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the Proposed Rule Change that are filed with the Commission, and all written communications relating to the Proposed Rule Change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filings also will be available for inspection and copying at the principal office of FICC and on DTCC's Web site (*http://dtcc.com/legal/sec-rule-filings.aspx*). 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–FICC–2017–002 and should be submitted on or before October 6, 2017. Any person who wishes to file a rebuttal to any other person's submission must file that rebuttal on or before October 12, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Eduardo Aleman,

Assistant Secretary.

[FR Doc. 2017–20090 Filed 9–20–17; 8:45 am]

BILLING CODE 8011–01–P

[11] *See* Securities Exchange Act Release No. 80234 (March 14, 2017), 82 FR 14401 (March 20, 2017) (SR–FICC–2017–002).

[12] 17 CFR 200.30–3(a)(57).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81632; File No. SR–GEMX–2017–42]

Self-Regulatory Organizations; Nasdaq GEMX, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Its Schedule of Fees To Offer Monthly Subscriptions for Open and Close Trade Profile Information

September 15, 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 September 1, 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 amend its Schedule of Fees to offer monthly subscriptions for Open and Close Trade Profile Information.

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 its Schedule of Fees to offer monthly

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

subscriptions for Open and Close Trade Profile Information; subscriptions will be available for both end-of-day and intraday updates.[3]

The Open/Close Trade Profile provides over 80 fields of trading and volume data for GEMX-listed options that can be used to create and test trading models and analytical strategies. Trade Profile data includes: ''Origin Code'' (the type of trader participating in the transaction);[4] opening and closing buys and sells;[5] trading volume and number of trades categorized by day and series;[6] the degree to which a series is ''in'' or ''out'' of the ''money'';[7] the number of days to expiration; an indication of the degree to which there is ''Open Interest''[8] for each series; and a comparison of the volume of trading at GEMX relative to the industry as a whole.

The GEMX Open/Close Trade Profile is currently available as an historical database available upon request, and the Exchange proposes to offer intraday and end-of-day subscriptions to Trade Profile information as well. Such subscriptions will be available to both members and non-members, similar to the ISE Open/Close Trade Profile.[9] The end-of-day file is updated overnight and available for download the following morning. The intraday file is updated at 10 minute intervals to provide a cumulative record of transactions that take place over the course of the trading day. The end-of-day subscription will be available for $500 per month; the intraday subscription will be available for $1,000 per month.

The proposed rule change will increase transparency in the market by increasing the amount of information available to market participants to assist them in making investment decisions related to GEMX-listed options.

The proposed fees are optional in that they apply only to firms that elect to purchase these products. The changes do not impact the cost of any other GEMX product.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[10] in general, and furthers the objectives of Section 6(b)(5) of the Act,[11] 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. The proposal is to make open and close trade profile information, currently available only on an historical basis, available at 10 minute intervals over the course of the trading day and in summary form at the end of the trading day, thereby increasing the flow of information and removing impediments to a free and open market.

The Commission and the courts have repeatedly expressed their preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, while adopting a series of steps to improve the current market model, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.''[12]

Likewise, in *NetCoalition* v. *Securities and Exchange Commission*[13] (''NetCoalition'') the D.C. Circuit upheld the Commission's use of a market-based approach in evaluating the fairness of market data fees against a challenge claiming that Congress mandated a cost-based approach.[14] As the court emphasized, the Commission ''intended in Regulation NMS that 'market forces, rather than regulatory requirements' play a role in determining the market data . . . to be made available to investors and at what cost.''[15]

Further, ''[n]o one disputes that competition for order flow is 'fierce.' . . . As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers' . . .''[16] Although the court and the SEC were discussing the cash equities markets, the Exchange believes that these views apply with equal force to the options markets.

The Exchange believes that adding the proposed subscriptions to the Exchange's Open/Close Trade Profile is reasonable and equitable in accordance with Section 6(b)(4) of the Act, and not unreasonably discriminatory in accordance with Section 6(b)(5) of the Act. The proposed changes will increase transparency by providing information about options activity throughout and at the end of the trading day. The proposed fees, like all proprietary data fees, are constrained by the Exchange's need to compete for order flow, and are subject to competition from other options exchanges. As explained in

[3] The Exchange initially filed this proposal as a fee filing on August 25, 2017 (SR–GEMX–2017–41). The proposal was rejected on August 31, 2017, and is being resubmitted as a proposal that (i) does not significantly affect the protection of investors or the public interest, and (ii) does not impose any significant burden on competition under Exchange Act Rule 19b–4(f)(6)(iii).

[4] ''Origin Code'' categories include Customer, Professional Customer, Firm and Market Maker. ''Customer'' applies to any transaction identified by a member or a member organization for clearing in the Customer range at the Options Clearing Corporation which is not for the account of a broker or dealer or a Professional. A ''Professional Customer'' is a high-activity customer that enters into more than 390 orders per day over the course of a one-month period. A ''Firm'' is a broker-dealer trading in its own proprietary account or on behalf of another broker-dealer. A ''Market Maker'' is a broker-dealer that assumes the risk of holding a position in a series to facilitate trading.

[5] An opening buy is a transaction that creates or increases a long position and an opening sell is a transaction that creates or increases a short position. A closing buy is a transaction made to close out an existing position. A closing sell is a transaction to reduce or eliminate a long position.

[6] Trading volume is the number of contracts traded; the number of trades is the number of transactions.

[7] The degree to which a series is ''in'' or ''out'' of the ''money'' is identified according to the following five levels of ''moneyness'': (i) ''Deep in the Money'' means that the strike price of this option is more than 12% lower than the price of the underlying security if it is a call or more than 12% higher if it is a put; (ii) ''In the Money'' means that the strike price of this option is within the range of 5%–12% lower than the price of the underlying security if it is a call or within the range of 5%–12% higher if it is a put; (iii) ''At the Money'' means that the strike price of this option is within the range of 5% higher or lower than the price of the underlying security; (iv) ''Out of the Money'' means that the strike price of this option is within the range of 5%–12% higher than the price of the underlying security if it is a call or 5%–12% lower if it is a put; and (v) ''Deep out of the Money'' means that the strike price of this option is more than 12% higher than the price of the underlying security if it is a call or more than 12% lower if it is a put.

[8] ''Open Interest'' is the total number of outstanding contracts for each series across all options exchanges for the trade date of the file.

[9] Nasdaq ISE Rulebook, Fee Schedule, Chapter VIII (Market Data), A (offering an annual subscription to Nasdaq ISE Open/Close Trade Profile End of Day for $759 per month) and B (offering a monthly subscription to the Nasdaq ISE Open/Close Trade Profile Intraday for $2,000 per month).

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(5).

[12] Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (''Regulation NMS Adopting Release'').

[13] *NetCoalition* v. *SEC,* 615 F.3d 525 (D.C. Cir. 2010).

[14] *See NetCoalition,* at 534—535.

[15] *Id.* at 537.

[16] *Id.* at 539 (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782–83 (December 9, 2008) (SR–NYSEArca–2006–21)).

further detail below, the proposal will impose no burden on competition because GEMX transaction information is disseminated by the Options Price Reporting Authority, LLC (''OPRA''), and customers would not pay a premium for GEMX information when similar transaction information is available at a lower cost from OPRA, and because the price of GEMX proprietary data is constrained by the need for GEMX to compete for order flow. The Exchange further notes that GEMX Open/Close Trade Profile information is an optional service that only applies to firms that elect to purchase the product. Moreover, the proposed service is similar to services already provided by other exchanges, such as the ISE Open/Close Trade Profile.[17]

The proposed changes are an equitable allocation of reasonable dues, fees, and other charges because fees will be the same for all of the purchasers of each product and it is equitable to charge more for the intraday product—which provides updates at 10 minute intervals over the course of the trading day—than the end-of-day product, which provides updates once per day.

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 proposed changes will allow the Exchange to offer intraday and end-of-day subscriptions to options trading data. If the price of the proposed subscriptions were to be set above a competitive price, the Exchange may lose revenue as a result.

GEMX market data fees are constrained by competition among exchanges and other entities seeking to attract order flow, and the existence of substitutes that are offered, or may be offered, by other entities. Order flow is the ''life blood'' of the exchanges. For a variety of reasons, competition from new entrants, especially for order execution, has increased dramatically over the last decade, as demonstrated by the proliferation of new options exchanges such as EDGX Exchange and MIAX Options within the last four years. Each options exchange is permitted to produce proprietary data products.

The markets for order flow and proprietary data are inextricably linked: A trading platform cannot generate market information unless it receives trade orders. As a result, the competition for order flow constrains the prices that platforms can charge for proprietary data products. Firms make decisions on how much and what types of data to consume based on the total cost of interacting with GEMX and other exchanges. Data fees are but one factor in a total platform analysis. If the cost of the product exceeds its expected value, the prospective customer will choose not to buy it. A supracompetitive increase in the fees charged for either transactions or proprietary data has the potential to impair revenues from both products.

The price of options data is also constrained by the existence of multiple substitutes offered by a number of entities, and non-proprietary data disseminated by OPRA. OPRA is a securities information processor that disseminates last sale reports and quotations, as well as the number of options contracts traded, open interest and end-of-day summaries. Many customers that obtain information from OPRA do not also purchase proprietary data, but in cases in which customers buy both products, they may shift purchasing decisions based on price changes. OPRA constrains the price of proprietary data products on options exchanges because no customer would pay an excessive price for these products when they already have data from OPRA. Similarly, no customer would pay an excessive price for Exchange data when they have the ability to obtain similar proprietary data from other exchanges. It is not necessary that products be identical in order to be reasonable substitutes for each other.

As such, the price of the GEMX Open/Close Trade Profile product is constrained by other exchanges in the competition for order flow and the availability of similar data from OPRA. Customers choose exchanges based on the total cost of interacting with the exchange; if the GEMX Open/Close Trade Profile were set above market price, the total cost of interacting with GEMX would be above market price, and GEMX would lose market share as a result. In addition, the availability of trading information from OPRA will constrain the price of the GEMX Open/Close Trade Profile because customers would not pay an excessive amount for proprietary data when similar information is available at a lower price; two products need not be identical for each product to act as a constraint on the price of the other. For these reasons, the Exchange does not believe that the proposed changes will impair the ability of members or competing order execution venues to maintain their competitive standing in the financial markets.

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[18] and subparagraph (f)(6) of Rule 19b–4 thereunder.[19]

A proposed rule change filed under Rule 19b–4(f)(6)[20] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[21] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange requests that the Commission waive the 30-day operative delay. The Exchange notes that a product similar to the proposed product is already being sold by another exchange. The Exchange also asserts that the addition of the proposed product can increase competition, and will not harm firms that do not purchase the product as the service is optional. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the 30-day operative delay and designates the

[17] Nasdaq ISE Rulebook, Fee Schedule, Chapter VIII (Market Data), A (offering an annual subscription to Nasdaq ISE Open/Close Trade Profile End of Day for $759 per month) and B (offering a monthly subscription to the Nasdaq ISE Open/Close Trade Profile Intraday for $2,000 per month).

[18] 15 U.S.C. 78s(b)(3)(A)(iii).

[19] 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.

[20] 17 CFR 240.19b–4(f)(6).

[21] 17 CFR 240.19b–4(f)(6)(iii).

proposed rule change operative upon filing.[22]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml);* or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–GEMX–2017–42 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–2017–42. 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–2017–42 and should be submitted on or before October 12, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[23]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–20088 Filed 9–20–17; 8:45 am]

BILLING CODE 8011–01–P

[22] 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).

[23] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[File No. SR–OCC–2015–02; Release No. 81628]

Before the Securities and Exchange Commission; Securities Exchange Act of 1934; In the Matter of the Options Clearing Corporation; Corrected Order Denying Motion for Stay

September 14, 2017.

On February 11, 2016, the Commission issued an order (''Approval Order'') approving the Options Clearing Corporation's (''OCC'') plan for raising additional capital (''Capital Plan'' or ''Plan'') to support its function as a systemically important financial market utility.[1] BOX Options Exchange LLC, KCG Holdings, Inc. (''KCG''), Miami International Securities Exchange, LLC, and Susquehanna International Group, LLP (collectively ''petitioners'')[2] filed a petition for review of the Approval Order in the U.S. Court of Appeals for the District of Columbia Circuit (''D.C. Circuit''), challenging the Commission's Approval Order as inconsistent with the Exchange Act and lacking in the reasoned decisionmaking required by the Administrative Procedure Act.

After filing their petition for review, petitioners filed a motion for a stay in the D.C. Circuit asking the court to stay the Commission's Approval Order pending the court's review. The D.C. Circuit denied petitioners' request for a stay.[3]

In ruling on the petition for review, the D.C. Circuit concluded that the Approval Order did not ''represent the kind of reasoned decisionmaking required by either the Exchange Act or the Administrative Procedure Act,'' and therefore remanded the case to the Commission for further proceedings.[4] In so ruling, the court did not reach any of petitioners' arguments that the Plan was inconsistent with the substantive requirements of the Exchange Act, finding instead that the Commission's failure to make the required findings under the Act required a remand.[5]

The court also considered whether to vacate the Approval Order prior to remand, and decided not to vacate. As the court explained, ''the SEC may be able to approve the Plan once again, after conducting a proper analysis on remand.'' [6] Because both parties had assured the court that it would be possible to unwind the Capital Plan at a later time, and ''no party contends that the task would be materially more difficult if done then rather than now,'' the court declined to vacate the Capital Plan and instead remanded the case ''to give the SEC an opportunity to properly evaluate the Plan.'' [7] The D.C. Circuit's mandate, which issued on August 18, 2017, returned the matter to the Commission for further proceedings.[8]

Petitioners[9] now seek a partial stay of the Capital Plan—specifically, a stay of the dividend payments to be made to the shareholder exchanges under the Plan—while the Commission considers the Plan as directed by the D.C. Circuit. OCC opposes the motion.

In determining whether to grant a stay motion, the Commission typically considers whether (i) there is a strong likelihood that the moving party will succeed on the merits of its appeal; (ii) the moving party will suffer irreparable harm without a stay; (iii) any person will suffer substantial harm as a result of a stay; and (iv) a stay is likely to serve

[1] Exchange Act Release No. 77112 (Feb. 11, 2016), File No. SR–OCC–2015–02.

[2] BATS Global Markets, Inc. (''BATS'') was initially a petitioner, but later withdrew.

[3] The petitioners had also opposed OCC's motion to lift the automatic stay in place pending the Commission's review of the Capital Plan. The Commission found, however, that it was ''in the public interest to the lift the stay during the pendency of the Commission's review.'' Exchange Act Release No. 75886 at 2 (Sept. 10, 2015), File No. SR–OCC–2015–02. The Commission noted that it ''believes that the concerns raised by Petitioners regarding potential monetary and competitive harm do not currently justify maintaining the stay during the pendency of the Commission's review.'' *Id.*

[4] *Susquehanna Int'l Grp., LLP* v. *SEC,* 866 F.3d 442, 443 (D.C. Cir. 2017).

[5] *Id.* at 446.

[6] *Id.* at 451.

[7] *Id.*

[8] By separate order of today's date, we are issuing a scheduling order governing the proceedings on remand.

[9] Petitioner KCG has not joined the instant motion.

the public interest.[10] The party seeking a stay has the burden of establishing that relief is warranted.[11] These factors weigh against granting petitioners' stay request.

First, with respect to likelihood of success on the merits, we note that the court did not address petitioners' arguments that the Plan was inconsistent with the Exchange Act. Rather, it remanded for the Commission to ''properly evaluate the Plan.'' [12] By repeating their same arguments regarding consistency with the Act in support of a stay, petitioners are asking the Commission to opine on their likelihood of success before engaging in the further analysis directed by the court. We are not yet in a position to do so. Unlike the more typical situation in which the Commission addresses stay motions, here there is neither a full record nor a final decision on which to base such an analysis. Thus, we do not view this factor as weighing in favor of the partial stay request.

Second, petitioners fail to establish that they will be irreparably harmed in the absence of a stay. To demonstrate irreparable harm, petitioners ''must show an injury that is 'both certain and great' and 'actual and not theoretical.' '' [13] ''A stay 'will not be granted [based on] something merely feared as liable to occur at some indefinite time.' '' [14] That ''an applicant may suffer financial detriment does not rise to the level of irreparable injury warranting issuance of a stay.'' [15] Petitioners acknowledge that the monetary aspects of the Plan ''are readily reversible'' [16] and that the court concluded that ''the task of unwinding the Plan would be no more difficult if done after remand rather than immediately.'' [17] They nonetheless argue that ''[a] stay of the dividend is needed to prevent distortion of the competitive landscape from continuing to harm competition.'' [18] But petitioners provide no evidence that competitors will be ''driven from the marketplace'' or that investors have ''lost liquidity,'' as petitioners claim.[19] Thus, petitioners' argument—which presumes they are correct on the merits regarding the Plan's effect on competition—is too speculative at this stage to be the basis for relief. We also note that petitioners made these same arguments regarding competitive harm before the D.C. Circuit, yet the court did not stay or vacate the Plan.

Finally, petitioners have not demonstrated that the balance of harm to others in the absence of a stay and the public interest favors a stay. Petitioners argue that ''a stay would injur[e] nobody,'' [20] because they are asking only to stay the dividend component of the Plan. But even setting aside the impact on shareholder exchanges that are due the dividends under the Plan, petitioners' claim that the dividend component of the plan can be isolated is overly simplistic. Under the Plan, ''OCC would not be able to pay a refund on a particular date unless dividends were paid on the same date.'' [21] A stay of the dividends to the shareholders would thus have the effect of also staying the payment of refunds to OCC's members.

Moreover, as discussed above, the court squarely considered whether to vacate the Plan or leave it in effect during the Commission's reconsideration, and decided to leave the Plan, including the provisions with respect to dividends, in place. Petitioners' request to stay that part of the Plan therefore, in fact, seeks a change in the status quo that we believe is unsupported at this time. Granting petitioners' request would require piecemeal suspension of portions of the Plan, while leaving others in place, despite at least the possibility of having to reinstitute those provisions at a later date if the Commission, after conducting the required analysis on remand, should determine to approve the Plan. Indeed, the court implicitly rejected this type of partial stay when petitioners proposed it in a pre-decision letter to the court [22] and the court remanded without entering such a stay. We believe, as the court did, that the better course is to leave the status quo in place while we conduct a further review of the entirety of the Plan.

Accordingly, we decline to impose the partial stay requested.

For the reasons stated above, it is hereby:

Ordered that movants' request for a partial stay of the Capital Plan while the Commission considers the Plan pursuant to the direction of the D.C. Circuit is *Denied*.

By the Commission.

Brent J. Fields,

Secretary.

[FR Doc. 2017–20080 Filed 9–20–17; 8:45 am]

BILLING CODE 8011–01–P

[10] *Bernerd E. Young,* Exchange Act Release No. 78440, 2016 WL 4060106, at *1 (July 29, 2016); *see also* Order Preliminarily Considering Whether to Issue Stay Sua Sponte and Establishing Guidelines for Seeking Stay Applications, Exchange Act Release No. 33870, 1994 WL 17920, at *1 (Apr. 7, 1994).

[11] *Young,* Exchange Act Release No. 78440, 2016 WL 4060106, at *1.

[12] 866 F.3d at 451.

[13] *Kenny A. Akindemowo,* Exchange Act Release No. 78352, 2016 WL 3877888, at *2 (July 18, 2016) (quoting *Donald L. Koch,* Exchange Act Release No. 72443, 2014 WL 2800778, at *2 (June 20, 2014)); *accord Wis. Gas Co.* v. *FERC,* 758 F.2d 669, 674 (D.C. Cir. 1985).

[14] *Akindemowo,* 2016 WL 3877888, at *2 (quoting *Koch,* 2014 WL 2800778, at *2); *accord Wis. Gas Co.,* 758 F.2d at 674.

[15] *Robert J. Prager,* Exchange Act Release No. 50634, 2004 WL 2480717, at *1 (Nov. 4, 2004); *see also William Timpinaro,* Exchange Act Release No. 29927, 1991 WL 288326, at *3 (Nov. 12, 1991) (recognizing that ''[m]ere injuries, however substantial, in terms of money, time, and energy necessarily expended in the absence of a stay, are not enough'' to constitute irreparable harm) (quoting *Va. Petroleum Jobbers Ass'n* v. *FPC,* 259 F.2d 921, 925 (D.C. Cir. 1958)).

[16] Mot. at 1.

[17] Mot. at 16.

[18] *Id.*

[19] *Id.* Petitioners cite the acquisition of BATS by CBOE Holdings, Inc.—which, we note, closed on February 28, 2017—in support of their argument, stating that there has been consolidation in the exchange marketplace while the Capital Plan has been in effect. But they supply no evidence of a causal relationship between that acquisition and the Capital Plan or the dividends at issue.

[20] Mot. at 16.

[21] Exchange Act Release No. 74136 (Notice of Proposed Rule Change) at 15, File No. SR–OCC–2015–02.

[22] *See* Fed. R. App. P. 28(j) letter from petitioners, dated April 17, 2017 (asking the court ''at a minimum, to stay operation of the dividend component of the Plan during a remand'').

SECURITIES AND EXCHANGE COMMISSION

[File No. SR–OCC–2015–02; Release No. 81629]

Before the Securities and Exchange Commission; Securities Exchange Act of 1934; In the Matter of the The Options Clearing Corporation For an Order Granting the Approval of Proposed Rule Change Concerning a Proposed Capital Plan for Raising Additional Capital That Would Support the Options Clearing Corporation's Function as a Systemically Important Financial Market Utility; Corrected Order Scheduling Filing of Statements on Review

September 14, 2017.

On February 11, 2016, the Commission issued an order (''Approval Order'') approving the plan of the Options Clearing Corporation's (''OCC'') for raising additional capital (the ''Plan'') to support its function as a systemically important financial market utility.[1] BOX Options Exchange LLC, KCG Holdings, Inc., Miami International Securities Exchange, LLC, and Susquehanna International Group, LLP (collectively ''petitioners'') [2] filed a

[1] Exchange Act Release No. 77112, File No. SR–OCC–2015–02.

[2] BATS Global Markets, Inc., was initially a petitioner, but later withdrew.

petition for review of the Approval Order in the U.S. Court of Appeals for the District of Columbia Circuit (''D.C. Circuit''), challenging the Commission's Approval Order as inconsistent with the Exchange Act and lacking in the reasoned decisionmaking required by the Administrative Procedure Act.

The D.C. Circuit concluded that the Approval Order did not ''represent the kind of reasoned decisionmaking required by either the Exchange Act or the Administrative Procedure Act,'' and therefore remanded the case to the Commission for further proceedings.[3] In so ruling, the court did not reach the merits of any of petitioners' arguments that the Plan was inconsistent with the substantive requirements of the Exchange Act.[4]

The court specifically decided not to vacate the Approval Order prior to remand, instead leaving the Plan in place and remanding ''to give the SEC an opportunity to properly evaluate the Plan.'' [5] The D.C. Circuit's mandate, which issued on August 18, 2017, returned the matter to the Commission for further proceedings.

Accordingly, to facilitate the Commission's further review of the Plan, *It is Ordered,* that by October 14, 2017, OCC may file any additional statements or information that it considers relevant to the Commission's reconsideration, including but not limited to information OCC's board of directors considered in approving the Plan.

Furthermore, the Commission is providing other parties and persons thirty days to respond to any additional statements OCC may submit.

Accordingly, *It is Ordered,* that by November 13, 2017, any party or other person may file any additional statement, which may include statements previously submitted or otherwise available, or any new information such party or other person considers relevant.

All submissions should refer to File Number SR–OCC–2015–02. The Commission will post submissions on the Commission's Internet Web site as they are received. Submissions received will be posted without change; the Commission does not edit personal identifying information from submissions. If a party or person wishes to submit information for the Commission to consider that is confidential, Rule 83 of the Commission Rules of Practice provides a procedure by which persons submitting information may request that it be withheld when requested under the Freedom of Information Act.[6] Any party or person seeking to submit information in this matter should make sure that their request complies with procedures specified by Rule 83. An explanation of the rule is available on the Commission's Web site at: *https://www.sec.gov/foia/conftreat.htm.*

By the Commission.

Brent J. Fields,

Secretary.

[FR Doc. 2017–20081 Filed 9–20–17; 8:45 am]

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[3] *Susquehanna Int'l Grp., LLP* v. *SEC,* 866 F.3d 442, 443 (D.C. Cir. 2017).

[4] *Id.* at 446.

[5] *Id.*

[6] 17 CFR 200.83.

SURFACE TRANSPORTATION BOARD

[Docket No. EP 290 (Sub-No. 5) (2017–4)]

Quarterly Rail Cost Adjustment Factor

AGENCY: Surface Transportation Board.

ACTION: Approval of rail cost adjustment factor.

SUMMARY: The Board approves the fourth quarter 2017 Rail Cost Adjustment Factor (RCAF) and cost index filed by the Association of American Railroads. The fourth quarter 2017 RCAF (Unadjusted) is 0.889. The fourth quarter 2017 RCAF (Adjusted) is 0.367. The fourth quarter 2017 RCAF–5 is 0.350.

DATES: *Applicability Date:* October 1, 2017.

FOR FURTHER INFORMATION CONTACT: Pedro Ramirez, (202) 245–0333. Federal Information Relay Service (FIRS) for the hearing impaired: (800) 877–8339.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Board's decision, which is available on our Web site, *http://www.stb.gov.* Copies of the decision may be purchased by contacting the Office of Public Assistance, Governmental Affairs, and Compliance at (202) 245–0238. Assistance for the hearing impaired is available through FIRS at (800) 877–8339.

This action will not significantly affect either the quality of the human environment or energy conservation.

By the Board, Board Members Begeman, Elliott, and Miller.

Decided: September 18, 2017.

Marline Simeon,

Clearance Clerk.

[FR Doc. 2017–20136 Filed 9–20–17; 8:45 am]

BILLING CODE 4915–01–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. USTR–2017–0017]

2017 Special 301 Out-of-Cycle Review of Thailand: Request for Comments

AGENCY: Office of the United States Trade Representative.

ACTION: Request for comments.

SUMMARY: The Office of the United States Trade Representative (USTR) is conducting a Special 301 Out-of-Cycle Review of Thailand. USTR requests written comments concerning any act, policy, or practice that is relevant to the decision regarding whether and how USTR should identify Thailand based on Thailand's protection for intellectual property rights or market access Thailand provides to U.S. persons who rely on intellectual property protection.

DATES:

October 20, 2017, at 11:59 p.m. Eastern Time: Deadline for submission of written comments.

October 27, 2017, at 11:59 p.m. Eastern Time: Deadline for submission of written comments from foreign governments.

ADDRESSES: You should submit written comments through the Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments in section III below. For alternatives to on-line submissions, please contact USTR at *Special301@ustr.eop.gov* before transmitting a comment and in advance of the relevant deadline.

FOR FURTHER INFORMATION CONTACT: Daniel Lee, Deputy Assistant U.S. Trade Representative for Innovation and Intellectual Property, at *Special301@ustr.eop.gov* or (202) 395–4510. You can find information about the Special 301 Review at *www.ustr.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Pursuant to Section 182 of the Trade Act of 1974 (19 U.S.C. 2242), USTR must identify countries that deny adequate and effective protection for intellectual property rights (IPR) or deny fair and equitable market access to U.S. persons who rely on intellectual property protection. USTR will identify the countries that have the most onerous or egregious acts, policies, or practices and whose acts, policies, or practices have the greatest adverse impact (actual or potential) on relevant U.S. products as Priority Foreign Countries. Acts, policies, or practices that are the basis of a country's designation as a Priority Foreign Country normally are the

subject of an investigation under the Section 301 provisions of the Trade Act (19 U.S.C. 2411 *et seq.*). USTR may not identify a country as a Priority Foreign Country if that country is entering into good faith negotiations or making significant progress in bilateral or multilateral negotiations to provide adequate and effective IPR protection. In addition, USTR has created a ''Priority Watch List'' and a ''Watch List'' under the Special 301 provisions. Placement of a trading partner on the Priority Watch List or Watch List indicates that particular problems exist in that country with respect to IPR protection, enforcement, or market access for persons relying on intellectual property. Countries placed on the Priority Watch List are the focus of increased bilateral attention concerning the problem areas.

An Out-of-Cycle Review (OCR) is a tool that USTR uses to encourage progress on IPR issues of concern. It provides an opportunity for heightened engagement with a trading partner to address and remedy such issues. Successful resolution of specific IPR issues of concern or lack of action on such issues can lead to a change in a trading partner's identification on a Special 301 list outside of the typical period for the annual Special 301 Report. USTR may conduct OCRs of other trading partners as circumstances warrant or as requested by the trading partner.

In the 2017 Special 301 Report, USTR placed Thailand on the Priority Watch List but noted that the United States was prepared to review that status if Thailand continued to take positive steps and made substantial progress in addressing the concerns described in the Report. Thailand has requested that USTR conduct an OCR in light of its efforts to achieve substantial progress.

II. Public Comments

USTR invites written comments concerning any act, policy, or practice that is relevant to the decision regarding whether USTR should identify Thailand under Section 182 of the Trade Act. Submissions may report positive or negative developments with respect to Thailand. USTR requests that interested parties provide specific references to laws, regulations, policy statements, executive, presidential or other orders, administrative, court or other determinations that should factor into the review. USTR also requests that submissions include data, loss estimates, and other information regarding the economic impact on the United States, U.S. industry, and the U.S. workforce caused by the denial of adequate and effective intellectual property protection. For comments that include quantitative loss claims, you should include the methodology used to calculate the estimated losses. Comments should be as detailed as possible and should provide all necessary information for assessing the effect of the acts, policies, and practices, particularly with respect to issues regarding Thailand identified in the 2017 Special 301 Report.

III. Submission Instructions

All submissions must be in English and sent electronically via *www.regulations.gov.* To submit comments, locate the docket (folder) by entering the docket number USTR–2017–0017 in the ''SEARCH for: Rules, Comments, Adjudications or Supporting Documents'' window at the *regulations.gov* homepage and clicking ''Search.'' The site will provide a search-results page listing all documents associated with this docket. Locate the reference to this notice by selecting ''Notice'' under ''Document Type'' on the left side of the search-results page, and clicking on the link entitled ''Comment Now!'' You should provide comments in an attached document, and name the file according to the following protocol, as appropriate: Commenter Name, or Organization_2017 Special 301 OCR Thailand. Please include the following information in the ''Type Comment'' field: ''2017 Out-of-Cycle Review of Thailand.'' USTR prefers submissions in Microsoft Word (.doc) or Adobe Acrobat (.pdf) formats. If the submission is in another file format, please indicate the name of the software application in the ''Type Comment'' field. For further information on using the *www.regulations.gov* Web site, please select ''How to Use Regulations.gov'' on the bottom of any page.

Please do not attach separate cover letters to electronic submissions; rather, include any information that might appear in a cover letter in the comments themselves. Similarly, to the extent possible, please include any exhibits, annexes, or other attachments in the same file as the comment itself, rather than submitting them as separate files.

For any comment submitted electronically that contains business confidential information, the file name of the business confidential version should begin with the characters ''BC''. Any page containing business confidential information must be clearly marked ''BUSINESS CONFIDENTIAL'' on the top of that page and the submission should clearly indicate, via brackets, highlighting, or other means, the specific information that is business confidential. A filer requesting business confidential treatment must certify that the information is business confidential and would not customarily be released to the public by the submitter. Additionally, the submitter should type ''Business Confidential 2017 Special 301 OCR Thailand'' in the ''Comment'' field.

Filers of comments containing business confidential information also must submit a public version of their comments. The file name of the public version should begin with the character ''P''. The non-business confidential version will be placed in the docket at *www.regulations.gov* and be available for public inspection.

As noted, USTR strongly urges submitters to file comments through *www.regulations.gov.* You must make any alternative arrangements in advance of the relevant deadline and before transmitting a comment by contacting USTR at *Special301@ustr.eop.gov.*

We will post comments in the docket for public inspection, except business confidential information. You can view comments on the *https://www.regulations.gov* Web site by entering docket number USTR–2017–0017 in the search field on the home page.

Elizabeth Kendall,

Acting Assistant U.S. Trade Representative for Innovation and Intellectual Property, Office of the United States Trade Representative.

[FR Doc. 2017–20103 Filed 9–20–17; 8:45 am]

BILLING CODE 3290–F7–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2017–74]

Petition for Exemption; Summary of Petition Received

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petition for exemption received.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of Federal Aviation Regulations. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of the FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number involved and must be received on or before October 2, 2017.

ADDRESSES: Send comments identified by docket number FAA–2017–0875 using any of the following methods:

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

Privacy: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *http://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *http://www.dot.gov/privacy.*

Docket: Background documents or comments received may be read at *http://www.regulations.gov* at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mark Forseth, ANM–113, Federal Aviation Administration, 1601 Lind Avenue SW., Renton, WA 98057–3356, email *mark.forseth@faa.gov,* phone (425) 227–2796; or Alphonso Pendergrass, ARM–200, Office of Rulemaking, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, email *alphonso.pendergrass@faa.gov,* phone (202) 267–4713.

This notice is published pursuant to 14 CFR 11.85.

Issued in Renton, Washington, on September 15, 2017.

Victor Wicklund,

Manager, Transport Standards Branch, Policy and Innovation Division, Aircraft Certification Service.

Petition for Exemption

Docket No.: FAA–2017–0875.
Petitioner: The Boeing Company.
Section of 14 CFR Affected: 25.1322(d)(1).
Description of Relief Sought: Permit time-limited relief from the requirement to ''prevent the presentation of an alert that is inappropriate or unnecessary'' on Boeing Model 767–2C airplanes.

[FR Doc. 2017–20099 Filed 9–20–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Research, Engineering and Development Advisory Committee Meeting

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of meeting.

SUMMARY: The FAA is issuing this notice to advise the public of the Research, Engineering & Development Advisory Committee meeting.

DATES: The meeting will be held on October 11, 2017—9:00 a.m. to 4:30 p.m.

ADDRESSES: The meeting will be held at the Federal Aviation Administration, 800 Independence Avenue SW., Bessie Coleman Conference Center (FOB 10A, Second Floor), Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: Chinita A. Roundtree-Coleman at (609) 485–7149 or email at *chinita.roundtree-coleman@faa.gov*.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C. App. 2), notice is hereby given of a meeting of the Research, Engineering and Development (RE&D) Advisory Committee. The meeting agenda will include time allocated to discuss recommendations provided by the advisory committee to the FAA on research and development investments in the areas of air traffic services, airports, aircraft safety, human factors and environment and energy. Attendance is open to the interested public but seating is limited. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to attend the meeting, present statements, or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the Committee at any time.

Issued in Washington, DC on September 13, 2017.

Chinita A. Roundtree-Coleman,

Computer Specialist.

[FR Doc. 2017–20130 Filed 9–20–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2017–75]

Petition for Exemption; Summary of Petition Received

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petition for exemption received.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of Federal Aviation Regulations. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of the FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number involved and must be received on or before October 11, 2017.

ADDRESSES: Send comments identified by docket number FAA–2017–0835 using any of the following methods:

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

Privacy: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal

information the commenter provides, to *http://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *http://www.dot.gov/privacy.*

Docket: Background documents or comments received may be read at *http://www.regulations.gov* at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lynette Mitterer, AIR–673, Federal Aviation Administration, 1601 Lind Avenue SW., Renton, WA 98057–3356, email *Lynette.Mitterer@faa.gov,* phone (425) 227–1047; or Alphonso Pendergrass, ARM–200, Office of Rulemaking, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, email *alphonso.pendergrass@faa.gov,* phone (202) 267–4713.

This notice is published pursuant to 14 CFR 11.85.

Issued in Renton, Washington, on September 15, 2017.

Victor Wicklund,

Manager, Transport Standards Branch.

Petition for Exemption

Docket No.: FAA–2017–0835.

Petitioner: Embraer.

Section of 14 CFR Affected: 26.21(b)(2)(ii).

Description of Relief Sought: Replace the approved Binding Schedule of February 27, 2018 to February 15, 2020 for widespread fatigue damage (WFD) Susceptible Structure 170SS14–D001 on the Embraer ERJ–170–200.

[FR Doc. 2017–20102 Filed 9–20–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[FHWA Docket No. FHWA–2017–0021]

Notice of Funding Opportunity for Tribal Transportation Program Safety Funds

AGENCY: Federal Highway Administration (FHWA), Department of Transportation (DOT).

ACTION: Notice of funding opportunity.

SUMMARY: This notice announces a funding opportunity and requests grant applications for FHWA's Tribal Transportation Program Safety Funds (TTPSF) for Fiscal Year (FY) 2017 and FY 2018 funding, subject to future appropriations. In addition, this notice identifies selection criteria, application requirements, and technical assistance during the grant solicitation period for the TTPSF.

The TTPSF is authorized within the Tribal Transportation Program (TTP) under the Fixing America's Surface Transportation (FAST) Act. The FHWA will distribute these funds as described in this notice on a competitive basis in a manner consistent with the selection criteria.

DATES: Applications must be submitted electronically no later than 11:59 p.m., e.t. on December 11, 2017 (the ''application deadline''). Applicants are encouraged to submit applications in advance of the application deadline; however, applications will not be evaluated, and awards will not be made until after the application deadline. The FHWA plans to conduct outreach regarding the TTPSF in the form of a Webinar on October 17, 2017, 2 p.m., e.t. To join the webinar, follow the directions found at *https://flh.fhwa.dot.gov/programs/ttp/safety/ttpsf.htm.* The audio portion of the Webinar can be accessed from this teleconference line: TOLL FREE 1–888–251–2909; ACCESS CODE 4442306. The Webinar will be recorded and posted on FHWA's Web site at: *http://www.flh.fhwa.dot.gov/programs/ttp/safety/.* A TDD is available for individuals who are deaf or hard of hearing at 202–366–3993.

ADDRESSES: Applications must be submitted electronically through the Web site: *http://flh.fhwa.dot.gov/programs/ttp/safety/ttpsf.htm.*

FOR FURTHER INFORMATION CONTACT: For further information concerning this notice please contact Russell Garcia, TTPSF Program Manager, via email at *russell.garcia@dot.gov;* by telephone at (202) 366–9815; or by mail at Federal Highway Administration, 1200 New Jersey Avenue SE., Washington, DC 20590. Office hours are from 8:00 a.m. to 4:30 p.m. e.t., Monday through Friday, except Federal holidays. For legal questions, please contact Ms. Vivian Philbin, Office of the Chief Counsel, by telephone at (720) 963–3445; by email at *vivian.philbin@dot.gov;* or by mail at Federal Highway Administration, Central Federal Lands Highway Division, 12300 West Dakota Avenue, Lakewood, CO 80228. Office hours are from 7:30 a.m. to 4:00 p.m. m.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

On August 5, 2013, FHWA published the first notice of funding availability for the TTPSF (78 FR 47480). On November 13, 2013, FHWA awarded 183 Tribes a total of $8.6 million for 193 safety projects. On May 14, 2014, FHWA published the second notice of funding availability for the TTPSF (79 FR 27676). On March 10, 2015, FHWA awarded 82 Tribes a total of $8.5 million for 94 projects to improve transportation safety on Tribal lands. On June 26, 2015, FHWA published the third notice of funding availability for the TTPSF (80 FR 36885). On December 9, 2015, FHWA awarded 36 Tribes a total of $449,500 for 36 projects for developing Tribal safety plans. On April 26, 2016, FHWA awarded 35 Tribes a total of $8 million for 54 projects. On July 18, 2016, FHWA published the fourth notice of funding opportunity for the TTPSF (81 FR 46758). On April 10, 2017, FHWA awarded 74 Tribes a total of $9 million for 77 projects. The FHWA is publishing this fifth notice to announce an additional round of funding and request grant applications for FY2017 and FY 2018.

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A. Program Description

Since the TTPSF was created under Moving Ahead for Progress in the 21st Century Act (MAP–21), FHWA has awarded approximately $34.5 million to 410 Indian Tribes for 454 projects, including development of safety plans, to address safety issues in Indian country over four rounds of competitive grants. The intent of the TTPSF is to prevent and reduce deaths or serious injuries in transportation-related crashes on Tribal lands where statistics are consistently higher than the rest of the Nation as a whole.

The TTPSF emphasizes the development of strategic Transportation Safety Plans using a data-driven process as a means for Tribes to determine how transportation safety needs will be addressed in Tribal communities. Tribal Transportation Safety Plans are a tool used to identify risk factors that lead to serious injury or death and organize various entities to strategically reduce risk; projects submitted must be data-driven, must be consistent with a comprehensive safety strategy, and must correct or improve a hazardous road location or feature or address a highway safety problem.

Because safety data is considered critical for informed transportation safety decisions, the TTPSF also places an emphasis on assessment and improvement of traffic records systems (primarily crash data systems). Guidelines for conducting a traffic records assessment can be found in the Guide for Effective Tribal Crash Reporting, National Cooperative Highway Research Program Report 788, published by the Transportation Research Board at *http://www.trb.org/Main/Blurbs/171540.aspx.*

Successful TTPSF projects leverage resources, encourage partnership, and have the data to support the applicants' approach in addressing the prevention and reduction of death or serious injuries in transportation-related crashes. A listing of the TTPSF projects/activities that Tribes were previously awarded, answers to frequently asked questions, and additional safety-related information can be found on the TTP Safety Web site at *http://flh.fhwa.dot.gov/programs/ttp/safety/ttpsf.htm.* However, the FAST Act made changes to the types of projects and activities that are now eligible for TTPSF grants.

Under MAP–21, the Highway Safety Improvement Program (HSIP) included a range of eligible HSIP projects. The list of eligible projects was non-exhaustive, and a State could use HSIP funds on any safety project (infrastructure-related or non-infrastructure) that met the overarching requirements that the project be consistent with the State's Strategic Highway Safety Plan (SHSP) and correct or improve a hazardous road location or feature or address a highway safety problem. Although the FAST Act continued these overarching requirements under HSIP, it limited eligibility to the projects and activities listed in 23 U.S.C. 148(a)(4), most of which are infrastructure-safety related.

As a result of the FAST Act, the TTPSF will only fund highway safety improvement projects eligible under the HSIP as listed in 23 U.S.C. 148(a)(4). For purposes of awarding funds under this program in FY 2017, FHWA has identified three eligibility categories: Safety plans; data assessment, improvement, and analysis activities; and infrastructure improvements and other eligible activities as listed in 23 U.S.C. 148(a)(4).

B. Federal Award Information

The FAST Act authorized TTPSF as a set aside of not more than 2 percent of the funds made available under the TTP for each fiscal year. This notice of funding opportunity solicits proposals under the TTPSF for FY 2017 and FY 2018 funding, subject to future appropriations. Section 202(e) of title 23, United States Code, provides that the Secretary shall allocate funds based on an identification and analysis of highway safety issues and opportunities on Tribal lands, as determined by the Secretary, on application of the Indian Tribal governments for HSIP eligible projects described in 23 U.S.C. 148(a)(4). Eligible projects described in section 148(a)(4) include strategies, activities, and projects on a public road that are consistent with a transportation safety plan; safety study; road safety audit; or systemic safety study and correct or improve a hazardous road location or feature, or address a highway safety problem.

Under 23 U.S.C. 148(a)(4), eligible projects are limited to the following:

(i) An intersection safety improvement.

(ii) Pavement and shoulder widening (including addition of a passing lane to remedy an unsafe condition).

(iii) Installation of rumble strips or another warning device, if the rumble strips or other warning devices do not adversely affect the safety or mobility of bicyclists and pedestrians, including persons with disabilities.

(iv) Installation of a skid-resistant surface at an intersection or other location with a high frequency of crashes.

(v) An improvement for pedestrian or bicyclist safety or safety of persons with disabilities.

(vi) Construction and improvement of a railway-highway grade crossing safety feature, including installation of protective devices.

(vii) The conduct of a model traffic enforcement activity at a railway-highway crossing.

(viii) Construction of a traffic calming feature.

(ix) Elimination of a roadside hazard.

(x) Installation, replacement, and other improvement of highway signage and pavement markings, or a project to maintain minimum levels of retroreflectivity, that addresses a highway safety problem consistent with an SHSP.

(xi) Installation of a priority control system for emergency vehicles at signalized intersections.

(xii) Installation of a traffic control or other warning device at a location with high crash potential.

(xiii) Transportation safety planning.

(xiv) Collection, analysis, and improvement of safety data.

(xv) Planning integrated interoperable emergency communications equipment, operational activities, or traffic enforcement activities (including police assistance) relating to work zone safety.

(xvi) Installation of guardrails, barriers (including barriers between construction work zones and traffic lanes for the safety of road users and workers), and crash attenuators.

(xvii) The addition or retrofitting of structures or other measures to eliminate or reduce crashes involving vehicles and wildlife.

(xviii) Installation of yellow-green signs and signals at pedestrian and bicycle crossings and in school zones.

(xix) Construction and operational improvements on high risk rural roads.

(xx) Geometric improvements to a road for safety purposes that improve safety.

(xxi) A road safety audit.

(xxii) Roadway safety infrastructure improvements consistent with the recommendations included in the publication of the Federal Highway Administration entitled ''Highway Design Handbook for Older Drivers and Pedestrians'' (FHWA–RD–01–103), dated May 2001 or as subsequently revised and updated.

(xxiii) Truck parking facilities eligible for funding under section 1401 of the MAP–21.

(xxiv) Systemic safety improvements.

(xxv) Installation of vehicle-to-infrastructure communication equipment.

(xxvi) Pedestrian hybrid beacons.

(xxvii) Roadway improvements that provide separation between pedestrians and motor vehicles, including medians and pedestrian crossing islands.

(xxviii) A physical infrastructure safety project not described in clauses (i) through (xxvii).

For more information regarding eligible activities under HSIP, please see FHWA guidance at: *http://safety.fhwa.dot.gov/legislationandpolicy/fast/guidance.cfm http://safety.fhwa.dot.gov/hsip/rulemaking/docs/hsip_ig42216_final.pdf.*

Upon award, successful applicants will receive the TTPSF funds through their existing TTP contracting methodology with either the FHWA or Bureau of Indian Affairs (BIA). Upon completion of a TTPSF project, funds that are not expended are to be recovered and returned to the FHWA to be made available for the following year's TTPSF grant cycle.

C. Eligibility Information

To be selected for a TTPSF award, an applicant must be a federally recognized Indian Tribe and the project must be an eligible project.

1. Eligible Applicants

Eligible applicants for TTPSF discretionary grants are federally recognized Tribes identified on the list of ''Indian Entities Recognized and Eligible to Receive Services from the Bureau of Indian Affairs'' (published at 81 FR 26826). Other entities may partner with a Tribal government to submit an application, but the eligible applicant must be a federally recognized Indian Tribe. A Tribe may submit more than one application; however, only one project may be included in each application.

Recipients of prior TTPSF funds may submit applications during this current round according to the selection criteria. However, to be competitive, the applicant should demonstrate the extent to which the previously funded project or projects has been able to meet estimated project schedules and budget, as well as the ability to realize the outcomes for previous awards.

2. Cost Sharing or Matching

There is no matching requirement for the TTPSF. However, if the total amount of funding requested for applications rated ''highly qualified'' or ''qualified'' exceeds the amount of available funding, FHWA will give priority consideration to those projects that show a commitment of other funding sources to complement the TTPSF funding request. Therefore, leveraging a TTPSF request with other funding sources identified in Section E is encouraged. Additional information about leveraging funds can be found in the frequently asked questions section of the TTPSF Web site: *http://flh.fhwa.dot.gov/programs/ttp/safety/ttpsf.htm.*

D. Application and Submission Information

1. Address To Request Application Package

Application package can be downloaded from the TTPSF Web site: *http://flh.fhwa.dot.gov/programs/ttp/safety/ttpsf.htm.* For a Telephone Device for the Deaf (TDD) please call 202–366–3993. The applications must be submitted electronically through the following Web site: *http://flh.fhwa.dot.gov/programs/ttp/safety/ttpsf.htm.* Applicants are encouraged to submit applications in advance of the application deadline; however, applications will not be evaluated, and awards will not be made until after the application deadline.

2. Content and Form of Application Submission

The FHWA may request additional information, including additional data, to clarify an application, but FHWA encourages applicants to submit the most relevant and complete information they can provide. The FHWA also encourages applicants, to the extent practicable, to provide data and evidence of project merits in a form that is publicly available or verifiable.

The applicants must include the following information in their online application package:

i. Online Form

Fill out an online form similar to SF–424 at: *http://flh.fhwa.dot.gov/programs/ttp/safety/ttpsf.htm.*

A preview of the online application can also be found on the Web site.

ii. Letter of Support

For projects located on a facility not owned by BIA or a Tribe a letter of support for the project is required.

iii. Cost Breakdown

An estimate of the costs in the project should be clearly identified in the project narrative or as an attachment to the project narrative.

iv. Narrative

Applicants must attach project narrative to their online application form to successfully complete the application process. Applicants must include the project narrative in the attachments section of the online application form.

Applicants must identify the eligibility category for which they are seeking funds in the project narrative. In addition, applicants should address each question or statement in their applications. It is recommended that applicants use standard formatting (*e.g.,* a single-spaced document, using a standard 12-point font, such as Times New Roman, with 1-inch margins) to prepare their application narratives. An application must include any information needed to verify that the project meets the statutory eligibility criteria in order for the FHWA to evaluate the application against TTPSF rating criteria.

Applicants should demonstrate the responsiveness of their proposals to any pertinent selection criteria with the most relevant information that applicants can provide, and substantiated by data, regardless of whether such information is specifically requested, or identified, in the final notice. Applicants should provide evidence of the feasibility of achieving certain project milestones, financial capacity, and commitment in order to support project readiness.

Consistent with the requirements for an eligible highway safety improvement project under 23 U.S.C. 148(a)(4), applicants must describe clearly how their project would correct or improve a hazardous road location or feature, or would address a highway safety problem. The application must include supporting data. Formal safety data is limited in many Tribal areas; applicants should support their application with documentation summarizing the best available data that demonstrates a history or risk of transportation incidents which are expected to be reduced by the proposed activity. The optimal data is a summary of police crash reports. However, where police crash reports are not available, news articles, written testimonies, a letter from local law enforcement describing safety performance, health data on injuries, and other documentation of incident history can be accepted. Average daily traffic volumes, pedestrian volumes, traffic citation statistics, public surveys, and sign inventories are examples of alternative safety data sources which could be used to supplement incident history.

If police crash reports are not available to support a project application, then-FHWA strongly encourages federally recognized Tribes to conduct an assessment of traffic records (which is an eligible activity for TTPSF). Applicants that do not provide

formal crash data are encouraged to attach documentation to their application showing that a traffic records assessment has been conducted or is planned. Guidelines for conducting a traffic records assessment can be found in the Guide for Effective Tribal Crash Reporting, National Cooperative Highway Research Program Report 788, published by the Transportation Research Board in 2015 at *http://www.trb.org/Main/Blurbs/171540.aspx.*

The data that should support an application varies by project type, as follows:

- *For safety plans:* There is no requirement to submit data with the application. However, development of safety plans should include and be based on an analysis of incident history.
- *For traffic records assessments and improvements:* Supporting data should be an estimate of the data to be collected (such as approximate number of crashes per year) and a description of any process currently used to collect that data.
- *For Road Safety Audits (RSA):* Site specific data should be submitted which demonstrates an incident history or propensity on the specific roadway to be analyzed.
- *For Systemic Safety Studies:* Data should be provided which demonstrates an incident history associated with the risk factor to be studied.
- *For Infrastructure Improvement and Other Eligible Activities:* Good data is site specific data that describes the crash history and directly demonstrates the safety need. When site specific incident data is not available, some data must still be provided which demonstrates the safety risk to be mitigated; this data could be an area-wide incident history (such as the results of a systemic safety study) or an explanation that an incident history is not available along with some supporting data from an alternative safety data source as described above.

The FHWA recommends that the project narrative generally adhere to the following basic outline, and include a table of contents, project abstract, maps, and graphics:

a. *Project Abstract:* Describe project work that would be completed under the project, the hazardous road location or feature or the highway safety problem that the project would address, and whether the project is a complete project or part of a larger project with prior investment (maximum five sentences). The project abstract must succinctly describe how this specific request for TTPSF would be used to complete the project;

b. *Project Description:* Include information on the expected users of the project, a description of the hazardous road location or feature or the highway safety problem that the project would address, and how the project would address these challenges;

c. *Applicant information and coordination with other entities:* Identify the Indian Tribal government applying for TTPSF, a description of cooperation with other entities in selecting projects from the TIP as required under 23 U.S.C. 202(e)(2), and information regarding any other entities involved in the project;

d. *Grant Funds and Sources/Uses of Project Funds:* Include information about the amount of grant funding requested for the project, availability/commitment of funds sources and uses of all project funds, total project costs, percentage of project costs that would be paid for with the TTPSF, and the identity and percentage shares of all parties providing funds for the project (including Federal funds provided under other programs); and

e. Include a description of how the proposal meets the Selection Criteria identified in Section E, Subsection 1 Criteria.

3. Unique Entity Identifier and System for Award Management (SAM)

Each applicant must: (1) Be registered in SAM before submitting its application; (2) provide a valid unique entity identifier in its application; and (3) continue to maintain an active SAM registration with current information at all times during which it has an active Federal award or an application or plan under consideration by a Federal awarding agency. The USDOT may not make an TTPSF grant to an applicant until the applicant has complied with all applicable unique entity identifier and SAM requirements and, if an applicant has not fully complied with the requirements by the time USDOT is ready to make an TTPSF grant, USDOT may determine that the applicant is not qualified to receive an TTPSF grant and use that determination as a basis for making an TTPSF grant to another applicant. Information on SAM can be found at *https://www.sam.gov.* It typically takes 7–10 business days for the SAM registration process to be completed.

4. Submission Dates and Time

i. Deadline—Applications must be submitted electronically no later than 11:59 p.m., e.t. on December 11, 2017 (the ''application deadline'').

ii. Applicants are encouraged to submit applications in advance of the application deadline; however, applications will not be evaluated, and awards will not be made until after the application deadline.

iii. Upon submission of the applications electronically through the following Web site: *http://flh.fhwa.dot.gov/programs/ttp/safety/ttpsf.htm,* the applicants will be sent an automatic reply by email confirming transmittal of the application to the FHWA. Please contact Russell Garcia at (202) 366–9815, should you not receive any confirmation from the FHWA.

iv. Late Applications—Applications received after the deadline will not be considered except in the case of unforeseen technical difficulties that are beyond the applicant's control. The FHWA will consider late applications on a case-by-case basis. Applicants are encouraged to submit additional information documenting the technical difficulties experienced, including a screen capture of any error messages received.

5. Intergovernmental Review

The TTPSF is not subject to the Intergovernmental Review of Federal Programs.

6. Funding Restrictions

There are no funding restrictions on any applications. However, FHWA anticipates high demand for this limited amount of funding and encourages applications with scalable requests that allow more Tribes to receive funding and for requests that identify a commitment of other funding sources to complement the TTPSF funding request. Applicants should clearly demonstrate the independent components of each project that can be completed if only partial funding is provided. Applicants should demonstrate the capacity to successfully implement the proposed request in a timely manner, and ensure that cost estimates and timelines to complete deliverables are included in their applications.

E. Application Review Information

1. Criteria

The FHWA will award TTPSF funds based on the selection criteria and policy considerations as outlined below. However, to be competitive, the applicant should demonstrate the extent to which a previously funded project or projects has been able to meet estimated project schedules and budget, as well as the ability to realize the outcomes for previous awards.

The FHWA intends to allocate the TTPSF between three categories as follows: (1) Safety plans; (2) data

assessment, improvement, and analysis activities; and (3) infrastructure improvement and other eligible activities as listed in 23 U.S.C. 148(a)(4).

i. Safety Plans

The development of a Tribal safety plan that is data-driven, identifies transportation safety issues, prioritizes activities, is coordinated with the State SHSP (all State SHSPs can be found at: *http://safety.fhwa.dot.gov/hsip/shsp/state_links.cfm*), and promotes a comprehensive approach to addressing safety needs by including all 4Es, is a critical step in improving highway safety. Additional information on developing a Tribal safety plan can be found at: *http://flh.fhwa.dot.gov/programs/ttp/safety/.* Accordingly, FHWA will award TTPSF for developing and updating Tribal safety plans. The FHWA will use the following criteria in the evaluation of TTPSF funding requests for Tribal safety plans: (1) Development of a Tribal safety plan where none currently exists, and (2) age or status of an existing Tribal safety plan.

ii. Data Assessment, Improvement, and Analysis Activities

The FHWA will use the following criteria in the evaluation of TTPSF funding requests for data assessment, improvement, and analysis activities: (1) Inclusion of the activity in a completed State SHSP or Tribal transportation safety plan; (2) submission of supporting data that demonstrates the need for the activity; (3) leveraging of private or other public funding; or (4) the project is part of a comprehensive approach to safety which includes other safety efforts.

Examples of eligible data assessment, improvement, and analysis activities include:

- Collection, analysis, and improvement of safety data;
- Systemic safety studies; and
- Road safety audits/assessments.

iii. Infrastructure Improvement and Other Eligible Activities as Listed in 23 U.S.C. 148(a)(4)

The FHWA will use the following criteria in the evaluation of funding requests under this category: (1) Inclusion of the project or activity in a completed State SHSP or Tribal transportation safety plan, or inclusion of the activity in a completed road safety audit, engineering study, impact assessment or other engineering document; (2) submission of supporting data that demonstrates the need for the project; (3) ownership of the facility, if applicable; (4) leveraging of private or other public funding; (5) time elapsed since the Tribe has last received funding for a TTPSF engineering improvement project, if applicable; or (6) the project is part of a comprehensive approach to safety which includes other safety efforts.

Examples of infrastructure improvement and other eligible activities:

- An intersection safety improvement;
- Pavement and shoulder widening (including addition of a passing lane to remedy an unsafe condition);
- Installation of rumble strips or another warning device, if the rumble strips or other warning devices do not adversely affect the safety or mobility of bicyclists and pedestrians, including persons with disabilities;
- Installation of a skid-resistant surface at an intersection or other location with a high frequency of crashes;
- An improvement for pedestrian or bicyclist safety or safety of persons with disabilities;
- Construction and improvement of a railway-highway grade crossing safety feature, including installation of protective devices;
- The conduct of a model traffic enforcement activity at a railway-highway crossing;
- Construction of a traffic calming feature;
- Elimination of a roadside hazard;
- Installation, replacement, and other improvement of highway signage and pavement markings, or a project to maintain minimum levels of retroreflectivity that addresses a highway safety problem consistent with a Tribal or State strategic highway safety plan;
- Installation of a priority control system for emergency vehicles at signalized intersections;
- Installation of a traffic control or other warning device at a location with high crash potential;
- Planning integrated interoperable emergency communications equipment, operational activities, or traffic enforcement activities (including police assistance) relating to work zone safety;
- Installation of guardrails, barriers (including barriers between construction work zones and traffic lanes for the safety of road users and workers), and crash attenuators;
- The addition or retrofitting of structures or other measures to eliminate or reduce crashes involving vehicles and wildlife;
- Installation of yellow-green signs and signals at pedestrian and bicycle crossings and in school zones;
- Construction and operational improvements on high risk rural roads;
- Geometric improvements to a road for safety purposes that improve safety;
- Roadway safety infrastructure improvements consistent with the recommendations included in the FHWA publication entitled ''Highway Design Handbook for Older Drivers and Pedestrians'' (FHWA–RD–01–103, dated May 2001 or as subsequently revised and updated;
- Truck parking facilities eligible for funding under section 1401 of MAP–21;
- Systemic safety improvements;
- Installation of a vehicle to infrastructure communication equipment;
- Pedestrian hybrid beacons;
- Roadway improvements that provide separation between pedestrians and motor vehicles, including medians and pedestrian crossing islands; and
- Other physical infrastructure safety projects.

2. Review and Selection Process

The TTPSF grant applications will be evaluated in accordance with evaluation process discussed below. The FHWA will establish an evaluation team to review each application received by FHWA prior to the application deadline. The FHWA will lead the evaluation team, which will include members from the BIA. The evaluation team will include technical and professional staff with relevant experience and expertise in Tribal transportation safety issues. The evaluation team will be responsible for evaluating and rating all eligible projects. The evaluation team will review each application against the evaluation criteria in each of the categories and assign a rating of ''Highly Qualified,'' ''Qualified,'' or ''Not Qualified'' to each application for the FHWA Administrator's review. The FHWA Administrator will forward funding recommendations to the Office of the Secretary. The final funding decisions will be made by the Secretary of Transportation.

All applications will be evaluated and assigned a rating of ''Highly Qualified,'' ''Qualified,'' or ''Not Qualified.'' The ratings, as defined below, are proposed within each priority funding category as follows:

i. Safety Plans [1]

a. *Highly Qualified:* Requests (up to a maximum of $12,500) for development

[1] *The development of a Tribal safety plan is the cornerstone for all future Tribal safety activities. Because of the importance of developing, completing, or updating a Tribal safety plan and for this one category only, applications will be deemed*

Continued

of new Tribal safety plans or to update incomplete Tribal safety plans; and requests (up to a maximum of $7,500) to update existing Tribal safety plans that are at least 3 years old.

b. *Not Qualified:* Projects that do not meet the eligibility requirements; any request to update an existing Tribal safety plan that is less than 3 years old.

ii. Data Assessment, Improvement, and Analysis Activities

a. *Highly Qualified:* Requests for Data Assessment, Improvement, and Analysis Activities that are in a current State SHSP or Tribal safety plan that is not more than 5 years old; submission of data that demonstrates the need for the activities; and significant leveraging of TTPSF fund with private or public funding or are part of a comprehensive approach to safety which includes other safety efforts. If the total amount of funding requested for applications rated as ''highly qualified'' exceeds the amount of available funding, FHWA will give priority funding consideration to one or more independent components of a highly qualified project. To be eligible, a component must meet eligibility criteria and must be a transportation safety project that has independent utility (*i.e.,* is usable and a reasonable expenditure of Federal funds even if no other improvements are made in the area). In other words, FHWA may fund an independent component of a project, instead of the full project described in the application, only if that component provides transportation benefits and will be ready for its intended use upon completion of that component.

Applicants should be aware that while it is anticipated that most of these projects will be categorical exclusions because they do not lead to construction or have potentially significant traffic or other impacts, depending on the relationship between the overall project and the independent component, the National Environmental Policy Act (NEPA) review for the independent component may have to include evaluation of all project components as connected, similar, or cumulative actions, as detailed at 40 CFR 1508.25. Priority consideration will also be given to funding requests that include a commitment of other funding sources to complement the TTPSF, and those requests where the applicants demonstrate the capacity to successfully implement the proposed project in a timely manner.

b. *Qualified:* Requests for Data Assessment, Improvement, and Analysis Activities that are in a current State SHSP or Tribal safety plan; submission of some data that demonstrates the need for the activity; and some leveraging of TTPSF funds with private or public funding or is part of a comprehensive approach to safety which includes other safety efforts.

If the total amount of funding requested for applications rated as ''qualified'' exceeds the amount of available funding, FHWA will give priority funding consideration to one or more independent components of a qualified project. To be eligible, a component must meet eligibility criteria and must be a transportation safety project that has independent utility (*i.e.,* is usable and a reasonable expenditure of Federal funds even if no other improvements are made in the area). In other words, FHWA may fund an independent component of a project, instead of the full project described in the application, only if that component provides transportation benefits and will be ready for its intended use upon completion of that component. Applicants should be aware that while it is anticipated that most of these projects will be categorical exclusions because they do not lead to construction or have potentially significant traffic or other impacts, depending on the relationship between the overall project and the independent component, the NEPA review for the independent component may have to include evaluation of all project components as connected, similar, or cumulative actions, as detailed at 40 CFR 1508.25. Priority consideration will also be given to funding requests that include a commitment of other funding sources to complement the TTPSF, and those requests where the applicants demonstrate the capacity to successfully implement the proposed project in a timely manner.

c. *Not Qualified:* Projects that do not meet the eligibility requirements; or projects that are not included in a State SHSP or Tribal safety plan.

iii. Infrastructure Improvement and Other Eligible Activities as Listed in 23 U.S.C. 148(a)(4)

a. *Highly Qualified:* Efforts that are in a current State SHSP or Tribal safety plan that is less than 5 years old, or road safety audit, or impact assessment, or other safety engineering study; data included in the application that directly supports the project; projects located on a BIA or Tribal facility; significant leveraging of TTPSF funds with other funding; and the Tribe has not received funding for a TTPSF transportation safety construction project in more than 5 years or the project is part of a comprehensive approach to safety which includes three or more other safety efforts.

If the total amount of funding requested for applications rated as ''highly qualified'' exceeds the amount of available funding, FHWA will give priority funding consideration to one or more independent components of a highly qualified project. To be eligible, a component must meet eligibility criteria and must be a transportation improvement that has independent utility (*i.e.,* is usable and a reasonable expenditure of Federal funds even if no other improvements are made in the area). In other words, FHWA may fund an independent component of a project, instead of the full project described in the application, only if that component provides transportation benefits and will be ready for its intended use upon completion of that component's construction. Applicants should be aware that, depending on the relationship between the overall project and the independent component, the NEPA review for the independent component may have to include evaluation of all project components as connected, similar, or cumulative actions, as detailed at 40 CFR 1508.25. Priority consideration will also be given to funding requests that include a commitment of other funding sources to complement the TTPSF, and those requests where the applicants demonstrate the capacity to successfully implement the proposed project in a timely manner.

b. *Qualified:* Efforts that are in a current State SHSP or Tribal safety plan, or a road safety audit, or impact assessment, or other safety engineering study; some data included in the application that supports the project; project is located on a transportation facility not owned by a Tribe or BIA; and some leveraging of TTPSF funds with other funding; or is part of a coordinated approach with one or two other safety efforts. If the total amount of funding requested for applications rated as ''qualified'' exceeds the amount of available funding, FHWA will give priority funding consideration to funding one or more independent components of a qualified project. To be eligible, a component must meet eligibility criteria and must be a transportation improvement that has

either ''highly qualified'' or ''not qualified.'' All applications to develop a new Tribal safety plan, update an incomplete safety plan, or update an existing Tribal safety plan that is at least 3 years old are deemed to be highly qualified. Applications not directed to developing, updating or completing existing a Tribal safety plan or which address a plan not 3 years old or older are deemed ''Not Qualified.''

independent utility (*i.e.,* is usable and a reasonable expenditure of Federal funds even if no other improvements are made in the area). In other words, FHWA may fund an independent component of a project, instead of the full project described in the application, only if that component provides transportation benefits and will be ready for its intended use upon completion of that component's construction. Applicants should be aware that, depending on the relationship between the overall project and the independent component, the NEPA review for the independent component may have to include evaluation of all project components as connected, similar, or cumulative actions, as detailed at 40 CFR 1508.25. Priority consideration will also be given to funding requests that include a commitment of other funding sources to complement the TTPSF, and those requests where the applicants demonstrate the capacity to successfully implement the proposed project in a timely manner.

c. *Not Qualified:* Projects that do not meet the eligibility requirements; are not included in a State SHSP or Tribal safety plan, or a road safety audit, or impact assessment, or other safety engineering study; no data provided in the application to support the request; or do not have a comprehensive approach to safety with other partners.

F. Federal Award Administration Information

1. Federal Award Notice

The FHWA will announce the awarded projects by posting a list of selected projects at *http://flh.fhwa.dot.gov/programs/ttp/safety/.* Following the announcement, successful applicants and unsuccessful applicants will be notified separately.

2. Administrative and National Policy Requirements

All awards will be administered pursuant to the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards found in 2 CFR part 200. Applicable Federal laws, rules, and regulations set forth in title 23, U.S.C., and title 23 of the CFR apply.

The TTPSF will be administered the same way as all TTP funds: FHWA Agreement Tribes will receive funds in accordance with their Program Agreement through a Referenced Funding Agreement (RFA); BIA Agreement Tribes will receive their funds through their BIA Regional Office; and Compact Tribes will receive their funds through the Department of the Interior's Office of Self Governance.

3. Reporting

Required reporting follows the requirements for regular TTP funds.

G. Federal Awarding Agency Contact(s)

For further information concerning this notice please contact Russell Garcia, TTPSF Program Manager, via email at *russell.garcia@dot.gov;* by telephone at (202) 366–9815; or by mail at Federal Highway Administration, 1200 New Jersey Avenue SE., Washington, DC 20590. Office hours are from 8:00 a.m. to 4:30 p.m. e.t., Monday through Friday, except Federal holidays. For legal questions, please contact Ms. Vivian Philbin, Office of the Chief Counsel, by telephone at (720) 963–3445; by email at *vivian.philbin@dot.gov;* or by mail at Federal Highway Administration, Central Federal Lands Highway Division, 12300 West Dakota Avenue, Lakewood, CO 80228. Office hours are from 7:30 a.m. to 4:00 p.m. m.t., Monday through Friday, except Federal holidays.

H. Other Information

1. Protection of Confidential Business Information

All information submitted as part of or in support of any application shall use publicly available data or data that can be made public and methodologies that are accepted by industry practice and standards, to the extent possible. If the application includes information you consider to be a trade secret or confidential commercial or financial information, the applicant should do the following: (1) Note on the front cover that the submission ''Contains Confidential Business Information (CBI),'' (2) mark each affected page ''CBI,'' and (3) highlight or otherwise denote the CBI portions.

Authority: Section 1118 of Pub. L. 114–94; 23 U.S.C. 202(e).

Issued on: September 14, 2017.

Brandye Hendrickson,

Acting Administrator, Federal Highway Administration.

[FR Doc. 2017–20111 Filed 9–20–17; 8:45 am]

BILLING CODE P

DEPARTMENT OF THE TREASURY

Agency Information Collection Activities; Submission for OMB Review; Comment Request; CDFI Program and NMTC Program Annual Report Including CIIS

AGENCY: Departmental Offices, U.S. Department of the Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury will submit the following information collection requests to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. The public is invited to submit comments on these requests.

DATES: Comments should be received on or before October 23, 2017 to be assured of consideration.

ADDRESSES: Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden, to (1) Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for Treasury, New Executive Office Building, Room 10235, Washington, DC 20503, or email at *OIRA_Submission@OMB.EOP.gov* and (2) Treasury PRA Clearance Officer, 1750 Pennsylvania Ave. NW., Suite 8142, Washington, DC 20220, or email at *PRA@treasury.gov*.

FOR FURTHER INFORMATION CONTACT: Copies of the submissions may be obtained from Jennifer Leonard by emailing *PRA@treasury.gov,* calling (202) 622–0489, or viewing the entire information collection request at *www.reginfo.gov*.

SUPPLEMENTARY INFORMATION:

Community Development Financial Institutions (CDFI)

Title: CDFI Program and NMTC Program Annual Report including CIIS.

OMB Control Number: 1559–0027.

Type of Review: Revision of a currently approved collection.

Abstract: The annual report provides qualitative and quantitative information on the Awardee's compliance with its performance goals, its financial health and the timeline in which the CDFI Fund's financial and technical assistance was used. The data collection will be used to collect compliance and performance data from certified CDFIs and CDEs and from NACA awardees.

Forms: CDFI 0007.

Affected Public: Businesses or other for-profits.

Estimated Total Annual Burden Hours: 51,645.

Authority: 44 U.S.C. 3501 *et seq.*

Dated: September 15, 2017.

Jennifer P. Leonard,

Treasury PRA Clearance Officer.

[FR Doc. 2017–20092 Filed 9–20–17; 8:45 am]

BILLING CODE 4810–70–P

DEPARTMENT OF THE TREASURY

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Multiple IRS Information Collection Requests

AGENCY: Departmental Offices, U.S. Department of the Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury will submit the following information collection requests to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. The public is invited to submit comments on these requests.

DATES: Comments should be received on or before October 23, 2017 to be assured of consideration.

ADDRESSES: Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden, to (1) Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for Treasury, New Executive Office Building, Room 10235, Washington, DC 20503, or email at *OIRA_Submission@OMB.EOP.gov* and (2) Treasury PRA Clearance Officer, 1750 Pennsylvania Ave. NW., Suite 8142, Washington, DC 20220, or email at *PRA@treasury.gov.*

FOR FURTHER INFORMATION CONTACT: Copies of the submissions may be obtained from Jennifer Leonard by emailing *PRA@treasury.gov,* calling (202) 622–0489, or viewing the entire information collection request at *www.reginfo.gov.*

SUPPLEMENTARY INFORMATION:

Internal Revenue Service (IRS)

Title: Time and Manner of Making Certain Elections Under the Technical and Miscellaneous Revenue Act of 1988 (26 CFR 301.9100–8).

OMB Control Number: 1545–1112.

Type of Review: Revision of a currently approved collection.

Abstract: Section 301.9100–8 establishes various elections with respect to which immediate interim guidance on the time and manner of making the elections is necessary. These regulations enable taxpayers to take advantage of the benefits of various Code provisions.

Forms: None.

Affected Public: Individuals or Households.

Estimated Total Annual Burden Hours: 6,010.

Title: Election to Expense Certain Depreciable Business Assets.

OMB Control Number: 1545–1201.

Type of Review: Extension without change of a currently approved collection.

Abstract: A taxpayer may elect to treat the cost of any section 179 property as an expense which is not chargeable to capital account. Any cost so treated shall be allowed as a deduction for the taxable year in which the section 179 property is placed in service. The regulations provide rules on the election described in section 179(b)(4); the apportionment of the dollar limitation among component members of a controlled group; the proper order for deducting the carryover of disallowed deduction; and the maintenance of information which permits the specific identification of each piece of section 179 property and reflects how and from whom such property was acquired and when such property was placed in service. The recordkeeping and reporting is necessary to monitor compliance with the section 179 rules.

Forms: None.

Affected Public: Individuals or Households.

Estimated Total Annual Burden Hours: 3,015,000.

Title: Disabled Access Credit.

OMB Control Number: 1545–1205.

Type of Review: Extension without change of a currently approved collection.

Abstract: Code section 44 allows eligible small businesses to claim a non-refundable income tax credit of 50% of the amount of eligible access expenditures for any tax year that exceed $250 but do not exceed $10,250. Form 8826 figures the credit and the tax limit.

Forms: 8826.

Affected Public: Businesses or other for Profits.

Estimated Total Annual Burden Hours: 89,027.

Title: PS–78–91 (TD 8521) (TD 8859) Procedures for Monitoring Compliance with Low-Income Housing Credit Requirements; PS–50–92 Rules to Carry Out the Purposes of Section 42 and for Correcting.

OMB Control Number: 1545–1357.

Type of Review: Extension without change of a currently approved collection.

Abstract: The regulations require state allocation plans to provide a procedure for state and local housing credit agencies to monitor for compliance with the requirements of section 42 and report any noncompliance to the IRS; covers the Secretary's authority to provide guidance under section 42, and provide for the correction of administrative errors and omissions made in connection with allocations of low-income housing credit dollar amounts and recordkeeping within a reasonable period after their discovery, and regulations that affect State and local housing credit agencies, owners of building projects for which the low income housing credit is allocated, and taxpayers claiming the low-income housing credit.

Forms: None.

Affected Public: Businesses or other for-profits; State, local, and tribal governments.

Estimated Total Annual Burden Hours: 104,899.

Title: Form 3911—Taxpayer Statement Regarding Refund.

OMB Control Number: 1545–1184.

Type of Review: Extension without change of a previously approved collection.

Abstract: If taxpayer inquires about their non-receipt of refund (or lost or stolen refund) and the refund has been issued, the information and taxpayer signature are needed to begin tracing action.

Forms: Form 3911.

Affected Public: Individuals or Households.

Estimated Total Annual Burden Hours: 16,600.

Title: Source of Income From Sales of Inventory and Natural Resources Produced in One Jurisdiction and Sold in Another Jurisdiction.

OMB Control Number: 1545–1476.

Type of Review: Extension without change of a currently approved collection.

Abstract: Section 863(a) authorizes the Secretary to promulgate regulations allocating and apportioning to U.S. or foreign sources all items of income not described in sections 861 and 862. The regulations provide rules for determining the amount of U.S. or foreign source income from cross border sales. The regulations provide amendments to the existing regulations. Section 1.863 l(b)(6) requires a statement to be attached to a return explaining the methodology used to determine fair market value and any

additional production activities performed by the taxpayer, and § 1.863 3(e)(2) requires a taxpayer who uses a method to determine income attributed to production activities and sales (as described in § 1.863 3(b)), must fully explain in a statement attached to the return the methodology used, the circumstances justifying use of that methodology, the extent that sales are aggregated, and the amount of income allocated. This information is used to enable the IRS to determine if the taxpayer has properly determined the source of its income.

Forms: None.

Affected Public: Businesses or other for-profits.

Estimated Total Annual Burden Hours: 1,250.

Title: TD 9595 (REG–141399–07) Consolidated Overall Foreign Losses, Separate Limitation Losses, and Overall Domestic Losses.

OMB Control Number: 1545–1634.

Type of Review: Extension without change of a currently approved collection.

Abstract: These regulations provide rules for the apportionment of a consolidated group's overall domestic loss (CODL), overall foreign loss (COFL) and separate limitation loss (CSLL) accounts to a departing member. The regulations affect consolidated groups of corporations that compute the foreign tax credit limitation or that dispose of property used in a foreign trade or business.

Forms: None.

Affected Public: Businesses or other for-profits.

Estimated Total Annual Burden Hours: 3,000.

Title: Exclusions From Gross Income of Foreign Corporations.

OMB Control Number: 1545–1677.

Type of Review: Extension without change of a currently approved collection.

Abstract: This document contains rules implementing the portions of section 883(a) and (c) of the Internal Revenue Code that relate to income derived by foreign corporations from the international operation of a ship or ships or aircraft. The rules provide, in general, that a foreign corporation organized in a qualified foreign country and engaged in the international operation of ships or aircraft shall exclude qualified income from gross income for purposes of United States Federal income taxation, provided that the corporation can satisfy certain ownership and related documentation requirements.

Forms: None.

Affected Public: Businesses or other for-profits.

Estimated Total Annual Burden Hours: 23,900.

Title: Revenue Procedure 2001–56, Demonstration Automobile Use.

OMB Control Number: 1545–1756.

Type of Review: Extension without change of a currently approved collection.

Abstract: This revenue procedure provides optional simplified methods for determining the value of the use of demonstration automobiles provided to employees by automobile dealerships.

Forms: None.

Affected Public: Businesses or other for-profits.

Estimated Total Annual Burden Hours: 100,000.

Title: Disclosure of Returns and Return Information by Other Agencies.

OMB Control Number: 1545–1757.

Type of Review: Extension without change of a currently approved collection.

Abstract: In general, under the regulations, the IRS is permitted to authorize agencies with access to returns and return information under section 6103 of the Internal Revenue Code to redisclose returns and return information based on a written request and with the Commissioner's approval, to any authorized recipient set forth in Code section 6103, subject to the same conditions and restrictions, and for the same purposes, as if the recipient had received the information from the IRS directly.

Forms: None.

Affected Public: State, Local, and Tribal Governments.

Estimated Total Annual Burden Hours: 11.

Title: Form 8886, Reportable Transaction Disclosure Statement; Form 14234, Pre-CAP and CAP Application Form.

OMB Control Number: 1545–1800.

Type of Review: Extension without change of a currently approved collection.

Abstract: Form 8886: Regulations section 1.6011–4 provides that certain taxpayers must disclose their direct or indirect participation in reportable transactions when they file their Federal income tax return. Pre-CAP and CAP Application Form (Form 14234): The Compliance Assurance Process (CAP) is a strictly voluntary program available to Large Business and International (LB&I) Division taxpayers that meet the selection criteria. CAP is a real-time review of completed business transactions during the CAP year with the goal of providing certainty of the tax return within 90 days of the filing. Taxpayers in CAP are required to be cooperative and transparent and report all material issues and items related to completed business transactions to the review team.

Forms: 8886, 14234.

Affected Public: Businesses or other for-profits.

Estimated Total Annual Burden Hours: 913,698.

Title: Form 13551—Application to Participate in the IRS Acceptance Agent Program.

OMB Control Number: 1545–1896.

Type of Review: Revision of a currently approved collection.

Abstract: The Internal Revenue Service will collect on Form 13551, information from individuals or an entity to enable the IRS to determine whether persons qualify as acceptance agent or a certified acceptance agent. The collection of information is required to obtain an acceptance agent agreement. The use of acceptance agents is in accordance with section 301.6109–1(d)(3)(iv) of the Regulations..

Forms: 13551.

Affected Public: Individuals or Households.

Estimated Total Annual Burden Hours: 6,413.

Title: Notice 2005–4, Fuel Tax Guidance, as modified.

OMB Control Number: 1545–1915.

Type of Review: Extension without change of a currently approved collection.

Abstract: Notice 2005–4 provides guidance on certain excise tax provisions in the Internal Revenue Code that were added or affected by the American Jobs Creation Act of 2004 (Pub. L. 108–357) (Act). These provisions relate to: Alcohol and biodiesel fuels; the definition of off-highway vehicles; aviation-grade kerosene; claims related to diesel fuel used in certain buses; the display of registration on certain vessels; claims related to sales of gasoline to state and local governments and nonprofit educational organizations; two party exchanges of taxable fuel; and the classification of transmix and certain diesel fuel blendstocks as diesel fuel. Subsequent modifications were made to Notice 2005–4, by Notice 2005–24 and 2005–62 to make corrections and provide additional guidance. Notice 2005–80 modifies 2005–4 to provide guidance on certain excise tax provisions added or affected by the Energy Policy Act of 2005 (Pub. L 109–58) and the Safe, Accountable, Flexible, Efficient Transportation Equity Act (Pub. L. 109–59).

Forms: None.

Affected Public: Businesses or other for-profits.

Estimated Total Annual Burden Hours: 76,190.

Title: Designated Roth Contributions to Cash or Deferred Arrangements Under Section 401(k).

OMB Control Number: 1545–1931.

Type of Review: Extension without change of a currently approved collection.

Abstract: The final regulations provide special rules relating to designed Roth contributions under a section 401(k) plan. Under section 1.401(k)–l(f)(1) or the regulations, one of the requirements that must be met for contributions to be considered designated Roth contribution is that they must be maintained by the plan in a separate account. Section 1.401(k)–1(f)(3) of the regulations provides that, under the separate accounting requirement, contributions and withdrawals of designated Roth contributions must be credited and debited to a designated Roth contribution account maintained for the employee who made the designation and the plan must maintain a record of the employee's investment in the contract employee's designated Roth contribution account.

Forms: None.

Affected Public: State, Local, and Tribal Governments.

Estimated Total Annual Burden Hours: 157,500.

Title: Late Filing of Certification or Notices.

OMB Control Number: 1545–2098.

Type of Review: Extension without change of a currently approved collection.

Abstract: As a means of assuring payment of taxes under section 897, section 1445(a) requires the transferee of a U.S. real property interest to withhold 10 percent of the amount realized by the foreign person on the disposition of the U.S. real property interest. Other provisions of section 1445 require withholding on certain distributions by certain entities. This revenue procedure provides a simplified method for taxpayers to request relief for late filings under sections 1.897–2(g)(1)(ii)(A), 1.897–2(h), 1.1445–2(c)(3)(i), 1.1445–2(d)(2), 1.1445–5(b)(2), and 1.1445–5(b)(4) of the Income Tax Regulations.

Forms: None.

Affected Public: Businesses or other for-profits.

Estimated Total Annual Burden Hours: 1,000.

Title: Form 15597—Foreclosure Sale Purchaser Contact Information Request.

OMB Control Number: 1545–2199.

Type of Review: Extension without change of a currently approved collection.

Abstract: This form is used to gather contact information of the purchaser from a 3rd party foreclosure sale when the IRS is considering the redemption of the property.

Forms: 15597.

Affected Public: Businesses or other for-profits.

Estimated Total Annual Burden Hours: 613.

Title: Form 8940—Request for Miscellaneous Determination.

OMB Control Number: 1545–2211.

Type of Review: Extension without change of a currently approved collection.

Abstract: Form 8940 standardizes information collection procedures for 9 categories of individually written requests for miscellaneous determinations now submitted to the Service by requestor letter. Respondents are exempt organizations.

Forms: 8940.

Affected Public: Not-for-profit institutions.

Estimated Total Annual Burden Hours: 28,959.

Authority: 44 U.S.C. 3501 *et seq.*

Dated: September 15, 2017.

Jennifer P. Leonard,

Treasury PRA Clearance Officer.

[FR Doc. 2017–20091 Filed 9–20–17; 8:45 am]

BILLING CODE 4830–01–P

FEDERAL REGISTER

Vol. 82 Thursday,
No. 182 September 21, 2017

Part II

Environmental Protection Agency

40 CFR Part 63
National Emission Standards for Hazardous Air Pollutants From the Portland Cement Manufacturing Industry Residual Risk and Technology Review; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA–HQ–OAR–2016–0442; FRL–9967–61–OAR]

RIN 2060–AS92

National Emission Standards for Hazardous Air Pollutants From the Portland Cement Manufacturing Industry Residual Risk and Technology Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing amendments to the National Emission Standards for Hazardous Air Pollutants (NESHAP) From the Portland Cement Manufacturing Industry to address the results of the residual risk and technology review (RTR) the EPA is required to conduct in accordance with section 112 of the Clean Air Act (CAA). We found risks due to emissions of air toxics to be acceptable from this source category with an ample margin of safety, and we identified no new cost-effective controls under the technology review to achieve further emissions reductions. Therefore, we are proposing no revisions to the numerical emission limits based on these analyses. However, the EPA is proposing amendments to correct and clarify rule requirements and provisions. While the proposed amendments would not result in reductions in emissions of hazardous air pollutants (HAP), this action, if finalized, would result in improved monitoring, compliance, and implementation of the rule.

DATES:

Comments. Comments must be received on or before November 6, 2017.

Public Hearing. If a public hearing is requested by September 26, 2017, the EPA will hold a public hearing on October 6, 2017. The last day to pre-register in advance to speak at the public hearing will be October 4, 2017.

ADDRESSES: *Comments.* 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.*

Public Hearing. If a hearing is requested, it will be held at the EPA WJC East Building, 1201 Constitution Avenue NW., Washington, DC 20004. If a public hearing is requested, then we will provide details about the public hearing on our Web site at *https://www.epa.gov/stationary-sources-air-pollution/portland-cement-manufacturing-industry-national-emission-standards.* The EPA does not intend to publish any future notices in the **Federal Register** announcing any updates on the request for public hearing. Please contact Aimee St. Clair at (919) 541–1063 or by email at *stclair.aimee@epa.gov* to request a public hearing, to register to speak at the public hearing, or to inquire as to whether a public hearing will be held.

FOR FURTHER INFORMATION CONTACT: For questions about this proposed action, 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.* For specific information regarding the risk modeling methodology, contact Mr. James Hirtz, Health and Environmental Impacts Division (C539–02), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–0881; fax number: (919) 541–0840; and email address: *hirtz.james@epa.gov.* For information about the applicability of the NESHAP to a particular entity, contact Ms. Sara Ayres, Office of Enforcement and Compliance Assurance, U.S. Environmental Protection Agency, U.S. EPA Region 5 (E–19J), 77 West Jackson Boulevard, Chicago, IL 60604; telephone number: (312) 353–6266; email address: *ayres.sara@epa.gov.*

SUPPLEMENTARY INFORMATION:

Docket. The EPA has established a docket for this rulemaking under Docket ID No. EPA–HQ–OAR–2016–0442. All documents in the docket are listed in the *Regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *Regulations.gov* or in hard copy at the EPA Docket Center, Room 3334, EPA WJC West Building, 1301 Constitution Avenue NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the EPA Docket Center is (202) 566–1742.

Instructions. Direct your comments to Docket ID No. EPA–HQ–OAR–2016–0442. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be CBI or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or email. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through *http://www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should not include special characters or any form of encryption and be free of any defects or

viruses. For additional information about the EPA's public docket, visit the EPA Docket Center homepage at *http://www.epa.gov/dockets.*

Preamble Acronyms and Abbreviations. We use multiple acronyms and terms in this preamble. While this list may not be exhaustive, to ease the reading of this preamble and for reference purposes, the EPA defines the following terms and acronyms here:

ACI activated carbon injection
AEGL acute exposure guideline levels
AERMOD air dispersion model used by the HEM–3 model
CAA Clean Air Act
CalEPA California EPA
CBI Confidential Business Information
CDX Central Data Exchange
CEDRI Compliance and Emissions Data Reporting Interface
CFR Code of Federal Regulations
CISWI commercial and industrial solid waste incinerators
CO carbon monoxide
D/F dioxins and furans
EPA Environmental Protection Agency
ERP Emergency Response Planning
ERPG Emergency Response Planning Guidelines
ERT Electronic Reporting Tool
ESP electrostatic precipitators
FR Federal Register
GHGRP Greenhouse Gas Reporting Program
HAP hazardous air pollutants
HCl hydrochloric acid
HEM–3 Human Exposure Model
HF hydrogen fluoride
HI hazard index
HQ hazard quotient
IRIS Integrated Risk Information System
km kilometer
lb/hr pounds per hour
lb/ton pounds per ton
LOAEL lowest-observed-adverse-effect level
MACT maximum achievable control technology
mg/kg-day milligrams per kilogram per day
mg/m^3 milligrams per cubic meter
mg/Nm^3 milligrams per normal cubic meter
MIR maximum individual risk
NAAQS National Ambient Air Quality Standards
NAC National Advisory Committee
NAICS North American Industry Classification System
NAS National Academy of Sciences
NATA National Air Toxics Assessment
NEI National Emissions Inventory
NESHAP national emission standards for hazardous air pollutants
NO_X nitrogen oxides
NOAA National Oceanic and Atmospheric Administration
NOAEL no-observed-adverse-effect level
NRC National Research Council
NRDC Natural Resources Defense Council
NSPS new source performance standards
NTTAA National Technology Transfer and Advancement Act
OAQPS Office of Air Quality Planning and Standards
OMB Office of Management and Budget
PB–HAP hazardous air pollutants known to be persistent and bio-accumulative in the environment
PCA Portland Cement Association
PEL probable effect level
PM particulate matter
POM polycyclic organic matter
ppm parts per million
ppmvd parts per million by volume, dry basis
PRA Paperwork Reduction Act
REL reference exposure level
RFA Regulatory Flexibility Act
RfC reference concentration
RfD reference dose
RTO regenerative thermal oxidizers
RTR residual risk and technology review
SAB Science Advisory Board
SCR selective catalytic reduction
SO_2 sulfur dioxide
TEF toxicity equivalence factors
TEQ toxic equivalents
THC total hydrocarbons
TOSHI target organ-specific hazard index
tpy tons per year
TRIM.FaTE Total Risk Integrated Methodology.Fate, Transport, and Ecological Exposure model
UF uncertainty factor
µg/m^3 microgram per cubic meter
UISIS Universal Industrial Sectors Integrated Solutions
UMRA Unfunded Mandates Reform Act
URE unit risk estimate
U.S.C. United States Code
WebFIRE Web Factor Information Retrieval System

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

I. General Information

A. Does this action apply to me?

Table 1 of this preamble lists the NESHAP and associated regulated industrial source category that is the subject of this proposal. Table 1 is not intended to be exhaustive, but rather provides a guide for readers regarding the entities that this proposed action is likely to affect. The proposed standards, once promulgated, will be directly applicable to the affected sources. Federal, state, local, and tribal government entities would not be affected by this proposed action. As defined in the *Initial List of Categories of Sources Under Section 112(c)(1) of the Clean Air Act Amendments of 1990* (see 57 FR 31576, July 16, 1992), the Portland Cement Manufacturing Industry source category is any facility engaged in manufacturing Portland cement by either the wet or dry process. The category includes, but is not limited to, the following process units: Kiln, clinker cooler, raw mill system, finish mill system, raw mill dryer, raw material storage, clinker storage, finished product storage, conveyor transfer points, bagging, and bulk loading and unloading systems.

TABLE 1—NESHAP AND INDUSTRIAL SOURCE CATEGORIES AFFECTED BY THIS PROPOSED ACTION

Source category	NESHAP	NAICS code [1]
Portland cement manufacturing facilities	40 CFR part 63 subpart LLL	327310

[1] North American Industry Classification System.

The source category does not include those kilns that burn hazardous waste and are subject to and regulated under 40 CFR part 63, subpart EEE, or kilns that burn solid waste and are subject to the Commercial and Industrial Solid Waste Incinerator (CISWI) rule under 40 CFR part 60, subparts CCCC and DDDD.

B. Where can I get a copy of this document and other related information?

In addition to being available in the docket, an electronic copy of this action is available on the Internet. Following signature by the EPA Administrator, the EPA will post a copy of this proposed action at *https://www3.epa.gov/airquality/cement/actions.html.* Following publication in the **Federal Register**, the EPA will post the **Federal Register** version of the proposal and key technical documents at this same Web site. Information on the overall RTR program is available at *https://www3.epa.gov/ttn/atw/rrisk/rtrpg.html.*

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

Submitting CBI. 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, you must submit a copy of the comments that does not contain the information claimed as CBI for inclusion in the public docket. If you submit a CD–ROM or disk that does not contain CBI, mark the outside of the disk or CD–ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public docket and the EPA's electronic public docket without prior notice. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 Code of Federal Regulations (CFR) part 2. Send or deliver information identified as CBI only to the following address: OAQPS Document Control Officer (C404–02), OAQPS, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, Attention Docket ID No. EPA–HQ–OAR–2016–0442.

II. Background

A. What is the statutory authority for this action?

Section 112 of the CAA establishes a two-stage regulatory process to address emissions of HAP from stationary sources. In the first stage, after the EPA has identified categories of sources emitting one or more of the HAP listed in CAA section 112(b), CAA section 112(d) requires us to promulgate technology-based NESHAP for those sources. ''Major sources'' are those that emit or have the potential to emit 10 tons per year (tpy) or more of a single HAP or 25 tpy or more of any combination of HAP. For major sources, the technology-based NESHAP must reflect the maximum degree of emission reductions of HAP achievable (after considering cost, energy requirements, and non-air quality health and environmental impacts) and are commonly referred to as maximum achievable control technology (MACT) standards.

MACT standards must reflect the maximum degree of emissions reduction achievable through the application of measures, processes, methods, systems, or techniques, including, but not limited to, measures that: (1) Reduce the volume of or eliminate pollutants through process changes, substitution of materials, or other modifications; (2) enclose systems or processes to eliminate emissions; (3) capture or treat pollutants when released from a process, stack, storage, or fugitive emissions point; (4) are design, equipment, work practice, or operational standards (including requirements for operator training or certification); or (5) are a combination of the above. CAA section 112(d)(2)(A)–(E). The MACT standards may take the form of design, equipment, work practice, or operational standards where the EPA first determines either that: (1) A pollutant cannot be emitted through a conveyance designed and constructed to emit or capture the pollutant, or that any requirement for, or use of, such a conveyance would be inconsistent with law; or (2) the application of measurement methodology to a particular class of sources is not practicable due to technological and economic limitations. CAA section 112(h)(1)–(2).

The MACT ''floor'' is the minimum control level allowed for MACT standards promulgated under CAA section 112(d)(3) and may not be based on cost considerations. For new sources, the MACT floor cannot be less stringent than the emissions control that is achieved in practice by the best-controlled similar source. The MACT floor for existing sources can be less stringent than floors for new sources, but not less stringent than the average emissions limitation achieved by the best-performing 12 percent of existing sources in the category or subcategory (or the best-performing five sources for categories or subcategories with fewer than 30 sources). In developing MACT standards, the EPA must also consider control options that are more stringent than the floor. We may establish standards more stringent than the floor based on considerations of the cost of achieving the emission reductions, any non-air quality health and environmental impacts, and energy requirements.

The EPA is then required to review these technology-based standards and revise them ''as necessary (taking into account developments in practices, processes, and control technologies)'' no less frequently than every 8 years. CAA section 112(d)(6). In conducting this review, the EPA is not required to recalculate the MACT floor. *Natural Resources Defense Council* (*NRDC*) *v. EPA,* 529 F.3d 1077, 1084 (D.C. Cir. 2008). *Association of Battery Recyclers, Inc.* v. *EPA,* 716 F.3d 667 (D.C. Cir. 2013).

The second stage in standard-setting focuses on reducing any remaining (*i.e.,* ''residual'') risk according to CAA section 112(f). Section 112(f)(1) of the CAA required that the EPA prepare a report to Congress discussing (among other things) methods of calculating the risks posed (or potentially posed) by sources after implementation of the MACT standards, the public health significance of those risks, and the EPA's recommendations as to legislation regarding such remaining risk. The EPA prepared and submitted the *Residual Risk Report to Congress,* EPA–453/R–99–001 (*Risk Report*) in March 1999.

Section 112(f)(2) of the CAA then provides that if Congress does not act on any recommendation in the *Risk Report,* the EPA must analyze and address residual risk for each category or subcategory of sources 8 years after promulgation of such standards pursuant to CAA section 112(d).

Section 112(f)(2) of the CAA requires the EPA to determine for source categories subject to MACT standards whether promulgation of additional standards is needed to provide an ample margin of safety to protect public health. Section 112(f)(2)(B) of the CAA expressly preserves the EPA's use of the two-step process for developing standards to address any residual risk and the Agency's interpretation of ''ample margin of safety'' developed in the *National Emissions Standards for Hazardous Air Pollutants: Benzene Emissions from Maleic Anhydride Plants, Ethylbenzene/Styrene Plants, Benzene Storage Vessels, Benzene Equipment Leaks, and Coke By-Product Recovery Plants* (Benzene NESHAP) (54 FR 38044, September 14, 1989). The EPA notified Congress in the *Risk Report* that the Agency intended to use the Benzene NESHAP approach in making CAA section 112(f) residual risk determinations (EPA–453/R–99–001, p. ES–11). The EPA subsequently adopted this approach in its residual risk determinations and in a challenge to the risk review for the Synthetic Organic Chemical Manufacturing source category, the United States Court of Appeals for the District of Columbia Circuit (the Court) upheld as reasonable the EPA's interpretation that CAA section 112(f)(2) incorporates the approach established in the Benzene NESHAP. See *NRDC* v. *EPA,* 529 F.3d 1077, 1083 (D.C. Cir. 2008) (''[S]ubsection 112(f)(2)(B) expressly incorporates the EPA's interpretation of the Clean Air Act from the Benzene standard, complete with a citation to the **Federal Register**.''); see also, *A Legislative History of the Clean Air Act Amendments of 1990,* vol. 1, p. 877 (Senate debate on Conference Report).

The first step in the process of evaluating residual risk is the determination of acceptable risk. If risks are unacceptable, the EPA cannot consider cost in identifying the emissions standards necessary to bring risks to an acceptable level. The second step is the determination of whether standards must be further revised in order to provide an ample margin of safety to protect public health. The ample margin of safety is the level at which the standards must be set, unless an even more stringent standard is necessary to prevent, taking into consideration costs, energy, safety, and other relevant factors, an adverse environmental effect.

1. Step 1—Determination of Acceptability

The Agency in the Benzene NESHAP concluded that ''the acceptability of risk under section 112 is best judged on the basis of a broad set of health risk measures and information'' and that the ''judgment on acceptability cannot be reduced to any single factor.'' Benzene NESHAP at 38046. The determination of what represents an ''acceptable'' risk is based on a judgment of ''what risks are acceptable in the world in which we live'' (*Risk Report* at 178, quoting *NRDC* v. *EPA,* 824 F. 2d 1146, 1165 (D.C. Cir. 1987) (*en banc*) (''Vinyl Chloride''), recognizing that our world is not risk-free.

In the Benzene NESHAP, we stated that ''EPA will generally presume that if the risk to [the maximum exposed] individual is no higher than approximately one in 10 thousand, that risk level is considered acceptable.'' 54 FR at 38045, September 14, 1989. We discussed the maximum individual lifetime cancer risk (or maximum individual risk (MIR)) as being ''the estimated risk that a person living near a plant would have if he or she were exposed to the maximum pollutant concentrations for 70 years.'' *Id.* We explained that this measure of risk ''is an estimate of the upper bound of risk based on conservative assumptions, such as continuous exposure for 24 hours per day for 70 years.'' *Id.* We acknowledged that maximum individual lifetime cancer risk ''does not necessarily reflect the true risk, but displays a conservative risk level which is an upper-bound that is unlikely to be exceeded.'' *Id.*

Understanding that there are both benefits and limitations to using the MIR as a metric for determining acceptability, we acknowledged in the Benzene NESHAP that ''consideration of maximum individual risk * * * must take into account the strengths and weaknesses of this measure of risk.'' *Id.* Consequently, the presumptive risk level of 100-in-1 million (1-in-10 thousand) provides a benchmark for judging the acceptability of maximum individual lifetime cancer risk, but does not constitute a rigid line for making that determination. Further, in the Benzene NESHAP, we noted that:

> [p]articular attention will also be accorded to the weight of evidence presented in the risk assessment of potential carcinogenicity or other health effects of a pollutant. While the same numerical risk may be estimated for an exposure to a pollutant judged to be a known human carcinogen, and to a pollutant considered a possible human carcinogen based on limited animal test data, the same weight cannot be accorded to both estimates. In considering the potential public health effects of the two pollutants, the Agency's judgment on acceptability, including the MIR, will be influenced by the greater weight of evidence for the known human carcinogen.

Id. at 38046. The Agency also explained in the Benzene NESHAP that:

> [i]n establishing a presumption for MIR, rather than a rigid line for acceptability, the Agency intends to weigh it with a series of other health measures and factors. These include the overall incidence of cancer or other serious health effects within the exposed population, the numbers of persons exposed within each individual lifetime risk range and associated incidence within, typically, a 50 km exposure radius around facilities, the science policy assumptions and estimation uncertainties associated with the risk measures, weight of the scientific evidence for human health effects, other quantified or unquantified health effects, effects due to co-location of facilities, and co-emission of pollutants.

Id. at 38045. In some cases, these health measures and factors taken together may provide a more realistic description of the magnitude of risk in the exposed population than that provided by maximum individual lifetime cancer risk alone.

As noted earlier, in *NRDC* v. *EPA,* the Court held that CAA section 112(f)(2) ''incorporates the EPA's interpretation of the Clean Air Act from the Benzene Standard.'' The Court further held that Congress' incorporation of the Benzene standard applies equally to carcinogens and non-carcinogens. 529 F.3d at 1081–82. Accordingly, we also consider non-cancer risk metrics in our determination of risk acceptability and ample margin of safety.

2. Step 2—Determination of Ample Margin of Safety

Section 112(f)(2) of the CAA requires the EPA to determine, for source categories subject to MACT standards, whether those standards provide an ample margin of safety to protect public health. As explained in the Benzene NESHAP, ''the second step of the inquiry, determining an 'ample margin of safety,' again includes consideration of all of the health factors, and whether to reduce the risks even further * * *. Beyond that information, additional factors relating to the appropriate level of control will also be considered, including costs and economic impacts of controls, technological feasibility, uncertainties, and any other relevant factors. Considering all of these factors, the agency will establish the standard at

a level that provides an ample margin of safety to protect the public health, as required by section 112.'' 54 FR 38046, September 14, 1989.

According to CAA section 112(f)(2)(A), if the MACT standards for HAP ''classified as a known, probable, or possible human carcinogen do not reduce lifetime excess cancer risks to the individual most exposed to emissions from a source in the category or subcategory to less than one in one million,'' the EPA must promulgate residual risk standards for the source category (or subcategory), as necessary to provide an ample margin of safety to protect public health. In doing so, the EPA may adopt standards equal to existing MACT standards if the EPA determines that the existing standards (*i.e.,* the MACT standards) are sufficiently protective. *NRDC* v. *EPA,* 529 F.3d 1077, 1083 (D.C. Cir. 2008) (''If EPA determines that the existing technology-based standards provide an 'ample margin of safety,' then the Agency is free to readopt those standards during the residual risk rulemaking.'') The EPA must also adopt more stringent standards, if necessary, to prevent an adverse environmental effect,[1] but must consider cost, energy, safety, and other relevant factors in doing so.

The CAA does not specifically define the terms ''individual most exposed,'' ''acceptable level,'' and ''ample margin of safety.'' In the Benzene NESHAP, 54 FR at 38044–38045, September 14, 1989, we stated as an overall objective:

> In protecting public health with an ample margin of safety under section 112, EPA strives to provide maximum feasible protection against risks to health from hazardous air pollutants by (1) protecting the greatest number of persons possible to an individual lifetime risk level no higher than approximately 1-in-1 million and (2) limiting to no higher than approximately 1-in-10 thousand [*i.e.,* 100-in-1 million] the estimated risk that a person living near a plant would have if he or she were exposed to the maximum pollutant concentrations for 70 years.

The Agency further stated that ''[t]he EPA also considers incidence (the number of persons estimated to suffer cancer or other serious health effects as a result of exposure to a pollutant) to be an important measure of the health risk to the exposed population. Incidence measures the extent of health risks to the exposed population as a whole, by providing an estimate of the occurrence of cancer or other serious health effects in the exposed population.'' *Id.* at 38045.

In the ample margin of safety decision process, the Agency again considers all of the health risks and other health information considered in the first step, including the incremental risk reduction associated with standards more stringent than the MACT standard or a more stringent standard that the EPA has determined is necessary to ensure risk is acceptable. In the ample margin of safety analysis, the Agency considers additional factors, including costs and economic impacts of controls, technological feasibility, uncertainties, and any other relevant factors. Considering all of these factors, the Agency will establish the standard at a level that provides an ample margin of safety to protect the public health, as required by CAA section 112(f). 54 FR 38046, September 14, 1989.

B. What is this source category and how does the current NESHAP regulate its HAP emissions?

The EPA initially promulgated the Portland Cement Manufacturing Industry NESHAP on June 14, 1999 (64 FR 31898), under title 40, part 63, subpart LLL of the CFR (40 CFR part 63, subpart LLL). The rule was amended on April 5, 2002 (67 FR 16614); July 5, 2002 (67 FR 44766); December 6, 2002 (67 FR 72580); December 20, 2006 (71 FR 76518); September 9, 2010 (75 FR 54970); January 18, 2011 (76 FR 2832); February 12, 2013 (78 FR 10006); July 27, 2015 (80 FR 44772); September 11, 2015 (80 FR 54728); and July 25, 2016 (81 FR 48356). The amendments further defined affected cement kilns as those used to manufacture Portland cement, except for kilns that burn hazardous waste, and are subject to and regulated under 40 CFR part 63, subpart EEE, and kilns that burn solid waste, which are subject to the CISWI rule under 40 CFR part 60, subparts CCCC and DDDD. Additionally, onsite sources that are subject to standards for nonmetallic mineral processing plants in 40 CFR part 60, subpart OOO are not subject to 40 CFR part 63, subpart LLL. Crushers are not covered by 40 CFR part 63, subpart LLL regardless of their location. Subpart LLL NESHAP regulates HAP emissions from new and existing Portland cement production facilities that are major or area sources of HAP, with one exception. Kilns located at facilities that are area sources, are not regulated for hydrochloric acid (HCl) emissions.

Portland cement manufacturing is an energy-intensive process in which cement is made by grinding and heating a mixture of raw materials such as limestone, clay, sand, and iron ore in a rotary kiln. The kiln is a large furnace that is fueled by coal, oil, gas, coke, and/or various waste materials. The product (known as clinker) from the kiln is cooled, ground, and then mixed with a small amount of gypsum to produce Portland cement.

The main source of air toxics emissions from a Portland cement plant is the kiln. Emissions originate from the burning of fuels and heating of feed materials. Air toxics are also emitted from the grinding, cooling, and materials handling steps in the manufacturing process. Pollutants regulated under the subpart LLL NESHAP are particulate matter (PM) as a surrogate for non-mercury HAP metals, total hydrocarbons (THC) as a surrogate for organic HAP other than dioxins and furans (D/F), organic HAP as an alternative to the limit for THC, mercury, HCl (from major sources only), and D/F expressed as toxic equivalents (TEQ). The kiln is regulated for all HAP and raw material dryers are regulated for THC or the alternative organic HAP. Clinker coolers are regulated for PM. Finish mills and raw mills are regulated for opacity. During periods of startup and shutdown, the kiln, clinker cooler, and raw material dryer are regulated by work practices. Open clinker storage piles are regulated by work practices. The emission standards for the affected sources are summarized in Table 2.

TABLE 2—EMISSION LIMITS FOR KILNS, CLINKER COOLERS, RAW MATERIAL DRYERS, RAW AND FINISH MILLS

If your source is a (an):	And the operating mode is:	And it is located at a:	Your emissions limits are:	And the units of the emissions limit are:	The oxygen correction factor is:
1. Existing kiln	Normal operation	Major or area source	PM[1] 0.07	Pounds (lb)/ton clinker	NA.

[1] ''Adverse environmental effect'' is defined as any significant and widespread adverse effect, which may be reasonably anticipated to wildlife, aquatic life, or natural resources, including adverse impacts on populations of endangered or threatened species or significant degradation of environmental qualities over broad areas. CAA section 112(a)(7).

TABLE 2—EMISSION LIMITS FOR KILNS, CLINKER COOLERS, RAW MATERIAL DRYERS, RAW AND FINISH MILLS—Continued

If your source is a (an):	And the operating mode is:	And it is located at a:	Your emissions limits are:	And the units of the emissions limit are:	The oxygen correction factor is:
			D/F [2] 0.2	Nanograms/dry standard cubic meters (ng/dscm) (TEQ).	7 percent.
			Mercury 55	lb/million (MM) tons clinker	NA.
			THC [3 4] 24	Parts per million, volumetric dry (ppmvd).	7 percent.
2. Existing kiln	Normal operation	Major source	HCl 3	ppmvd	7 percent.
3. Existing kiln	Startup and shutdown	Major or area source	Work practices (63.1346(g))	NA	NA.
4. New kiln	Normal operation	Major or area source	PM [1] 0.02	lb/ton clinker	NA.
			D/F [2] 0.2	ng/dscm (TEQ)	7 percent.
			Mercury 21	lb/MM tons clinker	NA.
			THC [3 4] 24	ppmvd	7 percent.
5. New kiln	Normal operation	Major source	HCl 3	ppmvd	7 percent.
6. New kiln	Startup and shutdown	Major or area source	Work practices (63.1346(g))	NA	NA.
7. Existing clinker cooler	Normal operation	Major or area source	PM 0.07	lb/ton clinker	NA.
8. Existing clinker cooler	Startup and shutdown	Major or area source	Work practices (63.1348(b)(9)).	NA	NA.
9. New clinker cooler	Normal operation	Major or area source	PM 0.02	lb/ton clinker	NA.
10. New clinker cooler	Startup and shutdown	Major or area source	Work practices (63.1348(b)(9)).	NA	NA.
11. Existing or new raw material dryer.	Normal operation	Major or area source	THC [3 4] 24	ppmvd	NA.
12. Existing or new raw material dryer.	Startup and shutdown	Major or area source	Work practices (63.1348(b)(9)).	NA	NA.
13. Existing or new raw or finish mill.	All operating modes	Major source	Opacity 10	percent	NA.

[1] The initial and subsequent PM performance tests are performed using Method 5 or 5I and consist of three test runs.
[2] If the average temperature at the inlet to the first PM control device (fabric filter or electrostatic precipitator) during the D/F performance test is 400 °F or less, this limit is changed to 0.40 ng/dscm (TEQ).
[3] Measured as propane.
[4] Any source subject to the 24 ppmvd THC limit may elect to meet an alternative limit of 12 ppmvd for total organic HAP.

C. What data collection activities were conducted to support this action?

For the Portland Cement Manufacturing Industry source category, we did not submit data collection requests to the industry or request emissions testing by the industry for the information used in this analysis. The data and data sources used to support this action are described in section II.D below.

D. What other relevant background information and data are available?

For the Portland Cement Manufacturing Industry source category, a comprehensive list of facilities and kilns was compiled using information from the EPA's Greenhouse Gas Reporting Program (GHGRP) (*https://www.epa.gov/ghgreporting*). All manufacturers of Portland cement are required to report annually their greenhouse gas emissions to the EPA (40 CFR part 98, subpart H). In reporting year 2015, 95 Portland cement facilities reported under the GHGRP. As explained above in section II.B, kilns that are fueled by hazardous waste are subject to the hazardous waste regulations in 40 CFR part 63, subpart EEE and, therefore, are not subject to 40 CFR part 63, subpart LLL. Kilns that are fueled by solid waste are subject to regulations in 40 CFR part 60, subpart CCCC or DDDD and are also not subject to subpart LLL. To assist in the identification of which sources are subject to subpart LLL, the comprehensive list of Portland cement manufacturing facilities was submitted to the Portland Cement Association (PCA) for review. The PCA is an organization that represents the manufacturers of cement. The PCA provided information on the status of each kiln and clinker cooler, whether or not they were subject to subpart LLL regulations, and identified other sources at facilities, such as raw material dryers, that were also subject to subpart LLL.

The risk modeling dataset was developed in a two-step process. Initially, a draft dataset was developed using available information on emissions, stack parameters, and emission source locations. In step two, the draft dataset for each Portland cement manufacturing facility was submitted to the facility or its parent company to review for accuracy. Based on the review by each company and the submittal of documentation supporting the changes, the risk modeling dataset was revised. Copies of the datasets sent to the companies for review and the revised datasets and supporting documentation submitted by each company are contained in the docket to this rulemaking (Docket ID No. EPA–HQ–OAR–2016–0442).

The initial draft dataset was developed using emission test data to the extent possible. Under 40 CFR part 63, subpart LLL, the EPA requires that performance test results be submitted to the EPA via the Compliance and Emissions Data Reporting Interface (CEDRI), which can be accessed through the EPA's Central Data Exchange (CDX). Emissions data are publicly available through the EPA's Web Factor Information Retrieval System (WebFIRE) using the EPA's electronic reporting tool (ERT) as listed on the EPA's ERT Web site (*https://www.epa.gov/electronic-reporting-air-emissions/electronic-reporting-tool-ert*). To estimate actual emissions, available emissions data were extracted from each facility's submitted ERT file. When emissions data were not available in ERT, the subpart LLL emissions limit was substituted as a placeholder for actual emissions until the data set could be reviewed and revised by industry.

III. Analytical Procedures

In this section, we describe the analyses performed to support the proposed decisions for the RTR and other issues addressed in this proposal.

A. How did we estimate post-MACT risks posed by the source category?

The EPA conducted a risk assessment that provides estimates of the MIR posed by the HAP emissions from each source in the source category, the hazard index (HI) for chronic exposures to HAP with the potential to cause non-cancer health effects, and the hazard quotient (HQ) for acute exposures to HAP with the potential to cause non-cancer health effects. The assessment also provides estimates of the distribution of cancer risks within the exposed populations, cancer incidence, and an evaluation of the potential for adverse environmental effects. The eight sections that follow this paragraph describe how we estimated emissions and conducted the risk assessment. The docket for this rulemaking contains the following document which provides more information on the risk assessment inputs and models: *Residual Risk Assessment for the Portland Cement Manufacturing Industry Source Category in Support of the Risk and Technology Review September, 2017 Proposed Rule.* The methods used to assess risks (as described in the eight primary steps below) are consistent with those peer-reviewed by a panel of the EPA's Science Advisory Board (SAB) in 2009 and described in their peer review report issued in 2010;[2] they are also consistent with the key recommendations contained in that report.

1. How did we estimate actual emissions and identify the emissions release characteristics?

The pollutants regulated under 40 CFR part 63, subpart LLL are PM, HCl, THC, mercury, and D/F. The emission standards apply to Portland cement plants that are major or area sources, with one exception. Kilns that are located at a facility that is an area source are not subject to the emission limits for HCl. Sources subject to the emissions limit for THC may elect to meet an alternative limit for total organic HAP. For purposes of subpart LLL, total organic HAP is the sum of the concentrations of compounds of formaldehyde, benzene, toluene, styrene, m-xylene, p-xylene, o-xylene, acetaldehyde, and naphthalene as measured by EPA Test Method 320 or Method 18 of appendix A to 40 CFR part 63 or ASTM D6348–03 or a combination of these methods, as appropriate. The affected sources at Portland cement plants that were accounted for in the risk modeling dataset include the kiln, as well as any alkali bypass or inline raw mill or inline coal mill, clinker coolers, and raw material dryers. Kilns fueled with hazardous waste or solid waste and not subject to subpart LLL were excluded from the dataset. All affected sources in the risk modeling dataset emit through stacks. As mentioned in section II.D above, the risk modeling dataset used for estimating actual emissions was developed in a two-step process. Initially, the dataset was developed using available information and is described below. The dataset for each Portland cement manufacturing facility was then submitted to the facility, or its parent company, to review for accuracy. Based on the review by each company, and the submittal of documentation supporting the changes, the risk modeling dataset was then revised. Copies of the datasets sent to the companies for review and the revised datasets submitted by each company are contained in the docket to this rulemaking (Docket ID No. EPA–HQ–OAR–2016–0442).

As described in section II.D above, available emissions data were extracted from each facility's submitted ERT file. To ensure that the emissions data reflect process and control device changes made at each Portland cement plant to comply with the 2013 final amendments to 40 CFR part 63, subpart LLL (February 12, 2013, 78 FR 10006), emissions data from mid-2015 and later were used as inputs into the emissions modeling file.

Emissions data are reported in ERT in units of pounds per hour (lb/hr), which were multiplied by a facility's reported annual hours of operation to calculate emissions in tpy. If hours of operation were not reported, the default of 8,760 hours per year was used. When emissions data were not available in ERT, the 40 CFR part 63, subpart LLL emissions limit was substituted as a placeholder for actual emissions until the data set could be reviewed and revised by industry.

Subpart LLL of 40 CFR part 63 uses PM as a surrogate for non-mercury metallic HAP and THC as a surrogate for organic HAP. The specific non-mercury metallic HAP that went into the modeling file are antimony, arsenic, beryllium, cadmium, chromium, cobalt, lead, manganese, mercury, nickel, and selenium. As an alternative to measuring THC, subpart LLL allows sources to measure directly their emissions of the nine organic HAP listed in subpart LLL. The specific organic HAP that went into the modeling file are acetaldehyde, formaldehyde, naphthalene, styrene, toluene, m-xylene, o-xylene, p-xylene, and benzene. Because subpart LLL compliance testing is typically performed for the surrogates PM and THC, there are limited test data available for compound-specific non-mercury metallic and organic HAP emissions. To generate compound-specific metallic HAP and organic HAP emissions estimates, recent emissions tests were identified in which testing was done for compound-specific metallic and organic HAP emissions. To account for recent changes in emission controls and production processes that have been implemented by facilities to comply with the subpart LLL MACT standards, emissions testing that occurred in 2015 and later were used to develop compound-specific estimates for metallic HAP and organic HAP emissions. In the case of D/F, the subpart LLL emission limits for D/F were unchanged in the 2013 final rule. Thus, older D/F test data could be used along with more recent test data.

The approach used to develop the final risk modeling dataset assures the quality of the data at various steps in the process of developing the dataset. The initial step in developing the dataset was to compile a list of affected facilities. A comprehensive list of cement manufacturing facilities and kilns was derived from the EPA's GHGRP, which requires reporting by all cement manufacturing facilities. Not all Portland cement kilns are subject to 40 CFR part 63, subpart LLL. Kilns that burn commercial and industrial solid waste are subject to 40 CFR part 60, subpart CCCC and DDDD. Kilns that burn hazardous waste are subject to 40 CFR part 63, subpart EEE. To help identify the cement kilns that are subject to subpart LLL regulations, the list of facilities and kilns was submitted to the PCA for review. In their review, they provided useful information on which cement manufacturing facilities were or were not subject to subpart LLL, whether kilns and clinker coolers used separate or combined stacks, the presence of additional affected sources not on the initial list, and the presence of kilns that were not currently operating. For those kilns identified as not currently operating, the appropriate state permitting agency was contacted to determine whether the kiln was currently permitted to operate. If the kiln was not operating, but retained their title V permit, they were kept in the dataset. In other instances, company representatives were contacted to verify that kilns at their facilities were or were

[2] U.S. EPA SAB. *Risk and Technology Review (RTR) Risk Assessment Methodologies: For Review by the EPA's Science Advisory Board with Case Studies—MACT I Petroleum Refining Sources and Portland Cement Manufacturing,* May 2010.

not subject to subpart LLL regulations. In developing the emissions data, operating hours, stack parameters (*i.e.,* stack height, temperature, diameter, velocity, and flowrate), and stack locations (*i.e.,* latitude and longitude), the use of the EPA's ERT provides a single source of electronic test data and replaces the manual collection and evaluation of test data. The regulated facility owner or operator submits their summary report semiannually to the EPA via the CEDRI, which is accessed through the EPA's CDX (*www.epa.gov/cdx*). This electronic submission of data helps to ensure that information and procedures required by test methods are documented, provides consistent criteria to quantitatively characterize the quality of the data collected during the emissions test, and standardizes the reporting of results. Information on stack parameters and stack locations were also derived from ERT. For facilities that had not yet submitted their test information to ERT, the emission limits were used as placeholders until industry could review the information. When operating hours were not in ERT, a placeholder of 8,760 hours was used until industry could review the information. When stack parameters and stack locations were not in ERT, other sources of information such as the 2013 Universal Industrial Sectors Integrated Solutions (UISIS) modeling file created by the EPA and the 2011 National Emissions Inventory (NEI) were used. As a check on the emissions data, operating hours, stack parameters, and stack locations compiled for each facility, a draft of the dataset consisting of the data for all the facilities under a single company was sent to a representative at the appropriate company for review. Instructions for reviewing and making changes to the dataset required that any revisions be supported with appropriate documentation. In addition, example calculations for emissions estimates and default stack parameters were provided. Revisions made to the data for each facility were incorporated into a master final dataset. The master final dataset was subjected to further quality evaluation. For example, exhaust gas flowrates were checked using information on stack diameters and gas velocities. Stack diameters and stack velocities are checked for outliers. Stack locations were also checked using Google Earth® to ensure that stack locations were correctly located at the cement manufacturing facility.

The derivation of actual emission estimates is discussed in more detail in the document, *Development of the RTR Risk Modeling Dataset for the Portland Cement Manufacturing Industry Source Category,* which is available in the docket for this proposed rulemaking.

2. How did we estimate MACT-allowable emissions?

The available emissions data in the RTR emissions dataset include estimates of the mass of HAP emitted during the specified annual time period. In some cases, these ''actual'' emission levels are lower than the emission levels required to comply with the current MACT standards. The emissions level allowed to be emitted by the MACT standards is referred to as the ''MACT-allowable'' emissions level. We discussed the use of both MACT-allowable and actual emissions in the final Coke Oven Batteries RTR (70 FR 19998–19999, April 15, 2005) and in the proposed and final Hazardous Organic NESHAP RTRs (71 FR 34428, June 14, 2006, and 71 FR 76609, December 21, 2006, respectively). In those actions, we noted that assessing the risks at the MACT-allowable level is inherently reasonable since these risks reflect the maximum level facilities could emit and still comply with national emission standards. We also explained that it is reasonable to consider actual emissions, where such data are available, in both steps of the risk analysis, in accordance with the Benzene NESHAP approach (54 FR 38044, September 14, 1989).

Allowable emissions are calculated using the emission limits in the rule for existing sources along with the emission factors for metallic HAP, organic HAP, and D/F congeners, the annual production capacity, and, when the emission limit is a concentration-based limit, the annual hours of operation reported by each source. We note that these are conservative estimates of allowable emissions. It is unlikely that emissions would be at the maximum limit at all times because sources cannot emit HAP at a level that is exactly equal to the limit and remain in compliance with the standard due to day-to-day variability in process operations and emissions. On average, facilities must emit at some level below the MACT limit to ensure that they are always in compliance. The derivation of allowable emissions is discussed in more detail in the document, *Development of the RTR Risk Modeling Dataset for the Portland Cement Manufacturing Industry Source Category,* which is available in the docket for this proposed rulemaking.

3. How did we conduct dispersion modeling, determine inhalation exposures, and estimate individual and population inhalation risks?

Both long-term and short-term inhalation exposure concentrations and health risks from the source category addressed in this proposal were estimated using the Human Exposure Model (Community and Sector HEM–3). The HEM–3 performs three primary risk assessment activities: (1) conducting dispersion modeling to estimate the concentrations of HAP in ambient air, (2) estimating long-term and short-term inhalation exposures to individuals residing within 50 kilometers (km) of the modeled sources,[3] and (3) estimating individual and population-level inhalation risks using the exposure estimates and quantitative dose-response information.

The air dispersion model used by the HEM–3 model (AERMOD) is one of the EPA's preferred models for assessing pollutant concentrations from industrial facilities.[4] To perform the dispersion modeling and to develop the preliminary risk estimates, HEM–3 draws on three data libraries. The first is a library of meteorological data, which is used for dispersion calculations. This library includes 1 year (2016) of hourly surface and upper air observations for more than 800 meteorological stations, selected to provide coverage of the U.S. and Puerto Rico. A second library of U.S. Census Bureau census block[5] internal point locations and populations provides the basis of human exposure calculations (U.S. Census, 2010). In addition, for each census block, the census library includes the elevation and controlling hill height, which are also used in dispersion calculations. A third library of pollutant unit risk factors and other health benchmarks is used to estimate health risks. These risk factors and health benchmarks are the latest values recommended by the EPA for HAP and other toxic air pollutants. These values are available at *https://www.epa.gov/fera/dose-response-assessment-assessing-health-risks-associated-exposure-hazardous-air-pollutants* and are discussed in more detail later in this section.

In developing the risk assessment for chronic exposures, we used the

[3] This metric comes from the Benzene NESHAP. See 54 FR 38046, September 14, 1989.

[4] U.S. EPA. Revision to the *Guideline on Air Quality Models: Adoption of a Preferred General Purpose (Flat and Complex Terrain) Dispersion Model and Other Revisions* (70 FR 68218, November 9, 2005).

[5] A census block is the smallest geographic area for which census statistics are tabulated.

estimated annual average ambient air concentrations of each HAP emitted by each source for which we have emissions data in the source category. The air concentrations at each nearby census block centroid were used as a surrogate for the chronic inhalation exposure concentration for all the people who reside in that census block. We calculated the MIR for each facility as the cancer risk associated with a continuous lifetime (24 hours per day, 7 days per week, and 52 weeks per year for a 70-year period) exposure to the maximum concentration at the centroid of inhabited census blocks. Individual cancer risks were calculated by multiplying the estimated lifetime exposure to the ambient concentration of each of the HAP (in micrograms per cubic meter ($\mu g/m^3$)) by its unit risk estimate (URE). The URE is an upper bound estimate of an individual's probability of contracting cancer over a lifetime of exposure to a concentration of 1 microgram of the pollutant per cubic meter of air. For residual risk assessments, we generally use URE values from the EPA's Integrated Risk Information System (IRIS). For carcinogenic pollutants without IRIS values, we look to other reputable sources of cancer dose-response values, often using California EPA (CalEPA) URE values, where available. In cases where new, scientifically credible dose response values have been developed in a manner consistent with the EPA guidelines and have undergone a peer review process similar to that used by the EPA, we may use such dose-response values in place of, or in addition to, other values, if appropriate.

The EPA estimated incremental individual lifetime cancer risks associated with emissions from the facilities in the source category as the sum of the risks for each of the carcinogenic HAP (including those classified as carcinogenic to humans, likely to be carcinogenic to humans, and suggestive evidence of carcinogenic potential [6]) emitted by the modeled sources. Cancer incidence and the distribution of individual cancer risks for the population within 50 km of the sources were also estimated for the source category as part of this assessment by summing individual risks. A distance of 50 km is consistent with both the analysis supporting the 1989 Benzene NESHAP (54 FR 38044, September 14, 1989) and the limitations of Gaussian dispersion models, including AERMOD.

To assess the risk of non-cancer health effects from chronic exposures, we summed the HQ for each of the HAP that affects a common target organ system to obtain the HI for that target organ system (or target organ-specific HI, TOSHI). The HQ is the estimated exposure divided by the chronic reference value, which is a value selected from one of several sources. First, the chronic reference level can be the EPA reference concentration (RfC) (*https://iaspub.epa.gov/sor_internet/registry/termreg/searchandretrieve/glossariesandkeywordlists/search.do?details=&vocabName=IRIS%20Glossary*), defined as ''an estimate (with uncertainty spanning perhaps an order of magnitude) of a continuous inhalation exposure to the human population (including sensitive subgroups) that is likely to be without an appreciable risk of deleterious effects during a lifetime.'' Alternatively, in cases where an RfC from the EPA's IRIS database is not available or where the EPA determines that using a value other than the RfC is appropriate, the chronic reference level can be a value from the following prioritized sources: (1) The Agency for Toxic Substances and Disease Registry (ATSDR) Minimal Risk Level (MRL) (*http://www.atsdr.cdc.gov/mrls/index.asp*), which is defined as ''an estimate of daily human exposure to a hazardous substance that is likely to be without an appreciable risk of adverse non-cancer health effects (other than cancer) over a specified duration of exposure''; (2) the CalEPA Chronic Reference Exposure Level (REL) (*http://oehha.ca.gov/air/crnr/notice-adoption-air-toxics-hot-spots-program-guidance-manual-preparation-health-risk-0*), which is defined as ''the concentration level (that is expressed in units of $\mu g/m^3$ for inhalation exposure and in a dose expressed in units of milligram per kilogram-day (mg/kg-day) for oral exposures), at or below which no adverse health effects are anticipated for a specified exposure duration''; or (3), as noted above, a scientifically credible dose-response value that has been developed in a manner consistent with the EPA guidelines and has undergone a peer review process similar to that used by the EPA, in place of or in concert with other values.

As mentioned above, in order to characterize non-cancer chronic effects, and in response to key recommendations from the SAB, the EPA selects dose-response values that reflect the best available science for all HAP included in RTR risk assessments.[7] More specifically, for a given HAP, the EPA examines the availability of inhalation reference values from the sources included in our tiered approach (*e.g.,* IRIS first, ATSDR second, CalEPA third) and determines which inhalation reference value represents the best available science. Thus, as new inhalation reference values become available, the EPA will typically evaluate them and determine whether they should be given preference over those currently being used in RTR risk assessments.

The EPA also evaluated screening estimates of acute exposures and risks for each of the HAP (for which appropriate acute dose-response values are available) at the point of highest potential off-site exposure for each facility. To do this, the EPA estimated the risks when both the peak hourly emissions rate and worst-case dispersion conditions occur. We also assume that a person is located at the point of highest impact during that same time. In accordance with our mandate in section 112 of the CAA, we use the point of highest off-site exposure to assess the potential risk to the maximally exposed individual. The acute HQ is the estimated acute exposure divided by the acute dose-response value. In each case, the EPA calculated acute HQ values using best available, short-term dose-response values. These acute dose-response values, which are described below, include the acute REL, acute exposure guideline levels (AEGL) and Emergency Response Planning Guidelines (ERPG) for 1-hour exposure durations. As discussed below, we used conservative assumptions for emissions rates, meteorology, and exposure location.

As described in the CalEPA's *Air Toxics Hot Spots Program Risk*

[6] These classifications also coincide with the terms ''known carcinogen, probable carcinogen, and possible carcinogen,'' respectively, which are the terms advocated in the EPA's previous *Guidelines for Carcinogen Risk Assessment,* published in 1986 (51 FR 33992, September 24, 1986). In August 2000, the document, *Supplemental Guidance for Conducting Health Risk Assessment of Chemical Mixtures* (EPA/630/R–00/002) was published as a supplement to the 1986 document. Copies of both documents can be obtained from *https://cfpub.epa.gov/ncea/risk/recordisplay.cfm?deid=20533&CFID=70315376&CFTOKEN=71597944.* Summing the risks of these individual compounds to obtain the cumulative cancer risks is an approach that was recommended by the EPA's SAB in their 2002 peer review of the EPA's National Air Toxics Assessment (NATA) titled, *NATA—Evaluating the National-scale Air Toxics Assessment 1996 Data—an SAB Advisory,* available at *http://yosemite.epa.gov/sab/sabproduct.nsf/214C6E915BB04E14852570CA007A682C/$File/ecadv02001.pdf.*

[7] Recommendations from the SAB's review of RTR Risk Assessment Methodologies and the review materials are available at *http://yosemite.epa.gov/sab/sabproduct.nsf/4AB3966E263D943A8525771F00668381/$File/EPA-SAB-10-007-unsigned.pdf* and at *https://cfpub.epa.gov/si/si_publiclowbar;record_report.cfm?dirEntryID=238928,* respectively.

Assessment Guidelines, Part I, The Determination of Acute Reference Exposure Levels for Airborne Toxicants, an acute REL value (*http://oehha.ca.gov/air/general-info/oehha-acute-8-hour-and-chronic-reference-exposure-level-rel-summary*) is defined as ''the concentration level at or below which no adverse health effects are anticipated for a specified exposure duration.'' *Id.* at page 2. Acute REL values are based on the most sensitive, relevant, adverse health effect reported in the peer-reviewed medical and toxicological literature. Acute REL values are designed to protect the most sensitive individuals in the population through the inclusion of margins of safety. Because margins of safety are incorporated to address data gaps and uncertainties, exceeding the REL does not automatically indicate an adverse health impact.

AEGL values were derived in response to recommendations from the National Research Council (NRC). The National Advisory Committee (NAC) for the Development of Acute Exposure Guideline Levels for Hazardous Substances, usually referred to as the AEGL Committee or the NAC/AEGL committee, developed AEGL values for at least 273 of the 329 chemicals on the AEGL priority chemical list. The last meeting of the NAC/AEGL Committee was in April 2010, and its charter expired in October 2011. The NAC/AEGL Committee ended in October 2011, but the AEGL program continues to operate at the EPA and works with the National Academies to publish final AEGLs (*https://www.epa.gov/aegl*).

As described in *Standing Operating Procedures (SOP) of the National Advisory Committee on Acute Exposure Guideline Levels for Hazardous Chemicals* (*https://www.epa.gov/sites/production/files/2015–09/documents/sop_final_standing_operating_procedures_2001.pdf*),[8] ''the NRC's previous name for acute exposure levels—community emergency exposure levels—was replaced by the term AEGL to reflect the broad application of these values to planning, response, and prevention in the community, the workplace, transportation, the military, and the remediation of Superfund sites.'' *Id.* at 2. This document also states that AEGL values ''represent threshold exposure limits for the general public and are applicable to emergency exposures ranging from 10 minutes to eight hours.'' *Id.* at 2.

The document lays out the purpose and objectives of AEGL by stating that ''the primary purpose of the AEGL program and the National Advisory Committee for Acute Exposure Guideline Levels for Hazardous Substances is to develop guideline levels for once-in-a-lifetime, short-term exposures to airborne concentrations of acutely toxic, high-priority chemicals.'' *Id.* at 21. In detailing the intended application of AEGL values, the document states that ''[i]t is anticipated that the AEGL values will be used for regulatory and nonregulatory purposes by U.S. Federal and state agencies and possibly the international community in conjunction with chemical emergency response, planning, and prevention programs. More specifically, the AEGL values will be used for conducting various risk assessments to aid in the development of emergency preparedness and prevention plans, as well as real-time emergency response actions, for accidental chemical releases at fixed facilities and from transport carriers.'' *Id.* at 31.

The AEGL–1 value is then specifically defined as ''the airborne concentration (expressed as ppm (parts per million) or mg/m^3 (milligrams per cubic meter)) of a substance above which it is predicted that the general population, including susceptible individuals, could experience notable discomfort, irritation, or certain asymptomatic nonsensory effects. However, the effects are not disabling and are transient and reversible upon cessation of exposure.'' *Id.* at 3. The document also notes that, ''Airborne concentrations below AEGL–1 represent exposure levels that can produce mild and progressively increasing but transient and nondisabling odor, taste, and sensory irritation or certain asymptomatic, nonsensory effects.'' *Id.* Similarly, the document defines AEGL–2 values as ''the airborne concentration (expressed as parts per million or milligrams per cubic meter) of a substance above which it is predicted that the general population, including susceptible individuals, could experience irreversible or other serious, long-lasting adverse health effects or an impaired ability to escape.'' *Id.*

ERPG values are derived for use in emergency response, as described in the American Industrial Hygiene Association's Emergency Response Planning (ERP) Committee document titled, *ERPGS Procedures and Responsibilities* (*https://www.aiha.org/get-involved/AIHAGuidelineFoundation/EmergencyResponsePlanningGuidelines/Documents/ERPG%20Committee%20Standard%20Operating%20Procedures%20%20-%20March%202014%20Revision%20%28Updated%2010-2-2014%29.pdf*), which states that, ''Emergency Response Planning Guidelines were developed for emergency planning and are intended as health based guideline concentrations for single exposures to chemicals.'' [9] *Id.* at 1. The ERPG–1 value is defined as ''the maximum airborne concentration below which it is believed that nearly all individuals could be exposed for up to 1 hour without experiencing other than mild transient adverse health effects or without perceiving a clearly defined, objectionable odor.'' *Id.* at 2. Similarly, the ERPG–2 value is defined as ''the maximum airborne concentration below which it is believed that nearly all individuals could be exposed for up to one hour without experiencing or developing irreversible or other serious health effects or symptoms which could impair an individual's ability to take protective action.'' *Id.* at 1.

As can be seen from the definitions above, the AEGL and ERPG values include the similarly-defined severity levels 1 and 2. For many chemicals, a severity level 1 value AEGL or ERPG has not been developed because the types of effects for these chemicals are not consistent with the AEGL–1/ERPG–1 definitions; in these instances, we compare higher severity level AEGL–2 or ERPG–2 values to our modeled exposure levels to screen for potential acute concerns. When AEGL–1/ERPG–1 values are available, they are used in our acute risk assessments.

Acute REL values for 1-hour exposure durations are typically lower than their corresponding AEGL–1 and ERPG–1 values. Even though their definitions are slightly different, AEGL–1 values are often the same as the corresponding ERPG–1 values, and AEGL–2 values are often equal to ERPG–2 values. Maximum HQ values from our acute screening risk assessments typically result when basing them on the acute REL value for a particular pollutant. In cases where our maximum acute HQ value exceeds 1, we also report the HQ value based on the next highest acute dose-response value (usually the AEGL–1 and/or the ERPG–1 value).

To develop screening estimates of acute exposures in the absence of hourly emissions data, generally we first develop estimates of maximum hourly emissions rates by multiplying the

[8] National Academy of Sciences (NAS), 2001. *Standing Operating Procedures for Developing Acute Exposure Levels for Hazardous Chemicals,* page 2.

[9] *ERP Committee Procedures and Responsibilities.* March 2014. American Industrial Hygiene Association.

average actual annual hourly emissions rates by a default factor to cover routinely variable emissions. We choose the factor to use partially based on process knowledge and engineering judgment. The factor chosen also reflects a Texas study of short-term emissions variability, which showed that most peak emission events in a heavily-industrialized four-county area (Harris, Galveston, Chambers, and Brazoria Counties, Texas) were less than twice the annual average hourly emissions rate. The highest peak emissions event was 74 times the annual average hourly emissions rate, and the 99th percentile ratio of peak hourly emissions rate to the annual average hourly emissions rate was 9.[10] Considering this analysis, to account for more than 99 percent of the peak hourly emissions, we apply a conservative screening multiplication factor of 10 to the average annual hourly emissions rate in our acute exposure screening assessments as our default approach. A further discussion of why this factor was chosen can be found in the memorandum, *Emissions Data and Acute Risk Factor Used in Residual Risk Modeling: Portland Cement Manufacturing Industry,* available in the docket for this rulemaking.

As part of our acute risk assessment process, for cases where acute HQ values from the screening step are less than or equal to 1 (even under the conservative assumptions of the screening analysis), acute impacts are deemed negligible and no further analysis is performed for these HAP. In cases where an acute HQ from the screening step is greater than 1, additional site-specific data are considered to develop a more refined estimate of the potential for acute impacts of concern. For this source category, since no HQ was greater than 1, no further analysis was performed.

Ideally, we would prefer to have continuous measurements over time to see how the emissions vary by each hour over an entire year. Having a frequency distribution of hourly emissions rates over a year would allow us to perform a probabilistic analysis to estimate potential threshold exceedances and their frequency of occurrence. Such an evaluation could include a more complete statistical treatment of the key parameters and elements adopted in this screening analysis. Recognizing that this level of data is rarely available, we instead rely on the multiplier approach.

To better characterize the potential health risks associated with estimated acute exposures to HAP, and in response to a key recommendation from the SAB's 2010 peer review of the EPA's RTR risk assessment methodologies,[11] we generally examine a wider range of available acute health metrics (*e.g.,* RELs, AEGLs) than we do for our chronic risk assessments. This is in response to the SAB's acknowledgement that there are generally more data gaps and inconsistencies in acute reference values than there are in chronic reference values. In some cases, when Reference Value Arrays [12] for HAP have been developed, we consider additional acute values (*i.e.,* occupational and international values) to provide a more complete risk characterization.

4. How did we conduct the multipathway exposure and risk screening?

The EPA conducted a screening analysis examining the potential for significant human health risks due to exposures via routes other than inhalation (*i.e.,* ingestion). We first determined whether any sources in the source category emitted any HAP known to be persistent and bioaccumulative in the environment (PB–HAP). The PB–HAP compounds or compound classes are identified for the screening from the EPA's Air Toxics Risk Assessment Library (available at *http://www2.epa.gov/fera/risk-assessment-and-modeling-air-toxics-risk-assessment-reference-library*).

For the Portland Cement Manufacturing Industry source category, we identified emissions of lead compounds, cadmium compounds, mercury compounds, arsenic compounds, and D/F. Because one or more of these PB–HAP are emitted by at least one facility in the Portland Cement Manufacturing Industry source category, we proceeded to the next step of the evaluation. In this step, we determined whether the facility-specific emission rates of the emitted PB–HAP were large enough to create the potential for significant non-inhalation human health risks under reasonable worst-case conditions. To facilitate this step, we developed screening threshold emission rates for several PB–HAP using a hypothetical upper-end screening exposure scenario developed for use in conjunction with the EPA's Total Risk Integrated Methodology.Fate, Transport, and Ecological Exposure (TRIM.FaTE) model. The PB–HAP with screening threshold emission rates are: Cadmium compounds, mercury compounds, arsenic compounds, and D/F and polycyclic organic matter (POM). We conducted a sensitivity analysis on the screening scenario to ensure that its key design parameters would represent the upper end of the range of possible values, such that it would represent a conservative, but not impossible scenario. The facility-specific PB–HAP emission rates were compared to their respective screening threshold emission rate to assess the potential for significant human health risks via non-inhalation pathways. We call this application of the TRIM.FaTE model the Tier 1 TRIM-screen or Tier 1 screen.

For the purpose of developing emission rates for the Tier 1 TRIM-screen, we derived emission levels for these PB–HAP (other than lead compounds) at which the maximum excess lifetime cancer risk would be 1-in-1 million (*i.e.,* D/F, arsenic compounds, and POM) or, for HAP that cause non-cancer health effects (*i.e.,* cadmium compounds and mercury compounds), the maximum HQ would be 1. If the emission rate of any PB–HAP included in the Tier 1 screen exceeds the Tier 1 screening threshold emission rates for any facility, we conduct a second screen, which we call the Tier 2 TRIM-screen or Tier 2 screen.

In the Tier 2 screen, the location of each facility that exceeds the Tier 1 screening threshold emission rates is used to refine the assumptions associated with the environmental scenario while maintaining the exposure scenario assumptions. A key assumption that is part of the Tier 1 screen is that a lake is located near the facility; we confirm the existence of lakes near the facility as part of the Tier 2 screen. We also examine the differences between local meteorology near the facility and the meteorology used in the Tier 1 screen. We then adjust the risk-based Tier 1 screening threshold emission rates for each PB–HAP for each facility based on an understanding of how exposure concentrations estimated for the screening scenario change with meteorology and environmental

[10] Allen, *et al.,* 2004. *Variable Industrial VOC Emissions and their impact on ozone formation in the Houston Galveston Area.* Texas Environmental Research Consortium. *https://www.researchgate.net/publication/237593060_Variable_Industrial_VOC_Emissions and_their_Impact_on_Ozone_Formation_in_the_Houston_Galveston_Area.*

[11] The SAB peer review of RTR Risk Assessment Methodologies is available at *http://yosemite.epa.gov/sab/sabproduct.nsf/4AB3966E263D943A8525771F00668381/$File/EPA-SAB-10-007-unsigned.pdf.*

[12] U.S. EPA. Chapter 2.9, *Chemical Specific Reference Values for Formaldehyde in Graphical Arrays of Chemical-Specific Health Effect Reference Values for Inhalation Exposures* (Final Report). U.S. Environmental Protection Agency, Washington, DC, EPA/600/R–09/061, 2009, and available online at *http://cfpub.epa.gov/ncea/cfm/recordisplay.cfm?deid=211003.*

assumptions. PB–HAP emissions that do not exceed these new Tier 2 screening threshold emission rates are considered to be below a level of concern. If the PB–HAP emissions for a facility exceed the Tier 2 screening threshold emission rates and data are available, we may decide to conduct a more refined Tier 3 multipathway assessment or proceed to a site-specific assessment. There are several analyses that can be included in a Tier 3 screen depending upon the extent of refinement warranted, including validating that the lakes are fishable, considering plume-rise to estimate emissions lost above the mixing layer, and considering hourly effects of meteorology and plume rise on chemical fate and transport. For this source category a Tier 3 screen was conducted for 1 facility that had dioxin emissions exceeding the Tier 2 threshold emission rates up to a value of 100-in-1 million. If the Tier 3 screen is exceeded, the EPA may conduct a refined site-specific assessment.

When tiered screening values for any facility indicate a potential health risk to the public, we may conduct a more refined multipathway assessment. A refined assessment was conducted for mercury in lieu of conducting a Tier 3 screen. To select the candidate facilities for the site-specific assessment, we analyzed the facilities with the maximum exceedances of the Tier 2 screening values as well as the combined effect from multiple facilities on lakes within the same watershed. In addition to looking at the Tier 2 screen value for each lake, the location and number of lakes or farms impacted for each watershed was evaluated to assess elevation/topography influences. A review of the source category identified 3 facilities located in Midlothian, Texas, as the best candidates for mercury impacts. These candidate sites were selected because of their exceedances of the Tier 2 mercury screening value and based upon the above considerations.

In evaluating the potential multipathway risk from emissions of lead compounds, rather than developing a screening threshold emission rate for them, we compared maximum estimated 1-hour acute inhalation exposures with the level of the current National Ambient Air Quality Standard (NAAQS) for lead.[13] Values below the level of the Primary (health-based) Lead NAAQS were considered to have a low potential for multipathway risk.

For further information on the multipathway analysis approach, see the *Residual Risk Assessment for the Portland Cement Manufacturing Industry Source Category in Support of the Risk and Technology Review September 2017 Proposed Rule,* which is available in the docket for this action.

5. How did we assess risks considering emissions control options?

In addition to assessing baseline inhalation risks and screening for potential multipathway risks, we also estimated risks considering the potential emission reductions that would be achieved by the control options under consideration. In these cases, the expected emission reductions were applied to the specific HAP and emission points in the RTR emissions dataset to develop corresponding estimates of risk and incremental risk reductions.

6. How did we conduct the environmental risk screening assessment?

a. Adverse Environmental Effect

The EPA conducts a screening assessment to examine the potential for adverse environmental effects as required under section 112(f)(2)(A) of the CAA. Section 112(a)(7) of the CAA defines ''adverse environmental effect'' as ''any significant and widespread adverse effect, which may reasonably be anticipated, to wildlife, aquatic life, or other natural resources, including adverse impacts on populations of endangered or threatened species or significant degradation of environmental quality over broad areas.''

b. Environmental HAP

The EPA focuses on eight HAP, which we refer to as ''environmental HAP,'' in its screening analysis: Six PB–HAP and two acid gases. The six PB–HAP are cadmium compounds, D/F, arsenic compounds, POM, mercury compounds (both inorganic mercury and methyl mercury), and lead compounds. The two acid gases are HCl and hydrogen fluoride (HF). The rationale for including these eight HAP in the environmental risk screening analysis is presented below.

HAP that persist and bioaccumulate are of particular environmental concern because they accumulate in the soil, sediment, and water. The PB–HAP are taken up, through sediment, soil, water, and/or ingestion of other organisms, by plants or animals (*e.g.,* small fish) at the bottom of the food chain. As larger and larger predators consume these organisms, concentrations of the PB–HAP in the animal tissues increases as does the potential for adverse effects. The six PB–HAP we evaluate as part of our screening analysis account for 99.8 percent of all PB–HAP emissions nationally from stationary sources (on a mass basis from the 2005 EPA NEI).

In addition to accounting for almost all of the mass of PB–HAP emitted, we note that the TRIM.FaTE model that we use to evaluate multipathway risk allows us to estimate concentrations of cadmium compounds, D/F, arsenic compounds, POM, and mercury compounds in soil, sediment, and water. For lead compounds, we currently do not have the ability to calculate these concentrations using the TRIM.FaTE model. Therefore, to evaluate the potential for adverse environmental effects from lead compounds, we compare the estimated HEM-modeled exposures from the source category emissions of lead with the level of the Secondary Lead NAAQS.[14] We consider values below the level of the Secondary Lead NAAQS to be unlikely to cause adverse environmental effects.

Due to their well-documented potential to cause direct damage to terrestrial plants, we include two acid gases, HCl and HF, in the environmental screening analysis. According to the 2005 NEI, HCl and HF account for about 99 percent (on a mass basis) of the total acid gas HAP emitted by stationary sources in the U.S. In addition to the potential to cause direct damage to plants, high concentrations of HF in the air have been linked to fluorosis in livestock. Air concentrations of these HAP are already calculated as part of the human multipathway exposure and risk screening analysis using the HEM3–AERMOD air dispersion model, and we are able to use the air dispersion modeling results to estimate the

[13] In doing so, the EPA notes that the legal standard for a primary NAAQS—that a standard is requisite to protect public health and provide an adequate margin of safety (CAA section 109(b))—differs from the CAA section 112(f) standard (requiring, among other things, that the standard provide an ''ample margin of safety''). However, the Primary Lead NAAQS is a reasonable measure of determining risk acceptability (*i.e.,* the first step of the Benzene NESHAP analysis) since it is designed to protect the most susceptible group in the human population—children, including children living near major lead emitting sources. 73 FR 67002/3; 73 FR 67000/3; 73 FR 67005/1. In addition, applying the level of the Primary Lead NAAQS at the risk acceptability step is conservative, since that Primary Lead NAAQS reflects an adequate margin of safety.

[14] The Secondary Lead NAAQS is a reasonable measure of determining whether there is an adverse environmental effect since it was established considering ''effects on soils, water, crops, vegetation, man-made materials, animals, wildlife, weather, visibility and climate, damage to and deterioration of property, and hazards to transportation, as well as effects on economic values and on personal comfort and well-being.''

potential for an adverse environmental effect.

The EPA acknowledges that other HAP beyond the eight HAP discussed above may have the potential to cause adverse environmental effects. Therefore, the EPA may include other relevant HAP in its environmental risk screening in the future, as modeling science and resources allow. The EPA invites comment on the extent to which other HAP emitted by the source category may cause adverse environmental effects. Such information should include references to peer-reviewed ecological effects benchmarks that are of sufficient quality for making regulatory decisions, as well as information on the presence of organisms located near facilities within the source category that such benchmarks indicate could be adversely affected.

c. Ecological Assessment Endpoints and Benchmarks for PB–HAP

An important consideration in the development of the EPA's screening methodology is the selection of ecological assessment endpoints and benchmarks. Ecological assessment endpoints are defined by the ecological entity (*e.g.,* aquatic communities, including fish and plankton) and its attributes (*e.g.,* frequency of mortality). Ecological assessment endpoints can be established for organisms, populations, communities or assemblages, and ecosystems.

For PB–HAP (other than lead compounds), we evaluated the following community-level ecological assessment endpoints to screen for organisms directly exposed to HAP in soils, sediment, and water:

- Local terrestrial communities (*i.e.,* soil invertebrates, plants) and populations of small birds and mammals that consume soil invertebrates exposed to PB–HAP in the surface soil;
- Local benthic (*i.e.,* bottom sediment dwelling insects, amphipods, isopods, and crayfish) communities exposed to PB–HAP in sediment in nearby water bodies; and
- Local aquatic (water-column) communities (including fish and plankton) exposed to PB–HAP in nearby surface waters.

For PB–HAP (other than lead compounds), we also evaluated the following population-level ecological assessment endpoint to screen for indirect HAP exposures of top consumers via the bioaccumulation of HAP in food chains:

- Piscivorous (*i.e.,* fish-eating) wildlife consuming PB–HAP-contaminated fish from nearby water bodies.

For cadmium compounds, D/F, arsenic compounds, POM, and mercury compounds, we identified the available ecological benchmarks for each assessment endpoint. An ecological benchmark represents a concentration of HAP (*e.g.,* 0.77 μg of HAP per liter of water) that has been linked to a particular environmental effect level through scientific study. For PB–HAP we identified, where possible, ecological benchmarks at the following effect levels:

- *Probable effect levels (PEL):* Level above which adverse effects are expected to occur frequently;
- *Lowest-observed-adverse-effect level (LOAEL):* The lowest exposure level tested at which there are biologically significant increases in frequency or severity of adverse effects; and
- *No-observed-adverse-effect levels (NOAEL):* The highest exposure level tested at which there are no biologically significant increases in the frequency or severity of adverse effect.

We established a hierarchy of preferred benchmark sources to allow selection of benchmarks for each environmental HAP at each ecological assessment endpoint. In general, the EPA sources that are used at a programmatic level (*e.g.,* Office of Water, Superfund Program) were used in the analysis, if available. If not, the EPA benchmarks used in Regional programs (*e.g.,* Superfund) were used. If benchmarks were not available at a programmatic or Regional level, we used benchmarks developed by other federal agencies (*e.g.,* National Oceanic and Atmospheric Administration (NOAA)) or state agencies.

Benchmarks for all effect levels are not available for all PB–HAP and assessment endpoints. In cases where multiple effect levels were available for a particular PB–HAP and assessment endpoint, we use all of the available effect levels to help us to determine whether ecological risks exist and, if so, whether the risks could be considered significant and widespread.

d. Ecological Assessment Endpoints and Benchmarks for Acid Gases

The environmental screening analysis also evaluated potential damage and reduced productivity of plants due to direct exposure to acid gases in the air. For acid gases, we evaluated the following ecological assessment endpoint:

- Local terrestrial plant communities with foliage exposed to acidic gaseous HAP in the air.

The selection of ecological benchmarks for the effects of acid gases on plants followed the same approach as for PB–HAP (*i.e.,* we examine all of the available chronic benchmarks). For HCl, the EPA identified chronic benchmark concentrations. We note that the benchmark for chronic HCl exposure to plants is greater than the reference concentration for chronic inhalation exposure for human health. This means that where the EPA includes regulatory requirements to prevent an exceedance of the reference concentration for human health, additional analyses for adverse environmental effects of HCl would not be necessary.

For HF, the EPA identified chronic benchmark concentrations for plants and evaluated chronic exposures to plants in the screening analysis. High concentrations of HF in the air have also been linked to fluorosis in livestock. However, the HF concentrations at which fluorosis in livestock occur are higher than those at which plant damage begins. Therefore, the benchmarks for plants are protective of both plants and livestock.

e. Screening Methodology

For the environmental risk screening analysis, the EPA first determined whether any facilities in the Portland Cement Manufacturing Industry sources emitted any of the eight environmental HAP. For the Portland Cement Manufacturing Industry source category, we identified emissions of lead compounds, cadmium compounds, mercury compounds, arsenic compounds, D/F, and HCl.

Because one or more of the eight environmental HAP evaluated are emitted by at least one facility in the source category, we proceeded to the second step of the evaluation.

f. PB–HAP Methodology

For cadmium compounds, arsenic compounds, mercury compounds, POM, and D/F, the environmental screening analysis consists of two tiers, while lead compounds are analyzed differently as discussed earlier. In the first tier, we determined whether the maximum facility-specific emission rates of each of the emitted environmental HAP were large enough to create the potential for adverse environmental effects under reasonable worst-case environmental conditions. These are the same environmental conditions used in the human multipathway exposure and risk screening analysis.

To facilitate this step, TRIM.FaTE was run for each PB–HAP under hypothetical environmental conditions designed to provide conservatively high

HAP concentrations. The model was set to maximize runoff from terrestrial parcels into the modeled lake, which in turn, maximized the chemical concentrations in the water, the sediments, and the fish. The resulting media concentrations were then used to back-calculate a screening level emission rate that corresponded to the relevant exposure benchmark concentration value for each assessment endpoint. To assess emissions from a facility, the reported emission rate for each PB–HAP was compared to the screening level emission rate for that PB–HAP for each assessment endpoint. If emissions from a facility do not exceed the Tier 1 screening level, the facility ''passes'' the screen, and, therefore, is not evaluated further under the screening approach. If emissions from a facility exceed the Tier 1 screening level, we evaluate the facility further in Tier 2.

In Tier 2 of the environmental screening analysis, the emission rate screening levels are adjusted to account for local meteorology and the actual location of lakes in the vicinity of facilities that did not pass the Tier 1 screen. The modeling domain for each facility in the Tier 2 analysis consists of 8 octants. Each octant contains 5 modeled soil concentrations at various distances from the facility (5 soil concentrations × 8 octants = total of 40 soil concentrations per facility) and one lake with modeled concentrations for water, sediment, and fish tissue. In the Tier 2 environmental risk screening analysis, the 40 soil concentration points are averaged to obtain an average soil concentration for each facility for each PB–HAP. For the water, sediment, and fish tissue concentrations, the highest value for each facility for each pollutant is used. If emission concentrations from a facility do not exceed the Tier 2 screening level, the facility passes the screen, and typically is not evaluated further. If emissions from a facility exceed the Tier 2 screening level, the facility does not pass the screen and, therefore, may have the potential to cause adverse environmental effects. Such facilities are evaluated further to investigate factors such as the magnitude and characteristics of the area of exceedance.

g. Acid Gas Methodology

The environmental screening analysis evaluates the potential phytotoxicity and reduced productivity of plants due to chronic exposure to acid gases. The environmental risk screening methodology for acid gases is a single-tier screen that compares the average off-site ambient air concentration over the modeling domain to ecological benchmarks for each of the acid gases. Because air concentrations are compared directly to the ecological benchmarks, emission-based screening levels are not calculated for acid gases.

For purposes of ecological risk screening, the EPA identifies a potential for adverse environmental effects to plant communities from exposure to acid gases when the average concentration of the HAP around a facility exceeds the LOAEL ecological benchmark. In such cases, we further investigate factors such as the magnitude and characteristics of the area of exceedance (*e.g.,* land use of exceedance area, size of exceedance area) to determine if there is an adverse environmental effect.

For further information on the environmental screening analysis approach, see the *Residual Risk Assessment for the Portland Cement Manufacturing Industry Source Category in Support of the Risk and Technology Review September 2017 Proposed Rule,* which is available in the docket for this action.

7. How did we conduct facility-wide assessments?

To put the source category risks in context, we typically examine the risks from the entire ''facility,'' where the facility includes all HAP-emitting operations within a contiguous area and under common control. In other words, we examine the HAP emissions not only from the source category emission points of interest, but also emissions of HAP from all other emission sources at the facility for which we have data. For this source category, we conducted the facility-wide assessment using the 2014 NEI. We analyzed risks due to the inhalation of HAP that are emitted ''facility-wide'' for the populations residing within 50 km of each facility, consistent with the methods used for the source category analysis described above. For these facility-wide risk analyses, the modeled source category risks were compared to the facility-wide risks to determine the portion of facility-wide risks that could be attributed to the source category addressed in this proposal. We specifically examined the facility that was associated with the highest estimate of risk and determined the percentage of that risk attributable to the source category of interest. The *Residual Risk Assessment for the Portland Cement Manufacturing Industry Source Category in Support of the Risk and Technology Review September 2017 Proposed Rule,* available through the docket for this action, provides the methodology and results of the facility-wide analyses, including all facility-wide risks and the percentage of source category contribution to facility-wide risks.

8. How did we consider uncertainties in risk assessment?

In the Benzene NESHAP, we concluded that risk estimation uncertainty should be considered in our decision-making under the ample margin of safety framework. Uncertainty and the potential for bias are inherent in all risk assessments, including those performed for this proposal. Although uncertainty exists, we believe that our approach, which used conservative tools and assumptions, ensures that our decisions are health protective and environmentally protective. A brief discussion of the uncertainties in the RTR emissions dataset, dispersion modeling, inhalation exposure estimates, and dose-response relationships follows below. A more thorough discussion of these uncertainties is included in the *Residual Risk Assessment for the Portland Cement Manufacturing Industry Source Category in Support of the Risk and Technology Review September 2017 Proposed Rule,* which is available in the docket for this action.

a. Uncertainties in the RTR Emissions Dataset

Although the development of the RTR emissions dataset involved quality assurance/quality control processes, the accuracy of emissions values will vary depending on the source of the data, the degree to which data are incomplete or missing, the degree to which assumptions made to complete the datasets are accurate, errors in emission estimates, and other factors. The emission estimates considered in this analysis generally are annual totals for certain years, and they do not reflect short-term fluctuations during the course of a year or variations from year to year. The estimates of peak hourly emission rates for the acute effects screening assessment were based on an emission adjustment factor applied to the average annual hourly emission rates, which are intended to account for emission fluctuations due to normal facility operations.

b. Uncertainties in Dispersion Modeling

We recognize there is uncertainty in ambient concentration estimates associated with any model, including the EPA's recommended regulatory dispersion model, AERMOD. In using a model to estimate ambient pollutant concentrations, the user chooses certain options to apply. For RTR assessments,

we select some model options that have the potential to overestimate ambient air concentrations (*e.g.,* not including plume depletion or pollutant transformation). We select other model options that have the potential to underestimate ambient impacts (*e.g.,* not including building downwash). Other options that we select have the potential to either under- or overestimate ambient levels (*e.g.,* meteorology and receptor locations). On balance, considering the directional nature of the uncertainties commonly present in ambient concentrations estimated by dispersion models, the approach we apply in the RTR assessments should yield unbiased estimates of ambient HAP concentrations.

c. Uncertainties in Inhalation Exposure

The EPA did not include the effects of human mobility on exposures in the assessment. Specifically, short-term mobility and long-term mobility between census blocks in the modeling domain were not considered.[15] The approach of not considering short or long-term population mobility does not bias the estimate of the theoretical MIR (by definition), nor does it affect the estimate of cancer incidence because the total population number remains the same. It does, however, affect the shape of the distribution of individual risks across the affected population, shifting it toward higher estimated individual risks at the upper end and reducing the number of people estimated to be at lower risks, thereby increasing the estimated number of people at specific high risk levels (*e.g.,* 1-in-10 thousand or 1-in-1 million).

In addition, the assessment predicted the chronic exposures at the centroid of each populated census block as surrogates for the exposure concentrations for all people living in that block. Using the census block centroid to predict chronic exposures tends to over-predict exposures for people in the census block who live farther from the facility and under-predict exposures for people in the census block who live closer to the facility. Thus, using the census block centroid to predict chronic exposures may lead to a potential understatement or overstatement of the true maximum impact, but is an unbiased estimate of average risk and incidence. We reduce this uncertainty by analyzing large census blocks near facilities using aerial imagery and adjusting the location of the block centroid to better represent the population in the block, as well as adding additional receptor locations where the block population is not well represented by a single location.

The assessment evaluates the cancer inhalation risks associated with pollutant exposures over a 70-year period, which is the assumed lifetime of an individual. In reality, both the length of time that modeled emission sources at facilities actually operate (*i.e.,* more or less than 70 years) and the domestic growth or decline of the modeled industry (*i.e.,* the increase or decrease in the number or size of domestic facilities) will influence the future risks posed by a given source or source category. Depending on the characteristics of the industry, these factors will, in most cases, result in an overestimate both in individual risk levels and in the total estimated number of cancer cases. However, in the unlikely scenario where a facility maintains, or even increases, its emissions levels over a period of more than 70 years, residents live beyond 70 years at the same location, and the residents spend most of their days at that location, then the cancer inhalation risks could potentially be underestimated. However, annual cancer incidence estimates from exposures to emissions from these sources would not be affected by the length of time an emissions source operates.

The exposure estimates used in these analyses assume chronic exposures to ambient (outdoor) levels of pollutants. Because most people spend the majority of their time indoors, actual exposures may not be as high, depending on the characteristics of the pollutants modeled. For many of the HAP, indoor levels are roughly equivalent to ambient levels, but for very reactive pollutants or larger particles, indoor levels are typically lower. This factor has the potential to result in an overestimate of 25 to 30 percent of exposures.[16]

In addition to the uncertainties highlighted above, there are several factors specific to the acute exposure assessment that the EPA conducts as part of the risk review under section 112 of the CAA that should be highlighted. The accuracy of an acute inhalation exposure assessment depends on the simultaneous occurrence of independent factors that may vary greatly, such as hourly emissions rates, meteorology, and the presence of humans at the location of the maximum concentration. In the acute screening assessment that we conduct under the RTR program, we assume that peak emissions from the source category and worst-case meteorological conditions co-occur, thus, resulting in maximum ambient concentrations. These two events are unlikely to occur at the same time, making these assumptions conservative. We then include the additional assumption that a person is located at this point during this same time period. For this source category, these assumptions would tend to be worst-case actual exposures as it is unlikely that a person would be located at the point of maximum exposure during the time when peak emissions and worst-case meteorological conditions occur simultaneously.

d. Uncertainties in Dose-Response Relationships

There are uncertainties inherent in the development of the dose-response values used in our risk assessments for cancer effects from chronic exposures and non-cancer effects from both chronic and acute exposures. Some uncertainties may be considered quantitatively, and others generally are expressed in qualitative terms. We note as a preface to this discussion a point on dose-response uncertainty that is brought out in the EPA's *2005 Cancer Guidelines*; namely, that ''the primary goal of EPA actions is protection of human health; accordingly, as an Agency policy, risk assessment procedures, including default options that are used in the absence of scientific data to the contrary, should be health protective'' (EPA's *2005 Cancer Guidelines,* pages 1–7). This is the approach followed here as summarized in the next several paragraphs. A complete detailed discussion of uncertainties and variability in dose-response relationships is given in the *Residual Risk Assessment for the Portland Cement Manufacturing Industry Source Category in Support of the Risk and Technology Review September 2017 Proposed Rule,* which is available in the docket for this action.

Cancer URE values used in our risk assessments are those that have been developed to generally provide an upper bound estimate of risk. That is, they represent a ''plausible upper limit to the true value of a quantity'' (although this is usually not a true statistical confidence limit).[17] In some circumstances, the true risk could be as

[15] Short-term mobility is movement from one micro-environment to another over the course of hours or days. Long-term mobility is movement from one residence to another over the course of a lifetime.

[16] U.S. EPA. *National-Scale Air Toxics Assessment for 1996.* (EPA 453/R–01–003; January 2001; page 85.)

[17] IRIS glossary (*https://ofmpub.epa.gov/sor_internet/registry/termreg/searchandretrieve/glossariesandkeywordlists/search.do?details=&glossaryName=IRIS%20Glossary*).

low as zero; however, in other circumstances, the risk could be greater.[18] When developing an upper bound estimate of risk and to provide risk values that do not underestimate risk, health-protective default approaches are generally used. To err on the side of ensuring adequate health protection, the EPA typically uses the upper bound estimates rather than lower bound or central tendency estimates in our risk assessments, an approach that may have limitations for other uses (*e.g.,* priority-setting or expected benefits analysis).

Chronic non-cancer RfC and reference dose (RfD) values represent chronic exposure levels that are intended to be health-protective levels. Specifically, these values provide an estimate (with uncertainty spanning perhaps an order of magnitude) of a continuous inhalation exposure (RfC) or a daily oral exposure (RfD) to the human population (including sensitive subgroups) that is likely to be without an appreciable risk of deleterious effects during a lifetime. To derive values that are intended to be ''without appreciable risk,'' the methodology relies upon an uncertainty factor (UF) approach (U.S. EPA, 1993 and 1994) which considers uncertainty, variability, and gaps in the available data. The UF are applied to derive reference values that are intended to protect against appreciable risk of deleterious effects. The UF are commonly default values,[19] (*e.g.,* factors of 10 or 3), used in the absence of compound-specific data; where data are available, a UF may also be developed using compound-specific information. When data are limited, more assumptions are needed and more UF are used. Thus, there may be a greater tendency to overestimate risk in the sense that further study might support development of reference values that are higher (*i.e.,* less potent) because fewer default assumptions are needed. However, for some pollutants, it is possible that risks may be underestimated.

While collectively termed ''UF,'' these factors account for a number of different quantitative considerations when using observed animal (usually rodent) or human toxicity data in the development of the RfC. The UF are intended to account for: (1) Variation in susceptibility among the members of the human population (*i.e.,* inter-individual variability); (2) uncertainty in extrapolating from experimental animal data to humans (*i.e.,* interspecies differences); (3) uncertainty in extrapolating from data obtained in a study with less-than-lifetime exposure (*i.e.,* extrapolating from sub-chronic to chronic exposure); (4) uncertainty in extrapolating the observed data to obtain an estimate of the exposure associated with no adverse effects; and (5) uncertainty when the database is incomplete or there are problems with the applicability of available studies.

Many of the UF used to account for variability and uncertainty in the development of acute reference values are quite similar to those developed for chronic durations, but they more often use individual UF values that may be less than 10. The UF are applied based on chemical-specific or health effect-specific information (*e.g.,* simple irritation effects do not vary appreciably between human individuals, hence a value of 3 is typically used), or based on the purpose for the reference value (see the following paragraph). The UF applied in acute reference value derivation include: (1) Heterogeneity among humans; (2) uncertainty in extrapolating from animals to humans; (3) uncertainty in lowest observed adverse effect (exposure) level to no observed adverse effect (exposure) level adjustments; and (4) uncertainty in accounting for an incomplete database on toxic effects of potential concern. Additional adjustments are often applied to account for uncertainty in extrapolation from observations at one exposure duration (*e.g.,* 4 hours) to derive an acute reference value at another exposure duration (*e.g.,* 1 hour).

Not all acute reference values are developed for the same purpose, and care must be taken when interpreting the results of an acute assessment of human health effects relative to the reference value or values being exceeded. Where relevant to the estimated exposures, the lack of short-term dose-response values at different levels of severity should be factored into the risk characterization as potential uncertainties.

Although every effort is made to identify appropriate human health effect dose-response assessment values for all pollutants emitted by the sources in this risk assessment, some HAP emitted by this source category are lacking dose-response assessments. Accordingly, these pollutants cannot be included in the quantitative risk assessment, which could result in quantitative estimates understating HAP risk. To help to alleviate this potential underestimate, where we conclude similarity with a HAP for which a dose-response assessment value is available, we use that value as a surrogate for the assessment of the HAP for which no value is available. To the extent use of surrogates indicates appreciable risk, we may identify a need to increase priority for new IRIS assessment of that substance. We additionally note that, generally speaking, HAP of greatest concern due to environmental exposures and hazard are those for which dose-response assessments have been performed, reducing the likelihood of understating risk. Further, HAP not included in the quantitative assessment are assessed qualitatively and considered in the risk characterization that informs the risk management decisions, including with regard to consideration of HAP reductions achieved by various control options.

For a group of compounds that are unspeciated (*e.g.,* glycol ethers), we conservatively use the most protective reference value of an individual compound in that group to estimate risk. Similarly, for an individual compound in a group (*e.g.,* ethylene glycol diethyl ether) that does not have a specified reference value, we also apply the most protective reference value from the other compounds in the group to estimate risk.

e. Uncertainties in the Multipathway Assessment

For each source category, we generally rely on site-specific levels of PB–HAP emissions to determine whether a refined assessment of the impacts from multipathway exposures is necessary. This determination is based on the results of a three-tiered screening analysis that relies on the outputs from models that estimate environmental pollutant concentrations and human exposures for five PB–HAP. Two important types of uncertainty

[18] An exception to this is the URE for benzene, which is considered to cover a range of values, each end of which is considered to be equally plausible, and which is based on maximum likelihood estimates.

[19] According to the NRC report, *Science and Judgment in Risk Assessment* (NRC, 1994) ''[Default] options are generic approaches, based on general scientific knowledge and policy judgment, that are applied to various elements of the risk assessment process when the correct scientific model is unknown or uncertain.'' The 1983 NRC report, *Risk Assessment in the Federal Government: Managing the Process,* defined default option as ''the option chosen on the basis of risk assessment policy that appears to be the best choice in the absence of data to the contrary'' (NRC, 1983a, p. 63). Therefore, default options are not rules that bind the Agency; rather, the Agency may depart from them in evaluating the risks posed by a specific substance when it believes this to be appropriate. In keeping with the EPA's goal of protecting public health and the environment, default assumptions are used to ensure that risk to chemicals is not underestimated (although defaults are not intended to overtly overestimate risk). See EPA, *An Examination of EPA Risk Assessment Principles and Practices,* EPA/100/B–04/001, 2004, available at *https://nctc.fws.gov/resources/course-resources/pesticides/Risk%20Assessment/Risk%20Assessment%20Principles%20and%20Practices.pdf.*

associated with the use of these models in RTR risk assessments and inherent to any assessment that relies on environmental modeling are model uncertainty and input uncertainty.[20]

Model uncertainty concerns whether the selected models are appropriate for the assessment being conducted and whether they adequately represent the actual processes that might occur for that situation. An example of model uncertainty is the question of whether the model adequately describes the movement of a pollutant through the soil. This type of uncertainty is difficult to quantify. However, based on feedback received from previous EPA SAB reviews and other reviews, we are confident that the models used in the screen are appropriate and state-of-the-art for the multipathway risk assessments conducted in support of RTR.

Input uncertainty is concerned with how accurately the models have been configured and parameterized for the assessment at hand. For Tier 1 of the multipathway screen, we configured the models to avoid underestimating exposure and risk. This was accomplished by selecting upper-end values from nationally-representative datasets for the more influential parameters in the environmental model, including selection and spatial configuration of the area of interest, lake location and size, meteorology, surface water and soil characteristics, and structure of the aquatic food web. We also assume an ingestion exposure scenario and values for human exposure factors that represent reasonable maximum exposures.

In Tier 2 of the multipathway assessment, we refine the model inputs to account for meteorological patterns in the vicinity of the facility versus using upper-end national values, and we identify the actual location of lakes near the facility rather than the default lake location that we apply in Tier 1. By refining the screening approach in Tier 2 to account for local geographical and meteorological data, we decrease the likelihood that concentrations in environmental media are overestimated, thereby increasing the usefulness of the screen. The assumptions and the associated uncertainties regarding the selected ingestion exposure scenario are the same for Tier 1 and Tier 2.

For both Tiers 1 and 2 of the multipathway assessment, our approach to addressing model input uncertainty is generally cautious. We choose model inputs from the upper end of the range of possible values for the influential parameters used in the models, and we assume that the exposed individual exhibits ingestion behavior that would lead to a high total exposure. This approach reduces the likelihood of not identifying high risks for adverse impacts.

Despite the uncertainties, when individual pollutants or facilities do screen out, we are confident that the potential for adverse multipathway impacts on human health is very low. On the other hand, when individual pollutants or facilities do not screen out, it does not mean that multipathway impacts are significant, only that we cannot rule out that possibility and that a refined multipathway analysis for the site might be necessary to obtain a more accurate risk characterization for the source category. The site-specific multipathway assessment improves upon the screens by utilizing AERMOD to estimate dispersion and deposition impacts upon delineated watersheds and farms. This refinement also provides improved soil and water run-off calculations for effected watershed(s) and adjacent parcels in estimating media concentrations for each PB–HAP modeled.

For further information on uncertainties and the Tier 1 and 2 screening methods, refer to Appendix 5 of the risk report, ''*Technical Support Document for TRIM-Based Multipathway Tiered Screening Methodology for RTR: Summary of Approach and Evaluation*.''

f. Uncertainties in the Environmental Risk Screening Assessment

For each source category, we generally rely on site-specific levels of environmental HAP emissions to perform an environmental screening assessment. The environmental screening assessment is based on the outputs from models that estimate environmental HAP concentrations. The TRIM.FaTE multipathway model and the AERMOD air dispersion model, are used to estimate environmental HAP concentrations for the environmental screening analysis. The human multipathway screening analysis are based upon the TRIM.FaTE model, while the site-specific assessments incorporate AERMOD model runs into the TRIM.FaTE model runs. Therefore, both screening assessments have similar modeling uncertainties.

Two important types of uncertainty associated with the use of these models in RTR environmental screening assessments (and inherent to any assessment that relies on environmental modeling) are model uncertainty and input uncertainty.[21]

Model uncertainty concerns whether the selected models are appropriate for the assessment being conducted and whether they adequately represent the movement and accumulation of environmental HAP emissions in the environment. For example, does the model adequately describe the movement of a pollutant through the soil? This type of uncertainty is difficult to quantify. However, based on feedback received from previous EPA SAB reviews and other reviews, we are confident that the models used in the screen are appropriate and state-of-the-art for the environmental risk assessments conducted in support of our RTR analyses.

Input uncertainty is concerned with how accurately the models have been configured and parameterized for the assessment at hand. For Tier 1 of the environmental screen for PB–HAP, we configured the models to avoid underestimating exposure and risk to reduce the likelihood that the results indicate the risks are lower than they actually are. This was accomplished by selecting upper-end values from nationally-representative datasets for the more influential parameters in the environmental model, including selection and spatial configuration of the area of interest, the location and size of any bodies of water, meteorology, surface water and soil characteristics, and structure of the aquatic food web. In Tier 1, we used the maximum facility-specific emissions for the PB–HAP (other than lead compounds, which were evaluated by comparison to the Secondary Lead NAAQS) that were included in the environmental screening assessment and each of the media when comparing to ecological benchmarks. This is consistent with the conservative design of Tier 1 of the screen. In Tier 2 of the environmental screening analysis for PB–HAP, we refine the model inputs to account for meteorological patterns in the vicinity of the facility versus using upper-end national values, and we identify the locations of water bodies near the facility location. By refining the

[20] In the context of this discussion, the term ''uncertainty'' as it pertains to exposure and risk encompasses both *variability* in the range of expected inputs and screening results due to existing spatial, temporal, and other factors, as well as *uncertainty* in being able to accurately estimate the true result.

[21] In the context of this discussion, the term ''uncertainty,'' as it pertains to exposure and risk assessment, encompasses both variability in the range of expected inputs and screening results due to existing spatial, temporal, and other factors, as well as uncertainty in being able to accurately estimate the true result.

screening approach in Tier 2 to account for local geographical and meteorological data, we decrease the likelihood that concentrations in environmental media are overestimated, thereby increasing the usefulness of the screen. To better represent widespread impacts, the modeled soil concentrations are averaged in Tier 2 to obtain one average soil concentration value for each facility and for each PB–HAP. For PB–HAP concentrations in water, sediment, and fish tissue, the highest value for each facility for each pollutant is used.

For the environmental screening assessment for acid gases, we employ a single-tiered approach. We use the modeled air concentrations and compare those with ecological benchmarks.

For both Tiers 1 and 2 of the environmental screening assessment, our approach to addressing model input uncertainty is generally cautious. We choose model inputs from the upper end of the range of possible values for the influential parameters used in the models, and we assume that the exposed individual exhibits ingestion behavior that would lead to a high total exposure. This approach reduces the likelihood of not identifying potential risks for adverse environmental impacts.

Uncertainty also exists in the ecological benchmarks for the environmental risk screening analysis. We established a hierarchy of preferred benchmark sources to allow selection of benchmarks for each environmental HAP at each ecological assessment endpoint. In general, EPA benchmarks used at a programmatic level (*e.g.,* Office of Water, Superfund Program) were used if available. If not, we used EPA benchmarks used in regional programs (*e.g.,* Superfund Program). If benchmarks were not available at a programmatic or regional level, we used benchmarks developed by other agencies (*e.g.,* NOAA) or by state agencies.

In all cases (except for lead compounds, which were evaluated through a comparison to the NAAQS), we searched for benchmarks at the following three effect levels, as described in section III.A.6 of this preamble:

1. A no-effect level (*i.e.,* NOAEL).
2. Threshold-effect level (*i.e.,* LOAEL).
3. Probable effect level (*i.e.,* PEL).

For some ecological assessment endpoint/environmental HAP combinations, we could identify benchmarks for all three effect levels, but for most, we could not. In one case, where different agencies derived significantly different numbers to represent a threshold for effect, we included both. In several cases, only a single benchmark was available. In cases where multiple effect levels were available for a particular PB–HAP and assessment endpoint, we used all of the available effect levels to help us to determine whether risk exists and if the risks could be considered significant and widespread.

The EPA evaluates the following eight HAP in the environmental risk screening assessment: cadmium compounds, D/F, arsenic compounds, POM, mercury compounds (both inorganic mercury and methyl mercury), lead compounds, HCl, and HF, where applicable. These eight HAP represent pollutants that can cause adverse impacts for plants and animals either through direct exposure to HAP in the air or through exposure to HAP that is deposited from the air onto soils and surface waters. These eight HAP also represent those HAP for which we can conduct a meaningful environmental risk screening assessment. For other HAP not included in our screening assessment, the model has not been parameterized such that it can be used for that purpose. In some cases, depending on the HAP, we may not have appropriate multipathway models that allow us to predict the concentration of that pollutant. The EPA acknowledges that other HAP beyond the eight HAP that we are evaluating may have the potential to cause adverse environmental effects and, therefore, the EPA may evaluate other relevant HAP in the future, as modeling science and resources allow.

Further information on uncertainties and the Tier 1 and 2 environmental screening methods is provided in Appendix 5 of the document, *Technical Support Document for TRIM-Based Multipathway Tiered Screening Methodology for RTR: Summary of Approach and Evaluation.* Also, see the *Residual Risk Assessment for Portland Cement Manufacturing Industry Source Category in Support of the Risk and Technology Review September 2017 Proposed Rule,* available in the docket for this action.

B. How did we consider the risk results in making decisions for this proposal?

As discussed in section II.A of this preamble, in evaluating and developing standards under CAA section 112(f)(2), we apply a two-step process to address residual risk. In the first step, the EPA determines whether risks are acceptable. This determination ''considers all health information, including risk estimation uncertainty, and includes a presumptive limit on maximum individual lifetime [cancer] risk (MIR) [22] of approximately [1-in-10 thousand] [*i.e.,* 100-in-1 million].'' 54 FR 38045, September 14, 1989. If risks are unacceptable, the EPA must determine the emission standards necessary to bring risks to an acceptable level without considering costs. In the second step of the process, the EPA considers whether the emissions standards provide an ample margin of safety ''in consideration of all health information, including the number of persons at risk levels higher than approximately 1-in-1 million, as well as other relevant factors, including costs and economic impacts, technological feasibility, and other factors relevant to each particular decision.'' *Id.* The EPA must promulgate emission standards necessary to provide an ample margin of safety. After conducting the ample margin of safety analysis, we consider whether a more stringent standard is necessary to prevent, taking into consideration, costs, energy, safety, and other relevant factors, an adverse environmental effect.

In past residual risk actions, the EPA considered a number of human health risk metrics associated with emissions from the categories under review, including the MIR, the number of persons in various risk ranges, cancer incidence, the maximum non-cancer HI and the maximum acute non-cancer hazard. See, *e.g.,* 72 FR 25138, May 3, 2007; and 71 FR 42724, July 27, 2006. The EPA considered this health information for both actual and allowable emissions. See, *e.g.,* 75 FR 65068, October 21, 2010; 75 FR 80220, December 21, 2010; 76 FR 29032, May 19, 2011. The EPA also discussed risk estimation uncertainties and considered the uncertainties in the determination of acceptable risk and ample margin of safety in these past actions. The EPA considered this same type of information in support of this action.

The Agency is considering these various measures of health information to inform our determinations of risk acceptability and ample margin of safety under CAA section 112(f). As explained in the Benzene NESHAP, ''the first step judgment on acceptability cannot be reduced to any single factor'' and, thus, ''[t]he Administrator believes that the acceptability of risk under [previous] section 112 is best judged on the basis of a broad set of health risk measures and information.'' 54 FR 38046, September 14, 1989. Similarly, with

[22] Although defined as ''maximum individual risk,'' MIR refers only to cancer risk. MIR, one metric for assessing cancer risk, is the estimated risk were an individual exposed to the maximum level of a pollutant for a lifetime.

regard to the ample margin of safety determination, ''the Agency again considers all of the health risk and other health information considered in the first step. Beyond that information, additional factors relating to the appropriate level of control will also be considered, including cost and economic impacts of controls, technological feasibility, uncertainties, and any other relevant factors.'' *Id.*

The Benzene NESHAP approach provides flexibility regarding factors the EPA may consider in making determinations and how the EPA may weigh those factors for each source category. In responding to comment on our policy under the Benzene NESHAP, the EPA explained that:

> [t]he policy chosen by the Administrator permits consideration of multiple measures of health risk. Not only can the MIR figure be considered, but also incidence, the presence of non-cancer health effects, and the uncertainties of the risk estimates. In this way, the effect on the most exposed individuals can be reviewed as well as the impact on the general public. These factors can then be weighed in each individual case. This approach complies with the *Vinyl Chloride* mandate that the Administrator ascertain an acceptable level of risk to the public by employing [her] expertise to assess available data. It also complies with the Congressional intent behind the CAA, which did not exclude the use of any particular measure of public health risk from the EPA's consideration with respect to CAA section 112 regulations, and thereby implicitly permits consideration of any and all measures of health risk which the Administrator, in [her] judgment, believes are appropriate to determining what will 'protect the public health'.

See 54 FR at 38057, September 14, 1989. Thus, the level of the MIR is only one factor to be weighed in determining acceptability of risks. The Benzene NESHAP explained that ''an MIR of approximately one in 10 thousand should ordinarily be the upper end of the range of acceptability. As risks increase above this benchmark, they become presumptively less acceptable under CAA section 112, and would be weighed with the other health risk measures and information in making an overall judgment on acceptability. Or, the Agency may find, in a particular case, that a risk that includes MIR less than the presumptively acceptable level is unacceptable in the light of other health risk factors.'' *Id.* at 38045. Similarly, with regard to the ample margin of safety analysis, the EPA stated in the Benzene NESHAP that: ''EPA believes the relative weight of the many factors that can be considered in selecting an ample margin of safety can only be determined for each specific source category. This occurs mainly because technological and economic factors (along with the health-related factors) vary from source category to source category.'' *Id.* at 38061. We also consider the uncertainties associated with the various risk analyses, as discussed earlier in this preamble, in our determinations of acceptability and ample margin of safety.

The EPA notes that it has not considered certain health information to date in making residual risk determinations. At this time, we do not attempt to quantify those HAP risks that may be associated with emissions from other facilities that do not include the source categories in question, mobile source emissions, natural source emissions, persistent environmental pollution, or atmospheric transformation in the vicinity of the sources in these categories.

The Agency understands the potential importance of considering an individual's total exposure to HAP in addition to considering exposure to HAP emissions from the source category and facility. We recognize that such consideration may be particularly important when assessing non-cancer risks, where pollutant-specific exposure health reference levels (*e.g.,* RfCs) are based on the assumption that thresholds exist for adverse health effects. For example, the Agency recognizes that, although exposures attributable to emissions from a source category or facility alone may not indicate the potential for increased risk of adverse non-cancer health effects in a population, the exposures resulting from emissions from the facility in combination with emissions from all of the other sources (*e.g.,* other facilities) to which an individual is exposed may be sufficient to result in increased risk of adverse non-cancer health effects. In May 2010, the SAB advised the EPA ''that RTR assessments will be most useful to decision makers and communities if results are presented in the broader context of aggregate and cumulative risks, including background concentrations and contributions from other sources in the area.'' [23]

In response to the SAB recommendations, the EPA is incorporating cumulative risk analyses into its RTR risk assessments, including those reflected in this proposal. The Agency is: (1) Conducting facility-wide assessments, which include source category emission points, as well as other emission points within the facilities; (2) considering sources in the same category whose emissions result in exposures to the same individuals; and (3) for some persistent and bioaccumulative pollutants, analyzing the ingestion route of exposure. In addition, the RTR risk assessments have always considered aggregate cancer risk from all carcinogens and aggregate non-cancer HI from all non-carcinogens affecting the same target organ system.

Although we are interested in placing source category and facility-wide HAP risks in the context of *total* HAP risks from all sources combined in the vicinity of each source, we are concerned about the uncertainties of doing so. Because of the contribution to total HAP risk from emission sources other than those that we have studied in depth during this RTR review, such estimates of total HAP risks would have significantly greater associated uncertainties than the source category or facility-wide estimates. Such aggregate or cumulative assessments would compound those uncertainties, making the assessments too unreliable.

C. How did we perform the technology review?

Our technology review focused on the identification and evaluation of developments in practices, processes, and control technologies that have occurred since the MACT standards were promulgated. Where we identified such developments, in order to inform our decision of whether it is ''necessary'' to revise the emissions standards, we analyzed the technical feasibility of applying these developments and the estimated costs, energy implications, non-air environmental impacts, as well as considering the emission reductions. We also considered the appropriateness of applying controls to new sources versus retrofitting existing sources.

Based on our analyses of the available data and information, we identified potential developments in practices, processes, and control technologies. For this exercise, we considered any of the following to be a ''development'':

- Any add-on control technology or other equipment that was not identified and considered during development of the original MACT standards;
- Any improvements in add-on control technology or other equipment (that were identified and considered during development of the original

[23] The EPA's responses to this and all other key recommendations of the SAB's advisory on RTR risk assessment methodologies (which is available at: *http://yosemite.epa.gov/sab/sabproduct.nsf/4AB3966E263D943A8525771F00668381/$File/EPA-SAB-10-007-unsigned.pdf*) are outlined in a memorandum to this rulemaking docket from David Guinnup titled, *EPA's Actions in Response to the Key Recommendations of the SAB Review of RTR Risk Assessment Methodologies.*

MACT standards) that could result in additional emissions reduction;

- Any work practice or operational procedure that was not identified or considered during development of the original MACT standards;
- Any process change or pollution prevention alternative that could be broadly applied to the industry and that was not identified or considered during development of the original MACT standards; and
- Any significant changes in the cost (including cost effectiveness) of applying controls (including controls the EPA considered during the development of the original MACT standards).

In addition to reviewing the practices, processes, and control technologies that were considered at the time we originally developed (or last updated) the NESHAP, we reviewed a variety of data sources in our investigation of potential practices, processes, or controls to consider. Among the sources we reviewed were the NESHAP for various industries that were promulgated since the MACT standards being reviewed in this action. We reviewed the regulatory requirements and/or technical analyses associated with these regulatory actions to identify any practices, processes, and control technologies considered in these efforts that could be applied to emission sources in the Portland Cement Manufacturing Industry source category, as well as the costs, non-air impacts, and energy implications associated with the use of these technologies. Finally, we reviewed information from other sources, such as state and/or local permitting agency databases and industry-supported databases.

IV. Analytical Results and Proposed Decisions

A. What are the results of the risk assessment and analyses?

1. Inhalation Risk Assessment Results

Table 3 of this preamble provides an overall summary of the inhalation risk results. The results of the chronic baseline inhalation cancer risk assessment indicate that, based on estimates of current actual and allowable emissions, the MIR posed by the Portland Cement Manufacturing Industry source category was estimated to be 1-in-1 million and 4-in-1 million, respectively, from volatile HAP being emitted from the kilns. The total estimated cancer incidence from Portland Cement Manufacturing Industry emission sources based on actual emission levels is 0.01 excess cancer cases per year, or one case in every 100 years. The total estimated cancer incidence from Portland Cement Manufacturing Industry emission sources based on allowable emission levels is 0.03 excess cancer cases per year, or one case in every 33 years. Emissions of formaldehyde, benzene, naphthalene, and acetaldehyde contributed 91 percent to this cancer incidence. The population exposed to cancer risks greater than or equal to 1-in-1 million considering actual emissions was estimated to be approximately 130; for allowable emissions, approximately 2,300 people were estimated to be exposed to cancer risks greater than or equal to 1-in-1 million.

TABLE 3—INHALATION RISK ASSESSMENT SUMMARY FOR PORTLAND CEMENT MANUFACTURING INDUSTRY SOURCE CATEGORY

	Cancer MIR (in-1 million)		Cancer incidence (cases per year) [1]	Population with risk of 1-in-1 million or greater [1]	Population with risk of 10-in-1 million or greater [1]	Max chronic noncancer HI
	Based on actual emissions	Based on allowable emissions				
Source Category	1 (formaldehyde, benzene).	4 (formaldehyde, benzene).	0.01	130	0	HI < 1 (Actuals and Allowables).
Whole Facility	70 (arsenic and chromium VI).	.....	0.02	20,000	690	HI = 1 (Actuals).

[1] Cancer incidence and populations exposed are based upon actual emissions.

The maximum chronic noncancer HI (TOSHI) values for the source category, based on actual and allowable emissions, were estimated to be 0.02 and 0.06, respectively, with formaldehyde, acetaldehyde, and hydrochloric acid driving the TOSHI value.

2. Acute Risk Results

Worst-case acute HQs were calculated for every HAP for which there is an acute health benchmark using actual emissions. The maximum acute noncancer HQ value for the source category was less than 1. Acute HQs are based upon actual emissions.

3. Multipathway Risk Screening Results

Results of the worst-case Tier 1 screening analysis indicate that PB–HAP emissions (based on estimates of actual emissions) from 70 of the 91 facilities in the source category exceed the screening values for the carcinogenic PB–HAP (D/F and arsenic) and that PB–HAP emissions from 68 of the 91 facilities exceed the screening values for mercury, a noncarcinogenic PB–HAP. Cadmium emissions were below the Tier 1 emission noncancer screening level for each facility based upon the combined Farmer and Fisher scenarios. For the PB–HAP and facilities that did not screen out at Tier 1, we conducted a Tier 2 screening analysis.

The Tier 2 screen replaces some of the assumptions used in Tier 1 with site-specific data, the location of fishable lakes, and local wind direction and speed. The Tier 2 screen continues to rely on high-end assumptions about consumption of local fish and locally grown or raised foods (adult female angler at 99th percentile consumption for fish [24] for the Fisher Scenario and 90th percentile for consumption of locally grown or raised foods [25]) for the Farmer Scenario and uses an assumption that the same individual consumes each of these foods in high end quantities (*i.e.,* that an individual has high end ingestion rates for each food). The result of this analysis was the development of site-specific concentrations of D/F, arsenic compounds, and mercury compounds. It is important to note that, even with the inclusion of some site-specific information in the Tier 2 analysis, the multipathway screening analysis is still

[24] Burger, J. 2002. *Daily Consumption of Wild Fish and Game: Exposures of High End Recreationists. International Journal of Environmental Health Research,* 12:343–354.

[25] U.S. EPA. *Exposure Factors Handbook,* 2011 Edition (Final). U.S. Environmental Protection Agency, Washington, DC, EPA/600/R–09/052F, 2011.

a very conservative, health-protective assessment (*e.g.,* upper-bound consumption of local fish, locally grown, and/or raised foods) and in all likelihood will yield results that serve as an upper-bound multipathway risk associated with a facility.

Based on the Tier 2 screening analysis, 45 facilities emit D/F and arsenic that exceed the Tier 2 cancer screening value. D/F emissions exceeded the screening value by a factor of as much as 100 for the fisher scenario and by as much as 30 for the farmer scenario. For arsenic, the facility with the largest exceedance of the cancer screening value had an exceedance of 10 times the Tier 1 emission rate level resulting in a Tier 2 screening value less than 1 for both the Fisher and Farmer scenarios. For mercury, 24 facilities emit mercury emissions above the noncancer screening value, with at least one facility exceeding the screening value by a factor of 30 for the Fisher scenario. When we considered the effect multiple facilities within the source category could have on common lake(s) in the modeling domain, mercury emissions exceeded the noncancer screening value by a factor of 40.

For D/F, we conducted a Tier 3 multipathway screen for the facility with the highest Tier 2 multipathway cancer screen (a value of 100) for the Fisher scenario. The next highest facility had a Tier 2 cancer screen value of 40. Tier 3 has three individual stages, and we progressed through each of those stages until either the facility's PB–HAP emissions did not exceed the screening value or all three stages had been completed. These stages included lake, plume rise, and time-series assessments. Based on this Tier 3 screening analysis, the MIR facility had D/F emissions that exceeded the screening value by a factor of 20 for the Fisher scenario. Further details on the Tier 3 screening analysis can be found in Appendix 11 of *Residual Risk Assessment for the Portland Cement Manufacturing Industry Source Category in Support of the Risk and Technology Review September 2017 Proposed Rule.*''

An exceedance of a screening value in any of the tiers cannot be equated with a risk value or a HQ (or HI). Rather, it represents a high-end estimate of what the risk or hazard may be. For example, facility emissions exceeding the screening value by a factor of 2 for a non-carcinogen can be interpreted to mean that we are confident that the HQ would be lower than 2. Similarly, facility emissions exceeding the screening value by a factor of 20 for a carcinogen means that we are confident that the risk is lower than 20-in-1 million. Our confidence comes from the health-protective assumptions that are in the screens: we choose inputs from the upper end of the range of possible values for the influential parameters used in the screens; and we assume that the exposed individual exhibits ingestion behavior that would lead to a high total exposure.

For mercury emissions, we conducted a site-specific assessment. Analysis of the facilities with the highest Tier 2 screen values helped identify the location for the site-specific assessment and the facilitie(s) to model with TRIM_FaTE. We also considered the effect multiple facilities within the source category could have on common lake(s) in the modeling domain. The selection of the facility(s) for the site-specific assessment also included evaluating the number and location of lakes impacted, watershed boundaries, and land-use features around the target lakes, (*i.e.,* elevation changes, topography, rivers).

The three facilities selected are located in Midlothian, Texas. One of the three facilities had the largest Tier 2 screen value, as well as the lake with the highest aggregated noncancer screen value for mercury with a lake size of over 6,600 acres. These sites were selected because of the Tier 2 mercury screening results and based on the feasibility, with respect to the modeling framework, of obtaining parameter values for the region surrounding the facilities. We expect that the exposure scenarios we assessed are among the highest that might be encountered for other facilities in this source category.

The refined site-specific multipathway assessment, as in the screening assessments, includes some hypothetical elements, namely the hypothetical human receptor (*e.g.,* the Fisher scenario which did not screen out in the screening assessments). We also included children in different age ranges and adults with lifetime cancer risks evaluated for carcinogens if they did not pass the screening, and noncancer hazards evaluated for different age groups for other chemicals that did not pass the screening. It is important to note that even though the multipathway assessment has been conducted, no data exist to verify the existence of the hypothetical human receptor.

The Fisher scenario involves an individual who regularly consumes fish caught in freshwater lakes in the vicinity of the source of interest over the course of a 70-year lifetime. Since the Fisher scenario did not pass the screening, we evaluated risks and/or hazards from the one lake that was fished in the screening assessment, with the same adjustments to fish ingestion rates as used in the screening according to lake acreage and its assumed impact on fish productivity. The refined multipathway assessment produced an HQ of 0.6 for mercury for the three facilities assessed. This risk assessment represents the maximum hazard for mercury through fish consumption for the source category and, with an HQ less than 1, is below the level of concern for exposure to emissions from these sources.

In evaluating the potential for multipathway effects from emissions of lead, we compared modeled hourly lead concentrations to the secondary NAAQS for lead (0.15 μg/m^3). The highest hourly lead concentration, of 0.023 μg/m^3, is below the NAAQS for lead, indicating a low potential for multipathway impacts of concern due to lead.

4. Environmental Risk Screening Results

As described in section III.A of this preamble, we conducted an environmental risk screening assessment for the Portland Cement Manufacturing Industry source category for the following six pollutants: Mercury (methyl mercury and mercuric chloride), arsenic, cadmium, lead, D/F, and HCl. In the Tier 1 screening analysis for PB–HAP (other than lead, which was evaluated differently), cadmium and arsenic emissions had no exceedances of any ecological benchmarks evaluated. D/F and methyl mercury emissions had Tier 1 exceedances for surface soil. Divalent mercury emissions had Tier 1 exceedances for sediment and surface soil. A Tier 2 screening analysis was performed for D/F, divalent mercury, and methyl mercury emissions. In the Tier 2 screening analysis, D/F emissions had no exceedances of any ecological benchmarks evaluated. Divalent mercury emissions from six facilities exceeded the Tier 2 screen for a threshold level sediment benchmark by a maximum screening value of 2. The divalent mercury probable-effects benchmark for sediment was not exceeded. Methyl mercury emissions from two facilities exceeded the Tier 2 screen for a NOAEL surface soil benchmark for avian ground insectivores (woodcock) by a maximum screening value of 2. Other surface soil benchmarks for methyl mercury were not exceeded. Given the low Tier 2 maximum screening values of 2 for divalent mercury and methyl mercury, and the fact that only the most protective benchmarks were exceeded, a Tier 3 environmental risk screen was not conducted for this source category.

For lead, we did not estimate any exceedances of the secondary lead NAAQS. For HCl, the average modeled concentration around each facility (*i.e.,* the average concentration of all off-site data points in the modeling domain) did not exceed any ecological benchmark. In addition, each individual modeled concentration of HCl (*i.e.,* each off-site data point in the modeling domain) was below the ecological benchmarks for all facilities. Based on the results of the environmental risk screening analysis, we do not expect an adverse environmental effect as a result of HAP emissions from this source category.

5. Facility-Wide Risk Results

Results of the assessment of facility-wide emissions indicate that, of the 91 facilities, 16 facilities have a facility-wide cancer risk greater than or equal to 1-in-1 million (refer to Table 3). The maximum facility-wide cancer risk is 70-in-1 million, mainly driven by arsenic and chromium (VI) emissions from construction activities involving the hauling of sand and gravel from the stone quarrying process. The next highest facility-wide cancer risk is 8-in-1 million.

The total estimated cancer incidence from the whole facility is 0.02 excess cancer cases per year, or one case in every 50 years. Approximately 20,000 people are estimated to have cancer risks greater than or equal to 1-in-1 million from exposure to whole facility emissions from 16 facilities in the source category. Approximately 700 people are estimated to have cancer risk greater than 10-in-1 million from exposure to whole facility emissions from one facility in the source category.

The maximum facility-wide chronic non-cancer TOSHI is estimated to be equal to 1, mainly driven by emissions of HCl from a drying operation routed through the long kiln.

6. What demographic groups might benefit from this regulation?

To examine the potential for any environmental justice issues that might be associated with the source category, we performed a demographic analysis of the population close to the facilities. In this analysis, we evaluated the distribution of HAP-related cancer and non-cancer risks from the Portland Cement Manufacturing Industry source category across different demographic groups within the populations living near facilities identified as having the highest risks. The methodology and the results of the demographic analyses are included in a technical report, *Risk and Technology Review—Analysis of Demographic Factors for Populations Living Near Portland Cement Manufacturing Facilities,* available in the docket for this action.

The results of the demographic analysis are summarized in Table 4 below. These results, for various demographic groups, are based on the estimated risks from actual emission levels for the population living within 50 km of the facilities.

TABLE 4—PORTLAND CEMENT MANUFACTURING INDUSTRY SOURCE CATEGORY DEMOGRAPHIC RISK ANALYSIS RESULTS

	Nationwide	Population with cancer risk at or above 1-in-1 million due to Portland Cement Manufacturing	Population with chronic hazard index above 1 due to Portland Cement Manufacturing
Total Population	317,746,049	134	0
Race by Percent			
White	62	71	0
All Other Races	38	29	0
Race by Percent			
White	62	94	0
African American	12	1	0
Native American	0.8	1.6	0
Other and Multiracial	7	3	0
Ethnicity by Percent			
Hispanic	18	24	0
Non-Hispanic	82	76	0
Income by Percent			
Below Poverty Level	14	10	0
Above Poverty Level	86	90	0
Education by Percent			
Over 25 and without High School Diploma	14	11	0
Over 25 and with a High School Diploma	86	89	0

The results of the Portland Cement Manufacturing Industry source category demographic analysis indicate that emissions from the source category expose approximately 130 people to a cancer risk at or above 1-in-1 million and no people to a chronic noncancer TOSHI greater than 1. The percentages of the at-risk population in each demographic group (except for White, Native American, and Hispanic) are similar to or lower than their respective nationwide percentages. The specific demographic results indicate that the percentage of the population potentially impacted by Portland cement emissions is greater than its corresponding nationwide percentage for the following

demographics: Native American (1.6 percent compared to 0.8 percent nationally), Hispanic or Latino (24 percent compared to 18 percent nationally) and children aged 0 to 17 (32 percent compared to 23 percent nationally). The other demographic groups within the exposed population were the same or lower than the corresponding nationwide percentages.

B. What are our proposed decisions regarding risk acceptability, ample margin of safety, and adverse environmental effects?

1. Risk Acceptability

As noted in section II.A.1 of this preamble, the EPA sets standards under CAA section 112(f)(2) using ''a two-step standard-setting approach, with an analytical first step to determine an 'acceptable risk' that considers all health information, including risk estimation uncertainty, and includes a presumptive limit on maximum individual lifetime [cancer] risk (MIR) [26] of approximately 1-in-10 thousand [*i.e.,* 100-in-1 million].'' 54 FR 38045, September 14, 1989. In this proposal, we estimated risks based on actual and allowable emissions. As discussed earlier, we consider our analysis of risk from allowable emissions to be conservative and, as such, to represent an upper bound estimate of inhalation risk from emissions allowed under the NESHAP for the source category.

The inhalation cancer risk to the individual most exposed to emissions from sources in the Portland Cement Manufacturing Industry source category is 1-in-1 million based on actual emissions. The estimated incidence of cancer due to inhalation exposure is 0.01 excess cancer cases per year, or one case in every 100 years, based on actual emissions. Approximately 130 people are exposed to actual emissions resulting in an increased cancer risk greater than or equal to 1-in-1 million. We estimate that, for allowable emissions, the inhalation cancer risk to the individual most exposed to emissions from sources in this source category is up to 4-in-1 million. The estimated incidence of cancer due to inhalation exposure is 0.02 excess cancer cases per year, or one case in every 50 years, based on allowable emissions. Based on allowable emissions, approximately 20,000 people could be exposed to emissions resulting in an increased cancer risk of up to 1-in-1 million, and about 690 people to an increased cancer risk of up to 10-in-1 million.

The Agency estimates that the maximum chronic noncancer TOSHI from inhalation exposure is less than 1 due to actual emissions, and up to 1 due to allowable emissions. The screening assessment of worst-case acute inhalation impacts from worst-case 1-hour emissions indicates that no HAP exceed an HQ value of 1.

Based on the results of the multipathway cancer screening analyses of arsenic and dioxin emissions, we conclude that the cancer risk from ingestion exposure to the individual most exposed is less than 1-in-1 million for arsenic and, based on a Tier 3 analysis, less than 20-in-1 million for dioxins. Based on the Tier 1 multipathway screening analysis of cadmium emissions and the refined site-specific multipathway analysis of mercury emissions, the maximum chronic noncancer TOSHI due to inhalation exposures is less than 1 for actual emissions.

In determining whether risk is acceptable, the EPA considered all available health information and risk estimation uncertainty, as described above. The results indicate that both the actual and allowable inhalation cancer risks to the individual most exposed are significantly less than 100-in-1 million, which is the presumptive limit of acceptability. The maximum chronic noncancer TOSHI due to inhalation exposures is less than 1 due to actual emissions and up to 1 due to allowable emissions, and our refined multipathway analysis indicates that noncancer ingestion risks also are less than 1. Finally, the evaluation of acute noncancer risks was very conservative and showed that acute risks are below a level of concern.

Taking into account this information, we propose that the risk remaining after implementation of the existing MACT standards for the Portland Cement Manufacturing Industry is acceptable.

2. Ample Margin of Safety Analysis

Although we are proposing that the risks from the Portland Cement Manufacturing Industry source category are acceptable, for allowable emissions, the inhalation cancer risk to the individual most exposed to emissions from sources in this source category is up to 4-in-1 million, with approximately 2,000 individuals estimated to be exposed to emissions resulting in an increased cancer risk of 1-in-1 million or greater. In addition, based on the Tier 3 multipathway screening analysis, dioxin emissions from the MIR facility could pose a risk of up to 20-in-1 million. Thus, we considered whether the existing MACT standards provide an ample margin of safety to protect public health. In addition to considering all of the health risks and other health information considered in the risk acceptability determination, in the ample margin of safety analysis, we evaluated the cost and feasibility of available control technologies and other measures (including the controls, measures, and costs reviewed under the technology review) that could be applied in this source category to further reduce the risks due to emissions of HAP.

Our inhalation risk analysis indicates very low potential for risk from the facilities in the source category based upon actual emissions at 1-in-1 million, and just slightly higher risks based upon allowable emissions at 4-in-1 million. Therefore, very little reduction in inhalation risks could be realized regardless of the availability of control options. As directed by CAA section 112(f)(2), we conducted an analysis to determine if the standard provides an ample margin of safety to protect public health. The HAP risk drivers contributing to the inhalation MIR in excess of 1-in-1 million for 40 CFR part 63, subpart LLL facilities include primarily the gaseous organic HAP: Formaldehyde, benzene, naphthalene, and acetaldehyde. More than 62 percent of the mass emissions of these compounds originate from kiln operations.

The following paragraphs provide our analyses of HAP-reducing measures that we considered in our ample margin of safety analysis. For each option, we considered feasibility, cost-effectiveness, and health information in determining whether to revise standards in order to provide an ample margin of safety.

The first technology we evaluated in our ample margin of safety analysis is a regenerative thermal oxidizer (RTO). To assess the costs associated with RTOs, we relied on our beyond-the-floor (BTF) analysis documented in the May 6, 2009, Portland Cement NESHAP proposal (74 FR 21136). In that proposal, we assessed the potential for further reductions in THC and organic HAP emissions beyond the reductions achieved by activated carbon injection (ACI) (controlling mercury and THC emissions), the typical kiln controls used in the industry. To achieve further reductions in THC, a kiln would likely require additional controls, such as RTO. It was expected that RTO would only offer an additional 50-percent removal efficiency, due to the reduced

[26] Although defined as ''maximum individual risk,'' MIR refers only to cancer risk. MIR, one metric for assessing cancer risk, is the estimated risk were an individual exposed to the maximum level of a pollutant for a lifetime.

THC concentration leaving the ACI control device and entering the proposed RTO. The analysis indicates that addition of an RTO would reduce THC emissions by approximately 9 tpy, for a cost effectiveness of $411,000/ton. The HAP fraction would be approximately 24 percent of THC, so 2 tpy of organic HAP would be removed, at a cost effectiveness of $1.7 million/ton of organic HAP. The details of this analysis are included in 74 FR 21152–21153. Overall, we do not consider the use of an RTO to be cost effective for this industry, and given the small reduction in organic HAP emissions, the addition of an RTO would have little effect on the source category risks.

Exposure to dioxin emissions from the MIR facility were found to pose a non-inhalation MIR of less than 20-in-1 million, and possibly greater than 1-in-1 million. Technologies evaluated included the use of ACI with wet scrubbers to help control D/F emissions. For the March 24, 1998, proposal (63 FR 14182), we performed a BTF analysis that considered the MACT floor for D/F emissions controls to be a reduction of the kiln exhaust gas stream temperature at the PM control device inlet to 400 degrees Fahrenheit (63 FR 14200). An ACI system was considered as a potential BTF option. Total annual costs were estimated to be $426,000 to $3.3 million per kiln. The Agency determined that, based on the additional costs and the level of D/F emissions reduction achievable, the BTF costs were not justified (63 FR 14199–14201). We do not consider the use of ACI system to be cost effective for the industry to use to reduce D/F emissions, and would have little effect on the source category risks.

Our multipathway screening analysis results did not necessarily indicate any risks from mercury emissions, but we have also performed an evaluation of mercury emissions controls. In the May 6, 2009, BTF analysis, it was estimated for a typical 1.2 million tpy kiln, the addition of a halogenated carbon injection system would result in a 3.0 lb/year reduction in mercury at a cost of $1.25 million/year and a cost effectiveness of $420,000/lb of mercury removed. If the halogenated carbon injection system effectiveness is reduced due to a low level of mercury entering the system, 2.3 lb/year of mercury would be removed at a cost effectiveness of $540,000/lb of mercury removed (74 FR 21149). We do not consider the use of halogenated carbon injection system to be cost effective for the industry to use to reduce mercury emissions, and would have little effect on the low risks identified for this source category.

The cost-effectiveness values for further reduction of organic HAP, as referenced herein, are significantly higher than values in other NESHAP we have historically rejected for not being cost effective for organic HAP. As examples of determinations made historically, refer to the National Emission Standards for Hazardous Air Pollutants Residual Risk and Technology Review for Flexible Polyurethane Foam Production (August 15, 2014, 79 FR 48078), the National Emission Standards for Hazardous Air Pollutant Emissions: Group I Polymers and Resins (April 21, 2011, 77 FR 22579), and the National Emission Standards for Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry (December 21, 2006, 71 FR 76605). We also determined that further reduction of dioxin emissions would not be cost effective. Due to the low level of current risk, the minimal risk reductions that could be achieved with the various control options that we evaluated, and the substantial costs associated with additional control options, we are proposing that the current standards provide an ample margin of safety.

3. Adverse Environmental Effects

Based on the results of our environmental risk screening assessment, we conclude that there is not an adverse environmental effect from the Portland Cement Manufacturing Industry source category. We are proposing that it is not necessary to set a more stringent standard to prevent, taking into consideration costs, energy, safety, and other relevant factors, an adverse environmental effect.

C. What are the results and proposed decisions based on our technology review?

Control devices typically used to minimize emissions at Portland cement manufacturing industry facilities include fabric filters and electrostatic precipitators (ESP) for control of PM from kilns; fabric filters for the control of PM from clinker coolers and raw material handling operations; wet scrubbers or dry lime injection for control of HCl, and ACI, wet scrubbers, or both for the control of mercury, D/F, and THC. At least one kiln has controlled THC using a wet scrubber followed by an RTO. Process changes used at some facilities to reduce HAP emissions include dust shuttling to reduce mercury emissions and raw material substitution to reduce organic HAP emissions. The add-on controls and process changes used by a facility to comply with the 40 CFR part 63, subpart LLL emission standards are highly site specific because of factors such as variations in the HAP content of raw materials and fuels, availability of alternative raw materials and fuels, and kiln characteristics (such as age and type of kiln). In addition, new or reconstructed kilns must also comply with the New Source Performance Standards (NSPS) for Cement Manufacturing (40 CFR part 60, subpart F). The NSPS sets limits for emissions of PM, nitrogen oxides (NO_X) and sulfur dioxide (SO_2). The PM limits in the NSPS and the subpart LLL PM limits for new sources are the same. Measures taken at a facility to comply with the NO_X and SO_2 limits must be considered in light of the subpart LLL emission standards. Due to the relatively recent finalization of the MACT rules for Portland cement manufacturing, there have been no new developments in practices, processes, or control technologies that have been implemented in this source category since promulgation of the current NESHAP. Nevertheless, we did review several technologies that have been available, or may be available soon, to the industry and provided additional options to the industry for reducing HAP emissions. Based on information available to the EPA, these technologies do not clearly reduce HAP emissions relative to technologies that were considered by the EPA when promulgating the Portland Cement Manufacturing Industry NESHAP in 2013.

Selective catalytic reduction (SCR) is the process of adding ammonia or urea in the presence of a catalyst to selectively reduce NO_X emissions from exhaust gases. A benefit of SCR may be its ability to facilitate the removal of mercury and other HAP emissions from the Portland cement manufacturing process. The EPA considered SCR in proposing standards for NO_X in 2008, but did not propose SCR as best demonstrated technology for several reasons (73 FR 34072, June 16, 2008). At the time of the proposal, SCR was in use at just a few kilns in Europe, and no cement kilns in the U.S. used SCR. There were concerns over the plugging of the SCR catalyst in high-dust installations and, in low-dust installations where the catalyst is located downstream of the PM control device, the cost of reheating cooled exhaust was very high leading to uncertainties over what actual costs would be. Finally, SCR was anticipated to increase energy use due to the

pressure drop across the catalyst and produce additional liquid and solid waste to be handled.

Since then, SCR has been installed on two cement kilns in the U.S. The two installations in the U.S. started operation in 2016 (Holcim in Midlothian, Texas) and 2013 (Lafarge in Joppa, Illinois). Holcim controls THC through addition of SCR to Kiln 1 and an RTO to Kiln 2. The SCR system at Lafarge controls NO_X and operates with a long dry kiln with a hot ESP, and no reheat.

Beyond its ability to reduce NO_X by 90 percent, multipollutant benefits have been reported. At kilns in Europe, reductions in THC of 50 to greater than 70 percent have been reported. Although D/F reductions have been observed for SCR in many industries and reductions in D/F have been reported for an SCR installation at a cement kiln in Italy, tests of D/F reduction across SCR catalyst in the Portland Cement Manufacturing Industry have not been conducted. SCR does not directly reduce mercury emissions. Instead, SCR results in the oxidation of mercury from its elemental form, and the oxidized form is more easily captured in scrubbers. The addition of an SCR as control is expected to have little impact on reducing mercury emissions from cement kilns without requiring the addition of a scrubber system.

Catalytic ceramic filter candles and catalytic filter bags are used to remove not only particulate, but may be used to remove other pollutants such as D/F, THC, non-D/F organic HAP, carbon monoxide (CO), and NO_X. Catalytic ceramic filter candles are typically approximately 10 feet long. The length is limited to 10 feet by several considerations, including the weight of the candle and the fact that the candle cannot be flexed, limiting the height above the seal plate. In contrast, the length of catalytic filter bags can vary from 10 to 32 feet. Currently, filter bags at cement manufacturing facilities are much longer than 10 feet. Therefore, installing ceramic filter candles can only be done by replacing the baghouse housing (*i.e.,* ceramic filter candles are not a drop-in replacement for existing filter bags).

FLSmidth received the first contract for removal of THC with ceramic catalytic filters at a U.S. cement kiln. They noted that the removal of THC with their ceramic catalytic filter system depends on the speciation of THC components, but that removal efficiencies of greater than 90 percent have been seen in testing for HAP THC pollutants. Tri-Mer Corp., a technology company specializing in advanced industrial air pollution control systems, claims to have fully commercialized a ceramic filter technology that is highly effective for emissions from cement kilns and other processes facing NESHAP and MACT compliance issues. Although no studies were identified in the literature documenting the performance of Tri-Mer's ceramic filter system, the company states that their catalyst filter system is highly efficient at removing PM, SO_2, HCl, mercury, and heavy metals, while simultaneously destroying NO_X, cement organic HAP and D/F. Tri-Mer reports NO_X removal at up to 95 percent and D/F removal typically over 97 percent. The system can incorporate dry sorbent injection of hydrated lime, sodium bicarbonate, or trona for dry scrubbing of SO_2, HCI, HF, and other acid gases. With dry sorbent injection, typical SO_2 and HCl results show 90- to 98-percent removal. According to company information, the control of any combination of these pollutants is accomplished in a single, completely dry system that is suitable for all flow volumes.

Powdered activated carbon (PAC) for mercury control was first used in the U.S. for the incinerator (waste-to-energy) industry. Conventional PAC was expected to be used for mercury control for electrical power generation. However, conventional PAC mercury removal performance suffers in situations involving high-sulfur coal, which leads to high sulfur trioxide (SO_3) levels, or situations where SO_3 is injected to improve ESP performance. In addition, a September 2007 test conducted at the Ash Grove facility in Durkee, Oregon, suggests that halogen-treated PAC makes no difference in controlling mercury emissions from a kiln. Specifically, the report states, ''While studies at coal-fired power plants have indicated that the use of halogen-treated PAC can result in higher Hg control efficiencies, testing on the Durkee exhaust gas indicated that untreated carbon provides equivalent control to halogen-treated carbon. This is believed to be due to the low sulfur levels in the Durkee cement kiln exhaust gases as compared to coal-fired power plants.'' [27] We believe that, based on our review, the addition of halogenated PAC controls to further reduce mercury emissions do not result in a substantial reduction of mercury emissions beyond current controls.

The Ash Grove facility in Durkee, Oregon, had the highest mercury emissions of any Portland cement manufacturing facility prior to promulgation of the cement NESHAP. To reach the NESHAP limit of 55 lbs mercury per million tons of clinker, Ash Grove installed a $20 million system for mercury capture. It consists of a baghouse with ACI. Dust collected in the baghouse is sent to an electric furnace where it is heated to 800 degrees Fahrenheit, which puts the mercury back into a gaseous state. The gaseous mercury moves into a cooling chamber where it is converted into liquid that is captured in a heat exchanger/condenser. The liquid mercury is then sold for use in electronic devices and other products.

Praxair has developed a technology of feeding a stream of hot oxygen into a cement kiln to lower emissions of CO and hydrocarbons. This technology involves oxidation of CO at the kiln inlet with oxygen enhanced combustion, and has been in commercial practice since 2014 at a kiln in Europe. It has not been installed on any cement kiln in the U.S. Oxygen is injected in the riser with the goal of lowering NO_X and CO emissions to below permitted levels of 230 milligrams per normal cubic meter (mg/Nm^3) and 4,000 mg/Nm^3, respectively, without use of a more expensive SCR system.

As discussed before, there are several technologies that can be effective in reducing emission from the cement kiln. However, most of these technologies have not been widely used in the industry so source category specific data on their long term performance and costs are lacking. Their performance is typically similar to technologies already employed or, in some cases, only marginally better. In the case of SCR, it had been noted that this might be an alternative to current THC controls. However, we note that SCR is most effective on non-dioxin organic HAP and is not effective on other hydrocarbons. The organic HAP portion of the 24 parts per million by volume THC limit is typically low and is near the actual detection limits for measurement. Therefore, even if SCR were more widely applied in the industry, the emissions impact on THC and organic HAP would be small.

D. What other actions are we proposing?

In addition to the proposed actions described above, we are proposing additional revisions, which include changes to clarify monitoring, testing, and recordkeeping and reporting requirements and the correction of typographical errors. Our analyses and

[27] *Mercury Control Slipstream Baghouse Testing at Ash Grove's Durkee Cement Facility,* September 2007.

proposed changes related to these issues are discussed below.

We are proposing to correct a paragraph in the reporting requirements that mistakenly requires that affected sources report their 30-operating day rolling average for D/F temperature monitoring. There are no 30-day operating rolling average temperature requirements pertaining to D/F in the rule. The removal of the reference to the D/F temperature monitoring system in 40 CFR 63.1354(b)(9)(vi) is also consistent with the EPA's October 2016 rule guidance for the subpart LLL NESHAP. See *NESHAP for the Portland Cement Manufacturing Industry Subpart LLL Rule Guidance,* which has been updated to include revisions from this proposed rule. (*https://www.epa.gov/sites/production/files/2016-03/documents/ruleguidance_mar2016.pdf.*)

We are proposing to correct a provision that requires facility owners or operators to keep records of both daily clinker production and kiln feed rates. Section 63.1350(d)(1)(ii) requires daily kiln feed rate records only if the facility derives their clinker production rates from the measured feed rate.

The EPA is proposing to clarify that the submittal dates for semiannual summary reports required under 40 CFR 63.1354(b)(9) are 60 days after the end of the reporting period consistent with the Agency's statement in the October 2016 rule guidance for the subpart LLL NESHAP. In addition, the October 2016 rule guidance was revised in September 2017 to ensure it reflects the various changes proposed in this rule.

The EPA is proposing to resolve conflicting provisions that apply when an SO_2 continuous parametric monitoring system is used to monitor HCl compliance. If the SO_2 level exceeds by 10 percent or more the site-specific SO_2 emissions limit, 40 CFR 63.1349(b)(x) requires that as soon as possible, but within 30 days, a facility must take corrective action, and within 90 days, conduct a performance test to demonstrate compliance with the HCl limit and verify or re-establish the site-specific SO_2 emissions limit. These conflict with 40 CFR 63.1350(l)(3), which requires corrective action within 48 hours and retesting within 60 days. We are proposing to adopt the requirements of 40 CFR 63.1349(b)(x) and change the requirement of 40 CFR 63.1350(l)(3) to reflect this.

We are proposing to clarify the requirement in section 63.1349(b)(1)(vi) which states that for each PM performance test, an owner or operator must conduct at least three separate test runs each while the mill is on and the mill is off. We are proposing that this provision only applies to kilns with inline raw mills, as inline raw mills are considered part of the kiln and can affect kiln PM emissions. It specifically would not apply to a kiln that does not have an inline raw mill or to a clinker cooler (unless the clinker cooler gases are combined with kiln exhaust and sent through an inline mill). As in these cases, the raw mill is a separate source from the kiln and has no effect on kiln or clinker cooler PM emissions.

We are proposing changes which affect the emission limits for D/F. Table 1 of 40 CFR 63.1343(b) lists the emission limits for D/F. The units of the emission limit are ng/dscm TEQ at 7-percent oxygen. The TEQ is developed by determining the mass of each congener measured during the performance test, then multiplying each congener by the toxic equivalency factor (TEF). After the TEQ is developed per congener, they are added to obtain the total TEQs. The TEFs were re-evaluated in 2005 by the World Health Organization—International Programme on Chemical Safety using a different scale of magnitude.[28] The 40 CFR part 63, subpart LLL standards were developed based on TEFs developed in 1989, as referenced in the TEQ definition section of the rule (40 CFR 63.1341). Laboratories calculating the TEQs should be using the TEFs developed in 1989. We are proposing that the 1989 TEFs be incorporated into the rule to clarify that they are the appropriate factors for calculating TEQ.

Finally, we are proposing to clarify the performance test requirements for certain sources. According to a stakeholder, compliance with 40 CFR part 63, subpart LLL is required immediately upon startup and does not allow companies an operating window after periods of extended shutdown in order to assess compliance. The stakeholder states that extended shutdowns of existing kilns occur in the Portland cement manufacturing industry in the aftermath of economic downturns when companies have halted production at certain facilities. When the economy rebounds and sources are brought back on line, they must immediately comply with NESHAP and other CAA requirements for existing facilities. The stakeholder asserts that this mandatory compliance requirement does not account for the fact that owners or operators must start the facilities back up and run them for periods of time to determine whether any measures must be taken to come into compliance with updated NESHAP or other standards. In response, we are proposing to clarify the performance test requirements for affected sources that have been idle through one or more periods that required a performance test to demonstrate compliance. The proposed amendment would require any affected source that was unable to demonstrate compliance before the compliance date due to being idled, or that had demonstrated compliance, but was idled during the normal window for the next compliance test, to demonstrate compliance with the emissions standards and operating limits by conducting their performance using the test methods and procedures in 40 CFR 63.1349 and 63.7. Per 40 CFR 63.7, the necessary performance tests would need to be completed within 180 days of the date that compliance must be demonstrated.

E. What compliance dates are we proposing?

Because these amendments only provide corrections and clarifications to the current rule and do not impose new requirements on the industry, we are proposing that these amendments become effective upon promulgation of the final rule.

V. Summary of Cost, Environmental, and Economic Impacts

A. What are the impacts to affected sources?

The recent amendments to the Portland Cement Manufacturing NESHAP have included rule updates, addressing electronic reporting requirements, and changes in policies regarding startup, shutdown, and malfunction. Because we are proposing no new requirements or controls in this RTR, no Portland cement manufacturing facilities are adversely impacted by these proposed revisions. In fact, the impacts to the Portland cement manufacturing industry from this proposal will be minimal and potentially positive.

B. What are the air quality impacts?

In this proposal, we recommend no new emission limits and require no additional controls; therefore, no air quality impacts are expected as a result of the proposed amendments.

C. What are the cost impacts?

As previously stated, recent amendments to the Portland Cement Manufacturing NESHAP have addressed electronic reporting and changes in policies regarding startup, shutdown, and malfunction. Additionally, the

[28] Van den Berg, Martin, et al. The *2005 World Health Organization Re-evaluation of Human and Mammalian Toxic Equivalency Factors for Dioxins and Dioxin-like Compounds.* Toxicol. Sci. 2006, October 1993(2): 223–241.

proposed amendments recommend no changes to emission standards or add-on controls. Therefore, the proposed amendments impose no additional costs. In fact, the clarifications to rule language may actually result in a reduction of current costs because compliance will be more straightforward.

D. What are the economic impacts?

No economic impacts are expected as a result of the proposed amendments.

E. What are the benefits?

While the proposed amendments would not result in reductions in emissions of HAP, this action, if finalized, would result in improved monitoring, compliance, and implementation of the rule.

VI. Request for Comments

We solicit comments on all aspects of this proposed action. In addition to general comments on this proposed action, we are also interested in additional data that may improve the risk assessments and other analyses. We are specifically interested in receiving any improvements to the data used in the site-specific emissions profiles used for risk modeling. Such data should include supporting documentation in sufficient detail to allow characterization of the quality and representativeness of the data or information. Section VII of this preamble provides more information on submitting data.

VII. Submitting Data Corrections

The site-specific emissions profiles used in the source category risk and demographic analyses and instructions are available for download on the RTR Web site at *https://www3.epa.gov/ttn/atw/rrisk/rtrpg.html.* The data files include detailed information for each HAP emissions release point for the facilities in the source category.

If you believe that the data are not representative or are inaccurate, please identify the data in question, provide your reason for concern, and provide any ''improved'' data that you have, if available. When you submit data, we request that you provide documentation of the basis for the revised values to support your suggested changes. To submit comments on the data downloaded from the RTR Web site, complete the following steps:

1. Within this downloaded file, enter suggested revisions to the data fields appropriate for that information.

2. Fill in the commenter information fields for each suggested revision (*i.e.,* commenter name, commenter organization, commenter email address, commenter phone number, and revision comments).

3. Gather documentation for any suggested emissions revisions (*e.g.,* performance test reports, material balance calculations, *etc.*).

4. Send the entire downloaded file with suggested revisions in Microsoft® Access format and all accompanying documentation to Docket ID No. EPA–HQ–OAR–2016–0442 (through the method described in the **ADDRESSES** section of this preamble).

5. If you are providing comments on a single facility or multiple facilities, you need only submit one file for all facilities. The file should contain all suggested changes for all sources at that facility. We request that all data revision comments be submitted in the form of updated Microsoft® Excel files that are generated by the Microsoft® Access file. These files are provided on the RTR Web site at *https://www3.epa.gov/ttn/atw/rrisk/rtrpg.html.*

VIII. 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. Executive Order 13771: Reducing Regulations and Controlling Regulatory Costs

This action is not expected to be an Executive Order 13771 regulatory action because this action is not significant under Executive Order 12866.

C. 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 regulations (40 CFR part 63, subpart LLL) and has assigned OMB control number 2060–0416. This action does not change the information collection requirements.

D. 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. In making this determination, the impact of concern is any significant adverse economic impact on small entities. An agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, has no net burden, or otherwise has a positive economic effect on the small entities subject to the rule. We estimate that three of the 26 existing Portland cement entities are small entities and comprise three plants. After considering the economic impacts of this proposed action on small entities, we have concluded that this action will have no net regulatory burden for all directly regulated small entities.

E. 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.

F. 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.

G. 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 proposed action. However, the provisions of this proposed rule are not expected to impose new or substantial direct compliance costs on tribal governments since the provisions in this proposed action are clarifying and correcting monitoring and testing requirements and recordkeeping and reporting requirements. This proposed action also provides clarification for owners and operators on bringing new or previously furloughed kilns back on line. Thus, Executive Order 13175 does not apply to this action.

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

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

I. 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.

J. National Technology Transfer and Advancement Act (NTTAA)

This rulemaking does not involve technical standards.

K. 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). The documentation for this decision is contained in section IV.A of this preamble.

List of Subjects in 40 CFR Part 63

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

Dated: September 1, 2017.

E. Scott Pruitt,

Administrator.

For the reasons stated in the preamble, the Environmental Protection Agency is proposing to amend 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 for the Portland Cement Manufacturing Industry

■ 2. Section 63.1341 is amended by:
■ a. Removing the definition of ''affirmative defense;'' and
■ b. Revising the definitions of ''dioxins and furans (D/F),'' ''in-line coal mill,'' and ''TEQ.''

The revisions read as follows:

§ 63.1341 Definitions

* * * * *

Dioxins and furans (D/F) means tetra-, penta-, hexa-, hepta-, and octa-chlorinated dibenzo dioxins and furans.

* * * * *

In-line coal mill means a coal mill using kiln exhaust gases in their process. A coal mill with a heat source other than the kiln or a coal mill using exhaust gases from the clinker cooler is not an in-line coal mill.

* * * * *

TEQ means the international method of expressing toxicity equivalents for dioxins and furans as defined in U.S. EPA, Interim Procedures for Estimating Risks Associated with Exposures to Mixtures of Chlorinated Dibenzo-p-dioxins and -dibenzofurans (CDDs and CDFs) and 1989 Update, March 1989. The 1989 Toxic Equivalency Factors (TEFs) used to determine the dioxin and furan TEQs are listed in Table 2 to subpart LLL of Part 63.

* * * * *

§ 63.1343 [Amended]

■ 3. Section 63.1343 is amended by removing paragraph (d) and Table 2.
■ 4. Section 63.1348 is amended by:
■ a. Revising the first sentence in paragraph (a) introductory text;
■ b. Revising paragraph (a)(3)(i);
■ c. Revising the second sentence in paragraph (a)(3)(iv);
■ d. Revising paragraphs (a)(4)(ii), (a)(7)(ii), (b)(3)(ii), and (b)(4);
■ e. Redesignating paragraph (b)(5)(i) as paragraph (b)(5) introductory text;
■ f. Revising newly redesignated paragraph (b)(5) introductory text; and
■ g. Adding new paragraph (b)(5)(i).

The revisions and addition read as follows:

§ 63.1348 Compliance requirements.

(a) *Initial Performance Test Requirements.* For an affected source subject to this subpart, including any affected source that was unable to demonstrate compliance before the compliance date due to being idled, or that had demonstrated compliance but was idled during the normal window for the next compliance test, you must demonstrate compliance with the emissions standards and operating limits by using the test methods and procedures in §§ 63.1349 and 63.7.

* * * * *

(3) *D/F compliance.* (i) If you are subject to limitations on D/F emissions under § 63.1343(b), you must demonstrate initial compliance with the D/F emissions standards by using the performance test methods and procedures in § 63.1349(b)(3). The owner or operator of a kiln with an in-line raw mill must demonstrate initial compliance by conducting separate performance tests while the raw mill is operating and the raw mill is not operating. Determine the D/F TEQ concentration for each run and calculate the arithmetic average of the TEQ concentrations measured for the three runs to determine continuous compliance.

* * * * *

(iv) * * * Compliance is demonstrated if the system is maintained within ±5 percent accuracy during the performance test determined in accordance with the procedures and criteria submitted for review in your monitoring plan required in § 63.1350(p).

(4) * * *

(ii) *Total Organic HAP Emissions Tests.* If you elect to demonstrate compliance with the total organic HAP emissions limit under § 63.1343(b) in lieu of the THC emissions limit, you must demonstrate compliance with the total organic HAP emissions standards by using the performance test methods and procedures in § 63.1349(b)(7).

* * * * *

(7) * * *

(ii) Perform required emission monitoring and testing of the kiln exhaust prior to the reintroduction of the coal mill exhaust, and also testing the kiln exhaust diverted to the coal mill. All emissions must be added together for all emission points, and must not exceed the limit per each pollutant as listed in § 63.1343(b).

(b) * * *

(3) * * *

(ii) *Bag Leak Detection System (BLDS).* If you install a BLDS on a raw mill or finish mill in lieu of conducting the daily visible emissions testing, you must demonstrate compliance using a BLDS that is installed, operated, and maintained in accordance with the requirements of § 63.1350(f)(4)(ii).

(4) *D/F Compliance.* If you are subject to a D/F emissions limitation under § 63.1343(b), you must demonstrate

compliance using a continuous monitoring system (CMS) that is installed, operated and maintained to record the temperature of specified gas streams in accordance with the requirements of § 63.1350(g).

(5) *Activated Carbon Injection Compliance.* (i) If you use activated carbon injection to comply with the D/F emissions limitation under § 63.1343(b), you must demonstrate compliance using a CMS that is installed, operated, and maintained to record the rate of activated carbon injection in accordance with the requirements § 63.1350(h)(1).

* * * * *

■ 5. Section 63.1349 is amended by:

■ a. Revising paragraphs (b)(1)(vi), (3)(iv), (4)(i), (6)(i)(A), (7)(viii)(A), (8)(vi), and (8)(vii)(B); and

■ b. Removing and reserving paragraph (d).

The revisions read as follows:

§ 63.1349 Performance testing requirements.

* * * * *

(b)(1) * * *

(vi) For each performance test, conduct at least three separate test runs under the conditions that exist when the affected source is operating at the level reasonably expected to occur. Conduct each test run to collect a minimum sample volume of 2 dscm for determining compliance with a new source limit and 1 dscm for determining compliance with an existing source limit. Calculate the time weighted average of the results from three consecutive runs, including applicable sources as required by paragraph (b)(1)(viii) of this section, to determine compliance. You need not determine the particulate matter collected in the impingers ''back half'' of the Method 5 or Method 5I particulate sampling train to demonstrate compliance with the PM standards of this subpart. This shall not preclude the permitting authority from requiring a determination of the ''back half'' for other purposes. For kilns with inline raw mills, testing must be conducted while the raw mill is on and while the raw mill is off. If the exhaust streams of a kiln with an inline raw mill and a clinker cooler are comingled, then the comingled exhaust stream must be tested with the raw mill on and the raw mill off.

* * * * *

(3) * * *

(iv) The run average temperature must be calculated for each run, and the average of the run average temperatures must be determined and included in the performance test report and will determine the applicable temperature limit in accordance with § 63.1346(b).

* * * * *

(4) * * *

(i) If you are subject to limitations on THC emissions, you must operate a CEMS in accordance with the requirements in § 63.1350(i). For the purposes of conducting the accuracy and quality assurance evaluations for CEMS, the THC span value (as propane) is 50 to 60 ppmvw and the reference method (RM) is Method 25A of appendix A to part 60 of this chapter.

* * * * *

(6) * * *

(i)(A) If the source is equipped with a wet scrubber, tray tower or dry scrubber, you must conduct performance testing using Method 321 of appendix A to this part unless you have installed a CEMS that meets the requirements § 63.1350(l)(1). For kilns with inline raw mills, testing must be conducted for the raw mill on and raw mill off conditions.

* * * * *

(7) * * *

(viii) * * *

(A) Determine the THC CEMS average values in ppmvw, and the average of your corresponding three total organic HAP compliance test runs, using Equation 12.

$$\bar{x} = \frac{1}{n}\sum_{i=1}^{n} X_i, \bar{y} = \frac{1}{n}\sum_{i=1}^{n} Y_i \qquad \text{(Eq. 12)}$$

Where:

$\bar{x}$ = The THC CEMS average values in ppmvw.

Xi = The THC CEMS data points for all three test runs i.

$\bar{y}$ = The organic HAP average values in ppmvw.

Yi = The organic HAP concentrations for all three test runs i.

n = The number of data points.

* * * * *

(8) * * *

(vi) If your kiln has an inline kiln/raw mill, you must conduct separate performance tests while the raw mill is operating (''mill on'') and while the raw mill is not operating (''mill off''). Using the fraction of time the raw mill is on and the fraction of time that the raw mill is off, calculate this limit as a weighted average of the SO_2 levels measured during raw mill on and raw mill off compliance testing with Equation 17.

$$R = (y * t) + x * (1 - t) \qquad \text{(Eq. 17)}$$

Where:

R = Operating limit as SO_2, ppmvw.

y = Average SO_2 CEMS value during mill on operations, ppmvw.

t = Percentage of operating time with mill on, expressed as a decimal.

x = Average SO_2 CEMS value during mill off operations, ppmvw.

1-t = Percentage of operating time with mill off, expressed as a decimal.

(vii) * * *

(B) Determine your SO_2 CEMS instrument average ppm, and the average of your corresponding three HCl compliance test runs, using equation 18.

$$\bar{x} = \frac{1}{n}\sum_{i=1}^{n} X_1, \bar{y} = \sum_{i=1}^{n} Y_1 \qquad \text{(Eq. 18)}$$

Where:

$\bar{x}$= The SO_2 CEMS average values in ppmvw.

X_1 = The SO_2 CEMS data points for the three runs constituting the performance test.

$\bar{y}$ = The HCl average values in ppmvw.

Y_1 = The HCl emission concentration expressed as ppmv corrected to 7 percent oxygen for the three runs constituting the performance test.

n = The number of data points.

* * * * *

(d) [Reserved]

* * * * *

■ 6. Section 63.1350 is amended by:

■ a. Revising paragraphs (g) introductory text, (g)(4), (h)(2)(ii), (j), (k)(2) introductory text, (k)(2)(ii), and (k)(2)(iii); and

■ b. Revising paragraphs (k)(5)(ii), (l)(1) introductory text, and (l)(3).

The revisions read as follows:

§ 63.1350 Monitoring requirements.

* * * * *

(g) *D/F monitoring requirements.* If you are subject to an emissions limitation on D/F emissions, you must comply with the monitoring requirements of paragraphs (g)(1) through (g)(5) and paragraphs (m)(1) through (m)(4) of this section to demonstrate continuous compliance with the D/F emissions standard. You must also develop an emissions monitoring plan in accordance with paragraphs (p)(1) through (p)(4) of this section.

* * * * *

(4) Every hour, report the calculated rolling three-hour average temperature using the average of 180 successive one-minute average temperatures. See S63.1349(b)(3).

* * * * *

(h) * * *

(2) * * *

(ii) Each hour, calculate the three-hour rolling average of the selected parameter value for the previous 3 hours of process operation using all of the one-minute data available (*i.e.,* the CMS is not out-of-control).

* * * * *

(j) *Total organic HAP monitoring requirements.* If you are complying with the total organic HAP emissions limits, you must continuously monitor THC according to paragraph (i)(1) and (2) of this section or in accordance with Performance Specification 8 or Performance Specification 8A of appendix B to part 60 of this chapter and comply with all of the requirements for continuous monitoring systems found in the general provisions, subpart A of this part. You must operate and maintain each CEMS according to the quality assurance requirements in Procedure 1 of appendix F in part 60 of this chapter. You must also develop an emissions monitoring plan in accordance with paragraphs (p)(1) through (4) of this section.

(k) * * *

(2) In order to quality assure data measured above the span value, you must use one of the three options in paragraphs (k)(2)(i) through (iii) of this section.

* * * * *

(ii) Quality assure any data above the span value by proving instrument linearity beyond the span value established in paragraph (k)(1) of this section using the following procedure. Conduct a weekly ''above span linearity'' calibration challenge of the monitoring system using a reference gas with a certified value greater than your highest expected hourly concentration or greater than 75 percent of the highest measured hourly concentration. The ''above span'' reference gas must meet the requirements of PS 12A, Section 7.1 and must be introduced to the measurement system at the probe. Record and report the results of this procedure as you would for a daily calibration. The ''above span linearity'' challenge is successful if the value measured by the Hg CEMS falls within 10 percent of the certified value of the reference gas. If the value measured by the Hg CEMS during the above span linearity challenge exceeds ±10 percent of the certified value of the reference gas, the monitoring system must be evaluated and repaired and a new ''above span linearity'' challenge met before returning the Hg CEMS to service, or data above span from the Hg CEMS must be subject to the quality assurance procedures established in paragraph (k)(2)(iii) of this section. In this manner all hourly average values exceeding the span value measured by the Hg CEMS during the week following the above span linearity challenge when the CEMS response exceeds ±20 percent of the certified value of the reference gas must be normalized using Equation 22.

$$\frac{Certified\ reference\ gas\ value}{Measured\ value\ of\ reference\ gas}\ x\ Measured\ stack\ gas\ result = Normalized\ stack\ gas\ result \quad \text{(Eq. 22)}$$

(iii) Quality assure any data above the span value established in paragraph (k)(1) of this section using the following procedure. Any time two consecutive one-hour average measured concentrations of Hg exceeds the span value you must, within 24 hours before or after, introduce a higher, ''above span'' Hg reference gas standard to the Hg CEMS. The ''above span'' reference gas must meet the requirements of PS 12A, Section 7.1, must target a concentration level between 50 and 150 percent of the highest expected hourly concentration measured during the period of measurements above span, and must be introduced at the probe. While this target represents a desired concentration range that is not always achievable in practice, it is expected that the intent to meet this range is demonstrated by the value of the reference gas. Expected values may include ''above span'' calibrations done before or after the above span measurement period. Record and report the results of this procedure as you would for a daily calibration. The ''above span'' calibration is successful if the value measured by the Hg CEMS is within 20 percent of the certified value of the reference gas. If the value measured by the Hg CEMS exceeds 20 percent of the certified value of the reference gas, then you must normalize the one-hour average stack gas values measured above the span during the 24-hour period preceding or following the ''above span'' calibration for reporting based on the Hg CEMS response to the reference gas as shown in equation 22. Only one ''above span'' calibration is needed per 24 hour period.

* * * * *

(5) * * *

(ii) On a continuous basis, determine the mass emissions of mercury in lb/hr from the alkali bypass and coal mill exhausts by using the mercury hourly emissions rate and the exhaust gas flow rate to calculate hourly mercury emissions in lb/hr.

* * * * *

(l) * * *

(1) If you monitor compliance with the HCl emissions limit by operating an HCl CEMS, you must do so in accordance with Performance Specification 15 (PS 15) or PS 18 of appendix B to part 60 of this chapter, or,

upon promulgation, in accordance with any other performance specification for HCl CEMS in appendix B to part 60 of this chapter. You must operate, maintain, and quality assure a HCl CEMS installed and certified under PS 15 according to the quality assurance requirements in Procedure 1 of appendix F to part 60 of this chapter except that the Relative Accuracy Test Audit requirements of Procedure 1 must be replaced with the validation requirements and criteria of sections 11.1.1 and 12.0 of PS 15. If you choose to install and operate an HCl CEMS in accordance with PS 18 of appendix B to part 60 of this chapter, you must operate, maintain, and quality assure the HCl CEMS using the associated Procedure 6 of appendix F to part 60 of this chapter. For any performance specification that you use, you must use Method 321 of appendix A to part 63 of this chapter as the reference test method for conducting relative accuracy testing. The span value and calibration requirements in paragraphs (l)(1)(i) and (ii) of this section apply to HCl CEMS other than those installed and certified under PS 15 or PS 18.

* * * * *

(3) If the source is equipped with a wet or dry scrubber or tray tower, and you choose to monitor SO_2 emissions, monitor SO_2 emissions continuously according to the requirements of § 60.63(e) and (f) of part 60 subpart F of this chapter. If SO_2 levels increase above the 30-day rolling average SO_2 operating limit established during your performance test by 10 percent or more, you must:

(i) As soon as possible but no later than 30 days after you exceed the established SO_2 value conduct an inspection and take corrective action to return the SO_2 emissions to within the operating limit; and

(ii) Within 90 days of the exceedance or at the time of the next compliance test, whichever comes first, conduct an HCl emissions compliance test to determine compliance with the HCl emissions limit and to verify or re-establish the SO_2 CEMS operating limit.

* * * * *

■ 7. Section 63.1354 is amended by revising paragraph (b)(9) introductory text, (9)(vi), (9)(viii), and (10); and paragraph (c) to read as follows:

§ 63.1354 Reporting requirements.

* * * * *

(b) * * *

(9) The owner or operator shall submit a summary report semiannually within 60 days of the reporting period to the EPA via the Compliance and Emissions Data Reporting Interface (CEDRI). (CEDRI can be accessed through the EPA's Central Data Exchange (CDX) (*www.epa.gov/cdx*).) You must use the appropriate electronic report in CEDRI for this subpart. Instead of using the electronic report in CEDRI for this subpart, you may submit an alternate electronic file consistent with the extensible markup language (XML) schema listed on the CEDRI Web site (*https://www.epa.gov/electronic-reporting-air-emissions/compliance-and-emissions-data-reporting-interface-cedri*), once the XML schema is available. If the reporting form specific to this subpart is not available in CEDRI at the time that the report is due, you must submit the report the Administrator at the appropriate address listed in § 63.13. You must begin submitting reports via CEDRI no later than 90 days after the form becomes available in CEDRI. The excess emissions and summary reports must be submitted no later than 60 days after the end of the reporting period, regardless of the method in which the reports are submitted. The report must contain the information specified in § 63.10(e)(3)(vi). In addition, the summary report shall include:

* * * * *

(vi) For each PM CPMS, HCl, Hg, and THC CEMS, or Hg sorbent trap monitoring system, within 60 days after the reporting periods, you must report all of the calculated 30-operating day rolling average values derived from the CPMS, CEMS, CMS, or Hg sorbent trap monitoring systems.

* * * * *

(viii) You must submit the information specified in paragraphs (b)(9)(viii)(A) and (B) of this section no later than 60 days following the initial performance test. All reports must be signed by a responsible official.

(A) The initial performance test data as recorded under § 63.1349(a).

(B) The values for the site-specific operating limits or parameters established pursuant to § 63.1349(b)(1), (3), (6), (7), and (8), as applicable, and a description, including sample calculations, of how the operating parameters were established during the initial performance test.

(C) As of December 31, 2011, and within 60 days after the date of completing each performance evaluation or test, as defined in § 63.2, conducted to demonstrate compliance with any standard covered by this subpart, you must submit the relative accuracy test audit data and performance test data, except opacity data, to the EPA by successfully submitting the data electronically to the EPA's Central Data Exchange (CDX) by using the Electronic Reporting Tool (ERT) (see *https://www.epa.gov/electronic-reporting-air-emissions/electronic-reporting-tool-ert*). For any performance evaluations with no corresponding RATA pollutants listed on the ERT Web site, you must submit the results of the performance evaluation to the Administrator at the appropriate address listed in § 63.13.

* * * * *

(10) If the total continuous monitoring system downtime for any CEM or any CMS for the reporting period is 10 percent or greater of the total operating time for the reporting period, the owner or operator shall submit an excess emissions and continuous monitoring system performance report along with the summary report.

(c) Reporting a failure to meet a standard due to a malfunction. For each failure to meet a standard or emissions limit caused by a malfunction at an affected source, you must report the failure in the semi-annual compliance report required by § 63.1354(b)(9). The report must contain the date, time and duration, and the cause of each event (including unknown cause, if applicable), and a sum of the number of events in the reporting period. The report must list for each event the affected source or equipment, an estimate of the amount of each regulated pollutant emitted over the emission limit for which the source failed to meet a standard, and a description of the method used to estimate the emissions. The report must also include a description of actions taken by an owner or operator during a malfunction of an affected source to minimize emissions in accordance with § 63.1348(d), including actions taken to correct a malfunction.

■ 8. Section 63.1355 is amended by revising paragraph (e) to read as follows:

§ 63.1355 Recordkeeping requirements.

* * * * *

(e) You must keep records of the daily clinker production rates according to the clinker production monitoring requirements in § 63.1350(d).

* * * * *

■ 9. Table 1 to subpart LLL of part 63 is amended by adding the entry ''63.10(e)(3)(v)'' to read as follows:

TABLE 1 TO SUBPART LLL OF PART 63—APPLICABILITY OF GENERAL PROVISIONS

Citation	Requirement	Applies to subpart LLL	Explanation
*	* * * *	*	* *
63.10(e)(3)(v)	Due Dates for Excess Emissions and CMS Performance Reports	No	§ 63.1354(b)(9) specifies due date.
*	* * * *	*	* *

■ 10. Add table 2 to subpart LLL of part 63 to read as follows:

TABLE 2 TO SUBPART LLL OF PART 63—1989 TOXIC EQUIVALENCY FACTORS (TEFS)

Dioxins/furans	TEFs 1989
2,3,7,8-TCDD	1
1,2,3,7,8-PeCDD	0.5
1,2,3,4,7,8-HxCDD	0.1
1,2,3,6,7,8-HxCDD	0.1
1,2,3,7,8,9-HxCDD	0.1
1,2,3,4,6,7,8-HpCDD	0.01
OCDD	0.001
2,3,7,8-TCDF	0.1
1,2,3,7,8-PeCDF	0.05
2,3,4,7,8-PeCDF	0.5
1,2,3,4,7,8-HxCDF	0.1
1,2,3,6,7,8-HxCDF	0.1
1,2,3,7,8,9-HxCDF	0.1
2,3,4,6,7,8-HxCDF	0.1
1,2,3,4,6,7,8-HpCDF	0.01
1,2,3,4,7,8,9-HpCDF	0.01
OCDF	0.001

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Part III

The President

Federal Register
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Presidential Documents

Title 3—

The President

Proclamation 9639 of September 15, 2017

Constitution Day, Citizenship Day, and Constitution Week, 2017

By the President of the United States of America

A Proclamation

On the 230th anniversary of the Constitution of the United States, we celebrate the enduring brilliance of our Founding Charter and recognize all American citizens. Older than any other written constitution in use today, our Constitution establishes a system of checks and balances designed to preserve liberty, promote prosperity, and ensure the security of our beloved country. On this day and during this week, we recall the people and the principles that made our Nation great and commit ourselves to restoring that greatness.

Our Constitution is founded on a fundamental trust in America's citizens. ''We the People,'' the Constitution proclaims, are the source of all governmental authority. We are, as President Lincoln declared in the war-torn fields of Gettysburg, a ''Government of the People, by the People, for the People.'' That is why we must be particularly mindful of a would-be ruling class that has lost sight of this foundational truth. In the drive for progressive reform, our Federal Government has grown beyond belief and has layered regulation on top of burdensome regulation. American citizens and businesses face an unrelenting onslaught of rules and regulations adopted by an army of regulators unaccountable to the citizens they seek to control.

My solemn promise as President is to return power to the American People—to the workers and the warriors who made this Nation great and will make it great again. Restoring this founding principle of accountability requires us to once again respect the structural safeguards of our great Constitution. The Framers of our Constitution sought to preserve liberty by separating government power. In our constitutional system, the Congress is charged with authoring and amending the laws, in accordance with its beliefs about what will benefit our country. The President's duty is to execute those laws and protect the Nation, consistent with the Constitution. And the Judiciary's role is to faithfully apply the Constitution and the laws to resolve specific cases and controversies. Modern government, however, has rebelled against the constraints inherent in these defined roles, abandoning that original design in favor of a centralized system of out-of-control agencies that claim independence from elected leaders and demand deference from the courts.

On this day and during this week, I call on all citizens and all branches of government to reflect on the original meaning of our Constitution, and to recall the founding principles we too frequently forget: Our government exists to preserve freedom and to serve its citizens. We are accountable to the People. And the public deserves clear, intelligible laws that are enacted through an open, Constitutional process.

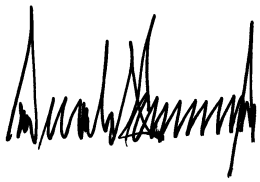
As the elected head of the Executive Branch, I call on Federal agencies to reduce the crushing burdens of the regulatory state and to restore fairness, transparency, and due process in all regulatory matters. We are here to enable the greatness of our Nation, not to restrain it. I call on the Congress to take up critical legislative measures, and to work together to set free the full potential of our People. I call on Federal judges to apply the

law as it exists, not as they wish it to be—to exercise, in the words of our Founders, ''neither force nor will, but merely judgment.'' And I call on all American citizens to pursue greatness in their lives through hard work and the insistence that their government exists only by the people, and for the people, of this great land.

The Congress, by joint resolution of February 29, 1952 (36 U.S.C. 106), designated September 17 as ''Constitution Day and Citizenship Day,'' and by joint resolution of August 2, 1956 (36 U.S.C. 108), requested that the President proclaim the week beginning September 17 and ending September 23 of each year as ''Constitution Week.''

NOW, THEREFORE, I, DONALD J. TRUMP, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim September 17, 2017, as Constitution Day and Citizenship Day, and September 17, 2017, through September 23, 2017, as Constitution Week. On this day and during this week, we celebrate the citizens and the Constitution that has made America the greatest Nation this world has ever known. In doing so, we recommit ourselves to the enduring principles of the Constitution and thereby ''secure the Blessings of Liberty to ourselves and our Posterity.''

IN WITNESS WHEREOF, I have hereunto set my hand this fifteenth day of September, in the year of our Lord two thousand seventeen, and of the Independence of the United States of America the two hundred and forty-second.



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Presidential Documents

Proclamation 9640 of September 15, 2017

National Farm Safety and Health Week, 2017

By the President of the United States of America

A Proclamation

As the fall harvest begins, we reflect on the vital contributions of hard-working American farmers, ranchers, and foresters, and we commit to ensuring their health and their safety. During National Farm Safety and Health Week, we recognize the men and women of our great Nation who work the land, often times at their own risk, to supply the United States and the world with essential products while creating jobs, supporting the economy, and protecting our environment and natural resources for future generations.

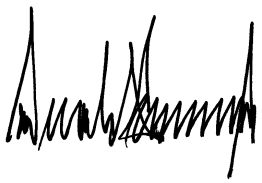
Farmers, ranchers, foresters, and their families play critical roles in meeting our Nation's needs for food, fiber, forestry, fuel, and jobs. Each day, they perform a range of physically demanding and potentially dangerous tasks. These tasks often involve long hours and are performed in high-risk settings, whether working in confined storage buildings, operating heavy machinery, or handling hazardous chemicals, sometimes in harsh weather conditions.

According to the Department of Labor, agriculture has the highest fatality rate of any industry sector in America, and reported 570 fatalities in 2015. These fatalities frequently result from transportation incidents and the dangers of working with heavy machinery. As the fortunate beneficiaries of these workers' long hours of physically demanding and dangerous labor, it is incumbent upon us all to be mindful of the hazards of this industry. To eliminate or minimize the risks, we must emphasize ''safety first'' and support comprehensive farm-safety education and training initiatives.

American farmers, ranchers, and foresters uphold values at the heart of the American character, and as such, it is our duty to protect and promote their safety and health. This week we pay tribute to those who earn their living from the land and honor their resolute work ethic, steadfast concern for others, and a strong sense of community.

NOW, THEREFORE, I, DONALD J. TRUMP, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim September 17 through September 23, 2017, as National Farm Safety and Health Week. I call upon the people of the United States, including America's farmers and ranchers and agriculture-related institutions, organizations, and businesses, to reaffirm their dedication to farm safety and health. I also urge all Americans to honor our agricultural heritage and to express their appreciation and gratitude to our farmers, ranchers, and foresters for their important contributions and tireless service to our Nation.

IN WITNESS WHEREOF, I have hereunto set my hand this fifteenth day of September, in the year of our Lord two thousand seventeen, and of the Independence of the United States of America the two hundred and forty-second.



[FR Doc. 2017–20377
Filed 9–20–17; 11:15 am]
Billing code 3295–F7–P

Presidential Documents

Proclamation 9641 of September 15, 2017

National Gang Violence Prevention Week, 2017

By the President of the United States of America

A Proclamation

Every day, innocent Americans are the victims of terrible crimes perpetrated by violent gangs and criminal cartels. During National Gang Violence Prevention Week, my Administration pledges to restore justice to American communities and keep evil off our streets by eradicating the gangs that commit these despicable acts.

During the previous Administration, the number of gangs and gang members reached an alarming 20-year high. In 2015 alone, homicides spiked by 17 percent in America's 50 largest cities—the largest increase in 25 years. Gangs continue to evolve and adapt. Today they have expanded to almost 1.5 million members nationwide who perpetrate an average of 48 percent of violent crimes in most jurisdictions and up to 90 percent in others. My Administration will not stand by idly as these menacing gangs threaten the safety and security of our communities.

Particularly, we must address the rise of violent transnational criminal gangs, such as MS–13, that have infiltrated our neighborhoods and recruited our vulnerable young people. Weak border security, failure to enforce immigration laws already on the books, and sanctuary cities have emboldened criminals to enter the United States illegally and enabled gang and transnational cartel members to engage with impunity in illegal human and drug trafficking, corruption and fraud, and barbaric acts including violence, sexual assaults, and murder.

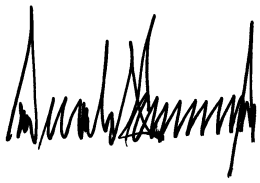
My Administration has pledged to identify and eradicate transnational organized crime, gangs, and gang violence. During my first 100 days as President, the Immigration and Customs Enforcement Agency led a coordinated effort to capture more than 30,000 convicted criminal aliens, including more than 1,000 gang members and affiliates. Many of these arrests were of immigration fugitives who had committed heinous acts of gang violence: smuggling, sex crimes, arson, extortion, or cruelty to innocent children. By Executive Order, I also created the Council on Transnational Organized Crime, which has been hard at work coordinating Federal resources to better identify, prosecute, and dismantle transnational criminal organizations. As a result of these steps and the new partnerships we have formed at all levels of government, illegal border crossings have declined drastically since I took office.

The Congress has also indicated a willingness to address this pressing issue. Yesterday, the House passed H.R. 3697, the Criminal Alien Gang Member Removal Act. My Administration strongly supports this legislation. Once enacted, it will protect law-abiding Americans by denying criminal alien gang members admission into the United States and by giving law enforcement more effective tools to remove them. I encourage the Senate to act quickly to enact this bill into law and help protect the safety of Americans.

This week, let us rededicate ourselves to destroying the criminal gangs that have plagued American neighborhoods and communities for far too long. We owe this to all those affected by gang violence and to all who seek a brighter future.

NOW, THEREFORE, I, DONALD J. TRUMP, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim the week of September 17 through September 23, 2017, as ''National Gang Violence Prevention Week.'' I call upon the people of the United States to observe this week with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this fifteenth day of September, in the year of our Lord two thousand seventeen, and of the Independence of the United States of America the two hundred and forty-second.



[FR Doc. 2017–20378
Filed 9–20–17; 11:15 am]
Billing code 3295–F7–P

Presidential Documents

Proclamation 9642 of September 15, 2017

National Historically Black Colleges and Universities Week, 2017

By the President of the United States of America

A Proclamation

As we celebrate Historically Black Colleges and Universities Week, we recognize the extraordinary contributions that Historically Black Colleges and Universities (HBCUs) have made, and continue to make, to the general welfare and prosperity of our country. Established by visionary leaders, America's HBCUs have long played an integral role in our Nation's history, providing Black Americans opportunities to learn and achieve their dreams.

Many HBCUs were founded under the cold shadow of segregation and racial prejudice. Before the Civil War, most institutions of higher learning denied admittance to minority students. HBCUs formed to overcome such discrimination and prove to the Nation that all students deserve a high-quality education, and that all Americans can rise to great heights if given the opportunity. For more than 150 years, HBCUs have produced some of our Nation's leaders in business, government, academia, and the military, and they have helped create a thriving and important Black middle class. Today, they continue to provide a rigorous education to students, who are often from low-income backgrounds, who seek to advance themselves and give back to their Nation. We can see the influences of HBCUs in every sector of our economy, from medicine and law, to sports and journalism.

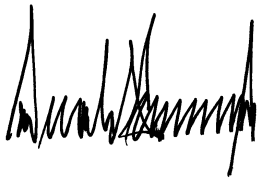
Today, more than 100 HBCUs are thriving in 19 States, the District of Columbia, and the U.S. Virgin Islands, enrolling more than 300,000 students. This year, Historically Black Colleges and Universities Week coincides with the 150th anniversary of nine HBCUs: Alabama State University, Barber-Scotia College, Fayetteville State University, Howard University, Johnson C. Smith University, Morehouse College, Morgan State University, St. Augustine's University, and Talladega College. It is a great honor for our Nation to join in celebrating the achievements of these nine institutions, as well as those of every HBCU across the country.

Investing in HBCUs strengthens America's future, and my Administration will help ensure that HBCUs continue to be self-sustainable and viable institutions of higher education for generations to come. This week, we will also host the Annual White House Historically Black College and Universities Summit to provide a forum for HBCU presidents, faculty members, students, government partners, and other stakeholders to address the priorities set forth in my Executive Order to Promote Excellence and Innovation at Historically Black Colleges and Universities, signed February 28, 2017. This annual summit also serves to honor HBCU All-Star Students, who are appointed for 1 year to serve as ambassadors for the White House Initiative on Historically Black College and Universities.

National Historically Black Colleges and Universities Week serves to remind us of the historic and ongoing struggle for equal access that led to the establishment of HBCUs in our Nation. We use this week to recognize the importance of HBCUs in educating the leaders of tomorrow, and reaffirm our commitment to providing every student with the opportunity to learn, grow, and find success no matter his or her background.

NOW, THEREFORE, I, DONALD J. TRUMP, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim September 17 through September 23, 2017, as National Historically Black Colleges and Universities Week. I call upon educators, public officials, professional organizations, corporations and all Americans to observe this week with the appropriate programs, ceremonies, and activities that acknowledge the countless contributions these institutions and their alumni have made to our country.

IN WITNESS WHEREOF, I have hereunto set my hand this fifteenth day of September, in the year of our Lord two thousand seventeen, and of the Independence of the United States of America the two hundred and forty-second.



[FR Doc. 2017–20379
Filed 9–20–17; 11:15 am]
Billing code 3295–F7–P

Presidential Documents

Proclamation 9643 of September 15, 2017

Prescription Opioid and Heroin Epidemic Awareness Week, 2017

By the President of the United States of America

A Proclamation

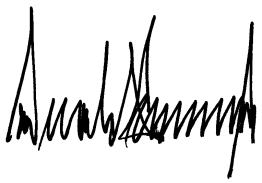
During Prescription Opioid and Heroin Epidemic Awareness Week, we draw renewed attention to the scourge that continues to devastate individuals, families, and communities across our Nation. Preliminary data indicates that approximately 64,000 Americans died last year of drug overdoses in the United States, the majority of them from opioids. The number of infants born with opioid dependence has more than quadrupled in the past decade. Nearly 100 Americans, on average, die each day from opioid overdoses, and overdose rates are highest among people between 25 to 54 years old, robbing so many of our young people of their potential. This is a genuine crisis that my Administration is working tirelessly to address.

The Department of Health and Human Services is leading an interagency effort to maximize the effect of the Comprehensive Addiction and Recovery Act (CARA) and 21st Century Cures Act (Cures Act) programs. In March, I issued an Executive Order establishing the President's Commission on Combating Drug Addiction and the Opioid Crisis (Commission) to study how the Federal Government can most effectively address the epidemic. The Commission will release its final recommendations this fall, and my Administration will rely on its findings to inform a whole-of-government emergency response plan. In addition, my FY 2018 Budget commits significant resources to fighting this epidemic, including $1.3 billion in investments for CARA and Cures Act programs, and other opioid-related initiatives that seek to prevent opioid abuse, improve access to treatment and recovery support services, and enhance overdose prevention programs.

This week, we reaffirm our commitment to fighting the opioid and heroin epidemic. Too many families know the enduring personal, emotional, and financial harm caused by prescription opioid and heroin addiction. To the men and women who are currently seeking or receiving treatment and to those who are in recovery: We stand with you, we pray for you, and we are working every single day to help you. As a Nation, we will come together to save lives and end this crisis.

NOW, THEREFORE, I, DONALD J. TRUMP, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim September 17 through September 23, 2017, as Prescription Opioid and Heroin Epidemic Awareness Week. I call upon my fellow Americans to observe this week with appropriate programs, ceremonies, religious services, and other activities that raise awareness about the prescription opioid and heroin epidemic.

IN WITNESS WHEREOF, I have hereunto set my hand this fifteenth day of September, in the year of our Lord two thousand seventeen, and of the Independence of the United States of America the two hundred and forty-second.



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