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COUNCIL OF THE INSPECTORS GENERAL ON INTEGRITY AND EFFICIENCY

5 CFR Part 9801

RIN 3219–AA00

Privacy Act Regulations

AGENCY: Council of the Inspectors General on Integrity and Efficiency.

ACTION: Interim final rule.

SUMMARY: The Council of the Inspectors General on Integrity and Efficiency (CIGIE) is updating its regulations addressing procedures relating to access, maintenance, disclosure, and amendment of records that are in a CIGIE system of records under the Privacy Act of 1974 (Privacy Act) to implement changes in accordance with the Inspector General Empowerment Act of 2016 and to make minor typographical corrections.

DATES: This interim final rule is effective November 6, 2017. Written comments may be submitted by December 6, 2017.

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

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: comments@cigie.gov.*
- *Fax:* (202) 254–0162.
- *Mail:* Atticus J. Reaser, General Counsel, Council of the Inspectors General on Integrity and Efficiency, 1717 H Street NW., Suite 825, Washington, DC 20006.
- *Hand Delivery/Courier:* Council of the Inspectors General on Integrity and Efficiency, 1717 H Street NW., Suite 825, Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Atticus J. Reaser, General Counsel, CIGIE, (202) 292–2600.

SUPPLEMENTARY INFORMATION:

Background Information

CIGIE published its final rule to provide the procedures and guidelines under which CIGIE implements the Privacy Act in the **Federal Register**, 81 FR 86563, December 1, 2016. The final rule is reflected in part 9801 of the Code of Federal Regulations. On December 16, 2016, the Inspector General Empowerment Act of 2016, Public Law 114–317, 130 Stat. 1595 (IGEA) was signed into law by the President thereby amending the Inspector General Act of 1978, as amended, 5 U.S.C. app., (IG Act) and expanding CIGIE's records maintenance responsibilities to include maintenance of the records of CIGIE's Integrity Committee (IC) by CIGIE's Chairperson. IC records were previously maintained pursuant to the IG Act by the Federal Bureau of Investigation.

In order to conform to the IGEA and meet its obligations thereunder, CIGIE is amending its regulations implementing the Privacy Act. Specifically, CIGIE is amending 5 CFR 9801.102 to accurately reflect the changed custodianship of IC records and adding a new subpart D to address the exemptions necessary to maintain the Privacy Act system of records associated with IC records. CIGIE is also making three minor typographical corrections.

Administrative Procedure Act

Pursuant to 5 U.S.C. 553(d)(3), CIGIE has found that good cause exists for waiving the general notice of proposed rulemaking and public comment procedures as to these amendments and for issuing this interim final rule without a delayed effective date. The notice and comment procedures are being waived because these amendments are being made in accordance with the mandates of the IGEA, which took effect without delay on December 16, 2016. Additionally, these amendments specify exemptions regarding the public's access to information about themselves maintained by CIGIE. The absence of well-defined exemptions to the Privacy Act regulations could impair confidentiality and privacy rights of those who submit sensitive information to CIGIE and the ability of CIGIE to use that information to carry out its statutory mission.

Executive Orders 12866 and 13563

In promulgating this amended rule, CIGIE has adhered to the regulatory philosophy and the applicable principles of regulation set forth in section 1 of Executive Order 12866, Regulatory Planning and Review. The Office of Management and Budget (OMB) has determined that this rule is not ''significant'' under Executive Order 12866.

Regulatory Flexibility Act

These amended regulations will not have a significant economic impact on a substantial number of small entities. Therefore, a regulatory flexibility analysis under the Regulatory Flexibility Act, as amended, is not required.

Paperwork Reduction Act

These amended regulations impose no additional reporting and recordkeeping requirements. Therefore, clearance by OMB is not required.

Federalism (Executive Order 13132)

This amended rule does not have Federalism implications, as set forth in Executive Order 13132. 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.

List of Subjects in 5 CFR Part 9801

Information, Privacy, Privacy Act, Records.

For the reasons set forth in the preamble, CIGIE amends part 9801 to title 5 of the Code of Federal Regulations as follows:

PART 9801—PRIVACY ACT REGULATIONS

■ 1. The authority citation for part 9801 continues to read as follows:

Authority: Section 11 of the Inspector General Act of 1978, as amended, 5 U.S.C. app.; 5 U.S.C. 301, 552a; 31 U.S.C. 9701.

■ 2. Revise § 9801.102 to read as follows:

§ 9801.102 CIGIE organization.

(a) *Centralized program.* CIGIE has a centralized Privacy Act program, with one office receiving and coordinating the processing of all Privacy Act requests to CIGIE.

(b) *Acceptance of requests and appeals.* CIGIE will accept initial requests or appeals regarding CIGIE records.

■ 3. Amend § 9801.105 by revising paragraphs (d) and (i) to read as follows:

§ 9801.105 Employee standards of conduct.

* * * * *

(d) Maintain no system of records without public notice and notify appropriate CIGIE officials of the existence or development of any system of records that is not the subject of a current or planned public notice;

* * * * *

(i) Maintain and use records with care to prevent the unauthorized or inadvertent disclosure of a record to anyone. No record contained in a CIGIE system of records shall be disclosed to another person, or to another agency outside CIGIE, except pursuant to a written request by, or with the prior written consent of, the individual to whom the record pertains, unless the disclosure is otherwise authorized by the Privacy Act; and

* * * * *

■ 4. Amend § 9801.301 by revising paragraph (b)(2) to read as follows:

§ 9801.301 Requests for amendment of record.

* * * * *

(b) * * *

(2) The exact portion of the record the requester seeks to have amended should be indicated clearly. If possible, proposed alternative language should be set forth, or, at a minimum, the reasons why the requester believes the record is not accurate, relevant, timely, or complete should be set forth with enough particularity to permit CIGIE to not only understand the requester's basis for the request, but also to make an appropriate amendment to the record.

* * * * *

■ 5. Add subpart D to read as follows:

Subpart D—Exemptions

§ 9801.401 Exemptions.

(a) *General policy.* Systems of records maintained by CIGIE are authorized to be exempted from certain provisions of the Privacy Act under the general and specific exemptions set forth in the Privacy Act. In utilizing these exemptions, CIGIE is exempting only those portions of systems that are necessary for the proper functioning of CIGIE and that are consistent with the Privacy Act. Where compliance would not appear to interfere with or adversely affect the law enforcement process, and/or where it may be appropriate to permit individuals to contest the accuracy of the information collected, *e.g.,* public source materials, the applicable exemption may be waived, either partially or totally, by CIGIE, at the sole discretion of CIGIE, as appropriate.

(b) *Specific system of records exempted under (j)(2), (k)(1), and (k)(2).* The system of records maintained in connection with CIGIE's Integrity Committee, the Integrity Committee Management System (CIGIE–04), is subject to general exemption under 5 U.S.C. 552a(j)(2) and the specific exemptions under 5 U.S.C. 552a(k)(1) and (2). These exemptions apply only to the extent that information in this system is subject to exemption pursuant to 5 U.S.C. 552a(j)(2), (k)(1) and (k)(2). Where compliance would not appear to interfere with or adversely affect the law enforcement process, and/or where it may be appropriate to permit individuals to contest the accuracy of the information collected, *e.g.,* public source materials, the applicable exemption may be waived, either partially or totally, by CIGIE, at the sole discretion of CIGIE, as appropriate.

(1) Pursuant to the provisions of 5 U.S.C. 552a(j)(2), CIGIE–04 is exempt from the following provisions of the Privacy Act: 5 U.S.C. 552a(c)(3) and (c)(4); (d); (e)(1), (e)(2), (e)(3), (e)(4)(G)–(H), (e)(5), and (e)(8); (f); and (g).

(2) Pursuant to the provisions of 5 U.S.C. 552a(k)(1) and (2), CIGIE–04 is exempt from the following provisions of the Privacy Act: 5 U.S.C. 552a(c)(3); (d); (e)(1) and (e)(4)(G)–(H); and (f).

(3) Exemptions from the particular subsections are justified for the following reasons:

(i) From subsection (c)(3) because release of disclosure accounting could alert the subjects of an investigation of an actual or potential criminal, civil, or regulatory violation to the existence of the investigation and the fact that they are subjects of the investigation, and reveal investigative interest by not only CIGIE, through the IC, but also by external agencies such as the Public Integrity Section of the Department of Justice. Because release of such information to the subjects of an investigation would provide them with significant information concerning the nature of the investigation, release could result in the destruction of documentary evidence, improper influencing of witnesses, and other activities that could impede or compromise the investigation. In addition, accounting for each disclosure could result in the release of properly classified information which would compromise the national defense or disrupt foreign policy.

(ii) From subsection (c)(4) because this system is exempt from the access provisions of subsection (d) pursuant to subsections (j) and (k) of the Privacy Act.

(iii) From the access and amendment provisions of subsection (d) because access to the records contained in this system of records could inform the subjects of an investigation of an actual or potential criminal, civil, or regulatory violation of the existence of that investigation and of the nature and scope of the information and evidence obtained as to their activities. Such awareness by the subjects could prevent the successful completion of an investigation and/or lead to the improper influencing of witnesses, the destruction of evidence, or fabricated testimony. In addition, granting access to such information could disclose security-sensitive or confidential business information or information that would constitute an unwarranted invasion of the personal privacy of third parties. Finally, access to the records could result in the release of classified information which would compromise the national defense or disrupt foreign policy. Amendment of the records would interfere with ongoing investigations and law enforcement activities and impose an impossible administrative burden by requiring investigations to be continuously reinvestigated.

(iv) From subsection (e)(1) because the application of this provision could impair investigations and interfere with the law enforcement responsibilities of CIGIE through the IC for the following reasons:

(A) It is not possible to detect relevance or necessity of specific information in the early stages of a civil, criminal, or other law enforcement investigation, case, or matter, including investigations in which use is made of classified information. Relevance and necessity are questions of judgment and timing, and it is only after the information is evaluated that the relevance and necessity of such information can be established.

(B) During the course of any investigation, CIGIE, through the IC, may obtain information concerning actual or potential violations of laws other than those within the scope of its jurisdiction. In the interest of effective law enforcement, CIGIE should retain this information, as it may aid in establishing patterns of criminal activity and can provide valuable leads for Federal and other law enforcement agencies.

(C) In interviewing individuals or obtaining other forms of evidence during an investigation, information may be supplied to an investigator that relates to matters incidental to the primary purpose of the investigation but which may relate also to matters under

the investigative jurisdiction of another agency. Such information cannot readily be segregated.

(v) From subsection (e)(2) because, in some instances, the application of this provision would present a serious impediment to law enforcement for the following reasons:

(A) The subjects of an investigation would be placed on notice as to the existence of an investigation and would therefore be able to avoid detection or apprehension, to improperly influence witnesses, to destroy evidence, or to fabricate testimony.

(B) In certain circumstances the subjects of an investigation cannot be required to provide information to investigators, and information relating to their illegal acts, violations of rules of conduct, or any other misconduct must be obtained from other sources.

(C) In any investigation it is necessary to obtain evidence from a variety of sources other than the subjects of the investigation.

(vi) From subsection (e)(3) because the application of this provision would provide the subjects of an investigation with substantial information which could impede or compromise the investigation.

(vii) From subsection (e)(4)(G)–(I) because this system of records is exempt from the access provisions of subsection (d).

(viii) From subsection (e)(5) because the application of this provision may prevent the collection of any data not shown to be accurate, relevant, timely, and complete at the moment it is collected. In the collection of information for law enforcement purposes, it is impossible to determine in advance what information is accurate, relevant, timely, and complete. Material which may seem unrelated, irrelevant, or incomplete when collected may take on added meaning or significance as an investigation progresses. The restrictions of this provision could interfere with the preparation of a complete investigative report, and thereby impede effective law enforcement.

(ix) From subsection (e)(8) because the application of this provision could prematurely reveal an ongoing criminal investigation to the subjects of an investigation and could reveal investigative techniques, procedures, or evidence.

(x) From subsection (f) because CIGIE's rules are inapplicable to those portions of the system that are exempt and would place the burden on CIGIE of either confirming or denying the existence of a record pertaining to a requesting individual, which might in itself provide an answer to that individual relating to an ongoing investigation. The conduct of a successful investigation leading to the indictment of a criminal offender precludes the applicability of established agency rules relating to verification of record, disclosure of the record to that individual, and record amendment procedures for this record system.

(xi) From subsection (g) to the extent that this system is exempt from the access and amendment provisions of subsection (d) pursuant to subsections (j)(2), (k)(1), and (k)(2) of the Privacy Act.

Dated: October 23, 2017.

Michael E. Horowitz,

Chairperson of the Council of the Inspectors General on Integrity and Efficiency.

[FR Doc. 2017–24042 Filed 11–3–17; 8:45 am]

BILLING CODE 6820–C9–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2017–0562; Product Identifier 2017–NM–027–AD; Amendment 39–19088; AD 2017–22–08]

RIN 2120–AA64

Airworthiness Directives; Bombardier, Inc., Airplanes

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

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Bombardier, Inc., Model CL–600–2C10 (Regional Jet Series 700, 701, & 702), Model CL–600–2D15 (Regional Jet Series 705), Model CL–600–2D24 (Regional Jet Series 900), and Model CL–600–2E25 (Regional Jet Series 1000) airplanes. This AD was prompted by a report indicating that a number of rubber bull gear (RBG) wheels installed in the horizontal stabilizer trim actuator (HSTA) were manufactured using an incorrect material specification. This AD requires replacement of the affected RBG wheels. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective December 11, 2017.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of December 11, 2017.

ADDRESSES: For service information identified in this final rule, contact Bombardier, Inc., 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; Widebody Customer Response Center North America toll-free telephone 1–866–538–1247 or direct-dial telephone 1–514–855–2999; fax 514–855–7401; email *ac.yul@aero.bombardier.com;* Internet *http://www.bombardier.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–2017–0562.

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–2017–0562; 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: Aziz Ahmed, Aerospace Engineer, Airframe and Mechanical Systems Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7329; fax 516–794–5531.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain Bombardier, Inc., Model CL–600–2C10 (Regional Jet Series 700, 701, & 702), Model CL–600–2D15 (Regional Jet Series 705), Model CL–600–2D24 (Regional Jet Series 900), and Model CL–600–2E25 (Regional Jet Series 1000). The NPRM published in the **Federal Register** on June 21, 2017 (82 FR 28266) (''the NPRM''). The NPRM was prompted by a report indicating that a number of RBG wheels installed in the HSTA were manufactured using an incorrect material specification. The NPRM proposed to require replacement of the affected RBG wheels. We are

issuing this AD to prevent premature wear-out of the teeth of the RBG wheels, which could cause difficulties in maneuvering the airplane.

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued Canadian Airworthiness Directive CF–2016–22, dated June 24, 2016 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Bombardier, Inc., Model CL–600–2C10 (Regional Jet Series 700, 701, & 702), Model CL–600–2D15 (Regional Jet Series 705), Model CL–600–2D24 (Regional Jet Series 900), and Model CL–600–2E25 (Regional Jet Series 1000) airplanes. The MCAI states:

> An inspection by the vendor revealed that a number of Rubber Bull Gear (RBG) Wheels installed in the Horizontal Stabilizer Trim Actuator (HSTA) of the CL–600–2C10, CL–600–2D15, CL–600–2D24 and CL–600–2E25 aeroplanes were manufactured from the incorrect material specification. The use of the incorrect material specification has a direct impact on the RBG Wheels life limit. The teeth of these non-conforming RBG Wheels may experience premature wear out and if not corrected, this condition could result in difficulties in maneuvering the aeroplane.
>
> This [Canadian] AD mandates replacement of the RBGs whose wheels have been made using an incorrect material specification.

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–2017–0562.

Comments

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

Request To Revise Compliance Times

Air Line Pilots Association, International (ALPA) requested that we review and revise the compliance times specified in the proposed AD to reflect flight hours rather than flight cycles, and to align the times with a previous AD, AD 2011–12–06, Amendment 39–16713 (76 FR 33982, June 10, 2011) (''AD 2011–12–06''). The commenter asserted that the compliance times in AD 2011–12–06 were more conservative than what is written in the proposed AD, and that for a component with a known material defect that is continuously used throughout the duration of any given flight, flight hours rather than flight cycles would be a more appropriate metric to measure compliance time.

We disagree with the commenter's proposed change. We reviewed TCCA's evaluation of the compliance times, and determined that they are appropriate to mitigate the unsafe condition. We have not received any data to demonstrate otherwise. In addition, the compliance times in AD 2011–12–06 are also based on flight cycles instead of flight hours. Therefore, have not changed this AD in this regard.

Conclusion

We reviewed the relevant data, considered the comment received, and determined that air safety and the public interest require adopting this AD as proposed, except for minor editorial changes. We have determined that these minor changes:

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

Related Service Information Under 1 CFR Part 51

We reviewed Bombardier Service Bulletin 670BA–27–072, Revision A, dated October 26, 2016. This service information describes procedures for identification of affected HSTAs, and replacement if necessary. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

We estimate that this AD affects 544 airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspection and Replacement	Up to 20 work-hours × $85 per hour = $1,700	(1)	Up to $1700	Up to $924,800.

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

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

Authority for This Rulemaking

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

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

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 adding the following new airworthiness directive (AD):

2017–22–08 Bombardier, Inc.: Amendment 39–19088; Docket No. FAA–2017–0562; Product Identifier 2017–NM–027–AD.

(a) Effective Date

This AD is effective December 11, 2017.

(b) Affected ADs

None.

(c) Applicability

This AD applies to the Bombardier, Inc., airplanes identified in paragraphs (c)(1) through (c)(4) of this AD, certificated in any category, equipped with horizontal stabilizer trim actuator (HSTA) part number 8489–7 or 8489–7R.

(1) Model CL–600–2C10 (Regional Jet Series 700, 701, & 702) airplanes.

(2) Model CL–600–2D15 (Regional Jet Series 705) airplanes.

(3) Model CL–600–2D24 (Regional Jet Series 900) airplanes.

(4) Model CL–600–2E25 (Regional Jet Series 1000) airplanes.

(d) Subject

Air Transport Association (ATA) of America Code 27, Flight controls.

(e) Reason

This AD was prompted by a report indicating that a number of rubber bull gear (RBG) wheels installed in the HSTA were manufactured using an incorrect material specification. We are issuing this AD to prevent premature wear-out of the teeth of the RBG wheels, which could cause difficulties in maneuvering the airplane.

(f) Compliance

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

(g) Serial Number Verification

Within 600 flight hours after the effective date of this AD, inspect to determine whether the serial number (S/N) of the installed HSTA is listed in paragraph 1.A, ''Effectivity,'' of Bombardier Service Bulletin 670BA–27–072, Revision A, dated October 26, 2016. If the S/N of the installed HSTA is not listed in paragraph 1.A, ''Effectivity,'' of Bombardier Service Bulletin 670BA–27–072, Revision A, dated October 26, 2016, no further action is required by this AD, except as required by paragraph (j) of this AD. A review of airplane maintenance records is acceptable in lieu of this inspection if the part number of the HSTA can be conclusively determined from that review.

(h) Replacement

For any HSTA with a S/N listed in paragraph 1.A, ''Effectivity,'' of Bombardier Service Bulletin 670BA–27–072, Revision A, dated October 26, 2016: Within the compliance times specified in figure 1 to paragraph (h) of this AD, as applicable, replace the affected HSTA, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 670BA–27–072, Revision A, dated October 26, 2016.

Figure 1 to paragraph (h) of this AD – *Compliance time criteria*

For HSTAs with S/N suffix A or with no suffix, that have accumulated 10,000 flight cycles (FC) or fewer	Within 3600 FC accumulated on the unit from the effective date of this AD
For HSTAs with S/N suffix A or with no suffix, that have accumulated more than 10,000 FC	Within 1800 FC accumulated on the unit from the effective date of this AD
For HSTAs with S/N suffix B or AB, that have accumulated 10,000 FC or fewer since the incorporation of Bombardier Service Bulletin 670BA-27-058	Within 3600 FC accumulated on the unit from the effective date of this AD
For HSTAs with S/N suffix B or AB, that have accumulated more than 10,000 FC since the incorporation of Bombardier Service Bulletin 670BA-27-058.	Within 1800 FC accumulated on the unit from the effective date of this AD

(i) Credit for Previous Actions

This paragraph provides credit for actions required by paragraphs (g) and (h) of this AD, if those actions were performed before the effective date of this AD using Bombardier Service Bulletin 670BA–27–072, dated April 26, 2016.

(j) Parts Installation Limitation

As of the effective date of this AD, no person may install, on any airplane, an HSTA having part number 8489–7 or 8489–7R, with a S/N listed in paragraph 1.A, ''Effectivity,'' of Bombardier Service Bulletin 670BA–27–072, Revision A, dated October 26, 2016, unless the S/N has a suffix ''C'' marked on the identification plate adjacent to the S/N.

(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 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, New York ACO Branch, FAA; or Transport Canada Civil Aviation (TCCA); or Bombardier, Inc.'s TCCA Design Approval Organization (DAO). If approved by the DAO, the approval must include the DAO-authorized signature.

(l) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) Canadian Airworthiness Directive CF–2016–22, dated June 24, 2016, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0562.

(2) For more information about this AD, contact Aziz Ahmed, Aerospace Engineer, Airframe and Mechanical Systems Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7329; fax 516–794–5531.

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

(i) Bombardier Service Bulletin 670BA–27–072, Revision A, dated October 26, 2016.

(ii) Reserved.

(3) For service information identified in this AD, contact Bombardier, Inc., 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; Widebody Customer Response Center North America toll-free telephone 1–866–538–1247 or direct-dial telephone 1–514–855–2999; fax 514–855–7401; email *ac.yul@aero.bombardier.com;* Internet *http://www.bombardier.com.*

(4) 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.

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

Issued in Renton, Washington, on October 19, 2017.

Jeffrey E. Duven,

Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2017–23346 Filed 11–3–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2015–4031; Product Identifier 2014–SW–072–AD; Amendment 39–19085; AD 2017–22–05]

RIN 2120–AA64

Airworthiness Directives; Airbus Helicopters (Type Certificate Previously Held by Eurocopter France)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are superseding Airworthiness Directive (AD) 2013–15–03 for Eurocopter France Model AS350B, AS350BA, AS350B1, AS350B2, AS350B3, AS350C, AS350D, and AS350D1 helicopters. AD 2013–15–03 required inspecting the hydraulic pump drive pulley bearing (bearing) for leaks, rust, overheating, and condition. This new AD adds a requirement to grease the bearing and inspect for bronze particles in the grease, and changes the inspection and inspection intervals of the bearing until it is replaced with an improved bearing. This AD was prompted by additional reports of hydraulic pump drive belt failure caused by bearing seizures. The actions of this AD are intended to prevent an unsafe condition on these products.

DATES: This AD is effective December 11, 2017.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of December 11, 2017.

ADDRESSES: For service information identified in this final rule, contact Airbus Helicopters, 2701 N. Forum Drive, Grand Prairie, TX 75052; telephone (972) 641–0000 or (800) 232–0323; fax (972) 641–3775; or at *http://www.airbushelicopters.com/techpub.* You may view this referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–4031.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* in Docket No. FAA–2015–4031; 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 European Aviation Safety Agency (EASA) AD, any incorporated-by-reference information, the economic evaluation, any comments received, and other information. The address for the Docket Office (phone: 800–647–5527) is Document 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: Stephen Barbini, Manager, Safety Management Section, Policy and Innovation Division, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone (817) 222–5110; email *stephen.barbini@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to remove AD 2013–15–03, Amendment 39–17519 (78 FR 44422, July 24, 2013) and add a new AD. AD 2013–15–03 applied to Eurocopter France (now Airbus Helicopters) Model AS350B, AS350BA, AS350B1, AS350B2, AS350B3, AS350C, AS350D, and AS350D1 helicopters with a single hydraulic system and a hydraulic pump drive installed. AD 2013–15–03 required repetitively inspecting the bearing for leaks, rust, overheating, and condition. AD 2013–15–03 was prompted by six reports of hydraulic pump drive belt failure caused by bearing seizures. AD 2013–15–03 also was prompted by AD No. 2013–0044–E, dated February 27, 2013, issued by EASA, which is the Technical Agent for the Member States of the European Union. EASA advised that hydraulic pump drive belt failures caused by seizure of the bearing, for helicopters with a single hydraulic system, could lead to loss of hydraulic servo assistance and an increase in pilot workload to the point that the helicopter needs to land as soon as possible.

The NPRM published in the **Federal Register** on April 29, 2016 (81 FR 25622). The NPRM was prompted by EASA AD No. 2013–0284–E, dated December 2, 2013, which supersedes

EASA AD No. 2013–0044–E. EASA AD No. 2013–0284–E advises that the hydraulic pump drive failure was caused by accidental indentation of the raceways from incorrect fitting of the bearing. Airbus Helicopters then introduced a new bearing, part number (P/N) 704A33651269, to replace bearing P/N 704A33651243. This replacement corrects the unsafe condition as it has a reduced pre-loading value, which significantly improves its reliability. EASA revised AD No. 2013–0284–E with AD No. 2013–0284R1, dated July 25, 2014, to exclude helicopters that had replaced the bearing with bearing P/N 704A33651269. EASA then superseded AD No. 2013–0284R1 with EASA AD No. 2014–0233, dated October 23, 2014, to retain the inspections and require replacement of bearing P/N 704A33651243 with bearing P/N 704A33651269. Installation of the new bearing constitutes terminating action for the repetitive inspections.

As a result, the NPRM proposed to retain the inspection requirements in AD 2013–15–03, add a requirement to grease the bearing and inspect for bronze particles in the grease, and change the inspection and inspection intervals of the bearing until it is replaced with the improved bearing.

Since the NPRM was issued, the FAA's Aircraft Certification Service has changed its organizational structure. The new structure replaces product directorates with functional divisions. We have revised some of the office titles and nomenclature throughout this Final rule to reflect the new organizational changes. Additional information about the new structure can be found in the Notice published on July 25, 2017 (82 FR 34564).

Comments

After our NPRM was published, we received a comment from Airbus Helicopters.

Request

Airbus Helicopters requested that we revise the Applicability section of the AD to eliminate confusion. Specifically, Airbus Helicopters requested we change the AD to apply to helicopters with ''Single Hydraulics pre mod 079568 with Hydraulic pump drive assembly part number 350A35–0132–00 with bearing part number 704A33651243 installed.''

We do not agree. Airbus Helicopters' request does not make the Applicability section clearer because the unsafe condition lies with the bearing, which is also installed in hydraulic pump drive assembly part number 350A35–0132–00 V. Leaving the original Applicability language makes this point clear.

FAA's Determination

We have reviewed the relevant information and determined that an unsafe condition exists and is likely to exist or develop on other helicopters of these same type designs and that air safety and the public interest require adopting the AD requirements as proposed.

Differences Between This AD and the EASA AD

The EASA AD applies to Airbus Helicopters Model AS350BB helicopters, and this AD does not because the Model AS350BB has no FAA-issued type certificate. This AD applies to Model AS350D1 and AS350C helicopters, while the EASA AD does not.

Related Service Information Under 1 CFR Part 51

We reviewed Airbus Helicopters ASB No. AS350–63.00.24, Revision 0, dated October 21, 2014 (ASB), for Model AS350B, AS350BA, AS350BB, AS350B1, AS350B2, AS350B3, AS350D, and military Model AS350L1 helicopters with a single hydraulic system and a hydraulic pump drive assembly P/N 350A35–0132–00. The ASB calls for mandatory replacement of bearing P/N 704A33651243 with bearing P/N 704A33651269 and introduces a preventative maintenance operation for bearing P/N 704A33651243 until it is replaced.

This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

We estimate that this AD affects 729 helicopters of U.S. Registry and that labor costs average $85 per work hour. Based on these estimates, we expect the following costs:

- Greasing and visually inspecting the bearing requires 1.5 work hours and no parts are needed. We estimate a total cost of $128 per helicopter and $93,312 for the U.S. fleet per inspection cycle.
- Inspecting and manually rotating the bearing requires 2 work hours, and no parts are needed. We estimate a total cost of $170 per helicopter and $123,930 for the U.S. fleet per inspection cycle.
- Replacing the bearing requires 2 work hours and $1,571 for parts, for a total cost of $1,741 per helicopter and $1,269,189 for the U.S. fleet.
- Replacing the hydraulic pump drive assembly requires 2 work hours and $8,543 for parts, for a total cost of $8,713 per helicopter and $6,351,777 for the U.S. fleet.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

(3) Will not affect intrastate aviation in Alaska to the extent that a regulatory distinction is required, 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) 2013–15–03, Amendment 39–17519 (78 FR 44422, July 24, 2013), and adding the following new AD:

2017–22–05 Airbus Helicopters (Previously Eurocopter France): Amendment 39–19085; Docket No. FAA–2015–4031; Product Identifier 2014–SW–072–AD.

(a) Applicability

This AD applies to Airbus Helicopters Model AS350B, AS350BA, AS350B1, AS350B2, AS350B3, AS350C, AS350D, and AS350D1 helicopters with a hydraulic pump drive bearing (bearing) part number (P/N) 704A33651243 installed, certificated in any category.

(b) Unsafe Condition

This AD defines the unsafe condition as the seizure of the bearing. This condition could result in hydraulic pump drive belt failure, loss of hydraulic servo assistance, and subsequent loss of control of the helicopter.

(c) Affected ADs

This AD supersedes AD 2013–15–03, Amendment 39–17519 (78 FR 44422, July 24, 2013).

(d) Effective Date

This AD becomes effective December 11, 2017.

(e) Compliance

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

(f) Required Actions

(1) For each bearing with less than 115 hours time-in-service (TIS), before accumulating 150 hours TIS, and for each bearing with 115 or more hours TIS, within 50 hours TIS, and for all helicopters thereafter at intervals not to exceed 150 hours TIS:

(i) Grease each bearing in accordance with the Accomplishment Instructions, paragraph 3.B.2.b., of Airbus Helicopters Alert Service Bulletin No. AS350–63.00.24, Revision 0, dated October 21, 2014 (ASB).

(ii) Perform a test ground run. Inspect all grease that comes out of the bearing during the ground run and all grease around the bearing for bronze particles.

(iii) If there are any bronze particles in the grease, before further flight, replace the bearing with bearing P/N 704A33651269. This constitutes terminating action for the inspections in this AD.

Note 1 to paragraph (f)(1)(iii) of this AD: Hydraulic pump drive assembly P/N 350A35–0132–01 is fitted with bearing P/N 704A33651269.

(2) Within 600 hours TIS and thereafter at intervals not to exceed 600 hours TIS:

(i) Visually inspect the bearing for bronze particles in the grease. If there are any bronze particles in the grease, before further flight, replace the bearing with bearing P/N 704A33651269. This constitutes terminating action for the inspections in this AD.

(ii) Manually rotate the bearing and inspect for a friction point, brinelling, and a noise from the bearing. If there is a hard point, any brinelling, or any noise from the bearing, before further flight, replace the bearing with bearing P/N 704A33651269.

(3) Replacing bearing P/N 704A33651243 with bearing P/N 704A33651269, or replacing hydraulic pump drive assembly P/N 350A35–0132–00 with hydraulic pump drive assembly P/N 350A35–0132–01, constitutes terminating action for the inspections required by this AD.

(g) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Safety Management Section, FAA, may approve AMOCs for this AD. Send your proposal to: Stephen Barbini, Manager, Safety Management Section, Policy and Innovation Division, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone (817) 222–5110; email *9-ASW-FTW-AMOC-Requests@faa.gov.*

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

(h) Additional Information

The subject of this AD is addressed in European Aviation Safety Agency (EASA) AD No. 2014–0233, dated October 23, 2014. You may view the EASA AD on the Internet at *http://www.regulations.gov* in Docket No. FAA–2015–4031.

(i) Subject

Joint Aircraft Service Component (JASC) Code: 2913, Hydraulic Pump (Electric/Engine), Main.

(j) Material Incorporated by Reference

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

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

(i) Airbus Helicopters Alert Service Bulletin No. AS350–63.00.24, Revision 0, dated October 21, 2014.

(ii) Reserved.

(3) For Airbus Helicopters service information identified in this AD, contact contact Airbus Helicopters, 2701 N. Forum Drive, Grand Prairie, TX 75052; telephone (972) 641–0000 or (800) 232–0323; fax (972) 641–3775; or at *http://www.airbushelicopters.com/techpub.*

(4) You may view this service information at FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222–5110.

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

Issued in Fort Worth, Texas, on October 17, 2017.

James A. Grigg,

Acting Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2017–23193 Filed 11–3–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2017–0777; Product Identifier 2017–NM–050–AD; Amendment 39–19089; AD 2017–22–09]

RIN 2120–AA64

Airworthiness Directives; Saab AB, Saab Aeronautics (Formerly Known as Saab AB, Saab Aerosystems) Airplanes

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

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Saab AB, Saab Aeronautics Model SAAB 340B airplanes. This AD was prompted by reports of natural stall events in icing conditions, without prior stall warnings. This AD requires modifying the stall warning system, installing new stall warning computers, and activating the stall warning system. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective December 11, 2017.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of December 11, 2017.

ADDRESSES: For service information identified in this final rule, contact Saab AB, Saab Aeronautics, SE–581 88, Linköping, Sweden; telephone +46 13 18 5591; fax +46 13 18 4874; email *saab340techsupport@saabgroup.com;* Internet *http://www.saabgroup.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–2017–0777.

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–2017–0777; 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: Shahram Daneshmandi, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1112; fax 425–227–1149.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain Saab AB, Saab Aeronautics Model SAAB 340B airplanes. The NPRM published in the **Federal Register** on August 15, 2017 (82 FR 38621) (''the NPRM'').

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA Airworthiness Directive 2017–0067, dated April 24, 2017 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Saab AB, Saab Aeronautics Model SAAB 340B airplanes. The MCAI states:

> A few natural stall events, specifically when operating in icing conditions, have been experienced on SAAB 340 series aeroplanes, without receiving a prior stall warning.
>
> This condition, if not corrected, could result in loss of control of the aeroplane.
>
> To address this potential unsafe condition, SAAB developed a modified stall warning system, incorporating improved stall warning logic, and issued various Service Bulletins (SB) providing instructions to replace the Stall Warning Computer (SWC) with a new SWC, and instructions to activate the new SWC. The new system includes stall warning curves optimized for operation in icing conditions, which are activated by selection of Engine Anti-Ice.
>
> Consequently, EASA issued AD 2014–0218 [which corresponds to FAA AD 2016–22–15, Amendment 39–18704 (81 FR 76843, November 4, 2016)] to require installation and activation of the improved SWC. That [EASA] AD excluded certain SAAB 340B aeroplanes by s/n [serial number].
>
> Since EASA AD 2014–0218 was issued, SAAB developed a technical solution applicable for some of those previously excluded aeroplanes, and issued SB 340–27–117 and SB 340–27–118, providing instructions to modify and activate the new SWC.
>
> For the reasons described above, this [EASA] AD requires installation and activation of the improved SWC.

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–2017–0777.

Comments

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

Conclusion

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

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

Related Service Information Under 1 CFR Part 51

Saab AB, Saab Aeronautics has issued Service Bulletin 340–27–117, dated January 23, 2017. This service information describes procedures for modifying the stall warning system.

Saab AB, Saab Aeronautics has also issued Service Bulletin 340–27–118, dated January 23, 2017. This service information describes procedures for installing new stall warning computers and activating the modified stall warning system.

This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

We estimate that this AD affects 4 airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Modification, installation, and activation	78 work-hours × $85 per hour = $6,630	$33,000	$39,630	$158,520

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 adding the following new airworthiness directive (AD):

2017–22–09 Saab AB, Saab Aeronautics (Formerly Known as Saab AB, Saab Aerosystems): Amendment 39–19089; Docket No. FAA–2017–0777; Product Identifier 2017–NM–050–AD.

(a) Effective Date

This AD is effective December 11, 2017.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Saab AB, Saab Aeronautics (formerly known as Saab AB, Saab Aerosystems) Model SAAB 340B airplanes, certificated in any category, serial numbers 362, 363, 385, and 405.

(d) Subject

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

(e) Reason

This AD was prompted by reports of natural stall events in icing conditions, without prior stall warnings. We are issuing this AD to prevent a natural stall event in icing conditions without any stall warning, which could result in loss of control of the airplane.

(f) Compliance

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

(g) Modification

Within 12 months after the effective date of this AD, do the actions specified in paragraphs (g)(1) and (g)(2) of this AD.

(1) Install a provision for a modified stall warning system, in accordance with the Accomplishment Instructions of Saab Service Bulletin 340–27–117, dated January 23, 2017.

(2) Install new stall warning computers and activate the modified stall warning system, in accordance with the Accomplishment Instructions of Saab Service Bulletin 340–27–118, dated January 23, 2017.

(h) Parts Installation Prohibition

After modification of an airplane as required by paragraph (g) of this AD, no person may install a stall warning computer having part number (P/N) 20AK5 or P/N 0020AK5 on that airplane.

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

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

(j) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA Airworthiness Directive 2017–0067, dated April 24, 2017, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0777.

(2) For more information about this AD, contact Shahram Daneshmandi, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1112; fax 425–227–1149.

(k) Material Incorporated by Reference

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

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

(i) Saab Service Bulletin 340–27–117, dated January 23, 2017.

(ii) Saab Service Bulletin 340–27–118, dated January 23, 2017.

(3) For service information identified in this AD, contact Saab AB, Saab Aeronautics, SE–581 88, Linköping, Sweden; telephone +46 13 18 5591; fax +46 13 18 4874; email *saab340.techsupport@saabgroup.com;* Internet *http://www.saabgroup.com.*

(4) 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.

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

Issued in Renton, Washington, on October 19, 2017.

Jeffrey E. Duven,

Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2017–23344 Filed 11–3–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2017–0354; Airspace Docket No. 17–ACE–8]

Amendment of Class E Airspace; Seward, NE

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 Seward Municipal Airport, Seward, NE, to accommodate new standard instrument approach procedures for instrument flight rules (IFR) operations at the airport. This action is necessary due to

the decommissioning of the Seward non directional radio beacon (NDB), and cancellation of the NDB approach procedure, and enhances the safety and management of IFR operations at the airport.

DATES: Effective 0901 UTC, February 1, 2018. 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 *https://www.archives.gov/federal-register/cfr/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 amends Class E airspace extending upward from 700 feet above the surface at Seward Municipal Airport, Seward, NE, to support IFR operations in standard instrument approach procedures at the airport.

History

The FAA published in the **Federal Register** (82 FR 33833, July 21, 2017) Docket No. FAA–2017–0354 a notice of proposed rulemaking to modify Class E airspace extending upward from 700 feet above the surface at Seward Municipal Airport, Seward, NE. 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 amends Class E airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Seward Municipal Airport, Seward, NE, to accommodate new standard instrument approach procedures for IFR operations at the airport. The segments within 4 miles each side of the 166° bearing from the Seward NDB extending from the 6.4-mile radius to 14 miles southeast of the NDB, and within 4 miles each side of the 359° bearing from the Seward NDB extending from the 6.4-mile radius to 13 miles north of the NDB, are removed due to the decommissioning of the Seward NDB and the NDB approach is cancelled. 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.

* * * * *

ACE NE E5 Seward, NE [Amended]

Seward Municipal Airport, NE
(Lat. 40°51′53″ N., long. 97°06′33″ W.)

The airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Seward Municipal Airport.

Issued in Fort Worth, Texas, on October 30, 2017.

Walter Tweedy,

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

[FR Doc. 2017–24014 Filed 11–3–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 73

[Docket No. FAA–2017–0985 Airspace Docket No. 17–AWP–21]

Amendment of Multiple Restricted Areas; Vandenberg AFB, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; technical amendment.

SUMMARY: This action makes minor adjustments to the boundary descriptions of restricted areas R–2516, R–2517, R–2534A and R–2534B; Vandenberg AFB, CA. The changes are necessary as a result of the FAA using updated digital data that defines maritime limits and other geophysical features used in the boundary descriptions. This requires minor changes to certain latitude/longitude points in the boundary descriptions of the above restricted areas to match the updated digital data.

DATES: Effective date 0901 UTC, February 1, 2018.

FOR FURTHER INFORMATION CONTACT: Kenneth Ready, Airspace Policy Group, Office of Airspace Services, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267–8783.

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 the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority since it makes minor updates to certain boundary coordinates for restricted areas R–2516, R–2517, R–2534A and R–2534B; Vandenberg AFB, CA, to match updated digital shoreline data received from the National Oceanic and Atmospheric Administration (NOAA).

Background

Some restricted area boundary descriptions use maritime limits, such as the shoreline of the U.S., to identify the shape of the area (*e.g.,* ''3 nautical miles from and parallel to the shoreline''). These boundary descriptions contain latitude/longitude coordinates that were intended to either join, or run parallel to, the shoreline.

For a variety of reasons, maritime limits change over time. The FAA has received updated digital data for maritime limits from NOAA. Digital data is more precise than measurements used in the past. The FAA, through the implementation of its data-driven charting process, was able to utilize this new data to accurately update the U.S. maritime limit boundaries used for aeronautical charting. Prior to the update, the maritime limit boundary data used for charting were over 25 years old. In applying the updated data, FAA found that some restricted area boundary descriptions, that were based on the maritime limits, did not correspond to the updated shoreline data. Consequently, there are minor mismatches between some restricted area latitude/longitude coordinates and the actual shoreline position.

This rulemaking action updates the affected boundary coordinates of restricted areas R–2516, R–2517, R–2534A and R–2534B, in California to maintain the intended shape of the airspace in relation to the U.S. shoreline and to improve their representations on aeronautical charts.

The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) part 73 to make minor adjustments to certain latitude/longitude coordinates in the descriptions of restricted areas R–2516, R–2517, R–2534A and R–2534B, in California. The changes are necessary as a result of the FAA using digital data for aeronautical charting. This more precise digital plotting of points revealed minor mismatches between some of the current restricted area boundary coordinates and the more accurate digital data for those points. The specific restricted area boundary updates are shown below:

R–2516: The point ''lat. 35°00′00″ N., long. 120°42′04″ W.'' is changed to ''lat. 35°00′06″ N., long. 120°42′12″ W.'' and the point ''lat. 34°42′00″ N., long. 120°40′22″ W.'' is changed to ''lat. 34°42′00″ N., long. 120°40′01″ W.'' These changes reflect updated digital shoreline data.

R–2517: The point ''lat. 34°42′00″ N., long. 120°40′22″ W.'' is changed to ''lat. 34°42′00″ N., long. 120°40′01″ W.'' and the point ''lat. 34°24′00″ N., long. 120°30′04″ W.'' is changed to ''lat. 34°24′04″ N., long. 120°29′51″ W.'' These changes reflect updated digital shoreline data.

R–2534A: The point ''lat. 34°25′10″ N., long. 120°15′34″ W.'' is changed to ''lat. 34°25′00″ N., long. 120°15′34″ W.'' and the point ''lat. 34°24′40″ N., long. 120°19′14″ W.'' is changed to ''lat. 34°24′39″ N., long. 120°19′13″ W.'' These changes reflect updated digital shoreline data.

R–2534B: The point ''lat. 34°24′40″ N., long. 120°19′14″ W.'' is changed to ''lat. 34°24′39″ N., long. 120°19′13″ W.'' These changes reflect updated digital shoreline data.

These minor editorial changes update existing restricted area boundaries with more precise digital information. It does not affect the location, designated altitudes, or activities conducted within the restricted areas; therefore, notice and public procedure under 5 U.S.C. 553(b) are unnecessary.

Regulatory Notices and Analyses

The FAA has determined that this action only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. 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 5–6.5d, modification of the technical description of special use airspace (SUA) that does not alter the dimensions, altitudes, or times of designation of the airspace. This

airspace action makes minor updates to certain boundary coordinates of restricted areas R–2516, R–2517, R–2534A and R–2534B; Vandenberg AFB, CA, to match the digital shoreline data received from the NOAA Administration. This ensures that the affected boundaries continue to match the NOAA-defined position of the U.S. shoreline. It does not alter the location, altitudes, or activities conducted within the airspace; therefore, it 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 73

Airspace, Prohibited areas, Restricted areas.

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 73, as follows:

PART 73—SPECIAL USE AIRSPACE

■ 1. The authority citation for part 73 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.

§ 73.25 [Amended]

■ 2. Section 73.25 is amended as follows:

* * * * *

R–2516 Vandenberg AFB, CA [Amended]

By removing the current boundaries and inserting the following:

Boundaries. Beginning at lat. 35°00′06″ N., long. 120°42′12″ W.;
to lat. 34°54′00″ N., long. 120°33′04″ W.;
to lat. 34°50′00″ N., long. 120°32′04″ W.;
to lat. 34°46′00″ N., long. 120°27′04″ W.;
to lat. 34°42′00″ N., long. 120°30′04″ W.;
to lat. 34°38′35″ N., long. 120°31′24″ W.;
to lat. 34°42′00″ N., long. 120°34′34″ W.;
to lat. 34°42′00″ N., long. 120°40′01″ W.;
thence 3 NM from and parallel to the shoreline to the point of beginning.

R–2517 Vandenberg AFB, CA [Amended]

By removing the current boundaries and inserting the following:

Boundaries. Beginning at lat. 34°42′00″ N., long. 120°40′01″ W.;
to lat. 34°42′00″ N., long. 120°34′34″ W.;
to lat. 34°38′35″ N., long. 120°31′24″ W.;
to lat. 34°35′00″ N., long. 120°32′04″ W.;
to lat. 34°25′00″ N., long. 120°27′04″ W.;
to lat. 34°24′04″ N., long. 120°29′51″ W.;
thence 3 NM from and parallel to the shoreline to the point of beginning.

* * * * *

R–2534A Vandenberg AFB, CA [Amended]

By removing the current boundaries and inserting the following:

Boundaries. Beginning at lat. 34°38′35″ N., long. 120°31′24″ W.;
to lat. 34°35′45″ N., long. 120°28′14″ W.;
to lat. 34°36′20″ N., long. 120°27′24″ W.;
to lat. 34°30′00″ N., long. 120°15′34″ W.;
to lat. 34°25′00″ N., long. 120°15′34″ W.;
thence 3 NM from and parallel to the shoreline
to lat. 34°24′39″ N., long. 120°19′13″ W.;
to the point of beginning.

R–2534B Vandenberg AFB, CA [Amended]

By removing the current boundaries and inserting the following:

Boundaries. Beginning at lat. 34°38′35″ N., long. 120°31′24″ W.;
to lat. 34°24′39″ N., long. 120°19′13″ W.;
to lat. 34°25′00″ N., long. 120°27′04″ W.;
to lat. 34°35′00″ N., long. 120°32′04″ W.;
to the point of beginning.

* * * * *

Issued in Washington, DC, on October 31, 2017.

Rodger A. Dean, Jr.,

Manager, Airspace Policy Group.

[FR Doc. 2017–24103 Filed 11–3–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 1, 117, and 507

[Docket No. FDA–2017–D–5996]

Supply-Chain Program Requirements and Co-Manufacturer Supplier Approval and Verification for Human Food and Animal Food: Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notification of availability.

SUMMARY: The Food and Drug Administration (FDA, the Agency, or we) is announcing the availability of a guidance for industry entitled ''Supply-Chain Program Requirements and Co-Manufacturer Supplier Approval and Verification for Human Food and Animal Food.'' The guidance announces that we do not intend to take enforcement action against a receiving facility that is a co-manufacturer and that is not in compliance with certain supply-chain program requirements in the ''Current Good Manufacturing Practice, Hazard Analysis, and Risk-Based Preventive Controls for Human Food'' and ''Current Good Manufacturing Practice, Hazard Analysis, and Risk-Based Preventive Controls for Food for Animals'' regulations (preventive controls regulations) for food manufactured for the brand owner, under certain circumstances, until November 6, 2019. Furthermore, we do not intend to take enforcement action under the Foreign Supplier Verification Programs (FSVP) regulation against an importer whose supply-chain program is subject to enforcement discretion under the preventive controls regulations until November 6, 2019.

DATES: The announcement of the guidance is published in the **Federal Register** on November 6, 2017.

ADDRESSES: You may submit either electronic or written comments on Agency guidances at any time 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–D–5996 for ''Supply-Chain Program Requirements and Co-

Manufacturer Supplier Approval and Verification for Human Food and Animal Food.'' Received comments 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.

You may submit comments on any guidance at any time (see 21CFR 10.115(g)(5)).

Submit written requests for single copies of the guidance to the Office of Food Safety, Center for Food Safety and Applied Nutrition (HFS–300), Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740. Send two self-addressed adhesive labels to assist that office in processing your request. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance.

FOR FURTHER INFORMATION CONTACT:

For questions relating to the guidance as it applies to human food: Jenny Scott, Center for Food Safety and Applied Nutrition (HFS–300), Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740, 240–402–2166.

For questions relating to the guidance as it applies to animal food: Jeanette Murphy, Center for Veterinary Medicine (HFV–200), Food and Drug Administration, 7519 Standish Pl., Rockville, MD 20855, 240–402–6246.

SUPPLEMENTARY INFORMATION:

I. Background

We are announcing the availability of a guidance for industry entitled ''Supply-Chain Program Requirements and Co-Manufacturer Supplier Approval and Verification for Human Food and Animal Food: Guidance for Industry.'' We are issuing this guidance consistent with our good guidance practices (GGP) regulation (§ 10.115 (21 CFR 10.115)). We are implementing this guidance without prior public comment because we have determined that prior public participation is not feasible or appropriate (§ 10.115(g)(2)). We made this determination because the guidance represents a less burdensome policy consistent with the public health. Although this guidance document is immediately in effect, it remains subject to comment in accordance with FDA's GGP regulation. This guidance is not subject to Executive Order 12866.

The guidance is intended for persons who participate in certain ''co-manufacturing'' agreements in the production of human or animal food. By ''co-manufacturing,'' we mean a contractual arrangement whereby one party (the brand owner) arranges for a second party (the co-manufacturer) to manufacture/process human or animal food on behalf of the first party. The guidance concerns three regulations that we have established in Title 21 of the Code of Federal Regulations (21 CFR) as part of our implementation of the FDA Food Safety Modernization Act (FSMA; Pub. L. 111–353). (For more information on the Agency's implementation of FSMA, see *https://www.fda.gov/fsma.*) These three regulations are part 117 (21 CFR part 117) (published in the **Federal Register** on September 17, 2015, 80 FR 55908), part 507 (21 CFR part 507) (published in the **Federal Register** on September 17, 2015, 80 FR 56170), and the FSVP regulation (published in the **Federal Register** of November 27, 2015, 80 FR 74226). Subpart G of part 117 and subpart E of part 507 establish requirements for a supply-chain program for those raw materials and other ingredients for which a receiving facility has identified a hazard requiring a supply-chain-applied control.

Under the FSVP regulation, importers are required to develop, maintain, and follow a foreign supplier verification program that, among other things, provides adequate assurance that foreign suppliers are producing food in compliance with processes and procedures that provide at least the same level of public health protection as those required under section 418 of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 350g) (which authorized the supply-chain programs in parts 117 and 507) (see § 1.502(a) (21 CFR 1.502(a)). An importer that is a receiving facility subject to section 418 of the FD&C Act is deemed to be in compliance with the requirements of the FSVP regulation, except the importer identification requirements in 21 CFR 1.509, if the importer has established and implemented a risk-based supply-chain program in compliance with part 117, subpart G or part 507, subpart E (§ 1.502(c)(3)).

Under the definition of ''receiving facility'' established in parts 117 and 507, co-manufacturers that are subject to the human food or the animal food preventive controls requirements and that manufacture/process a raw material or other ingredient received from a supplier are receiving facilities. Co-manufacturers that are receiving facilities that have identified a hazard in a raw material or ingredient requiring a supply-chain-applied control are required to approve their suppliers for those raw materials or other ingredients. However, the supply-chain provisions permit an entity other than the receiving facility (*e.g.,* permit the brand owner) to determine, conduct, or both determine and conduct, appropriate supplier verification activities, provided that the receiving facility documents its review and assessment of the other entity's applicable documentation. (See §§ 117.415(a)(3) and 507.115(a)(3).) Specifically, the rules allow for a co-manufacturer to base its verification of suppliers on review of adequate documentation of the brand owner's supplier verification activities.

Industry has expressed concerns that the requirements of the supply-chain program would require revisions to contracts between brand owners and their suppliers to allow brand owners to share certain information (*e.g.,* audits of suppliers) with co-manufacturers, and that establishing new contracts would take a significant period of time, impeding their ability to meet

compliance dates (Ref. 1). If a contract prevents a co-manufacturer from being able to review a brand owner's documentation of supplier verification activities, the co-manufacturer would not be able to verify suppliers based on its review of that documentation. Consequently, the co-manufacturer would need to conduct supplier verification activities (*e.g.,* on-site audits) that might otherwise not be required.

To provide time for contracts to be revised to allow co-manufacturers to review all necessary documentation from the brand owner, FDA is announcing that, under certain circumstances and on a temporary basis, we do not intend to take enforcement action against a receiving facility that is a co-manufacturer, and that is not in compliance with certain supply-chain program requirements (§§ 117.410(d) and 117.415(a)(3) or §§ 507.110(d) and 507.115(a)(3)) for food manufactured for the brand owner until November 6, 2019. Furthermore, we do not intend to take enforcement action under the FSVP regulation against an importer who is relying on § 1.502(c)(3) but whose supply-chain program is subject to enforcement discretion regarding §§ 117.410(d) and 117.415(a)(3) or §§ 507.110(d) and 507.115(a)(3).

The guidance represents the current thinking of FDA on this topic. It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statues and regulations.

II. Paperwork Reduction Act of 1995

This guidance refers to previously approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in part 117 have been approved under OMB control number 0910–0751. The collections of information in part 507 have been approved under OMB control number 0910–0789.

III. Electronic Access

Persons with access to the internet may obtain the document at *https://www.fda.gov/Food/GuidanceRegulation/GuidanceDocumentsRegulatoryInformation/default.htm, https://www.fda.gov/AnimalVeterinary/GuidanceComplianceEnforcement/default.htm,* or *https://www.regulations.gov.* Use the FDA Web sites listed in the previous sentence to find the most current version of the guidance.

IV. Reference

The following reference is on display in the Dockets Management Staff (see **ADDRESSES**) and is available for viewing by interested persons between 9 a.m. and 4 p.m., Monday through Friday; it is also available electronically at *https://www.regulations.gov.*

1. Letter from Grocery Manufacturers Association to Dr. Stephen Ostroff, Acting Commissioner of Food and Drugs, February 7, 2017.

Dated: October 31, 2017.

Anna K. Abram,

Deputy Commissioner for Policy, Planning, Legislation, and Analysis.

[FR Doc. 2017–24098 Filed 11–3–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2017–1011]

RIN 1625–AA00

Safety Zone, Delaware River; Pipeline Removal

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing temporary safety zones in the Mifflin Range on the Delaware River to facilitate pipeline removal in preparation for the deepening of the Delaware River. The safety zones will be established for the waters in the vicinity of the dredge, dredge equipment, dive operations, and pipe removal operations. This regulation is necessary to provide for the safety of life on navigable waters of the Delaware River in the vicinity of pipeline removal operations and to protect mariners from the hazards associated with dredging and pipeline removal operations. Entry of vessels or persons into these zones is prohibited unless specifically authorized by the Captain of the Port Delaware Bay.

DATES: This rule is effective from November 6, 2017, through December 4, 2017.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type USCG–2017–1011 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 Petty Officer Edmund Ofalt, Waterways Management Branch, U.S. Coast Guard Sector Delaware Bay; telephone (215) 271–4814, email *Edmund.J.Ofalt@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

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 due to the short time period between when Sector Delaware Bay received complete details of this project, October 20, 2017, and the date when these safety zones needed to go into effect by. It is impracticable and contrary to the public interest to publish an NPRM to provide a notice and opportunity for comment period because the safety zones must be established by November 6, 2017 to ensure safety of life on navigable waters in the vicinity of dredging operations, underwater cutting operations, and pipeline removal operations and to protect mariners from hazards associated with the same.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be impracticable and contrary to the public interest because immediate action is needed to mitigate the hazards presented to safety of life on the Delaware River by the presence of dredge equipment, dredging operations, dive operations, and pipeline removal operations.

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 (COTP) Delaware Bay has determined that potential hazards associated with dredging, dive operations, and pipeline removal operations starting November 6, 2017, will be a safety concern for vessels attempting to transit the Delaware River along the Mifflin Range. This rule is needed to protect personnel, vessels, and the marine environment on the navigable waters within the safety zone while dredging, dive operations, and pipeline removal operations are being conducted.

IV. Discussion of the Rule

This rule establishes two safety zones on a portion of the Mifflin Range, just upriver of the green 63 buoy, in the Delaware River from November 6, 2017, through December 4, 2017, unless cancelled earlier by the COTP, to facilitate dredging, dive operations, and pipeline removal. Dredging operations to expose the pipeline will commence on November 6, 2017. The hopper dredge 549 will be conducting the dredging operations and will be attended by the towing vessel SHELBY. Dive operations will commence approximately one week after the completion of dredging operations and will continue through completion of removal of the pipeline.

Safety zone one includes all navigable waters within 250 yards of the dredge barge 549 and associated pipeline removal equipment, to include any equipment located within Anchorage 9 near the entrance to Mantua Creek found in 33 CFR 110.157(a)(10).

Safety zone two includes all navigable waters within 250 yards of the dive barge 543 and all associated pipeline removal equipment, to include any equipment located within Anchorage 9 near the entrance to Mantua Creek Found in 33 CFR 110.157 (a)(10).

Vessels requesting to transit either safety zone must contact the towing vessel SHELBY on VHF–FM channel 13 or 65, at least 1 hour, as well as 30 minutes prior to arrival to arrange safe passage. Vessels may also contact the COTP for permission to enter or transit either safety zone on VHF–FM channel 16.

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, and duration of the safety zones. Although this regulation will restrict access to regulated areas, the effect of this rule will not be significant because there are a number of alternate anchorages available. Furthermore, vessels may be permitted to transit through the safety zone with the permission of the COTP or make satisfactory passing arrangements with the towing vessel SHELBY in accordance with this rule and the Rules of the Road (33 CFR subchapter E). Extensive notification of the safety zones to the maritime public will be made via maritime advisories allowing mariners to alter their plans accordingly.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

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

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a

State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone that encompasses all navigable waters within 250 yards of a dredge, diving operations, pipeline removal operations and all associated equipment. 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

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.T05–1011, to read as follows:

§ 165.T05–1011 Safety Zone, Delaware River; Pipeline Removal.

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

(1) Safety zone one includes all navigable waters within 250 yards of the dredge barge 549 and associated equipment operating in Mifflin Range and Anchorage 9 near the entrance to Mantua Creek, upriver of green buoy 63, on the Delaware River.

(2) Safety zone two includes all navigable waters within 250 yards of the dive barge 543 and associated equipment operating in Mifflin range and Anchorage 9 near the entrance to Mantua Creek, upriver of green buoy 63, on the Delaware River.

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

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

(c) *Regulations.* The general safety zone regulations found in 33 CFR part 165 subpart C apply to the safety zone created by this section.

(1) Entry into or transiting within either safety zone is prohibited unless vessels obtain permission from the Captain of the Port via VHF–FM channel 16, or make satisfactory passing arrangements via VHF–FM channels 13 or 65, with the towing vessel SHELBY per this section and the rules of the Road (33 CFR subchapter E). Vessels requesting to transit shall contact the towing vessel SHELBY on channel 13 or 65, at least 1 hour, as well as 30 minutes, prior to arrival.

(2) Vessels granted permission to enter and transit the safety zone must do so in accordance with any directions or orders of the Captain of the Port, his designated representative, or the towing vessel SHELBY. No person or vessel may enter or remain in a safety zone without permission from the Captain of the Port or the towing vessel SHELBY.

(3) At least one side of the main navigational channel will be kept clear for safe passage of vessels.

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

(d) *Enforcement periods.* This section will be enforced from November 6, 2017, through December, 4 2017.

Dated: November 1, 2017.

Scott E. Anderson,

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

[FR Doc. 2017–24068 Filed 11–3–17; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R01–OAR–2017–0138; FRL–9970–41–Region 1]

Air Plan Approval; New Hampshire; Rules for Open Burning and Incinerators; Withdrawal of Direct Final Rule

AGENCY: Environmental Protection Agency.

ACTION: Withdrawal of direct final rule.

SUMMARY: Due to the receipt of an adverse comment, the Environmental Protection Agency (EPA) is withdrawing the September 6, 2017 direct final rule approving a State Implementation Plan (SIP) revision submitted by the State of New Hampshire. New Hampshire's SIP revision establishes emission standards and operating practices for incinerators and wood waste burners that are not regulated pursuant to federal incinerator standards. This action is being taken in accordance with the Clean Air Act.

DATES: The direct final rule was published on September 6, 2017 (82 FR 42037), and is withdrawn effective November 6, 2017.

FOR FURTHER INFORMATION CONTACT: Alison Simcox, Air Quality Planning Unit, U.S. Environmental Protection Agency, New England Regional Office, 5 Post Office Square—Suite 100, (Mail code OEP05–2), Boston, MA 02109—3912, telephone (617) 918–1684, facsimile (617) 918–0684, email *simcox.alison@epa.gov.*

SUPPLEMENTARY INFORMATION: In the direct final rule, EPA stated that if adverse comments were submitted by October 6, 2017, the rule would be withdrawn and not take effect. EPA received an adverse comment prior to the close of the comment period and, therefore, is withdrawing the direct final rule. EPA will address the comment in a subsequent final action based upon the proposed rule also published on September 6, 2017 (82 FR 42054). EPA will not institute a second comment period on this action.

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, Regional haze, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: October 24, 2017.

Deborah A. Szaro,

Acting Regional Administrator, EPA New England.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ Accordingly, the amendments to 40 CFR 52.1520 published in the **Federal Register** on September 6, 2017 (82 FR 42037), on page 42040 are withdrawn effective November 6, 2017.

[FR Doc. 2017–24113 Filed 11–3–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[EPA–R03–OAR–2017–0484; FRL–9970–28–Region 3]

Approval and Promulgation of Air Quality Implementation Plans; Maryland; Continuous Opacity Monitoring Requirements for Municipal Waste Combustors

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking direct final action to approve revisions to the State of Maryland's Clean Air Act (CAA) section 111(d)/129 State Plan for municipal waste combustors (MWCs). The revisions contain Maryland's amendments to Regulations .07 and .08 under the Code of Maryland Regulations (COMAR) 26.11.08. These amendments update the MWC references to opacity compliance. The Maryland Department of the Environment (MDE)'s discontinued Technical Memorandum (TM 90–01) is no longer applicable and the regulations now refer to COMAR 26.11.31, which codifies quality assurance (QA) and quality control (QC) procedures for continuous opacity monitors (COMs). EPA is approving this revision to remove TM 90–01 from Maryland's CAA section 111(d)/129 State Plan in accordance with the requirements of the CAA.

DATES: This rule is effective on January 5, 2018 without further notice, unless EPA receives adverse written comment by December 6, 2017. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R03–OAR–2017–0484 at *https://www.regulations.gov,* or via email to *aquino.marcos@epa.gov.* For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the Web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Emily Linn, (215) 814–5273, or by email at *linn.emily@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On May 10, 2016, the State of Maryland submitted a formal revision (MD Submittal #16–05) to its CAA section 111(d)/129 State Plan for MWCs. The revisions contain Maryland's amendments to COMAR 26.11.08.08, ''Requirements for an Existing Large MWC with a Capacity Greater Than 250 Tons Per Day.'' These amendments update the MWC references to opacity compliance previously made by MDE. MDE's discontinued technical memorandum which previously addressed QA/QC procedures for COMs, TM 90–01, is no longer state effective and the Maryland regulations therefore now refer to COMAR 26.11.31, which codifies similar QA and QC procedures for COMs.[1] In a state rulemaking action, MDE also revised the title of COMAR 26.11.08.07, ''Requirements for Municipal Waste Combustors with a Capacity of 35 tons or greater per day and less than or equal to 250 Tons Per Day,'' to clarify that the state regulation applies to small MWCs. However, this clarification to the title of COMAR 26.11.08.07 is a minor administrative change and is not part of this action. The text of 26.11.08.07 remains unchanged, and thus the requirements for MWCs remain unchanged. EPA is approving this revision to remove TM 90–01 from Maryland's 111(d)/129 State Plan for MWCs in accordance with the requirements of the CAA as the changes are administrative in nature.

II. Summary of CAA Section 111(d)/129 State Plan Revision and EPA Analysis

EPA has reviewed Maryland's submittal to revise its CAA section 111(d)/129 State Plan for MWCs in the context of the requirements of 40 CFR part 60, subpart Eb. These amendments are largely administrative in nature. In this action, EPA is finalizing its determination that the submitted revision meets the above-cited requirements. EPA is revising 40 CFR part 62, subpart V (§ 62.5110 and § 61.5112) to reflect this approval.

III. Final Action

EPA is approving the May 10, 2016 Maryland CAA section 111(d)/129 State Plan revision submittal as a revision to Maryland's CAA section 111(d)/129 State Plan for MWCs. EPA is publishing this rule without prior proposal because EPA views this as a noncontroversial amendment and anticipates no adverse comment. However, in the ''Proposed Rules'' section of this **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve the 111(d)/129 State Plan revision if adverse comments are filed. This rule will be effective on *January 5, 2018* without further notice unless EPA receives adverse comment by *December 6, 2017.* If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

[1] EPA previously approved Maryland's State Plan for large MWCs on April 8, 2008 (*see* 73 FR 18970). In addition, EPA previously approved, as a revision to the Maryland state implementation plan, the regulatory requirements for QA/QC controls for COMs in COMAR 26.11.31. 81 FR 78048 (November 7, 2016).

IV. Statutory and Executive Order Reviews

A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 (May 22, 2001)). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it 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). This rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a Federal requirement, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it approves a state rule implementing a Federal standard.

In reviewing Section 111(d)/129 plan submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a Section 111(d)/129 plan submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a Section 111(d)/129 plan submission, to use VCS in place of a Section 111(d)/129 plan submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

B. Submission to Congress and the Comptroller General

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

C. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by January 5, 2018. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of this **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking action. This action approving Maryland's revisions to their 111(d)/129 State Plan for MWCs may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 62

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

Dated: October 18, 2017.

Cosmo Servidio,

Regional Administrator, Region III.

For the reasons stated in the preamble, 40 CFR part 62 is amended as follows:

PART 62—APPROVAL AND PROMULGATION OF STATE PLANS FOR DESIGNATED FACILITIES AND POLLUTANTS

■ 1. The authority citation for part 62 continues to read as follows:

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

Subpart V—Maryland

■ 2. Section 62.5110 is amended by adding paragraph (c) to read as follows:

§ 62.5110 Identification of plan.

* * * * *

(c) On May 10, 2016, Maryland submitted a revised State Plan and related COMAR 26.11.08.08 amendments.

■ 3. Section 62.5112 is amended by adding paragraph (c) to read as follows:

§ 62.5112 Effective date.

* * * * *

(c) The plan revision is effective January 5, 2018.

[FR Doc. 2017–24116 Filed 11–3–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2017–0362; FRL–9969–99]

Formaldehyde, Polymer With 1,3-Benzenediol, 2-Methyloxirane and Oxirane, Ethers With Polyethylene Glycol Mono-Me Ether; Exemption From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes an exemption from the requirement of a tolerance for residues of formaldehyde, polymer with 1,3-benzenediol, 2-methyloxirane and oxirane, ethers with polyethylene glycol mono-Me ether (CAS Reg. No. 1998118–31–2) when

used as an inert ingredient in a pesticide chemical formulation. Eco Verde Technologies Inc. submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), requesting an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of formaldehyde, polymer with 1,3-benzenediol, 2-methyloxirane and oxirane, ethers with polyethylene glycol mono-Me ether on food or feed commodities.

DATES: This regulation is effective November 6, 2017. Objections and requests for hearings must be received on or before January 5, 2018, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2017–0362, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Michael Goodis, Director Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; main telephone number: (703) 305–7090; email address: *RDFRNotices@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

B. How can I get electronic access to other related information?

You may access a frequently updated electronic version of 40 CFR part 180 through the Government Printing Office's e-CFR site at *http://www.ecfr.gov/cgi-bin/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl.*

C. Can I file an objection or hearing request?

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2017–0362 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before January 5, 2018. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2017–0362, by one of the following methods.

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be CBI or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.* Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

II. Background and Statutory Findings

In the **Federal Register** of September 15, 2017 (82 FR 43352; FRL–9965–43), EPA issued a document pursuant to FFDCA section 408, 21 U.S.C. 346a, announcing the receipt of a pesticide petition (PP IN–11043) filed by Eco Verde Technologies Inc., 400 NW. 172nd Avenue, Pembroke Pines, FL. The petition requested that 40 CFR 180.960 be amended by establishing an exemption from the requirement of a tolerance for residues of formaldehyde, polymer with 1,3-benzenediol, 2-methyloxirane and oxirane, ethers with polyethylene glycol mono-Me ether (CAS Reg. No. 1998118–31–2). That document included a summary of the petition prepared by the petitioner and solicited comments on the petitioner's request. There were no comments received in response to the notice of filing.

Section 408(c)(2)(A)(i) of FFDCA allows EPA to establish an exemption from the requirement for a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the exemption is ''safe.'' Section 408(c)(2)(A)(ii) of FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and use in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing an exemption from the requirement of a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue . . .'' and specifies factors EPA is to consider in establishing an exemption.

III. Risk Assessment and Statutory Findings

EPA establishes exemptions from the requirement of a tolerance only in those cases where it can be shown that the risks from aggregate exposure to pesticide chemical residues under reasonably foreseeable circumstances will pose no appreciable risks to human health. In order to determine the risks from aggregate exposure to pesticide

inert ingredients, the Agency considers the toxicity of the inert in conjunction with possible exposure to residues of the inert ingredient through food, drinking water, and through other exposures that occur as a result of pesticide use in residential settings. If EPA is able to determine that a finite tolerance is not necessary to ensure that there is a reasonable certainty that no harm will result from aggregate exposure to the inert ingredient, an exemption from the requirement of a tolerance may be established.

Consistent with FFDCA section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action and considered its validity, completeness and reliability and the relationship of this information to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. In the case of certain chemical substances that are defined as polymers, the Agency has established a set of criteria to identify categories of polymers expected to present minimal or no risk. The definition of a polymer is given in 40 CFR 723.250(b) and the exclusion criteria for identifying these low-risk polymers are described in 40 CFR 723.250(d). Formaldehyde, polymer with 1,3-benzenediol, 2-methyloxirane and oxirane, ethers with polyethylene glycol mono-Me ether conforms to the definition of a polymer given in 40 CFR 723.250(b) and meets the following criteria that are used to identify low-risk polymers.

1. The polymer is a cationic or potentially cationic polymer with low cationic density (the percent of cationic or potentially cationic species with respect to the overall weight of polymer).

2. The polymer does contain as an integral part of its composition the atomic elements carbon, hydrogen, and oxygen.

3. The polymer does not contain as an integral part of its composition, except as impurities, any element other than those listed in 40 CFR 723.250(d)(2)(ii).

4. The polymer is neither designed nor can it be reasonably anticipated to substantially degrade, decompose, or depolymerize.

5. The polymer is manufactured or imported from monomers and/or reactants that are already included on the TSCA Chemical Substance Inventory or manufactured under an applicable TSCA section 5 exemption.

6. The polymer is not a water absorbing polymer with a number average molecular weight (MW) greater than or equal to 10,000 daltons.

Additionally, the polymer also meets as required the following exemption criteria specified in 40 CFR 723.250(e).

7. The polymer's minimum number average MW of 1,000,000 is greater than 10,000 daltons. The polymer contains less than 2% oligomeric material below MW 500 and less than 5% oligomeric material below MW 1,000, and the polymer does not contain any reactive functional groups.

Thus, formaldehyde, polymer with 1,3-benzenediol, 2-methyloxirane and oxirane, ethers with polyethylene glycol mono-Me ether meets the criteria for a polymer to be considered low risk under 40 CFR 723.250. Based on its conformance to the criteria in this unit, no mammalian toxicity is anticipated from dietary, inhalation, or dermal exposure to formaldehyde, polymer with 1,3-benzenediol, 2-methyloxirane and oxirane, ethers with polyethylene glycol mono-Me ether.

IV. Aggregate Exposures

For the purposes of assessing potential exposure under this exemption, EPA considered that formaldehyde, polymer with 1,3-benzenediol, 2-methyloxirane and oxirane, ethers with polyethylene glycol mono-Me ether could be present in all raw and processed agricultural commodities and drinking water, and that non-occupational non-dietary exposure was possible. The minimum number average MW of formaldehyde, polymer with 1,3-benzenediol, 2-methyloxirane and oxirane, ethers with polyethylene glycol mono-Me ether is 1,000,000 daltons. Generally, a polymer of this size would be poorly absorbed through the intact gastrointestinal tract or through intact human skin. Since formaldehyde, polymer with 1,3-benzenediol, 2-methyloxirane and oxirane, ethers with polyethylene glycol mono-Me ether conforms to the criteria that identify a low-risk polymer, there are no concerns for risks associated with any potential exposure scenarios that are reasonably foreseeable. The Agency has determined that a tolerance is not necessary to protect the public health.

V. Cumulative Effects From Substances With a Common Mechanism of Toxicity

Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

EPA has not found formaldehyde, polymer with 1,3-benzenediol, 2-methyloxirane and oxirane, ethers with polyethylene glycol mono-Me ether to share a common mechanism of toxicity with any other substances, and formaldehyde, polymer with 1,3-benzenediol, 2-methyloxirane and oxirane, ethers with polyethylene glycol mono-Me ether does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has assumed that formaldehyde, polymer with 1,3-benzenediol, 2-methyloxirane and oxirane, ethers with polyethylene glycol mono-Me ether does not have a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA's Web site at *http://www.epa.gov/pesticides/cumulative.*

VI. Additional Safety Factor for the Protection of Infants and Children

Section 408(b)(2)(C) of FFDCA provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the data base unless EPA concludes that a different margin of safety will be safe for infants and children. Due to the expected low toxicity of formaldehyde, polymer with 1,3-benzenediol, 2-methyloxirane and oxirane, ethers with polyethylene glycol mono-Me ether, EPA has not used a safety factor analysis to assess the risk. For the same reasons the additional tenfold safety factor is unnecessary.

VII. Determination of Safety

Based on the conformance to the criteria used to identify a low-risk polymer, EPA concludes that there is a reasonable certainty of no harm to the U.S. population, including infants and children, from aggregate exposure to residues of formaldehyde, polymer with 1,3-benzenediol, 2-methyloxirane and oxirane, ethers with polyethylene glycol mono-Me ether.

VIII. Other Considerations

A. Analytical Enforcement Methodology

An analytical method is not required for enforcement purposes since the Agency is establishing an exemption from the requirement of a tolerance without any numerical limitation.

B. International Residue Limits

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with

international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. EPA considers the international maximum residue limits (MRLs) established by the Codex Alimentarius Commission (Codex), as required by FFDCA section 408(b)(4). The Codex Alimentarius is a joint United Nations Food and Agriculture Organization/World Health Organization food standards program, and it is recognized as an international food safety standards-setting organization in trade agreements to which the United States is a party. EPA may establish a tolerance that is different from a Codex MRL; however, FFDCA section 408(b)(4) requires that EPA explain the reasons for departing from the Codex level.

The Codex has not established a MRL for formaldehyde, polymer with 1,3-benzenediol, 2-methyloxirane and oxirane, ethers with polyethylene glycol mono-Me ether.

IX. Conclusion

Accordingly, EPA finds that exempting residues of formaldehyde, polymer with 1,3-benzenediol, 2-methyloxirane and oxirane, ethers with polyethylene glycol mono-Me ether from the requirement of a tolerance will be safe.

X. Statutory and Executive Order Reviews

This action establishes a tolerance under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993). Because this action has been exempted from review under Executive Order 12866, this action is not subject to Executive Order 13211, entitled ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997). This action does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), nor does it require any special considerations under Executive Order 12898, entitled ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations'' (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), do not apply.

This action directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000) do not apply to this action. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 1501 *et seq.*).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note).

XI. Congressional Review Act

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

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: October 20, 2017.

Michael Goodis,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. In § 180.960, add alphabetically an entry to the table to read as follows:

§ 180.960 Polymers; exemptions from the requirement of a tolerance.

* * * * *

Polymer	CAS No.
* * * * * * *	
Formaldehyde, polymer with 1,3-benzenediol, 2-methyloxirane and oxirane, ethers with polyethylene glycol mono-Me ether, minimum number average molecular weight (in amu) 1,000,000	1998118–31–2
* * * * * * *	

[FR Doc. 2017–24110 Filed 11–3–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2017–0363; FRL–9970–00]

Formaldehyde, Polymer With 1,3-Benzenediol, Ethers With Polyethylene Glycol Mono-Me Ether; Exemption From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes an exemption from the requirement of a tolerance for residues of formaldehyde, polymer with 1,3-benzenediol, ethers with polyethylene glycol mono-Me ether (CAS Reg. No. 1998118–32–3) when used as an inert ingredient in a pesticide chemical formulation. Eco Verde Technologies, Inc. submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), requesting an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of formaldehyde, polymer with 1,3-benzenediol, ethers with polyethylene glycol mono-Me ether on food or feed commodities.

DATES: This regulation is effective November 6, 2017. Objections and requests for hearings must be received on or before January 5, 2018, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2017–0363, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Michael Goodis, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; main telephone number: (703) 305–7090; email address: *RDFRNotices@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

B. How can I get electronic access to other related information?

You may access a frequently updated electronic version of 40 CFR part 180 through the Government Printing Office's e-CFR site at *http://www.ecfr.gov/cgi-bin/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl*

C. Can I file an objection or hearing request?

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2017–0363 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before January 5, 2018. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2017–0363, by one of the following methods.

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- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.*

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

II. Background and Statutory Findings

In the **Federal Register** of September 15, 2017 (82 FR 43352; FRL–9965–43), EPA issued a document pursuant to FFDCA section 408, 21 U.S.C. 346a, announcing the receipt of a pesticide petition (PP) IN–11042 filed by Eco Verde Technologies, Inc., 400 NW. 172nd Avenue, Pembroke Pines, FL. The petition requested that 40 CFR 180.960 be amended by establishing an exemption from the requirement of a tolerance for residues of formaldehyde, polymer with 1,3-benzenediol, ethers with polyethylene glycol mono-Me ether (CAS Reg. No. 1998118–32–3). That document included a summary of the petition prepared by the petitioner and solicited comments on the petitioner's request. There were no comments received in response to the notice of filing.

Section 408(c)(2)(A)(i) of FFDCA allows EPA to establish an exemption from the requirement for a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the exemption is ''safe.'' Section 408(c)(2)(A)(ii) of FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and use in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure

of infants and children to the pesticide chemical residue in establishing an exemption from the requirement of a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue . . .'' and specifies factors EPA is to consider in establishing an exemption.

III. Risk Assessment and Statutory Findings

EPA establishes exemptions from the requirement of a tolerance only in those cases where it can be shown that the risks from aggregate exposure to pesticide chemical residues under reasonably foreseeable circumstances will pose no appreciable risks to human health. In order to determine the risks from aggregate exposure to pesticide inert ingredients, the Agency considers the toxicity of the inert in conjunction with possible exposure to residues of the inert ingredient through food, drinking water, and through other exposures that occur as a result of pesticide use in residential settings. If EPA is able to determine that a finite tolerance is not necessary to ensure that there is a reasonable certainty that no harm will result from aggregate exposure to the inert ingredient, an exemption from the requirement of a tolerance may be established.

Consistent with FFDCA section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action and considered its validity, completeness and reliability and the relationship of this information to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. In the case of certain chemical substances that are defined as polymers, the Agency has established a set of criteria to identify categories of polymers expected to present minimal or no risk. The definition of a polymer is given in 40 CFR 723.250(b) and the exclusion criteria for identifying these low-risk polymers are described in 40 CFR 723.250(d). Formaldehyde, polymer with 1,3-benzenediol, ethers with polyethylene glycol mono-Me ether conforms to the definition of a polymer given in 40 CFR 723.250(b) and meets the following criteria that are used to identify low-risk polymers.

1. The polymer is a cationic or potentially cationic polymer with low cationic density (the percent of cationic or potentially cationic species with respect to the overall weight of polymer).

2. The polymer does contain as an integral part of its composition the atomic elements carbon, hydrogen, and oxygen.

3. The polymer does not contain as an integral part of its composition, except as impurities, any element other than those listed in 40 CFR 723.250(d)(2)(ii).

4. The polymer is neither designed nor can it be reasonably anticipated to substantially degrade, decompose, or depolymerize.

5. The polymer is manufactured or imported from monomers and/or reactants that are already included on the TSCA Chemical Substance Inventory or manufactured under an applicable TSCA section 5 exemption.

6. The polymer is not a water absorbing polymer with a number average molecular weight (MW) greater than or equal to 10,000 daltons.

Additionally, the polymer also meets as required the following exemption criteria specified in 40 CFR 723.250(e).

7. The polymer's minimum number average MW of 1,000,000 daltons is greater than 1,000 daltons. The polymer contains less than 2% oligomeric material below MW 500 and less than 5% oligomeric material below MW 1,000, and the polymer does not contain any reactive functional groups.

Thus, formaldehyde, polymer with 1,3-benzenediol, ethers with polyethylene glycol mono-Me ether meets the criteria for a polymer to be considered low risk under 40 CFR 723.250. Based on its conformance to the criteria in this unit, no mammalian toxicity is anticipated from dietary, inhalation, or dermal exposure to formaldehyde, polymer with 1,3-benzenediol, ethers with polyethylene glycol mono-Me ether.

IV. Aggregate Exposures

For the purposes of assessing potential exposure under this exemption, EPA considered that formaldehyde, polymer with 1,3-benzenediol, ethers with polyethylene glycol mono-Me ether could be present in all raw and processed agricultural commodities and drinking water, and that non-occupational non-dietary exposure was possible. The minimum number average MW of formaldehyde, polymer with 1,3-benzenediol, ethers with polyethylene glycol mono-Me ether is 1,000,000 daltons. Generally, a polymer of this size would be poorly absorbed through the intact gastrointestinal tract or through intact human skin. Since formaldehyde, polymer with 1,3-benzenediol, ethers with polyethylene glycol mono-Me ether conforms to the criteria that identify a low-risk polymer, there are no concerns for risks associated with any potential exposure scenarios that are reasonably foreseeable. The Agency has determined that a tolerance is not necessary to protect the public health.

V. Cumulative Effects From Substances With a Common Mechanism of Toxicity

Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

EPA has not found formaldehyde, polymer with 1,3-benzenediol, ethers with polyethylene glycol mono-Me ether to share a common mechanism of toxicity with any other substances, and formaldehyde, polymer with 1,3-benzenediol, ethers with polyethylene glycol mono-Me ether does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has assumed that formaldehyde, polymer with 1,3-benzenediol, ethers with polyethylene glycol mono-Me ether does not have a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA's Web site at *http://www.epa.gov/pesticides/cumulative.*

VI. Additional Safety Factor for the Protection of Infants and Children

Section 408(b)(2)(C) of FFDCA provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the data base unless EPA concludes that a different margin of safety will be safe for infants and children. Due to the expected low toxicity of formaldehyde, polymer with 1,3-benzenediol, ethers with polyethylene glycol mono-Me ether, EPA has not used a safety factor analysis to assess the risk. For the same reasons the additional tenfold safety factor is unnecessary.

VII. Determination of Safety

Based on the conformance to the criteria used to identify a low-risk polymer, EPA concludes that there is a reasonable certainty of no harm to the U.S. population, including infants and children, from aggregate exposure to

residues of formaldehyde, polymer with 1,3-benzenediol, ethers with polyethylene glycol mono-Me ether.

VIII. Other Considerations

A. Analytical Enforcement Methodology

An analytical method is not required for enforcement purposes since the Agency is establishing an exemption from the requirement of a tolerance without any numerical limitation.

B. International Residue Limits

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. EPA considers the international maximum residue limits (MRLs) established by the Codex Alimentarius Commission (Codex), as required by FFDCA section 408(b)(4). The Codex Alimentarius is a joint United Nations Food and Agriculture Organization/World Health Organization food standards program, and it is recognized as an international food safety standards-setting organization in trade agreements to which the United States is a party. EPA may establish a tolerance that is different from a Codex MRL; however, FFDCA section 408(b)(4) requires that EPA explain the reasons for departing from the Codex level.

The Codex has not established a MRL for formaldehyde, polymer with 1,3-benzenediol, ethers with polyethylene glycol mono-Me ether.

IX. Conclusion

Accordingly, EPA finds that exempting residues of formaldehyde, polymer with 1,3-benzenediol, ethers with polyethylene glycol mono-Me ether from the requirement of a tolerance will be safe.

X. Statutory and Executive Order Reviews

This action establishes a tolerance under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993). Because this action has been exempted from review under Executive Order 12866, this action is not subject to Executive Order 13211, entitled ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997). This action does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), nor does it require any special considerations under Executive Order 12898, entitled ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations'' (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), do not apply.

This action directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000) do not apply to this action. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 1501 *et seq.*).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note).

XI. Congressional Review Act

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

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: October 20, 2017.

Michael Goodis,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. In § 180.960, alphabetically add the polymer to the table to read as follows:

§ 180.960 Polymers; exemptions from the requirement of a tolerance.

* * * * *

Polymer	CAS No.
* * * * * * *	
Formaldehyde, polymer with 1,3-benzenediol, ethers with polyethylene glycol mono-Me ether, minimum number average molecular weight (in amu) 1,000,000	1998118–32–3
* * * * * * *	

[FR Doc. 2017–24111 Filed 11–3–17; 8:45 am]
BILLING CODE 6560–50–P

DEPARTMENT OF LABOR

Office of the Secretary

48 CFR Parts 22 and 52

ZRIN 1290–ZA02

Guidance for Executive Order 13673, ''Fair Pay and Safe Workplaces''

AGENCY: Department of Labor.

ACTION: Final guidance; rescission.

SUMMARY: Under the Congressional Review Act, Congress has passed, and the President has signed, Public Law 115–11, a resolution of disapproval of the rule promulgated by the Department of Defense, General Services Administration, and National Aeronautics and Space Administration to implement Executive Order 13673, Fair Pay and Safe Workplaces, as amended (the ''Order''). Additionally, the President has issued an Executive Order revoking the Order, and directing all executive departments and agencies, as appropriate and to the extent consistent with law, to consider promptly rescinding any orders, rules, regulations, guidance, guidelines, or policies implementing or enforcing the Order. Accordingly, the Department of Labor is rescinding its guidance on the Order, published on August 25, 2016.

DATES: Effective November 6, 2017.

FOR FURTHER INFORMATION CONTACT: Stephanie Swirsky, Deputy Assistant Secretary for Policy, U.S. Department of Labor, Room S–2312, 200 Constitution Avenue NW., Washington, DC 20210; telephone: (202) 693–5959 (this is not a toll-free number). Copies of this notice may be obtained in alternative formats (large print, Braille, audio tape or disc), upon request, by calling (202) 693–5959 (this is not a toll-free number). TTY/TDD callers may dial toll-free [1–877–889–5627] to obtain information or request materials in alternative formats.

SUPPLEMENTARY INFORMATION: On July 31, 2014, President Barack Obama issued Executive Order 13673, Fair Pay and Safe Workplaces. 79 FR 45309. Executive Order 13673 was amended twice, first by section 3 of Executive Order 13683 on December 11, 2014, 79 FR 75041, and again by Executive Order 13738 on August 23, 2016, 81 FR 58807. The Order directed the Federal Acquisition Regulatory Council (''FAR Council'') to amend its regulations consistent with the Order's requirements, and directed the Secretary of Labor (''Secretary'') to develop guidance to assist agencies in implementing the Order. After notice and comment, the final rule and guidance were published on August 25, 2016. 81 FR 58562 (FAR Council's rule); 81 FR 58654 (Secretary's guidance). On October 24, 2016, the United States District Court for the Eastern District of Texas issued a preliminary injunction partially enjoining the FAR Council's rule and the Secretary's guidance. *See Associated Builders & Contractors of Se. Texas* v. *Rung,* No. 1:16–CV–425, 2016 WL 8188655 (E.D. Tex. Oct. 24, 2016). On October 25, 2016, the FAR Council issued a memorandum directing that all steps necessary be taken to ensure that the enjoined provisions of the rule would not be implemented while the injunction was in force. On December 16, 2016, the Department of Defense, General Services Administration, and National Aeronautics and Space Administration, on behalf of the FAR Council, amended the FAR Council's rule to conform to the district court's injunction. 81 FR 91636.

On March 27, 2017, President Donald Trump signed Public Law 115–11, a resolution of disapproval of the FAR Council's rule under the Congressional Review Act, 5 U.S.C. 801 *et seq.* The resolution had previously passed the House of Representatives on February 2, 2017 and the Senate on March 6, 2017. *See* 163 Cong. Rec. S1601 (daily ed. Mar. 6, 2017); 163 Cong. Rec. H907 (daily ed. Feb. 2, 2017). Under the Congressional Review Act, a rule shall not take effect or continue if a joint resolution of disapproval of the rule is enacted. 5 U.S.C. 801(b)(1). Additionally, on March 27, 2017, President Trump issued Executive Order 13782, revoking Executive Order 13673, section 3 of Executive Order 13683, and Executive Order 13738, and directing all executive departments and agencies, ''as appropriate and to the extent consistent with law, [to] consider promptly rescinding any orders, rules, regulations, guidance, guidelines, or policies implementing or enforcing the revoked Executive Orders and revoked provision[.]'' 82 FR 15607. Accordingly, the Secretary is hereby rescinding the guidance on Fair Pay and Safe Workplaces, published on August 25, 2016. In a separate entry published in today's **Federal Register**, the Department of Defense, General Services Administration, and National Aeronautics and Space Administration, on behalf of the FAR Council, are rescinding the FAR Council's rule.

Signed this 13th day of October, 2017.

R. Alexander Acosta,

Secretary, U.S. Department of Labor.

[FR Doc. 2017–23588 Filed 11–3–17; 8:45 am]
BILLING CODE 4510–HL–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

[Docket No. FWS–HQ–MB–2015–0073; FF09M21200–178–FXMB1231099BPP0]

RIN 1018–BB06

Migratory Bird Hunting; Approval of Corrosion-Inhibited Copper Shot as Nontoxic for Waterfowl Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: Having completed our review of the application materials for corrosion-inhibited copper shot, the U.S. Fish and Wildlife Service (hereinafter Service or we) approves the shot for hunting waterfowl and coots. We have concluded that this type of shot left in terrestrial or aquatic environments is unlikely to adversely affect fish, wildlife, or their habitats. Approving this shot formulation would increase the nontoxic shot options for hunters.

DATES: This rule is effective on November 6, 2017.

ADDRESSES: You can view the final environmental assessment by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Search for Docket No. FWS–HQ–MB–2015–0073.
- Request a copy by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**.

FOR FURTHER INFORMATION CONTACT: Ron Kokel, Division of Migratory Bird Management, at 703–358–1967; *ronald_kokel@fws.gov.*

SUPPLEMENTARY INFORMATION:

Background

The Migratory Bird Treaty Act of 1918 (Act) (16 U.S.C. 703–712 and 16 U.S.C. 742 a–j) implements migratory bird treaties between the United States and Great Britain for Canada (1916 and 1996, as amended), Mexico (1936 and 1972, as amended), Japan (1972 and 1974, as amended), and Russia (then the Soviet Union, 1978). These treaties protect most migratory bird species from take, except as permitted under the Act, which authorizes the Secretary of the

Interior to regulate take of migratory birds in the United States. Under this authority, we control the hunting of migratory game birds through regulations at title 50 of the Code of Federal Regulations (CFR) in part 20. We prohibit the use of shot types other than those listed at 50 CFR 20.21(j) for hunting waterfowl and coots and any species that make up aggregate bag limits.

Deposition of toxic shot and release of toxic shot components in waterfowl hunting locations are potentially harmful to many organisms. Research has shown that ingested spent lead shot causes significant mortality in migratory birds. Since the mid-1970s, we have sought to identify types of shot for waterfowl hunting that are not toxic to migratory birds or other wildlife when ingested. Following a process set forth at 50 CFR 20.134, we review applications for approval of nontoxic shot types and coatings and add those that we approve to the migratory bird hunting regulations at 50 CFR 20.21(j).

We addressed lead poisoning in waterfowl in an environmental impact statement (EIS) in 1976, and again in a 1986 supplemental EIS. The 1986 document provided the scientific justification for a ban on the use of lead shot and the subsequent approval of steel shot for hunting waterfowl and coots that began that year, with a complete ban of lead for waterfowl and coot hunting in 1991. We have continued to consider other potential nontoxic shot candidates for approval. We are obligated to review applications for approval of alternative shot types as nontoxic for hunting waterfowl and coots.

Many hunters believe that some nontoxic shot types compare poorly to lead and may damage some shotgun barrels. A small and decreasing percentage of hunters have not complied with nontoxic shot regulations. Allowing use of additional nontoxic shot types may encourage greater hunter compliance and participation with nontoxic shot requirements and discourage the use of lead shot. The use of nontoxic shot for waterfowl hunting increased after the ban on lead shot (Anderson *et al.* 2000), but that compliance would continue to increase with the availability and approval of other nontoxic shot types. Increased use of nontoxic shot will enhance protection of migratory waterfowl and their habitats. More important is that the Service is obligated to consider all complete nontoxic shot applications submitted to us for approval.

Application

Environ-Metal, Inc., of Sweet Home, Oregon, seeks approval of corrosion-inhibited copper shot as nontoxic. We evaluated the impact of approval of this shot type in an environmental assessment (see **ADDRESSES**, above, for information on viewing a copy of the environmental assessment). The data from Environ-Metal, Inc., indicate that the shot's coating will essentially eliminate copper exposure in the environment and to waterfowl if the shot is ingested. We conclude that this type of shot if left in the aquatic or terrestrial environments will not pose a danger to migratory birds, other wildlife, or their habitats.

We have reviewed the shot under the criteria in Tier 1 of the nontoxic shot approval procedures at 50 CFR 20.134 for permanent approval of shot and coatings as nontoxic for hunting waterfowl and coots. We amend 50 CFR 20.21(j) to add the shot to the list of those approved for waterfowl and coot hunting. Details on the evaluations of the shot can be found in the environmental assessment.

Corrosion-Inhibited Copper Shot

Corrosion-inhibited copper shot (CIC shot) consists of commercially pure copper that has been surface-treated with benzotriazole (BTA) to obtain insoluble, hydrophobic films of BTA-copper complexes (CDA 2009). These films are very stable; are highly protective against copper corrosion in both salt water and fresh water; and are used extensively to protect copper, even in potable water systems. Other high-volume applications include deicers for aircraft and dishwasher detergent additives, effluents of which may be directly introduced into municipal sewer systems, indicative of the exceptionally low environmental impact of BTA. ''The corrosion-inhibiting effectiveness of BTA-copper complex coating, based on actual testing conducted by the applicants and by others, is substantial.''

Shot Coating and Test Device

CIC shot will have an additional coating that will fluoresce under ultraviolet light. The coating is applied by a proprietary process and coats the shot so that the layers of coating are visible through the translucent shotshell. The coating is environmentally safe and is very long-lasting in the shotshells. The sole purpose of fluorescent-coating CIC shot is to provide a portable, non-invasive and affordable field-detection method for use by law enforcement officers to identify this non-magnetic shot type as approved for waterfowl and coot hunting.

ECO Pigments™, manufactured exclusively by DayGlo, Inc. (Cleveland, OH), are thermoplastic fluorescent powders free of formaldehyde, heavy metals, azo compounds, perfluorooctanoic acid, aromatic amines, regulated phthalates, bisphenol A (BPA), polyaromatic hydrocarbons, substance-of-very-high-concern (SVHC) chemicals, and California Proposition 65 chemicals. The pigments were originally developed for use as brightly colored ''markers'' to be mixed with aerially applied, fire-retardant chemicals used in forest fire suppression, because they are more ''environmentally friendly'' than even the relatively inert iron-oxide powders formerly applied. They are globally approved for a wide variety of uses, including textile dyes, paints, and toys. Environ-Metal, Inc., anticipates applying coatings approximately 0.001-inch thick, a value that is calculated to add about 0.13 percent by weight to the mass of a #4-size copper shot.

Environ-Metal, Inc., will apply the pigment to metallic shot using a proprietary process to create a thin, adherent coating of a tough, resilient, fluorescent substance. The coating is visually detectable through the wall of a shotshell when ultraviolet light is applied to the exterior of the shell. To further aid field detection, after application of the nontoxic ultraviolet (UV) pigment to CIC shot, the shot is loaded into an uncolored (''clear'') hull, with a unique inner shot wad printed with the manufacturer and shot material type.

Law enforcement officers who have reason to suspect that a non-magnetic shotshell may contain unapproved shot (*e.g.,* toxic lead) need only shine the UV light on the side of the translucent shell, which will be marked by Environ-Metal, Inc., as containing copper, to determine the presence or absence of a visible glow emitted by the shot coating.

Although the shot coating is inherently water-proof, it is further protected against environmental degradation by being sealed within two layers of polyethylene plastic—the wad and the hull or shell. Environ-Metal, Inc., has stated that ''potential fading of the thermoplastic UV dye could not become significant until after both of the enveloping polyethylene cylinders had become embrittled/cracked by excessive exposure to direct sunlight, a condition which would essentially render the shotshell useless.''

Positive Effects for Migratory Waterfowl Populations

Allowing use of additional nontoxic shot types may encourage greater hunter compliance and participation with nontoxic shot requirements and discourage the use of lead shot. Furnishing additional approved nontoxic shot types and nontoxic coatings likely would further reduce the use of lead shot. Thus, approving additional nontoxic shot types and coatings would likely result in a minor positive long-term impact on waterfowl and wetland habitats.

Unlikely Effects on Endangered and Threatened Species

The impact on endangered and threatened species of approving corrosion-inhibited copper shot would be very small, but positive. Corrosion-inhibited copper shot is highly unlikely to adversely affect animals that consume the shot or habitats in which it might be used. We see no potential significant negative effects on endangered or threatened species due to approval of the shot type.

Further, we annually obtain a biological opinion pursuant to section 7 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), prior to establishing the annual migratory bird hunting regulations. The migratory bird hunting regulations promulgated as a result of this annual consultation remove and alleviate chances of conflict between migratory bird hunting and endangered and threatened species.

Beneficial Effects on Ecosystems

Previously approved shot types have been shown in test results to be nontoxic to the migratory bird resource, and that they cause no adverse impact on ecosystems. There is concern, however, about noncompliance with the prohibition on lead shot and potential ecosystem effects. The use of lead shot has a negative impact on wetland ecosystems due to the erosion of shot, causing sediment/soil and water contamination and the direct ingestion of shot by aquatic and predatory animals. Though noncompliance is of concern, approval of the shot type would have little impact on the resource, except the small positive impact of reducing the rate of noncompliance.

Cumulative Impacts

We foresee no negative cumulative impacts if we approve this shot type for waterfowl hunting. Its approval could help to further reduce the negative impacts of the use of lead shot for hunting waterfowl and coots. We conclude the impacts of the approval for waterfowl hunting in the United States should be positive.

Review of Public Comments

On August 15, 2017, we published in the **Federal Register** (82 FR 38664) a proposed rulemaking to approve this group of alloys for hunting waterfowl and coots and to make available our draft environmental assessment. We accepted public comments on our proposed rule and draft environmental assessment for 30 days, ending September 14, 2017. We received eight comments on the proposed rule. Several commenters simply expressed support for the inclusion of CIC shot in the list of approved nontoxic shot types and for providing hunters with another nontoxic shot option. More specific comments and responses are identified below:

Comment: A commenter believed CIC shot would be better environmentally than lead shot but objected to hunting and the use of tax dollars to support hunting.

Service Response: As we stated above, the Migratory Bird Treaty Act of 1918 (Act) implements migratory bird treaties between the United States and Great Britain for Canada, Mexico, Japan, and Russia. These treaties protect most migratory bird species from take, except as permitted under the Act, which authorizes the Secretary of the Interior to regulate take of migratory birds in the United States. Under this authority, we regulate the hunting of migratory game birds through regulations at 50 CFR part 20. Furthermore, our long-term objectives continue to include providing opportunities to harvest portions of certain migratory game bird populations and to limit harvests to levels compatible with each population's ability to maintain healthy, viable numbers. We annually take into account the zones of temperature and the distribution, abundance, economic value, breeding habits, and times and lines of flight of migratory birds, before establishing hunting seasons that are compatible with the current status of migratory bird populations and long-term population goals.

Comment: A commenter requested further information on whether hunters would use CIC shot based on market price and ballistic properties of the shot.

Service Response: Our responsibility is to determine if the shot in question is safe for the environment. We conclude that it is safe. We have no control over the marketplace. The public will ultimately decide whether they support both the price and ballistic properties of CIC shot.

Comment: A commenter had questions regarding the reliability of the proposed method for differentiating between CIC shot and illegal lead shot in the field.

Service Response: As discussed above in Shot Coating and Test Device, the UV-fluorescent shot coating on CIC shot is encapsulated within two separate cylinders of polyethylene: the inner ''wad'' containing the shot and the outer ''hull.'' The proposed detection method is based on several separate and distinct layers of protection. For example, the unique shot coloration would be visibly evident through the translucent wad and hull assembly. Second, the inner wad cylinder would clearly be printed with the manufacturer and shot type. And, finally, and only in the event that the law enforcement officer still had reasons to be suspicious of counterfeiting, the officer could shine a simple long-wave UV light on the outside of the shotshell assembly to observe the very bright UV ''glow'' unique to CIC shot.

Therefore, as stated in the proposed rule, we reviewed the subject shot under the criteria at 50 CFR 20.134, and we add this product to the list of those approved for hunting waterfowl and coots at 50 CFR 20.21(j).

Effective Date of This Rule

This rule is effective upon publication in the **Federal Register**. We have determined that any further delay in allowing this additional nontoxic shot would not be in the public interest, in that a delay would preclude hunters an additional nontoxic shot option. Allowing use of additional nontoxic shot types may encourage greater hunter compliance with nontoxic shot requirements and discourage the use of lead shot, which is harmful to the environment. Increased use of nontoxic shot will enhance protection of migratory waterfowl and their habitats. Furthermore, CIC shot is very similar to other nontoxic shot that is already available and in use. We provided a 30-day public comment period for the August 15, 2017, proposed rule. This rule relieves restrictions by newly approving CIC shot for hunting waterfowl and coots. We therefore find that ''good cause'' exists, within the terms of 5 U.S.C. 553(d)(3) of the Administrative Procedure Act, to make these regulations effective immediately upon publication.

List of References Cited

A list of the references cited in this rule may be found at *http://www.regulations.gov* in Docket No. FWS–HQ–MB–2015–0073.

Required Determinations

Executive Order 13771—Reducing Regulation and Controlling Regulatory Costs

This rule is considered to be an Executive Order (E.O.) 13771 deregulatory action (82 FR 9339, February 3, 2017) because it would approve an additional type of nontoxic shot in our regulations at 50 CFR part 20.

Regulatory Planning and Review (Executive Orders 12866 and 13563)

Executive Order 12866 provides that OIRA will review all significant rules. OIRA has determined that this rule is not significant.

Executive Order 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The executive order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements.

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

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.,* as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 (Pub. L. 104–121)), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (*i.e.,* small businesses, small organizations, and small government jurisdictions).

SBREFA amended the Regulatory Flexibility Act to require Federal agencies to provide a statement of the factual basis for certifying that a rule will not have a significant economic impact on a substantial number of small entities. We have examined this rule's potential effects on small entities as required by the Regulatory Flexibility Act, and have determined that this action would not have a significant economic impact on a substantial number of small entities. The rule would allow small entities to improve their economic viability. However, the rule would not have a significant economic impact because it would affect only two companies. We certify that because this rule would not have a significant economic effect on a substantial number of small entities, a regulatory flexibility analysis is not required.

This rule is not a major rule under the SBREFA (5 U.S.C. 804(2)).

a. This rule would not have an annual effect on the economy of $100 million or more.

b. This rule would not cause a major increase in costs or prices for consumers; individual industries; Federal, State, Tribal, or local government agencies; or geographic regions.

c. This rule would not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

Unfunded Mandates Reform Act

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

a. This rule would not ''significantly or uniquely'' affect small governments. A small government agency plan is not required. Actions under the rule would not affect small government activities in any significant way.

b. This rule would not produce a Federal mandate of $100 million or greater in any year. It would not be a ''significant regulatory action'' under the Unfunded Mandates Reform Act.

Takings

In accordance with E.O. 12630, this rule would not have significant takings implications. A takings implication assessment is not required. This rule does not contain a provision for taking of private property.

Federalism

This rule does not have sufficient Federalism effects to warrant preparation of a federalism summary impact assessment under E.O. 13132. It would not interfere with the ability of States to manage themselves or their funds.

Civil Justice Reform

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

Paperwork Reduction Act of 1995 (PRA)

This rule does not contain any new collections of information that require approval by the Office of Management and Budget (OMB) under the PRA (44 U.S.C. 3501 *et seq.*). OMB has approved our collection of information associated with applications for approval of nontoxic shot (50 CFR 20.134) and assigned OMB Control Number 1018–0067, which expires March 31, 2020. We may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number.

National Environmental Policy Act

Our environmental assessment is part of the administrative record for this rule. In accordance with the National Environmental Policy Act (NEPA, 42 U.S.C. 4321 *et seq.*) and part 516 of the U.S. Department of the Interior Manual (516 DM), approval of corrosion-inhibited copper shot and fluoropolymer coatings would not have a significant effect on the quality of the human environment, nor would it involve unresolved conflicts concerning alternative uses of available resources. Therefore, preparation of an environmental impact statement is not required.

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951), E.O. 13175, and 512 DM 2, we have evaluated potential effects on federally recognized Indian Tribes and have determined that there are no potential effects. This rule would not interfere with the ability of Tribes to manage themselves or their funds or to regulate migratory bird activities on Tribal lands.

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

E.O. 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. This rule would not be a significant regulatory action under E.O. 12866, nor would it significantly affect energy supplies, distribution, or use. This action would not be a significant energy

action, and no Statement of Energy Effects is required.

Compliance With Endangered Species Act Requirements

Section 7 of the Endangered Species Act (ESA) of 1973, as amended (16 U.S.C. 1531 *et seq.*), requires that ''The Secretary [of the Interior] shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act'' (16 U.S.C. 1536(a)(1)). It further states that the Secretary must ''insure that any action authorized, funded, or carried out * * * is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of [critical] habitat'' (16 U.S.C. 1536(a)(2)). We have concluded that this rule would not affect listed species.

List of Subjects in 50 CFR Part 20

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

Regulation Promulgation

For the reasons discussed in the preamble, we amend part 20, subchapter B, chapter I of title 50 of the Code of Federal Regulations as follows:

PART 20—MIGRATORY BIRD HUNTING

■ 1. The authority citation for part 20 is revised to read as follows:

Authority: 16 U.S.C. 703–712, and 16 U.S.C. 742a–j.

■ 2. Amend § 20.21(j)(1) by:
■ a. Adding a table entry immediately following the entry for ''Copper-clad iron''; and
■ b. Revising the first table note.

The addition and revision read as follows:

§ 20.21 What hunting methods are illegal?

* * * * *

(j)(1) * * *

Approved shot type *	Percent composition by weight	Field testing device **
* *	* * * * *	*
Corrosion-inhibited copper	≥99.9 copper with benzotriazole and thermoplastic fluorescent powder coatings	Ultraviolet Light.
* *	* * * * *	*

* Coatings of copper, nickel, tin, zinc, zinc chloride, zinc chrome, fluoropolymers, and fluorescent thermoplastic on approved nontoxic shot types also are approved.

** The information in the ''Field Testing Device'' column is strictly informational, not regulatory.

* * * * *

Dated: October 25, 2017.

Jason Larrabee,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2017–24117 Filed 11–3–17; 8:45 am]

BILLING CODE 4333–15–P

Proposed Rules

Federal Register
Vol. 82, No. 213
Monday, November 6, 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.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 30

[PRM–30–66; NRC–2017–0159]

Naturally-Occurring and Accelerator-Produced Radioactive Materials

AGENCY: Nuclear Regulatory Commission.

ACTION: Petition for rulemaking; extension of comment period.

SUMMARY: On August 23, 2017, the U.S. Nuclear Regulatory Commission (NRC) requested public comment on a Petition for Rulemaking (PRM) received from Matthew McKinley on behalf of the Organization of Agreement States (OAS, or the Petitioner). The public comment period is scheduled to close on November 6, 2017. The NRC has decided to extend the public comment period for 30 calendar days to allow more time for members of the public to develop and submit their comments.

DATES: The due date for comments requested in the **Federal Register** notice published on August 23, 2017, (82 FR 39971) is extended. Comments should be filed no later than December 6, 2017. Comments received after this date will be considered, if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

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

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2017–0159. 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.
- *Email comments to: Rulemaking.Comments@nrc.gov.* If you do not receive an automatic email reply confirming receipt, then contact us at 301–415–1677.
- *Fax comments to:* Secretary, U.S. Nuclear Regulatory Commission at 301–415–1101.
- *Mail comments to:* Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Rulemakings and Adjudications Staff.
- *Hand deliver comments to:* 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 a.m. and 4:15 p.m. (Eastern Time) Federal workdays; telephone: 301–415–1677. For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: 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:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2017–0159 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2017–0159.
- *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.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC–2017–0159 in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *http://www.regulations.gov* as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Discussion

The NRC requested public comment on the OAS PRM on August 23, 2017. The purpose of the request was to obtain public input and responses to a set of four questions about the OAS petition and how the NRC should proceed. The public comment period was originally scheduled to close on November 6, 2017. The NRC has decided to extend the public comment period on this document until December 6, 2017, to allow more time for members of the public to submit their comments.

Dated at Rockville, Maryland, this 1st day of November, 2017.

For the Nuclear Regulatory Commission.

Annette L. Vietti-Cook,

Secretary of the Commission.

[FR Doc. 2017–24122 Filed 11–3–17; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2017–1021; Product Identifier 2017–NM–052–AD]

RIN 2120–AA64

Airworthiness Directives; Fokker Services B.V. Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain Fokker Services B.V. Model F28 Mark 0100 airplanes. This proposed AD was prompted by a report that a jammed control cable prevented the full extension of the nose landing gear (LG). This proposed AD would require a general visual inspection of the LG handle teleflex cable conduit connector for the presence of a grease nipple, a maintenance records check of affected airplanes, and if necessary, a detailed inspection for corrosion and damage of the LG handle teleflex cable, replacement if found, and lubrication. This proposed AD would also require revising the maintenance or inspection program, as applicable. We are proposing this AD to address the unsafe condition on these products.

DATES: We must receive comments on this proposed AD by December 21, 2017.

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

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

For service information identified in this NPRM, contact Fokker Services B.V., Technical Services Dept., P.O. Box 1357, 2130 EL Hoofddorp, the Netherlands; telephone +31 (0)88–6280–350; fax +31 (0)88–6280–111; email *technicalservices@fokker.com;* Internet *http://www.myfokkerfleet.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.

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–2017–1021; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Tom Rodriguez, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1137; fax 425–227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2017–1021; Product Identifier 2017–NM–052–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

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

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2017–0068, dated April 24, 2017 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Fokker Services B.V. Model F28 Mark 0100 airplanes. The MCAI states:

A report was received of an alledgedly post-SBF100–32–107 (introducing a teleflex cable conduit with a grease nipple and a stainless steel teleflex cable) Fokker 100 aeroplane landing with a nose landing gear (LG) that was not completely in the extended position, in spite of the application by the crew of the relevant normal and abnormal Airplane Flight Manual LG extension procedures. The investigation revealed that the failure of the nose LG to completely extend had been caused by a jammed teleflex cable of the LG control system, which resulted in a hydraulic lock in the nose LG extension/retraction actuator. The investigation also revealed that the teleflex cable conduit connector on the subject aeroplane did not have the grease nipple installed, so that the aeroplane was actually not in the full post-SBF100–32–107 configuration.

Based on an incorrect assumption with regard to full incorporation of SBF100–32–107 (*i.e.,* the presence of the grease nipple on the conduit connector), Maintenance Review Board (MRB) task 323100–00–04 (removal, inspection, greasing and reinstallation of teleflex cable), which is only applicable for aeroplanes without the grease nipple, had been removed from the scheduled maintenance programme for the aeroplane. As a result, no detailed inspection or greasing of the teleflex cable had been accomplished on the aeroplane during the last 24,000 flight cycles (FC) or 17 years, leading to a lack of lubricant and excessive wear of the cable. Analysis indicates the possibility of more aeroplanes that do not have the grease nipple on the conduit connector, and where MRB task 323100–00–04 has been inadvertently removed from the scheduled maintenance program.

This condition, if not detected and corrected, could lead to further landings with the nose LG not in the fully extended position, possibly resulting in damage to the aeroplane and injury to occupants.

To address this potential unsafe condition, Fokker Services published SBF100–32–167 (hereafter referred to as 'the SB' in this [EASA] AD) to provide inspection instructions.

For the reasons described above, this [EASA] AD requires a one-time [general visual] inspection of the LG handle teleflex cable conduit connector for the presence of the grease nipple and, depending on findings, [a maintenance records check and] accomplishment of applicable corrective action(s). This [EASA] AD also requires the reporting of findings to Fokker Services, and to ensure that the maintenance [or inspection] programme [as applicable] contains those instructions applicable to the aeroplane configuration.

Required actions also include a detailed inspection for corrosion and damage of the LG handle teleflex cable, replacement of the LG handle teleflex cable if any corrosion or damage is found, and lubrication of the LG handle teleflex cable. 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–2017–1021.

Related Service Information Under 1 CFR Part 51

Fokker Services B.V. has issued Fokker Service Bulletin SBF100–32–167, dated December 14, 2016. This service information describes procedures for a one-time inspection of the nose LG control cable; a maintenance records check; detailed inspection, replacement, and lubrication of the LG handle teleflex cable; and revision of the maintenance program. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination and Requirements of This Proposed AD

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

Costs of Compliance

We estimate that this proposed AD affects 8 airplanes of U.S. registry.

We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspection and maintenance or inspection program revision.	4 work-hours × $85 per hour = $340	$0	$340	$2,720
Reporting	1 work-hour × $85 per hour = $85	0	85	680

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

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Maintenance records check, inspection, replacement, and lubrication.	1 work-hour × $85 per hour = $85	$0	$85

Paperwork Reduction Act

A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB control number. The control number for the collection of information required by this proposed AD is 2120–0056. The paperwork cost associated with this proposed AD has been detailed in the Costs of Compliance section of this document and includes time for reviewing instructions, as well as completing and reviewing the collection of information. Therefore, all reporting associated with this proposed AD is mandatory. Comments concerning the accuracy of this burden and suggestions for reducing the burden should be directed to the FAA at 800 Independence Ave. SW., Washington, DC 20591, ATTN: Information Collection Clearance Officer, AES–200.

Authority for This Rulemaking

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

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

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

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

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

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

3. Will not affect intrastate aviation in Alaska; and

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Fokker Services B.V.: Docket No. FAA–2017–1021; Product Identifier 2017–NM–052–AD.

(a) Comments Due Date

We must receive comments by December 21, 2017.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Fokker Services B.V. Model F28 Mark 0100 airplanes, certificated in any category, serial numbers 11244 through 11481 inclusive, if maintenance records show that the airplane is in a post-Fokker Service Bulletin SBF100–32–107 configuration.

(d) Subject

Air Transport Association (ATA) of America Code 32, Landing gear.

(e) Reason

This AD was prompted by a report that lack of maintenance on a control system cable caused a hydraulic lock and difficult operation of the nose landing gear (LG) handle, preventing full extension of the nose LG when landing. We are issuing this AD to detect and correct erratic or hard-to-move LG handles, which could lead to the nose LG not being in the fully extended position during landing and consequent damage to the airplane and injury to the flight crew and passengers.

(f) Compliance

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

(g) Inspection

Within 3 months after the effective date of this AD: Do a general visual inspection of the LG handle teleflex cable conduit connector for the presence of a grease nipple, in accordance with the Accomplishment Instructions of Fokker Service Bulletin SBF100–32–167, dated December 14, 2016.

(h) Maintenance Records Check

If, during the inspection required by paragraph (g) of this AD, a grease nipple is not found installed: Within 3 months after the effective date of this AD, check the maintenance records of the affected airplane for the previous 3 months for reports of an erratic or hard-to-move LG handle, and check the maintenance records to determine the date of the most recent installation, or inspection/lubrication, as applicable, of the LG handle teleflex cable.

(i) Inspection, Replacement, and Lubrication

Based on results of the maintenance records check required by paragraph (h) of this AD: Within the applicable compliance times specified in Table 1 to paragraph (i) of this AD, do a detailed inspection for corrosion and damage of the LG handle teleflex cable, replace the LG handle teleflex cable if any corrosion or damage is found, and lubricate the LG handle teleflex cable, in accordance with the Accomplishment Instructions of Fokker Service Bulletin SBF100–32–167, dated December 14, 2016.

Table 1 to paragraph (i) of this AD – *Compliance Times*

Results of Maintenance Records Check	Compliance Time
Report(s) of erratic and/or hard-to-move LG handle	Before further flight after accomplishing the check required by paragraph (h) of this AD
Last installation or inspection/lubrication of the LG handle teleflex cable is not known	
Last installation or inspection/lubrication of the LG handle teleflex cable is known and the airplane has 18,000 flight cycles or more, or 12 years or more, since the last installation or inspection/lubrication of the LG handle teleflex cable	
Last installation or inspection/lubrication of the LG handle teleflex cable is known and the airplane has more than 12,000 flight hours, but less than 18,000 flight cycles, since the last installation or inspection/lubrication of the LG handle teleflex cable	Within 6 months after accomplishing the check required by paragraph (h) of this AD
Last installation or inspection/lubrication of the LG handle teleflex cable is known and the airplane has 8 years or more but less than 12 years since the last installation or inspection/lubrication of the LG handle teleflex cable	

(j) Maintenance or Inspection Program Revision

Within 6 months after the effective date of this AD: Revise the maintenance or inspection program, as applicable, in accordance with the Accomplishment Instructions of Fokker Service Bulletin SBF100–32–167, dated December 14, 2016, to incorporate the applicable tasks and associated thresholds and intervals, based on the airplane configuration (pre- or post-SBF100–32–107) determined in the inspection required by paragraph (g) of this AD.

(k) Reporting

Within 3 months after the effective date of this AD, or within 30 days after doing the

inspection required by paragraph (g) or (h) of this AD, whichever occurs later, report the findings of the inspection specified in paragraph (g) of this AD, and the records check specified in paragraph (h) of this AD, to Fokker Services B.V., in accordance with the Accomplishment Instructions of Fokker Service Bulletin SBF100–32–167, dated December 14, 2016.

(l) 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 International Section, send it to the attention of the person identified in paragraph (m)(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 the European Aviation Safety Agency (EASA); or Fokker B.V. Service's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

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

(m) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA Airworthiness Directive 2017–0068, dated April 24, 2017, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–1021.

(2) For more information about this AD, contact Tom Rodriguez, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1137; fax 425–227–1149.

(3) For service information identified in this AD, contact Fokker Services B.V., Technical Services Dept., P.O. Box 1357, 2130 EL Hoofddorp, the Netherlands; telephone +31 (0)88–6280–350; fax +31 (0)88–6280–111; email *technicalservices@fokker.com;* Internet *http://www.myfokkerfleet.com.* 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.

Issued in Renton, Washington, on October 27, 2017.

Jeffrey E. Duven,

Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2017–23990 Filed 11–3–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2017–1038; Product Identifier 2017–CE–024–AD]

RIN 2120–AA64

Airworthiness Directives; Viking Air Limited Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for Viking Air Limited Models DHC–6–1, DHC–6–100, DHC–6–200, DHC–6–300, and DHC–6–400 airplanes. This proposed AD results from mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as aileron cable wear or fouling at the wing root rib, fuselage skin, and wing root rib fairlead, or fraying of the cable from the root rib fairlead. We are issuing this proposed AD to require actions to address the unsafe condition on these products.

DATES: We must receive comments on this proposed AD by December 21, 2017.

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

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

For service information identified in this proposed AD, contact Viking Air Limited Technical Support, 1959 De Havilland Way, Sidney, British Columbia, Canada, V8L 5V5; telephone: (North America) (866) 492–8527; fax: (250) 656–0673; email: *technical.support@vikingair.com;* Internet: *http://www.vikingair.com/support/service-bulletins.* You may review this referenced service information at the FAA, Policy and Innovation Division, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–1038; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Erin Hulverson, Aerospace Engineer, FAA, Boston ACO Branch, 1200 District Avenue, Burlington, MA 01803; telephone: (781) 238–7655; fax: (781) 238–7199; email: *erin.hulverson@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2017–1038; Product Identifier 2017–CE–024–AD'' at the beginning of your comments. We specifically invite

comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

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

Discussion

Transport Canada, which is the aviation authority for Canada, has issued AD Number CF–2017–20, dated June 7, 2017 (referred to after this as ''the MCAI''), to correct an unsafe condition for Viking Air Limited Models DHC–6–1, DHC–6–100, DHC–6–200, DHC–6–300, and DHC–6–400 airplanes. The MCAI states:

> There have been reports of accelerated aileron cable wear because of contact with the fuselage skin cut-out or the wing root rib. Wear that is not detected can lead to failure of the aileron cable and loss of control of the aeroplane.
>
> The root cause of this problem has not yet been identified. This [Transport Canada] AD requires inspection of the aeroplane and reporting of the inspection results to Viking Air Ltd. This [Transport Canada] AD is considered an interim action and further AD action may follow.
>
> Aileron cables are typically replaced at intervals of 60 months in accordance with the DHC–6 maintenance schedule.

You may examine the MCAI on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–1038.

Related Service Information Under 1 CFR Part 51

Viking Air Limited has issued DHC–6 Twin Otter Service Bulletin Number: V6/0022, Revision B, dated June 13, 2014. The service information describes procedures for initial and repetitive inspections of the aileron cable for aileron cable wear or fouling at the wing root rib, fuselage skin, and wing root rib fairlead, or fraying of the cable from the root rib fairlead, and replacement of the aileron cables as necessary. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section of this NPRM.

FAA's Determination and Requirements of the Proposed AD

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

Costs of Compliance

We estimate that this proposed AD will affect 141 products of U.S. registry. We also estimate that it would take about 20 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is $85 per work-hour.

Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $239,700, or $1,700 per product.

In addition, the following is an estimate of possible necessary follow-on replacement actions. We have no way of determining the number of products that may need these actions.

Action	Work-hours *	Labor cost (@$85/hour)	Parts cost	Cost per product
Replace 1 cable	6	$510	$244	$754
Replace 2 cables (on the same wing)	8	680	458	1,138
Replace 2 cables (one on each wing)	12	1,020	488	1,508
Replace all 4 cables (2 per wing)	16	1,360	916	2,336

* Work-hours includes access, testing, and close-up.

Paperwork Reduction Act

A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB control number. The control number for the collection of information required by this proposed AD is 2120–0056. The paperwork cost associated with this proposed AD has been detailed in the Costs of Compliance section of this document and includes time for reviewing instructions, as well as completing and reviewing the collection of information. Therefore, all reporting associated with this proposed AD is mandatory. Comments concerning the accuracy of this burden and suggestions for reducing the burden should be directed to the FAA at 800 Independence Ave. SW., Washington, DC 20591. ATTN: Information Collection Clearance Officer, AES–200.

Authority for This Rulemaking

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

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

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 small airplanes and domestic business jet transport airplanes to the Director of the Policy and Innovation Division.

Regulatory Findings

We determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a

substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new AD:

Viking Air Limited: Docket No. FAA–2017–1038; Product Identifier 2017–CE–024–AD.

(a) Comments Due Date

We must receive comments by December 21, 2017.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Viking Air Limited Models DHC–6–1, DHC–6–100, DHC–6–200, DHC–6–300, and DHC–6–400 airplanes, all serial numbers, certificated in any category.

(d) Subject

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

(e) Reason

This AD was prompted by mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as aileron cable wear or fouling at the wing root rib, fuselage skin, and wing root rib fairlead, or fraying of the cable from the root rib fairlead. We are issuing this AD to identify and correct wear on the aileron cable fuselage skin cut-out and on the wing root rib fairlead, and any fraying of the cable from the root rib fairlead, which could lead to failure of the aileron cable and loss of control.

(f) Actions and Compliance

Unless already done, do the following actions in paragraphs (f)(1) through (5) of this AD:

(1) Within the next 50 hours time-in-service (TIS) after the effective date of this AD or before the aileron cables have accumulated 300 hours TIS, whichever occurs later, inspect the aileron cables following the Accomplishment Instructions in Viking Air Limited Service Bulletin V6/0022, Revision B, dated June 13, 2014 (SB V6/0022, Revision B). Inspect repetitively thereafter at intervals not to exceed 500 hours TIS, but not to exceed five inspections (the initial and four repetitives).

(2) If any discrepancies are found during any of the inspections required in paragraph (f)(1) of this AD, before further flight, replace the aileron cable(s) following the Accomplishment Instructions in SB V6/0022, Revision B.

(3) Upon completion of the initial and four repetitive inspections detailed in paragraph (f)(1) of this AD, resume the inspections specified in the maintenance program.

(4) Within 30 days after completion of each inspection detailed in paragraphs (f)(1) of this AD, report the results of each inspection to Viking Air Limited in accordance with the reporting instructions in SB V6/0022, Revision B.

(5) Installation of new aileron cables or re-installation of existing cables that have been removed for any reason re-starts the inspections required in paragraph (f)(1) of this AD.

(g) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, New York ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Erin Hulverson, Aerospace Engineer, FAA, Boston ACO Branch, 1200 District Avenue, Burlington, MA 01803; telephone: (781) 238–7655; fax: (781) 238–7199; email: *erin.hulverson@faa.gov*. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

(2) *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, New York ACO Branch, FAA; or Transport Canada; or Viking Air Limited's Transport Canada Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

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

(h) Related Information

Refer to MCAI Transport Canada AD Number CF–2017–20, dated June 7, 2017, for related information. You may examine the MCAI on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–1038. For service information related to this AD, contact Viking Air Limited Technical Support, 1959 De Havilland Way, Sidney, British Columbia, Canada, V8L 5V5; telephone: (North America) (866) 492–8527; fax: (250) 656–0673; email: *technical.support@vikingair.com;* Internet: *http://www.vikingair.com/support/service-bulletins.* You may review this referenced service information at the FAA, Policy and Innovation Division, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

Issued in Kansas City, Missouri, on October 20, 2017.

Pat Mullen,

Acting Deputy Director, Policy and Innovation Division, Aircraft Certification Service.

[FR Doc. 2017–23808 Filed 11–3–17; 8:45 am]

BILLING CODE 4910–13–P

LIBRARY OF CONGRESS

U.S. Copyright Office

37 CFR Parts 201 and 202

[Docket No. 2017–16]

Group Registration of Newspapers

AGENCY: U.S. Copyright Office, Library of Congress.

ACTION: Notice of proposed rulemaking.

SUMMARY: The U.S. Copyright Office is proposing to amend its regulation governing the group registration option for newspapers. The proposed rule will make a number of changes to reflect

current Office practices, promote efficiency of the registration process, and encourage broader participation in the registration system by reducing the burden on applicants. Specifically, the proposed rule revises the definition of ''newspaper issues'' and clarifies that the group registration option is available to any qualifying ''newspaper issue.'' The proposed rule will require applicants to file an online application rather than a paper application, and upload a complete digital copy of each issue through the electronic registration system instead of submitting them in physical form. The Library of Congress intends to incorporate digital copies of newspapers received by the Office under this group registration option, and provide public access to them, subject to certain restrictions set forth in the proposed rule. Applicants may continue to submit their issues on microfilm (in addition to submitting digital files) on a voluntary basis if the microfilm is received by December 31, 2019. After that date, the microfilm option will be phased out. The proposed rule will clarify that each newspaper issue in the group must be a new collective work and a work made for hire, that the author and copyright claimant for each issue must be the same person or organization, and will clarify the scope of protection for newspaper issues, compared to individual components appearing within those issues. In addition, the proposed rule will require applicants to submit a full month of issues, and submit their claims within three months after the publication of the earliest issue in the group. The Office invites public comment on these proposed changes.

DATES: Comments must be made in writing and must be received in the U.S. Copyright Office no later than December 6, 2017.

ADDRESSES: For reasons of government efficiency, the Copyright Office is using the regulations.gov system for the submission and posting of public comments in this proceeding. All comments are therefore to be submitted electronically through regulations.gov. Specific instructions for submitting comments are available on the Copyright Office Web site at *https://www.copyright.gov/rulemaking/group-newspapers.* If electronic submission of comments is not feasible due to lack of access to a computer and/or the Internet, please contact the Office using the contact information below for special instructions.

FOR FURTHER INFORMATION CONTACT: Robert J. Kasunic, Associate Register of Copyrights and Director of Registration Policy and Practice, or Erik Bertin, Deputy Director of Registration Policy and Practice, by telephone at 202–707–8040, or by email at *rkas@loc.gov* and *ebertin@loc.gov;* or Anna Bonny Chauvet, Assistant General Counsel, by telephone at 202–707–8350, or by email at *achau@loc.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

When Congress enacted the Copyright Act of 1976 (the ''Act''), it authorized the Register of Copyrights (the ''Register'') to specify by regulation the administrative classes of works for the purpose of seeking a registration, and the nature of the deposits required for each such class. In addition, Congress granted the Register the discretion to allow groups of related works to be registered with one application and one filing fee, a procedure known as ''group registration.'' *See* 17 U.S.C. 408(c)(1). Pursuant to this authority, the Register has issued regulations permitting the U.S. Copyright Office (the ''Office'') to issue a group registration for limited categories of works, provided that certain conditions have been met. *See generally* 37 CFR 202.3(b)(5)–(10), 202.4(g).

As the legislative history explains, allowing ''a number of related works to be registered together as a group represent[ed] a needed and important liberalization of the law.'' H.R. Rep. No. 94–1476, at 154 (1976); S. Rep. No. 94–473, at 136 (1975). Congress recognized that requiring applicants to submit separate applications for certain types of works may be so burdensome and expensive that authors and copyright owners may forgo registration altogether, since copyright registration is not a prerequisite to copyright protection. *Id.* If copyright owners do not submit their works for registration, the public record will not contain any information concerning those works. This creates a void in the public record that diminishes the value of the Office's database, and deprives the public of copies of works that might otherwise be included in the collections of the Library of Congress (the ''Library''). When large numbers of works are grouped in one registration application, however, granular information about the individual works may not be adequately captured. Therefore, group registration options require careful balancing of the need for an accurate public record and the need for an efficient method of facilitating the registration of multiple works.

II. The Existing Group Registration Option for Newspapers

To register a group of newspapers under the current regulation, the applicant must complete and submit a paper application using Form G/DN.[1] 37 CFR 202.3(b)(7)(i)(B). The current regulation states that a newspaper is eligible for the group registration option if it is listed in ''Newspapers Received Currently in the Library of Congress,'' [2] a policy document listing newspapers that have been selected to be received and retained by the Library. 37 CFR 202.3(b)(7)(ii). The current regulation also includes a number of registration requirements. First, the group must include ''a full month of issues of the same newspaper title published with issue dates in one calendar month,'' and the applicant must specify the first and last day that the issues were published during that month. *Id.* § 202.3(b)(7)(i)(A), (C). Second, the applicant must submit a microfilm deposit, consisting of positive 35mm silver halide microfilm, containing the final edition of each issue published in the month specified in the application. *Id.* § 202.3(b)(7)(i)(D). The microfilm may include ''earlier editions published the same day in a given metropolitan area served by the newspaper, but may not include national or regional editions distributed beyond a given metropolitan area.'' [3] *Id.* Finally, to be registered as a group, the applicant must seek registration within three months after the date of publication for the most recent issue included in the group. *Id.* § 202.3(b)(7)(i)(F).

In addition to these regulatory requirements, the instructions for Form G/DN include three additional requirements: Each issue in the group must be an ''essentially all-new collective work'' that has not been previously published; each issue must be a work made for hire; and the author and the copyright claimant must be the same person or organization. *Form Group/Daily Newspapers and Newsletters.* Although not referenced in the Office's regulation, these instructions have appeared in Form G/DN since at least February 2000, and have appeared in *Copyright Office*

[1] Although the regulation refers to this as a ''GDN application,'' the application itself is labeled ''Form G/DN.'' Applicants must also submit Form G/DN when using the group registration option for daily newsletters. 37 CFR 202.3(b)(9)(viii).

[2] This list is also available at *https://www.loc.gov/rr/news/ncr_list.php.*

[3] The Office's rationale for not including national or regional editions is that the Library considers them to be different newspapers because they have different International Standard Serial Numbers (''ISSN'').

Circular 62A: Group Registration of Newspapers and Newsletters (hereinafter ''*Circular 62A*'') since at least December 1999.[4]

During the early 1990s, the Office became aware that applicants wished to use the group registration option to register newspapers that had *not* been selected for the Library's collections. These applicants went to the trouble and expense of transferring newspapers onto archival-quality microfilm for registration purposes, even though the Library did not include that microfilm in its collections.

To reduce the number of applicants incurring such unnecessary costs in transferring non-selected newspapers to archival-quality microfilm, and to complement its existing regulation, the Office adopted an interim practice allowing applicants to use the group registration option for newspapers that have not been selected by the Library without submitting the works on microfilm. Specifically, the interim practice allows an applicant to submit: (i) Complete print copies of the earliest and most recent issues from the month specified in the application; (ii) print copies of the first section from the earliest and most recent issues in that month; or (iii) print copies of the first page from the earliest and most recent issues in that month. Although the Office's interim practice is not reflected in the current regulation, it is mentioned in the instructions for Form G/DN, in *Circular 62A,* and in the *Compendium of U.S. Copyright Office Practices,* section 1110.5(B) (3d ed. 2017) (hereinafter ''*Compendium*'').

III. The Proposed Rule

The Office is proposing to amend the regulation governing the group registration option for newspapers (the ''Proposed Rule'') to reflect current Office practices, promote efficiency, and where possible, reduce the burden on applicants.

As explained in greater detail below, the Proposed Rule will modify the eligibility requirements for this group option in several respects. First, it will make *any* newspaper, as defined in the regulation, eligible for a group registration, regardless of whether the Library has selected that newspaper for its collections. Second, it will improve the efficiency of this procedure by requiring applicants to register their newspapers through the Office's electronic registration system, rather than filing paper applications. Third, it will amend the deposit requirements by requiring applicants to upload their newspapers in digital form through the electronic registration system. Although applicants will no longer be required to submit microfilm containing a complete copy of each issue, they may do so voluntarily if the microfilm is received by December 31, 2019 (in addition to uploading digital copies). After that, the microfilm option will be phased out. Fourth, the Proposed Rule confirms that deposits submitted for the purpose of group registration will satisfy the mandatory deposit requirement under section 407 of the statute, and will not be subject to the best edition requirement. It also confirms that the Library may provide limited access to any digital newspaper deposits it receives from the Office under the group registration option, subject to certain restrictions.

Finally, the Proposed Rule will memorialize the Office's longstanding position regarding the scope of a registration for a group of newspaper issues (*i.e.,* a registration for a group of newspaper issues covers each issue in the group, as well as the articles, photographs, illustrations, or other contributions appearing within each issue—if they are fully owned by the copyright claimant and if they were first published in those issues). In addition, it will implement some technical amendments to address certain inconsistencies in the current regulation.

A. Eligibility Requirements

This section discusses the proposed amendments to the eligibility requirements for the group option for newspapers. Applicants failing to satisfy these requirements will not be permitted to use this option.

1. The Definition of ''Daily Newspapers''

The Proposed Rule will update the regulatory definition for the term ''newspaper'' in several respects.[5] Currently, the regulation states that the Office may issue a group registration ''for a group of *daily* newspapers.'' 37 CFR 202.3(b)(7)(i). The term ''daily'' is misleading, because it implies that the newspaper must be published seven days a week. In practice, the Office has never applied this standard in registering groups of newspaper issues. Accordingly, the Proposed Rule will remove the term ''daily'' and replace it with ''newspaper issues.''

As discussed above, the current regulation states that a newspaper is eligible for group registration if it is listed in ''Newspapers Received Currently in the Library of Congress,'' a policy document listing newspapers that have been selected to be received and retained by the Library. 37 CFR 202.3(b)(7)(ii). The Proposed Rule will make any newspaper eligible for a group registration, regardless of whether the Library has selected that title for its collections.

In addition, the Proposed Rule clarifies that for purposes of registration, a newspaper will be classified as a ''periodical.'' Under the current regulation, ''newspapers'' and ''periodicals'' are both subsets of ''serials,'' a broader category of works ''issued or intended to be issued in successive parts bearing numerical or chronological designations and intended to be continued indefinitely.''[6] *See* 37 CFR 202.3(b)(1)(v). Serials do not have to be collective works for registration purposes. *See id.* For example, a newsletter containing a single article may qualify as a serial, but not a collective work. *See* H.R. Rep. No. 94–1476, at 122 (1976) (stating that a work does not qualify as a collective work ''where relatively few separate elements have been brought together,'' as in the case of ''a composition consisting of words and music, a work published with illustrations or front matter, or three one-act plays''). By contrast, a ''periodical'' is defined as ''a *collective work* that is issued or intended to be issued on an established schedule in successive issues that are intended to be continued indefinitely,'' and ''[i]n most cases, each issue will bear the same title, as well as numerical or chronological designations.''[7] 37 CFR

[4] Similar language appears in the regulations governing the group options for serials and newsletters. *See* 37 CFR 202.3(b)(6)(C)–(F), (9)(ii)–(iv).

[5] The Proposed Rule also maintains certain portions of the current definition. It reiterates that newspapers are mainly designed to be a primary source of written information on current events, either local, national, or international in scope; they contain a broad range of news on all subjects and activities; they are not limited to any specific subject matter; and they are intended either for the general public or for a particular ethnic, cultural, or national group. *See* 37 CFR 202.3(b)(7)(ii).

[6] In 1991, the Office began offering a group registration option for serials. 55 FR 50556. The Office subsequently offered a separate group registration option for newspapers, which are published in successive parts bearing numerical or chronological designations (*i.e.,* publications meeting the definition of a ''serial''), but are ineligible for the serial group registration option because they do not meet the registration requirements, such as frequency of publication. 57 FR 39615. The Office will be issuing a proposed rule relating to group registration for serials to similarly streamline the registration process for that group registration option.

[7] In this respect, the Proposed Rule differs from the regulation governing the group registration option for newsletters, which are classified as

Continued

202.4(g)(4) (emphasis added). Accordingly, by classifying newspapers as ''periodicals'' rather than ''serials'' generally, the Proposed Rule clarifies that newspapers must be collective works for registration purposes.[8] The Proposed Rule also amends the definition for ''*Class SE:* Serials'' to reflect this clarification.

Defining a newspaper as a ''periodical'' is consistent with section 408(c)(3) of the Act, which indicates that ''newspapers'' are a subset of ''periodicals.'' 17 U.S.C. 408(c)(3) (directing the Register to create a group registration option for works ''first published as contributions to periodicals, including newspapers''). Similarly, it is consistent with section 101 of the Act, which cites a ''periodical issue'' as an example of a collective work. 17 U.S.C. 101 (definition of ''collective work'').

Finally, the Office will use the term ''GR/NP,'' which stands for ''group newspapers,'' instead of the term ''G/DN'' when referring to the group registration option for newspapers. As discussed below in Section III.B.1, the Office is proposing to eliminate Form G/DN and require applicants to submit their claims through the electronic registration system. Thus, the term G/DN will soon be obsolete. The term G/DN is also confusing, because the Office uses the same term when referring to the group option for daily newsletters. *See supra* note 1.

2. Publication Requirements

The current regulation states that applicants may register newspaper issues ''published with issue dates in one calendar month.'' 37 CFR 202.3(b)(7)(i)(A). The Proposed Rule will clarify that all of the issues in the group must be published (*i.e.,* distributed to the public) within the same calendar month and must bear issue dates within that month. Claims with dates outside of one calendar month will be refused. The change in language is simply intended to clarify these requirements and does not represent a substantive change.

3. Authorship, Ownership, and Work Made for Hire Requirements

Under the Proposed Rule, each issue in the group must have been created as a work made for hire, with the same person or organization named as the author and copyright claimant. These requirements have appeared in *Circular 62A* and in the instructions for Form G/DN for more than a decade. Accordingly, this change is intended to reconcile the regulation with these longstanding Office practices.

4. The Collective Work Requirement

The Proposed Rule states that each newspaper issue in the group must be an all-new collective work that has not been previously published. This requirement has appeared in *Circular 62A* for some time. Similarly, the instructions for Form G/DN state that each issue in the group must be an ''*essentially* all-new collective work'' that has not been previously published. The Proposed Rule will clarify that each issue must *be* an all-new collective work for registration purposes.

A newspaper will be considered a collective work if it contains ''a number of contributions'' that constitute ''separate and independent works in themselves,'' and if the contributions are ''assembled into a collective whole'' ''in such a way that the resulting work as a whole constitutes an original work of authorship.'' 17 U.S.C. 101 (definitions of ''collective work'' and ''compilation''). For example, a newspaper that contains multiple articles, photographs, illustrations, and advertisements could be considered a collective work if those contributions are selected, coordinated, and arranged in a sufficiently creative manner. By contrast, a work that contains a single article and a single photograph would not be considered a collective work, because it does not contain a sufficient number of contributions. *See* H.R. Rep. No. 94–1476, at 122 (1976).

A newspaper issue may qualify as an ''all-new'' collective work if it contains a sufficient amount of compilation authorship. In other words, there must be a sufficient amount of new expression in the selection, coordination, and arrangement of the articles, photographs, or other content appearing in each issue. The fact that the content itself is entirely new is irrelevant to this determination. For example, an issue could be considered ''all-new'' if it contains a brand new selection, coordination, and arrangement of content, even if that individual content has been previously published in the newspaper—such as advertisements appearing in previous issues.

5. Scope of Protection for Newspaper Issues Versus Individual Contributions Versus Overall Group

The Proposed Rule clarifies that a registration for a group of newspapers covers each issue in the group, and each issue will be registered as a separate collective work. As a general rule, a registration for a collective work covers the individual contributions contained within that work if they are fully owned by the copyright claimant and if they were first published in that work.[9] Accordingly, a registration for a group of newspaper issues covers each issue in the group, as well as the articles, photographs, illustrations, or other contributions appearing within each issue—if they are fully owned by the copyright claimant at the time the application was filed and if they were first published in those issues. By contrast, if an issue contains contributions that are not fully owned by the copyright claimant, and/or contributions that were previously published, the registration will not extend to those works. *See Morris* v. *Business Concepts, Inc.,* 259 F.3d 65, 71 (2d Cir. 2001) (''Unless the copyright owner of a collective work also owns all the rights in a constituent part, a collective work registration will not extend to the constituent part.''), *abrogated on other grounds by Reed Elsevier, Inc.* v. *Muchnick,* 559 U.S. 154, 160 (2010).

With respect to the information collected as part of a group registration and examination practices, the Office must balance the public interest in creating a meaningful record (*i.e.,* collecting information regarding each individual contribution within a newspaper issue) with the relative burden on applicants wishing to participate in the registration system. When an applicant submits an entire month of newspaper issues for registration, it is difficult to collect granular information concerning the individual articles, photographs, and other component works within each

''serials'' generally rather than ''periodicals'' specifically, because newsletters can be composed of a single work, whereas newspapers are by their nature collective works. *See* 37 CFR 202.3(b)(9)(i). Put another way, while a newspaper must be a collective work to qualify for the group registration option, a publisher may register a group of newsletter issues regardless of whether the newsletter is or is not a collective work. *See* 82 FR at 29412 n.12.

[8] Section 408(c)(1) of the Act states that ''[t]he Register of Copyrights is authorized to specify by regulation the administrative classes into which works are to be placed for purposes of deposit and registration.''

[9] *See, e.g., Alaska Stock, LLC* v. *Houghton Mifflin Harcourt Pub. Co.,* 747 F.3d 673, 683 (9th Cir. 2014); *Morris* v. *Bus. Concepts, Inc.,* 259 F.3d 65, 68 (2d Cir. 2001); *Compendium* sections 509.1, 509.2; *see also* 17 U.S.C. 201(c) (''Copyright in each separate contribution to a collective work is distinct from copyright in the collective work as a whole, and vests initially in the author of the contribution. In the absence of an express transfer of the copyright or of any rights under it, the owner of copyright in the collective work is presumed to have acquired only the privilege of reproducing and distributing the contribution as part of that collective work . . . .'').

issue. Requiring applicants to identify the author and title of each individual contribution would impose a significant burden both on applicants and the Office alike. This would discourage registration, which in turn, would diminish the value of the Office's public record. It would also be contrary to the Congressional purpose of providing the Office with the authority to create group registration options to foster registrations that otherwise would be unduly burdensome.

Accordingly, the Office's application to register a group of newspaper issues does not contain spaces where the applicant can expressly assert a claim in the individual contributions appearing within each issue, provide titles, authors, or other identifying information for each contribution, or identify component works created by a third party and transferred to the claimant by written agreement. When the examiner reviews each newspaper issue, he or she will examine the issue as a whole to determine if it contains sufficient compilation authorship to warrant registration. And the examiner will review the newspaper issue to determine whether it contains ''a number of contributions'' constituting ''separate and independent works in themselves.'' 17 U.S.C. 101. When the Office issues a group registration, the certificate will identify the title, author, and claimant for each newspaper issue in the group, but it will not identify the titles, authors, or claimants for the individual contributions appearing within those issues.[10]

The scope of protection for a group registration issued under the Proposed Rule will have several consequences in infringement actions. First, a group registration may be used to satisfy the statutory requirements for instituting an infringement action involving any of the newspaper issues that were included within the group, or any of the individual contributions appearing within those issues—provided that the claimant fully owned those contributions at the time the application for registration is submitted, and provided that the contributions were first published in one of those issues.[11] 17 U.S.C. 411(a) (for works of U.S. origin, registration (or refusal) is necessary to enforce the exclusive rights of copyright through litigation).

Second, a group registration may also be used to satisfy the plaintiff's burden of proof by providing a presumption of validity for each registered issue. Specifically, a certificate of registration ''constitute[s] prima facie evidence of the validity of the copyright and of the facts stated in the certificate.'' 17 U.S.C. 410(c). A group registration issued under the Proposed Rule would thus create a presumption that the claimant owns the copyright in each newspaper issue listed in the certificate, and a presumption that the copyright law protects each issue as a whole.

Although the Proposed Rule does not require granular information concerning the individual component works within each newspaper issue, the Office foresees the future possibility of applicants submitting metadata for the component works appearing within each issue, and the possibility of the Office incorporating this information into the registration record. If this becomes feasible once the Office implements its next-generation registration system, it may require this type of information as a condition for using this group registration option.

Finally, the Proposed Rule also clarifies that the group as a whole is not considered a compilation, a collective work, or a derivative work. Instead, the group is merely an administrative classification created solely for the purpose of registering multiple collective works with one application and one filing fee. The chronological selection, coordination, and arrangement of the issues within the group is entirely dictated by the regulatory requirements for this option. Likewise, when a group of newspaper issues are combined for the purpose of facilitating registration, those works are not ''recast, transformed, or adapted'' in any way, and the group as a whole is not ''a work based upon one or more preexisting works'' because there is no copyrightable authorship in simply collecting a month of issues and arranging them in chronological order. 17 U.S.C. 101 (definition of ''derivative work'').

6. Discrete, Self-Contained Works Protected

The Proposed Rule clarifies that each newspaper issue in the group must be fixed and distributed as a discrete, self-contained collective work.[12] An applicant may satisfy this requirement if the newspaper as a whole is fixed in a tangible medium of expression, and the content of each issue does not change once it has been distributed. For example, a publisher that hand-delivers each issue to its subscribers, or distributes them through newsstands, vending machines, or other retail outlets, would satisfy this requirement because the newspaper is clearly fixed and distributed in a physical format. A publisher that emails an electronically printed (''ePrint'') newspaper to its subscribers may satisfy this requirement if each issue contains a fixed selection of content, such as a PDF version of a physical publication. Similarly, a publisher that allows its subscribers to download an ePrint newspaper from its Web site may satisfy this requirement if each issue is distributed as a collective work and the content of each issue does not change once it has been downloaded.

By contrast, a newspaper Web site would not satisfy this requirement. Newspaper Web sites typically add, archive, and/or replace content on a continuing basis. As such, they are not fixed and distributed as discrete, self-contained works. Moreover, these updates are rarely distributed on an established schedule, and rarely contain numerical or chronological designations distinguishing one update from the next. For this reason, Web sites are not considered ''newspapers'' for purposes of registration. As discussed above, ''newspapers'' and ''periodicals'' have historically been considered subsets of ''serials,'' a broader category of works ''issued or intended to be issued in successive parts bearing numerical or chronological designations and intended to be continued indefinitely,'' and under the Proposed Rule, newspapers will be categorized as a ''periodical.'' *See* 37 CFR 202.3(b)(1)(v) (defining a ''serial''); *see also* 75 FR 3863, 3865 (Jan. 25, 2010) (noting that works ''that are constantly updated with no demarcation between particular, discrete issues of the publication'' are not considered serials).

Although the Proposed Rule does not extend to newspaper Web sites, the Office is aware of the need for establishing new and updated practices

[10] There are two other options for registration of individual contributions to newspapers. Applicants may expressly assert a claim in the component works appearing within a particular issue by using the option for ''literary work.'' When using this option, the applicant must complete a separate application and pay a separate filing fee for each issue, and may list the author(s) and title(s) of the individual contributions appearing within that issue. Alternatively, the applicant may be able to register the individual contributions by using the group option for contributions to periodicals (including newspapers), provided that the applicant satisfies the eligibility requirements (*i.e.,* the contribution must not be a work made for hire) and deposit requirements for that option. *See* 37 CFR 202.4(g).

[11] Alternatively, a plaintiff may satisfy this statutory requirement if the Office refused registration, provided that the plaintiff serves a copy of the complaint on the Register of Copyrights. 17 U.S.C. 411(a).

[12] Similar language has appeared in the *Compendium* since December 2014. *See Compendium* section 1113.

for examining and registering online works. *See, e.g.,* Comments of Newspaper Association of America (urging the Office to create a group registration option for newspaper Web sites), *available at http://www.copyright.gov/rulemaking/online-only/comments/naa.pdf;* Comments of the National Writers Union, Western Writers of America, and American Society of Journalists and Authors (urging the Office to create a group registration option for multiple works published online on different dates), *available at https://www.regulations.gov/contentStreamer?documentId=COLC-2016-0005-0009&attachmentNumber=1&disposition=attachment&contentType=pdf; see also* 81 FR 86634, 86636–37 (Dec. 1, 2016); 81 FR 86643, 86646 (Dec. 1, 2016). The Office is considering these issues and will take them into account when developing its priorities for future upgrades to the electronic registration system. In the meantime, this Proposed Rule makes made some interim improvements to the current registration system to benefit newspaper publishers, the Library, and the public at large.

B. Application Requirements

1. Online Registration

The Office has allowed and encouraged applicants to register their works through the electronic registration system since 2007. *See* 72 FR 36883 (July 6, 2007). When the online registration system was introduced, applicants could submit their works on an individual basis. *See id.* But applicants could not submit a group registration covering multiple newspaper issues because the system was not designed to receive the information required for such a registration. Instead, applicants were required to file their claims on a paper application using Form G/DN.

On December 14, 2012, the Office made some modifications to its electronic registration system to allow newspaper publishers to submit their claims with the online application. Under the Proposed Rule, applicants will be required to use the electronic application designated for a group of newspaper issues as a condition for seeking a group registration. The Office will no longer accept groups of newspaper issues submitted for registration on paper using Form G/DN. If, after the effective date of this rule, such paper applications are received, the Office will refuse registration and instruct the applicant to resubmit the claim through the electronic system. The Office invites comment on this proposal, including whether the Office should eliminate the paper application for newspaper issues, phase it out after a specified period of time, or continue to offer Form G/DN for applicants who prefer to use the paper-based system.

2. Supplementary Registration

A supplementary registration is a special type of registration that may be used ''to correct an error in a copyright registration or to amplify the information given in a registration,'' including a registration for a group of related works. 17 U.S.C. 408(d). Specifically, it identifies an error or omission in an existing registration (referred to herein as a ''basic registration'') and places the corrected information or additional information in the public record.

The Office recently issued a final rule that modified the regulation governing this procedure. 82 FR 27424 (June 15, 2017). This rule requires applicants to file an online application in order to correct or amplify the information set forth in a basic registration for any work capable of being registered through the electronic system, rather than filing a paper application. This online filing requirement will apply to supplementary registrations for groups of newspaper issues—even if the issues were originally registered using Form G/DN. *See* 81 FR at 86657 & n.3. If an applicant attempts to use a paper application to correct or amplify a registration for a group of newspaper issues, the Office will refuse registration and instruct the applicant to resubmit the claim using the online version of this form.

3. Policy Considerations Supporting Online-Only Registration

The Office's decision to offer a group option is entirely discretionary, and Congress gave the Office broad authority to establish the requirements for these types of claims. 17 U.S.C. 408(c)(1). Currently, the vast majority of the claims submitted on Form G/DN require correspondence or other action from the Office. Applicants routinely file claims that are not eligible for this group option, such as submitting a full year of issues instead of limiting the claim to one month, or submitting claims long after the deadline has expired (*i.e.,* more than three months after the date of publication for the most recent issue in the group). In addition, applicants routinely fail to provide information expressly requested on the form, such as the title of the newspaper, issue numbers, publication dates, or the name of the author and claimant. Often applicants add extraneous information that is not requested, such as providing a transfer statement explaining how the claimant acquired the copyright in the issues. In each case, the Office must scan these paper applications into the registration system and input the relevant information by hand. This is a cumbersome, labor-intensive process, and if it is done incorrectly, the information must be re-entered into the system. In many cases, the Office must contact the applicant to request additional information or permission to correct the application.

Addressing these issues imposes significant burdens on the Office's limited resources, and has had an adverse effect on the examination of other types of works within the Literary Division of the Registration Program. Eliminating the paper application should mitigate many of these problems. Among other improvements, the online application contains automated validations that prevent applicants from submitting applications that fail to comply with the eligibility requirements for this group option, such as including too many issues in the group (*i.e.,* more than one month of issues), or failing to submit the claim within the time allowed (*i.e.,* more than three months after the publication of the issues in the group).

For these reasons, the Office believes that requiring applicants to submit online applications is necessary to avoid a significant fee increase and to improve the overall efficiency of the group registration process. Nonetheless, the Office invites comment on this aspect of the Proposed Rule.

C. Deposit Requirements

The Proposed Rule will amend the deposit requirements for this group option by requiring applicants to submit their newspapers in digital form and upload each issue through the electronic system. Applicants will no longer be required to submit microfilm as a condition for using the group registration option—but they may do so voluntarily if the microfilm is received before December 31, 2019 (in addition to providing digital copies). After that, the microfilm requirement will be phased out. These proposals are discussed below.

1. Digital Deposit Requirement

To register a group of newspapers under the Proposed Rule, applicants will be required to submit a complete copy of each issue in the group, regardless of whether the Library has selected that newspaper for its collections. This will ensure that the

Office receives the entire content of each issue for the purpose of examining, indexing, and documenting claims. The interim practice allowing applicants to submit the earliest and most recent issues for a particular month or excerpts from those issues (discussed above in Section II) will be eliminated. While this interim practice was well-intentioned, it allows newspaper publishers to register an entire month of issues without submitting a complete copy of each issue in the group. This reduces the evidentiary value of the registration and the public record, because only a fraction of the issues in the group are examined for copyrightable authorship.

The Proposed Rule reiterates that applicants must submit the final edition of each issue that was published in the month specified in the application. The current regulation states that applicants may submit earlier editions of the same newspaper if they were published on the same date as the final edition. 37 CFR 202.3(b)(7)(i)(D). The Office is aware that most newspapers no longer publish multiple print editions throughout the day, such as the ''morning,'' ''afternoon,'' ''evening,'' or ''late'' edition of a particular newspaper.[13] Therefore, the Office requests comment on whether this provision should be retained in the Proposed Rule. Under the current regulation, applicants may also include ''local editions'' of the newspaper that were published within the same metropolitan area (such as the Brooklyn, Bronx, Manhattan, Queens, and Staten Island editions of a New York City paper), but they may not include national or regional editions that were distributed outside that metropolitan area. *See id.; see also* H.R. Rep. No. 94–1476, at 153 (1976) (authorizing the Register ''to make exceptions or special provisions'' for ''multipart newspaper editions''). Although the Proposed Rule retains this longstanding restriction, the Office requests comment on whether it should be retained.

In all cases, applicants will be required to submit a digital copy of each issue, rather than a physical copy. Under the Proposed Rule, the Office will no longer accept physical copies, such as a print copy or photocopy of each issue in the group (although, as discussed below, newspaper publishers may provide microfilm *in addition to* digital copies on a voluntary basis until December 31, 2019). Likewise, the Office will not accept digital copies that have been saved onto a flash drive, disc, or other physical storage medium that is delivered to the Office by mail, courier, or hand delivery.

In addition, the Office will have a number of technical requirements for the digital files. Specifically, applicants will be required to submit electronic files in Portable Document Format (''PDF''). Each newspaper issue in the group must be submitted to the Office as one discrete, self-contained collective work (*i.e.,* as one PDF file per issue with the pages in reading order). In each case, the file name must adhere to the file-naming conventions specified on the Office's Web site and/or in the *Compendium.* The Office proposes that each file name start with the letters ''GRNP,'' followed by the International Standard Serial Number (''ISSN'') for that newspaper, and the publication date in a ''YYYYMMDD'' format. If a newspaper publishes multiple editions on the same date (*e.g.,* morning, evening, and late editions), the publisher will be permitted to combine all of the editions in a single electronic file, assuming the file does not exceed file size requirements (discussed below), the editions are separate, and all pages are in sequential reading order. In addition, the metadata for each file should contain the newspaper's ISSN in the ''dc:identifier'' or ''xmp: identifier'' fields, the publication date in the ''dc:date'' field, and each file should be viewable and searchable, contain embedded fonts, and be free from any access restrictions (such as those implemented through Digital Rights Management (DRM)). Applicants will be required to assemble the files in an orderly form, and upload them through the electronic registration system. When uploading the files, applicants will not be permitted to upload .zip files to the system, and should instead upload files individually. In all cases, the size of each uploaded file may not exceed 500 megabytes, although applicants may digitally compress the files to comply with this limitation.

If the applicant's electronic files do not comply with the Office's technical requirements, the Copyright Acquisitions Division (''CAD'') will contact the publisher and ask for replacement files. If the publisher does not provide replacement files, CAD will notify the Literary Division of the Registration Program, which will review that publisher's future electronic submissions for similar deficiencies, and may refuse registration if there are similar defects. If an applicant is unable to comply with the application requirements at the time of filing the application, the applicant may request special relief from the deposit requirements under 37 CFR 202.20(d). *See* 82 FR at 29412. The Office seeks public comment on the proposed digital file requirements.

Requiring applicants to upload digital copies to the electronic system will increase the efficiency of the group registration process. The Office does not need physical copies to examine a newspaper for copyrightable authorship, or to determine whether the applicant satisfied the formal and legal requirements for this group option. *See* 17 U.S.C. 410(a) (providing that the Register of Copyrights must determine whether ''material deposited [for registration] constitutes copyrightable subject matter''). Indeed, physical copies slow down the examination process. Electronic submissions take less time to process, and are easier to track and handle than physical copies. A registration specialist can examine a digital copy as soon as it has been uploaded to the electronic registration system. By contrast, when an applicant submits an online application and mails a physical deposit to the Office, it may take weeks to connect the application with the correct deposit. In addition, each copy must be moved multiple times during the examination process.

Requiring digital uploads may also provide newspaper publishers with certain legal benefits. When the Office registers a group of newspapers and issues a certificate of registration, the effective date of registration is the date on which the Office received the application, filing fee, and deposit in proper form. When an applicant uploads a digital copy of the deposit to the electronic system, the Office typically receives the application, filing fee, and deposit on the same date. By contrast, when an applicant sends physical copies to the Office the deposit may arrive long after the date that the application and filing fee were received—thereby establishing a later effective date of registration.

Moreover, if an applicant uploads a complete copy of the newspaper through the electronic registration system, the Office will retain a digital copy of those issues in its repository of electronic deposits. Digital copies are much easier to store and retrieve. This is critical if the copyright owner or other interested parties need to obtain a copy of a particular issue for use in litigation or another legitimate purpose. The current regulation assumes that a complete copy of each issue will be sent to the Library on microfilm, which may be used to identify the work, if necessary. But as discussed above, many

[13] Newspaper Web sites typically update their content throughout each day, but as discussed in Section III.A.6, they are not eligible for the group option.

applicants do not currently submit their newspapers on microfilm because the Library has not selected them for its collections. Instead, they often submit a small portion of each issue, which is permitted under the interim rule discussed in Section II.

The Office recognizes that some publishers may not have a digital copy of their issues or may find it difficult to create a digital copy for the purpose of seeking a group registration. The Office will address these concerns on a case-by-case basis. If an applicant is unable to upload a particular newspaper to the electronic system, the applicant may request special relief from the deposit requirements under 37 CFR 202.20(d). *See* 82 FR at 29412.

2. Microfilm Permitted, but Not Required, for an Interim Period

The current regulation states that the applicant must provide the Library with microfilm containing a complete copy of each issue as a condition for using the group registration option. As discussed in more detail below, microfilm will no longer be required when the Final Rule goes into effect—even if the Library has selected that newspaper for its collections. In addition to digital files, newspaper publishers may provide microfilm on a voluntary basis if the microfilm is received by December 31, 2019. After that, the microfilm option will be phased out.

The next few sections discuss the reasons for phasing out the microfilm requirement, as well as the procedure for submitting microfilm to the Office on a voluntary basis.

a. Policy Considerations Supporting the Phasing Out of the Microfilm Requirement

Section 408(c) of the Copyright Act authorizes the Register to create discretionary registration options for groups of related works, including the applicable deposit requirements. In administering the group registration option for newspapers, the Register must balance the Library's need for microfilm deposits against the potential impact on the newspaper publishing industry. On the one hand, the microfilm requirement has benefitted the Library and the public by providing newspapers in a format suitable for long-term preservation, and at no cost to the government. It benefits researchers accessing these copies at the Library or through interlibrary loan. The regulation also creates a potential supply of microfilm that otherwise might not exist, which may benefit local and regional libraries, assuming they are able to purchase microfilm from publishers for use in their own collections.

On the other hand, the current microfilm requirement does impose a burden on publishers if their newspapers have been selected for the Library's collections. This requirement appears to have been less burdensome when the newspaper group option was adopted in 1990. At that time, newspaper publishers apparently hired microfilm producers to transfer paper newspaper issues onto microfilm for their own archival preservation instead of keeping physical copies. Thus, newspaper publishers were creating microfilm copies in the ordinary course of business. Some publishers offered copies of their microfilm to libraries and other institutions, including the Library of Congress, to offset this cost.

Needless to say, the newspaper publishing industry has since changed dramatically, and the microfilm requirement may have become more burdensome over the past twenty-five years. Representatives of the newspaper industry have informed the Office that most publishers no longer preserve their works on microfilm, and instead make digital copies for archival purposes. *See Hearing on U.S. Copyright Office: Its Functions and Resources, Before the H. Comm. on the Judiciary,* 114th Cong., 1st Sess., at 105 (2015) (statement of Keith Kupferschmid). In addition, representatives of the newspaper industry have stated that only a few companies provide microfilming services in the United States, and there can be significant delays in producing microfilm, which often prevents publishers from seeking registration in a timely manner. To the extent publishers transfer their newspapers onto microfilm, they apparently do so solely for the purpose of registering their works with the Office (*i.e.,* to comply with the current regulatory requirements for the group newspaper option).

In addition, representatives of the newspaper industry have informed the Office that ''many newspapers are no longer registering their works with the Copyright Office because the Library requires that newspaper deposits be in microfilm format.'' *Id.* at 5. The Office has found evidence to support this statement. In reviewing its registration records for fiscal years 2010 through the first half of fiscal year 2015, the Office found that nearly 70% of the U.S. newspapers selected for the Library's collections were not registered during this period. Accordingly, although group registrations are intended to reduce ''unnecessary burdens and expenses'' that may discourage authors and copyright owners from registering their works with the Office, requiring newspaper publishers to submit their issues on microfilm may well have the opposite effect. *See* H.R. Rep. No. 94–1476, at 154 (1976); S. Rep. No. 94–473, at 136 (1975).

Because newspapers have turned increasingly to online publishing, the Library has been considering how to incorporate online publishing into its collections. As part of that effort, in February 2016, the Library initiated a pilot project with the News Media Alliance known as the ''Newspaper ePrint Technical Pilot.'' The pilot involved collecting electronic files from six newspapers over two phases, with the goal of ''explor[ing] the technical feasibility of accepting electronic copies of newspapers in lieu of physical deposits.'' Library of Congress and News Media Alliance (NMA) Technical Pilot project, *Report on ePrints* 2 (March 4, 2017). The goals of the pilot were to (i) explore various types of PDFs and metadata generated by newspaper publishers, (ii) test a range of technical methods that newspaper publishers might use to deliver this type of content to the Library, and (iii) inform future decisions about recommended formats for group registration of newspapers. *Id.* at 3. On March 4, 2017, the Library issued its report, ultimately concluding that ''[t]he results give the team confidence that ePrints could be a viable technical alternative to microfilm deposits for newspapers.'' *Id.* at 11.

b. Transitional Period for Submitting Microfilm

Based on the results of this pilot and the changes in the newspaper publishing industry, the Office is proposing to eliminate the microfilm requirement. Representatives of the newspaper industry have informed the Office that they generally support this proposal. But some publishers noted that they have entered into long-term contracts with microfilm producers that are still in effect. Others stated that they need time to develop internal procedures and quality assurance testing to ensure that their submissions contain a complete copy of each issue.

To give publishers an opportunity to exhaust their microfilm production contracts, and to ease the transition to the new model, the Proposed Rule will allow newspaper publishers to submit microfilm on a voluntary basis (in addition to the required digital deposits for registration). Specifically, publishers may continue to submit microfilm if the microfilm is received by December 31,

2019.[14] After that, the Office will no longer accept microfilm.

Under the Proposed Rule, if the applicant chooses to submit a microfilm copy in addition to the digital files discussed above in Section III.C.1, the applicant would have to provide positive 35mm silver halide microfilm containing the final edition of each issue that was published during the month specified in the application.[15] The issues would have to be arranged on the microfilm in chronological order and the microfilm copy should be sent to CAD rather than to the Registration Program.[16] The Registration Program does not need microfilm to determine whether the newspaper issues are copyrightable or whether the formal and legal requirements for this group option have been satisfied. The examiner can make these determinations based on his or her review of the digital copies provided with the application (described in Section III.C.1). Moreover, because the Registration Program does not have a reliable, functioning microfilm reader, examiners may be unable to review the film to determine whether it meets the Library's needs.

The Office requests comment on these proposals. The Office is particularly interested in knowing whether the proposed phase-out period will give publishers a sufficient amount of time to exhaust their current contracts or whether a longer period would be needed.

3. Public Access to Digital Deposits

When the Office established the group registration option for newspapers, it implicitly recognized that publishers could satisfy their obligations under mandatory deposit by registering their issues with the Office and providing the Library with a copy of those issues on microfilm—although this was not explicitly stated in the regulation itself. The Proposed Rule codifies this understanding by stating that publishers may comply with mandatory deposit by registering their newspapers using the group registration option.

The Copyright Act provides that all copies deposited with the Office for mandatory deposit and registration purposes under sections 407 and 408 ''are the property of the United States Government,'' and that, in the case of published works, those copies ''are available to the Library of Congress for its collections.'' 17 U.S.C. 704(a)–(b). The Office has received digital files submitted by registration applicants under section 408 since it launched its electronic registration system in 2007. Although digital registration deposits submitted for registration are stored on Library-operated servers, the Library has to date not incorporated these digital deposits into its general collections or made them available to its patrons.

In addition, electronic works not published in physical formats are—with one exception—exempt from all mandatory deposit requirements under section 407. *See* 37 CFR 202.19(c)(5). The one exception to the general exemption from mandatory deposit rules for electronic-only works is for electronic serials. Electronic serials that are fixed and published solely online are subject to mandatory deposit if the Office issues a written demand for a particular serial under section 202.24 of the regulations. 37 CFR 202.19(c)(5), 202.24(a). If the Office demands an electronic serial under this provision, the publisher is expected to submit a digital copy of that serial for use in the Library's collections. Currently, Library staff and members of the general public may access these copies using the Library's facilities. The Library provides access to these files via a secure network, and access is currently limited, at any one time, to two authorized users. *See* 75 FR 3863, 3867–68 (Jan. 25, 2010).

With this notice of proposed rulemaking, the Office notes that, for the first time, the Library plans to incorporate digital copies of works submitted for registration under section 408 into the Library's collections, and provide public access to those digital copies. To regulate such public access, the Proposed Rule borrows and codifies the existing public access practices used for electronic serials obtained under section 407; specifically, the Proposed Rule establishes a new section 201.18, entitled ''Access to electronic works.'' That provision clarifies that the Library may make these digital files available to ''authorized users,'' meaning (i) Members, staff, and officers of the U.S. House of Representatives and the U.S. Senate, (ii) Library of Congress staff and its contractors, and (iii) registered researchers who use the Library's facilities in Washington, DC and Culpeper, Virginia. The limitation permitting access to two authorized users at any one time applies across all Library facilities. It also clarifies that the Library may not make these files available to the public over the Internet without the copyright owner's permission.

To be clear, while the Proposed Rule would permit public access to digital copies only to newspapers received by the Office under the group registration option, over time the Library would like to expand this new provision to address public access to digital registration deposits for other types of digital works. Before expanding such access, however, the Office will issue separate rulemakings to notify the public.

D. The Filing Fee Requirement

Under the Proposed Rule, the applicant will be required to pay the same filing fee currently set forth in the Office's fee schedule, namely $80 per claim. The Proposed Rule clarifies that this fee must be included with the application or charged to an active deposit account. Once the Proposed Rule has been implemented, the Office will monitor the cost of processing newspapers through the electronic system to determine if future fee adjustments may be warranted, and may use this information in conducting its next fee study.

E. Timeliness Requirements

The current regulation states that newspaper publishers must submit their claims within three months after the publication of the most recent issue in the group. 37 CFR 202.3(b)(7)(i)(F). The Proposed Rule maintains the three-month deadline, but will require applicants to submit their claims within three months after the publication of the *earliest* issue—rather than the *most recent issue*—in the group.[17]

Compliance with this requirement may provide newspaper publishers with certain legal benefits. Publishers must

[14] If the Library receives microfilm for a newspaper that it has not selected for its collections, the microfilm may be offered to another institution through the Library's Surplus Books program. *See generally https://www.loc.gov/acq/surplus.html.*

[15] The regulation currently states that the microfilm must meet ''the Library's best edition criteria.'' 37 CFR 202.3(b)(7)(i)(D). The Proposed Rule eliminates this phrase, because it is redundant of what is stated elsewhere in the regulation. *Compare id.* (requiring ''positive, 35mm silver halide microfilm'') *with* Appendix B to Part 202, VII.B.1–2, X.A.1 (expressing the Library preference for collecting newspapers in ''microform'' rather than ''printed matter,'' consisting of ''positive rather than negative'' film, ''silver halide rather than any other emulsion,'' and ''35 mm rather than 16 mm'').

[16] Packages delivered to CAD by mail or by courier may be irradiated to destroy possible contaminants, such as anthrax. This process may damage microfilm. To avoid this problem, claimants are encouraged to send microfilm in boxes rather than envelopes.

[17] The regulation currently states that registration must be ''sought'' within three months after publication of the last issue in the group, while the Proposed Rule states that the application, filing fee, and deposit must be ''received'' in the Office within three months after publication. The Office notes that, under the Proposed Rule, the date that a registration is ''sought'' and the date that the application, fee, and deposit are ''received'' are typically the same—particularly when the claim is submitted through the electronic registration system. The change in language is simply intended to clarify this point.

register their issues in a timely manner to seek statutory damages and attorney's fees in an infringement action. Specifically, a publisher typically may seek these remedies if a newspaper issue was registered (i) before the infringement commenced or (ii) within three months after the first publication of that work. *See* 17 U.S.C. 412. Requiring applicants to submit their claims within three months after publication of the earliest issue would give publishers the ability to seek statutory damages and attorney's fees for each issue in the group. For example, if the applicant sought to register issues published between June 1st and June 30th, the applicant would be required to submit the claim on or before September 1st. By doing so, the applicant would preserve the ability to seek statutory damages and attorney's fees for infringement occurring after the effective date of registration (*i.e.,* after September 1st), as well as infringement occurring within three months after the publication of the earliest issue in the group (*i.e.,* between June 1st and September 1st). Moreover, the publisher would be able to seek these remedies for each issue in the group, because all of the issues were first published within that three-month period.

By contrast, the current regulation allows an applicant to submit a claim up to four months after the publication of the earliest issue in the group, which may limit the remedies that a publisher may seek in an infringement action. For instance, in the previous example, the applicant could wait until September 30th to register issues published in the month of June, rather than submitting the claim on September 1st. The publisher would be able to seek statutory damages and attorney's fees for infringement involving the June 30th issue occurring after the effective date of registration (*i.e.,* after September 30th), or within three months after the publication of the most recent issue in the group (*i.e.,* between June 30th and September 30th). But the publisher would *not* be entitled to these remedies for infringement involving the issues published on June 1st through June 29th, because they were received by the Office more than three months after the publication of those issues.

Under the Proposed Rule, the date that optional microfilm copies are received by the Office would be irrelevant. This represents a significant improvement compared to the current process, in which the Office routinely receives microfilm between four to six months after the publication of the most recent issue in the group. On some occasions the Office has received microfilm one or two years after the deadline has expired. Representatives of the newspaper industry have informed the Office that these delays are due to the high cost of producing microfilm. Many publishers cannot afford to send their newspapers to a microfilm producer until they have a sufficient number of issues to justify the cost, which delays the production and delivery of the microfilm. Given these obstacles, it is unreasonable to penalize publishers for failing to transfer their newspapers onto microfilm within three months after publication.

F. Technical Amendments

The Proposed Rule will move the regulation governing the newspaper group option from section 202.3 to section 202.4. Going forward, the Office intends to move all regulations governing the various group options implemented under section 408(c) of the Copyright Act to section 202.4. This change is intended to improve the readability of existing regulations and does not represent a substantive change in policy.

In addition, the Proposed Rule incorporates the regulatory definitions from sections 202.3 and 202.20 into section 202.4, to apply to the various group registration options.

The Proposed Rule also confirms that an application for a group of newspaper issues may be submitted by any of the parties listed in section 202.3(c)(1), namely, (i) the author or copyright claimant of those works, (ii) the owner of any of the exclusive rights in those works, or (iii) a duly authorized agent of any author, claimant, or owner of exclusive rights.

Finally, the Proposed Rule contains an unrelated technical amendment, which removes the terms ''single application'' and ''single registration'' and replaces them with the terms ''application'' and ''group registration.'' 37 CFR 202.3(b)(7)(i). This is intended to avoid potential confusion with the ''single application,'' a special application that may be used to register ''a single work by a single author that is owned by the person who created it.'' 37 CFR 202.3(b)(2)(i)(B).

IV. Conclusion

The Proposed Rule will encourage broader participation in the registration system, and increase the efficiency of the process for both the Office and copyright owners alike, while providing the Library with a means for adding newspapers to its collections in an archival-quality format. The Office invites public comment on each of these proposed changes, including:

Eligibility Requirements

1. The proposed definition of ''newspaper issues,'' including making the group registration option to all newspapers, regardless of whether they have been selected to be received and retained by the Library, and classifying a newspaper as a ''periodical.''

2. The clarification that all issues in the group must be published and bear issue dates within the same calendar month.

3. The proposed authorship, ownership, and work made for hire requirements.

4. The proposed requirement that each newspaper issue in the group must be an all-new collective work that has not been previously published.

5. The proposed clarifications for the scope of protection for newspaper issues, versus individual contributions appearing within those issues.

6. The clarification that each newspaper issue in the group must be fixed and distributed as a discrete, self-contained collective work.

Application Requirements

7. The proposed requirement that applicants use the electronic application designated for a group of newspaper issues as a condition for seeking a group registration, and whether the current online filing requirement for supplementary registrations relating to groups of newspaper issues should be retained.

Deposit Requirements

8. The proposed requirement that applicants submit a complete digital copy of the final edition of each issue in the group, regardless of whether the newspaper was selected to be received and retained by the Library, as well as any of the proposed file submission requirements.

9. The proposed phase-out of the practice of accepting microfilm deposits by December 31, 2019.

10. The proposed parameters for public access to digital deposits of newspaper issues, including the Library making digital copies available to two authorized users at a time at the Library's facilities, and considerations related to secure storage of and access to such digital deposits.

Timeliness Requirement

11. The proposed requirement that applicants submit their claims within three months after the publication of the earliest issue in the group.

List of Subjects

37 CFR Part 201

Copyright, General provisions.

37 CFR Part 202

Copyright, Preregistration and registration of claims to copyright.

Proposed Regulation

For the reasons set forth in the preamble, the Copyright Office proposes amending 37 CFR parts 201 and 202 as follows:

PART 201—GENERAL PROVISIONS

■ 1. The authority citation for part 201 continues to read as follows:

Authority: 17 U.S.C. 702.

■ 2. In § 201.1, revise paragraph (c)(6) to read as follows:

§ 201.1 Communication with the Copyright Office.

* * * * *

(c) * * *

(6) *Copyright Acquisitions.* Deposit copies submitted under section 407 of the Copyright Act should be addressed to: Library of Congress, U.S. Copyright Office, Attn: 407 Deposits, 101 Independence Avenue SE., Washington, DC 20559. Newspaper publishers that submit microfilm under § 202.4(e) of this chapter should mail their submissions to: Library of Congress, U.S. Copyright Office, Attn: 407 Deposits, 101 Independence Avenue SE., Washington, DC 20559.

* * * * *

■ 3. In § 201.3, revise paragraph (c)(6) to read as follows:

§ 201.3 Fees for registration, recordation, and related services, special services, and services performed by the Licensing Division.

* * * * *

(c) * * *

(6) Registration of a claim in a group of newspapers or a group of newsletters	80

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PART 202—PREREGISTRATION AND REGISTRATION OF CLAIMS TO COPYRIGHT

■ 4. The authority citation for part 202 continues to read as follows:

Authority: 17 U.S.C. 408(f), 702.

■ 5. Amend § 202.3 as follows:
■ a. Revise paragraph (a)(2).
■ b. Amend paragraph (b)(1)(v) by removing ''periodicals; newspapers'' and adding in its place ''periodicals (including newspapers)''.
■ c. Remove and reserve paragraph (b)(7).

The revision reads as follows:

§ 202.3 Registration of copyright.

* * * * *

(a) * * *

(2) For the purposes of this section, the term *author* includes an employer or other person for whom a work is ''made for hire'' under section 101 of title 17.

* * * * *

■ 6. Amend § 202.4 as follows:
■ a. Revise paragraph (b).
■ b. Add paragraph (e).
■ c. Amend paragraph (g)(4) by removing the second sentence.
■ d. Amend paragraph (m) by adding the first sentence.

The addition and revisions read as follows:

§ 202.4 Group Registration.

* * * * *

(b) *Definitions.* (1) For purposes of this section, unless otherwise specified, the terms used have the meanings set forth in § 202.3 and § 202.20.

(2) For purposes of this section, the term *Library* means the Library of Congress.

(3) For purposes of this section, a *periodical* is a collective work that is issued or intended to be issued on an established schedule in successive issues that are intended to be continued indefinitely. In most cases, each issue will bear the same title, as well as numerical or chronological designations.

* * * * *

(e) *Group registration of newspapers.* Pursuant to the authority granted by 17 U.S.C. 408(c)(1), the Register of Copyrights has determined that a group of newspaper issues may be registered with one application, one filing fee, and the required deposit, and the filing fee required by § 201.3(c) of this chapter, if the following conditions are met:

(1) All the issues in the group must be newspapers. For purposes of this section, a newspaper is a periodical (as defined in paragraph (b)(3) of this section) that is mainly designed to be a primary source of written information on current events, either local, national, or international in scope. A newspaper contains a broad range of news on all subjects and activities and is not limited to any specific subject matter. Newspapers are intended either for the general public or for a particular ethnic, cultural, or national group.

(2) Each issue in the group must be an all-new collective work that has not been previously published (except where earlier editions of the same newspaper are included in the deposit together with the final edition), each issue must be fixed and distributed as a discrete, self-contained collective work, and the claim in each issue must be limited to the collective work.

(3) Each issue in the group must be a work made for hire, and the author and claimant for each issue must be the same person or organization.

(4) All the issues in the group must be published under the same continuing title, and they must be published within the same calendar month and bear issue dates within that month. The applicant must include the final edition of each issue published within that month, and must identify the earliest and latest date that the issues were published. The applicant may include earlier editions of the same newspaper, provided that they were published on the same date as the final edition. The applicant also may include local editions of the newspaper that were published within the same metropolitan area, but may not include national or regional editions that were distributed outside that metropolitan area.

(5) *Application.* The applicant must complete and submit the online application designated for a group of newspaper issues. The application may be submitted by any of the parties listed in § 202.3(c)(1).

(6) *Deposit.* (i) The applicant must submit one complete copy of the final edition of each issue published in the calendar month designated in the application. Each copy may include earlier editions of the same newspaper, provided that they were published on the same date as the final edition. Each copy may also include local editions of the newspaper that were published within the same metropolitan area, but may not include national or regional editions that were distributed outside that metropolitan area.

(ii)(A) The issues must be submitted in a digital form, and each issue must be contained in a separate electronic file. The applicant must use the file-naming convention and submit digital files in accordance with instructions specified on the Copyright Office's Web site. The files must be submitted in Portable Document Format (PDF), they must be assembled in an orderly form, and they must be uploaded to the electronic registration system as individual electronic files (*i.e.,* not .zip files). The files must be viewable and searchable, contain embedded fonts, and be free from any access restrictions (such as those implemented through Digital Rights Management (DRM)). The file size for each uploaded file must not exceed 500 megabytes, but files may be compressed to comply with this requirement.

(B) The applicant may also submit the issues on positive 35mm silver halide

microfilm, provided that the microfilm is received by December 31, 2019. The issues should be arranged on the microfilm in chronological order, and should be sent to: Library of Congress, U.S. Copyright Office, Attn: 407 Deposits, 101 Independence Avenue SE., Washington, DC 20559.

(7) The application, the filing fee, and files specified in paragraph (e)(7)(ii)(A) of this section must be received by the Copyright Office within three months after the date of publication for the earliest issue in the group.

* * * * *

(m) *The scope of a group registration.* When the Office issues a group registration under paragraph (e) of this section, the registration covers each issue in the group and each issue is registered as a separate collective work.

* * *

■ 7. Add § 202.18 to read as follows:

§ 202.18 Access to electronic works.

(a) Access to electronic works received under § 202.4(e) will be available only to authorized users at Library of Congress facilities in accordance with the policies listed below. Library staff may access such content off-site as part of their assigned duties via a secure connection.

(b) Access to each individual electronic work received under § 202.4(e) will be limited, at any one time, to two Library of Congress authorized users via a secure server over a secure network that serves Library of Congress facilities.

(c) The Library of Congress will not make electronic works received under § 202.4(e) available to the public over the Internet without rightsholders' permissions.

(d) ''Authorized user'' means Library of Congress staff, contractors, and registered researchers, and Members, staff and officers of the U.S. House of Representatives and the U.S. Senate for the purposes of this section.

(e) ''Library of Congress facilities'' means all Library of Congress facilities in Washington, DC, and the Library of Congress Packard Campus for Audio–Visual Conservation in Culpeper, VA.

■ 8. In § 202.19, add paragraph (d)(2)(ix) to read as follows:

§ 202.19 Deposit of published copies or phonorecords for the Library of Congress.

* * * * *

(d) * * *

(2) * * *

(ix) In the case of published newspapers, a deposit submitted pursuant to and in compliance with the group registration option under § 202.4(e) shall be deemed to satisfy the mandatory deposit obligation under this section.

* * * * *

Dated: October 30, 2017.

Sarang V. Damle,

General Counsel and Associate Register of Copyrights.

[FR Doc. 2017–23917 Filed 11–3–17; 8:45 am]

BILLING CODE 1410–30–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[EPA–R03–OAR–2017–0484; FRL–9970–29–Region 3]

Approval and Promulgation of Air Quality Implementation Plans; Maryland; Continuous Opacity Monitoring Requirements for Municipal Waste Combustors

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) proposes to approve the Clean Air Act (CAA) section 111(d)/129 State Plan revision submitted by the State of Maryland for the purpose of updating municipal waste combustor (MWC) references to opacity monitor quality assurance and quality compliance requirements in Regulations .07 and .08 under the Code of Maryland Regulations (COMAR) 26.11.08. In the Final Rules section of this **Federal Register**, EPA is approving Maryland's State Plan revision submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time.

DATES: Comments must be received in writing by December 6, 2017.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R03–OAR–2017–0484 at *http://www.regulations.gov,* or via email to *aquino.marcos@epa.gov.* For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. For either manner of submission, the EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the ''For Further Information Contact'' section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Emily Linn, (215) 814–5273, or by email at *linn.emily@epa.gov.*

SUPPLEMENTARY INFORMATION: For further information, please see the information provided in the direct final action, with the same title, that is located in the ''Rules and Regulations'' section of this **Federal Register** publication.

Dated: October 18, 2017.

Cosmo Servidio,

Regional Administrator, Region III.

[FR Doc. 2017–24114 Filed 11–3–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA–HQ–OAR–2016–0442; FRL–9970–46–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: Extension of comment period.

SUMMARY: On September 21, 2017, the Environmental Protection Agency (EPA) proposed a rule titled, ''National Emission Standards for Hazardous Air

Pollutants From the Portland Cement Manufacturing Industry Residual Risk and Technology Review.'' The EPA is extending the comment period on the proposed rule that was scheduled to close on November 6, 2017, by 15 days until November 21, 2017. The EPA is making this change based on one request for additional time to prepare comments on this proposed rule.

DATES: The public comment period for the proposed rule published in the **Federal Register** on September 21, 2017 (82 FR 44254), is being extended. Written comments must be received on or before November 21, 2017.

ADDRESSES: The EPA has established a docket for the proposed rulemaking (available at *http://www.regulations.gov*). The Docket ID No. is EPA–HQ–OAR–2016–0442. 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. If you need to include CBI as part of your comment, please visit *http://www.epa.gov/dockets/comments.html* for instructions. 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.

For additional submission methods, the full EPA public comment policy, and general guidance on making effective comments, please visit *http://www.epa.gov/dockets/comments.html.*

FOR FURTHER INFORMATION CONTACT: For additional information on this action, contact Brian Storey, Sector Policies and Programs Division, Office of Air Quality Planning and Standards (D243–04), Environmental Protection Agency, Research Triangle Park, NC 27711; telephone number: (919) 541–1103; email address: *storey.brian@epa.gov.*

SUPPLEMENTARY INFORMATION: To allow additional time for stakeholders to provide comments, the EPA has decided to extend the public comment period until November 21, 2017.

Dated: October 31, 2017.

Stephen Page,

Director, Office of Air Quality Planning and Standards.

[FR Doc. 2017–24092 Filed 11–3–17; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

RIN 0648–BG74

Fisheries Off West Coast States; Coastal Pelagic Species Fisheries; Amendment 16 to the Coastal Pelagic Species Fishery Management Plan

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

ACTION: Availability of fishery management plan amendment; request for comments.

SUMMARY: NMFS announces that the Pacific Fishery Management Council (Council) has submitted Amendment 16 to the Coastal Pelagic Species (CPS) Fishery Management Plan (FMP) for review by the Secretary of Commerce. Amendment 16 would add a description to the CPS FMP of a very small sector of the CPS fishery that is not part of the primary commercial directed fishery and harvests minor amounts of CPS finfish. Total landings from this sector typically make up less than one percent of the total landings of any particular CPS stock. Currently, when directed fishing closures are enacted, these very small-scale fisheries have been precluded from fishing and/or harvesting these minor amounts because they do not fall under the existing exemptions during closures for incidental harvest or for harvesting CPS to be sold as live bait. The intent of Amendment 16 is to allow this sector to continue targeting CPS finfish after a directed fishery closure, while keeping the aggregate catch level within the applicable annual catch limit (ACL).

DATES: Comments on Amendment 16 must be received by January 5, 2018.

ADDRESSES: You may submit comments on this document, identified by NOAA-NMFS-2017-0135, by any of the following methods:

- *Electronic Submissions:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2017-0135,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to Barry A. Thom, Regional Administrator, West Coast Region, NMFS, 501 W. Ocean Blvd., Ste. 4200, Long Beach, CA 90802–4250; Attn: Joshua Lindsay.

Instructions: Comments must be submitted by one of the above methods to ensure that the comments are received, documented, and considered by NMFS. Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, etc.) submitted voluntarily by the sender will be publicly accessible. Do not submit confidential business information, or otherwise sensitive or protected information. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

Copies of the draft CPS FMP as amended through Amendment 16, with notations showing how Amendment 16 would change the FMP, if approved, are available via the Federal eRulemaking Portal: *http://www.regulations.gov,* docket NOAA–NMFS–2017–0135, or by contacting the Pacific Fisheries Management Council, 7700 NE Ambassador Place, Suite 101, Portland, OR 97220–1384.

FOR FURTHER INFORMATION CONTACT: Joshua B. Lindsay, Sustainable Fisheries Division, NMFS, at 562–980–4034; or Kerry Griffin, Pacific Fishery Management Council, at 503–820–2280.

SUPPLEMENTARY INFORMATION: The CPS fishery in the U.S. exclusive economic zone (EEZ) off the West Coast is managed under the CPS FMP, which was developed by the Council pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (MSA), 16 U.S.C. 1801 *et seq.* Species managed under the CPS FMP include Pacific sardine, Pacific mackerel, jack mackerel, northern anchovy, market squid and krill. The CPS FMP was approved by the Secretary of Commerce and was implemented by regulations at 50 CFR part 660, subpart I.

The MSA requires each regional fishery management council to submit any amendment to a FMP to NMFS for review and approval, disapproval, or partial approval. The MSA also requires that NMFS, upon receiving an amendment to a FMP, publish

notification in the **Federal Register** that the amendment is available for public review and comment. NMFS will consider the public comments received during the comment period described above in determining whether to approve, disapprove, or partially approve Amendment 16.

In recent years the primary directed fishery for Pacific sardine has experienced extremely shortened fishing seasons or complete fishing year closures. However, the CPS FMP allows incidental catch of CPS and live bait fishing to continue when directed fisheries are closed, provided the Pacific sardine stock is not overfished or experiencing overfishing. These small allowances continue to be subject to ACLs and comport with the conservation goals of the CPS FMP. Management measures for incidental landing allowances are typically expressed as allowable percentages of that species in a landing of the dominant species catch. However, during the directed fishing closures some other very small-scale fisheries have been precluded from fishing and/or harvesting even *de minimis* amounts because they would exceed existing incidental allowances or they are not caught incidental to another CPS species (*i.e.,* within allowances) and the fish are not sold as live bait. In the case of Pacific sardine, these small-scale CPS fisheries typically sell their catch as specialty dead bait to recreational and commercial fisheries, or as fresh fish to restaurants and the public. For example, landings by a beach seine operation may often be over 50 percent sardine, which would exceed typically incidental landing allowances, yet total only a few hundred pounds. Pursuant to a request from the Council at their April 2016 meeting, the Coastal Pelagic Species Management Team (CPSMT) explored management options to account for these small-scale fisheries that have been negatively impacted by the closure of the directed sardine fishery.

At the April 2017 Council meeting, the Council adopted Amendment 16 to the CPS FMP to allow minor directed fishing to continue after a directed fishery is closed. Minor directed fishing would be allowed unless otherwise specified, or if an applicable ACL is anticipated to be exceeded. As a further restriction, to ensure the minor directed landing provision is not exploited to make large aggregate harvests, Amendment 16 limits this directed fishing exemption so that landings cannot exceed 1 metric ton (mt) per day per vessel or person, and which is limited to one fishing trip per day by any vessel. The intent of distinguishing between a ''vessel'' and ''person'' is that some participants in this small sector of the CPS fishery fish from a platform other than a vessel (*e.g.* beach seine) and in a single fishing trip (*e.g.* a single haul of a beach seine) may only land a few hundred pounds. Therefore, the Council recommended allowing a person to make multiple fishing trips without using a vessel in a single day as long as their total landings do not exceed 1 mt in a day. The Council recommended that vessels be limited to a single trip as their typical landings are much greater per trip.

Public comments on Amendment 16 must be received by January 5, 2018. The Council has also submitted proposed regulations to implement Amendment 16 for Secretarial review and approval. NMFS expects to publish and request public comment on the proposed regulation to implement Amendment 16 in the near future. Public comments on Amendment 16 must be received by the end of the comment period to be considered in the approval/disapproval decision on Amendment 16. All comments received by the end of the comment period on Amendment 16, whether specifically directed to Amendment 16 or the proposed rule, will be considered in the approval/disapproval decision. Comments received after that date will not be considered in the approval/disapproval decision of Amendment 16. To be considered, comments must be received by close of business on the last day of the comment period; that does not mean postmarked or otherwise transmitted by that date.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: November 1, 2017.

Emily H. Menashes,

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

[FR Doc. 2017–24097 Filed 11–3–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Chapter I

[Docket Nos. FWS–HQ–ES–2015–0126 and FWS–HQ–ES–2015–0165; FXES11140900000–178–FF09E33000]

Mitigation Policies of the U.S. Fish and Wildlife Service; Request for Comments

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Policy review; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), are requesting public comment on portions of our existing Mitigation Policy and Endangered Species Act Compensatory Mitigation Policy (ESA–CMP). We specifically request comment on the policies' mitigation planning goals. Based on comments received, the Service will decide whether and how to revise the policies.

DATES: We will accept comments from all interested parties until January 5, 2018. Please note that if you are using the Federal eRulemaking Portal (see **ADDRESSES** below), the deadline for submitting an electronic comment is 11:59 p.m. Eastern Standard Time on this date.

ADDRESSES:

Document availability: The Service's Mitigation Policy was published November 21, 2016, at 81 FR 83440 and is available at *https://www.regulations.gov* at Docket No. FWS–HQ–ES–2015–0126. The Service's ESA–CMP was published December 27, 2106, at 81 FR 95316 and is available at *https://www.regulations.gov* at Docket No. FWS–HQ–ES–2015–0165.

Comment submission: You may submit comments by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* In the Search box, enter the docket number for the policy, which is FWS–HQ–ES–2015–0126 for the mitigation policy and FWS–HQ–ES–2015–0165 for the ESA–CMP. You may enter a comment by clicking on the ''Comment Now!'' button. Please ensure that you have found the correct document before submitting your comment.
- *U.S. mail or hand delivery:* Public Comments Processing, Attn: Docket No. [FWS–HQ–ES–2015–0126 or FWS–HQ–ES–2015–0165]; Division of Policy, Performance, and Management Programs; U.S. Fish and Wildlife Service; MS: BPHC; 5275 Leesburg Pike, Falls Church, VA 22041–3803.

We will post all comments on *https://www.regulations.gov.* This generally means that we will post any personal information you provide us (see Request for Information below for more information).

FOR FURTHER INFORMATION CONTACT: Craig Aubrey, U.S. Fish and Wildlife Service, Division of Environmental Review, 5275 Leesburg Pike, Falls Church, VA 22041–3803, telephone 703–358–2442.

SUPPLEMENTARY INFORMATION:

Background

The Mitigation Policy (81 FR 83440, November 21, 2016) and the ESA–CMP (81 FR 95316, December 27, 2016) were developed to ensure consistency with existing directives in effect at the time of issuance, including former President Obama's Memorandum on Mitigating Impacts on Natural Resources From Development and Encouraging Related Private Investment (November 3, 2015). The Presidential Memorandum directed all Federal agencies that manage natural resources to avoid and then minimize harmful effects to land, water, wildlife, and other ecological resources (natural resources) caused by land- or water-disturbing activities, and to ensure that any remaining harmful effects are effectively addressed, consistent with existing mission and legal authorities. Also, under the memorandum, all Federal mitigation policies were directed to clearly set a net-benefit goal or, at minimum, a no-net-loss goal for natural resources, wherever doing so is allowed by existing statutory authority and is consistent with agency mission and established natural resource objectives. The Presidential Memorandum was subsequently rescinded by Executive Order 13783, ''Promoting Energy Independence and Economic Growth'' (March 28, 2017).

The 2016 policies also described their consistency with the Secretary of the Interior's Order 3330 on Improving Mitigation Policies and Practices of the Department of the Interior (October 31, 2013), which established a Department-wide mitigation strategy to ensure consistency and efficiency in the review and permitting of infrastructure-development projects and in conserving natural and cultural resources. The Secretary's Order was subsequently revoked by Secretary of the Interior's Order 3349 on American Energy Independence (March 29, 2017). It directed Department of the Interior bureaus to reexamine mitigation policies and practices to better balance conservation strategies and policies with job creation for American families.

Mitigation Planning Goal

The Mitigation Policy articulated general policy and principles intended to guide Service-recommended mitigation across Service programs. These principles were in turn adopted by the ESA–CMP. Included among the principles was an overall mitigation planning goal of net conservation gain:

> The Service's mitigation planning goal is to improve (*i.e.,* a net gain) or, at minimum, to maintain (*i.e.,* no net loss) the current status of affected resources, as allowed by applicable statutory authority and consistent with the responsibilities of action proponents under such authority. As informed by established conservation objectives and strategies, Service mitigation recommendations will focus primarily on important, scarce, or sensitive resources, and will specify the means and measures that achieve the planning goal.

When the Service published both the draft Mitigation Policy and draft ESA–CMP for public comment, many commenters addressed the policies' mitigation planning goals. Comments on the proposed Mitigation Policy may be viewed here: *https://www.regulations.gov/docketBrowser?rpp=25&po=0&dct=PS&D=FWS-HQ-ES-2015-0126&refD=FWS-HQ-ES-2015-0126-0001.* Comments on the proposed ESA–CMP may be viewed here: *https://www.regulations.gov/docketBrowser?rpp=25&po=0&dct=PS&D=FWS-HQ-ES-2015-0165&refD=FWS-HQ-ES-2015-0165-0001.* The Service addressed these comments within the documents for the final policies.

This document announces the Service's intent to solicit additional input regarding whether to retain or remove net conservation gain as a mitigation planning goal within our mitigation policies.

Request for Information

We ask that comments specifically address the advisability of retaining or removing references to net conservation gain from the Service's overall mitigation planning goal within each policy. We further ask that commenters submit comments to one or the other docket based on the specific policy of concern (the Mitigation Policy or the ESA–CMP).

We will consider information and recommendations from all interested parties. We therefore invite comments, information, and recommendations from governmental agencies, Indian Tribes, the scientific community, industry groups, environmental interest groups, and any other interested parties. All comments and materials received by the date listed above in **DATES** will be considered prior to any proposed modification to the policies.

If you submit information via *https://www.regulations.gov,* your entire submission—including any personal identifying information—will be posted on the Web site. If your submission is made via a hardcopy that includes personal identifying information, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so. We will post all hardcopy submissions on *https://www.regulations.gov.*

Next Steps

After the comment period closes, we will determine whether and how to revise the policies in response to the public input regarding the requested information. We will also update the policies to remove specific references to the Presidential Memorandum that was rescinded by Executive Order 13783 and to Secretary of the Interior's Order 3330 that was revoked by the subsequent Order 3349.

Dated: October 4, 2017.

Gregory Sheehan,

Principal Deputy Director, U.S. Fish and Wildlife Service.

[FR Doc. 2017–23965 Filed 11–3–17; 8:45 am]

BILLING CODE 4333–15–P

Notices

Federal Register
Vol. 82, No. 213
Monday, November 6, 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.

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Georgia Advisory Committee

AGENCY: U.S. Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act that the Georgia Advisory Committee will hold a meeting on Monday, November 20, 2017, for continuing discussion of a public hearing on the civil rights implications of the Olmstead Act.

DATES: The meeting will be held on Monday, November 20, 2017, at 11:00 a.m. EST.

Public Call Information: The meeting will be by teleconference. Toll-free call-in number: 888–466–4442, conference ID: 3266197.

FOR FURTHER INFORMATION CONTACT: Jeff Hinton, DFO, at *jhinton@usccr.gov* or 404–562–7006.

SUPPLEMENTARY INFORMATION: Members of the public can listen to the discussion. This meeting is available to the public through the following toll-free call-in number: 888–466–4442, conference ID: 3266197. Any interested member of the public may call this number and listen to the meeting. Callers can expect to incur charges for calls they initiate over wireless lines, and the Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1–800–977–8339 and providing the Service with the conference call number and conference ID number.

Members of the public are also entitled to submit written comments; the comments must be received in the regional office by November 17, 2017. Written comments may be mailed to the Southern Regional Office, U.S. Commission on Civil Rights, 61 Forsyth Street, Suite 16T126, Atlanta, GA 30303. They may also be faxed to the Commission at (404) 562–7005, or emailed to Regional Director, Jeffrey Hinton at *jhinton@usccr.gov.* Persons who desire additional information may contact the Southern Regional Office at (404) 562–7000.

Records generated from this meeting may be inspected and reproduced at the Southern Regional Office, as they become available, both before and after the meeting. Records of the meeting will be available via *www.facadatabase.gov* under the Commission on Civil Rights, North Carolina Advisory Committee link. Persons interested in the work of this Committee are directed to the Commission's Web site, *http://www.usccr.gov,* or may contact the Southern Regional Office at the above email or street address.

Agenda

Welcome and Introductions
Jeff Hinton, Regional Director; Jerry Gonzalez, Chair Georgia SAC
Regional Update—Jeff Hinton
Continuation: Discussion of implementation process of the public hearing—
Jerry Gonzalez, Chair Georgia SAC
State Advisory Committee (SAC) members
Public comments
Adjournment

Dated: October 31, 2017.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2017–24035 Filed 11–3–17; 8:45 am]

BILLING CODE P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Tennessee Advisory Committee

AGENCY: U.S. Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act that the Tennessee Advisory Committee will hold a meeting on Wednesday, December 6, 2017 to review, discuss, and update the draft report on civil rights issues related to civil asset forfeiture in the state.

DATES: The meeting will be held on Wednesday, December 6, 2017, at 12:30 p.m. EST.

Public Call Information: The meeting will be by teleconference. Toll-free call-in number: 888–297–0357, conference ID: 7237688.

FOR FURTHER INFORMATION CONTACT: Jeff Hinton, DFO, at *jhinton@usccr.gov* or 404–562–7006.

SUPPLEMENTARY INFORMATION: Members of the public can listen to the discussion. This meeting is available to the public through the following toll-free call-in number: 888–297–0357, conference ID: 7237688. Any interested member of the public may call this number and listen to the meeting. Callers can expect to incur charges for calls they initiate over wireless lines, and the Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1–800–977–8339 and providing the Service with the conference call number and conference ID number.

Members of the public are also entitled to submit written comments; the comments must be received in the regional office by December 1, 2017. Written comments may be mailed to the Southern Regional Office, U.S. Commission on Civil Rights, 61 Forsyth Street, Suite 16T126, Atlanta, GA 30303. They may also be faxed to the Commission at (404) 562–7005, or emailed to Regional Director, Jeffrey Hinton at *jhinton@usccr.gov.* Persons who desire additional information may contact the Southern Regional Office at (404) 562–7000.

Records generated from this meeting may be inspected and reproduced at the Southern Regional Office, as they become available, both before and after the meeting. Records of the meeting will be available via *www.facadatabase.gov* under the Commission on Civil Rights, Tennessee Advisory Committee link. Persons interested in the work of this Committee are directed to the Commission's Web site, *http://*

www.usccr.gov, or may contact the Southern Regional Office at the above email or street address.

Agenda

Welcome and Call to Order
Diane DiIanni, Tennessee SAC Chairman
Jeff Hinton, Regional Director
Regional Update—Jeff Hinton
New Business: Diane DiIanni, Tennessee SAC Chairman/Staff/Advisory Committee
- Review, discuss and update draft report (Civil Asset Forfeiture)

Public Participation
Adjournment

Dated: October 31, 2017.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2017–24036 Filed 11–3–17; 8:45 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Louisiana Advisory Committee To Discuss Hearing Preparations for Barriers to Voting Report

AGENCY: U.S. Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act that the Louisiana Advisory Committee (Committee) will hold a meeting on Tuesday, November 7, 2017, at 10:00:00 a.m. Central for a discussion on Barriers to Voting in Louisiana.

DATES: The meeting will be held on Tuesday, November 7, 2017, at 10:00 a.m. Central.

Public Call Information: Dial: 888–726–2418, Conference ID: 9008728.

FOR FURTHER INFORMATION CONTACT: David Barreras, DFO, at *dbarreras@usccr.gov* or 312–353–8311.

SUPPLEMENTARY INFORMATION: Members of the public can listen to the discussion. This meeting is available to the public through the following toll-free call-in number: 888–726–2418, conference ID: 9008728. Any interested member of the public may call this number and listen to the meeting. An open comment period will be provided to allow members of the public to make a statement as time allows. The conference call operator will ask callers to identify themselves, the organization they are affiliated with (if any), and an email address prior to placing callers into the conference room. Callers can expect to incur regular charges for calls they initiate over wireless lines, according to their wireless plan. The Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1–800–977–8339 and providing the Service with the conference call number and conference ID number.

Members of the public are also entitled to submit written comments; the comments must be received in the regional office within 30 days following the meeting. Written comments may be mailed to the Midwestern Regional Office, U.S. Commission on Civil Rights, 55 W. Monroe St., Suite 410, Chicago, IL 60615. They may also be faxed to the Commission at (312) 353–8324, or emailed to David Barreras at *dbarreras@usccr.gov.* Persons who desire additional information may contact the Midwestern Regional Office at (312) 353–8311.

Records generated from this meeting may be inspected and reproduced at the Midwestern Regional Office, as they become available, both before and after the meeting. Records of the meeting will be available via *www.facadatabase.gov* under the Commission on Civil Rights, Louisiana Advisory Committee link (*http://www.facadatabase.gov/committee/committee.aspx?cid=251&aid=17*). Persons interested in the work of this Committee are directed to the Commission's Web site, *http://www.usccr.gov,* or may contact the Midwestern Regional Office at the above email or street address.

Agenda

Welcome and Roll Call

Discussion of Barriers to Voting—Hearing preparations

Next Steps

Public Comment

Adjournment

Exceptional Circumstance: Pursuant to 41 CFR 102–3.150, the notice for this meeting is given less than 15 calendar days prior to the meeting because of the exceptional circumstance that this project will inform the Commission's FY2018 statutory enforcement report on voting rights and is therefore under a very tight timeline.

Dated: October 31, 2017.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2017–24020 Filed 11–3–17; 8:45 am]

BILLING CODE P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Colorado Advisory Committee

AGENCY: Commission on Civil Rights.

ACTION: Announcement of meetings.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission), and the Federal Advisory Committee Act (FACA), thata planning meeting of the Colorado Advisory Committee to the Commission will by teleconference at 3:00 p.m. (MST) on Friday, November 17, 2017. The purpose of the meeting is to continue to discuss next steps after briefing meeting on the Blaine Amendment in Denver on July 2017.

DATES: Friday, November 17, 2017, at 3:00 p.m. MST.

Public Call-In Information: Conference call-in number: 1–888–857–6931 and conference call 1528884.

FOR FURTHER INFORMATION CONTACT: Evelyn Bohor, at *ebohor@usccr.gov* or by phone at 303–866–1040.

SUPPLEMENTARY INFORMATION: Interested members of the public may listen to the discussion by calling the following toll-free conference call-in number: 1–888–857–6931 and conference call 1528884. Please be advised that before placing them into the conference call, the conference call operator will ask callers to provide their names, their organizational affiliations (if any), and email addresses (so that callers may be notified of future meetings). Callers can expect to incur charges for calls they initiate over wireless lines, and the Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free conference call-in number.

Persons with hearing impairments may also follow the discussion by first calling the Federal Relay Service at 1–800–977–8339 and providing the operator with the toll-free conference call-in number: 1–888–857–6931 and conference call 1528884.

Members of the public are invited to make statements during the open comment period of the meeting or submit written comments. The comments must be received in the regional office approximately 30 days after each scheduled meeting. Written

comments may be mailed to the Rocky Mountain Regional Office, U.S. Commission on Civil Rights, 1961 Stout Street, Suite 13–201, Denver, CO 80294, faxed to (303) 866–1040, or emailed to Evelyn Bohor at *ebohor@usccr.gov.* Persons who desire additional information may contact the Rocky Mountain Regional Office at (303) 866–1040.

Records and documents discussed during the meeting will be available for public viewing as they become available at *https://www.facadatabase.gov/committee/meetings.aspx?cid=238;* click the ''Meeting Details'' and ''Documents'' links. Records generated from this meeting may also be inspected and reproduced at the Rocky Mountain Regional Office, as they become available, both before and after the meeting. Persons interested in the work of this advisory committee are advised to go to the Commission's Web site, *www.usccr.gov,* or to contact the Rocky Mountain Regional Office at the above phone numbers, email or street address.

Agenda

Friday, November 17, 2017, 3:00 (MST)

- Rollcall and Welcome
- Next Steps after Briefing on Blaine Amendment
- Open Comment
- Adjourn

Dated: October 31, 2017.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2017–24021 Filed 11–3–17; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–552–814]

Utility Scale Wind Towers From the Socialist Republic of Vietnam: Preliminary Determination of No Shipments, and Preliminary Partial Rescission of Antidumping Duty Administrative Review; 2016–2017

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on utility scale wind towers (wind towers) from the Socialist Republic of Vietnam (Vietnam). This review covers respondent CS Wind Group. The period of review (POR) is February 1, 2016, through January 31, 2017. We preliminarily find no evidence of any shipments of subject merchandise by CS Wind Group during the POR, and are therefore issuing a preliminary no shipments determination.

DATES: Applicable November 6, 2017.

FOR FURTHER INFORMATION CONTACT: Trisha Tran, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–4852.

SUPPLEMENTARY INFORMATION:

Scope of the Order

The merchandise covered by this order are certain wind towers, whether or not tapered, and sections thereof. Merchandise covered by the order is currently classified in the Harmonized Tariff System of the United States (HTSUS) under subheadings 7308.20.0020 [1] or 8502.31.0000.[2] Prior to 2011, merchandise covered by the order was classified in the HTSUS under subheading 7308.20.0000. While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the order is dispositive. A full description of the scope of the order is contained in the Preliminary Decision Memorandum, which is hereby adopted by this notice.[3]

Methodology

The Department is conducting this review in accordance with section 751(a)(2) of the Tariff Act of 1930, as amended (the Act). For a full description of the methodology underlying our conclusions, *see* Preliminary Decision Memorandum. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov* and in the Central Records Unit, Room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly on the Internet at *http://enforcement.trade.gov/frn/index.html.* The signed Preliminary Decision Memorandum is identical in content.

Preliminary Partial Rescission of Antidumping Duty Administrative Review

Pursuant to 19 CFR 351.213(d)(1), the Department will rescind an administrative review, in whole or in part, if a party that requested the review withdraws its request within 90 days of the date of publication of the notice of initiation of the requested review. The petitioner, Wind Tower Trade Coalition, timely withdrew its requests for an administrative review of Vina Halla Heavy Industries Ltd. and UBI Tower Sole Member Company Ltd. within 90 days of the *Initiation Notice* [4] of this review.[5] Accordingly, the Department is rescinding this review with respect to these two companies and the remaining entries subject to the instant review are of wind towers produced in Vietnam with respect to the CS Wind Group where CS Wind Group was (1) the producer but not the exporter, or (2) the exporter but not the producer.[6]

Preliminary Determination of No Shipments

Based on information CS Wind Group submitted after the initiation of this administrative review, and due to the fact that we have not received any information from U.S. Customs and Border Protection (CBP) indicating that CS Wind Group had entries where CS Wind Group was (1) the producer but not the exporter, or (2) the exporter but not the producer during the POR, the Department has preliminarily determined that the record evidence indicates that CS Wind Group had no shipments of subject merchandise during the POR.[7]

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[1] Wind towers are classified under HTSUS 7308.20.0020 when imported as a tower or tower section(s) alone.

[2] Wind towers may also be classified under HTSUS 8502.31.0000 when imported as part of a wind turbine (*i.e.,* accompanying nacelles and/or rotor blades).

[3] For a full description of the scope of the order, s*ee* Memorandum ''Decision Memorandum for the Preliminary Results of the 2016–2017 Antidumping Duty Administrative Review of Utility Scale Wind Towers from the Socialist Republic of Vietnam'' (Preliminary Decision Memorandum), dated concurrently with this notice.

[4] *Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 82 FR 17188 (April 10, 2017) (*Initiation Notice*).

[5] Letter from the petitioner, ''Utility Scale Wind Towers from the Socialist Republic of Vietnam: Withdrawal of Administrative Review Request and Response to CS Wind's No Shipment Letter,'' dated June 5, 2017.

[6] *Utility Scale Wind Towers from the Socialist Republic of Vietnam: Notice of Amended Initiation of Antidumping Duty Administrative Review; 2016–2017,* 82 FR 24943 (May 31, 2017).

[7] *See* Letter from CS Wind Group, ''No Shipment Letter for CS Wind Group: Fourth Administrative Review of the Antidumping Duty Order on Utility Scale Wind Towers from Vietnam,'' dated June 1, 2017; *see also* Letter from Department, ''Antidumping Duty Administrative Review of Utility Scale Wind Towers from the Socialist Republic of Vietnam for 2/1/16–1/31/17: Results of U.S. Customs and Border Protection Database Query,'' dated April 27, 2017.

Consistent with an announced refinement to its assessment practice in non-market economy cases, the Department is not rescinding this review but intends to complete the review with respect to CS Wind Group for which it has preliminarily found no shipments and issue appropriate instructions to CBP based on the final results of the review.[8]

Assessment Rates

Upon issuance of the final results, the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries covered by this review.[9] The Department intends to issue assessment instructions to CBP 15 days after the publication date of the final results of this review. For entries of subject merchandise during the POR produced but not exported or exported but not produced by CS Wind Group, we will instruct CBP to liquidate unreviewed entries at the Vietnam-wide rate if there was no rate for the intermediate company or companies involved in the transaction.[10] For entries of subject merchandise during the POR produced and exported by CS Wind Group, these entries continue to be excluded from the order and will remain enjoined pursuant to the terms of the injunction during the pendency of any appeals process.[11]

Additionally, for the companies for which this review is rescinded, antidumping duties shall be assessed at rates equal to the cash deposit of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(l)(i). The Department intends to issue appropriate assessment instructions to CBP 15 days after publication of this notice.

Disclosure and Public Comment

Pursuant to 19 CFR 351.309(c), interested parties may submit case briefs no later than 30 days after the date of publication of this notice.[12] Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than five days after the date for filing case briefs.[13] Parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.[14] Case and rebuttal briefs should be filed using ACCESS.[15] In order to be properly filed, ACCESS must successfully receive an electronically-filed document in its entirety by 5 p.m. Eastern Time on the date on which it is due.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Enforcement and Compliance, filed electronically via ACCESS, within 30 days after the date of publication of this notice.[16] Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. Issues raised in the hearing will be limited to those raised in the respective case briefs.

The Department intends to issue the final results of this administrative review, including the results of its analysis of the issues raised in any written briefs, not later than 120 days after the date of publication of this notice, unless extended, pursuant to section 751(a)(3)(A) of the Act.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification to Interested Parties

We are issuing and publishing these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: October 31, 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. 2017–24080 Filed 11–3–17; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–533–876]

Fine Denier Polyester Staple Fiber From India: Preliminary Affirmative Countervailing Duty Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the Department) preliminarily determines that countervailable subsidies are being provided to producers and exporters of fine denier polyester staple fiber (fine denier PSF) from India. The period of investigation is January 1, 2016, through December 31, 2016.

DATES: Applicable November 6, 2017.

FOR FURTHER INFORMATION CONTACT: Trisha Tran or Eli Lovely, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–4852 or (202) 482–1593, respectively.

SUPPLEMENTARY INFORMATION:

Background

This preliminary determination is made in accordance with section 703(b) of the Tariff Act of 1930, as amended (the Act). The Department published the notice of initiation of this investigation on June 27, 2017.[1] On August 8, 2017, the Department postponed the preliminary determination of this investigation and the revised deadline is now October 30, 2017.[2] For a complete description of the events that followed the initiation of this investigation, *see* the Preliminary Decision

[8] *See Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR 65694, 65694–95 (October 24, 2011) and the ''Assessment Rates'' section, below.

[9] *See* 19 CFR 351.212(b)(1).

[10] *See Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003).

[11] *See Utility Scale Wind Towers from the Socialist Republic of Vietnam: Notice of Court Decision Not in Harmony with the Final Determination of Less Than Fair Value Investigation and Notice of Amended Final Determination of Investigation,* 82 FR 15493 (March 29, 2017) (*Timken Notice*).

[12] *See* 19 CFR 351.309(c)(ii).

[13] *See* 19 CFR 351.309(d).

[14] *See* 19 CFR 351.309(c)(2) and (d)(2).

[15] *See* 19 CFR 351.303.

[16] *See* 19 CFR 351.310(c).

[1] *See Fine Denier Polyester Staple Fiber from India and the People's Republic of China: Initiation of Countervailing Duty Investigations,* 82 FR 29028 (June 27,2017) *(Initiation Notice*).

[2] *See Fine Denier Polyester Staple Fiber from the People's Republic of China and India: Postponement of Preliminary Determinations in the Countervailing Duty Investigations,* 82 FR 37048 (August 8, 2017).

Memorandum.[3] A list of topics discussed in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov,* and is available to all parties in the Central Records Unit, Room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/.* The signed and electronic versions of the Preliminary Decision Memorandum are identical in content.

Scope of the Investigation

The product covered by this investigation is fine denier PSF from India. For a complete description of the scope of this investigation, *see* Appendix I.

Scope Comments

In accordance with the preamble to the Department's regulations,[4] the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage, (*i.e.,* scope).[5] Certain interested parties commented on the scope of the investigation as it appeared in the *Initiation Notice,* as well as additional language proposed by the Department.[6] The Department intends to issue its preliminary decision regarding comments concerning the scope of the antidumping duty (AD) and countervailing duty (CVD) investigations in the preliminary determination of the companion AD investigation.

Methodology

The Department is conducting this investigation in accordance with section 701 of the Act. For each of the subsidy programs found countervailable, the Department preliminarily determines that there is a subsidy, *i.e.,* a financial contribution by an ''authority'' that gives rise to a benefit to the recipient, and that the subsidy is specific.[7]

The Department notes that, in making these findings, it relied, in part, on facts available and, because it finds that one or more respondents did not act to the best of their ability to respond to the Department's requests for information, it drew an adverse inference where appropriate in selecting from among the facts otherwise available.[8] For further information, *see* ''Use of Facts Otherwise Available and Adverse Inferences'' in the Preliminary Decision Memorandum.

All-Others Rate

Sections 703(d) and 705(c)(5)(A) of the Act provide that in the preliminary determination, the Department shall determine an estimated all-others rate for companies not individually examined. This rate shall be an amount equal to the weighted average of the estimated subsidy rates established for those companies individually examined, excluding any zero and *de minimis* rates and any rates based entirely under section 776 of the Act.

In this investigation, the Department calculated individual estimated countervailable subsidy rates for Bombay Dyeing & Manufacturing Company Limited (Bombay Dyeing) and Reliance Limited Industries (Reliance) that are not zero, *de minimis,* or based entirely on facts otherwise available. The Department calculated the all-others' rate using a weighted average of the individual estimated subsidy rates calculated for the examined respondents using each company's publicly-ranged values for the merchandise under consideration.[9]

Preliminary Determination

The Department preliminarily determines that the following estimated countervailable subsidy rates exist:

Company	Subsidy rate (percent)
Bombay Dyeing & Manufacturing Company Limited	7.18
Reliance Industries Limited ..	9.86
All-Others	9.37

Suspension of Liquidation

In accordance with section 703(d)(1)(B) and (d)(2) of the Act, the Department will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise as described in the scope of the investigation section entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. Further, pursuant to 19 CFR 351.205(d), the Department will instruct CBP to require a cash deposit equal to the rates indicated above.

Disclosure

The Department intends to disclose its calculations and analysis performed to interested parties in this preliminary determination within five days of its public announcement, or if there is no public announcement, within five days of the date of this notice in accordance with 19 CFR 351.224(b).

Verification

As provided in section 782(i)(1) of the Act, the Department intends to verify the information relied upon in making its final determination.

[3] *See* Memorandum, ''Decision Memorandum for the Preliminary Determination of the Countervailing Duty Investigation of Fine Denier Polyester Staple Fiber from India,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[4] *See Antidumping Duties; Countervailing Duties, Final Rule,* 62 FR 27296, 27323 (May 19, 1997).

[5] *See Initiation Notice.*

[6] Letter from from David C. Poole Company Inc., ''Fine Denier Polyester Staple Fiber from the People's Republic of China, India, the Republic of Korea, Taiwan, and Vietnam; Scope Comments,'' dated July 10, 2017; Letter from Suominen Corporation, ''Fine Denier Polyester Staple Fiber from the People's Republic of China, India, the Republic of Korea, Taiwan, and the Socialist Republic of Vietnam,'' dated July 10, 2017; Letter from Consolidated Fibers, Inc., ''Fine Denier Polyester Staple Fiber from the People's Republic of China, India, the Republic of Korea, Taiwan, and the Socialist Republic of Vietnam—Scope Comments,'' dated July 10, 2017; Letter from Reliance, ''Fine Denier Polyester Staple Fiber from the People's Republic of China, India, the Republic of Korea, Taiwan, and the Socialist Republic of Vietnam: Reliance Industries, Ltd.'s Comments Regarding the Scope of the Investigation,'' dated July 10, 2017; Letter from the petitioners, ''Fine Denier Polyester Staple Fiber from the People's Republic of China, India, the Republic of Korea, Taiwan, and the Socialist Republic of Vietnam—Petitioners' Scope Comments,'' dated July 12, 2017; Letter from the petitioners, ''Fine Denier Polyester Staple Fiber from the People's Republic of China, India, the Republic of Korea, Taiwan, and the Socialist Republic of Vietnam—Petitioners' Rebuttal Scope Comments to the Importers' Scope Exclusion Requests,'' dated July 12, 2017.

[7] *See* sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

[8] *See* sections 776(a) and (b) of the Act.

[9] With two respondents under examination, the Department normally calculates (A) a weighted-average of the estimated subsidy rates calculated for the examined respondents; (B) a simple average of the estimated subsidy rates calculated for the examined respondents; and (C) a weighted-average of the estimated subsidy rates calculated for the examined respondents using each company's publicly-ranged U.S. sale quantities for the merchandise under consideration. The Department then compares (B) and (C) to (A) and selects the rate closest to (A) as the most appropriate rate for all other producers and exporters. *See, e.g., Ball Bearings and Parts Thereof from France, Germany, Italy, Japan, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews, Final Results of Changed-Circumstances Review, and Revocation of an Order in Part,* 75 FR 53661, 53663 (September 1, 2010). As complete publicly ranged sales data was available, the Department based the all-others rate on the publicly ranged sales data of the mandatory respondents. For a complete analysis of the data, please *see* the All-Others' Rate Calculation Memorandum.

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the last verification report is issued in this investigation. Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline date for case briefs.[10] Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this investigation are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce within 30 days after the date of publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, the Department intends to hold the hearing at the U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230, at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

International Trade Commission Notification

In accordance with section 703(f) of the Act, the Department will notify the International Trade Commission (ITC) of its determination. If the final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the final determination.

Notification to Interested Parties

This determination is issued and published pursuant to sections 703(f) and 777(i) of the Act and 19 CFR 351.205(c).

[10] *See* 19 CFR 351.309; *see also* 19 CFR 351.303 (for general filing requirements).

Dated: October 30, 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.

Appendix I

Scope of the Investigation

The merchandise covered by this investigation is fine denier polyester staple fiber (fine denier PSF), not carded or combed, measuring less than 3.3 decitex (3 denier) in diameter. The scope covers all fine denier PSF, whether coated or uncoated. The following products are excluded from the scope:

(1) PSF equal to or greater than 3.3. decitex (more than 3 denier, inclusive) currently classifiable under Harmonized Tariff Schedule of the United States (HTSUS) subheadings 5503.20.0045 and 5503.20.0065.

(2) Low-melt PSF defined as a bicomponent fiber with a polyester core and anouter, polyester sheath that melts at a significantly lower temperature than its inner polyester core currently classified under HTSUS subheading 5503.20.0015.

Fine denier PSF is classifiable under the HTSUS subheading 5503.20.0025. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the investigation is dispositive.

Appendix II

List of Topics Discussed in the Preliminary Decision Memorandum

[FR Doc. 2017–24078 Filed 11–3–17; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–601]

Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China: Final Results of the Expedited Fourth Sunset Review of the Antidumping Duty Order

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: As a result of this sunset review, the Department of Commerce (the Department) finds that revocation of the antidumping duty (AD) order on tapered roller bearings and parts thereof, finished and unfinished (TRBs) from the People's Republic of China (PRC) would be likely to lead to continuation or recurrence of dumping. The magnitude of the dumping margin likely to prevail is indicated in the ''Final Results of Sunset Review'' section of this notice.

DATES: Applicable November 6, 2017.

FOR FURTHER INFORMATION CONTACT: Whitley Herndon; Office II, AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–6274.

SUPPLEMENTARY INFORMATION:

Background

On June 15, 1987, the Department published the AD order on TRBs from the PRC.[1] On July 3, 2017, the Department initiated the fourth sunset review of the AD order on TRBs from the PRC pursuant to section 751(c) of the Tariff Act of 1930, as amended (Act).[2] On July 10, 2017, the Department received a timely notice of intent to participate in the sunset review from the Timken Company (Timken), a domestic producer and the petitioner in the TRBs less-than-fair-value investigation, within the 15-day period specified in 19 CFR 351.218(d)(1)(i).[3] On August 2, 2017, Timken filed a timely substantive response with the Department pursuant to 19 CFR 351.218(d)(3)(i).[4] The Department did not receive a substantive response from any respondent interested party. As a result, pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2),

[1] *See Antidumping Duty Order; Tapered Roller Bearings and Parts Thereof, Finished or Unfinished, from the People's Republic of China,* 52 FR 22667 (June 15, 1987), as amended by *Tapered Roller Bearings from the People's Republic of China; Amendment to Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order in Accordance With Decision Upon Remand,* 55 FR 6669 (February 26, 1990) (*Order*).

[2] *See Initiation of Five-Year (Sunset) Reviews,* 82 FR 80844 (July 3, 2017).

[3] *See* Timken's Letter, ''Fourth Sunset Review of the Antidumping Order on Tapered Roller Bearings from China (A–570–601): Notice of Intent to Participate of the Timken Company,'' dated July 10, 2017.

[4] *See* Timken's Letter, ''Sunset Review (4th Review) pursuant to Section 751(c) of the Tariff Act of 1930 of the antidumping duty order on Tapered Roller Bearings from China (Case No. A–570–601) Substantive Response to the Notice of Initiation,'' dated August 2, 2017.

the Department conducted an expedited (120-day) sunset review of the *Order.*

Scope of the Order

The merchandise covered by the *Order* includes tapered roller bearings and parts thereof. The subject merchandise is currently classifiable under Harmonized Tariff Schedule of the United States (HTSUS) subheadings: 8482.20.00, 8482.91.00.50, 8482.99.15, 8482.99.45, 8483.20.40, 8483.20.80, 8483.30.80, 8483.90.20, 8483.90.30, 8483.90.80, 8708.70.6060, 8708.99.2300, 8708.99.4850, 8708.99.6890, 8708.99.8115, and 8708.99.8180. The HTSUS subheadings are provided for convenience and customs purposes only; the written description of the scope of the order is dispositive.[5]

Analysis of Comments Received

All issues raised in this sunset review are addressed in the Decision Memorandum. The issues discussed in the Decision Memorandum include the likelihood of continuation or recurrence of dumping and the magnitude of the dumping margin likely to prevail if the *Order* were to be revoked.

The Decision Memorandum is a public document and is on file electronically *via* Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov* and in the Central Records Unit, Room B8024 of the main Department of Commerce building. In addition, a complete version of the Decision Memorandum can be accessed at *http://enforcement.trade.gov/frn/.* The signed Decision Memorandum and the electronic version of the Decision Memorandum are identical in content.

Final Results of Sunset Review

Pursuant to sections 751(c)(1) and 752(c)(1) and (3) of the Act, the Department determines that revocation of the *Order* would likely lead to continuation or recurrence of dumping, and that the magnitude of the margin of dumping likely to prevail if the Order is revoked would be up to 60.25 percent.

Notification Regarding Administrative Protective Order

This notice also serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely 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 which is subject to sanction.

Notification to Interested Parties

We are issuing and publishing these results and notice in accordance with sections 751(c), 752, and 777(i)(1) of the Act and 19 CFR 351.281 and 19 CFR 351.221(c)(5)(ii).

Dated: October 31, 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. 2017–24075 Filed 11–3–17; 8:45 am]

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[5] For a full description of the scope of the AD Order, *see* Memorandum, ''Fourth Expedited Sunset Review of the Antidumping Duty Order on Tapered Roller Bearings from the People's Republic of China,'' dated concurrently with, and adopted by, this notice (Decision Memorandum).

DEPARTMENT OF COMMERCE

International Trade Administration

[C–533–844]

Certain Lined Paper Products From India: Final Results of Expedited Second Sunset Review of Countervailing Duty Order

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: On July 3, 2017, the Department of Commerce (the Department) initiated a sunset review of the countervailing duty (CVD) order on certain lined paper products from India pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act). The Department has conducted an expedited sunset review of this order pursuant to the Act and 19 CFR 351. As a result of this sunset review, the Department finds that revocation of the CVD order is likely to lead to continuation or recurrence of a countervailable subsidy at the levels indicated in the ''Final Results of Review'' section of this notice.

DATES: Applicable November 6, 2017.

FOR FURTHER INFORMATION CONTACT: John Conniff, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone: 202–482–1009.

SUPPLEMENTARY INFORMATION:

Background

The CVD order on certain lined paper products from India was published in the **Federal Register** on September 28, 2006.[1] On July 3, 2017, the Department initiated the second sunset review of this CVD order pursuant to section 751(c) of the Act.[2] On July 18, 2017, we received a notice of intent to participate on behalf of the Association of American School Paper Suppliers and each of its individual members (AASPS, hereinafter referred to as the domestic interested party), an association of domestic producers of lined paper products.[3] The domestic interested party claimed interested party status under sections 771(9)(F) and (C) of the Act, because it is comprised of an association of U.S. producers of the domestic like product and the individual members of the association, which are manufacturers, producers, or wholesalers in the United States of the domestic like product.[4] On August 2, 2017, the domestic interested party submitted its substantive response within the 30-day deadline specified in 19 CFR 351.218(d)(3)(i).[5] The Department did not receive any substantive response from the Government of India, or Indian producers or exporters of the merchandise covered by the CVD order. As a result, pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), the Department conducted an expedited review of the CVD order. This approach is consistent with the Department's practice, including the prior sunset review of this CVD order.[6] The Department did not

[1] *See Notice of Amended Final Determination of Sales at Less Than Fair Value: Certain Lined Paper Products from the People's Republic of China; Notice of Antidumping Duty Orders: Certain Lined Paper Products from India, Indonesia and the People's Republic of China; and Notice of Countervailing Duty Orders: Certain Lined Paper Products from India and Indonesia,* 71 FR 56949 (September 28, 2006).

[2] *See Initiation of Five-Year (Sunset) Reviews,* 82 FR 30844 (July 3, 2017).

[3] *See* Letter from the Domestic Interested Party, ''Certain Lined Paper Products from India: Notice of Intent to Participate in Sunset Review,'' dated July 18, 2017.

[4] *Id.* at 1–2.

[5] *See* Letter from the Domestic Interested Party, ''Certain Lined Paper Products from India: Substantive Response to Notice of Initiation of Sunset Review,'' dated August 2, 2017.

[6] *See, e.g., Welded Carbon Steel Pipe and Tube From Turkey: Final Results of Expedited Sunset Review of Countervailing Duty Order,* 76 FR 64900 (October 19, 2011); *Certain Pasta from Turkey: Final Results of Expedited Five-Year (''Sunset'') Review of the Countervailing Duty Order,* 72 FR 5269 (February 5, 2007); and *Certain Carbon Steel Products from Sweden; Final Results of Expedited Sunset Review of Countervailing Duty Order,* 65 FR 18304 (April 7, 2000). *See also Final Results of Expedited Sunset Review of Countervailing Duty*

conduct a hearing because a hearing was not requested.

Scope of the Order

The scope of this order includes certain lined paper products, typically school supplies,[7] composed of or including paper that incorporates straight horizontal and/or vertical lines on ten or more paper sheets,[8] including but not limited to such products as single- and multi-subject notebooks, composition books, wireless notebooks, loose leaf or glued filler paper, graph paper, and laboratory notebooks, and with the smaller dimension of the paper measuring 6 inches to 15 inches (inclusive) and the larger dimension of the paper measuring 8¾ inches to 15 inches (inclusive). Page dimensions are measured size (not advertised, stated, or ''tear-out'' size), and are measured as they appear in the product (*i.e.,* stitched and folded pages in a notebook are measured by the size of the page as it appears in the notebook page, not the size of the unfolded paper). However, for measurement purposes, pages with tapered or rounded edges shall be measured at their longest and widest points. Subject lined paper products may be loose, packaged or bound using any binding method (other than case bound through the inclusion of binders board, a spine strip, and cover wrap). Subject merchandise may or may not contain any combination of a front cover, a rear cover, and/or backing of any composition, regardless of the inclusion of images or graphics on the cover, backing, or paper. Subject merchandise is within the scope of this order whether or not the lined paper and/or cover are hole punched, drilled, perforated, and/or reinforced. Subject merchandise may contain accessory or informational items including but not limited to pockets, tabs, dividers, closure devices, index cards, stencils, protractors, writing implements, reference materials such as mathematical tables, or printed items such as sticker sheets or miniature calendars, if such items are physically incorporated, included with, or attached to the product, cover and/or backing thereto.

Specifically excluded from the scope of this order are:

- Unlined copy machine paper;
- writing pads with a backing (including but not limited to products commonly known as ''tablets,'' ''note pads,'' ''legal pads,'' and ''quadrille pads''), provided that they do not have a front cover (whether permanent or removable). This exclusion does not apply to such writing pads if they consist of hole-punched or drilled filler paper;
- three-ring or multiple-ring binders, or notebook organizers incorporating such a ring binder provided that they do not include subject paper;
- index cards;
- printed books and other books that are case bound through the inclusion of binders board, a spine strip, and cover wrap;
- newspapers;
- pictures and photographs;
- desk and wall calendars and organizers (including but not limited to such products generally known as ''office planners,'' ''time books,'' and ''appointment books'');
- telephone logs;
- address books;
- columnar pads & tablets, with or without covers, primarily suited for the recording of written numerical business data;
- lined business or office forms, including but not limited to: Pre-printed business forms, lined invoice pads and paper, mailing and address labels, manifests, and shipping log books;
- lined continuous computer paper;
- boxed or packaged writing stationary (including but not limited to products commonly known as ''fine business paper,'' ''parchment paper,'' and ''letterhead''), whether or not containing a lined header or decorative lines;
- Stenographic pads (''steno pads''), Gregg ruled,[9] measuring 6 inches by 9 inches;

Also excluded from the scope of this order are the following trademarked products:

- Fly™ lined paper products: A notebook, notebook organizer, loose or glued note paper, with papers that are printed with infrared reflective inks and readable only by a Fly™ pen-top computer. The product must bear the valid trademark Fly™.[10]
- Zwipes™: A notebook or notebook organizer made with a blended polyolefin writing surface as the cover and pocket surfaces of the notebook, suitable for writing using a specially-developed permanent marker and erase system (known as a Zwipes™ pen). This system allows the marker portion to mark the writing surface with a permanent ink. The eraser portion of the marker dispenses a solvent capable of solubilizing the permanent ink allowing the ink to be removed. The product must bear the valid trademark Zwipes™.[11]
- FiveStar®Advance™: A notebook or notebook organizer bound by a continuous spiral, or helical, wire and with plastic front and rear covers made of a blended polyolefin plastic material joined by 300 denier polyester, coated on the backside with PVC (poly vinyl chloride) coating, and extending the entire length of the spiral or helical wire. The polyolefin plastic covers are of specific thickness; front cover is 0.019 inches (within normal manufacturing tolerances) and rear cover is 0.028 inches (within normal manufacturing tolerances). Integral with the stitching that attaches the polyester spine covering, is captured both ends of a 1″ wide elastic fabric band. This band is located 2⅜″ from the top of the front plastic cover and provides pen or pencil storage. Both ends of the spiral wire are cut and then bent backwards to overlap with the previous coil but specifically outside the coil diameter but inside the polyester covering. During construction, the polyester covering is sewn to the front and rear covers face to face (outside to outside) so that when the book is closed, the stitching is concealed from the outside. Both free ends (the ends not sewn to the cover and back) are stitched with a turned edge construction. The flexible polyester material forms a covering over the spiral wire to protect it and provide a comfortable grip on the product. The product must bear the valid trademarks FiveStar®Advance™.[12]
- FiveStar Flex™: A notebook, a notebook organizer, or binder with plastic polyolefin front and rear covers joined by 300 denier polyester spine cover extending the entire length of the spine and bound by a 3-ring plastic fixture. The polyolefin plastic covers are of a specific thickness; front cover is 0.019 inches (within normal manufacturing tolerances) and rear cover is 0.028 inches (within normal manufacturing tolerances). During construction, the polyester covering is

Order: Certain Lined Paper Products From India, 76 FR 76147 (December 6, 2011).

[7] For purposes of this scope definition, the actual use or labeling of these products as school supplies or non-school supplies is not a defining characteristic.

[8] There shall be no minimum page requirement for loose leaf filler paper.

[9] ''Gregg ruling'' consists of a single- or double-margin vertical ruling line down the center of the page. For a six-inch by nine-inch stenographic pad, the ruling would be located approximately three inches from the left of the book.

[10] Products found to be bearing an invalidly licensed or used trademark are not excluded from the scope.

[11] Products found to be bearing an invalidly licensed or used trademark are not excluded from the scope.

[12] Products found to be bearing an invalidly licensed or used trademark are not excluded from the scope.

sewn to the front cover face to face (outside to outside) so that when the book is closed, the stitching is concealed from the outside. During construction, the polyester cover is sewn to the back cover with the outside of the polyester spine cover to the inside back cover. Both free ends (the ends not sewn to the cover and back) are stitched with a turned edge construction. Each ring within the fixture is comprised of a flexible strap portion that snaps into a stationary post which forms a closed binding ring. The ring fixture is riveted with six metal rivets and sewn to the back plastic cover and is specifically positioned on the outside back cover. The product must bear the valid trademark FiveStar Flex™.[13]

Merchandise subject to this order is typically imported under headings 4810.22.5044, 4811.90.9050, 4811.90.9090, 4820.10.2010, 4820.10.2020, 4820.10.2030, 4820.10.2040, 4820.10.2050, 4820.10.2060, and 4820.10.4000 of the Harmonized Tariff Schedule of the United States (HTSUS). The HTSUS headings are provided for convenience and customs purposes; however, the written description of the scope of the order is dispositive.

Analysis of Comments Received

All issues raised in this review are addressed in the Issues and Decision Memorandum, which is dated concurrently with, and hereby adopted by, this notice.[14] The issues discussed in the Issues and Decision Memorandum include the likelihood of continuation or recurrence of a countervailable subsidy and the net countervailable subsidy likely to prevail if the CVD order were revoked. Parties can find a complete discussion of all issues raised in this expedited sunset review and the corresponding recommendations in this public memorandum, which is on file electronically *via* the Enforcement and Compliance Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov* and to all parties in the Central Records Unit, Room B8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on the Internet at *http://enforcement.trade.gov/frn/index.html.* The signed Issues and Decision Memorandum and the electronic versions of the Issues and Decision Memorandum are identical in content.

Final Results of Review

As a result of this review, the Department determines that revocation of the CVD order would likely lead to continuation or recurrence of a countervailable subsidy at the rates listed below:

Producer/exporter	Net countervailable subsidy rate (percent)
Aero Exports	84.98
Navneet Publications	88.39
All Others	87.52

Notification Regarding Administrative Protective Order

This notice also serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely 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 sanctionable violation.

We are issuing and publishing the final results of this review in accordance with sections 751(c), 752, and 777(i) of the Act.

Dated: October 31, 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. 2017–24070 Filed 11–3–17; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–011]

Certain Crystalline Silicon Photovoltaic Products From the People's Republic of China: Notice of Rescission of Countervailing Duty Administrative Review; 2016

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the Department) is rescinding the administrative review of the countervailing duty (CVD) order on certain crystalline silicon photovoltaic products (solar products) from the People's Republic of China (PRC) for the period January 1, 2016, through December 31, 2016.

DATES: Applicable November 6, 2017.

FOR FURTHER INFORMATION CONTACT: Gene H. Calvert, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–3586.

SUPPLEMENTARY INFORMATION:

Background

On April 10, 2017, the Department published in the **Federal Register** a notice of the initiation of an administrative review of the CVD order on solar products from the PRC with respect to 30 companies for the period January 1, 2016, through December 31, 2016,[1] based on a request by the petitioner.[2] On May 11, 2017, the petitioner timely withdrew its request for an administrative review of all 30 companies.[3] No other party requested an administrative review.

Rescission of Review

Pursuant to 19 CFR 351.213(d)(1), the Department will rescind an administrative review in whole or in part, if the party that requested a review withdraws its request within 90 days of the date of publication of the notice of initiation of the requested review. In this case, the petitioner timely withdrew its request for review within the 90-day deadline, and no other party requested an administrative review of the CVD order. Therefore, in accordance with 19 CFR 351.213(d)(1), we are rescinding the administrative review of the CVD order on solar products from the PRC covering the period January 1, 2016, through December 31, 2016, in its entirety.

Assessment

The Department will instruct U.S. Customs and Border Protection (CBP) to assess countervailing duties on all appropriate entries of solar products

[13] Products found to be bearing an invalidly licensed or used trademark are not excluded from the scope.

[14] *See* Memorandum regarding: ''Issues and Decision Memorandum for the Final Results of Expedited Second Sunset Review of the Countervailing Duty Order on Certain Lined Paper Products from India,'' dated concurrently with this notice.

[1] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 82 FR 17188 (April 10, 2017).

[2] The petitioner is SolarWorld Americas, Inc.

[3] *See* Letter from the petitioner, ''Certain Crystalline Silicon Photovoltaic Products from the People's Republic of China: Withdrawal of Administrative Review Request,'' dated May 11, 2017.

from the PRC at a rate equal to the cash deposit of estimated countervailing duties required at the time of entry, or withdrawal from warehouse, for consumption, during the period January 1, 2016, through December 31, 2016, in accordance with 19 CFR 351.212(c)(1)(i). The Department intends to issue appropriate assessment instructions to CBP 15 days after the publication of this notice.

Notification Regarding Administrative Protective Order

This notice serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the destruction of proprietary information disclosed under an 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 the terms of an APO is a sanctionable violation.

This notice is issued and published in accordance with section 751(a)(1) of the Tariff Act of 1930, as amended, and 19 CFR 351.213(d)(4).

Dated: October 31, 2017.

James Maeder,

Senior Director performing the duties of the Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2017–24073 Filed 11–3–17; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–351–825, A–533–810, A–588–833, A–469–805]

Stainless Steel Bar From Brazil, India, Japan, and Spain: Final Results of the Expedited Sunset Reviews of the Antidumping Duty Orders

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: As a result of these sunset reviews, the Department of Commerce (the Department) finds that revocation of the antidumping duty orders on stainless steel bar (SSB) from Brazil, India, Japan, and Spain would be likely to lead to continuation or recurrence of dumping at the levels indicated in the ''Final Results of Sunset Reviews'' section of this notice.

DATES: Applicable November 6, 2017.

FOR FURTHER INFORMATION CONTACT: Ian Hamilton, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–4798.

SUPPLEMENTARY INFORMATION:

Background

On July 3, 2017, the Department published the notice of initiation of the fourth sunset reviews of the antidumping duty orders on SSB from Brazil, India, Japan, and Spain, pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act).[1] On July 18, 2017, the Department received a notice of intent to participate from Carpenter Technology Corporation, Crucible Industries LLC, Electroalloy (a Division of G.O. Carlson, Inc.), North American Stainless, Outokumpu Stainless Bar, LLC, Universal Stainless & Alloy Products, Inc., Valbruna Slater Stainless, Inc. (collectively, the petitioners) as domestic interested parties, within the deadline specified in 19 CFR 351.218(d)(1)(i).[2] The petitioners claimed interested party status under section 771(9)(C) of the Act, as manufacturers of a domestic like product in the United States.

On August 2, 2017, we received complete substantive responses for each review from the domestic interested parties within the 30-day deadline specified in 19 CFR 351.218(d)(3)(i). We received no substantive responses from respondent interested parties with respect to any of the orders covered by these sunset reviews, nor was a hearing requested. The Department received no comments on the adequacy of responses in these sunset reviews. Pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), the Department is conducting expedited (120-day) sunset reviews of these orders.

Scope of the Orders

The merchandise subject to the orders is SSB. For a complete description of the scope of these orders, including variances in the Japan order, *see* the accompanying Issues and Decision Memorandum.[3]

[1] *See Initiation of Five-Year (Sunset) Reviews,* 82 FR 30844 (July 3, 2017).

[2] *See* Letter to the Department regarding ''Stainless Steel Bar from Brazil, India, Japan, and Spain—Petitioners' Notice of Intent to Participate.'' (July 18, 2017).

[3] *See* Memorandum, ''Issues and Decision Memorandum for the Expedited Sunset Reviews of the Antidumping Duty Orders on Stainless Steel Bar from Brazil, India, Japan, and Spain'' (Issues and Decision Memorandum), dated concurrently with these results and hereby adopted by this notice.

Analysis of Comments Received

All issues raised in these reviews, including the likelihood of continuation or recurrence of dumping in the event of revocation and the magnitude of the margins likely to prevail if the orders were revoked, are addressed in the accompanying Issues and Decision Memorandum. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov,* and to all parties in the Central Records Unit, Room B8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on the Internet at *http://enforcement.trade.gov/frn/.* The signed Issues and Decision Memorandum and the electronic version of the Issues and Decision Memorandum are identical in content.

Final Results of Sunset Reviews

Pursuant to sections 751(c)(1) and 752(c)(1), (2) and (3) of the Act, we determine that revocation of the antidumping duty orders on SSB from Brazil, India, Japan, and Spain would likely lead to continuation or recurrence of dumping up to the following weighted-average margin percentages:

Country	Weighted-average margin (percent)
Brazil	19.43
India	21.02
Japan	61.47
Spain	62.85

Notification to Interested Parties

This notice serves as the only reminder to parties subject to an administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely 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 which is subject to sanction.

We are issuing and publishing these results and notice in accordance with sections 751(c), 752(c), and 777(i)(1) of the Act and 19 CFR 351.218.

Dated: October 31, 2017.

Gary Taverman,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Issues and Decision Memorandum

[FR Doc. 2017–24074 Filed 11–3–17; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–831]

Continuation of Antidumping Duty Order: Fresh Garlic From the People's Republic of China

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Department) and the U.S. International Trade Commission (ITC) determined that revocation of the antidumping duty order *(AD Order)* on fresh garlic from the People's Republic of China (PRC) would likely lead to a continuation or recurrence of dumping and material injury to an industry in the United States. Therefore, the Department is publishing a notice of continuation for this *AD Order.*

DATES: Applicable November 6, 2017.

FOR FURTHER INFORMATION CONTACT: Jacqueline Arrowsmith, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–5255.

SUPPLEMENTARY INFORMATION:

Background

On November 16, 1994, the Department of Commerce published in the **Federal Register** the *AD Order* on fresh garlic from the PRC.[1] On April 3, 2017, the Department published in the **Federal Register** a notice of initiation of its fourth five-year (sunset) review of the *AD Order* on fresh garlic from the PRC, pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act).[2]

The Department conducted this sunset review on an expedited basis, pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), because it received a complete, timely, and adequate response from a domestic interested party but no substantive responses from respondent interested parties. As a result of this sunset review, the Department determined that revocation of the *AD order* would likely lead to a continuation or recurrence of dumping and, therefore, notified the ITC of the magnitude of the margins likely to prevail should the order be revoked.[3]

On October 24, 2017, the ITC published its determination that revocation of the *AD Order* on fresh garlic would likely lead to a continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time, pursuant to section 751(C) of the Act.[4]

Scope of the Order

The products subject to the *AD Order* are all grades of garlic, whole or separated into constituent cloves, whether or not peeled, fresh, chilled, frozen, provisionally preserved, or packed in water or other neutral substance, but not prepared or preserved by the addition of other ingredients or heat processing. The differences between grades are based on color, size, sheathing, and level of decay.

The scope of the *AD Order* does not include the following: (a) Garlic that has been mechanically harvested and that is primarily, but not exclusively, destined for non-fresh use; or (b) garlic that has been specially prepared and cultivated prior to planting and then harvested and otherwise prepared for use as seed.

The subject merchandise is used principally as a food product and for seasoning. The subject garlic is currently classifiable under subheadings 0703.20.0000, 0703.20.0005, 0703.20.0015, 0703.20,0010, 0703.20.0020, 0703.20.0090, 0710.80.7060, 0710.80.9750, 0711.90.6000, 0711.90.6500, 2005.90.9500, 2005.90.9700 and 2005.99.9700 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the order is dispositive. In order to be excluded from the *AD Order* garlic entered under the HTSUS subheadings listed above that is (1) mechanically harvested and primarily, but not exclusively, destined for non-fresh use or (2) specially prepared and cultivated prior to planting and then harvested and otherwise prepared for use as seed must be accompanied by declarations to U.S. Customs and Border Protection (CBP) to that effect.

Continuation of the Order

As a result of the determinations by the Department and the ITC that revocation of the *AD Order* would likely lead to a continuation or recurrence of dumping and material injury to an industry in the United States, pursuant to section 751(d)(2) of the Act and 19 CFR 351.218(a), the Department hereby orders the continuation of the *AD Order* on fresh garlic from the PRC.

CBP will continue to collect antidumping duty cash deposits at the rates in effect at the time of entry for all imports of subject merchandise. The effective date of the continuation of this order will be the date of publication in the **Federal Register** of the notice of continuation of the *AD Order* on fresh garlic. Pursuant to section 751(c)(2) of the Act, the Department intends to initiate the sunset review of this order not later than 30 days prior to the fifth anniversary of the effective date of continuation.

The sunset review and this notice are in accordance with section 751(c) of the Act and published pursuant to section 777(i)(1) of the Act and 19 CFR 351.218(f)(4).

Dated: October 31, 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. 2017–24071 Filed 11–3–17; 8:45 am]

BILLING CODE 3510–DS–P

[1] *See Antidumping Duty Order: Fresh Garlic from the People's Republic of China,* 59 FR 59209 (November 16, 1994).

[2] *See Initiation of Five-Year (''Sunset'') Reviews,* 82 FR 16159 (April 3, 2017).

[3] *See Fresh Garlic from the People's Republic of China: Final Results of Fourth Expedited Sunset Review of the Antidumping Duty Order,* 82 FR 36752 (August 7, 2017) and accompanying Issues and Decision Memorandum.

[4] *See Fresh Garlic from China,* 82 FR 49230 (October 24, 2017).

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–867]

Large Power Transformers From the Republic of Korea: Notice of Court Decision Not in Harmony With Final Results, Notice of Amended Final Results

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: On October 10, 2017, the Court of International Trade (CIT or Court) sustained the final remand results pertaining to the administrative review of the antidumping duty order on large power transformers (LPTs) from the Republic of Korea (Korea) covering the period February 16, 2012, through July 31, 2013. The Department of Commerce (the Department) is notifying the public that the final judgment in this case is not in harmony with the final results, notice of amended final results, and notice of second amended final results of the administrative review and that the Department is amending the second amended final results with respect to the dumping margins assigned to Hyosung Corporation (Hyosung), Hyundai Heavy Industries Co., Ltd. (Hyundai), and the companies not selected for individual examination (ILJIN, ILJIN Electric Co., Ltd., and LSIS Co., Ltd.).

DATES: Applicable October 20, 2017.

FOR FURTHER INFORMATION CONTACT: Moses Song, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–5041.

SUPPLEMENTARY INFORMATION:

Background

On March 31, 2015, the Department issued the *Final Results*.[1] On May 6, 2015, in response to ministerial error allegations, the Department issued the *First Amended Final Results* and on June 22, 2015, the *Second Amended Final Results*.[2] Hyosung and Hyundai are Korean producers/exporters of LPTs and were mandatory respondents in the underlying administrative review. In the *Second Amended Final Results,* the Department assigned dumping margins of 8.23 percent and 12.36 percent to Hyosung and Hyundai, respectively.

On October 7, 2016, the CIT remanded various aspects of the *Second Final Results* to the Department.[3] Specifically, the Court instructed the Department to further address a sequencing issue regarding certain of Hyundai's U.S. sales documents on the record. The Court also directed the Department to further explain: (1) Its treatment of the U.S. commissions of Hyosung and Hyundai; (2) the record basis for such treatment; (3) whether such U.S. commissions resulted in the granting of commission offsets, and (4) the legal and factual basis for the granting or denial of the commission offsets.[4]

Pursuant to the *Remand Order,* the Department issued its Final Redetermination, which addressed the Court's holdings and revised the weighted-average dumping margins for Hyosung and Hyundai to 9.09 percent and 13.82 percent, respectively, and the rate assigned to the companies not selected for individual examination to 11.73 percent.[5] On October 10, 2017, the CIT sustained in whole the Department's Final Redetermination.[6]

Timken Notice

In its decision in *Timken,*[7] as clarified by *Diamond Sawblades,*[8] the United States Court of Appeals for the Federal Circuit held that, pursuant to sections 516A(c) and (e) of the Act, the Department must publish a notice of a court decision that is not ''in harmony'' with a Department determination and must suspend liquidation of entries pending a ''conclusive'' court decision. The CIT's October 10, 2017, final judgment sustaining the Department's Final Redetermination constitutes a final decision of the Court that is not in harmony with the *Second Amended Final Results.* This notice is published in fulfillment of the publication requirements of *Timken.* Accordingly, the Department will continue the suspension of liquidation of the subject merchandise at issue pending expiration of the period to appeal or, if appealed, pending a final and conclusive court decision.

Amended Final Results

Because there is now a final court decision, the Department is amending the *Second Amended Final Results* with respect to the dumping margins calculated for Hyosung, Hyundai, and the companies not selected for individual examination. Based on the Final Redetermination, as affirmed by the CIT, the revised dumping margins for Hyosung, Hyundai, and the companies not selected for individual examination from February 16, 2012, through July 31, 2013, are as follows:

Producer/exporter	Weighted-average margin (percent)
Hyosung Corporation	9.09
Hyundai Heavy Industries Co., Ltd	13.82
ILJIN Electric Co., Ltd	11.73
ILJIN	11.73
LSIS Co., Ltd	11.73

In the event that the CIT's rulings are not appealed or, if appealed, are upheld by a final and conclusive court decision, the Department will instruct Customs and Border Protection (CBP) to assess antidumping duties on unliquidated entries of subject merchandise based on the revised dumping margins listed above.

Cash Deposit Requirements

Since the *Second Amended Final Results,* the Department has established new cash deposit rates for the companies listed above.[9] Therefore, this Final Redetermination, and as affirmed by the Court, does not change the later-established cash deposit rates for the companies listed above.

Notification to Interested Parties

This notice is issued and published in accordance with sections 516A(e)(1), 751(a)(1), and 777(i)(1) of the Act.

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[1] *See Large Power Transformers from the Republic of Korea: Final Results of Antidumping Duty Administrative Review; 2012–2013,* 80 FR 17034 (March 31, 2015) *(Final Results)* and accompanying Issues and Decision Memorandum.

[2] *See Large Power Transformers from the Republic of Korea: Amended Final Results of Antidumping Duty Administrative Review; 2012–2013,* 80 FR 26001 (May 6, 2015) *(First Amended Final Results)* and accompanying Decision Memorandum and *Large Power Transformers from the Republic of Korea: Second Amended Final Results of Antidumping Duty Administrative Review; 2012–2013,* 80 FR 35628 (June 22, 2015) *(Second Amended Final Results)* and accompanying Decision Memorandum, respectively.

[3] *See ABB INC.* v. *United States,* Slip Op. 16–95 (CIT, October 7, 2016) *(Remand Order).*

[4] *Id.*

[5] *See* Department Memorandum, ''Final Results of Redetermination Pursuant to Court Remand *ABB INC.* v. *United States* Court No. 15–00108, Slip-Op. 16–95 (CIT October 7, 2016),'' February 2, 2017 (Final Redetermination) *(available at http://enforcement.trade.gov/remands/16-95.pdf).*

[6] *See ABB, INC.* v. *United States,* Court No. 15–00108, Slip Op. 17–137 (CIT 2017).

[7] *See Timken Co.* v. *United States,* 893 F.2d 337 (Fed. Cir. 1990) *(Timken),* at 341.

[8] *See Diamond Sawblades Mfrs. Coalition* v. *United States,* 626 F.3d 1374 (Fed. Cir. 20 10) *(Diamond Sawblades).*

[9] *See, e.g., Large Power Transformers from the Republic of Korea: Amended Final Results of Antidumping Duty Administrative Duty Administrative Review; 2013–2014,* 81 FR 27088 (May 5, 2016).

Dated: October 31, 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. 2017–24072 Filed 11–3–17; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–061]

Fine Denier Polyester Staple Fiber From the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the Department) preliminarily determines that countervailable subsidies are being provided to producers and exporters of fine denier polyester staple fiber (fine denier PSF) from the People's Republic of China (PRC). The period of investigation is January 1, 2016, through December 31, 2016.

DATES: Applicable November 6, 2017.

FOR FURTHER INFORMATION CONTACT: Yasmin Bordas or Davina Friedmann, AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–3813 or (202) 482–0698, respectively.

SUPPLEMENTARY INFORMATION:

Background

This preliminary determination is made in accordance with section 703(b) of the Tariff Act of 1930, as amended (the Act). The Department published the notice of initiation of this investigation on June 27, 2017.[1] On August 8, 2017, the Department postponed the preliminary determination of this investigation, and the revised deadline is now October 30, 2017.[2] For a complete description of the events that followed the initiation of this investigation, *see* the Preliminary Decision Memorandum.[3] A list of topics discussed in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically *via* Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov,* and is available to all parties in the Central Records Unit, Room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/.* The signed and electronic versions of the Preliminary Decision Memorandum are identical in content.

Scope of the Investigation

The product covered by this investigation is fine denier PSF from the PRC. For a complete description of the scope of this investigation, *see* Appendix I.

Scope Comments

In accordance with the preamble to the Department's regulations,[4] the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage, (*i.e.,* scope).[5] Certain interested parties commented on the scope of the investigation as it appeared in the *Initiation Notice,* as well as additional language proposed by the Department. The Department intends to issue its preliminary decision regarding comments concerning the scope of the antidumping duty (AD) and countervailing duty (CVD) investigations in the preliminary determination of the companion AD investigation.

Methodology

The Department is conducting this investigation in accordance with section 701 of the Act. For each of the subsidy programs found countervailable, the Department preliminarily determines that there is a subsidy, *i.e.,* a financial contribution by an ''authority'' that gives rise to a benefit to the recipient, and that the subsidy is specific.[6]

The Department notes that, in making these findings, it relied, in part, on facts available and, because it finds that one or more respondents did not act to the best of their ability to respond to the Department's requests for information, it drew an adverse inference where appropriate in selecting from among the facts otherwise available.[7] For further information, *see* ''Use of Facts Otherwise Available and Adverse Inferences'' in the Preliminary Decision Memorandum.

All-Others Rate

Sections 703(d) and 705(c)(5)(A) of the Act provide that in the preliminary determination, the Department shall determine an estimated all-others rate for companies not individually examined. This rate shall be an amount equal to the weighted average of the estimated subsidy rates established for those companies individually examined, excluding any zero and *de minimis* rates and any rates based entirely under section 776 of the Act. Notwithstanding the language of section 705(c)(5)(A)(i) of the Act, we have not calculated the ''all-others'' rate by weight-averaging the rates of the two individually investigated respondents, because doing so risks disclosure of proprietary information. Therefore, for the ''all-others'' rate, we calculated a simple average of the two responding companies' rates.

Preliminary Determination

The Department preliminarily determines that thefollowing estimated countervailable subsidy rates exist:

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[1] *See Fine Denier Polyester Staple Fiber from India and the People's Republic of China: Initiation of Countervailing Duty Investigations,* 82 FR 29029 (June 27, 2017) (*Initiation Notice*).

[2] *See Fine Denier Polyester Staple Fiber from the People's Republic of China and India: Postponement of Preliminary Determination in the Countervailing Duty Investigations,* 82 FR 37048 (August 8, 2017).

[3] *See* Decision Memorandum for the Preliminary Affirmative Determination: Countervailing Duty Investigation of Fine Denier Polyester Staple Fiber from the People's Republic of China,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[4] *See Antidumping Duties; Countervailing Duties, Final Rule,* 62 FR 27296, 27323 (May 19, 1997).

[5] *See Initiation Notice.*

[6] *See* sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

[7] *See* sections 776(a) and (b) of the Act.

[8] As discussed in the Preliminary Decision Memorandum, the Department has found the following companies to be cross-owned with Jiangyin Hailun Chemical Fiber Co. Ltd.: Jiangyin Bolun Chemical Fiber Co., Ltd. (Bolun); Jiangyin Fenghua Synthetic Fiber Co., Ltd. (Fenghua); Jiangsu Hailun Petrochemicals Co., Ltd. (Hailun Petrochemical); Jiangyin Huamei Special Fiber Co., Ltd. (Huamei); Jiangyin Huasheng Polymerization Co., Ltd. (Huasheng); Jiangyin Huaxing Synthetic Co., Ltd. (Huaxing); Jiangying Huayi Polymerization Co., Ltd. (Huayi); Jiangsu Sanfangxiang Group Co., Ltd. (Sanfangxiang Group); Jiangsu Sanfangxiang International Trading Co., Ltd. (Sanfangxiang Trading); Sanhai International Trading PTE Ltd. (Sanhai); Jiangyin Xingsheng Plastic Co., Ltd. (Xingsheng Plastic); Jiangyin Xingtai New Material Co., Ltd. (Xingtai); Jiangsu Xingye Plastic Co., Ltd. (Xingye Plastic); Jiangsu Xingye Polytech Co., Ltd. (Xingye Polytech); Jiangyin Xingyu New Material Co., Ltd. (Xingyu); Jiangyin Xinlun Chemical Fiber Co., Ltd. (Xinlun); Jiangyin Xinyuan Thermal Power Co., Ltd. (Xinyuan Thermal); and Jiangyin Yunlun Chemical Fiber Co., Ltd. (Yunlun).

[9] As discussed in the Preliminary Decision Memorandum, the Department has found Jiangsu Huahong Industrial Group Co., Ltd. to be cross-owned with Jiangyin Huahong Chemical Fiber Co. Ltd.; Jiangyin Hongkai Chemical Fiber Co., Ltd.

Company	Subsidy rate (percent)
Jiangyin Hailun Chemical Fiber Co. Ltd[8]	41.73
Jiangyin Huahong Chemical Fiber Co. Ltd[9]	47.64
All-Others	44.69

Suspension of Liquidation

In accordance with section 703(d)(1)(B) and (d)(2) of the Act, the Department will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise as described in the scope of the investigation section entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. Further, pursuant to 19 CFR 351.205(d), the Department will instruct CBP to require a cash deposit equal to the rates indicated above.

Disclosure

The Department intends to disclose its calculations and analysis performed to interested parties in this preliminary determination within five days of its public announcement, or if there is no public announcement, within five days of the date of this notice in accordance with 19 CFR 351.224(b).

Verification

As provided in section 782(i)(1) of the Act, the Department intends to verify the information relied upon in making its final determination.

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the last verification report is issued in this investigation. Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline date for case briefs.[10] Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this investigation are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, within 30 days after the date of publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, and a list of the issues to be discussed. If a request for a hearing is made, the Department intends to hold the hearing at the U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230, at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

International Trade Commission Notification

In accordance with section 703(f) of the Act, the Department will notify the International Trade Commission (ITC) of its determination. If the final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the final determination.

Notification to Interested Parties

This determination is issued and published pursuant to sections 703(f) and 777(i) of the Act and 19 CFR 351.205(c).

Dated: October 30, 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.

Appendix I

Scope of the Investigation

The merchandise covered by this investigation is fine denier polyester staple fiber (fine denier PSF), not carded or combed, measuring less than 3.3 decitex (3 denier) in diameter. The scope covers all fine denier PSF, whether coated or uncoated. The following products are excluded from the scope:

(1) PSF equal to or greater than 3.3. decitex (more than 3 denier, inclusive) currently classifiable under Harmonized Tariff Schedule of the United States (HTSUS) subheadings 5503.20.0045 and 5503.20.0065.

(2) Low-melt PSF defined as a bi-component fiber with a polyester core and an outer, polyester sheath that melts at a significantly lower temperature than its inner polyester core currently classified under HTSUS subheading 5503.20.0015.

Fine denier PSF is classifiable under the HTSUS subheading 5503.20.0025. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the investigations is dispositive.

Appendix II

List of Topics Discussed in the Preliminary Decision Memorandum

[FR Doc. 2017–24079 Filed 11–3–17; 8:45 am]

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(Hongkai); Jiangyin Huahong International Trade Co., Ltd. (Huahong International Trade); and Jiangyin Huakai Polyesterer Co., Ltd. (Huakai).

[10] *See* 19 CFR 351.309; *see also* 19 CFR 351.303 (for general filing requirements).

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF734

Marine Mammals; File No. 20626

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

ACTION: Notice; receipt of application.

SUMMARY: Notice is hereby given that James H.W. Hain, Ph.D., Box 721, Woods Hole, MA 02543, has applied in due form for a permit to conduct research on North Atlantic right (*Eubalaena glacialis*) and humpback (*Megaptera novaeangliae*) whales.

DATES: Written, telefaxed, or email comments must be received on or before December 6, 2017.

ADDRESSES: The application and related documents are available for review by selecting ''Records Open for Public Comment'' from the ''Features'' box on the Applications and Permits for Protected Species (APPS) home page, *https://apps.nmfs.noaa.gov,* and then selecting File No. 20626 from the list of available applications.

These documents are also available upon written request or by appointment in the Permits and Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 427–8401; fax (301) 713–0376.

Written comments on this application should be submitted to the Chief, Permits and Conservation Division, at the address listed above. Comments may also be submitted by facsimile to (301) 713–0376, or by email to

NMFS.Pr1Comments@noaa.gov. Please include the File No. 20626 in the subject line of the email comment.

Those individuals requesting a public hearing should submit a written request to the Chief, Permits and Conservation Division at the address listed above. The request should set forth the specific reasons why a hearing on this application would be appropriate.

FOR FURTHER INFORMATION CONTACT: Carrie Hubard or Shasta McClenahan, (301) 427–8401.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR 222–226).

The applicant requests a five-year permit to conduct aerial and vessel surveys for North Atlantic right whales (NARW) off South Carolina, Georgia, and Florida. The primary study area is in Florida from St. Augustine to Canaveral National Seashore. Research would mainly occur in coastal waters. Survey platforms include boats, airplanes, aerostats, blimps, and unmanned aircraft systems. Up to 160 NARW could be approached annually (100 via aerial surveys, 60 via vessel surveys) for behavioral observations, photo-identification, counts, and passive acoustic recordings. Up to 10 humpback whales may be encountered annually and would be studied in the same manner as NARW. Bottlenose (*Tursiops truncatus*) and Atlantic spotted (*Stenella frontalis*) dolphins and minke (*Balaenoptera acutorostrata*) and fin (*B. physalus*) whales may be incidentally harassed. The objectives of the research are to: (1) Improve knowledge of NARW habitat utilization; (2) help monitor annual reproductive success; (3) develop and implement programs for population monitoring in the portion of the NARW critical habitat between St. Augustine, Florida and Canaveral National Seashore; (4) assist in both pre- and post-tag observations (*e.g.,* documentation of post-tag healing and tag retention) of whales tagged by other permit holders; (5) contribute to the NARW photo-identification catalog; and (6) contribute data on the co-occurrence of NARW and human activities.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of the application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: October 31, 2017.

Julia Harrison,

Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2017–24029 Filed 11–3–17; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF751

Notice of Availability of Draft Environmental Assessment on the Effects of Issuing an Incidental Take Permit No. 21293

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

ACTION: Notice of availability of a Draft Environmental Assessment; request for comments.

SUMMARY: NMFS announces the availability of the ''Draft Environmental Assessment (EA) on the Effects of Issuing an Incidental Take Permit (ITP) (No. 21293) to Mr. Jack Rudloe, Gulf Specimen Marine Laboratories, Inc. (GSML), pursuant to the Endangered Species Act of 1973, as amended (ESA). Publication of this notice begins the official public comment period for this draft EA. Per the National Environmental Policy Act (NEPA), the purpose of the draft EA is to evaluate the potential direct, indirect, and cumulative impacts caused by the issuance of Permit No. 21293 to GSML for the incidental take of Gulf sturgeon (*Acipenser oxyrinchus desotoi*) or loggerhead (*Caretta caretta* Northwest Atlantic Ocean Distinct Population Segment), green (*Chelonia mydas* North Atlantic Distinct Population Segment), Kemp's ridley (*Lepidochelys kempii*) and leatherback sea turtles (*Dermochelys coriacea*) associated with the otherwise lawful trawling activities in Florida state waters of Bay, Gulf, Franklin, and Wakulla Counties to harvest marine organisms for the purpose of supplying entities conducting scientific research and educational activities. All comments received will become part of the public record and will be available for review. An electronic copy of the revised application and proposed conservation plan may be obtained by contacting NMFS Office of Protected Resources (see **FOR FURTHER INFORMATION CONTACT**) or visiting the internet at *www.nmfs.noaa.gov/pr/permits/esa_review.htm.*

DATES: Written comments must be received at the appropriate address or fax number (see **ADDRESSES**) on or before December 6, 2017.

ADDRESSES: The EA is available for download and review at *http://www.nmfs.noaa.gov/pr/permits/esa_review.htm* under the section heading ESA Section 10(a)(1)(B) Permits and Applications. The application is also available upon written request or by appointment in the following office: Endangered Species Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13535, Silver Spring, MD 20910; phone (301)427–8403; fax (301)713–4060.

You may submit comments, identified by ''NOAA–NMFS–2017–0132'', by any of the following methods:

- *Electronic Submissions:* Submit all electronic public comments via the Federal eRulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2017-0132* click the ''Comment Now'' icon, complete the required fields, and enter or attach your comments.
- *Fax:* (301) 427–8403; Attn: Ron Dean or Angela Somma.
- *Mail:* Submit written comments to Endangered Species Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13535, Silver Spring, MD 20910; Attn: Ron Dean or Angela Somma.

Instructions: You must submit comments by one of the above methods to ensure that we receive, document, and consider them. Comments sent by any other method, to any other address or individual, or received after the end of the comment period may not be considered. All comments received are a part of the public record and will generally be posted for public viewing on *http://www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, etc.) confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. We will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain

anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only.

FOR FURTHER INFORMATION CONTACT: Ron Dean or Angela Somma, (301) 427–8403.

SUPPLEMENTARY INFORMATION: Section 9 of the ESA and Federal regulations prohibits the 'taking' of a species listed as endangered or threatened. The ESA defines ''take'' to mean harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. NMFS may issue permits, under limited circumstances to take listed species incidental to, and not the purpose of, otherwise lawful activities. Section 10(a)(1)(B) of the ESA provides for authorizing incidental take of listed species. The regulations for issuing incidental take permits for threatened and endangered species are promulgated at 50 CFR 222.307.

NMFS received a permit application from GSML on February 4, 2016. Based on our review of the application, we requested further information and clarification. On July 22, 2016, GSML submitted supplemental information to its application. NMFS and GSML held further discussions on amount and extent of anticipated takes and clarifications of gear type to be used. On March 16, 2017, NMFS notified GSML of this approach, and GSML confirmed the updated approach on March 21, 2017.

On April 12, 2017, we published a notice of application receipt and requested review and comment on the application and conservation plan in the **Federal Register** (82 FR 17638). The public comment period for the application and conservation plan ended May 12, 2017.

Through this notice, we are making the Draft EA available for comment and review. The EA analyzes the effects to the human and natural environment caused by the issuance of ITP No. 21293 to GSML for the incidental take of Gulf sturgeon *(Acipenser oxyrinchus desotoi)* and loggerhead (*Caretta caretta* Northwest Atlantic Ocean Distinct Population Segment), green (*Chelonia mydas* North Atlantic Distinct Population Segment), Kemp's ridley *(Lepidochelys kempii)* and leatherback sea turtles *(Dermochelys coriacea)* associated with the otherwise lawful trawling activities in Florida state waters of Bay, Gulf, Franklin, and Wakulla Counties to harvest marine organisms for the purpose of supplying entities conducting scientific research and educational activities. As required by regulations implementing section 10(a)(1)(B) of the ESA, the conservation plan must specify, based on the best scientific and commercial data available:

- The impact which will likely result from the taking;
- How the applicant will minimize and mitigate those impacts, and the funding available to implement;
- What alternative actions the applicant considered, and why those actions are not being pursued;
- Other measures the Secretary of Commerce may require; and
- All sources of data relied on in preparing the plan.

The conservation plan prepared by GSML describes measures designed to monitor, minimize, and mitigate the incidental take of ESA-listed species.

Alternatives Considered

In preparing the Draft EA, NMFS considered the following 2 alternatives for the action:

Alternative 1—No Action. Under the No Action alternative no ITP would be issued for the incidental take of Gulf sturgeon *(Acipenser oxyrinchus desotoi),* or loggerhead (*Caretta caretta* Northwest Atlantic Ocean Distinct Population Segment), green (*Chelonia mydas* North Atlantic Distinct Population Segment), Kemp's ridley *(Lepidochelys kempii)* and leatherback sea turtles *(Dermochelys coriacea)* associated with the otherwise lawful trawling activities in Florida state waters of Bay, Gulf, Franklin, and Wakulla Counties to harvest marine organisms for the purpose of supplying entities conducting scientific research and educational activities. GSML would not receive an exemption from the ESA prohibitions against take.

Alternative 2—(Proposed) Issue ITP as Requested in Application. Under Alternative 2, an ITP would be issued to exempt GSML from the ESA prohibition on taking ESA listed species.

The Draft EA presents the scientific and analytic basis for comparison of the direct, indirect, and cumulative effects of the alternatives. Regulations for implementing NEPA (42 U.S.C. 4331 *et seq.*) require considerations of both the context and intensity of a proposed action (40 CFR 1508.27). This alternative would eliminate the possible risk to sea turtles, Gulf sturgeon, and benthic habitat associated with the trawling activity. However, it would not allow GSML to conduct its trawling, which would affect its non-profit activities. GSML is engaged in marine education, research, and coastal conservation. Since NMFS has concluded, in its biological opinion, pursuant to section 7(b) of the ESA, that ITP No. 21293, as proposed, is not likely to jeopardize the continued existence of the leatherback, loggerhead, green, Kemp's ridley turtles and Gulf sturgeon and is not likely to destroy or adversely modify designated critical habitat, it would be difficult to justify denial of the permit.

Social and Economic Impacts

NMFS would not issue an ITP under the No Action Alternative (Alternative 1). Because no incidental take permit would be issued, GSML would not receive an exemption from the ESA prohibitions against take; therefore, any incidental takes of ESA listed species under NMFS' jurisdiction would not be exempted. Because this alternative would affect GSML's ability to engage in marine education, research, and coastal conservation, the No Action Alternative would have more of a socio-economic impact than the other alternative.

The issuance of the Permit as Requested in the Application (Alternative 2 Proposed Action) would allow GSML to continue to engage in marine education, research, and coastal conservation. This would result in less socio-economic costs than the No Action alternative (Alternative 1).

Next Steps

This notice is provided pursuant to section 10(c) of the ESA. The application, supporting documents, public comments, and views already received by the agency, as well as those submitted in response to this notice, will be fully considered and evaluated as we prepare the final EA and determine whether to issue a Finding of No Significant Impact. The final NEPA document and ITP determinations will not be completed until after the 30-day comment period ends. NMFS will publish a record of its final action in the **Federal Register**. We will also make any final NEPA documents available to the public.

Dated: October 27, 2017.

Angela Somma,

Chief, Endangered Species Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2017–24115 Filed 11–3–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF803

Western Pacific Fishery Management Council; Public Meetings; Cancellation

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

ACTION: Notice of cancellation of public meeting.

SUMMARY: The Western Pacific Fishery Management Council (Council) has cancelled its 172nd meeting that was scheduled between 2 p.m. and 5 p.m. (Hawaii Standard Time (HST)) and between 1 p.m. and 4 p.m. (American Samoa Standard Time (ASST)) on Wednesday, November 15, 2017 and between 10 a.m. and 1 p.m. (Marianas Standard Time (MST)) on Thursday, November 16, 2017.

FOR FURTHER INFORMATION CONTACT: Kitty M. Simonds, Executive Director; telephone: (808) 522–8220.

SUPPLEMENTARY INFORMATION: The initial notice for this public meeting published in the **Federal Register** on October 31, 2017 (82 FR 50411). The purpose of the meeting was to consider amendments to the swordfish trip limit for the American Samoa longline fishery. This action will be rescheduled for a later regularly scheduled meeting and announced in the **Federal Register**.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: November 1, 2017.

Tracey L. Thompson,

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

[FR Doc. 2017–24062 Filed 11–3–17; 8:45 am]

BILLING CODE 3510–22–P

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Request for Public Comment on a Commercial Availability Request Under the U.S.-Morocco Free Trade Agreement

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Request for public comments concerning a request for modification of the U.S.-Morocco Free Trade Agreement (USMFTA) rules of origin for certain knit apparel made from certain knit fabrics.

SUMMARY: The Government of the United States received a request from the Government of Morocco on October 10, 2017, on behalf of SALSABILE to initiate consultations under Article 4.3.3 of the USMFTA. The Government of Morocco is requesting that the United States and Morocco (''the Parties'') consider revising the rules of origin for certain knit apparel to address availability of supply of certain knit fabrics in the territories of the Parties. The President of the United States may proclaim a modification to the USMFTA rules of origin for textile and apparel products after the United States reaches an agreement with the Government of Morocco on a modification under Article 4.3.6 of the USMFTA to address issues of availability of supply of fibers, yarns, or fabrics in the territories of the Parties. CITA hereby solicits public comments on this request, in particular with regard to whether certain knit fabrics can be supplied by the U.S. domestic industry in commercial quantities in a timely manner.

DATES: Comments must be submitted by January 5, 2018 to the Chairman, Committee for the Implementation of Textile Agreements, Room 30003, United States Department of Commerce, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Linda Martinich, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–3588.

SUPPLEMENTARY INFORMATION:

Authority: Section 203 (j)(2)(B)(i) of the United States-Morocco Free Trade Agreement Implementation Act (19 U.S.C. 3805 note) (USMFTA Implementation Act); Executive Order 11651 of March 3, 1972, as amended.

Background: Article 4.3.3 of the USMFTA provides that, on the request of either Party, the Parties shall consult to consider whether the rules of origin applicable to a particular textile or apparel good should be revised to address issues of availability of supply of fibers, yarns, or fabrics in the territories of the Parties. In the consultations, pursuant to Article 4.3.4 of the USMFTA, each Party shall consider data presented by the other Party that demonstrate substantial production in its territory of a particular fiber, yarn, or fabric. The Parties shall consider that there is substantial production if a Party demonstrates that its domestic producers are capable of supplying commercial quantities of the fiber, yarn, or fabric in a timely manner. The USMFTA Implementation Act provides the President with the authority to proclaim as part of the HTSUS, modifications to the USMFTA rules of origin set out in Annex 4–A of the USMFTA as are necessary to implement an agreement with Morocco under Article 4.3.6 of the USMFTA, subject to the consultation and layover requirements of Section 104 of the USMFTA Implementation Act. *See* Section 203(j)(2)(B)(i) of the USMFTA Implementation Act. Executive Order 11651 established CITA to supervise the implementation of textile trade agreements and authorizes the Chairman of CITA to take actions or recommend that appropriate officials or agencies of the United States take actions necessary to implement textile trade agreements. 37 FR 4699 (March 4, 1972).

The Government of the United States received a request from the Government of Morocco on October 10, 2017, on behalf of SALSABILE, requesting that the United States consider whether the USMFTA rule of origin for certain knit apparel should be modified to allow the use of certain knit fabrics that are not originating under the USMFTA. The fabrics subject to this request, according to the fabric number in the request and organized by specific apparel end-use, are:

Knit apparel classified in chapter 61 of the Harmonized Tariff Schedule of the United States (HTSUS):

Fabric 7: Dyed knit fabric of cotton (51–60%), rayon (30–40%), and nylon (4–10%), classified in subheading 6006.22 of the HTSUS.

Knit apparel and accessories classified in chapter 61 of the HTSUS, except babies' socks and booties of heading 6111 and hosiery of heading 6115:

Fabric 8: Knit fabric of rayon (50–84%), polyester (14–49%), and elastomeric (1–10%), classified in subheadings 6004.10, 6005.41, 6005.42, 6005.43, 6005.44, 6006.41, 6006.42, 6006.43, and 6006.44 of the HTSUS;

Fabric 9: Knit fabric of polyester (50–65%), rayon (30–49%), and elastomeric (1–10%), classified in subheadings 6004.10, 6005.36, 6005.37, 6005.38, 6005.39, 6006.31, 6006.32, 6006.33, and 6006.34 of the HTSUS;

Fabric 10: Knit fabric of rayon (90–99%) and elastomeric (1–10%), classified in subheadings 6004.10, 6005.41, 6005.42, 6005.43, 6005.44, 6006.41, 6006.42, 6006.43, and 6006.44 of the HTSUS;

Fabric 11: Knit fabric of rayon (51–84%) and polyester (16–49%), classified in subheadings 6005.41, 6005.42, 6005.43, 6005.44, 6006.41, 6006.42, 6006.43, and 6006.44 of the HTSUS;

Fabric 12: Knit fabric of polyester (51–65%) and rayon (35–49%), classified in subheadings 6005.36, 6005.37, 6005.38,

6005.39, 6006.31, 6006.32, 6006.33, and 6006.34 of the HTSUS; and

Fabric 13: Knit fabric of synthetic fiber (90–99%) and elastomeric (1–10%), classified in subheadings 6004.10, 6005.37, 6005.38, 6005.39, 6006.32, 6006.33, and 6006.34 of the HTSUS.

Knit shirts; blouses; singlets; tank tops and similar garments; pullovers; sweatshirts; waistcoats (vests) and similar articles; tops; dresses; skirts; and divided skirts classified in headings 6104, 6105, 6106, 6109, 6110, and 6114 of the HTSUS:

Fabric 19: Slub jersey fabric, other than warp knit, of rayon (92–98%), polyester (2–3%), and elastomeric (2–5%), weighing 150–200 g/m2, classified in subheadings 6004.10 and 6006.42 of the HTSUS.

Upper body garments classified in headings 6105, 6106, 6109, and 6110 of the HTSUS:

Fabric 17: Knit fabric of cotton (51–70%), rayon (33–49%), and elastomeric (2–7%), weighing up to 275 g/m2, classified in subheadings 6004.10, 6006.21, 6006.22, and 6006.24 of the HTSUS.

Upper body garments classified in headings 6105, 6106, 6109, 6110, and 6114 of the HTSUS:

Fabric 14: Knit jersey fabric, other than warp knit, of lyocell (44–50%), rayon (44–50%), and elastomeric (3–9%), weighing 150–220 g/m2, classified in subheadings 6004.10 and 6006.42 of the HTSUS;

Fabric 15: Slub jersey fabric of cotton (51–65%) and rayon (35–49%), weighing 120–225 g/m2, classified in subheading 6006.22 of the HTSUS;

Fabric 16: Knit jersey fabric, other than warp knit, of rayon (30–36%), acrylic (19–35%), polyester (27–33%), and elastomeric (3–8%), weighing 125–250 g/m2, classified in subheadings 6004.10 and 6006.32 of the HTSUS; and

Fabric 18: Knit jersey fabric, other than warp knit, of polyester (43–46%), rayon (43–45%), flax (5–9%), and elastomeric (4–5%), weighing 125–250 g/m2, classified in subheadings 6004.10 and 6006.32 of the HTSUS.

Sweaters, pullovers, sweatshirts, waistcoats (vests) and similar articles, classified in heading 6110 of the HTSUS:

Fabric 5: Dyed knit fabric of cotton (50–56%), acrylic (34–40%), and polyester (7–13%), classified in subheadings 6006.22 and 6006.32 of the HTSUS.

Sweaters, pullovers, sweatshirts, waistcoats (vests) and similar articles, classified in subheading 6110.30 of the HTSUS:

Fabric 1: Knit fleece fabric of acrylic (67–73%) and viscose (27–33%), weighing 200–280 g/m2, classified in subheading 6001.22 of the HTSUS;

Fabric 2: Dyed knit fabric of nylon (52–58%), wool (27–33%), and acrylic (12–18%), classified in subheading 6006.32 of the HTSUS;

Fabric 3: Dyed knit fabric of nylon (42–48%), viscose (37–43%), and wool (12–18%), classified in subheading 6006.32 of the HTSUS;

Fabric 4: Dyed knit fabric of nylon (41–47%), wool (18–24%), acrylic (18–24%), and mohair (11–17%), classified in subheading 6006.32 of the HTSUS; and

Fabric 6: Dyed knit fabric of polyester (57–63%), wool (27–33%), and nylon (7–13%), classified in subheading 6006.32 of the HTSUS.

CITA is soliciting public comments regarding this request, particularly with respect to whether the fabrics described above can be supplied by the U.S. domestic industry in commercial quantities in a timely manner. Comments must be received no later than January 5, 2018. Interested persons are invited to submit such comments or information electronically to *OTEXA_MoroccoFTA@trade.gov,* and/or in hard copy to: Chairman, Committee for the Implementation of Textile Agreements, Room 30003, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC 20230.

If comments include business confidential information, commenters must submit a business confidential version in hard copy to the Chairman of CITA, and also provide a public version, either in hard copy or electronically. CITA will protect any information that is marked business confidential from disclosure to the full extent permitted by law. All public versions of the comments will be posted on OTEXA's Web site for Commercial Availability proceedings under the Morocco FTA: *http://otexa.trade.gov/Morocco_CA.htm.*

Terry Labat,

Acting Chair, Committee for the Implementation of Textile Agreements.

[FR Doc. 2017–24088 Filed 11–3–17; 8:45 am]

BILLING CODE 3510–DR–P

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Request for Public Comment on a Commercial Availability Request Under the U.S.-Morocco Free Trade Agreement

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Request for public comments concerning a request for modification of the U.S.-Morocco Free Trade Agreement (USMFTA) rules of origin for certain pants, skirts, and jackets made from certain woven fabrics.

SUMMARY: The Government of the United States received a request from the Government of Morocco on October 10, 2017, on behalf of MODALINE HOLDING to initiate consultations under Article 4.3.3 of the USMFTA. The Government of Morocco is requesting that the United States and Morocco (''the Parties'') consider revising the rules of origin for certain pants, skirts, and jackets to address availability of supply of certain woven fabrics in the territories of the Parties. The President of the United States may proclaim a modification to the USMFTA rules of origin for textile and apparel products after the United States reaches an agreement with the Government of Morocco on a modification under Article 4.3.6 of the USMFTA to address issues of availability of supply of fibers, yarns, or fabrics in the territories of the Parties. CITA hereby solicits public comments on this request, in particular with regard to whether certain woven fabrics can be supplied by the U.S. domestic industry in commercial quantities in a timely manner.

DATES: Comments must be submitted by January 5, 2018 to the Chairman, Committee for the Implementation of Textile Agreements, Room 30003, United States Department of Commerce, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Maria D'Andrea-Yothers, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–1550.

SUPPLEMENTARY INFORMATION:

Authority: Section 203 (j)(2)(B)(i) of the United States-Morocco Free Trade Agreement Implementation Act (19 U.S.C. 3805 note) (USMFTA Implementation Act); Executive Order 11651 of March 3, 1972, as amended.

Background: Article 4.3.3 of the USMFTA provides that, on the request of either Party, the Parties shall consult to consider whether the rules of origin applicable to a particular textile or

apparel good should be revised to address issues of availability of supply of fibers, yarns, or fabrics in the territories of the Parties. In the consultations, pursuant to Article 4.3.4 of the USMFTA, each Party shall consider data presented by the other Party that demonstrate substantial production in its territory of a particular fiber, yarn, or fabric. The Parties shall consider that there is substantial production if a Party demonstrates that its domestic producers are capable of supplying commercial quantities of the fiber, yarn, or fabric in a timely manner. The USMFTA Implementation Act provides the President with the authority to proclaim as part of the HTSUS, modifications to the USMFTA rules of origin set out in Annex 4–A of the USMFTA as are necessary to implement an agreement with Morocco under Article 4.3.6 of the USMFTA, subject to the consultation and layover requirements of Section 104 of the USMFTA Implementation Act. *See* Section 203(j)(2)(B)(i) of the USMFTA Implementation Act. Executive Order 11651 established CITA to supervise the implementation of textile trade agreements and authorizes the Chairman of CITA to take actions or recommend that appropriate officials or agencies of the United States take actions necessary to implement textile trade agreements. 37 FR 4699 (March 4, 1972).

The Government of the United States received a request from the Government of Morocco on October 10, 2017, on behalf of MODALINE HOLDING, requesting that the United States consider whether the USMFTA rule of origin for pants classified in HTSUS 6204.61.8010; skirts classified in HTSUS 6204.51.0010; and jackets classified in HTSUS 6204.31.2010 should be modified to allow the use of 83–94% wool/4%–15% nylon/1%–7% spandex woven fabric classified in subheading 5112.19 and 5112.20 of the HTSUS that is not originating under the USMFTA.

CITA is soliciting public comments regarding this request, particularly with respect to whether the fabrics described above can be supplied by the U.S. domestic industry in commercial quantities in a timely manner. Comments must be received no later than January 5, 2018. Interested persons are invited to submit such comments or information electronically to *OTEXA_MoroccoFTA@trade.gov,* and/or in hard copy to: Chairman, Committee for the Implementation of Textile Agreements, Room 30003, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC 20230.

If comments include business confidential information, commenters must submit a business confidential version in hard copy to the Chairman of CITA, and also provide a public version, either in hard copy or electronically. CITA will protect any information that is marked business confidential from disclosure to the full extent permitted by law. All public versions of the comments will be posted on OTEXA's Web site for Commercial Availability proceedings under the Morocco FTA: *http://otexa.trade.gov/Morocco_CA.htm.*

Terry Labat,

Acting Chair, Committee for the Implementation of Textile Agreements.

[FR Doc. 2017–24089 Filed 11–3–17; 8:45 am]

BILLING CODE 3510–DR–P

COUNCIL OF THE INSPECTORS GENERAL ON INTEGRITY AND EFFICIENCY

Privacy Act of 1974; System of Records

AGENCY: Council of the Inspectors General on Integrity and Efficiency.

ACTION: Notice of a new system of records.

SUMMARY: The Council of the Inspectors General on Integrity and Efficiency (CIGIE) proposes to establish a system of records that is subject to the Privacy Act of 1974. Specifically, the Correspondence Tracking system of records will enable CIGIE to more efficiently track correspondence received from and sent to entities and individuals, both within and external to the Federal government. CIGIE also proposes to establish routine uses for the proposed system of records. In this notice, CIGIE provides the required information on the system of records and routine uses for such system.

DATES: This action will be effective without further notice on December 6, 2017 unless comments are received that would result in a contrary determination.

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

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: comments@CIGIE.gov.*
- *Fax:* (202) 254–0162.
- *Mail:* Atticus J. Reaser, General Counsel, Council of the Inspectors General on Integrity and Efficiency, 1717 H Street NW., Suite 825, Washington, DC 20006.
- *Hand Delivery/Courier:* Atticus J. Reaser, General Counsel, Council of the Inspectors General on Integrity and Efficiency, 1717 H Street NW., Suite 825, Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Atticus J. Reaser, General Counsel, CIGIE, (202) 292–2600.

SUPPLEMENTARY INFORMATION: In 2008, Congress established CIGIE as an independent entity within the executive branch in order to address integrity, economy, and effectiveness issues that transcend individual Government agencies; and increase the professionalism and effectiveness of personnel by developing policies, standards, and approaches to aid in the establishment of a well-trained and highly skilled workforce in the offices of the Inspector General. CIGIE's membership is comprised of all Inspectors General whose offices are established under the Inspector General Act of 1978, as amended, 5 U.S.C. app, as well as the Controller of the Office of Federal Financial Management, a designated official of the Federal Bureau of Investigation, the Director of the Office of Government Ethics, the Special Counsel of the Office of Special Counsel, the Deputy Director of the Office of Personnel Management, the Deputy Director for Management of the Office of Management and Budget (OMB), and the Inspectors General of the Office of the Director of National Intelligence, Central Intelligence Agency, Library of Congress, Capitol Police, Government Publishing Office, Government Accountability Office, and the Architect of the Capitol. The Deputy Director for Management of OMB serves as the Executive Chairperson of CIGIE.

The new system of records described in this notice, CIGIE—1—Correspondence Tracking, will enable CIGIE to more efficiently track correspondence received from and sent to entities and individuals, both within and external to the Federal government. In accordance with 5 U.S.C. 552a(r), CIGIE has provided a report of this new system of records to OMB and to Congress. The new system of records reads as follows:

SYSTEM NAME AND NUMBER

Correspondence Tracking—CIGIE–1.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATIONS:

The principal location of paper records contained within the system is the headquarters of the Council of the Inspectors General on Integrity and Efficiency (CIGIE), 1717 H Street NW., Suite 825, Washington, DC 20006. Paper records within the system may also be

located at CIGIE's Inspector General Criminal Investigator Academy, Federal Law Enforcement Training Center, 384 Marana Circle, Glynco, Georgia 31524. Records maintained in electronic form are principally located in contractor-hosted data centers in the United States. Contact the System Manager identified below for additional information.

SYSTEM MANAGER(S):

Executive Director, Council of the Inspectors General on Integrity and Efficiency, 1717 H Street NW., Suite 825, Washington, DC 20006.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 11 of the Inspector General Act of 1978, as amended, 5 U.S.C. app (IG Act); 5 U.S.C. 301; 44 U.S.C. 3101.

PURPOSE(S) OF THE SYSTEM:

The information is used to track and record the incoming correspondence to determine whether the matter is appropriate for CIGIE to handle and prepare a response, whether CIGIE should refer it to another Federal agency for handling, and whether CIGIE should decline to take any action.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who submit correspondence to CIGIE, who have correspondence submitted on their behalf to CIGIE, who are the subject of correspondence to CIGIE, or who request to receive correspondence from CIGIE, as well as CIGIE employees responsible for processing, reviewing, and/or responding to such correspondence.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system maintains information about correspondence that CIGIE receives from Members and Committees of Congress; Federal, state, and local agencies; private entities; and private citizens, regarding significant issues that do or may fall within CIGIE's jurisdiction under the IG Act. The system also contains information about responses to such correspondence, as well as referrals of the complaints/correspondence to the various Offices of Inspector General and other Federal agencies for response. The system may contain personal information relating to the sender and individuals (both public officials and private citizens) who are named in or related to the correspondence, such as names, addresses, phone numbers, and email addresses. This system does not contain all correspondence received or sent by CIGIE. For example, most routine email correspondence is not included in this system and some correspondence is maintained in other CIGIE systems of record.

RECORD SOURCE CATEGORIES:

The information is provided by Members and Committees of Congress; Federal, State, and local agencies; private entities; and private citizens.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under the Privacy Act (5 U.S.C. 552a(b)), the records or information contained in this system of records may specifically be disclosed outside of CIGIE as a routine use pursuant to the Privacy Act (5 U.S.C. 552a(b)(3)) as follows:

A. To a Member of Congress in response to an inquiry from that Member made at the request of the individual. In such cases, however, the Member's right to a record is no greater than that of the individual.

B. If the disclosure of certain records to the Department of Justice (DOJ) is relevant and necessary to litigation and is compatible with the purpose for which the records were collected, CIGIE may disclose those records to the DOJ. CIGIE may make such a disclosure if one of the following parties is involved in the litigation or has an interest in the litigation:

1. CIGIE or any component thereof; or

2. Any employee or former employee of CIGIE in his or her official capacity; or

3. Any employee or former employee of CIGIE in his or her individual capacity when the DOJ has agreed to represent the employee; or

4. The United States, if CIGIE determines that litigation is likely to affect CIGIE or any of its components.

C. If disclosure of certain records to a court, adjudicative body before which CIGIE is authorized to appear, individual or entity designated by CIGIE or otherwise empowered to resolve disputes, counsel or other representative, party, or potential witness is relevant and necessary to litigation and is compatible with the purpose for which the records were collected, CIGIE may disclose those records to the court, adjudicative body, individual or entity, counsel or other representative, party, or potential witness. CIGIE may make such a disclosure if one of the following parties is involved in the litigation or has an interest in the litigation:

1. CIGIE or any component thereof; or

2. Any employee or former employee of CIGIE in his or her official capacity; or

3. Any employee or former employee of CIGIE in his or her individual capacity when the DOJ has agreed to represent the employee; or

4. The United States, if CIGIE determines that litigation is likely to affect CIGIE or any of its components.

D. To the appropriate Federal, state, local, tribal, or foreign agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, if the information is relevant to a violation or potential violation of civil or criminal law or regulation within the jurisdiction of the receiving entity.

E. To officials and employees of any Federal agency to the extent the record contains information that is relevant to that agency's decision concerning the hiring, appointment, or retention of an employee; issuance of a security clearance; execution of a security or suitability investigation; or classification of a job.

F. To the National Archives and Records Administration (NARA) pursuant to records management inspections being conducted under the authority of 44 U.S.C. 2904 and 2906.

G. To contractors, grantees, consultants, volunteers, or other individuals performing or working on a contract, interagency agreement, service, grant, cooperative agreement, job, or other activity for CIGIE and who have a need to access the information in the performance of their duties or activities for CIGIE.

H. To appropriate agencies, entities, and persons when: CIGIE suspects or has confirmed that there has been a breach of the system of records; CIGIE has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, CIGIE (including its information systems, programs, and operations), the Federal Government, or national security; and the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with CIGIE's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

I. To another Federal agency or Federal entity, when: CIGIE determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in responding to a suspected or confirmed breach; or preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national

security, resulting from a suspected or confirmed breach.

J. To Federal agencies and independent certified public accounting firms that have a need for the information in order to audit the financial statements of CIGIE.

K. To an organization or an individual in the public or private sector if there is reason to believe the recipient is or could become the target of a particular criminal activity or conspiracy, or to the extent the information is relevant to the protection or life or property.

L. To officials, members, and employees of CIGIE who have need of the information in the performance of their duties.

M. To the Office of Personnel Management (OPM) in accordance with OPM's responsibility for evaluation and oversight of Federal personnel management.

N. To appropriate agencies, entities, and persons, to the extent necessary to respond to or refer correspondence.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Information in this system is maintained in paper and/or electronic form.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

These records are retrieved by the name or other programmatic identifier assigned to the individual on whom they are maintained.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

The information is retained and disposed of in accordance with the General Records Schedule or the CIGIE records schedule applicable to the record and/or as otherwise required by the Federal Records Act and implementing regulations. Destruction is by shredding or electronic deletion.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Paper records are located in locked file storage areas or in specified areas to which only authorized personnel have access. Electronic records are protected from unauthorized access through password identification procedures, limited access, firewalls, and other system-based protection methods.

RECORD ACCESS PROCEDURES:

Individuals seeking notification and access to any record contained in this system of records, or seeking to contest its content, may inquire in writing to the System Manager listed above. CIGIE has published a rule, entitled ''Privacy Act Regulations,'' to establish its procedures relating to access, maintenance, disclosure, and amendment of records which are in a CIGIE system of records under the Privacy Act, promulgated at 5 CFR part 9801.

CONTESTING RECORDS PROCEDURES:

See ''Record Access Procedures'' above.

NOTIFICATION PROCEDURES:

See ''Record Access Procedures'' above.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

Dated: October 23, 2017.

Michael E. Horowitz,

Chairperson of the Council of the Inspectors General on Integrity and Efficiency.

[FR Doc. 2017–24043 Filed 11–3–17; 8:45 am]

BILLING CODE 6820–C9–P

COUNCIL OF THE INSPECTORS GENERAL ON INTEGRITY AND EFFICIENCY

Privacy Act of 1974; System of Records

AGENCY: Council of the Inspectors General on Integrity and Efficiency.

ACTION: Notice of a new system of records.

SUMMARY: The Council of the Inspectors General on Integrity and Efficiency (CIGIE) proposes to establish a system of records that is subject to the Privacy Act of 1974. Specifically, the Integrity Committee Management System (ICMS) will enable CIGIE to track complaints made to CIGIE's Integrity Committee (IC) and information related thereto. CIGIE also proposes to establish routine uses for the proposed system of records. In this notice, CIGIE provides the required information on the system of records and routine uses for such system.

DATES: This action will be effective without further notice on December 6, 2017 unless comments are received that would result in a contrary determination.

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

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: comments@CIGIE.gov.*
- *Fax:* (202) 254–0162.
- *Mail:* Atticus J. Reaser, General Counsel, Council of the Inspectors General on Integrity and Efficiency, 1717 H Street NW., Suite 825, Washington, DC 20006.
- *Hand Delivery/Courier:* Atticus J. Reaser, General Counsel, Council of the Inspectors General on Integrity and Efficiency, 1717 H Street NW., Suite 825, Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Atticus J. Reaser, General Counsel, CIGIE, (202) 292–2600.

SUPPLEMENTARY INFORMATION: In 2008, Congress established CIGIE as an independent entity within the executive branch in order to address integrity, economy, and effectiveness issues that transcend individual Government agencies; and increase the professionalism and effectiveness of personnel by developing policies, standards, and approaches to aid in the establishment of a well-trained and highly skilled workforce in the offices of the Inspector General (OIG). CIGIE's membership is comprised of all Inspectors General whose offices are established under the Inspector General Act of 1978, as amended, 5 U.S.C. app (IG Act), as well as the Controller of the Office of Federal Financial Management, a designated official of the Federal Bureau of Investigation (FBI), the Director of the Office of Government Ethics, the Special Counsel of the Office of Special Counsel, the Deputy Director of the Office of Personnel Management, the Deputy Director for Management of the Office of Management and Budget (OMB), and the Inspectors General of the Office of the Director of National Intelligence, Central Intelligence Agency, Library of Congress, Capitol Police, Government Publishing Office, Government Accountability Office, and the Architect of the Capitol. The Deputy Director for Management of OMB serves as the Executive Chairperson of CIGIE.

The IG Act established the IC in order to receive, review, and refer for investigation allegations of wrongdoing that are made against Inspectors General and certain staff members of the various OIGs. With the enactment of the Inspector General Empowerment Act of 2016 on December 16, 2016, the IG Act was amended to require the Chairperson of CIGIE to maintain the records of the IC. Previously, such records were required by the IG Act to be maintained by the official of the FBI serving in CIGIE. The new system of records described in this notice, the ICMS (CIGIE–4), will enable CIGIE to track complaints made to the IC and information related thereto. In accordance with 5 U.S.C. 552a(r), CIGIE has provided a report of this new system of records to OMB and to Congress. The new system of records reads as follows:

SYSTEM NAME AND NUMBER

Integrity Committee Management System (ICMS)—CIGIE–4.

SECURITY CLASSIFICATION:

The vast majority of the information in the system is Controlled Unclassified Information. However, there is some classified information as well.

SYSTEM LOCATIONS:

The principal location of paper records contained within the ICMS is the headquarters of the Council of the Inspectors General on Integrity and Efficiency (CIGIE), 1717 H Street NW., Suite 825, Washington, DC 20006. Records maintained in electronic form are principally located in contractor-hosted data centers in the United States. Records within the system may also be temporarily located at a Federal Bureau of Investigation (FBI) location in the system location specified in the current System of Record Notice associated with The FBI Central Records System, Justice/FBI–002. Contact the System Manager identified below for additional information.

SYSTEM MANAGER(S):

Executive Director, Council of the Inspectors General on Integrity and Efficiency, 1717 H Street NW., Suite 825, Washington, DC 20006.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 11 of the Inspector General Act of 1978, as amended, 5 U.S.C. app (IG Act); Section 3 of the Inspector General Empowerment Act of 2016, Public Law 114–317, 130 Stat. 1595 (IGEA); 5 U.S.C. 301; 44 U.S.C. 3101.

PURPOSE(S) OF THE SYSTEM:

CIGIE maintains this system of records in order to carry out its responsibilities pursuant to the IG Act, as further amended by section 3 of the IGEA. Pursuant to section 11(d)(1) of the IG Act, CIGIE is statutorily directed to establish the Integrity Committee (IC), which shall receive, review, refer for investigation, or otherwise act on allegations of wrongdoing that are made against Inspectors General and certain staff members of various Offices of Inspector General (OIGs), as well as the Special Counsel and Deputy Special Counsel, and make appropriate recommendations regarding confirmed or verified allegations. Furthermore, pursuant to section 11(d)(13) of the IG Act, as further amended by the IGEA, the Chairperson of CIGIE is statutorily obligated to maintain the records of the IC. Accordingly, the records in this system are used in the course of responding to complaints made to or referred to the IC, investigating individuals suspected of wrongdoing falling within the authority of the IC, referring matters to the Department of Justice (DOJ) or the Office of Special Counsel (OSC), as appropriate, and making recommendations to the President or head of the relevant agency, as appropriate.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

In connection with its investigative and other duties, the IC maintains records on the following categories of individuals:

A. Individuals who relate in any manner to official IC matters, including, but not limited to, individuals who are or have been the subject, complainant, victim, witness, or close relative or associate of a subject, complainant, victim, or witness in a complaint made or referred to the IC. Such individuals include, but are not necessarily limited to, Inspectors General, the Special Counsel, the Deputy Special Counsel, and those staff members of the OIGs specified in section 11(d)(4)(B) of the IG Act, as well as other individuals identified in such complaints.

B. Individuals identified in reports of investigation and other materials received from the DOJ or the OSC pursuant to section 11(d)(7)(E) of the IG Act or received from other entities that submit materials to the IC, such as Inspectors General who conduct investigations on behalf of the IC.

C. Individuals identified in correspondence or records that are related to the general administration of the IC.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information relating to complaints and investigations, including:

A. Letters, memoranda, and other documents describing complaints or alleged criminal, civil, or administrative misconduct.

B. Investigative files, which include reports of investigations and related exhibits, statements, affidavits, and records obtained during investigations.

C. General administrative materials, including minutes, reports, case-tracking logs, and Congressional and other correspondence.

D. Records relating to referrals and recommendations to and from external entities, including, but not limited to the DOJ, the OSC, OIGs, and others.

RECORD SOURCE CATEGORIES:

The subjects of investigations and inquiries; individuals and entities with which the subjects of investigations and inquiries are associated; Federal, state, local, and foreign law enforcement and non-law enforcement agencies and entities; private citizens; witnesses; complainants; and public and/or commercially available source materials.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under the Privacy Act (5 U.S.C. 552a(b)), the records or information contained in this system of records may specifically be disclosed outside of CIGIE as a routine use pursuant to the Privacy Act (5 U.S.C. 552a(b)(3)) as follows:

A. To a Member of Congress in response to an inquiry from that Member made at the request of the individual. In such cases, however, the Member's right to a record is no greater than that of the individual.

B. If the disclosure of certain records to the DOJ is relevant and necessary to litigation and is compatible with the purpose for which the records were collected, CIGIE may disclose those records to the DOJ. CIGIE may make such a disclosure if one of the following parties is involved in the litigation or has an interest in the litigation:

1. CIGIE or any component thereof; or

2. Any employee or former employee of CIGIE in his or her official capacity; or

3. Any employee or former employee of CIGIE in his or her individual capacity when the DOJ has agreed to represent the employee; or

4. The United States, if CIGIE determines that litigation is likely to affect CIGIE or any of its components.

C. If disclosure of certain records to a court, adjudicative body before which CIGIE is authorized to appear, individual or entity designated by CIGIE or otherwise empowered to resolve disputes, counsel or other representative, party, or potential witness is relevant and necessary to litigation and is compatible with the purpose for which the records were collected, CIGIE may disclose those records to the court, adjudicative body, individual or entity, counsel or other representative, party, or potential witness. CIGIE may make such a disclosure if one of the following parties is involved in the litigation or has an interest in the litigation:

1. CIGIE or any component thereof; or

2. Any employee or former employee of CIGIE in his or her official capacity; or

3. Any employee or former employee of CIGIE in his or her individual capacity when the DOJ has agreed to represent the employee; or

4. The United States, if CIGIE determines that litigation is likely to affect CIGIE or any of its components.

D. To the appropriate Federal, state, local, tribal, or foreign agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, if the information is relevant to a violation or potential violation of civil or criminal law or regulation within the jurisdiction of the receiving entity, including, but not limited to, the DOJ or the OSC pursuant to section 11(d)(5) of the IG Act, as further amended by the IGEA.

E. To officials and employees of any Federal agency to the extent the record contains information that is relevant to that agency's decision concerning the hiring, appointment, or retention of an employee; issuance of a security clearance; execution of a security or suitability investigation; or classification of a job.

F. To the National Archives and Records Administration (NARA) pursuant to records management inspections being conducted under the authority of 44 U.S.C. 2904 and 2906.

G. To contractors, grantees, consultants, volunteers, or other individuals performing or working on a contract, interagency agreement, service, grant, cooperative agreement, job, or other activity for CIGIE (including, but not limited to, representatives of the DOJ and the OSC reviewing complaints made to the IC pursuant to section 11(d)(5) of the IG Act, as further amended by the IGEA, the Chief of the Public Integrity Section of the Criminal Division of the DOJ, or his designee, who serves as legal advisor to the IC, and officials at the FBI involved with the maintenance of IC-related records) and who have a need to access the information in the performance of their duties or activities for CIGIE.

H. To appropriate agencies, entities, and persons when: CIGIE suspects or has confirmed that there has been a breach of the system of records; CIGIE has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, CIGIE (including its information systems, programs, and operations), the Federal Government, or national security; and the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with CIGIE's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

I. To another Federal agency or Federal entity, when: CIGIE determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in responding to a suspected or confirmed breach; or preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

J. To Federal agencies and independent certified public accounting firms that have a need for the information in order to audit the financial statements of CIGIE.

K. To an organization or an individual in the public or private sector where there is reason to believe the recipient is or could become the target of a particular criminal activity or conspiracy, or to the extent the information is relevant to the protection or life or property.

L. To officials, members, and employees of CIGIE and members of the IC who have need of the information in the performance of their duties.

M. To any individual or entity when necessary to elicit information that will assist an IC investigation.

N. To the President or the head of a designated Federal entity, as appropriate, for resolution after assessment and final disposition of reports by the IC to the extent required to comply with section 11(d) of the IG Act or as otherwise required by law.

O. To Members of Congress and appropriate congressional committees of jurisdiction to the extent required to comply with section 11(d) of the IG Act or as otherwise required by law.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Information in this system is maintained in paper and/or electronic form.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

These records are retrieved by the name or other programmatic identifier assigned to the individual on whom they are maintained.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

The information is retained and disposed of in accordance with the General Records Schedule or the CIGIE records schedule applicable to the record and/or as otherwise required by the Federal Records Act and implementing regulations. Destruction is by shredding or electronic deletion.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Paper records are located in locked file storage areas or in specified areas to which only authorized personnel have access. Electronic records are protected from unauthorized access through password identification procedures, limited access, firewalls, and other system-based protection methods.

RECORD ACCESS PROCEDURES:

Part of this system is exempt from notification and access requirements pursuant to 5 U.S.C. 552a(j)(2), (k)(1), and (k)(2). To the extent that this system is not subject to exemption, it is subject to notification and access requirements. Individuals seeking notification and access to any record contained in this system of records, or seeking to contest its content, may inquire in writing to the System Manager listed above. CIGIE has published a rule, entitled ''Privacy Act Regulations,'' to establish its procedures relating to access, maintenance, disclosure, and amendment of records which are in a CIGIE system of records under the Privacy Act, promulgated at 5 CFR part 9801.

CONTESTING RECORDS PROCEDURES:

See ''Record Access Procedures'' above.

NOTIFICATION PROCEDURES:

See ''Record Access Procedures'' above.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

CIGIE has exempted this system of records from the following provisions of the Privacy Act pursuant to the general authority in 5 U.S.C. 552a(j)(2): 5 U.S.C. 552a(c)(3) and (c)(4); (d); (e)(1), (e)(2), (e)(3), (e)(4)(G)–(H), (e)(5), and (e)(8); (f); and (g). Additionally, CIGIE has exempted this system from the following provisions of the Privacy Act pursuant to the general authority in 5 U.S.C. 552a(k)(1) and (k)(2): 5 U.S.C. 552a(c)(3); (d); (e)(1) and (e)(4)(G)–(H); and (f). See 5 CFR part 9801.

Dated: October 23, 2017.

Michael E. Horowitz,

Chairperson of the Council of the Inspectors General on Integrity and Efficiency.

[FR Doc. 2017–24038 Filed 11–3–17; 8:45 am]

BILLING CODE 6820–C9–P

COUNCIL OF THE INSPECTORS GENERAL ON INTEGRITY AND EFFICIENCY

Privacy Act of 1974; System of Records

AGENCY: Council of the Inspectors General on Integrity and Efficiency.

ACTION: Notice of a new system of records.

SUMMARY: The Council of the Inspectors General on Integrity and Efficiency (CIGIE) proposes to establish a system of

records that is subject to the Privacy Act of 1974. Specifically, the Freedom of Information Act—Privacy Act System will enable CIGIE to better track and index record access requests and administrative appeals under the Freedom of Information Act (FOIA), as well as access, notification, and amendment requests and administrative appeals under the Privacy Act. CIGIE also proposes to establish routine uses for the proposed system of records. In this notice, CIGIE provides the required information on the system of records and routine uses for such system.

DATES: This action will be effective without further notice on December 6, 2017 unless comments are received that would result in a contrary determination.

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

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: comments@CIGIE.gov.*
- *Fax:* (202) 254–0162.
- *Mail:* Atticus J. Reaser, General Counsel, Council of the Inspectors General on Integrity and Efficiency, 1717 H Street NW., Suite 825, Washington, DC 20006.
- *Hand Delivery/Courier:* Atticus J. Reaser, General Counsel, Council of the Inspectors General on Integrity and Efficiency, 1717 H Street NW., Suite 825, Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Atticus J. Reaser, General Counsel, CIGIE, (202) 292–2600.

SUPPLEMENTARY INFORMATION: In 2008, Congress established CIGIE as an independent entity within the executive branch in order to address integrity, economy, and effectiveness issues that transcend individual Government agencies; and increase the professionalism and effectiveness of personnel by developing policies, standards, and approaches to aid in the establishment of a well-trained and highly skilled workforce in the offices of the Inspector General. CIGIE's membership is comprised of all Inspectors General whose offices are established under the Inspector General Act of 1978, as amended, 5 U.S.C. app, as well as the Controller of the Office of Federal Financial Management, a designated official of the Federal Bureau of Investigation, the Director of the Office of Government Ethics, the Special Counsel of the Office of Special Counsel, the Deputy Director of the Office of Personnel Management, the Deputy Director for Management of the Office of Management and Budget (OMB), and the Inspectors General of the Office of the Director of National Intelligence, Central Intelligence Agency, Library of Congress, Capitol Police, Government Publishing Office, Government Accountability Office, and the Architect of the Capitol. The Deputy Director for Management of OMB serves as the Executive Chairperson of CIGIE.

The new system of records described in this notice, CIGIE—2—Freedom of Information Act—Privacy Act System, will enable CIGIE to better track and index record access requests and administrative appeals under the FOIA, as well as access, notification, and amendment requests and administrative appeals under the Privacy Act. In accordance with 5 U.S.C. 552a(r), CIGIE has provided a report of this new system of records to OMB and to Congress. The new system of records reads as follows:

SYSTEM NAME AND NUMBER

Freedom of Information Act—Privacy Act System—CIGIE–2.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATIONS:

The principal location of paper records contained within the system is the headquarters of the Council of the Inspectors General on Integrity and Efficiency (CIGIE), 1717 H Street NW., Suite 825, Washington, DC 20006. Paper records within the system may also be located at CIGIE's Inspector General Criminal Investigator Academy, Federal Law Enforcement Training Center, 384 Marana Circle, Glynco, Georgia 31524. Records maintained in electronic form are principally located in contractor-hosted data centers in the United States. Records within this system may also be located at the offices of entities performing Freedom of Information Act (FOIA), 5 U.S.C. 552, and Privacy Act of 1974 (Privacy Act), 5 U.S.C. 552a, request processing on behalf of CIGIE. Contact the System Manager identified below for additional information.

SYSTEM MANAGER(S):

Executive Director, Council of the Inspectors General on Integrity and Efficiency, 1717 H Street NW., Suite 825, Washington, DC 20006.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 11 of the Inspector General Act of 1978, as amended, 5 U.S.C. app (IG Act); 5 U.S.C. 301; 5 U.S.C. 552; 5 U.S.C. 552a; 44 U.S.C. 3101.

PURPOSE(S) OF THE SYSTEM:

To assist CIGIE in carrying out its responsibilities under FOIA and the Privacy Act.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have requested access to information pursuant to FOIA or the Privacy Act; individuals who have made a request to access or correct records pertaining to themselves; persons who, on behalf of another individual, have made a request to access or correct that individual's records; and individuals whose requests and/or records have been referred to CIGIE by other agencies.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system maintains records received, created, or compiled in processing FOIA and Privacy Act requests or appeals, including, but not limited to, correspondence or internal memoranda related to the processing of these requests and documents relevant to administrative appeals and litigation under FOIA and the Privacy Act. Records will also contain such data as the name of requester, address of requester, and subject of request.

RECORD SOURCE CATEGORIES:

Information is derived from the individuals and entities making requests, the records searched in the process of responding to requests, and other agencies referring requests for access to or correction of records.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under the Privacy Act (5 U.S.C. 552a(b)), the records or information contained in this system of records may specifically be disclosed outside of CIGIE as a routine use pursuant to the Privacy Act (5 U.S.C. 552a(b)(3)) as follows:

A. To a Member of Congress in response to an inquiry from that Member made at the request of the individual. In such cases, however, the Member's right to a record is no greater than that of the individual.

B. If the disclosure of certain records to the Department of Justice (DOJ) is relevant and necessary to litigation and is compatible with the purpose for which the records were collected, CIGIE may disclose those records to the DOJ. CIGIE may make such a disclosure if one of the following parties is involved in the litigation or has an interest in the litigation:

1. CIGIE or any component thereof; or

2. Any employee or former employee of CIGIE in his or her official capacity; or

3. Any employee or former employee of CIGIE in his or her individual

capacity when the DOJ has agreed to represent the employee; or

4. The United States, if CIGIE determines that litigation is likely to affect CIGIE or any of its components.

C. If disclosure of certain records to a court, adjudicative body before which CIGIE is authorized to appear, individual or entity designated by CIGIE or otherwise empowered to resolve disputes, counsel or other representative, party, or potential witness is relevant and necessary to litigation and is compatible with the purpose for which the records were collected, CIGIE may disclose those records to the court, adjudicative body, individual or entity, counsel or other representative, party, or potential witness. CIGIE may make such a disclosure if one of the following parties is involved in the litigation or has an interest in the litigation:

1. CIGIE or any component thereof; or

2. Any employee or former employee of CIGIE in his or her official capacity; or

3. Any employee or former employee of CIGIE in his or her individual capacity when the DOJ has agreed to represent the employee; or

4. The United States, if CIGIE determines that litigation is likely to affect CIGIE or any of its components.

D. To the appropriate Federal, state, local, tribal, or foreign agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, if the information is relevant to a violation or potential violation of civil or criminal law or regulation within the jurisdiction of the receiving entity.

E. To officials and employees of any Federal agency to the extent the record contains information that is relevant to that agency's decision concerning the hiring, appointment, or retention of an employee; issuance of a security clearance; execution of a security or suitability investigation; or classification of a job.

F. To the National Archives and Records Administration (NARA) pursuant to records management inspections being conducted under the authority of 44 U.S.C. 2904 and 2906.

G. To contractors, grantees, consultants, volunteers, or other individuals performing or working on a contract, interagency agreement, service, grant, cooperative agreement, job, or other activity for CIGIE and who have a need to access the information in the performance of their duties or activities for CIGIE.

H. To any appropriate Federal, state, or local agency or entity to:

1. Permit a decision as to access, amendment or correction of records to be made in consultation with or by that agency; or

2. Verify the identity of an individual or the accuracy of information submitted by an individual who has requested access to or amendment or correction of records.

I. To NARA, Office of Government Information Services (OGIS), to the extent necessary to fulfill its responsibilities in 5 U.S.C. 552(h), to review administrative agency policies, procedures, and compliance with the FOIA, and to facilitate OGIS's offering of mediation services to resolve disputes between persons making FOIA requests and administrative agencies.

J. To appropriate agencies, entities, and persons when: CIGIE suspects or has confirmed that there has been a breach of the system of records; CIGIE has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, CIGIE (including its information systems, programs, and operations), the Federal Government, or national security; and the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with CIGIE's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

K. To another Federal agency or Federal entity, when: CIGIE determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in responding to a suspected or confirmed breach; or 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.

L. To Federal agencies and independent certified public accounting firms that have a need for the information in order to audit the financial statements of CIGIE.

M. To an organization or an individual in the public or private sector if there is reason to believe the recipient is or could become the target of a particular criminal activity or conspiracy, or to the extent the information is relevant to the protection or life or property.

N. To officials, members, and employees of CIGIE who have need of the information in the performance of their duties.

O. To the Office of Management and Budget for the purpose of obtaining its advice regarding CIGIE obligations under the Privacy Act.

P. To a submitter or subject of a record or information in order to obtain assistance to CIGIE in making a determination as to access or amendment.

Q. To the DOJ Office of Information Policy for the purpose of obtaining its advice regarding CIGIE obligations under the FOIA.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Information in this system is maintained in paper and/or electronic form.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

These records are retrieved by the name or other programmatic identifier assigned to the individual on whom they are maintained.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

The information is retained and disposed of in accordance with the General Records Schedule or the CIGIE records schedule applicable to the record and/or as otherwise required by the Federal Records Act and implementing regulations. Destruction is by shredding or electronic deletion.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Paper records are located in locked file storage areas or in specified areas to which only authorized personnel have access. Electronic records are protected from unauthorized access through password identification procedures, limited access, firewalls, and other system-based protection methods.

RECORD ACCESS PROCEDURES:

Individuals seeking notification and access to any record contained in this system of records, or seeking to contest its content, may inquire in writing to the System Manager listed above. CIGIE has published a rule, entitled ''Privacy Act Regulations,'' to establish its procedures relating to access, maintenance, disclosure, and amendment of records which are in a CIGIE system of records under the Privacy Act, promulgated at 5 CFR part 9801.

CONTESTING RECORDS PROCEDURES:

See ''Record Access Procedures'' above.

NOTIFICATION PROCEDURES:

See ''Record Access Procedures'' above.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

To the extent that copies of exempt records from other systems of records

are entered into this system, CIGIE claims the same exemptions for those records that are claimed for the original primary systems of records from which they originated.

Dated: October 23, 2017.

Michael E. Horowitz,

Chairperson of the Council of the Inspectors General on Integrity and Efficiency.

[FR Doc. 2017–24044 Filed 11–3–17; 8:45 am]

BILLING CODE 6820–C9–P

COUNCIL OF THE INSPECTORS GENERAL ON INTEGRITY AND EFFICIENCY

Privacy Act of 1974; System of Records

AGENCY: Council of the Inspectors General on Integrity and Efficiency.

ACTION: Notice of a new system of records.

SUMMARY: The Council of the Inspectors General on Integrity and Efficiency (CIGIE) proposes to establish a system of records that is subject to the Privacy Act of 1974. Specifically, the Employee-related Records System system of records will enable CIGIE to more efficiently track current, former, and prospective employee-related records. CIGIE also proposes to establish routine uses for the proposed system of records. In this notice, CIGIE provides the required information on the system of records and routine uses for such system.

DATES: This action will be effective without further notice on December 6, 2017 unless comments are received that would result in a contrary determination.

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

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: comments@CIGIE.gov.*
- *Fax:* (202) 254–0162.
- *Mail:* Atticus J. Reaser, General Counsel, Council of the Inspectors General on Integrity and Efficiency, 1717 H Street NW., Suite 825, Washington, DC 20006.
- *Hand Delivery/Courier:* Atticus J. Reaser, General Counsel, Council of the Inspectors General on Integrity and Efficiency, 1717 H Street NW., Suite 825, Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Atticus J. Reaser, General Counsel, CIGIE, (202) 292–2600.

SUPPLEMENTARY INFORMATION: In 2008, Congress established CIGIE as an independent entity within the executive branch in order to address integrity, economy, and effectiveness issues that transcend individual Government agencies; and increase the professionalism and effectiveness of personnel by developing policies, standards, and approaches to aid in the establishment of a well-trained and highly skilled workforce in the offices of the Inspector General. CIGIE's membership is comprised of all Inspectors General whose offices are established under the Inspector General Act of 1978, as amended, 5 U.S.C. app, as well as the Controller of the Office of Federal Financial Management, a designated official of the Federal Bureau of Investigation, the Director of the Office of Government Ethics, the Special Counsel of the Office of Special Counsel, the Deputy Director of the Office of Personnel Management, the Deputy Director for Management of the Office of Management and Budget (OMB), and the Inspectors General of the Office of the Director of National Intelligence, Central Intelligence Agency, Library of Congress, Capitol Police, Government Publishing Office, Government Accountability Office, and the Architect of the Capitol. The Deputy Director for Management of OMB serves as the Executive Chairperson of CIGIE.

The new system of records described in this notice, CIGIE—3—Employee-related Records System, will enable CIGIE to more efficiently track current, former, and prospective employee-related records. In accordance with 5 U.S.C. 552a(r), CIGIE has provided a report of this new system of records to the OMB and to Congress. The new system of records reads as follows:

SYSTEM NAME AND NUMBER

Employee-related Records System—CIGIE–3.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATIONS:

The principal location of paper records contained within the system is the headquarters of the Council of the Inspectors General on Integrity and Efficiency (CIGIE), 1717 H Street NW., Suite 825, Washington, DC 20006. Paper records within the system may also be located at CIGIE's Inspector General Criminal Investigator Academy, Federal Law Enforcement Training Center, 384 Marana Circle, Glynco, Georgia 31524. Records maintained in electronic form are principally located in contractor-hosted data centers in the United States. Contact the System Manager identified below for additional information.

SYSTEM MANAGER(S):

Executive Director, Council of the Inspectors General on Integrity and Efficiency, 1717 H Street NW., Suite 825, Washington, DC 20006.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 11 of the Inspector General Act of 1978, as amended, 5 U.S.C. app (IG Act); 5 U.S.C. 301; 44 U.S.C. 3101.

PURPOSE(S) OF THE SYSTEM:

This system of records is primarily maintained to perform agency functions related to general management of CIGIE personnel, including, but not limited to, employee training, leave, attendance, and payments, including determinations relating to the amounts to be paid to employees, the distribution of pay according to employee directions (for allotments, to financial institutions, and for other authorized purposes), and for tax withholdings and other authorized deductions. The system is also used to facilitate communication between CIGIE employees, initiate personnel actions, counsel employees on their performance, and propose disciplinary action.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former employees of CIGIE, individuals detailed to CIGIE, and applicants for employment at CIGIE.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records includes personnel information regarding current CIGIE employees, former CIGIE employees, prospective CIGIE employees, and individuals detailed to CIGIE. Such personnel information may include: Name; addresses; telephone numbers; Social Security number; duty location; position data; time, attendance, and leave information; payroll information; awards and bonus information; professional registrations; qualifications; training history; employment history; counseling; reprimands; grievances; work assignments; and injuries.

The system's records contain but are not limited to the following information about the individual's time, attendance, and leave: The number and type of hours worked; overtime information, including compensatory or credit time earned and used; compensatory travel earned; leave requests, balances, and credits; leave charge codes; and medical records as they pertain to employee medical leave.

The system's records contain but are not limited to the following information about an individual's payroll: Marital

status and number of dependents; child support enforcement court orders; information about taxes and other deductions; debts owed to CIGIE and garnishment information; salary data; retirement data; Thrift Savings Plan contribution and loan amount; and direct deposit information, including financial institution.

The system does not include records covered by government-wide systems of record, including, but not limited to, applicable government-wide systems of record established by the U.S. Office of Personnel Management (OPM), U.S. Department of Labor (DOL), U.S. Equal Employment Opportunity Commission (EEOC), General Services Administration (GSA), U.S. Merit Systems Protection Board (MSPB), U.S. Office of Government Ethics, and U.S. Office of Special Counsel (OSC). Additionally, the system does not include CIGIE current and former employee records maintained by GSA and covered by GSA's GSA/Agency-1: Employee-Related Files system of record as a result of GSA's provision of payroll and other services to CIGIE. When records in the custody of CIGIE are covered in a record system published by another Federal agency as a government-wide record system, or by GSA/Agency-1, they are considered part of that system.

RECORD SOURCE CATEGORIES:

The sources for the information are individuals themselves; other employees; other personnel records; Federal, State, and local agencies; private entities; and private citizens.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under the Privacy Act (5 U.S.C. 552a(b)), the records or information contained in this system of records may specifically be disclosed outside of CIGIE as a routine use pursuant to the Privacy Act (5 U.S.C. 552a(b)(3)) as follows:

A. To a Member of Congress in response to an inquiry from that Member made at the request of the individual. In such cases, however, the Member's right to a record is no greater than that of the individual.

B. If the disclosure of certain records to the Department of Justice (DOJ) is relevant and necessary to litigation and is compatible with the purpose for which the records were collected, CIGIE may disclose those records to the DOJ. CIGIE may make such a disclosure if one of the following parties is involved in the litigation or has an interest in the litigation:

1. CIGIE or any component thereof; or

2. Any employee or former employee of CIGIE in his or her official capacity; or

3. Any employee or former employee of CIGIE in his or her individual capacity when the DOJ has agreed to represent the employee; or

4. The United States, if CIGIE determines that litigation is likely to affect CIGIE or any of its components.

C. If disclosure of certain records to a court, adjudicative body before which CIGIE is authorized to appear, individual or entity designated by CIGIE or otherwise empowered to resolve disputes, counsel or other representative, party, or potential witness is relevant and necessary to litigation and is compatible with the purpose for which the records were collected, CIGIE may disclose those records to the court, adjudicative body, individual or entity, counsel or other representative, party, or potential witness. CIGIE may make such a disclosure if one of the following parties is involved in the litigation or has an interest in the litigation:

1. CIGIE or any component thereof; or

2. Any employee or former employee of CIGIE in his or her official capacity; or

3. Any employee or former employee of CIGIE in his or her individual capacity when the DOJ has agreed to represent the employee; or

4. The United States, if CIGIE determines that litigation is likely to affect CIGIE or any of its components.

D. To the appropriate Federal, state, local, tribal, or foreign agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, if the information is relevant to a violation or potential violation of civil or criminal law or regulation within the jurisdiction of the receiving entity.

E. To officials and employees of any Federal agency to the extent the record contains information that is relevant to that agency's decision concerning the hiring, appointment, or retention of an employee; issuance of a security clearance; execution of a security or suitability investigation; or classification of a job.

F. To the National Archives and Records Administration (NARA) pursuant to records management inspections being conducted under the authority of 44 U.S.C. 2904 and 2906.

G. To contractors, grantees, consultants, volunteers, or other individuals performing or working on a contract, interagency agreement, service, grant, cooperative agreement, job, or other activity for CIGIE and who have a need to access the information in the performance of their duties or activities for CIGIE.

H. To appropriate agencies, entities, and persons when: CIGIE suspects or has confirmed that there has been a breach of the system of records; CIGIE has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, CIGIE (including its information systems, programs, and operations), the Federal Government, or national security; and the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with CIGIE's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

I. To another Federal agency or Federal entity, when: CIGIE determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in responding to a suspected or confirmed breach; or preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

J. To Federal agencies and independent certified public accounting firms that have a need for the information in order to audit the financial statements of CIGIE.

K. To an organization or an individual in the public or private sector if there is reason to believe the recipient is or could become the target of a particular criminal activity or conspiracy, or to the extent the information is relevant to the protection or life or property.

L. To officials, members, and employees of CIGIE who have need of the information in the performance of their duties.

M. To the OPM in accordance with OPM's responsibility for evaluation and oversight of Federal personnel management.

N. To the OPM, MSPB, Federal Labor Relations Authority, OSC, or EEOC when requested in the performance of their respective authorized duties.

O. To an individual's prospective or current employer to the extent necessary to determine employment eligibility.

P. To an authorized appeal or grievance examiner, formal complaints examiner, equal employment opportunity investigator, arbitrator, or other duly authorized official engaged in investigation or settlement of a

grievance, complaint, or appeal filed by an employee.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Information in this system is maintained in paper and/or electronic form.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

These records are retrieved by the name or other programmatic identifier assigned to the individual on whom they are maintained.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

The information is retained and disposed of in accordance with the General Records Schedule or the CIGIE records schedule applicable to the record and/or as otherwise required by the Federal Records Act and implementing regulations. Destruction is by shredding or electronic deletion.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Paper records are located in locked file storage areas or in specified areas to which only authorized personnel have access. Electronic records are protected from unauthorized access through password identification procedures, limited access, firewalls, and other system-based protection methods.

RECORD ACCESS PROCEDURES:

Individuals seeking notification and access to any record contained in this system of records, or seeking to contest its content, may inquire in writing to the System Manager listed above. CIGIE has published a rule, entitled ''Privacy Act Regulations,'' to establish its procedures relating to access, maintenance, disclosure, and amendment of records which are in a CIGIE system of records under the Privacy Act, promulgated at 5 CFR part 9801.

CONTESTING RECORDS PROCEDURES:

See ''Record Access Procedures'' above.

NOTIFICATION PROCEDURES:

See ''Record Access Procedures'' above.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

Dated: October 23, 2017.

Michael E. Horowitz,

Chairperson of the Council of the Inspectors General on Integrity and Efficiency.

[FR Doc. 2017–24041 Filed 11–3–17; 8:45 am]

BILLING CODE 6820–C9–P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Availability of Government-Owned Inventions; Available for Licensing

AGENCY: Department of the Navy, DoD.

ACTION: Notice of availability for licensing.

SUMMARY: The Department of the Navy (DoN) announces the availability of the inventions listed below, assigned to the United States Government, as represented by the Secretary of the Navy, for domestic and foreign licensing by the Department of the Navy.

ADDRESSES: Requests for copies of the inventions should be directed to Naval Postgraduate School, Research and Sponsored Programs Office, NPS Code 41, 699 Dyer Road, Bldg. HA, Room 226, Monterey, CA 93943.

FOR FURTHER INFORMATION CONTACT: Ms. Deborah Buettner, Director, Research and Sponsored Programs Office, NPS Code 41, 699 Dyer Road, Bldg. HA, Room 226, Monterey, CA 93943, telephone 831–656–7893. Due to U.S. Postal delays, please fax 831–656–2038, email: *dbuettne@nps.edu* or use courier delivery to expedite response.

SUPPLEMENTARY INFORMATION: The inventions listed below are available for licensing: U.S. Patent Number 6,664,915 entitled ''Identification Friend or Foe System Including Short Range UV Shield'' issued on December 16, 2003; U.S. Patent Number 7,661,271 entitled ''Integrated Electric Gas Turbine'' issued on February 16, 2010; U.S. Patent Number 6,600,694 entitled ''Digital Signal Processor Based Torpedo Counter-measure'' issued on July 29, 2003; U.S. Patent Number 6,820,025 entitled ''Method and Apparatus for Motion Tracking of an Articulated Rigid Body'' issued on November 16, 2004; U.S. Patent Number 6,717,525 entitled ''Tactical Vectoring Equipment (TVE)'' issued on April 6, 2004; U.S. Patent Number 6,624,780 entitled ''False Target Radar Image Generator for Countering wideband and Imaging Radars'' issued on September 23, 2003; U.S. Patent Number 7,725,595 entitled ''Embedded Communications System and Method'' issued on May 25, 2010; U.S. Patent Number 8,443,101 entitled ''Method for Identifying and Blocking Embedded Communications'' issued on May 14, 2013; U.S. Patent Number 7,675,198 entitled ''Inductive Pulse Forming Network for High-current, High-power Applications'' issued on March 9, 2010; U.S. Patent Number 8,018,096 entitled ''Inductive Pulse Forming Network for High-current, High-power Applications'' issued September 13, 2011; U.S. Patent Number 7,074,697 entitled ''Doping-assisted Defect Control in Compound Semiconductors'' issued on July 11, 2006; U.S. Patent Number 7,089,148 entitled ''Method and Apparatus for Motion Tracking of an Articulated Rigid Body'' issued August 8, 2006; U.S. Patent Number 7,627,003 entitled ''Automatic Clock Synchronization and Distribution Circuit for Counter Clock Flow Pipelined Systems'' issued on December 1, 2009; U.S. Patent Number 8,085,817 entitled ''Automatic Clock Synchronization and Distribution Circuit for Counter Clock Flow Pipelined Systems'' issued December 27, 2011; U.S. Patent Number 8,019,090 entitled ''Active Feedforward Noise Vibration Control System'' issued September 13, 2011; U.S. Patent Number 8,064,541 entitled ''Hyperphase Shift Keying'' issued November 22, 2011; U.S. Patent Number 8,050,849 entitled ''Method to Reduce Fuel Consumption by Naval Vessels that Operate in Mixed Propulsion Modes'' issued November 1, 2011; U.S. Patent Number 8,006,937 entitled ''Spacecraft Docking Interface Mechanism'' issued October 12, 2010; U.S. Patent Number 7,811,918 entitled ''Electric Current Induced Liquid Metal Flow and Metallic Conformal Coating of Conductive Templates'' issued on August 30, 2011; U.S. Patent Number 8,467,548 entitled ''Miniature Directional Sound Sensor Using Micro-Electro-Mechanical-System (MEMS)'' issued on June 18, 2013; U.S. Patent Number 8,579,535 entitled ''Micro-coupling Active Release Mechanism'' issued on November 12, 2013; U.S. Patent Number 9,003,627 entitled ''Micro-coupling Active Release Mechanism'' issued on April 14, 2015; U.S. Patent Number 8,654,672 entitled ''Method for Optimal Transmitter Placement in Wireless Mesh Networks'' issued on February 18, 2014; U.S. Patent Number 8,473,826 entitled ''Hybrid Soft Decision Hard Decision Reed-Solomon Decoding'' issued June 25, 2013; U.S. Patent Number 8,433,959 entitled ''Method for Determining Hard Drive Contents Through Statistical Drive Sampling'' issued on April 30, 2013; U.S. Patent Number 8,446,096 entitled ''Terahertz (THz) Reverse Micromagnetron'' issued on May 21, 2013; U.S. Patent Number 8,624,497 entitled ''Terahertz (THz) Reverse Micromagnetron'' issued on January 7, 2014; U.S. Patent Number 8,724,598 entitled ''Method for Energy-efficient, Traffic-adaptive, Flow-specific Medium Access For Wireless Networks'' issued on May 13, 2014; U.S. Patent Number

8,269,658 entitled ''Photonic Analog-to-Digital Conversion Using the Robust Symmetrical Number System'' issued on September 18, 2012; U.S. Patent Number 9,194,379 entitled ''Field Ionization Based Electrical Space Ion Thruster Using A Permeable Substrate'' issued on November 24, 2015; U.S. Patent Number 8,800,930 entitled ''Aerial Delivery System with High Accuracy Touchdown'' issued on August 12, 2014; U.S. Patent Number 8,730,098 entitled ''Method for Radar Detection of Persons Wearing Wires'' issued on May 20, 2014; U.S. Patent Number 8,525,393 entitled ''Bimaterial Microelectromechanical System (MEMS) Solar Power Generator'' issued on September 3, 2013; U.S. Patent Number 8,526,746 entitled ''Near Lossless Data Compression Method Using Nonuniform Sampling'' issued on September 3, 2013; U.S. Patent Number 8,489,256 entitled ''Automatic Parafoil Turn Calculation Method and Apparatus'' issued on July 16, 2013; U.S. Patent Number 8,437,891 entitled ''Method And Apparatus for Parafoil Guidance That Accounts For Ground Winds'' issued on May 7, 2013; U.S. Patent Number 8,818,581 entitled ''Parafoil Electronic Control Unit Having Wireless Connectivity'' issued on August 26, 2014; U.S. Patent Number 9,331,773 entitled ''Instantaneous Wireless Network Established By Simultaneously Descending Parafoils'' issued on May 3, 2016; U.S. Patent Number 8,483,891 entitled ''Automatically Guided Parafoil Directed to Land on a Moving Target'' issued on July 9, 2013; U.S. Patent Number 8,693,365 entitled ''Method and Apparatus for State-Based Channel Selection Method in Multi-Channel Wireless Communications Networks'' issued on April 8, 2014; U.S. Patent Number 8,810,121 entitled ''Method and Device to Produce Hot, Dense, Long-lived Plasmas'' issued on August 19, 2014; U.S. Patent Number 8,746,120 entitled ''Boosted Electromagnetic Device and Method to Accelerate Solid Metal Slugs to High Speeds'' issued on June 10, 2014; U.S. Patent Number 8,878,742 entitled ''Dipole with an Unbalanced Microstrip Feed'' issued on November 4, 2014; U.S. Patent Number 9,038,958 entitled ''Method And Apparatus For Contingency Guidance Of A CMG-Actuated Spacecraft'' issued on May 26, 2015; U.S. Patent Number 8,880,246 entitled ''Method and Apparatus for Determining Spacecraft Maneuvers'' issued on November 4, 2014; U.S. Patent Number 9,248,501 entitled ''Method for Additive Manufacturing Using pH and Potential Controlled Powder Solidification'' issued on February 2, 2016; U.S. Patent Number 9,234,732 entitled ''Explosives Storage System'' issued on January 12, 2016; U.S. Patent Number 9,417,044 entitled ''Explosives Storage System'' issued on August 16, 2016; U.S. Patent Number 9,419,920 entitled ''Gateway Router and Method for Application-Aware Automatic Network Selection'' issued on August 16, 2016; U.S. Patent Number 9,321,529 entitled ''Hybrid Mobile Buoy for Persistent Surface and Underwater Exploration'' issued on April 26, 2016; U.S. Patent Number 9,418,080 entitled ''Method and System for Mobile Structured Collection of Data and Images'' issued on August 16, 2016; U.S. Patent Number 9,489,851 entitled ''Landing Signal Officer (LSO) Information Management and Trend Analysis (IMTA) Tool'' issued on November 8, 2016; U.S. Patent Number 9,534,863 entitled ''Electromagnetic Device and Method to Accelerate Solid Metal Slugs to High Speeds'' issued on January 3, 2017; U.S. Patent Number 9,552,391 entitled ''Apparatus and Method for Improvised Explosive Device (IED) Network Analysis'' issued on January 24, 2017; U.S. Patent Number 9,541,401 entitled ''Method and System for Determining Shortest Oceanic Routes'' issued on January 10, 2017; U.S. Patent Number 9,457,900 entitled ''Multirotor Mobile Buoy for Persistent Surface and Underwater Exploration'' issued on October 4, 2016; U.S. Patent Number 9,567,112 entitled ''Method and Apparatus for Singularity Avoidance for Control Moment Gyroscope (CMG) Systems Without Using Null Motion'' issued on February 14, 2017; U.S. Patent Number 9,594,172 entitled ''Solid-state Spark Chamber for Detection of Radiation'' issued on March 14, 2017; U.S. Patent Number 9,563,964 entitled ''Method for Computer Vision Analysis of Cannon-launched Artillery Video'' issued on February 7, 2017; U.S. Patent Number 9,721,352 entitled ''Method and Apparatus for Computer Vision Analysis of Cannon-launched Artillery Video'' issued on August 1, 2017; U.S. Patent Number 9,727,034 entitled ''Unscented Control for Uncertain Dynamical Systems'' issued on August 8, 2017; U.S. Patent Number 9,693,325 entitled ''Method and Apparatus for Hybrid Time Synchronization Based on Broadcast Sequencing for Wireless Ad Hoc Networks'' issued on June 27, 2017; U.S. Patent 9,590,740 entitled ''Method and System for Robust Symmetrical Number System (RSNS) Photonic Direction Finding (DF) System'' issued on March 7, 2017; U.S. Patent Number 9,530,574 entitled ''Super Dielectric Materials'' issued on December 27, 2016; U.S. Patent Number 9,788,213 entitled ''Method for Interference-Robust Transmitter Placement in Wireless Mesh Networks'' issued on October 10, 2017; U.S. Patent Number 9,711,293 entitled ''Capacitor with Ionic-solution-infused, Porous, Electrically Non-conductive Material'' issued on July 18, 2017; U.S. Patent Number 9,655,077 entitled ''Device and Method for Cellular Synchronization Assisted Location Estimation'' issued on May 16, 2017; U.S. Patent Number 9,656,733 entitled ''Life Preserver Location System'' issued on May 23, 2017; U.S. Patent Number 9,705,383 entitled ''Light Activated Generator'' issued on July 11, 2017.

U.S. Patent Application Number 15/188,505 filed on June 21, 2016, entitled ''Method and Apparatus for Guidance and Control of Uncertain Dynamical Systems''; U.S. Patent Application Number 14/833,728 filed on August 24, 2015, entitled ''Method and Apparatus for Rapid Acoustic Analysis''; U.S. Patent Application Number 14/810,026 filed on July 27, 2015, entitled ''Method and Apparatus for Detection of Hazardous Environmental Conditions and Initiation of Alarm Devices''; U.S. Patent Application Number 14/883,384 filed on October 14, 2015, entitled ''Wireless Signal Localization and Collection from an Airborne Symmetric Line Array Network''; U.S. Patent Application Number 14/852,734 filed on September 14, 2015, entitled ''Network Monitoring Method Using Phantom Nodes''; U.S. Patent Application Number 14/939,032 filed on November 12, 2015, entitled ''Method and Apparatus for Computer Vision Analysis of Spin Rate of Marked Projectiles''; U.S. Patent Application Number 15/208,784 filed on July 13, 2016, entitled ''Unscented Optimization and Control Allocation''; U.S. Patent Application Number 15/082,225 filed on March 28, 2016, entitled ''Automated Multi-plane Propulsion System''; U.S. Patent Application Number 15/131,733 filed on April 18, 2016, entitled ''Multiple Unmanned Aerial Vehicle Launcher System''; U.S. Patent Application Number 15/137,090 filed on April 25, 2016, entitled ''Device and Method for Applying Internal Pressure to a Hollow Cylinder''; U.S. Patent Application Number 15/093,047 filed on April 7, 2016, entitled ''Light Activated Rotor''; U.S. Patent Application Number 15/207,128 filed on July 11, 2016, entitled ''AlGaAs/GaAs Solar Cell with Back-surface Alternating Contacts (GaAs BAC Solar

Cell)''; U.S. Patent Application Number 15/453,198 filed on March 8, 2017, entitled ''Apparatus and Method for Determining an Orientation of an Inertial/Magnetic Sensor''; U.S. Patent Application Number 15/251,766 filed on August 30, 2016, entitled ''High-Altitude Payload Retrieval (HAPR) Apparatus and Methods of Use''; U.S. Patent Application Number 15/239,039 filed on August 17, 2016, entitled ''Super Dielectric Capacitor''; U.S. Patent Application Number 15/620,983 filed on June 13, 2017, entitled ''Super Dielectric Capacitor Using Scaffold Dielectric''; U.S. Patent Application Number 15/375,279 filed on December 12, 2016, entitled ''Method of Electrochemically-Driven Coated Material Synthesis''; U.S. Patent Application Number 15/643,135 filed on July 6, 2017, entitled ''Closed-Loop Control System Using Unscented Optimization''; U.S. Patent Application Number 15/427,858 filed on February 8, 2017, entitled ''Method and Apparatus for Operation of a Remote Sensing Platform''; U.S. Patent Application Number 15/463,135 filed on March 20, 2017, entitled ''Energy Recovery Pulse Forming Network''; U.S. Patent Application Number 15/684,359 filed on August 23, 2017, entitled ''Wide Bandgap Semiconductor Device With Vertical Superjunction Edge Termination for the Drift Region''; U.S. Patent Application Number 15/147,568 filed on May 5, 2016, entitled ''MEMS Thermal Creep Cantilever''; U.S. Patent Application Number 15/282,460 filed on September 30, 2016, entitled ''Emitter-less, Back-surface Alternating Contact Solar Cell''; U.S. Patent Application Number 15/251,035 filed on August 30, 2016, entitled ''Chemical Method to Create Metal Films on Metal and Ceramic Substrates''; U.S. Patent Application Number 15/625,103 filed on June 16, 2017, entitled ''Chemical Method to Create High Stability Heterogeneous Carbon-bonded Materials''; U.S. Patent Application Number 15/634,079 filed on June 27, 2017, entitled ''Direction finding system using two MEMS sound sensors''; U.S. Patent Application Number 15/417,307 filed on January 27, 2017, entitled ''Apparatus and Method for Detecting a Multi-homed Device using Clock Skew''; U.S. Patent Application Number 15/479,053 filed on April 4, 2017, entitled ''Front-Facing Fluoroploymer-Coated Armor Composite''; U.S. Patent Application Number 15/593,931 filed on May 12, 2017, entitled ''Dynamically Tilting Flat Table to impart a Time-varying Gravity-induced Acceleration on a Floating Spacecraft Simulator''; U.S. Patent Application Number 15/725,025 filed on October 4, 2017, entitled ''Systems and Methods for Evaluation of Potentially Irradiated Objects Using Oxygen-17 Detection''; U.S. Patent Application Number 12/460,923 filed on February 26, 2010, entitled ''Agile Attitude Control System for Small Spacecraft''; U.S. Patent Application Number 13/374,601 filed on June 22, 2012, entitled ''A Method for Amplifying Detonation Power Output By Circumferential Slapper Initiation''; U.S. Patent Application Number 62/452,287 filed on January 31, 2017, entitled ''Method and Apparatus for Medium Voltage Pulsed Current Supplies Using Wide Bandgap Solid State Devices''; U.S. Patent Application Number 62/469,377 filed on March 9, 2017, entitled ''Methane/Oxygen Rocket Engine with Specific Impulse Enhancement by Hot Helium Infusion''; U.S. Patent Application Number 62/479,381 filed on March 31, 2017, entitled ''Phase Coded Time Delayed Transmit-Receive Leakage Cancellation''; U.S. Patent Application Number 62/518,881 filed on June 13, 2017, entitled ''System and Method for Determining Position Between Two Locations''; U.S. Patent Application Number 62/528,699 filed on July 5, 2017, entitled ''Method for Autonomous Operations of Large-Scale Satellite Constellations and Ground Station Networks''; U.S. Patent Application Number 62/541,364 filed on August 4, 2017, entitled ''Low Temperature Metal Printing''; U.S. Patent Application Number 62/554,878 filed on September 6, 2017, entitled ''Method and Apparatus for Image-Matching Navigation for Aerial Vehicle''; U.S. Patent Application Number 62/554,871 filed on September 6, 2017, entitled ''Game Theoretic Methodology for Locating Camera Towers and Scheduling Surveillance''; U.S. Patent Application Number 62/570,349 filed on October 10, 2017, entitled ''Optimal Control and Computational Algorithm for Solving Energy and Fuel-Optimal Routing Problem for a Vehicle Operating in a Time-varying Energy Field''.

Authority: 35 U.S.C. 207, 37 CFR part 404.7

Dated: October 31, 2017.

E.K. Baldini,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 2017–24064 Filed 11–3–17; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2017–ICCD–0110]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Federal Family Educational Loan Program (FFEL)—Administrative Requirements for States, Not-for-Profit Lenders, and Eligible Lenders Trustees

AGENCY: Federal Student Aid (FSA), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing an extension of an existing information collection.

DATES: Interested persons are invited to submit comments on or before December 6, 2017.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2017–ICCD–0110. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Room 216–34, Washington, DC 20202–4537.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Beth Grebeldinger, 202–377–4018.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that

is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Federal Family Educational Loan Program (FFEL)—Administrative Requirements for States, Not-For-Profit Lenders, and Eligible Lenders Trustees.

OMB Control Number: 1845–0085.

Type of Review: An extension of an existing information collection.

Respondents/Affected Public: State, Local, and Tribal Governments; Private Sector.

Total Estimated Number of Annual Responses: 61.

Total Estimated Number of Annual Burden Hours: 61.

Abstract: The regulations in 34 CFR 682.302(f) assure the Secretary that the integrity of the program is protected from fraud and misuse of funds. These regulations require a State, not-profit entity, or eligible lender trustee to provide to the Secretary a certification on the State or non-profit entity's letterhead, signed by the State or non-profit's Chief Executive Officer, which states the basis upon which the entity meets the regulations. The submission must include the name and lender identification number(s) for which the eligible designation is being certified. Once an entity is approved it must provide an annual recertification notice identifying the name and lender identification number(s) for which designation is being requested.

Dated: October 31, 2017.

Kate Mullan,

Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.

[FR Doc. 2017–24025 Filed 11–3–17; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2017–ICCD–0134]

Agency Information Collection Activities; Comment Request; National Evaluation of the Investing in Innovation (i3) Program

AGENCY: Institute of Education Sciences (IES), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing an extension of an existing information collection.

DATES: Interested persons are invited to submit comments on or before January 5, 2018.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2017–ICCD–0134. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW, LBJ, Room 216–32, Washington, DC 20202–4537.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Tracy Rimdzius, 202–245–7283.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: National Evaluation of the Investing in Innovation (i3) Program.

OMB Control Number: 1850–0913.

Type of Review: An extension of an existing information collection.

Respondents/Affected Public: Private Sector.

Total Estimated Number of Annual Responses: 23.

Total Estimated Number of Annual Burden Hours: 343.

Abstract: This submission requests approval to collect data in support of the Investing in Innovation (i3) Program Technical Assistance and Evaluation Project. The i3 Program is designed to support school districts and nonprofit organizations in expanding, developing, and evaluating evidence-based practices and promising efforts to improve outcomes for the nations' students, teachers, and schools. Each i3 grantee is required to fund an independent evaluation. The Technical Assistance and Evaluation Project requires data collection to assess the strength of the evidence produced under the grantees independent evaluations as well as provide a cross-site summary of the findings. Specifically, the data collected will be used to support reviews and reports to ED that: Describe the intervention implemented by each i3 grantee; assess the strength of the evidence produced by each i3 evaluation; present the evidence produced by each i3 evaluation; identify effective and promising interventions; and, assess the results of the i3 Program. We will collect data from the universe of all 172 i3 projects funded under the i3 Program.

Dated: November 1, 2017.

Stephanie Valentine,

Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.

[FR Doc. 2017–24060 Filed 11–3–17; 8:45 am]

BILLING CODE 4000–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2017–0585 and EPA–HQ–OPPT–2017–0586; FRL–9970–34]

New Chemicals Review Program Implementation and Approaches for Identifying Potential Candidates for Prioritization for Existing Chemical Risk Evaluations Under the Amended Toxic Substances Control Act (TSCA); Notice of Public Meetings and Opportunity for Public Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is holding two meetings to discuss implementation activities under the Toxic Substances Control Act as amended by the Frank R. Lautenberg Chemical Safety for the 21st Century Act (TSCA). The first meeting is to update and engage with the public on the Agency's progress in implementing changes to the New Chemicals Review Program as a result of the 2016 amendments to TSCA, including discussion of EPA's draft New Chemicals Decision-Making Framework. EPA will describe its review process for new chemical substances under the amended statute and interested parties will have the opportunity to provide input and to ask questions. The Agency plans to utilize the feedback it receives from the public meeting and comments received to improve policy and processes relating to the review of new chemicals under TSCA. The second meeting will focus on possible approaches for identifying potential candidate chemical substances for EPA's prioritization process under TSCA. As amended, TSCA required that EPA establish processes for prioritizing and evaluating risks from existing chemical substances. EPA will describe and take comment on a number of possible approaches that could guide the Agency in the identification of potential candidate chemical substances for prioritization.

DATES: The New Chemicals Review Program Implementation meeting will be held on December 6, 2017 from 9:00 a.m. to 5:00 p.m. The meeting regarding approaches for identifying potential candidates for prioritization will be held on December 11, 2017 from 9:00 a.m. to 5:00 p.m. EPA will accept questions from the public in advance of the meetings, and the Agency will respond to these questions at each meeting as time allows, if such questions are received by November 20, 2017 (see Unit III under **SUPPLEMENTARY INFORMATION**).

Members of the public who register to speak at either meeting may make comments and may ask additional questions. Online requests to participate in either meeting must be received on or before December 5, 2017. On-site registration will be permitted, but seating and speaking priority will be given to those who pre-register by the deadline.

To request accommodation of a disability, please contact the meetings logistics person listed under **FOR FURTHER INFORMATON CONTACT**, preferably at least 10 days prior to the meeting, to give EPA as much time as possible to process your request.

EPA will hear oral comments at these meetings. EPA will accept written comments and materials submitted to the docket for the New Chemicals Review Program Implementation meeting on or before January 20, 2018. EPA will accept written comments and materials submitted to the docket for the meeting regarding approaches for identifying potential candidates for prioritization on or before January 25, 2018. The dockets will remain open to receive comments and materials until these dates. When submitting comments to the dockets, please be as specific as possible, and please include any supporting data or other information.

ADDRESSES: The meetings will both be held at the Ronald Reagan Building and International Trade Center, Horizon Ballroom, 1300 Pennsylvania Avenue NW., Washington, DC 20004. The meetings will also be available by remote access for registered participants. For further information, see Unit III under **SUPPLEMENTARY INFORMATION**.

To participate in the New Chemicals Review Program Implementation meeting on December 6 (identified by docket identification (ID) number EPA–HQ–OPPT–2017–0585) you may register online (preferred) or in person at the meeting. To register online, go to *https://epa-ncrp.eventbrite.com.*

To participate in the meeting regarding approaches for identifying potential candidates for prioritization on December 11 (identified by docket ID number EPA–HQ–OPPT–2017–0586) you may register online (preferred) or in person at the meeting. To register online, go to *https://epa-prioritization.eventbrite.com.* See Unit III under **SUPPLEMENTARY INFORMATION** for information about submitting questions in advance of the meetings.

Written comments, identified by the docket ID number EPA–HQ–OPPT–2017–0585 (for the New Chemicals Review Program meeting) or EPA–HQ–OPPT–2017–0586 (for the meeting regarding approaches for identifying potential candidates for prioritization), can be submitted 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 in general is available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT:

For technical information about the New Chemicals Review Program Implementation meeting contact: Greg Schweer, Chemical Control Division (7405M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (202) 564–8469; email address: *schweer.greg@epa.gov.*

For technical information about the meeting regarding approaches for identifying potential candidates for prioritization contact: Ryan Schmit, Office of Pollution Prevention and Toxics (7101M), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (202) 564–0610; email address: *schmit.ryan@epa.gov.*

For meeting logistics or registration contact: Klara Zimmerman, Abt Associates; telephone number: (301) 634–1722; email address: *klara_zimmerman@abtassoc.com.*

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?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including chemical manufacturers, processors and

users, consumer product companies, non-profit organizations in the environmental and public health sectors, state and local government agencies, and members of the public interested in the environmental and human health assessment and regulation of chemical substances. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action.

B. How can I get copies of this document and other related information?

The docket for the New Chemical Program Implementation meeting (identified by docket ID number EPA–HQ–OPPT–2017–0585) and the docket for the meeting regarding approaches for identifying potential candidates for prioritization (identified by docket ID number EPA–HQ–OPPT–2017–0586) are available at *http://www.regulations.gov* or at the Office of Pollution Prevention and Toxics Docket (OPPT Docket), Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. 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 OPPT Docket is (202) 566–0280. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

II. Background

The Frank R. Lautenberg Chemical Safety for the 21st Century Act, amending the Toxic Substances Control Act of 1976, was signed into law on June 22, 2016. The amendments have enhanced EPA's authority to evaluate chemical substances.

EPA's New Chemicals Review Program has and will continue to support innovation while managing potential risks to human health and the environment from chemical substances new to the marketplace. Under section 5 of TSCA, anyone who plans to manufacture (including import) a new chemical substance for a non-exempt commercial purpose is required to provide EPA with notice before initiating the activity.

Additionally, EPA must also be notified before chemical substances are manufactured or processed for a use that the Agency has designated, by rule, as a significant new use. Under the amended law, EPA is now required to make one of several determinations regarding whether the new use or new chemical presents an unreasonable risk of injury to health or the environment, whether there is insufficient information to allow for a reasoned evaluation of the health and environmental effects of the chemical substance, or whether the substance is produced in substantial quantities and may either enter into the environment in substantial quantities or have significant or substantial human exposure.

The amended statute has resulted in significant changes for both the EPA's New Chemicals Review Program and those manufacturers submitting notices prior to commercialization. EPA has worked to keep stakeholders informed of its efforts to implement the statutory changes and will continue this dialogue during the meeting on December 6, 2017. Information obtained during this meeting and collected in the docket will be considered as the Agency works to increase efficiency in its review process under TSCA. An agenda for the meeting and supporting materials will be made available in the docket and on the Agency's Web site in advance of the meeting.

TSCA, as amended, also required that EPA establish procedures for prioritizing and evaluating risks from existing chemical substances. EPA announced its final procedures on June 22, 2017 (see *https://www.epa.gov/assessing-and-managing-chemicals-under-tsca/federal-register-notice-procedures-prioritization*), and the final procedural rule addressing the prioritization process published in the **Federal Register** on July 20 2017 (82 FR 33753) (FRL–9964–24). The prioritization process involves a 9-month to 12-month public process, including multiple opportunities for public comment, to designate a chemical substance as either High-Priority for further risk evaluation, or Low-Priority for which risk evaluation is not warranted at the time. In the proposed Prioritization rule, EPA included several provisions intended to convey activities the Agency would expect to undertake prior to initiating prioritization (*e.g.,* potential candidate identification, information gathering/review, etc.). Based on public comments received, EPA determined not to finalize those particular provisions at the time and to engage in further discussions with interested stakeholders.

The purpose of the second meeting is to describe and take comment on a number of possible approaches that could guide the Agency in the identification of potential candidate chemical substances for prioritization. More information on these possible approaches will be made available in the docket and on EPA's Web site prior to the meeting. EPA is fully committed to further dialogue on best practices for these activities, and to carrying out these activities in a transparent, science-based manner, to ensure successful implementation of the prioritization and risk evaluation processes required by section 6 of TSCA.

Additional information on the TSCA amendments can be found at *https://www.epa.gov/assessing-and-managing-chemicals-under-tsca/frank-r-lautenberg-chemical-safety-21st-century-act.*

III. Meetings

A. Remote Access

The meetings will both be accessible remotely for registered participants. Registered participants will receive information on how to connect to the meetings prior to their start.

B. Public Participation at the Meetings

Members of the public may register to attend either or both the New Chemicals Review Program Implementation meeting and or the meeting regarding approaches for identifying potential candidates for prioritization as observers and may also register to provide oral comments and ask questions on the day of the respective meetings, using one of the registration methods described under **ADDRESSES**. A registered speaker is encouraged to focus on issues directly relevant to the meeting's subject matter. Each speaker is allowed no more than five minutes at each meeting to provide oral comments and ask questions. A speaker must be registered in order to provide oral comments or ask questions during the meetings. To accommodate as many registered speakers as possible, speakers may present oral comments and questions only, without visual aids or written material. Persons registered to speak (as well as others) may submit written materials to the dockets as described under **ADDRESSES**. Agendas for the meetings and supporting materials will be made available in the dockets and on EPA's Web site in advance of the respective meetings. Additionally, EPA will accept questions from the public in advance of the meetings, and will respond to these questions at the meetings as time allows, if such questions are received by November 20, 2017. Additional information regarding methods of submission of advance questions will be available on EPA's Web site and in the

dockets along with the supporting materials.

IV. How can I request to participate in these meetings?

A. Registration

To attend the meetings in person or to receive remote access, you must register online no later than December 5, 2017, using one of the methods described under **ADDRESSES**. While on-site registration will be available, seating will be on a first-come, first-served basis, with priority given to early registrants, until room capacity is reached. For registrants not able to attend in person, the meetings will also provide remote access capabilities; registered participants will be provided information on how to connect to the meetings prior to its start.

B. Required Registration Information

Members of the public may register to attend as observers or to speak if planning to offer oral comments during the scheduled public comment periods. To register for the meetings online, you must provide your full name, organization or affiliation, and contact information.

Authority: 15 U.S.C. 2601 *et seq.*

Dated: October 27, 2017.

Nancy Beck,

Deputy Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

[FR Doc. 2017–24112 Filed 11–3–17; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[GN Docket No. 12–268; MB Docket No. 16–306; DA 17–1015]

Incentive Auction Task Force and Media Bureau Announce the Initial Reimbursement Allocation for Eligible Broadcasters and MVPDs

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: In this document the Incentive Auction Task Force and the Media Bureau of the Federal Communications Commission (Commission) announce the issuance of an initial allocation of the TV Broadcaster Relocation Fund (Fund) in the amount of $1 billion to begin to reimburse eligible television broadcasters and multichannel video programming distributors (MVPDs), for reasonably incurred expenses related to the post-incentive auction repacking.

DATES: November 6, 2017.

FOR FURTHER INFORMATION CONTACT: Raphael Sznajder at (202) 418–1648 or *Raphael.Sznajder@fcc.gov,* or Jeffrey Neumann at (202) 418–2046 or *Jeffrey.Neumann@fcc.gov,* of the Media Bureau.

SUPPLEMENTARY INFORMATION: The Spectrum Act requires the Commission to ''reimburse costs reasonably incurred'' by broadcast television licensees that are involuntarily reassigned to new channels as a result of the repacking process and by MVPDs in order to continue carrying the signals of licensees reassigned to new channels as a result of the incentive auction and repacking process (together, Eligible Entities). The *Incentive Auction Report and Order* (FCC–14–50) set forth the process for reimbursing these Eligible Entities. Pursuant to the process established therein, this Public Notice (DA 17–1015) announces an initial allocation of approximately $1 billion, which is based on the total verified demand on the Fund, as of October 10, 2017. Eligible Entities submitted estimates of the expenditures they expect to incur as a result of the post-auction repack. After the Fund Administrator completed its reasonableness review of the estimates, and the Bureau reviewed and verified its recommendations, the total reimbursement demand for the purposes of the initial allocation, as of October 10, 2017, was $1,863,971,470.42. Based on this demand, the initial allocation will give commercial stations and MVPDs access to approximately 52 percent of their currently estimated and verified costs, and noncommercial educational stations access to approximately 62 percent of their currently estimated and verified costs. This Public Notice also announces that each Eligible Entity will receive an email on behalf of the Bureau describing the specific results of the reasonableness review of its estimated costs, which included: The aggregate verified amount for that entity's submitted estimate; where adjustments (if any) were made; and the rationale and amount of the modification to any cost estimate line items. Eligible Entities may view their individual allocations in the CORES Incentive Auction Financial Module pursuant to the procedures outlined in the *Financial Procedures Public Notice* (DA–17–282). The initial allocation does not reflect the total estimated cost of a station's anticipated expenditures. All stations that are transitioning to new channels should be aware of the applicable phase transition deadlines and plan for and initiate the various stages of their construction project in a timely manner to satisfy them. We have provided several tools that allow us to provide relief to stations that are ultimately unable to satisfy certain deadlines due to circumstances beyond their control, but failure to timely initiate a construction project or undertake necessary steps to complete the transition by the phase transition date due to the amount of the initial allocation or any subsequent allocation will not be weighed favorably as a factor in considering such relief. This is a summary of the FCC's document GN Docket No. 12–268; MB Docket No. 16–306; DA 17–1015 (released Oct. 16, 2017).

Federal Communications Commission.

Barbara A. Kreisman,

Chief, Video Division, Media Bureau.

[FR Doc. 2017–24024 Filed 11–3–17; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL MARITIME COMMISSION

Notice of Agreements Filed

The Commission hereby gives notice of the filing of the following agreements under the Shipping Act of 1984. Interested parties may submit comments on the agreements to the Secretary, Federal Maritime Commission, Washington, DC 20573, within twelve days of the date this notice appears in the **Federal Register**. Copies of the agreements are available through the Commission's Web site (*www.fmc.gov*) or by contacting the Office of Agreements at (202)–523–5793 or *tradeanalysis@fmc.gov.*

Agreement No.: 012479–001.

Title: HSDG/CMA CGM WCCA Vessel Sharing Agreement.

Parties: Hamburg Sud and CMA CGM S.A.

Filing Party: Wayne Rohde; Cozen O'Connor; 1200 19th Street NW., Washington, DC 20036.

Synopsis: The amendment revises the space allocations of the parties under the agreement.

Agreement No.: 012208–004.

Title: Hoegh/Grimaldi Space Charter Agreement.

Parties: Hoegh Autoliners AS; Grimaldi Deep Sea S.p.A.; and Grimaldi Euromed S.p.A. (acting as a single party).

Filing Party: Wayne R. Rohde, Esq.; Cozen O'Connor; 1200 19th Street NW., Washington, DC 20036.

Synopsis: The amendment adds the trade between the East Coast of the U.S. on the one hand, and Mexico and Canada on the other hand to the geographic scope of the agreement.

By Order of the Federal Maritime Commission.

Dated: November 1, 2017.

JoAnne D. O' Bryant,

Program Analyst.

[FR Doc. 2017–24119 Filed 11–3–17; 8:45 am]

BILLING CODE 6731–AA–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[CFDA Numbers: 93.581, 93.587, 93.612]

Notice of Final Issuance Adopting Administration for Native Americans Program Policies and Procedures

AGENCY: Administration for Native Americans, ACF, HHS.

ACTION: Issuance of final policies.

SUMMARY: Administration for Native Americans (ANA) is issuing final interpretive rules, general statements of policy and rules of agency organization, procedure, or practice relating to the following six proposed FY2018 Funding Opportunity Announcements (FOAs): Environmental Regulatory Enhancement (HHS–2018–ACF–ANA–NR–1344); Native American Language Preservation and Maintenance—Esther Martinez Immersion (HHS–2018–ACF–ANA–NB–1343); Native American Language Preservation and Maintenance (HHS–2018–ACF–NA–NL–1342); Social and Economic Development Strategies (HHS–2018–ACF–ANA–NA–1339); Social and Economic Development Strategies—Alaska (HHS–2018–ACF–ANA–NK–1340); and Native Youth Initiative for Leadership, Empowerment, and Development (HHS–2018–ACF–ANA–NC–1341).

DATES: The policies described in the Notice for Public Comment (NOPC), as amended in this notice if applicable, are effective immediately upon publication of this notice.

FOR FURTHER INFORMATION CONTACT: Carmelia Strickland, Director, Division of Program Operations, Administration for Native Americans, (877) 922–9262, *ANAComments@acf.hhs.gov.*

SUPPLEMENTARY INFORMATION: Section 814 of the Native American Programs Act of 1974 (NAPA), as amended, requires ANA to provide notice and allow for comment on its proposed interpretive rules and general statements of policy. On August 14, 2017, ANA published a NOPC with proposed policy and program clarifications for the FY 2018 FOAs. ANA also follows the ACF Tribal Consultation Policy, and sent a Dear Tribal Leader letter informing tribes of the NOPC and made them aware of the September 15 deadline for comment submission. This Notice responds to comments regarding ANA's August 14, 2017, NOPC (82 FR 37861) and the tribal consultation afforded through the Dear Tribal Leader letter issued August 14, 2017. In addition, this notification includes a clarification in a new administrative policy, a modification to the project start date for Native Language programs, and a notification regarding the application period for FY 2018 FOAs.

A. Comments and Responses to the August 14, 2017, NOPC

ANA published a NOPC in the **Federal Register** on August 14, 2017, with proposed policy and program clarifications, modifications, and activities for the FY 2018 FOAs. ANA sent a Dear Tribal Leader letter electronically and via U.S. mail the same day with the NOPC attached. The NOPC provided proposed clarifications, modifications, and new text for six proposed FY 2018 FOAs. The FY 2018 FOAs are based on the FY 2017 FOAs, previously published as: Environmental Regulatory Enhancement (HHS–2017–ACF–ANA–NR–1221); Native American Language Preservation and Maintenance—Esther Martinez Immersion (HHS–2017–ACF–ANA–NB–1226); Native American Language Preservation and Maintenance (HHS–2017–ACF–ANA–NL–1235); Social and Economic Development Strategies (HHS–2017–ACF–ANA–NA–1236); Social and Economic Development Strategies—Alaska (HHS–2015–ACF–ANA–NK– 0960); and Native Youth Initiative for Leadership, Empowerment, and Development (HHS–2017–ACF–ANA–NC–1263). The public comment period was open for 30 days. ANA also publicized a background call on the NOPC for August 23, 2017, and had 14 callers on the line.

ANA did not receive any feedback on the FOA changes from tribal governments. ANA received one response to the NOPC from the Sisseton-Wahpeton Oyate Dakotah Language Institute. Comments expressed concerns or made suggestions about some of the changes. ANA considered the comments and determined there to be none that required changes to any of the FOAs. The following includes comments from the Sisseton-Wahpeton Oyate Dakotah Language Institute and responses provided by ANA:

Comment:

When changing the application criteria, please make the changes effective two grant cycles from the adoption date. Sometimes the application due dates are changed because there are upcoming changes to the Funding Opportunity Announcement and a comment period has to be allowed. And then, the grant start dates are pushed back and then the entire timeline developed in the project planning is no longer applicable.

Response: The FOAs, which contain the application criteria specific to each program area, are published on an annual basis. Through the NOPC, ANA provided advance notice to applicants about the proposed changes in FY 2018 to its six FOAs. ANA is unable to provide specific language until the publication of the actual FOAs. Therefore, ANA is not able to make changes to the application criteria prior to the effective date.

Comment: Regarding the Paperwork Reduction Act (PRA) Notice inaccurately reflecting the amount of time it takes to file an ANA application:

Each hour spent on a grant application is one less hour that can be spent working on our endangered language, especially for a small program like ours. A more accurate Paperwork Reduction Notice may have weight in deciding whether it is actually worth it to invest the amount of time it takes to complete the process with very little chance of success.

Response: ANA's FOAs are drafted within the context of a Uniform Project Description (UPD), which serves to provide the overall structure for all applications submitted to the Administration for Children and Families (ACF). The UPD includes specific standard text that applies to all ACF programs, in combination with program-specific text that is added by individual program offices. The PRA notice is part of the ACF UPD, which is managed ACF-wide, and determined based on the average amount of time it takes to complete the project description and the budget and budget justification for ACF programs as a whole. The estimated burden of 60 hours does not include supplementary information that an applicant may want to include. While there is likely to be variation among different programs and applicants, the average estimated time to complete an application for ACF programs is 60 hours. ANA will forward the comment to the ACF branch that handles the UPD to be considered upon the renewal of the PRA clearance for the UPD.

Comment:

If you are putting in new terms that are common terms to those working in a federal program accepting grant applications, please make sure the new terms are adequately explained. How can a person comment about changing from ''results'' and ''benefits'' to

''outcomes'' and ''outputs'' if I don't know what they mean to you? Or are they the same meaning to you and it's just a change in the words that are going to be used?

Response: ANA's intent is to provide more universally accepted terminology, especially for evaluation requirements and criteria. Definitions and examples of all new terms will be provided in each of the FY 2018 FOAs. Any new terminology will be addressed in Section I. Program Description of the FOA. ANA will explain each term and include examples of each. Definitions will be included in the appendix of each FOA.

B. ANA Administrative Policy Regarding Prioritized Funding for Local, Community-Based, Native American Organizations as Described in the August 14, 2017, NOPC (82 FR 37861)

ANA has edited the description of this policy since it was published in the **Federal Register**, to further clarify the requirements for non-local, national, and regional organizations. If approved, ANA intends to include this policy in all FY 2018 FOAs as stated below:

Prioritized Funding for Community-based Native American Organizations:

ANA reserves the right to prioritize funding to community-based Native American organizations serving their local communities and populations. Applications from non-local, national, and regional organizations that propose projects to serve multiple communities, or to be performed in a different geographic location, must clearly demonstrate that the need for the project was originated by the each community being served, and that the community and/or tribal government supports the proposed project. They must also describe how each community was selected, identify and describe the intended beneficiaries, demonstrate community involvement in the development of the project, and discuss a community-based delivery strategy for the project. The proposed project goals, objectives, and outcomes must address goals of the community being served. National and regional organizations must describe their membership, and define how the organization operates. The type of community to be served will determine the type of documentation necessary to support the project.

C. Additional Information Regarding Project Start Dates for Language Preservation and Maintenance, and Native Language Esther Martinez Immersion Grants

Through continued discussions with ANA grantees and stakeholders, ANA has determined that moving the start date from August 1 to July 1 for projects funded under the Native Language Preservation and Maintenance and the Native Language Esther Martinez Immersion programs will align reporting requirements to reduce the number of required federal financial reports, thereby reducing the reporting burden for grantees. In addition, an earlier start date will provide projects with additional time for planning and start up prior to the start of the school year, which marks the beginning of instruction for many Native Language projects. Therefore, ANA intends to implement a July 1 start date for all projects funded under the Native Language Preservation and Maintenance and Native Language Esther Martinez Immersion FOAs for FY 2018.

D. Application Period Notification

ANA would like to notify potential applicants that the open application period to respond to FOAs has been updated to a minimum of 60 days to support the timely award of new grants.

E. Funding Opportunity Announcements

For information on the types of projects funded by ANA, please refer to ANA's Web site for information on our program areas and FOAs: *https://www.acf.hhs.gov/programs/ana.* Pre-publication information on ANA's FOAs will be available at *https://www.grants.gov/web/grants/search-grants.html* by clicking on 'Forecasted'' under Opportunity Status and ''Administration for Children and Families—ANA [HHS–ACF–ANA]'' on the left side of the page. Synopses and application forms will be available on *www.Grants.gov*.

Stacey Ecoffey,

Acting Commissioner, Administration for Native American, ACF, Acting Deputy Assistant Secretary for Native American Affairs, Department of Health and Human Services.

[FR Doc. 2017–24124 Filed 11–3–17; 8:45 am]

BILLING CODE 4184–34–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–D–0221]

Formal Dispute Resolution: Sponsor Appeals Above the Division Level; Guidance for Industry and Review Staff; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of a guidance for industry and review staff entitled ''Formal Dispute Resolution: Sponsor Appeals Above the Division Level.'' This guidance provides recommendations for industry and review staff on the procedures in the Center for Drug Evaluation and Research (CDER) and the Center for Biologics Evaluation and Research (CBER) for resolving scientific and/or medical disputes between CDER or CBER and sponsors that cannot be resolved at the division level. This guidance describes the formal dispute resolution procedures for sponsors that wish to appeal a scientific and/or medical issue to the office or center level and provides a structured process for resolving disputes. This guidance finalizes the revised draft guidance entitled ''Formal Dispute Resolution: Appeals Above the Division Level'' issued September 9, 2015, and replaces the guidance of the same name issued February 2000.

DATES: The announcement of the guidance is published in the **Federal Register** on November 6, 2017.

ADDRESSES: You may submit either electronic or written comments on Agency guidances at any time 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–2013–D–0221 for ''Formal Dispute Resolution: Sponsor Appeals Above the Division Level; Guidance for Industry and Review Staff; Availability.'' Received comments 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.

You may submit comments on any guidance at any time (see 21 CDR 10.115(g)(5)).

Submit written requests for single copies of this guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993–0002, or the Office of Communication, Outreach, and Development, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 3128, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

FOR FURTHER INFORMATION CONTACT: Khushboo Sharma, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, Rm. 6486, Silver Spring, MD 20993–0002, 301–796–0700; or, Stephen Ripley, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 7301, Silver Spring, MD 20993–0002, 240–402–7911.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a guidance for industry and review staff entitled ''Formal Dispute Resolution: Sponsor Appeals Above the Division Level.'' During the course of review of an investigational new drug application, new drug application, biologics license application, or abbreviated new drug application, a wide variety of important scientific and/or medical issues are considered that are central to product development. Sometimes, a sponsor may disagree with the Agency on a matter, and a dispute arises. Because these disputes often involve complex scientific and/or medical matters, it is critical to have procedures in place to help ensure open and prompt discussion. The procedures and policies described in this guidance are intended to promote rapid and fair resolution of scientific and/or medical disputes between a sponsor and CDER or CBER.

This guidance finalizes the revised draft guidance entitled ''Formal Dispute Resolution: Appeals Above the Division Level'' issued September 9, 2015, and replaces the guidance of the same name issued February 2000. Based on the docket comments for the revised draft guidance, FDA made clarifications to this guidance. The guidance was also clarified to reflect that it describes the formal dispute resolution procedures only for sponsors that wish to appeal a scientific and/or medical issue regarding their applications regulated by CDER or CBER and does not apply to other individuals or entities. In addition, the guidance was updated to reflect the changes under the 2017 reauthorization of the Generic Drug User Fee Amendments of 2012 (GDUFA) regarding timelines for reviewing disputes involving drug applications covered by GDUFA.

This guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The guidance represents the current thinking of FDA on formal dispute resolution requests for appeals above the division level. It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations. This guidance is not subject to Executive Order 12866.

II. The Paperwork Reduction Act of 1995

This guidance refers to previously approved collections of information that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in this guidance have been approved under OMB control number 0910–0430. This guidance finalizes a revision of an earlier version of the guidance. This version contains no additional information collections; therefore, it continues to be covered under OMB control number 0910–0430.

III. Electronic Access

Persons with access to the internet may obtain the guidance at *https://www.fda.gov/drugs/guidancecompliance regulatoryinformation/guidances/default.htm, https://www.fda.gov/biologicsbloodvaccines/guidancecompliance regulatoryinformation/default.htm,* or *https://www.regulations.gov.*

Dated: October 31, 2017.

Anna K. Abram,

Deputy Commissioner for Policy, Planning, Legislation, and Analysis.

[FR Doc. 2017–24096 Filed 11–3–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2017–N–1064]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; State Petitions for Exemption From Preemption

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or we) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Fax written comments on the collection of information by December 6, 2017.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, Fax: 202–395–7285, or emailed to *oira_submission@omb.eop.gov.* All comments should be identified with the OMB control number 0910–0277. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Ila S. Mizrachi, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–7726, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

State Petitions for Exemption From Preemption

OMB Control Number 0910–0277—Extension

Under section 403A(b) of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 343–1(b)), States may petition FDA for exemption from Federal preemption of State food labeling and standard-of-identity requirements. Section 100.1(d) (21 CFR 100.1(d)) sets forth the information a State is required to submit in such a petition. The information required under § 100.1(d) enables FDA to determine whether the State food labeling or standard-of-identity requirement satisfies the criteria of section 403A(b) of the FD&C Act for granting exemption from Federal preemption.

In the **Federal Register** of June 15, 2017 (82 FR 27491), FDA published a 60-day notice requesting public comment on the proposed collection of information. We received no comments.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

21 CFR 100.1(d)	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Form of petition	1	1	1	40	40

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

The reporting burden for § 100.1(d) is minimal because petitions for exemption from preemption are seldom submitted by States. In the last 3 years, we have received one new petition for exemption from preemption; therefore, we estimate that one or fewer petitions will be submitted annually.

Dated: November 1, 2017.

Anna K. Abram,

Deputy Commissioner for Policy, Planning, Legislation, and Analysis.

[FR Doc. 2017–24106 Filed 11–3–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2017–D–3101]

Abbreviated New Drug Applications: Pre-Submission of Facility Information Related to Prioritized Generic Drug Applications (Pre-Submission Facility Correspondence); Draft Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of a revised draft guidance for industry entitled ''ANDAs: Pre-Submission of Facility Information Related to Prioritized Generic Drug Applications (Pre-Submission Facility Correspondence).'' FDA is revising the draft guidance because, after issuance of the original draft guidance, the Federal Food, Drug, and Cosmetic Act (the FD&C Act) was amended by the FDA Reauthorization Act of 2017, which resulted in changes to the pre-submission of facility information. Pre-submitting facility information enables the Agency to determine whether inspection of a facility is necessary and, if so, to begin inspection planning in advance of an abbreviated new drug application (ANDA) receipt.

DATES: Submit either electronic or written comments on the draft guidance by February 5, 2018 to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance. Submit either electronic or written comments concerning the collection of information proposed in the draft guidance by January 5, 2018.

ADDRESSES: You may submit comments on any guidance at any time 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–D–3101 for ''ANDAs: Pre-Submission of Facility Information Related to Prioritized Generic Drug Applications (Pre-Submission Facility Correspondence).'' Received comments 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.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of the draft guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

FOR FURTHER INFORMATION CONTACT: Nikhil Thakur, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave. Bldg. 51, Rm. 4161, Silver Spring, MD 20993, 301–796–5536.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a revised draft guidance for industry entitled ''ANDAs: Pre-Submission of Facility Information Related to Prioritized Generic Drug Applications (Pre-Submission Facility Correspondence).'' The first draft of this document, entitled ''ANDAs: Pre-Submission Facility Correspondence Associated with Priority Submissions,'' was issued pursuant to 21 CFR 10.115 in June 2017. The docket number has not changed since the first draft of this document was issued, and it is not necessary to resubmit comments already submitted to the docket. The Agency will consider comments submitted with respect to the first draft of this document in finalizing the revised document.

The Agency is issuing this revised draft guidance to describe the process through which prospective generic drug applicants submit facility information in advance of an original ANDA, prior approval supplement (PAS), PAS amendment, or ANDA amendment (hereafter collectively referred to as ANDA). FDA is revising the draft guidance because, after issuance of the original draft guidance, section 505(j)(11) of the FD&C Act (21 U.S.C. 355(j)(11)) as added by section 801 of the FDA Reauthorization Act of 2017 (FDARA) resulted in changes to the pre-submission of facility information.

In 2016 and 2017, FDA, regulated industry, and public stakeholders conducted negotiations concerning reauthorization of the Generic Drug User Fee Amendments (GDUFA II). A chief product of these congressionally mandated discussions was the ''GDUFA Reauthorization Performance Goals and Program Enhancements, FYs 2018–2022'' (GDUFA II Commitment Letter) available at: *https://www.fda.gov/downloads/ForIndustry/UserFees/GenericDrugUserFees/UCM282505.pdf.* Together, the Generic Drug User Fee Amendments of 2017 and the GDUFA II Commitment Letter describe FDA's performance goals, as well as changes and improvements to the user fee program.

On August 18, 2017, FDARA, which reauthorized the Generic Drug User Fee Amendments (Title III) as well as other provisions related to generic drugs (Title VIII), was signed into law. In particular, section 801 of the FDARA added section 505(j)(11) to the FD&C Act to address priority review of generic drugs. One of the enhancements specified in both Title VIII, section 801 of FDARA, and the GDUFA II Commitment Letter is a mechanism to enable a shorter review goal (priority review goal) for certain priority original ANDAs, PASs, PAS amendments, and ANDA amendments through the pre-submission of facility information, including sections of the ANDA determined to be relevant by FDA. Specifically, this guidance describes:

• The content and format of the facility information that should be submitted to enable FDA's assessment of facilities listed in the pre-submission.

• Timeframes for pre-submitting sections of the ANDA containing complete, accurate information, and the intersection of these timeframes with submission of the ANDA.
• The possible outcomes of the Agency's assessment of pre-submitted ANDA sections containing facility information.
• When and how the Agency notifies an applicant about the status of the pre-submitted ANDA sections containing facility information.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the current thinking of FDA on ANDAs: Pre-Submission of Facility Information Related to Prioritized Generic Drug Applications (Pre-Submission Facility Correspondence). It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations. This guidance is not subject to Executive Order 12866.

II. Paperwork Reduction Act of 1995

Under the Paperwork Reduction Act of 1995 (the PRA) (44 U.S.C. 3501–3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing the proposed collection of information set forth in this notice of availability that would result from the pre-submission of facility information.

With respect to the following collection of information, FDA invites comment on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Title: Draft Guidance for Industry on ANDAs: Pre-Submission of Facility Information Related to Prioritized Generic Drug Applications (Pre-Submission Facility Correspondence).

Description: As described in the draft guidance, section 505(j)(11) of the FD&C Act was added by section 801 of FDARA. Pre-submitting facility information enables the Agency to determine whether inspection of a facility is necessary and, if so, to begin inspection planning in advance of ANDA receipt.

This draft guidance document refers to previously approved collections of information found in FDA regulations. These collections of information are subject to review by OMB under the PRA. Existing regulations at 21 CFR 314.94 provide the content and format of an ANDA, and consistent with GDUFA II, this draft guidance describes the relevant sections of an ANDA that should be submitted as part of the pre-submission of facility information. The information collections associated with the submission of these ANDA sections are approved under OMB control number 0910–0001.

There are information collections proposed in the draft guidance that are not already addressed under the approved control numbers covering ANDA submissions. Section IV of the draft guidance describes the information that should be included in the pre-submission of facility information to enable FDA's facility assessment:

A. The planned ANDA pre-assigned number to be submitted with the pre-submission, which the applicant must request from FDA before submitting the pre-submission;

B. Cover letter accompanying the pre-submission, which includes a statement of justification for the expedited review request, a statement of inspection readiness, a statement identifying the Reference Listed Drug, and the anticipated date of the applicant's ANDA submission; and

C. Certification statement to be submitted with the applicant's ANDA stating either that the applicant has made no changes to the pre-submitted facility information, or that the only change was made to exclude a facility as described in 505(j)(11)(B) of the FD&C Act. (Changes other than those permitted under 505(j)(11)(B) of the FD&C Act should be identified in the ANDA cover letter. The applicant will also need to confirm the accuracy of the information provided in the Form FDA 356h submitted with the ANDA, and update accordingly.)

Section VI of the draft guidance describes the format used to submit the pre-submission of facility information, which is the electronic Common Technical Document (eCTD) format. Further, as explained in section V of the draft guidance, the pre-submission must be submitted not later than 60 days prior to the planned ANDA submission.

We estimate that a total of approximately 220 applicants (''number of respondents'' in table 1) will submit annually approximately 275 pre-submissions as described above and in the draft guidance (''total annual responses'' in table 1). We estimate that preparing and submitting the portion of each pre-submission that is not already addressed under approved control numbers covering ANDA submissions will take approximately 1.1 hours (''average burden per response'' in table 1). This includes time spent preparing and submitting a cover letter accompanying the pre-submission of facility information. We estimate that approximately 10 percent of applicants will submit statements notifying the Agency that the applicant has decided not to submit an ANDA, and we have incorporated the estimated time to prepare and submit such a statement in table 1.

We estimate that approximately 198 applicants will submit annually approximately 248 certifications (''total annual responses'' in table 1) verifying either that the applicant has made no changes to the pre-submitted facility information, or that the only change was made to exclude a facility as described in 505(j)(11)(B) of the FD&C Act. We estimate that preparing and submitting each certification will take approximately 4 hours (''average burden per response'' in table 1).

We base our estimates for the number of applicants and the number of pre-submissions on information from our database of annual ANDA submissions, on the criteria set forth in the Agency's Manual of Policies and Procedures 5240.3, *Prioritization of the Review of Original ANDAs, Amendments, and Supplements* (available at: *https://www.fda.gov/downloads/AboutFDA/CentersOffices/OfficeofMedicalProductsandTobacco/CDER/ManualofPoliciesProcedures/UCM407849.pdf*), and the number of ''priority'' submissions. Our estimate of the time applicants would need to prepare and submit the portions of each pre-submission not already addressed under approved control numbers covering

ANDA submissions, as well as the pre-submission certification statement (referenced in table 1), takes into consideration that much of this content is related to information already gathered for the ANDA submission. We invite comments on these estimates.

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Pre-Submission of Facility Information	220	1.25	275	1.1	303
Certification statement submitted with the ANDA	198	1.25	248	4	990

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

III. Electronic Access

Persons with access to the internet may obtain the draft guidance at either *https://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm* or *https://www.regulations.gov.*

Dated: October 31, 2017.

Anna K. Abram,

Deputy Commissioner for Policy, Planning, Legislation, and Analysis.

[FR Doc. 2017–24099 Filed 11–3–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket Nos. FDA–2010–N–0258; FDA–2010–N–0623; FDA–2007–N–0383; FDA–2009–N–0360; FDA–2016–N–4620; FDA–2013–N–1496; FDA–2007–N–0220; FDA–2017–N–1848; FDA–2017–N–1066; FDA–2015–D–3327; FDA–2011–D–0689]

Agency Information Collection Activities; Announcement of Office of Management and Budget Approvals

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is publishing a list of information collections that have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT: Ila S. Mizrachi, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–7726, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: The following is a list of FDA information collections recently approved by OMB under section 3507 of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507). The OMB control number and expiration date of OMB approval for each information collection are shown in table 1. Copies of the supporting statements for the information collections are available on the internet at *https://www.reginfo.gov/public/do/PRAMain.* An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

TABLE 1—LIST OF INFORMATION COLLECTIONS APPROVED BY OMB

Title of collection	OMB control No.	Date approval expires
Submission of Petitions: Food Additive, Color Additive (Including Labeling), Submission to Information to a Master File in Support of Petitions; and Electronic Submission Using FDA 3053	0910–0016	9/30/2020
Voluntary Cosmetic Registration Program	0910–0027	9/30/2020
Radioactive Drug Research Committees	0910–0053	9/30/2020
FDA Safety Communication Readership Survey	0910–0341	9/30/2020
Medical Devices; Reports for Corrections and Removals	0910–0359	9/30/2020
Generic FDA Rapid Response Surveys	0910–0500	9/30/2020
Guidance for Industry: Pharmacogenomic Data Submissions	0910–0557	9/30/2020
Cosmetic Labeling Regulations	0910–0599	9/30/2020
Annual Reporting for Custom Device Exemption	0910–0767	9/30/2020
GFI: E6(R2) Good Clinical Practice; International Council for Harmonisation	0910–0843	9/30/2020
DeNovo Classification Process (Evaluation of Automatic Class II Designation)	0910–0844	9/30/2020

Dated: November 1, 2017.

Anna K. Abram,

Deputy Commissioner for Policy, Planning, Legislation, and Analysis.

[FR Doc. 2017–24121 Filed 11–3–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2011–N–0403]

Agency Information Collection Activities; Proposed Collection; Comment Request; Substantiation for Dietary Supplement Claims Made Under the Federal Food, Drug, and Cosmetic Act

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the information collection provisions of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) and the guidance entitled ''Guidance for Industry: Substantiation for Dietary Supplement Claims Made Under Section 403(r)(6) of the Federal Food, Drug, and Cosmetic Act.''

DATES: Submit either electronic or written comments on the collection of information by January 5, 2018.

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 January 5, 2018. The *https://www.regulations.gov* electronic filing system will accept comments until midnight Eastern Time at the end of January 5, 2018. 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–2011–N–0403 for ''Substantiation for Dietary Supplement Claims Made Under the Federal Food, Drug, and Cosmetic Act.'' 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: Ila Mizrachi, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–7726, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Substantiation for Dietary Supplement Claims Made Under the Federal Food, Drug, and Cosmetic Act—21 U.S.C. 343(r)(6)

OMB Control Number 0910–0626—Extension

This information collection supports Agency regulations and associated guidance. Specifically, section 403(r)(6) of the FD&C Act (21 U.S.C. 343(r)(6)) requires that a manufacturer of a dietary supplement making a nutritional deficiency, structure/function, or general well-being claim have substantiation that the claim is truthful and not misleading. A nutritional deficiency claim states a benefit related to a classical nutrient deficiency disease and states how often the disease occurs in the United States. A structure/function claim describes the role of a nutrient or dietary ingredient intended to affect the structure or function in humans or characterizes how a nutrient or dietary ingredient acts to maintain such structure or function. A general well-being claim describes general well-being from consumption of a nutrient or dietary ingredient.

The guidance document entitled ''Substantiation for Dietary Supplement Claims Made Under Section 403(r)(6) of the Federal Food, Drug, and Cosmetic Act'' provides our recommendations to manufacturers about the amount, type, and quality of evidence they should have to substantiate a claim under section 403(r)(6) of the FD&C Act. The guidance does not discuss the types of claims that can be made concerning the effect of a dietary supplement on the structure or function of the body, nor does it discuss criteria to determine when a statement about a dietary supplement is a disease claim. The guidance document is intended to assist manufacturers in their efforts to comply with section 403(r)(6) of the FD&C Act. Persons with access to the internet may obtain the guidance at *https://www.fda.gov/FoodGuidances.*

Dietary supplement manufacturers collect the necessary substantiating information for their product as required by section 403(r)(6) of the FD&C Act. The guidance provides information to manufacturers to assist them in doing so. The recommendations contained in the guidance are voluntary. Dietary supplement manufacturers will only need to collect information to substantiate their product's nutritional deficiency, structure/function, or general well-being claim if they choose to place a claim on their product's label.

The standard discussed in the guidance for substantiation of a claim on the labeling of a dietary supplement is consistent with standards set by the Federal Trade Commission for dietary supplements and other health-related products that the claim be based on competent and reliable scientific evidence. This evidence standard is broad enough that some dietary supplement manufacturers may only need to collect peer-reviewed scientific journal articles to substantiate their claims; other dietary supplement manufacturers whose products have properties that are less well documented may have to conduct studies to build a body of evidence to support their claims. It is unlikely that a dietary supplement manufacturer will attempt to make a claim when the cost of obtaining the evidence to support the claim outweighs the benefits of having the claim on the product's label. It is likely that manufacturers will seek substantiation for their claims in the scientific literature.

The time it takes to assemble the necessary scientific information to support their claims depends on the product and the claimed benefits. If the product is one of several on the market making a particular claim for which there is adequate publicly available and widely established evidence supporting the claim, then the time to gather supporting data will be minimal; if the product is the first of its kind to make a particular claim or the evidence supporting the claim is less publicly available or not widely established, then gathering the appropriate scientific evidence to substantiate the claim will be more time consuming.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL RECORDKEEPING BURDEN [1]

Claim type	Number of recordkeepers	Number of records per recordkeeper	Total annual records	Average burden per recordkeeping	Total hours
Widely known, established	667	1	667	44	29,348
Preexisting, not widely established	667	1	667	120	80,040
Novel	667	1	667	120	80,040
Total					189,428

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

We have retained the currently approved burden estimate for the information collection. Based on our experience with the collection, we estimate that it will take 44 hours to assemble information needed to substantiate a claim on a particular dietary supplement when the claim is widely known and established. We believe it will take closer to 120 hours to assemble supporting scientific information when the claim is novel or when the claim is preexisting but the scientific underpinnings of the claim are not widely established. These are claims that may be based on emerging science, where conducting literature searches and understanding the literature takes time. It is also possible that references for claims made for some dietary ingredients or dietary supplements may primarily be found in foreign journals and in foreign languages or in the older, classical literature where it is not available on computerized literature databases or in the major scientific reference databases, such as the National Library of Medicine's literature database, all of which increases the time of obtaining substantiation.

In the **Federal Register** of January 6, 2000 (65 FR 1000), we published a final rule (the 'structure/function final rule) on statements made for dietary supplements concerning the effect of the product on the structure or function of the body. In that final rule, we estimated that there were 29,000 dietary supplement products marketed in the United States (65 FR 1000 at 1045). Assuming that the flow of new products is 10 percent per year, then 2,900 new dietary supplement products will come on the market each year. The structure/function final rule estimated that about 69 percent of dietary supplements have a claim on their labels, most probably a structure/function claim (65 FR 1000 at 1046). Therefore, we assume that supplement manufacturers will need time to assemble the evidence to substantiate each of the 2,001 claims (2,900 × 69 percent) made each year. If we assume that the 2,001 claims are equally likely to be preexisting widely established claims, novel claims, or preexisting claims that are not widely established, then we can expect 667 of each of these types of claims to be substantiated per year. Table 1 of this document shows that the annual burden hours associated with assembling evidence for claims is 189,428 (the sum of 667 × 44 hours, 667 × 120 hours, and 667 × 120 hours).

Dated: October 31, 2017.

Anna K. Abram,

Deputy Commissioner for Policy, Planning, Legislation, and Analysis.

[FR Doc. 2017–24123 Filed 11–3–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel; NIMH HIV/AIDS Review (P30, T32).

Date: November 28, 2017.

Time: 12:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Virtual Meeting).

Contact Person: David W. Miller, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd, Room 6140, MSC 9608, Bethesda, MD 20892–9608, 301–443–9734, *millerda@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program No. 93.242, Mental Health Research Grants; National Institutes of Health, HHS)

Dated: October 31, 2017.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–24034 Filed 11–3–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Respiratory Sciences.

Date: November 15–16, 2017.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Sara Ahlgren, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, RM 4136, Bethesda, MD 20892, 301–435–0904, *sara.ahlgren@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Blood Disorders.

Date: November 15, 2017.

Time: 10:00 a.m. to 11:00 a.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Luis Espinoza, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4140, MSC 7814, Bethesda, MD 20892, 301–435–0952, *espinozala@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Neurological, Neuropsychological Disorders and Aging.

Date: November 17, 2017.

Time: 10:00 a.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Samuel C. Edwards, Ph.D., Chief, Brain Disorders and Clinical Neuroscience, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5210, MSC 7846, Bethesda, MD 20892, (301) 435–1246, *edwardss@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: AIDS and AIDS Related Research.

Date: November 28, 2017.

Time: 12:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Mark P. Rubert, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5218, MSC 7852, Bethesda, MD 20892, 301–435–1775, *rubertm@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Dermatology, Rheumatology and Inflammation.

Date: November 29, 2017.

Time: 10:30 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892.

Contact Person: Rajiv Kumar, Ph.D., Chief, MOSS IRG, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4216, MSC 7802, Bethesda, MD 20892, 301–435–1212, *kumarra@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: HIV/AIDS Innovative Research Applications.

Date: November 30, 2017.

Time: 1:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting)

Contact Person: Jose H. Guerrier, Ph.D., Scientific Review Officer, Center for

Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5218, MSC 7852, Bethesda, MD 20892, 301–435–1137, *guerriej@csr.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: October 31, 2017.

Sylvia L. Neal,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–24032 Filed 11–3–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; NIAID Clinical Trial Implementation Grant (R01).

Date: November 27, 2017.

Time: 3:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health 5601 Fishers Lane, Rockville, MD 20892 (Telephone Conference Call).

Contact Person: Chelsea D. Boyd, Ph.D., Scientific Review Officer, Scientific Review Program, DEA/NIAID/NIH/DHHS, 5601 Fishers Lane, MSC–9823 Rockville, MD 20852–9834, 240–669–2081, *chelsea.boyd@nih.gov*.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; NIH Support for Conferences and Scientific Meetings (Parent R13).

Date: November 30, 2017.

Time: 2:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health 5601 Fishers Lane, Rockville, MD 20892 (Telephone Conference Call).

Contact Person: Vasundhara Varthakavi, DVM, Ph.D., Scientific Review Officer Scientific Review Program, Division of Extramural Activities, Room 3E70, National Institutes of Health, NIAID, 5601 Fishers Lane, MSC 9823, Bethesda, MD 20892–9823, (240) 669–5020, *varthakaviv@niaid.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: October 31, 2017.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–24033 Filed 11–3–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R8–ES–2017–N133; FXES11130800000–178–FF08EVEN00]

Receipt of Application for Incidental Take Permit; Draft Low-Effect Habitat Conservation Plan for the California Tiger Salamander; Phillips 66 Line 300 Project, Santa Barbara County, California

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), have received an application from Phillips 66 Pipeline, LLC for an incidental take permit under the Endangered Species Act of 1973, as amended. The permit would authorize take of the federally endangered California tiger salamander (Santa Barbara distinct population segment), incidental to otherwise lawful activities associated with the Phillips 66 Line 300 Project draft low-effect habitat conservation plan. We invite public comment.

DATES: Written comments should be received on or before December 6, 2017.

ADDRESSES:

To obtain documents: You may download a copy of the draft habitat conservation plan and draft low-effect screening form and environmental action statement at *http://www.fws.gov/ventura/,* or you may request copies of the documents by sending U.S. mail to our Ventura office, or by phone (see **FOR FURTHER INFORMATION CONTACT**).

To submit written comments: Please send us your written comments using one of the following methods:

- *U.S. mail:* Send your comments to: Stephen P. Henry, Field Supervisor, Ventura Fish and Wildlife Office, U.S. Fish and Wildlife Service, 2493 Portola Road, Suite B, Ventura, CA 93003.
- *Facsimile:* Fax your comments to 805–644–3958.

FOR FURTHER INFORMATION CONTACT: Rachel Henry, Fish and Wildlife Biologist, 805–677–3312 (phone), or at the Ventura address in **ADDRESSES**.

SUPPLEMENTARY INFORMATION: We have received an application from Phillips 66 Pipeline, LLC (applicant) for an incidental take permit under the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.;* ESA). The applicant has agreed to follow all of the conditions in the draft habitat conservation plan for the project. The permit would authorize take of the Santa Barbara distinct population segment of the federally endangered California tiger salamander *(Ambystoma californiense)* incidental to otherwise lawful activities associated with the draft Phillips 66 Line 300 Project Habitat Conservation Plan (HCP). We invite public comment on the application, the draft HCP, draft low-effect screening form, and environmental action statement.

Background

The Santa Barbara distinct population segment (DPS) of the California tiger salamander was listed by the Service as endangered on September 21, 2000 (65 FR 57242). Section 9 of the ESA and its implementing regulations prohibit the ''take'' of fish or wildlife species listed as endangered or threatened. ''Take'' is defined under the ESA to include the following activities: ''[T]o harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct'' (16 U.S.C. 1532); however, under section 10(a)(1)(B) of the ESA, we may issue permits to authorize incidental take of listed species. ''Incidental take'' is defined by the ESA as take that is incidental to, and not the purpose of, carrying out of an otherwise lawful activity. Regulations governing incidental take permits for threatened and endangered species are in the Code of Federal Regulations (CFR) at 50 CFR 17.32 and 17.22, respectively. Under the ESA, protections for federally listed plants differ from the protections afforded to federally listed animals. Issuance of an incidental take permit also must not jeopardize the existence of federally listed fish, wildlife, or plant species. The permittee would receive assurances under our ''No Surprises'' regulations (50 CFR 17.22(b)(5) and

17.32(b)(5)) regarding conservation activities for the California tiger salamander.

Applicant's Proposed Activities

The applicant has applied for a permit for incidental take of the California tiger salamander. The potential take will occur in association with activities necessary for the reconditioning of approximately 2,430 linear feet of the existing 300 Line. The site includes 2.9 acres of suitable upland habitat for the California tiger salamander. The HCP includes avoidance and minimization measures for the covered species and mitigation for unavoidable loss of occupied upland habitat through the purchase of mitigation credits at a Service-approved conservation bank.

Our Preliminary Determination

The Service has made a preliminary determination that issuance of the incidental take permit is neither a major Federal action that will significantly affect the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4321 *et seq.;* NEPA), nor will it individually or cumulatively have more than a negligible effect on the species covered in the HCP. Therefore, the permit qualifies for a categorical exclusion under NEPA.

Public Comments

If you wish to comment on the permit application, draft HCP, and associated documents, you may submit comments by one of the methods in **ADDRESSES**.

Public Availability of Comments

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment, including your personal identifying information, may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public view, we cannot guarantee that we will be able to do so.

Authority

We provide this notice under section 10 of the ESA (16 U.S.C. 1531 *et seq.*) and NEPA regulations (40 CFR 1506.6).

Dated: October 31, 2017.

Stephen P. Henry,

Field Supervisor, Ventura Fish and Wildlife Office, Ventura, California.

[FR Doc. 2017–24084 Filed 11–3–17; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–SER–OBRI–23968; PS.SSELA0328.00.1]

Minor Boundary Revision at Obed Wild and Scenic River

AGENCY: National Park Service, Interior.

ACTION: Notification of boundary revision.

SUMMARY: Notice is hereby given that the boundary of the Obed Wild and Scenic River is modified to include an additional 63.01 acres of land identified as Tract 101–63. The tract is located north of the Obed River and south of Hardwick Road in Morgan County, Tennessee. The boundary revision is depicted on Map No. 179/135,074 dated April 2017.

DATES: The date of this boundary revision is November 6, 2017.

ADDRESSES: The map is available for inspection 8 a.m. to 4 p.m. at the following locations: National Park Service, Southeast Region Land Resources Program Center, 1924 Building, 100 Alabama Street SW., Atlanta, Georgia 30303 and National Park Service, Department of the Interior, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: National Park Service, Jeannie Whitler, Acting Chief, Southeast Region Land Resources Program Center, 1924 Building, 100 Alabama Street SW., Atlanta, Georgia 30303, telephone 404–507–5657.

SUPPLEMENTARY INFORMATION: Specifically, 54 U.S.C. 100506(c)(1) provides that, after notifying the House Committee on Natural Resources and the Senate Committee on Energy and Natural Resources, the Secretary of the Interior is authorized to make this boundary revision upon publication of notice in the **Federal Register**. The Committees have been notified of this boundary revision. This boundary revision and subsequent acquisition of Tract 101–63 by donation will enable the National Park Service to manage and protect significant resources located in the Obed Wild and Scenic River and is consistent with the Wild and Scenic Rivers Act.

Dated: October 5, 2017.

Stan Austin,

Regional Director, Southeast Region.

[FR Doc. 2017–24053 Filed 11–3–17; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

[RR0230000, 17XR0680B1, RX.20671000.0000000]

Draft Environmental Impact Report/ Environmental Impact Statement for North Bay Water Recycling Program Phase 2, California

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of intent; request for comments.

SUMMARY: The Sonoma County Water Agency, acting as administrator for the North Bay Water Reuse Authority and the lead State agency, and the Bureau of Reclamation, the lead Federal agency, will prepare a joint Environmental Impact Report/Environmental Impact Statement for Phase 2 of the North Bay Water Recycling Program. The purpose of the Phase 2 Program is to build upon the existing regional wastewater reuse network developed under the Program's Phase 1 to provide additional opportunities for recycled water for agricultural, urban, and environmental uses as an alternative to discharging treated wastewater to San Pablo Bay.

DATES: Submit written comments on the scope of the Environmental Impact Report/Environmental Impact Statement (EIR/EIS) on or before December 6, 2017.

ADDRESSES: Send written comments on the scope of the EIR/EIS to Anne Crealock, Sonoma County Water Agency, 404 Aviation Boulevard, Santa Rosa, CA 95403, or email to *Phase2EIR@nbwra.org.* Documents may be viewed at *www.nbwra.org/.*

FOR FURTHER INFORMATION CONTACT: Ms. Anne Crealock, Sonoma County Water Agency, at (707) 547–1948, or via email at *Phase2EIR@nbwra.org;* or Douglas Kleinsmith, Bureau of Reclamation, at (916) 978–5034, email at *dkleinsmith@usbr.gov.*

SUPPLEMENTARY INFORMATION:

Background

Recognizing the continuing need for an integrated and regional approach to water management, wastewater and potable water agencies in the North San Pablo Bay region of California have joined together to propose expansion of existing recycled water use in the region. The North Bay Water Reuse Authority (NBWRA), established under a Memorandum of Understanding (MOU) in August 2005, now comprises 11 wastewater and potable water utilities as members, and associate

member agencies—the Las Gallinas Valley Sanitary District, the Novato Sanitary District, the Sonoma Valley County Sanitation District, the Napa Sanitation District, North Marin Water District, Napa County, Marin County, Marin Municipal Water District, the City of American Canyon, the City of Petaluma, and Sonoma County Water Agency (SCWA). The SCWA is also currently acting as the administrative agency. Under the MOU, NBWRA continues to explore opportunities to coordinate ''interagency efforts to expand the beneficial use of recycled water in the North Bay Region thereby promoting the conservation of limited surface water and groundwater resources.''

NBWRA developed the regional North Bay Water Recycling Program for expanding cooperative water reuse within the North San Pablo Bay region. The SCWA, as the California Environmental Quality Act (CEQA) Lead Agency and the Bureau of Reclamation (Reclamation), as the Lead Agency under the National Environmental Policy Act (NEPA), completed a Draft EIR/EIS for Phase 1 of the North Bay Water Recycling Program Project (Phase 1 Project). SCWA certified the EIR in December 2009. Reclamation released a Final EIS in June 2010 and signed a Record of Decision in January 2011 for the Phase 1 Project. Reclamation provided funding assistance for Phase 1 under of Title XVI of Public Law 102–575, which provides a mechanism for Federal participation and cost-sharing in approved water reuse projects.

The Phase 2 Program now proposed by NBWRA seeks to increase the beneficial use of recycled water in the North Bay Region beyond Phase 1. Reclamation may also provide funding assistance under Title XVI of Public Law 102–575. The proposed Phase 2 Program would consist of distribution facilities, treatment capacity improvements, and storage (seasonal and operational) to make between 5,039 and 6,516 acre-feet per year of recycled water available for environmental, agricultural, and municipal reuse, consistent with the California Code of Regulations, Title 22, pertaining to the use of tertiary-treated recycled water.

At this time, there are no known Indian trust assets or environmental justice issues associated with the Proposed Action.

Scoping Process

NBWRA filed a Notice of Preparation (California State Clearinghouse no. 2017072051) on July 20, 2017, pursuant to the California Environmental Quality Act (CEQA) (P.R.C. section 21092, C.C.R. section 15082) and held four public scoping meetings in August 2017. To avoid duplication with State and local procedures, we plan to use the scoping process initiated by NBWRA under CEQA. No additional public scoping meetings are planned at this time. However, Reclamation will fully consider all input received on this notice of intent. The CEQA Notice of Preparation is available at *http://www.nbwra.org/wp/wp-content/uploads/NBWRA-Phase-2-NOP.pdf.*

Public Disclosure

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: October 31, 2017.

Federico Barajas,

Deputy Regional Director, Mid-Pacific Region.

[FR Doc. 2017–24085 Filed 11–3–17; 8:45 am]

BILLING CODE 4332–90–P

INTERNATIONAL TRADE COMMISSION

Notice of Receipt of Complaint; Solicitation of Comments Relating to the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has received a complaint entitled Self-Anchoring Beverage Containers, *DN 3271;* the Commission is soliciting comments on any public interest issues raised by the complaint or complainant's filing pursuant to the Commission's Rules of Practice and Procedure.

FOR FURTHER INFORMATION CONTACT: Lisa R. Barton, Secretary to the Commission, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000. The public version of the complaint can be accessed on the Commission's Electronic Document Information System (EDIS) at *https://edis.usitc.gov,* and 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 United States International Trade Commission (USITC) at *https://www.usitc.gov* . The public record for this investigation may be viewed on the Commission's Electronic Document Information System (EDIS) at *https://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission has received a complaint and a submission pursuant to § 210.8(b) of the Commission's Rules of Practice and Procedure filed on behalf of Mighty Mug, Inc. on October 31, 2017. The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of self-anchoring beverage containers. The complaint names as respondents Calvert Retail, Inc. of Montchanin Mills, DE; U.S. Imprints, Inc. of Franklin, TN; RushKing Promotions, Inc. of Brooklyn, NY; GOImprints, Inc. of Franklin, TN; Artful Home, Inc. of Madison, WI; Swag Brokers, LLC of Phoenix, AZ; 4AllPromos, Inc. of Centerbrook, CT; Hirsch Gift, Inc. of Houston, TX; Telebrands, Corp. of Fairfield, NJ; Sunrise Gifts, Inc. of Orlando, FL; Sunrise Gifts and Souvenirs, Inc. of Foley, AL; Motivators, Inc. of Westbury, NY; AnyPromo.com, Inc. of Ontario, CA; Quality Logo Products, Inc. of Aurora, IL; and Shenzhen Smartop Industrial Co., Ltd. of China. The complainant requests that the Commission issue an exclusion order and cease and desist orders.

Proposed respondents, other interested parties, and members of the public are invited to file comments, not to exceed five (5) pages in length, inclusive of attachments, on any public interest issues raised by the complaint or § 210.8(b) filing. Comments should address whether issuance of the relief specifically requested by the complainant in this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) Explain how the articles potentially subject to the requested remedial orders are used in the United States;

(ii) Identify any public health, safety, or welfare concerns in the United States relating to the requested remedial orders;

(iii) Identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) Indicate whether complainant, complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the requested exclusion order and/or a cease and desist order within a commercially reasonable time; and

(v) Explain how the requested remedial orders would impact United States consumers.

Written submissions must be filed no later than by close of business, eight calendar days after the date of publication of this notice in the **Federal Register**. There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above and submit 8 true paper copies to the Office of the Secretary by noon the next day pursuant to § 210.4(f) of the Commission's Rules of Practice and Procedure (19 CFR 210.4(f)). Submissions should refer to the docket number (''Docket No. 3271'') in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, Electronic Filing Procedures [1]). Persons with questions regarding filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this Investigation may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel,[2] solely for cybersecurity purposes. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.[3]

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of §§ 201.10 and 210.8(c) of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.8(c)).

By order of the Commission.

Issued: October 31, 2017.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2017–24054 Filed 11–3–17; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[USITC SE–17–050]

Government in the Sunshine Act Meeting Notice

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: November 8, 2017 at 11:00 a.m.

PLACE: Room 101, 500 E Street SW., Washington, DC 20436, Telephone: (202) 205–2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. *Agendas for future meetings:* None.
2. Minutes.
3. Ratification List.
4. Vote in Inv. Nos. 731–TA–1387–1391 (Preliminary) (Polyethylene Terephthalate (PET) Resin from Brazil, Indonesia, Korea, Pakistan, and Taiwan). The Commission is currently scheduled to complete and file its determinations on November 13, 2017; views of the Commission are currently scheduled to be completed and filed on November 20, 2017.
5. *Outstanding action jackets:* None.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission.

Issued: November 1, 2017.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2017–24181 Filed 11–2–17; 4:15 pm]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

Notice of Receipt of Complaint; Solicitation of Comments Relating to the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has received a complaint entitled *Certain Memory Modules and Components Thereof, DN 3272;* the Commission is soliciting comments on any public interest issues raised by the complaint or complainant's filing pursuant to the Commission's Rules of Practice and Procedure.

FOR FURTHER INFORMATION CONTACT: Lisa R. Barton, Secretary to the Commission, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000. The public version of the complaint can be accessed on the Commission's Electronic Document Information System (EDIS) at *https://edis.usitc.gov,* and 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 United States International Trade Commission (USITC) at *https://www.usitc.gov*. The public record for this investigation may be viewed on the Commission's Electronic Document Information System (EDIS) at *https://edis.usitc.gov.* Hearing-impaired persons are advised

[1] Handbook for Electronic Filing Procedures: *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf.*

[2] All contract personnel will sign appropriate nondisclosure agreements.

[3] Electronic Document Information System (EDIS): *https://edis.usitc.gov.*

that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission has received a complaint and a submission pursuant to § 210.8(b) of the Commission's Rules of Practice and Procedure filed on behalf of Netlist, Inc. on October 31, 2017. The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain memory modules and components thereof. The complaint names as respondents SK hynix Inc. of Korea; Sk hynix America Inc. of San Jose, Ca; and Sk hynix memory solutions Inc. of San Jose, CA. The complainant requests that the Commission issue a limited exclusion order, cease and desist orders, and impose a bond upon respondents' alleged infringing articles during the 60-day Presidential review period pursuant to 19 U.S.C. 1337(j).

Proposed respondents, other interested parties, and members of the public are invited to file comments, not to exceed five (5) pages in length, inclusive of attachments, on any public interest issues raised by the complaint or § 210.8(b) filing. Comments should address whether issuance of the relief specifically requested by the complainant in this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) Explain how the articles potentially subject to the requested remedial orders are used in the United States;

(ii) Identify any public health, safety, or welfare concerns in the United States relating to the requested remedial orders;

(iii) Identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) Indicate whether complainant, complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the requested exclusion order and/or a cease and desist order within a commercially reasonable time; and

(v) Explain how the requested remedial orders would impact United States consumers.

Written submissions must be filed no later than by close of business, eight calendar days after the date of publication of this notice in the **Federal Register**. There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above and submit 8 true paper copies to the Office of the Secretary by noon the next day pursuant to § 210.4(f) of the Commission's Rules of Practice and Procedure (19 CFR 210.4(f)). Submissions should refer to the docket number (''Docket No. 3272'') in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, Electronic Filing Procedures [1]). Persons with questions regarding filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this Investigation may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel,[2] solely for cybersecurity purposes. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.[3]

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of §§ 201.10 and 210.8(c) of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.8(c)).

By order of the Commission.

Issued: October 31, 2017.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2017–24055 Filed 11–3–17; 8:45 am]

BILLING CODE 7020–02–P

[1] Handbook for Electronic Filing Procedures: *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf.*

[2] All contract personnel will sign appropriate nondisclosure agreements.

[3] Electronic Document Information System (EDIS): *https://edis.usitc.gov.*

INTERNATIONAL TRADE COMMISSION

[USITC SE–17–050]

Government in the Sunshine Act Meeting Notice

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: November 9, 2017 at 9:30 a.m.

PLACE: Room 101, 500 E Street SW., Washington, DC 20436, Telephone: (202) 205–2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. *Agendas for future meetings:* None.
2. Minutes.
3. Ratification List.
4. Vote in Inv. Nos. 701–TA–588 and 731–TA–1392–1393 (Preliminary) (Polytetrafluoroethylene (PTFE) Resin from China and India). The Commission is currently scheduled to complete and file its determinations on November 13, 2017; views of the Commission are currently scheduled to be completed and filed on November 20, 2017.
5. *Outstanding action jackets:* None.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission:

Issued: November 1, 2017.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2017–24182 Filed 11–2–17; 4:15 pm]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Medical Technology Enterprise Consortium

Notice is hereby given that, on September 29, 2017, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Medical Technology Enterprise Consortium (''MTEC'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, 2C4 Technologies, Inc., San Antonio, TX; Actuated Medical, Inc., Bellefonte, PA; American Type Culture Collection (ATCC Federal Solutions), Manassas, VA; Amethyst Technologies, LLC, Baltimore, MD; Anu Life Sciences, Sunrise, FL; Arteriocyte, Inc. d/b/a/Compass Biomedical, Hopkinton, MA; Charles River Analytics, Inc., Cambridge, MA; Chimerix, Inc., Durham, NC; Cole Engineering Services, Inc., Orlando, FL; Corvid Technologies, Mooresville, NC; Daxor Corporation, New York, NY; Elemance, LLC, Clemmons, NC; Emergent BioSolutions, Gaithersburg, MD; Human Biomed, Inc., South Burlington, VT; L–3 Applied Technologies, Inc., San Diego, CA; LifeLink Foundation, Inc., Tampa, FL; MalarVx, Inc., Seattle, WA; Manzanita Pharmaceuticals, Inc., Woodside, CA; Medtronic, Minneapolis, MN; Melinta Therapeutics, Inc., New Haven, CT; Neuroplast BV, Maastricht, NETHERLANDS; Platelet BioGenesis, Inc., Boston, MA; RegeniSource LLC, San Antonio, TX; Remedor Biomed Ltd., Nazareth lllit, ISRAEL; Roccor, LLC, Longmont, CO; Soar Technology, Inc., Ann Arbor, MI; SynDaver Labs, Tampa, FL; The Board of Supervisors of Louisiana State University and Agricultural & Mechanical College herein represented by Louisiana State University Health Sciences Center in New Orleans (LSUHSC), New Orleans, LA; The Medical College of Wisconsin, Inc., Milwaukee, WI; The Metis Foundation, San Antonio, TX; University of Iowa, Iowa city, IA; University of Maryland, College Park, MD; Vcom3D, Inc., Orlando, FL, and Vivacelle Bio, Inc., Chicago, IL have been added as parties to this venture.

Also, Applied Medical Device Institute (aMDI)—Grand Valley State University, Grand Rapids, MI; Aptus, LLC, Clemson, SC; Ellipsis Technologies, Inc., Greenville, SC; Johns Hopkins University, Baltimore, MD; Longeveron LLC, Miami, FL; Lovelace Biomedical and Environmental Research Institute, Albuquerque, NM; MicroCures, Inc., Santa Cruz, CA; New York Institute of Technology, Old Westbury, NY; NGT–VC 2012 Limited Partnership (NGT3), Nazareth, ISRAEL; and Otologic Pharmaceutics Inc., Oklahoma City, OK, have withdrawn as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and MTEC intends to file additional written notifications disclosing all changes in membership.

On May 9, 2014, MTEC filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on June 9, 2014 (79 FR 32999).

The last notification was filed with the Department on June 23, 2017. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on August 15, 2017(82 FR 38708).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2017–24101 Filed 11–3–17; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

ChipRX, L.L.C., d/b/a City Center Pharmacy; Decision and Order

On August 19, 2016, the former Acting Administrator issued an Order to Show Cause and Immediate Suspension of Registration to ChipRX, L.L.C., d/b/a City Center Pharmacy (hereinafter, Registrant), of Hamlin, West Virginia. The Show Cause Order proposed the revocation of Registrant's DEA Certificate of Registration and the denial of any pending application to renew or modify its registration, on the ground that its ''continued registration is inconsistent with the public interest.'' Show Cause Order, at 1 (citing 21 U.S.C. 824(a)(4) and 823(f)).

As to the Agency's jurisdiction, the Show Cause Order alleged that Registrant is registered as a pharmacy with authority to dispense schedule II–V controlled substances under Registration No. FC3015915, at the registered address of 8119 Court Avenue, Hamlin, West Virginia. *Id.* at 1. The Order alleged that this registration was due to expire on August 31, 2017. *Id.*

As to the substantive grounds for the proceeding, the Show Cause Order alleged that Registrant is owned by George ''Chip'' Chapman and Summer Chapman, and that George Chapman is Registrant's Pharmacist-in-Charge (PIC). *Id.* The Show Cause Order alleged that on June 30, 2016, DEA executed an Administrative Inspection Warrant (AIW) at Registrant based on ''tips that PIC Chapman was frequently impaired and was unlawfully removing controlled substances from the pharmacy.'' *Id.* at 2. The Order then alleged that during the inspection, DEA personnel interviewed PIC Chapman and other pharmacy employees. *Id.*

With respect to the interview of PIC Chapman, the Show Cause Order alleged that he made various material false statements to the Investigators. *Id.* These included minimizing the quantity of oxycodone and hydrocodone that had been lost ''in the last year,'' stating that he had failed to reported all but one of the instances in which these drugs were ''lost'' because they were '''not significant' losses,'' by denying that he knew ''anything further about the nature of the pharmacy's losses'' while ''claim[ing] that he was not abusing prescriptions drugs,'' and stating ''that many of his per diem or fill-in pharmacists were previous drug abusers.'' *Id.*

The Show Cause Order then alleged that in a subsequent interview conducted on July 22, 2016, Chapman ''admitted that during the past year, he diverted oxycodone or hydrocodone pills equivalent to '200–300 mg every day,' a total of approximately 25,000 pills.'' *Id.* at 3. The Order also alleged that ''Chapman admitted that he routinely falsified inventory records'' and that he ''shredded invoice and supplier records, including DEA 222 forms and electronic Controlled Substances Ordering System ('CSOS') records.'' *Id.* The Order further alleged that ''Chapman admitted that he had relapsed,'' and told ''DEA [I]nvestigators that he 'couldn't wait' for'' the expiration of the Memorandum of Agreement (MOA) which he had previously entered into with the Agency ''so he could begin diverting . . . drugs to feed his addiction.'' *Id.* The Order then alleged that Chapman admitted to

abusing cocaine for the past two years. *Id.*[1]

The Show Cause Order also alleged that from January 12, 2015[2] to the ''present,'' Registrant's owner had committed numerous violations of the Controlled Substances Act. First, the Order alleged that Chapman ''unlawfully removed pills from the [p]harmacy.'' *Id.* (citing 21 U.S.C. 829(a) & (b), 841(a)(1), and 844(a)). Second, the Order alleged that Chapman ''us[ed] the [p]harmacy to fuel his own drug addiction,'' in that he ordered controlled substances other than in ''the conduct of lawful business or professional practice.'' *Id.* (citing 21 U.S.C. 828(e)). Third, the Order alleged that Registrant ''failed to report losses as required'' by DEA regulations. *Id.* (citing 21 CFR 1301.76(b)). Fourth, the Order alleged that Registrant ''has failed to maintain effective controls against diversion and theft.'' *Id.* (citing 21 CFR 1307.71).[3] Fifth, the Order alleged that Registrant ''has failed to maintain accurate inventory controls'' in that ''Chapman routinely manipulated computer inventory records.'' *Id.* at 4 (citing 21 U.S.C. 827(a) & (b); 842(a)(5)). Sixth, the Order alleged that Registrant ''has routinely destroyed controlled substance ordering records'' and that ''Chapman regularly shredded invoices . . . from its suppliers to conceal the extent of his diversion.'' *Id.* (citing 21 CFR 1305.17 and 1305.27). Seventh, the Order alleged that on June 30, 2016, Registrant ''provided a [c]losing [i]nventory certifying that it was complete and accurate,'' but that ''[b]ased on . . . Chapman's admissions, this report was not complete or accurate.'' *Id.* (citing 21 U.S.C. 824(a)(4)(A), 21 CFR 1304.03, 1304.04, 1304.11, and 1304.21).

In addition to the above, the Show Cause Order alleged that Chapman ''repeatedly deleted [p]harmacy video surveillance footage of his unlawful removal of controlled substances from the [p]harmacy,'' that ''Chapman frequently exhibits signs of impairment or intoxication while at work,'' and that ''[w]hile impaired, [he] has incorrectly filled prescriptions.'' *Id.* The Order also alleged that ''[d]uring the course of the last year, [p]harmacy personnel have repeatedly identified significant losses in routine pill counts,'' including a loss of 100 oxycodone pills ''in the week preceding [the] June 30, 2016'' inspection. *Id.* The Order further alleged that ''[t]hese losses occurred on a regular basis'' and involved ''oxycodone, hydrocodone, oxymorphone, and ADHD pills,'' and that ''[t]hese losses were consistently reported to . . . Chapman.'' *Id.*

Next, the Show Cause Order alleged that ''[d]espite knowing . . . that DEA was actively investigating'' his pharmacy, Chapman diverted oxycodone and other drugs ''on least [five] occasions between June 30, 2016 and August 5, 2016.'' *Id.* at 5. Specifically, the Order alleged that ''[b]etween July 15 and July 18, 2016, Chapman took 64 oxycodone pills,'' that ''[o]n July 21, 2016, Chapman removed oxycodone pills from a locked cabinet and placed an unknown number of loose pills in his pocket,'' that ''[o]n July 23, 2016, Chapman entered the [p]harmacy outside of store hours and took a 100 count bottle of oxycodone pills,'' and that ''[o]n August 3, 2016, Chapman again took oxycodone pills from the [p]harmacy['s] stock.'' *Id.* The Order also alleged that ''[a]t least two of these incidents are recorded on video obtained by DEA.'' *Id.*

The Show Cause Order further alleged that ''Chapman was hospitalized for complications related to overdose on at least three recent occasions, including . . . on approximately April 6, 2016, June 17, 2016, and July 18, 2016.'' *Id.* The Order alleged that on or about these dates, Chapman ''tested positive'' for controlled substances which included oxycodone at each test (as well as cocaine on July 18, 2016), even though records from the West Virginia Prescription Monitoring Program ''indicate that [he] did not receive any prescription for oxycodone or cocaine during the last year.'' *Id.*

Finally, the Show Cause Order alleged that ''[o]ther [p]harmacy personnel have seen . . . Chapman using marijuana via [a] vaporizer while working at'' Registrant. *Id.* After again alleging that Chapman admitted to ''abus[ing] cocaine during the course of the last two years,'' the Order alleged that ''Chapman's possession of illicit controlled substances violates 21 U.S.C. 844(a).'' *Id.*

Based on his ''preliminary finding that controlled substances were diverted from [Registrant] on numerous occasions in connection with serious misconduct involving concealment, falsification of inventory records, circumvention of security controls, and misuse of [its] [r]egistration to order controlled substances for purposes other than the conduct of lawful business or professional practice,'' the former Acting Administrator concluded that Registrant's registration ''is inconsistent with the public interest.'' *Id.* at 6. The former Acting Administrator also made the ''preliminary finding'' that Registrant's ''continued registration during the pendency of these proceedings would constitute an imminent danger to the public health and safety because of the substantial likelihood . . . that death, serious bodily harm or abuse of controlled substances will occur in the absence of this suspension.'' *Id.* The former Acting Administrator thus concluded that Registrant's continued registration during the pendency of the proceeding ''constitutes an imminent danger to the public health and safety'' and suspended its registration ''effective immediately.'' *Id.* (citing 21 U.S.C. 824(d)). The former Acting Administrator's Order also authorized the seizure or placement under seal of Registrant's controlled substances. *Id.*

The Show Cause Order notified Registrant of its right to request a hearing on the allegations or to submit a written statement while waiving its right to a hearing, the procedures for electing either option, and the consequence of failing to elect either option. *Id.* (citing 21 CFR 1301.43). On the same day it was issued, a DEA Diversion Investigator personally served the Order to Show Cause and Immediate Suspension of Registration on Registrant's pharmacy manager at which time the Investigators took custody of Registrant's controlled substances and Certificate of Registration. GX 3, at 2 ¶ 7.

According to the Government, since the date of service of the Order, Registrant has neither requested a hearing nor submitted a written statement while waiving its right to a hearing. Request for Final Agency Action, at 1–2. Based on the Government's representation, I find that more than 30 days have now passed and Registrant has neither requested a hearing nor submitted a written statement while waiving its right to a hearing. I therefore find that Registrant has waived its right to a hearing or to submit a written statement and issue this Decision and Order based on reliable and probative evidence submitted by the Government. *See* 21 CFR 1301.43(e). I make the following findings.

Findings of Fact

Registrant is a limited liability company organized under the laws of West Virginia; it owns and operates City Center Pharmacy, a retail pharmacy located at 8119 Court Avenue, Hamlin, West Virginia. GX1; GX 3, at 1.

[1] The Show Cause Order also alleged that during the June 30, 2016 interview, Chapman admitted that he regularly used marijuana. Show Cause Order, at 3.

[2] The Government alleged that the MOA expired on January 12, 2015. Show Cause Order, at 3.

[3] The correct citation is to 21 CFR 1301.71(a).

According to the records of the West Virginia Secretary of State, George Chapman and his wife Summer Chapman are member-officers of the company. GX 3, Appendix 2, at 2. George Chapman is the Pharmacist-in-Charge (PIC). GX 3, at 2; *see also id.* at Appendix 3.

Registrant previously held DEA Certificate of Registration No. FC3015915, pursuant to which it was authorized to dispense controlled substances in schedules II through V as a retail pharmacy at the above address. GX 1. This registration expired on August 31, 2017. *Id.* According to the registration records of the Agency (of which I take official notice, *see* 5 U.S.C. 556(e)), Registrant did not file a renewal application. However, according to the declaration of the Diversion Investigator, upon service of the Immediate Suspension Order, the Government took custody of Registrant's controlled substances. GX 3, at 1.

In 2009, Chapman, who was then employed at a hospital pharmacy, was convicted of a misdemeanor offense of embezzling controlled substances from his employer and placed on probation.[4] GX 3, Appendix 1, at 1–2. Chapman, who pled guilty to the charge, was placed on probation for a period of one year. *Id.* at 1. Thereafter, Chapman applied for a retail pharmacy registration in schedules II through V, and was allowed to enter into an MOA, which became effective on January 12, 2012, and remained in effect for a period of three years, after which Registrant's Registration became unrestricted. GX 3, Appendix 3, at 1–4.

The Investigation of Registrant

In June 2016, a DEA Diversion Investigator (DI) assigned to the Charleston, West Virginia Resident Office received ''multiple tips'' that George Chapman ''often appeared impaired at work.'' GX 3, at 2. The DI initiated an investigation and determined that Chapman had previously pled guilty in state court ''to embezzling and abusing approximately 800 hydrocodone and oxycodone pills from approximately June through October 2009.'' *Id.* He also determined that Chapman had, as a condition of obtaining a registration for the pharmacy, entered into an MOA with the Agency. *Id.*

The DI obtained an Administrative Inspection Warrant (AIW), and on June 30, 2016, he, accompanied by other Investigators, executed the AIW at Registrant. *Id.* According to the DI, ''[t]he [p]harmacy's inventory records were found to be so incomplete and unreliable that no formal audit using the . . . records could be completed.'' *Id.* The DI further stated that during the inspection, Chapman ''admitted that [the] electronic inventory records had been repeatedly manipulated'' and the ''records were otherwise so disorganized that conducting a reliable on-site audit was impossible.'' *Id.*

The DI further stated that during the inspection, ''several [p]harmacy [employees] uniformly reported to [him] that . . . Chapman regularly came to work impaired'' and ''[s]everal employees also reported that pills were regularly missing from the [p]harmacy during the last year.'' *Id.*

One pharmacy employee told the DI that on occasions when a ''per diem [p]harmacist'' was working at Registrant, Chapman came to the pharmacy, ''asked to use'' the employee's computer, after which he ''open[ed] the locked cabinet'' in which the oxycodone was kept and [took] a 100 count wholesale bottle of oxycodone 15 mg'' out of the cabinet, then ''went to his office'' and subsequently ''left the pharmacy.'' *Id.* at 3. The employee told the DI that she subsequently opened the cabinet to confirm that the bottle was missing; she also ''attempted to review the surveillance video'' only to find that ''it had been deleted.'' *Id.* The employee also told the DI that she checked the computer inventory records and found that 100 pills of oxycodone 15 mg had been removed from the count of drugs ''on hand.'' *Id.*

The same employee told the DI ''that the [p]harmacy regularly experiences inventory losses'' and had been experiencing them ''for more than a year.'' *Id.* The employee told the DI that on the very day that the AIW was executed, her comparison of the computer inventory and the actual count of drugs on hand found that 107 dosage units of hydrocodone 10 mg were missing. *Id.* The employee also told the DI that in the weeks prior to the AIW, one bottle of oxycodone 20 mg and one bottle of oxycodone 15 mg went missing. *Id.*

The employee further told the DI that Chapman was impaired at work on an almost daily basis and that he would ''spend the majority of his day asleep in his office.'' *Id.* She also told the DI of an instance in which Chapman ''had incorrectly filled a prescription'' which she corrected and that ''she saw Chapman using a vaporizer at work to smoke marijuana regularly.'' *Id.*

According to the DI, following the AIW, the same employee ''reported to [him] multiple other instances where . . . Chapman had stolen oxycodone'' from Registrant; the employee stated that these incidents occurred on July 18 and 23, as well as August 3, 2016. *Id.* The employee also took a photograph showing Chapman ''passed out at his desk on July 18, a day when he was . . . taken to the hospital'' because he overdosed. *Id.* at 3–4. According to the employee, on that day, ''64 oxycodone pills were missing compared with a physical pill count conducted on July 15, 2017.'' *Id.* at 4. The DI subsequently subpoenaed the photo; the Government submitted the photo as part of the evidentiary record. *Id.* at 3; *see also* Appendix 4.

During the AIW, the DI also interviewed Chapman. GX 3, at 3. During the interview, Chapman stated that the ''[p]harmacy had destroyed approximately 70 Percocet pills sometime in the past and that . . . he had adjusted the 'inventory book' so that the records would reflect the physical inventory.'' *Id.* Chapman admitted, however, that he did not report ''this shortage'' to DEA. *Id.* He also maintained he had ''attempted to report a loss of 100 pills to DEA but did not attempt to report other losses either to DEA or local law enforcement because he considered them 'not significant.' '' *Id.* Chapman further represented ''that 10–15 oxycodone or hydrocodone pills would be missing from the [p]harmacy . . . perhaps 15–20 times in the prior year'' and that ''there was a total loss of perhaps 300 oxycodone and hydrocodone pills.'' *Id.* at 3–4. Chapman stated that ''on those occasions when he found a pill shortage in the physical inventory as compared with the computer records, he adjusted the computer inventory to reflect the losses.'' *Id.* However, ''Chapman admitted that he did not report a loss for any of these losses.'' *Id.* at 4.

During the interview, ''Chapman denied that he was abusing prescriptions drugs'' and stated ''that his fill-in pharmacists were previous drug abusers he had hired from a West Virginia Pharmacy Board facilitated drug rehabilitation program.'' *Id.* Chapman also ''denied knowing

[4] According to the MOA, in the spring of 2009, Chapman injured his back and was prescribed oxycodone and hydrocodone. GX 3, Appendix 3, at 1–2. As his pain increased, Chapman began using more drugs than were prescribed and stole several hundred tablets from his employer. *Id.* at 1. Chapman, however, reported his drug problem to his employer and entered into a recovery contract with the West Virginia Pharmacy Recover Network (PRN), which required that he attend Narcotics Anonymous/Alcoholics anonymous meetings, provide random drug screens, and see an addiction psychiatrist. *Id.* at 2. At the time he entered into the MOA, he had successfully completed the PRN's requirements and was ''under contract for an additional three year period.'' *Id.*

anything further about the nature of the [p]harmacy losses of'' controlled substances. *Id.*

During the June 30 interview, Chapman also admitted that he ''us[ed] marijuana illegally.'' *Id.* at 4. He told the DI that ''he uses an electronic cigarette or vaporizer device as a delivery mechanism for his marijuana.'' *Id.*

On July 19, 2016, the DI and a TFO served a search warrant on the Cabell-Huntington Hospital for Chapman's records. *Id.* at 5. The records show that on June 17, 2015,[5] as well as April 6 and July 18, 2016, ''Chapman was admitted . . . due to complications from an overdose.'' *Id.* at 5. Chapman underwent urine drug tests on each occasion, with the June 17, 2015 and April 6, 2016 test results showing that he was ''positive for opiates including oxycodone'' and the July 18 test results showing that he ''was positive for'' both cocaine and oxycodone. *Id.* The records for both the June 17, 2015 and April 6, 2016 admissions document that Chapman stated ''that he had taken Percocet prior to being admitted.'' *Id. See also* Appendix 6A, at 2 (April 6, 2016 discharge summary) (''discussed his urine tox screen with him and he states he took ½ percocet''); Appendix 6B, at 15 (June 17, 2015 discharge summary: ''The pt. denied taking anything other than Percocet several days prior to admission.'')

According to the DI, he queried the West Virginia Prescription Monitoring Program (PMP) to determine what prescriptions Chapman had been issued. GX 3, at 5. The query showed that ''Chapman had filled prescriptions for Tramadol and one prescription for hydrocodone in March 2016.'' *Id.* The query showed no prescriptions for other drugs. *Id.*

On July 21, 2016, the DI received another report from a pharmacy employee that Chapman had again taken oxycodone from the pharmacy. *Id.* at 4. The next day, the DI, along with a Task Force Officer and a Pharmacy Board Investigator again interviewed Chapman. *Id.* During the interview, ''Chapman admitted that he had been diverting . . . 200 to 300 milligrams every day [of] oxycodone or hydrocodone'' for his ''personal use'' and had done so ''for approximately [one] year.'' *Id.* Chapman admitted that he ''alter[ed] the [p]harmacy's computer and inventory records'' and that he ''shredd[ed] invoices from suppliers and destroy[ed] DEA 222 Forms and CSOS records.'' *Id.* He ''also admitted that he had been using cocaine during the past two years,'' as well as that ''his addiction was so strong that he couldn't wait for [the] MOA . . . to expire so that he could begin using his . . . [r]egistration to fuel his . . . addiction.'' *Id.*

On July 23, 2016, the DI received another report from the employee that Chapman had taken drugs from the pharmacy, in particular, a 100-count bottle of oxycodone. *Id.* at 4. On August 3, 2016, the DI received still another report from the employee that Chapman had taken narcotics from the pharmacy. *Id.* at 5.

The DI also attempted to conduct an audit of the pharmacy. *Id.* While the DI subpoenaed the records from the pharmacy's suppliers and was able to determine the total amount of drugs that the pharmacy had obtained, according to the DI, ''the [p]harmacy's internal records were so unreliable as to make an accurate count impossible.'' *Id.* Based on the records he obtained from just one supplier, the DI found that Respondent could not account for 20,000 pills of oxycodone 30 mg and hydrocodone 10 mg. *Id.* The DI noted that Chapman had also admitted to diverting oxycodone 15 mg. *Id.*

The DI also obtained a search warrant for the pharmacy's video surveillance records; these videos were submitted as part of the record. *Id.* According to the DI, these videos show ''Chapman entering the pharmacy and removing pills on two separate occasions,'' including one during which Chapman ''plac[ed] an unknown number of loose pills into his pocket,'' and another, during which Chapman removed a pill bottle from a locked storage cabinet. *Id.* at 5–6. In addition, the DI obtained photographs showing the various areas of the pharmacy and the location of the locked cabinet.[6] *Id.* at 6. One of the videos does show a person opening a locked cabinet at the pharmacy counter, removing a plastic bottle from the cabinet, and leaving the pharmacy.

Finally, the DI stated that ''[i]f Chapman had been candid about his role in the diversion of controlled substances during the June 30 AIW, I and my DEA colleagues would have pursued immediate criminal action against Chapman. We would also have been able to take additional steps—including seeking immediate administrative sanctions—to prevent additional diversion of controlled substances from the [p]harmacy.'' *Id.*

Discussion

Mootness

As found above, the registration at issue in this proceeding expired on August 31, 2017. According to the registration records of the Agency, Chapman has not filed either a renewal application or a new application for the pharmacy. Accordingly, there is neither a registration to revoke nor an application to act upon.

While ordinarily these facts would render this proceeding moot, *see Ronald J. Riegel,* 63 FR 67132, 67133 (1998), simultaneously with the issuance of the Show Cause Order, the former Acting Administrator ordered that Registrant's registration be immediately suspended. Pursuant to the authority granted by 21 U.S.C. 824(f), the former Acting Administrator authorized the seizure or placement under seal of the controlled substances possessed by Registrant pursuant to its registration. As found above, the Government seized various controlled substances pursuant to the Immediate Suspension Order. GX 3, at 2.

Under section 824(f), ''[u]pon a revocation order becoming final, all such controlled substances'' which have been seized or placed under seal ''shall be forfeited to the United States'' and ''[a]ll right, title, and interest in such controlled substances shall vest in the United States upon a revocation order becoming final.'' 21 U.S.C. 824(f). DEA has previously held that a registrant, who has been issued an immediate suspension order, cannot defeat the effect of this provision by allowing its registration to expire. *See Meetinghouse Community Pharmacy, Inc.,* 74 FR 10073, 10074 n.5 (2009); *RX Direct Pharmacy, Inc.,* 72 FR 54070, 54072 n.4 (2007). Thus, this proceeding presents the collateral consequence of who has title to the controlled substances that were seized. Accordingly, I hold that this case is not moot and proceed to the merits.

The Merits

Under the CSA, ''[a] registration pursuant to section 823 of this title to manufacture, distribute, or dispense a controlled substance . . . may be suspended or revoked by the Attorney General upon a finding that the registrant . . . has committed such acts as would render [its] registration under section 823 of this title inconsistent with the public interest as determined under such section.'' 21 U.S.C. 824(a)(4). In the case of a retail

[5] While in his declaration, the DI stated that Chapman was admitted to the hospital on June 17, 2016, the records clearly show that this occurred on June 17, 2015. Appendix 6B.

[6] The DI also obtained a copy of court records showing that on September 8, 2016, Chapman entered into a guilty plea to a state court information which charged him with the felony offense of ''Obtaining Possession of a Controlled Substance by Fraud.'' GX 3, at 6.

pharmacy, which is deemed to be a practitioner, *see* id. § 802(21), Congress directed the Attorney General to consider the following factors in making the public interest determination:

(1) The recommendation of the appropriate State licensing board or professional disciplinary authority.

(2) The applicant's experience in dispensing or conducting research with respect to controlled substances.

(3) The applicant's conviction record under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances.

(4) Compliance with applicable State, Federal, or local laws relating to controlled substances.

(5) Such other conduct which may threaten the public health and safety.

Id.

''[T]hese factors are . . . considered in the disjunctive.'' *Robert A. Leslie, M.D.,* 68 FR 15227, 15230 (2003). It is well settled that I ''may rely on any one or a combination of factors, and may give each factor the weight [I] deem[ ] appropriate in determining whether'' to suspend or revoke an existing registration. *Id.; see also MacKay* v. *DEA,* 664 F.3d 808, 816 (10th Cir. 2011); *Volkman* v. *DEA,* 567 F.3d 215, 222 (6th Cir. 2009); *Hoxie* v. *DEA,* 419 F.3d 477, 482 (6th Cir. 2005). Moreover, while I am required to consider each of the factors, I ''need not make explicit findings as to each one.'' *MacKay,* 664 F.3d at 816 (quoting *Volkman,* 567 F.3d at 222); *see also Hoxie,* 419 F.3d at 482.[7]

Also, pursuant to section 824(d), ''[t]he Attorney General may, in his discretion, suspend any registration simultaneously with the institution of proceedings under this section, in cases where he finds that there is an imminent danger to the public health or safety.'' 21 U.S.C. 824(d)(1). Congress has defined ''the phrase 'imminent danger to the public health or safety' [to] mean[ ] that, due to the failure of the registrant to maintain effective controls against diversion or otherwise comply with the obligations of a registrant under [the CSA], there is a substantial likelihood of an immediate threat that death, serious bodily harm, or abuse of a controlled substance will occur in the absence of an immediate suspension of the registration.'' *Id.* § (d)(2).

Under the Agency's regulation, ''[a]t any hearing for the revocation or suspension of a registration, the Administration shall have the burden of proving that the requirements for such revocation or suspension pursuant to . . . 21 U.S.C. 824(a) . . . are satisfied.'' 21 CFR 1301.44(e). In this matter, I have considered all of the factors and find that the Government's evidence with respect to factors four and five,[8] establishes that Registrant, through its owner, has committed acts which render its registration ''inconsistent with the public interest'' and which support the suspension of its registration. 21 U.S.C. 824(a)(4). I further find that the Government's evidence establishes that Registrant's misconduct satisfies the imminent danger standard of 21 U.S.C. 824(d), in that, Registrant's failure ''to maintain effective controls against diversion or otherwise comply with the obligations of a registrant under'' the CSA created ''a substantial likelihood of an immediate threat that . . . abuse of a controlled substance will occur in the absence of an immediate suspension of [its] registration.''

Factor Four—Compliance With Applicable Laws Related to Controlled Substances

As found above, the evidence shows that Chapman, Registrant's PIC, was diverting narcotic controlled substances from the pharmacy's stock for his own misuse. This evidence includes: (1) The videos showing him unlocking the cabinet in which controlled substances were stored, removing a bottle of medication, and leaving the pharmacy; (2) the statements of a pharmacy employee to the DI as to various instances in which oxycodone went missing, including the July 18, 2016 incident, when he passed out at his desk and was hospitalized; (3) the UDS results for the various hospitalizations including the July 18, 2016 positive result for oxycodone (which was also positive for cocaine); (4) his subsequent admission to Investigators during the July 21, 2016 interview that he had been diverting 200 to 300 milligrams every day of oxycodone or hydrocodone for approximately one year; (5) the DI's finding that at least 20,000 dosage units of oxycodone 30 mg and hydrocodone 10 mg could not be accounted for; and (6) the DI's statement that his query of the state PMP showed that Chapman had filled only prescriptions for tramadol and one hydrocodone prescription in March 2016.

Under the Controlled Substances Act, it is ''unlawful for any person knowingly or intentionally to possess a controlled substance unless such substance was obtained directly, or pursuant to a valid prescription or order, from a practitioner, while acting in the course of his professional practice, or except as otherwise authorized by this subchapter.'' 21 U.S.C. 844(a). While Chapman, as the PIC of a registered pharmacy, was authorized to order controlled substances for the pharmacy and to possess controlled substances in his capacity as the Registrant's PIC, he was generally authorized to do so only for the purpose of dispensing the controlled substances to patients ''pursuant to the lawful order of a practitioner,'' *i.e.,* a prescription.[9] *See* 21 U.S.C. 822(b) (''Persons registered by the Attorney General under this subchapter to . . . dispense controlled substances . . . are *authorized to possess . . . distribute, or dispense such substance . . . to the extent authorized by their registration and in conformity with the other provision of this subchapter.*'') (emphasis added); *id.* § 823(f) (''The Attorney general shall register practitioners (including pharmacies, as distinguished from pharmacists) to dispense . . . .''). *id.* § 802 (''The term 'dispense' means to deliver a controlled

[7] In short, this is not a contest in which score is kept; the Agency is not required to mechanically count up the factors and determine how many favor the Government and how many favor the registrant. Rather, it is an inquiry which focuses on protecting the public interest; what matters is the seriousness of the registrant's or applicant's misconduct. *Jayam Krishna-Iyer,* 74 FR 459, 462 (2009). Accordingly, as the Tenth Circuit has recognized, findings under a single factor can support the revocation of a registration. *MacKay,* 664 F.3d at 821.

[8] The Government submitted no evidence as to Factor One. As to Factor Three, the Government submitted evidence that after issuance of the Show Cause Order, Chapman pled guilty in state court to Obtaining Possession of a Controlled Substance by Fraud. While the evidence also includes a Post-Conviction Procedural Order but not a Judgment, the Government did not allege Chapman's conviction for this offense as grounds for the proceeding. However, even if a Judgment has been issued, the Government did not provide him with notice that it intended to rely on either Factor Three or 21 U.S.C. 824(a)(2). Thus, I consider Chapman's guilty plea only as additional evidence to support the allegations (not that such evidence is needed).

In its Request for Final Agency Action, the Government did not address the applicability of Factor Two (the Registrant's experience in dispensing controlled substances) to the various acts of misconduct that were alleged and proved. As explained in this Decision, the record establishes that Registrant engaged in the unlawful distribution of controlled substances and committed various recordkeeping violations. These acts of misconduct are relevant in assessing both Registrant's compliance with applicable laws related to controlled substances as well as its experience in dispensing controlled substances.

[9] Under a DEA regulation, a pharmacy is also allowed to distribute a small quantity of controlled substances to another practitioner ''without being registered to distribute,'' provided that ''[t]he practitioner to whom the controlled substance is to be distributed is registered under the Act to dispense that controlled substance.'' 21 CFR 1307.11(a). Those distributions cannot, however, exceed, on a ''calendar year'' basis, ''5 percent of the total number of dosage units of all controlled substances distributed and dispensed by the practitioner during the same calendar year.'' *Id.* Chapman's distribution of controlled substances to himself does not come within this exemption.

substance to an ultimate user . . . by, or pursuant to the lawful order of, a practitioner''); *see also* 21 CFR 1300.01(a) (''*Prescription* means an order for medication which is dispensed to or for an ultimate user but does not include an order for medication which is dispensed for immediate administration to the ultimate user . . . .''). As Registrant's PIC, Chapman was not authorized to then distribute the controlled substances to himself. Moreover, because under West Virginia law, a limited liability company has legal personality (*see* West Va. § 841(a)(1)) and Chip RX, L.L.C., held the registration, it unlawfully distributed controlled substances to Chapman in violation of 21 U.S.C. 841(a)(1) (''Except as authorized by this subchapter, it shall be unlawful for any person knowing or intentionally . . . to distribute . . . a controlled substance.'').

The evidence also shows that Registrant (and Chapman) violated the CSA by failing maintain ''a complete and accurate'' record of each such [controlled] substance . . . received, sold, delivered or otherwise disposed of . . . .'' 21 U.S.C. § 827(a)(3). Specifically, Chapman admitted that he shredded invoices from suppliers. *See id., see also* 21 CFR 1304.04(a) (requiring that records be kept ''for at least 2 years from the date of such inventory or records''); *id.* § 1304.22(c) (incorporating 21 CFR 1304.22(a)(2)(i), (ii), (iv), (vii), (ix)). Indeed, Registrant was required to maintain records of its distribution to Chapman.

Moreover, Chapman admitted that he destroyed both schedule II order forms and CSOS (Controlled Substance Ordering System) electronic records. Chapman's admission establishes that Registrant violated 21 U.S.C. 828(c)(2), which requires that a purchaser of a schedule II controlled substance retain a duplicate copy of a DEA Order Form ''if such order is accepted'' by a supplier and ''preserve such duplicate for a period of two years and make it available for inspection or copying.'' Chapman's admission also establishes that Registrant violated section 828(c)(2) by failing to maintain CSOS records. *See also* 21 CFR 1305.27(a) (''A purchaser must, for each order filled, retain the original signed order and all linked records for that order for two years.'').

Thus, the evidence with respect to Registrant's compliance with applicable laws related to controlled substances establishes that Registrant committed numerous violations of the CSA by unlawfully distributing controlled substances to Chapman in violation of 21 U.S.C. 841(a)(1); it also shows that Registrant and Chapman violated the recordkeeping provisions of 21 U.S.C. 827(a)(3), as well as provisions requiring the maintenance of schedule II order forms. 21 U.S.C. 828(a)(2). Finally, the evidence also shows that Registrant's principal and PIC violated 21 U.S.C. 844(a) by obtaining controlled substances other than by means ''pursuant to a valid prescription . . . from a practitioner, while acting in the course of his professional practice, or except as otherwise authorized by'' the CSA.

Factor Five—Such Other Conduct Which May Threaten Public Health and Safety

The Agency has also long held that self-abuse of a controlled substance constitutes such other conduct which may threaten public health and safety. *See Tyson D. Quy,* 78 FR 47412 (2013); *Tony T. Bui,* 75 FR 49979 (2010); *Kenneth Wayne Green, Jr.,* 59 FR 51453 (1994); *David E. Trawick,* 53 FR 5,326 (1988). While Registrant is not an individual but rather a limited liability company, the Agency has long held that the misconduct of an entity's principal is properly considered in determining whether to revoke the entity's registration. *See G & O Pharmacy of Paducah,* 68 FR 43752, 43753 (2003). That Chapman's personal abuse of controlled substances, which includes his abuse of cocaine, narcotics, and marijuana on the job, may have threatened public health and safety is indisputable given the evidence that he incorrectly filled a prescription and pharmacy staff had to correct his error.[10]

The Government also alleged that Chapman made several materially false statements to agency Investigators. As recognized by the Sixth Circuit,''[c]andor during DEA investigations, regardless of the severity of the violations alleged, is considered by the DEA to be an important factor when assessing whether a [practitioner's] registration is consistent with the public interest.'' *Hoxie* v. *DEA,* 419 F.3d 477, 483 (6th Cir. 2005). To be actionable, the Government is required to show that the statement was false and material to the investigation. *See Roy S. Schwartz,* 79 FR 34360, 34363 n.6 (2014); *Belinda R. Mori,* 78 FR 36582, 36589 (2013).

As the Supreme Court has explained, a false statement is material if it '' 'has a natural tendency to influence, or was capable of influencing the decision of the decisionmaking body to which it was addressed.' '' *Kungys* v. *United States,* 485 U.S. 755, 770 (1988) (quoting *Weinstock* v. *United States,* 231 F.2d 699, 701 (D.C. Cir. 1956)). The Court has further explained that:

> it has never been the test of materiality that the misrepresentation . . . would more likely than not have produced an erroneous decision, or even that it would more likely than not have triggered an investigation. Rather, the test is whether the misrepresentation . . . was predictably capable of affecting, *i.e.,* had a natural tendency to affect, the official decision.

485 U.S. at 770–71. ''It makes no difference that a specific falsification did not exert influence so long as it had the capacity to do so.'' *United States* v. *Alemany Rivera,* 781 F.2d 229, 234 (1st Cir. 1985).

The evidence establishes that Chapman made several materially false statements to the Investigators. First, Chapman told the Investigators during the June 30, 2016 interview that ''10 to 15 oxycodone or hydrocodone pills would be missing from the [p]harmacy . . . perhaps 15–20 times in the prior year'' and that Registrant had ''a total loss of perhaps 300 oxycodone and hydrocodone pills.'' Second, during the June 30, 2016 interview, Chapman ''denied that he was abusing prescription drugs'' and attributed the diversion to fill-in pharmacists he employed who were previous drug abusers and were hired through a State Board rehabilitation program. He also ''denied knowing anything further about the nature of the [p]harmacy's losses'' of controlled substances.

Chapman's statements regarding the scope of the diversion of drugs from Registrant were false because the diversion was far more extensive than what he claimed during the June 30 interview, as he ultimately admitted during the July 22, 2016 interview, when he acknowledged diverting 200 to 300 milligrams per day of oxycodone or hydrocodone for personal use. So too, his statements during the June 30 interview in which he denied that he was abusing drugs, as well as that he knew anything further about the nature of the pharmacy's losses, were also false as he ultimately admitted during the July 22 interview that he was abusing narcotic prescription drugs and was diverting large quantities on a daily basis.

I further conclude that these statements were capable of influencing the decisionmaking process of the Agency because Chapman attempted to minimize the scope of the criminal conduct that was occurring at

[10] Factor Five does not require that the Government prove an actual threat to public health or safety and thus, the Government is not required to identify any specific instance in which a practitioner's (or its employee's) self-abuse created an actual threat to the health and safety of its patients.

Registrant, both with respect to the volume of drugs being diverted and by denying that he was engaged in diverting and abusing the controlled substances. As explained above, Registrant's and Chapman's misconduct in diverting drugs, which the latter personally abused, was actionable misconduct under both Factor Four (compliance with applicable laws related to controlled substances) and Factor Five (other conduct which may threaten public health and safety). As the DI explained, had Chapman been candid during the June 30, 2016 interview, he and his colleagues ''would have pursued immediate criminal action against Chapman'' as well as administrative action against Registrant. Indeed, Chapman's subsequent admissions during the July 22, 2016 interview supported both criminal charges against Chapman and the Immediate Suspension Order.

Accordingly, I conclude that the evidence with respect to Factor Five establishes that Registrant's principal was abusing controlled substances and that he made several materially false statements to DEA investigators. I also conclude that these acts constitute actionable misconduct which may threaten public health and safety.

Summary of Factors Four and Five and Imminent Danger

As found above, the Government's evidence establishes that Registrant unlawfully distributed controlled substances to Chapman and failed to maintain required records. The evidence also establishes that Registrant's principal and pharmacist in charge unlawfully possessed controlled substances, destroyed records that Registrant was required to maintain, abused controlled substances and made materially false statements to DEA Investigators. I therefore find that Registrant has committed such acts as to render its registration inconsistent with the public interest. 21 U.S.C. 824(a)(4).

For purposes of the imminent danger inquiry, these findings also support the conclusion that Registrant has ''fail[ed] . . . to maintain effective controls against diversion or otherwise comply with the obligations of a registrant under'' the CSA. 21 U.S.C. 824(d)(2). Also, the evidence that Chapman was diverting 200 to 300 milligrams of narcotics per day, which he then abused (along with the evidence showing that he was hospitalized for an overdose on multiple occasions), establishes that there was ''a substantial likelihood of an immediate threat that death, serious bodily harm, or abuse of a controlled substance [would] occur in the absence of the immediate suspension of [Registrant'] registration.'' *Id.* I therefor affirm the issuance of the Immediate Suspension Order.

Pursuant to 21 U.S.C. 824(f), ''[u]pon a revocation order becoming final, all . . . controlled substances'' seized pursuant to a suspension order ''shall be forfeited to the United States'' and ''[a]ll right, title, and interest in such controlled substances shall vest in the United States upon a revocation order becoming final.'' As the Agency has previously held, a registrant cannot defeat the effect of this provision by allowing its registration to expire.'' *S & S Pharmacy, Inc., d/b/a Platinum Pharmacy & Compounding,* 78 FR 57656, 57659 (2013) (citing *Meetinghouse Community Pharmacy, Inc.,* 74 FR 10073, 10074 n.5 (2009); *RX Direct Pharmacy, Inc.,* 72 FR 54070, 54072 n.4 (2007)). Registrant had the right to challenge the Immediate Suspension Order before the Agency but chose not to. And had Registrant not allowed its registration to expire, I would have revoked it.

Accordingly, I will order that the controlled substances seized pursuant to the Immediate Suspension Order be forfeited to the United States. 21 U.S.C. 824(f). I will also declare that ''[a]ll, right, title, and interest in'' the controlled substances that were seized pursuant to the Suspension Order have vested in the United States. *Id.*

Order

Pursuant to the authority vested in me by 21 U.S.C. 824(a) and (d), as well as 28 CFR 0.100(b), I order that the Order of Immediate Suspension issued to Chip RX d/b/a City Center Pharmacy be, and it hereby is, affirmed. Pursuant to the authority vested in me by 21 U.S.C. 824(f), I order that all controlled substances seized pursuant to the Order of Immediate Suspension be, and they hereby are, forfeited to the United States. Pursuant to the authority vested in me by 21 U.S.C. 824(f), I also declare that all right, title, and interest in all controlled substances seized pursuant to the Order of Immediate Suspension be, and they hereby are, vested in the United States. This Order is applicable December 6, 2017.

Dated: October 31, 2017.

Robert W. Patterson,

Acting Administrator.

[FR Doc. 2017–24093 Filed 11–3–17; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Bulk Manufacturer of Controlled Substances Application: Cerilliant Corporation

ACTION: Notice of application.

DATES: Registered bulk manufacturers of the affected basic classes, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration on or before January 5, 2018.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/DRW, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: The Attorney General has delegated his authority under the Controlled Substances Act to the Administrator of the Drug Enforcement Administration (DEA), 28 CFR 0.100(b). Authority to exercise all necessary functions with respect to the promulgation and implementation of 21 CFR part 1301, incident to the registration of manufacturers, distributors, dispensers, importers, and exporters of controlled substances (other than final orders in connection with suspension, denial, or revocation of registration) has been redelegated to the Assistant Administrator of the DEA Diversion Control Division (''Assistant Administrator'') pursuant to section 7 of 28 CFR part 0, appendix to subpart R.

In accordance with 21 CFR 1301.33(a), this is notice that on May 23, 2017, Cerilliant Corporation, 811 Paloma Drive, Suite A, Round Rock, Texas 78665–2402 applied to be registered as a bulk manufacturer of the following basic classes of controlled substances:

Controlled substance	Drug code	Schedule
ADB-FUBINACA (N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-)4-fluorobenzyl)-1-H-indazole-3-carboxamide)	7010	I
MDMB-FUBINACA (Methyl-2-(1-(4-fluorobenzyl)-1H-indazole-3-carboxamido)-3,3-dimethylbutanoate)	7020	I
MAB-CHMINACA (N-(1-amino-3,3dimethyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)-1H-indazole-3-carboxamide)	7032	I

Controlled substance	Drug code	Schedule
5F-AMB (Methyl 2-(1-(5-fluoropentyl)-1-1H-indazole-3-carboxamido)-3-methylbutanoate)	7033	I
5F-ADB;5F-MDMB-PINACA (Methyl 2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3,3-dimethylbutanoate)	7034	I
MDMB-CHMICA, MMB-CHMINACA (Methyl 2-(1-(cyclohenxylmethyl)-1H-indole-3-carboxamido)-3,3-dimethylbutanoate).	7042	I
5F-APINACA, 5F-AKB48 (N-(adamantan-1-yl)-1-(5-fluoropentyl)-1-1H-indazole-3-carboxamide)	7049	I
U-47700 (3,4-dichloro-N-[2-(dimethylamino)cyclohexyl]-N-methylbenzamide)	9547	I
Acryl fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylacrylamide)	9811	I
4-Fluoroisobutyryl fentanyl (N-(4-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)isobutyramide)	9824	I
Furanyl fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylfuran-2-carboxamide)	9834	I

The company plans to manufacture small quantities of the listed controlled substances to make reference standards which will be distributed to its customers.

Dated: October 27, 2017.

Demetra Ashley,

Acting Assistant Administrator.

[FR Doc. 2017–24090 Filed 11–3–17; 8:45 am]

BILLING CODE 4410–09–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: (16–083)]

Centennial Challenges: 3D-Printed Habitat Challenge

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of Centennial Challenges 3D-Printed Habitat Challenge Phase 3: On-Site Habitat Competition.

SUMMARY: The 3D-Printed Habitat (3DPH) Challenge Phase 3 On-Site Habitat Competition is open, and teams that wish to compete may now register. Centennial Challenges is a program of prize competitions to stimulate innovation in technologies of interest and value to NASA and the nation. The 3DPH Challenge Phase 3 On-Site Habitat Competition is a prize competition with a $2,000,000 total prize purse to develop and demonstrate capabilities to autonomously manufacture through 3D-printing technologies a habitat on another planetary body using mission recycled materials and/or local indigenous materials. The Phase 3 competition consists of 5 levels. This technology demonstration competition has great potential value for terrestrial applications.

DATES: Challenge registration opens November 7, 2017, and will remain open until February 15, 2018. Early and Late registrations are available with discount or late fee respectively. Competitors will be allowed the option to participate in the Virtual Construction competitions levels 1 & 4 only with a reduced registration fee.

Other important dates:

May 16, 2018 Level 1: Virtual Construction Building Information Modeling (BIM)—60% Design Results due to Judges

July 11, 2018 Level 2: Foundation Test Results due to Judges

December 5, 2018 Level 3: Hydrostatic Test Results due to Judges

January 16, 2019 Level 4: Virtual Construction BIM—100% Design Results due to Judges

April 29—May 4, 2019 Level 5: Subscale Habitat Competition

ADDRESSES: The Level 5 On-Site Subscale Habitat Head-to-Head challenge competition will take place at: Caterpillar Edwards Demonstration and Learning Center, 5801 N. Smith Rd., Edwards, IL 61528.

FOR FURTHER INFORMATION CONTACT: To register for or get additional information regarding the 3D Printed Habitat Challenge, please visit: *http://bradley.edu/challenge* For general information on the NASA Centennial Challenges Program please visit: *http://www.nasa.gov/challenges.* General questions and comments regarding the program should be addressed to Monsi Roman, Centennial Challenges Program, NASA Marshall Space Flight Center Huntsville, AL 35812. Email address: *hq-stmd-centennialchallenges@mail.nasa.gov.*

SUPPLEMENTARY INFORMATION:

Summary

The 3DPH Challenge Phase 3 Competition (On-Site Habitat) follows earlier phases of the Challenge as described below.

- *Design Competition (Phase 1)*—focused on developing innovative habitat architectural concepts that take advantage of the unique capabilities that 3D-Printing offers (completed in 2015).
- *Structural Member Competition (Phase 2)*—focused on the core 3D-Printing fabrication technologies and materials properties needed to manufacture structural components from indigenous materials combined with recyclables, or indigenous materials alone (completed in 2017).

The current competition, Phase 3 (On-Site Habitat), will focus on the technology for autonomous 3D-printing and construction of a complete 1:3 subscale habitat (~10 m^2). This competition will involve elements from Phase 1 design and Phase 2 materials to demonstrate the technology for autonomous construction needed for building a habitat on another planet or even on remote locations on Earth.

A Phase 4 competition (Full-Scale Habitat), calling for the development of an autonomous 3D-printed construction of a full-scale habitat (~93 m^2), is planned to be announced at a later date.

I. Prize Amounts

The 3D Printed Habitat Challenge Phase 3 On-Site Habitat Competition purse is $2,000,000 (two million dollars) to be disbursed as follows:

Level 1: Virtual Construction BIM—60% Design

$100,000 total prize money to be awarded to top 5 qualifiers based on scoring, as articulated in the competition rules.

Level 2: Foundation Test

$400,000 total prize money to be awarded to top 10 qualifiers based on scoring, as articulated in the competition rules.

Level 3: Hydrostatic Test

$600,000 total prize money to be awarded to top 8 qualifiers based on scoring, as articulated in the competition rules.

Level 4: Virtual Construction BIM—100% Design

$100,000 total prize money to be awarded to top 3 qualifiers based on scoring, as articulated in the competition rules.

Level 5: Subscale Habitat Competition

$500,000 to first place
$200,000 to second place
$100,000 to third place

These awards will be made based on scoring, as articulated in the competition rules.

II. Eligibility

To be eligible to win a prize, competitors must:

(1) Register and comply with all requirements in the rules and Team Agreement;

(2) In the case of a private entity, shall be incorporated in and maintain a primary place of business in the United States, and in the case of an individual, whether participating singly or in a group, shall be a citizen or permanent resident of the United States; and

(3) Not be a Federal entity or Federal employee acting within the scope of their employment.

III. Rules

The complete rules for the 3D-Printed Habitat Challenge Phase 3 competition can be found at: *http://bradley.edu/challenge*

This notice is issued in accordance with 51 U.S.C. 20144(c).

Cheryl Parker,

NASA Federal Register Liaison Officer.

[FR Doc. 2017–24107 Filed 11–3–17; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: (17–084)]

NASA Advisory Council; Science Committee; Meeting.

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, as amended, the National Aeronautics and Space Administration (NASA) announces a meeting of the Science Committee of the NASA Advisory Council (NAC). This Committee reports to the NAC. The meeting will be held for the purpose of soliciting, from the scientific community and other persons, scientific and technical information relevant to program planning.

DATES: Tuesday, November 28, 2017, 8:30 a.m.–5:00 p.m.; and Wednesday, November 29, 2017, 8:30 a.m.–12:00 p.m., Local Time.

ADDRESSES: NASA Headquarters, MIC–5A (Room 5H41–A), 300 E Street SW., Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Ms. KarShelia Henderson, Science Mission Directorate, NASA Headquarters, Washington, DC 20546, (202) 358–2355, fax (202) 358–2779, or *khenderson@nasa.gov.*

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the capacity of the room. This meeting will also be available telephonically and by WebEx. You must use a touch-tone phone to participate in this meeting. Any interested person may dial the toll free number 1–888–592–9603 or toll number 1–312–470–7407, passcode 5588797, on both days, to participate in this meeting by telephone. The WebEx link is *https://nasa.webex.com/;* the meeting number is 996 484 573 and the password is SC@Nov2017 (case sensitive) for both days. The agenda for the meeting includes the following topics:

— Science Mission Directorate Missions and Programs
— Research and Analysis
— Big Data Task Force

Attendees will be requested to sign a register and to comply with NASA Headquarters security requirements, including the presentation of a valid picture ID to Security before access to NASA Headquarters. Foreign nationals attending this meeting will be required to provide a copy of their passport and visa in addition to providing the following information no less than 10 days prior to the meeting: Full name; gender; date/place of birth; citizenship; passport information (number, country, telephone); visa information (number, type, expiration date); employer/affiliation information (name of institution, address, country, telephone); title/position of attendee. To expedite admittance, attendees that are U.S. citizens and Permanent Residents (green card holders) are requested to provide full name and citizenship status 3 working days in advance. Information should be sent to Ms. KarShelia Henderson, via email at *khenderson@nasa.gov* or by fax at (202) 358–2779. It is imperative that the meeting be held on these dates to the scheduling priorities of the key participants.

Carol J. Hamilton,

Acting Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 2017–24108 Filed 11–3–17; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL CREDIT UNION ADMINISTRATION

Agency Information Collection Activities: Proposed Collection; Comment Request; Minority Depository Institution Preservation Program

AGENCY: National Credit Union Administration (NCUA).

ACTION: Notice and request for comment.

SUMMARY: The National Credit Union Administration (NCUA), as part of a continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on the following renewal of a currently approved collection, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments should be received on or before January 5, 2018 to be assured consideration.

ADDRESSES: Interested persons are invited to submit written comments on the information collections to Dawn Wolfgang, National Credit Union Administration, 1775 Duke Street, Suite 5080, Alexandria, Virginia 22314; Fax No. 703–519–8579; or Email at *PRAComments@NCUA.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to the address above or telephone 703–548–2279.

SUPPLEMENTARY INFORMATION:

OMB Number: 3133–0195.

Title: Minority Depository Institution Preservation Program.

Abstract: The Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) (Pub. L. 111–203, 124 Stat. 1376) amended Financial Institution Reform, Recovery, and Enforcement Act (FIRREA) § 308 to require the NCUA, Office of the Comptroller of Currency, and the Federal Reserve Board to establish a program to comply with its goals to preserve and encourage Minority Depository Institutions (MDIs). The NCUA Board issued Interpretive Ruling and Policy Statement (IRPS) 13–1 establishing a MDI preservation program to comply with FIRREA § 308 goals. The IRPS identifies the procedure for a federally insured credit union to determine and document its ability to designate itself as a MDI, resulting in the ability to participate in the Program.

Type of Review: Revision of a currently approved collection.

Affected Public: Private Sector: Not-for-profit institutions.

Estimated No. of Respondents: 71.

Estimated Annual Frequency: 1.08.

Estimated Annual Number of Responses: 77.

Estimated Burden Hours per Response: 0.62.

Estimated Total Annual Burden Hours: 48.

Reason for Change: A change in the asset threshold used to define the term ''small entity'' increase from the previous PRA approval, which increased the number of credit unions that fell under the ''small entity'' threshold definition; but because the

decline in the number of credit unions, a reduction in the number of respondents is being reported. Adjustments are also being made to remove duplicative burden associated the reporting of MDI status.

Request for Comments: Comments submitted in response to this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will become a matter of public record. The public is invited to submit comments concerning: (a) Whether the collection of information is necessary for the proper execution of the function of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of the information on the respondents, including the use of automated collection techniques or other forms of information technology.

By Gerard Poliquin, Secretary of the Board, the National Credit Union Administration, on November 1, 2017.

Dated: November 1, 2017.

Dawn D. Wolfgang,

NCUA PRA Clearance Officer.

[FR Doc. 2017–24061 Filed 11–3–17; 8:45 am]

BILLING CODE 7535–01–P

NATIONAL TRANSPORTATION SAFETY BOARD

Sunshine Act Meeting

TIME AND DATE: 9:30 a.m., Tuesday, November 28, 2017

PLACE: NTSB Conference Center, 429 L'Enfant Plaza SW., Washington, DC 20594.

STATUS: The one item is open to the public.

MATTERS TO BE CONSIDERED:

57233 Highway Accident Report—*Agricultural Labor Bus and Truck-Tractor Collision at US–98–SR–363 Intersection Near St. Marks, Florida, July 2, 2016.*

NEWS MEDIA CONTACT: Telephone: (202) 314–6100.

The press and public may enter the NTSB Conference Center one hour prior to the meeting for set up and seating.

Individuals requesting specific accommodations should contact Rochelle McCallister at (202) 314–6305 or by email at *Rochelle.McCallister@ntsb.gov* by Wednesday, November 22, 2017.

The public may view the meeting via a live or archived webcast by accessing a link under ''News & Events'' on the NTSB home page at *www.ntsb.gov.*

Schedule updates, including weather-related cancellations, are also available at *www.ntsb.gov.*

FOR MORE INFORMATION CONTACT: Candi Bing at (202) 314–6403 or by email at *bingc@ntsb.gov.*

FOR MEDIA INFORMATION CONTACT: Terry Williams at (202) 314–6100 or by email at *terry.williams@ntsb.gov.*

Dated: November 1, 2017.

Candi R. Bing,

Federal Register Liaison Officer.

[FR Doc. 2017–24133 Filed 11–2–17; 11:15 am]

BILLING CODE 7533–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2017–0001]

Sunshine Act Meeting Notice

DATE: Weeks of November 6, 13, 20, 27, December 4, 11, 2017.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

Week of November 6, 2017

There are no meetings scheduled for the week of November 6, 2017.

Week of November 13, 2017—Tentative

There are no meetings scheduled for the week of November 13, 2017.

Week of November 20, 2017—Tentative

There are no meetings scheduled for the week of November 20, 2017.

Week of November 27, 2017—Tentative

Tuesday, November 28, 2017

10:00 a.m. Briefing on Security Issues (Closed—Ex. 1)

Thursday, November 30, 2017

10:00 a.m. Briefing on Equal Employment Opportunity, Affirmative Employment, and Small Business (Public) (Contact: Larniece McKoy Moore: 301–415–1942)

This meeting will be webcast live at the Web address—*http://www.nrc.gov/.*

Week of December 4, 2017—Tentative

There are no meetings scheduled for the week of December 4, 2017.

Week of December 11, 2017—Tentative

Tuesday, December 12, 2017

9:00 a.m. Hearing on Combined Licenses for Turkey Point, Units 6 and 7: Section 189a. of the Atomic Energy Act Proceeding (Public Meeting) (Contact: Manny Comar: 301–415–3863)

This meeting will be webcast live at the Web address—*http://www.nrc.gov/.*

* * * * *

The schedule for Commission meetings is subject to change on short notice. For more information or to verify the status of meetings, contact Denise McGovern at 301–415–0681 or via email at *Denise.McGovern@nrc.gov.*

* * * * *

The NRC Commission Meeting Schedule can be found on the Internet at: *http://www.nrc.gov/public-involve/public-meetings/schedule.html.*

* * * * *

The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (*e.g.,* braille, large print), please notify Kimberly Meyer, NRC Disability Program Manager, at 301–287–0739, by videophone at 240–428–3217, or by email at *Kimberly.Meyer-Chambers@nrc.gov.* Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

* * * * *

Members of the public may request to receive this information electronically. If you would like to be added to the distribution, please contact the Nuclear Regulatory Commission, Office of the Secretary, Washington, DC 20555 (301–415–1969), or email *Brenda.Akstulewicz@nrc.gov* or *Patricia.Jimenez@nrc.gov.*

Dated: November 1, 2017.

Denise L. McGovern,

Policy Coordinator, Office of the Secretary.

[FR Doc. 2017–24140 Filed 11–2–17; 11:15 am]

BILLING CODE 7590–01–P

POSTAL REGULATORY COMMISSION

[Docket Nos. CP2016–128; CP2017–77; CP2018–37; CP2018–38; CP2018–39; MC2018–18 and CP2018–40; MC2018–19 and CP2018–41]

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

negotiated service agreements. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* November 8, 2017 and November 9, 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: The November 8, 2017 comment due date applies to Docket Nos. CP2018–37; CP2018–38; CP2018–39; MC2018–18 and CP2018–40; MC2018–19 and CP2018–41.

The November 9, 2017 comment due date applies to Docket Nos. CP2016–128 and CP2017–77.

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).:* CP2016–128; *Filing Title:* USPS Notice of Change in Prices Pursuant to Amendment to Priority Mail Contract 199*:* October 31, 2017; *Filing Authority:* 39 CFR 3015.5; *Public Representative:* Timothy J. Schwuchow; *Comments Due:* November 9, 2017.

2. *Docket No(s).:* CP2017–77; *Filing Title:* USPS Notice of Change in Prices Pursuant to Amendment to Priority Mail Contract 274; *Date:* October 31, 2017; *Filing Authority:* 39 CFR 3015.5; *Public Representative:* Timothy J. Schwuchow; *Comments Due:* November 9, 2017.

3. *Docket No(s).:* CP2018–37; *Filing Title:* Notice of United States Postal Service of Filing a Functionally Equivalent Global Expedited Package Services 7 Negotiated Service Agreement and Application for Non-Public Treatment of Materials Under Seal; *Filing Acceptance Date:* October 31, 2017; *Filing Authority:* 39 CFR 3015.5; *Public Representative:* Jennaca D. Upperman; *Comments Due:* November 8, 2017.

4. *Docket No(s).:* CP2018–38; *Filing Title:* Notice of United States Postal Service of Filing a Functionally Equivalent Alternative Delivery Provider 1 Negotiated Service Agreement and Application for Non-Public Treatment of Materials Under Seal; *Filing Acceptance Date:* October 31, 2017; *Filing Authority:* 39 CFR 3015.5; *Public Representative:* Christopher C. Mohr; *Comments Due:* November 8, 2017.

5. *Docket No(s).:* CP2018–39; *Filing Title:* Notice of United States Postal Service of Filing a Functionally Equivalent Global Expedited Package Services 8 Negotiated Service Agreement and Application for Non-Public Treatment of Materials Under Seal; *Filing Acceptance Date:* October 31, 2017; *Filing Authority:* 39 CFR 3015.5; *Public Representative:* Christopher C. Mohr; *Comments Due:* November 8, 2017.

6. *Docket No(s).:* MC2018–18 and CP2018–40; *Filing Title:* USPS Request to Add Priority Mail Express & Priority Mail Contract 52 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* October 31, 2017; *Filing Authority:* 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.; Public Representative:* Katalin K. Clendenin; *Comments Due:* November 8, 2017.

7. *Docket No(s).:* MC2018–19 and CP2018–41; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail & First-Class Package Service Contract 24 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* October 31, 2017; *Filing Authority:* 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.; Public Representative:* Katalin K. Clendenin; *Comments Due:* November 8, 2017.

This notice will be published in the **Federal Register**.

Ruth Ann Abrams,

Acting Secretary.

[FR Doc. 2017–24094 Filed 11–3–17; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL SERVICE

Product Change—Priority Mail Express, Priority Mail, & 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):* November 6, 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 October 31, 2017, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Express, Priority Mail, & First-Class Package Service Contract 23 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2018–19, CP2018–41.

Elizabeth A. Reed,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2017–24040 Filed 11–3–17; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail Express and Priority Mail Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of notice required under 39 U.S.C. 3642(d)(1):* November 6, 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 October 31, 2017, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Express & Priority Mail Contract 52 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2018–18, CP2018–40.

Elizabeth A. Reed,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2017–24039 Filed 11–3–17; 8:45 am]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81990; File No. SR–DTC–2017–020]

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Establish a Special Segregation Account for a Participant or Pledgee That Is a Derivatives Clearing Organization or Futures Commission Merchant

October 31, 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 October 20, 2017, The Depository Trust Company (''DTC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by DTC. DTC filed the proposed rule change pursuant to section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(6) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

The proposal would add new Rule 37 (Segregated Accounts for Customer Property) to provide that a Participant[5] or Pledgee may establish a specifically designated Account to which Eligible Securities may be credited that the Participant or Pledgee wishes to segregate as the property of its customers that trade commodities, options, swaps, and other products (''Customer Property'') subject to the Customer Property Segregation Rules.[6] Based on this segregation structure and the representations and warranties made by the Participant or Pledgee under the proposed Rule, DTC would, upon the request of the Participant or Pledgee, provide an acknowledgment of the segregation of such Customer Property,[7] as further described below.

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, DTC 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. DTC has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6).

[5] Each capitalized term not otherwise defined herein has its respective meaning as set forth in the Rules, By-Laws and Organization Certificate of The Depository Trust Company (the ''Rules''), available at *http://www.dtcc.com/legal/rules-and-procedures.aspx.*

[6] ''Customer Property Segregation Rules'' means the rules and regulations of the Commodity Futures Trading Commission (''CFTC''), relating to the deposit of customer property (including money, securities and other property) held by derivatives clearing organizations (''DCOs'') or futures commission merchants (''FCMs'') for customers that trade commodities, options, swaps and other products. 7 U.S.C. 6d; 17 CFR 1.20–1.30, 22, 30. Under the proposed rule change, only Deposited Securities credited to an appropriately designated Account may constitute ''Customer Property'' for purposes of such Customer Property Segregation Rules; DTC does not, and will not under the proposed rule change, segregate money.

[7] *See* 7 U.S.C. 6d(a)(2); 7 U.S.C. 6d(f); 17 CFR 1.20(d); 1.20(g); 1.26; 22.5; 30.7.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The proposal would add new Rule 37 (Segregated Accounts for Customer Property) to provide that a Participant or Pledgee may establish a specifically designated Account to which Eligible Securities may be credited that the Participant or Pledgee wishes to segregate as Customer Property subject to the Customer Property Segregation Rules. Based on this segregation structure and the representations and warranties made by the Participant or Pledgee under the proposed Rule, DTC would, upon the request of the Participant or Pledgee, provide an acknowledgment of the segregation of such Customer Property, as further described below.

A. Background

a. DTC Omnibus Account Structure

DTC maintains omnibus Accounts for its Participants and Pledgees.[8] That is, it

[8] DTC holds Eligible Securities collectively on behalf of Participants and reflects the transfer of interests in those Eligible Securities among Participants by computerized book-entry. Eligible Securities Deposited with DTC for book-entry transfer services are registered in the name of its nominee, Cede & Co. (''Cede''), a New York partnership. When the Eligible Securities are registered in the name of Cede, DTC acquires legal title to the Eligible Securities and, when DTC credits interests in these Eligible Securities to the Securities Accounts of Participants, those Participants acquire a beneficial interest in the Eligible Securities and a Security Entitlement with respect to those Eligible Securities is credited to their Accounts. A Security Entitlement is both a package of personal rights against the securities intermediary [in this case, DTC] and an interest in the property held by the securities intermediary. NYUCC § 8–102(14)(i); NYUCC § 8–102(17) and OFF. CMT. 17. A security entitlement is not, however, a specific property interest in any [security] held by the securities intermediary or by the clearing corporation through which the securities intermediary holds the [security]. NYUCC § 8–102(17) and OFF. CMT. 17. Thus, a Participant does not have a right to any particular security; each Participant has a proportionate interest in the fungible total inventory of the issue held by DTC.

Participants, in many cases, are themselves securities intermediaries, maintaining securities accounts for the benefit of their customers, crediting a portion of the amount of any issue of a Security held in their Account(s) to one or more customers, as securities entitlements of their customers against them. That is, their customers are entitlement holders, holding the rights and property interest represented by the amount of the security credited to their account(s) vis a vis the Participant. Some customers of a Participant may also be securities intermediaries, holding on behalf of, and maintaining securities accounts for, their own customers, and so forth. DTC does not know whether a Participant is holding interest in the Securities for itself or on behalf of its customers, as their securities intermediary.

This tiered system of intermediaries holding interests in securities for their respective customers is generally described as the ''indirect holding

does not distinguish among Accounts that Participants or Pledgees may use for activities that are proprietary or conducted by the Participant or Pledgee for the benefit of customer(s). The Rules expressly provide that ''[a] Participant or Pledgee which utilizes the services of [DTC] for another Person shall, so far as the rights of [DTC], and other Participants and Pledgees are concerned, be liable as principal.'' [9]

The Rules provide for Segregated Accounts that Participants have typically used to separate Securities held for their customers. The characteristics of a Segregated Account are, chiefly, that DTC has no lien on or claim to the Securities credited thereto to secure any obligation of the Participant to DTC.[10] Participants therefore use Segregated Accounts to separately identify customer property.[11]

The Rules also provide that Securities Pledged to a Pledgee (when credited to the Account of the Pledgee in a Free Pledge or, in a Pledge Versus Payment), are held free of any lien or other interest of DTC.[12] Thus, the Pledge mechanism is a tool that may be used by a Pledgee to segregate Securities at DTC.

If a Participant or Pledgee holds Segregated or Pledged Securities on behalf of customers, that would be reflected in the accounts maintained by the Participant or Pledgee for its customers. DTC has no knowledge of whether Securities credited in that manner are held by the Participant or Pledgee for customers. It is the sole responsibility of the Participant or Pledgee to maintain appropriate records on its own books to identify customer Securities separately.

b. Customer Property Segregation Rules of the CFTC

Because DTC is agnostic as to whether, when and how any Participant or Pledgee may be utilizing its Account for the benefit of customers, DTC cannot independently verify that any particular Securities are ''customer securities'' *vis-à-vis* the Participant or Pledgee. However, FCMs and DCOs have statutory requirements for the separate identification of Customer Property pursuant to the Customer Property Segregation Rules.[13] To accommodate this need of certain Participants or Pledgees that are FCMs or DCOs, DTC proposes this rule change, pursuant to which DTC would provide acknowledgment of Customer Property credited to the specified Accounts, in reliance on the representations of the Participant or Pledgee provided in the proposed Rule.[14]

The Customer Property Segregation Rules require that each FCM and DCO separately account for, and segregate from its own proprietary funds, all money, securities, or other property deposited by futures customers [15] for trading on designated contract markets.[16] The Customer Property Segregation Rules also provide that an FCM or DCO may only deposit futures customer property with a bank or trust company, and, additionally, an FCM may deposit with a DCO or another FCM (each, a ''depository'').[17] FCMs and DCOs are required to obtain a written acknowledgment from the depository in which the depository acknowledges and agrees to requirements and conditions set forth below (''Acknowledgment Letter'').[18] The Customer Property Segregation Rules prescribe the precise form of Acknowledgment Letter that is required for each the entity type (FCM and DCO) and the type of Customer Property.[19]

c. CFTC Required Acknowledgment Letter

Each Acknowledgment Letter must be executed in the form specified in the Customer Property Segregation Rules with no additions, deletions or modifications permitted.[20] In the Acknowledgement Letter, the depository is required to acknowledge and agree, among other things:

(1) That the FCM/DCO has opened or will open the subject account for the purpose of depositing, Customer Property, as required by Customer Property Segregation Rules, including Regulation 1.20, as amended;

(2) that the Customer Property held by the depository after being deposited into the subject account will be separately accounted for and segregated on the depository's books from the FCM/DCO's own funds and from any other funds or accounts held by the FCM/DCO in accordance with the Customer Property Segregation Rules;

(3) that such Customer Property may not be used by the depository or by the FCM/DCO to secure or guarantee any obligations that the FCM/DCO might owe the depository, and they may not be used by FCM/DCO to secure or obtain credit from the depository; and

(4) that the Customer Property in the subject account shall not be subject to any right of offset or lien for or on account of any indebtedness, obligations or liabilities the FCM/DCO has or may have owing to the depository.

An FCM Acknowledgment Letter has additional examination, connectivity, and information requirements.[21]

B. The Proposed Rule

DTC would, pursuant to the proposed rule change, establish an Account type that a Participant or Pledgee could use to segregate its Customer Property and provide DTC with the representations needed in order for DTC to execute FCM and DCO Acknowledgment Letters for such Accounts, as may be requested. Because DTC does not have independent knowledge of whether a Participant or Pledgee is utilizing an

system.'' *Id.* Any entitlement holder may only assert its rights to a security entitlement against its own securities intermediary; Participants and Pledgees are in contractual privity with DTC; their customers are not and do not have any claim against DTC to the security entitlement of the Participant. Such customers of a Participant would have securities entitlements against the Participant that is acting on their behalf as their ''securities intermediary.'' Such customers only have rights against the Participant, and not against the Participant's securities intermediary; *i.e.,* DTC. *See* NYUCC § 8–503 OFF. CMT. 2. (''The entitlement holder cannot assert rights directly against other persons, such as other intermediaries [DTC] through whom the intermediary [the Participants] holds the positions . . . .''). Moreover, DTC does not owe any duties to such customers. *See* NYUCC § 8–115 OFF. CMT. 4. (''[T]his section embodies one of the fundamental principles of the Article 8 indirect holding system rules—that a securities intermediary [DTC] owes duties only to its own entitlement holders [its Participants]'').

[9] Rule 2, section 2, *supra* note 5.

[10] Rule 1, section 1, *supra* note 5.

[11] Participants that are registered broker-dealers use Segregation Accounts as a tool to maintain compliance with their obligations under Rule 15c3–3 of the Act (''Customer Protection Rule''). 17 CFR 240.15c3–3. The Customer Protection Rule requires, among other things, that broker-dealers maintain control of all fully-paid or excess margin Securities they hold for the accounts of customers. Compliance with those obligations by such broker-dealers is external to DTC. *See* Rule 2, *supra* note 5.

[12] Rule 4(A), *supra* note 5.

[13] *See supra* note 6.

[14] DTC is proposing this rule change to provide Participants and Pledgees that may be FCMs or DCOs a mechanism to comply with their obligations under the Customer Property Segregation Rules.

[15] ''Futures Customer'' means, with certain exceptions outlined in 17 CFR 1.3(iiii), any person who uses a futures commission merchant, introducing broker, commodity trading advisor, or commodity pool operator as an agent in connection with trading in any contract for the purchase of sale of a commodity for future delivery or any option on such contract. *See* 17 CFR 1.3(iiii).

[16] *See* 17 CFR 1.20.

[17] 17 CFR 1.20(d); 1.20(g); 1.26; 22.5; 30.7. An FCM may also deposit customer property at a DCO or another FCM.

[18] 17 CFR 1.20, 1.26, 30.7. Although the Acknowledgment Letter requirement may relate to DTC, it is the sole obligation of the FCM or DCO. DTC is not subject to the Customer Property Segregation Rules, including without limitation, with respect to the Acknowledgement Letter.

[19] The Acknowledgment Letter requirements are set forth in 17 CFR l.20(d) and 1.26 (with respect to futures customer funds), 22.5 (with respect to cleared swaps customer collateral) and 30.7(d) (with respect to 30.7 customer funds-applicable to FCMs only). *See* Appendices A and B to 17 CFR 1.20; Appendix A to 17 CFR 1.26; Appendix E to 17 CFR 30.

[20] 17 CFR l.20(d)(2), 22.5(a) and 30.7(d)(2).

[21] *See* Appendix A to 17 CFR 1.20.

Account for the benefit of customers, in the absence of such representations, DTC would not be able to sign an Acknowledgement Letter.

The proposed rule change would add Rule 37 to the Rules, to provide for:

(1) The establishment and maintenance by a Participant or Pledgee that is a DCO or FCM (respectively, ''DCO Party'' and ''FCM Party'') of one or more segregated Accounts (respectively, a ''Segregated DCO Account'' or ''Segregated FCM Account'') for the purpose of holding interests in Customer Property;

(2) credits to and debits from Segregated DCO Accounts and Segregated FCM Accounts in the manner otherwise provided by in the Rules and Procedures;

(3) the representation of each DCO Party to DTC:

i. That the only interests in property that such DCO Party shall cause or allow to be credited to its Segregated DCO Account (or Accounts) shall be interests in Deposited Securities that constitute Customer Property;

ii. that interests in Customer Property credited to its Segregated DCO Account (or Accounts) shall not be used by such DCO Party to secure or otherwise guarantee any obligations that such DCO Party might owe to DTC;

iii. that interests in Customer Property credited to its Segregated DCO Account (or Accounts) shall not be subject to any right of offset or lien for or on account of any indebtedness, obligations or liabilities that such DCO Party may have owing to DTC; and

iv. that DTC shall be entitled to rely on the representations of such DCO Party in connection with any acknowledgment that DTC may be required to provide to such DCO Party and/or the CFTC pursuant to the Customer Property Segregation Rules or for any other purpose;

(4) the representation of each FCM Party to DTC:

i. That the only interests in property that such FCM Party shall cause or allow to be credited to its Segregated FCM Account (or Accounts) shall be interests in Deposited Securities that constitute Customer Property;

ii. that interests in Customer Property credited to its Segregated FCM Account (or Accounts) shall not be used by such FCM Party to secure or otherwise guarantee any obligations that such FCM Party might owe to DTC;

iii. that interests in Customer Property credited to its Segregated FCM Account (or Accounts) shall not be subject to any right of offset or lien for or on account of any indebtedness, obligations or liabilities that such FCM Party may have owing to DTC; and

iv. that DTC shall be entitled to rely on the representations of such FCM Party in connection with any acknowledgment that DTC may be required to provide to such FCM Party and/or the CFTC pursuant to the Customer Property Segregation Rules or for any other purpose;

(5) the representation of DTC to each DCO Party that interests in Customer Property credited to the Segregated DCO Account (or Accounts) of such DCO Party:

i. May not be used by DTC to secure or guarantee any obligations that such DCO Party might owe to DTC;

ii. may not be used by such DCO Party to secure or obtain credit from DTC; and

iii. shall not be subject to any right of offset or lien for or on account of any indebtedness, obligations or liabilities such DCO Party may have owing to DTC; provided, however, that this prohibition does not affect the right of DTC to recover funds advanced in the form of cash transfers, lines of credit, repurchase agreements or other liquidity arrangements DTC makes in lieu of liquidating non-cash assets held in the Segregated DCO Account (or Accounts) of such DCO Party or in lieu of converting cash held in the Segregated DCO Account (or Accounts) of such DCO Party to cash in a different currency;

(6) the representation of DTC to each FCM Party that interests in Customer Property credited to the Segregated FCM Account (or Accounts) of such FCM Party:

i. May not be used by DTC to secure or guarantee any obligations that such FCM Party might owe to DTC;

ii. may not be used by such FCM Party to secure or obtain credit from DTC; and

iii. shall not be subject to any right of offset or lien for or on account of any indebtedness, obligations or liabilities such FCM Party may have owing to DTC; provided, however, that this prohibition does not affect the right of DTC to recover funds advanced in the form of cash transfers, lines of credit, repurchase agreements or other liquidity arrangements DTC makes in lieu of liquidating non-cash assets held in the Segregated FCM Account (or Accounts) of such FCM Party or in lieu of converting cash held in the Segregated FCM Account (or Accounts) of such FCM Party to cash in a different currency;

(7) DTC's disclaimer of liability:

i. To any DCO Party or FCM Party as a result of DTC acting on an instruction from such DCO Party or FCM Party to credit to or debit from interests in Customer Property from a Segregated DCO Account or Segregated FCM Account, respectively;

ii. to any DCO Party or FCM Party as a result of (x) any loss or liability suffered or incurred by such DCO Party or FCM Party arising out of or relating to the matters subject to proposed Rule 37, unless caused directly by the gross negligence or willful misconduct of DTC or by a violation of Federal securities law by DTC for which there is a private right of action, or (y) any force majeure, market disruption or technical malfunction that prevents DTC from performing its obligations to such DCO Party or FCM Party pursuant to proposed Rule 37; and

iii. to any third party (including without limitation any customer of any DCO Party or FCM Party) for any reason; and a provision stating that in the event of a conflict between proposed Rule 37 and the provisions of any other Rule, the provisions of Proposed Rule 37 would govern.

Implementation Timeframe

The proposed rule change would be implemented 30 days after the date of filing, or such shorter time as the Commission may designate.

2. Statutory Basis

DTC believes that the proposed rule change is consistent with the requirements of the Act, and the rules and regulations thereunder applicable to DTC, in particular section 17A(b)(3)(F) of the Act [22] and Rule 17Ad–22(e)(21) thereunder.[23]

Section 17A(b)(3)(F) of the Act requires, *inter alia,* that the rules of the clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions.[24] The proposed rule change provides a basis on which DTC may provide Acknowledgement Letters, affording the efficiency of DTC book-entry transfers for securities transactions relating to Customer Property. By establishing special segregated Accounts for Participants and Pledgees to use for Customer Property held at DTC, where they otherwise would have the administrative burden of segregating Customer Property at another depository in compliance with the Customer Property Segregation Rules, proposed Rule 37 is designed to promote the prompt and accurate clearance and settlement of securities transactions, consistent with the requirements of the

[22] 15 U.S.C. 78q–1(b)(3)(F).

[23] 17 CFR 240.17Ad–22(e)(21).

[24] 15 U.S.C. 78q–1(b)(3)(F).

Act, in particular section 17A(b)(3)(F), cited above.

Rule 17Ad–22(e)(21) requires, *inter alia,* 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.[25] Pursuant to the proposed rule change, the Rules would be updated to establish a framework for DTC to provide Acknowledgement Letters to Participants and Pledgees who are DCOs or FCMs that would allow them to meet their requirements under the Customer Property Segregation Rules, while utilizing the efficiency provided by DTC book-entry transfers, consistent with the requirements of Rule 17Ad–22(e)(21), cited above.

(B) Clearing Agency's Statement on Burden on Competition

DTC does not believe that the proposed rule change would have any impact, or impose any burden, on competition because the proposed Rule and its features would be available to all Participants and Pledgees equally on a non-discriminatory basis. Participants and Pledgees will be charged fees applicable to the maintenance of Accounts and transaction fees that are not different from established published fees.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

DTC has not solicited and does not intend to solicit comments regarding the proposed rule change. DTC has not received any unsolicited written comments from interested parties. To the extent DTC receives written comments on the proposed rule change, DTC will forward such comments to the Commission.

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) of the Act[26] and Rule 19b–4(f)(6) thereunder.[27]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

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–DTC–2017–020 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–DTC–2017–020. 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 20549–1090 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 DTC and on DTCC's Web site (*http://dtcc.com/legal/sec-rule-filings.aspx*). All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR–DTC–2017–020 and should be submitted on or before November 27, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[28]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–24049 Filed 11–3–17; 8:45 am]

BILLING CODE 8011–01–P

[25] 17 CFR 240.17Ad–22(e)(21).

[26] 15 U.S.C. 78s(b)(3)(A).

[27] 17 CFR 240.19b–4(f)(6).

[28] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81985; File No. SR–NYSEArca–2017–127]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Regarding Exchange Calculation of the Intraday Indicative Value for Specified Exchange-Traded Products

October 31, 2017.

Pursuant to section 19(b)(1)[1] of the Securities Exchange Act of 1934 (''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on October 20, 2017, NYSE Arca, Inc. (''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to modify representations made in proposed rule changes previously filed with the Securities and Exchange Commission (''Commission'') regarding Exchange calculation of the ''Intraday Indicative Value'' (or comparable intra-day value) for specified exchange-traded products. The proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

Exchange rules relating to listing of certain exchange-traded products (''ETPs'') require that an ''Intraday Indicative Value'' (''IIV'') or comparable intra-day value be disseminated at least every 15 seconds during the Exchange's Core Trading Session as defined in Rule 7.34–E (a) (normally 9:30 a.m. to 4:00 p.m. Eastern Time).[4] The Commission has approved a number of NYSE Arca proposed rule changes relating to NYSE Arca's listing and trading of shares of ETPs in which the Exchange stated that the Exchange will calculate the IIV for those ETPs. These proposed rule changes are listed in Exhibit 3 to this filing (''Exhibit 3 Filings'').

The Exchange proposes to revise the representations made in the Exhibit 3 Filings that state that the Exchange will calculate the IIV for a particular ETP to state that the IIV will be calculated and widely disseminated by one or more major market data vendors. This proposed change is consistent with representations the Exchange has made in other filing [sic] relating to ETP listings.[5] The Exchange proposes this change so that ETP issuers, who may select and change the IIV calculation agent for a particular ETP, may choose to use a calculation agent other than the Exchange, provided that such IIV is calculated and widely disseminated by one or more major market data vendors.[6] All other representations in the Exhibit 3 Filings regarding the IIV remain the same and are not changing as a result of this proposed rule change.

2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under section 6(b)(5)[7] that an exchange have rules that are 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, in general, to protect investors and the public interest.

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest. The Exchange's proposal to revise the representations made in the Exhibit 3 Filings that state that the Exchange will calculate the IIV for a particular ETP to state that the IIV will be calculated and widely disseminated by one or more major market data vendors is consistent with representations the Exchange has made in other filings relating to ETP listings.[8] The Exchange proposes this change so that ETP issuers, who may select and change the IIV calculation agent for a particular ETP, may choose to use a calculation agent other than the Exchange, provided that such IIV is calculated and widely disseminated by one or more major market data vendors. While the Exchange rules referenced in note 4 above require that an IIV be disseminated at least every 15 seconds during the Exchange's Core Trading Session, such rules do not specify that the Exchange will calculate the IIV for any ETP.[9]

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purpose [sic] of the Act. The Exchange believes the proposed rule change will enhance competition among ETP issuers by providing each issuer with additional flexibility to change its IIV calculation agent promptly based on business needs.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, the proposed rule change has become effective pursuant to section 19(b)(3)(A) of the Act[10] and Rule 19b–4(f)(6) thereunder.[11]

The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest because it will allow ETP issuers for the Exhibit 3 Filings to choose to use a calculation agent other than the Exchange, provided that such IIV is calculated and widely disseminated by

[4] The following Exchange rules require dissemination of an intraday indicative value for specified ETPs: Rule 5.2–E(j)(3) (Investment Company Units); Rule 5.2–E (j)(6) (Index-Linked Securities); Rule 8.100–E (Portfolio Depositary Receipts); Rule 8.200–E (Trust Issued Receipts); Rule 8.201–E (Commodity-Based Trust Shares); Rule 8.202–E (Currency Trust Shares); Rule 8.203–E (Commodity Index Trust Shares); Rule 8.204–E (Commodity Futures Trust Shares); Rule 8.300–E (Partnership Units); Rule; 8.600–E (Managed Fund Shares); and Rule 8.700–E (Managed Trust Securities). These rules use different terms to denote the intraday indicative value: Intraday Indicative Value (Rules 5.2–E (j)(3), 8.100–E and 8.700–E); Indicative Value (Rule 8.200–E); Indicative Trust Value (Rules 8.201–E; 8.202–E and 8.203–E); Indicative Partnership Value (Rule 8.300–E); and Portfolio Indicative Value (Rule 8.600–E). As used herein, the term ''IIV'' encompasses the terms Intraday Indicative Value, Indicative Value, Indicative Trust Value, Indicative Partnership Value, and Portfolio Indicative Value, as referenced in Exchange rules. In addition, such term encompasses the term ''Indicative Optimized Portfolio Value'' (or ''IOPV'') as used in certain ''Exhibit 3 Filings'' (as defined below).

[5] The Exchange's proposed rule changes relating to ETP listings generally have stated that the IIV would be calculated and widely disseminated by, or widely disseminated by, an independent third party, one or more major market data vendors, a third party market data provider, or similar entities other than the Exchange. *See, e.g.,* Securities Exchange Act Release No. 68667 (January 16, 2013), 78 FR 4955 (January 23, 2013) (SR–NYSEArca–2012–109) (Order Granting Approval of Proposed Rule Change Relating to the Listing and Trading of Shares of the U.S. Equity High Volatility Put Write Index Fund under NYSE Arca Equities Rule 5.2(j)(3)). In addition, the Exchange rules referenced *supra* at note 4 do not specify that the Exchange will calculate the IIV for any ETP.

[6] Currently, it is the Exchange's understanding that several major market data vendors display and/or make widely available IIVs taken from the Consolidated Tape Association or other data feeds.

[7] 15 U.S.C. 78f(b)(5).

[8] *See* note 5, *supra.*

[9] *See* note 4, *supra.*

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(6). As required under Rule 19b–4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

one or more major market data vendors, without undue delay. Therefore, the Commission designates the proposed rule change to be operative upon filing.[12]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEArca–2017–127 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEArca–2017–127. 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. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2017–127 and should be submitted on or before November 27, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–24045 Filed 11–3–17; 8:45 am]

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[12] 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).

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81993]

Order Temporarily Exempting Certain Broker-Dealers From Specified Provisions of the Recordkeeping, Reporting, and Monitoring Responsibilities of Rule 13h–1 Under the Securities Exchange Act of 1934

October 31, 2017.

I. Introduction

On July 27, 2011, the Securities and Exchange Commission (''Commission'') adopted Rule 13h–1 (''Rule 13h–1'' or the ''Rule'') under the Securities Exchange Act of 1934 (''Exchange Act'') [1] to assist the Commission in both identifying and obtaining information on market participants that conduct a substantial amount of trading activity, as measured by volume or market value, in national market system (''NMS'') securities (such persons are referred to as ''large traders'').[2] The Rule requires certain large traders to identify themselves to the Commission on Form 13H. The Rule also requires, among other things, certain broker-dealers to maintain records of large trader transaction information and to report such information to the Commission upon request. Since December 1, 2011, persons whose trading activity reached or exceeded the identifying activity level specified in the Rule have been required to identify themselves to the Commission by filing Form 13H through the Commission's EDGAR system. The Commission has implemented the broker-dealer recordkeeping, reporting, and monitoring requirements of the Rule in phases through a series of exemptive orders establishing certain delayed compliance dates.[3] Currently, certain broker-dealers are required to keep records of and report to the Commission upon request transaction data for certain of their customers that are either a large trader or an Unidentified Large Trader.[4] Most recently, the Commission provided a temporary exemption from specified provisions of the Rule for certain broker-dealers (''Phase Three'')—provisions which otherwise would have fully implemented the entirety of the recordkeeping and reporting responsibilities of Rule 13h–1 by, in particular, requiring the capture and reporting of execution time on trades of all large traders—until November 1, 2017.[5]

The Financial Information Forum (''FIF'') and Securities Industry and Financial Markets Association (''SIFMA,'' and, together with FIF, the ''Industry Organizations'') have asked the Commission to eliminate Phase Three of the Rule, which would impose the remaining requirements on all broker-dealers and all large trader customers.[6] Alternatively, the Industry

[1] 17 CFR 240.13h–1.

[2] *See* Securities Exchange Act Release No. 64976 (July 27, 2011), 76 FR 46960 (August 3, 2011) (''Large Trader Adopting Release''). The effective date of Rule 13h–1 was October 3, 2011. *See also* Exchange Act Rule 600(b)(46) of Regulation NMS (defining ''NMS security'').

[3] *See* Securities Exchange Act Release Nos. 66839 (April 20, 2012), 77 FR 25007 (April 26, 2012) (''Phase One Order'') (establishing Phase One); 69281 (April 3, 2013), 78 FR 20960 (April 8, 2013) (''Phase Two Extension Order'') (extending the compliance date for Phase Two to November 1, 2013); 70150 (August 8, 2013), 78 FR 49556 (August 14, 2013) (''Phases Two and Three Order'') (modifying Phase Two and providing for Phase Three); and 76322 (October 30, 2015), 80 FR 68590 (November 5, 2015) (''Phase Three Extension Order'') (extension of compliance date for Phase Three until November 1, 2017).

[4] Rule 13h–1(a)(9) defines ''Unidentified Large Trader'' as ''each person who has not complied with the [large trader identification requirements of the Rule] that a registered broker-dealer knows or has reason to know is a large trader.'' The Rule provides that, for purposes of determining whether a registered broker-dealer has reason to know that a person is a large trader, ''a registered broker-dealer need take into account only transactions in NMS securities effected by or through such broker-dealer.'' Rule 13h–1(a)(9).

[5] *See* Phase Three Extension Order, *supra* note 3 (extending the Phase Three compliance date until November 1, 2017). *See also* Phases Two and Three Order, *supra* note 3, 78 FR at 49560.

[6] *See* Undated letter from William H. Herbert, Managing Director, FIF, to Heather Seidel, Acting Director, Division of Trading and Markets (''Division''), Commission (''FIF I''), *available at https://www.sec.gov/comments/s7-10-10/s71010-1558852-131535.pdf;* Letter from Thomas F. Price, Managing Director, Operations, Technology, and

Continued

Organizations have asked the Commission to extend the compliance date for Phase Three for an additional period of three or five years.[7]

For the reasons discussed below, the Commission believes that it is consistent with the purposes of the Exchange Act to grant a limited extension of the compliance date for Phase Three by temporarily exempting broker-dealers until November 15, 2018 from the recordkeeping and reporting obligations of the Rule that would otherwise have been implemented in Phase Three on November 1, 2017. As discussed below, the Commission approved the Consolidated Audit Trail (''CAT NMS Plan'') [8] submitted by FINRA and the national securities exchanges (collectively, the ''SROs'') pursuant to Rule 613 under the Exchange Act.[9] In adopting Rule 613 and later when it approved the CAT NMS Plan, the Commission contemplated that the CAT would be duplicative of the reporting requirements of Rule 13h–1 under the Exchange Act.[10] To focus broker-dealer attention and resources on implementing the CAT in the near term, the Commission hereby is exempting temporarily, until November 15, 2018, broker-dealers from the remaining recordkeeping and reporting obligations of Rule 13h–1, beyond those previously implemented in Phases One and Two.[11] During that time, the Commission will consider progress in implementing the CAT as it determines implementation of Phase Three.

II. Background

A. Large Trader Status

Rule 13h–1 defines a large trader as a person who ''directly or indirectly, including through other persons controlled by such person, exercises investment discretion over one or more accounts and effects transactions for the purchase or sale of any National Market System (NMS) security for or on behalf of such accounts, by or through one or more registered broker-dealers, in an aggregate amount equal to or greater than the *identifying activity level*'' (emphasis added), or voluntarily registers as such.[12] The term ''identifying activity level'' is defined in the Rule to mean aggregate transactions in NMS securities that are equal to or greater than (1) during a calendar day, either 2 million shares or shares with a fair market value of $20 million; or (2) during a calendar month, either 20 million shares or shares with a fair market value of $200 million.[13]

B. The Requirements of Rule 13h–1

1. Large Trader Self-Identification

The Rule requires large traders to self-identify to the Commission on Form 13H and to periodically update their Form 13H submission,[14] obtain a unique large trader identification number (''LTID'') from the Commission,[15] and provide this number to their broker-dealers and identify each account to which the LTID applies.[16] These large trader responsibilities are referred to collectively as the ''*Self-Identification Requirements.*''

2. Broker-Dealers' Recordkeeping and Reporting Responsibilities Regarding Unidentified Large Traders and the Customer Monitoring Safe Harbor

Under Rules 13h–1(d) and (e), registered broker-dealers are responsible for, among other things, maintaining records of certain transaction information and information relating to Unidentified Large Traders and then reporting such information to the Commission upon request. Specifically, Rule 13h–1 requires that every registered broker-dealer maintain records of information specified in paragraphs (d)(2) and (d)(3) of the Rule (''Transaction Data''), including, among other things, the applicable LTID(s) and execution time of each trade, for all transactions effected directly or indirectly by or through: (1) An account such broker-dealer carries for a large trader or an Unidentified Large Trader; or (2) if the broker-dealer is a large trader, any proprietary or other account over which such broker-dealer exercises investment discretion. Additionally, where a non-broker-dealer carries an account for a large trader or an Unidentified Large Trader under the Rule, the broker-dealer effecting transactions directly or indirectly for such large trader or Unidentified Large Trader must maintain records of all Transaction Data.[17] These recordkeeping obligations are referred to

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BCP, SIFMA, to Heather Seidel, Acting Director, Division, Commission, dated March 3, 2017 (''SIFMA Letter''), *available at https://www.sec.gov/comments/s7-10-10/s71010-1610783-135970.pdf;* and Letter from William H. Herbert, Managing Director, FIF, to Heather Seidel, Acting Director, Division, Commission, dated September 14, 2017 (''FIF II''), *available at https://www.sec.gov/comments/s7-10-10/s71010-2445134-161065.pdf.* and In the alternative, FIF ''recommends postponing the compliance date for five years'' and SIFMA requests an extension ''to a date no sooner than the earlier of the date of the full implementation of the CAT or November 1, 2022.'' *See* FIF I at 2; and SIFMA Letter at 3. In a subsequent letter, FIF requested that the Commission eliminate Phase Three or, alternatively, extend the compliance date for Phase Three to November 1, 2020 to allow for the implementation of CAT Phase 1. *See* FIF II at 3.

[7] *See* FIF II at 3 (asking the Commission, if it chooses not to eliminate Phase Three, to extend the compliance date for Phase Three until November 1, 2020 ''to allow full implementation of CAT Phase 1 for both Large and Small Industry Members''); FIF I at 2 (stating that ''If it is not possible to eliminate Phase 3 of the Rule, FIF recommends postponing the compliance date for five years''); and SIFMA Letter at 3 (requesting an extension ''to a date no sooner than the earlier of the date of the full implementation of the CAT or November 1, 2022'').

[8] *See* Securities Exchange Act Release No. 79318 (November 15, 2016), 81 FR 84696 (November 23, 2016) (File No. 4–698) (''CAT NMS Plan Order'').

[9] 17 CFR 242.613 (''Rule 613''). *See also* Securities Exchange Act Release No. 67457 (July 18, 2012), 77 FR 45722 (August 1, 2012) (''Rule 613 Adopting Release''). Rule 613 requires the SROs to submit a national market system (''NMS'') plan to create, implement, and maintain a consolidated audit trail (''CAT'') that would capture customer and order event information for orders in NMS securities, across all markets, from the time of order inception though routing, cancellation, modification, or execution in a single, consolidated data source. *See* Rule 613(a)(1), (c)(1), and (c)(7). Specifically, Rule 613 requires the SROs to ''jointly file . . . a national market system plan to govern the creation, implementation, and maintenance of a consolidated audit trail and Central Repository.'' *See* Rule 613(a)(1). As described more fully in the CAT NMS Plan Order, *supra* note 8, to satisfy the requirements of Rule 613, the SROs in February 2015 filed an NMS plan governing the CAT (the ''CAT NMS Plan'') that replaced and amended an earlier version of the plan. The Commission approved the CAT NMS Plan, as amended, in November 2016. *See* CAT NMS Plan Order, *supra* note 8. The purpose of the CAT NMS Plan, and the creation, implementation, and maintenance of a comprehensive audit trail for the U.S. securities markets, is to ''substantially enhance the ability of the SROs and the Commission to oversee today's securities markets and fulfill their responsibilities under the federal securities laws.'' *See* Rule 613 Adopting Release, *supra* note 9, 77 FR at 45726. As contemplated by Rule 613, the CAT ''will allow for the prompt and accurate recording of material information about all orders in NMS securities, including the identity of customers, as these orders are generated and then routed throughout the U.S. markets until execution, cancellation, or modification. This information will be consolidated and made readily available to regulators in a uniform electronic format.'' *See id.*

[10] *See* Rule 613 Adopting Release, *supra* note 9, 77 FR at 45734; and CAT NMS Plan Order, *supra* note 8, 81 FR at 84777.

[11] *See infra* notes 24–27 and accompanying text (describing Phases One and Two).

[12] *See* Rule 13h–1(a)(1).

[13] *See* Rule 13h–1(a)(7). *See also* Phase Three Extension Order, *supra* note 3 (establishing an alternative ''premium paid'' methodology for calculating equity options value).

[14] *See* Rule 13h–1(b)(1)(i)–(iii). Form 13H and all updates to it are filed electronically through the Commission's EDGAR system.

[15] When a large trader files its initial Form 13H filing through EDGAR, the system sends an automatically generated confirmation email acknowledging acceptance of the filing. That email also contains the unique 8-digit LTID number assigned to the large trader.

[16] *See* Rule 13h–1(b)(2). *See also* Large Trader Adopting Release, *supra* note 2, 76 FR at 46971 (''the requirements that a large trader provide its LTID to all registered broker-dealers who effect transactions on its behalf, and identify each account to which it applies, are ongoing responsibilities that must be discharged promptly'').

[17] *See* Rule 13h–1(d)(1)(iii).

collectively as the ''*Recordkeeping Responsibilities.*''

The Rule also requires that, upon Commission request, every registered broker-dealer that is itself a large trader or carries an account for a large trader or an Unidentified Large Trader must electronically report Transaction Data to the Commission through the Electronic Blue Sheets (''EBS'') system for all transactions effected directly or indirectly by or through accounts carried by such broker-dealer for large traders or Unidentified Large Traders equal to or greater than the reporting activity level.[18] Additionally, where a non-broker-dealer carries an account for a large trader or an Unidentified Large Trader, the broker-dealer effecting such transactions directly or indirectly for the large trader or Unidentified Large Trader must electronically report Transaction Data to the Commission through the EBS system for such transactions equal to or greater than the reporting activity level.[19] The Rule requires that reporting broker-dealers submit the requested Transaction Data no later than the day and time specified in the Commission's request.[20] These reporting obligations are referred to collectively as the ''*Reporting Responsibilities.*''

Rule 13h–1(f) provides a safe harbor that is designed to reduce broker-dealers' recordkeeping and reporting burdens with respect to Unidentified Large Traders by, among other things, providing relief for when a broker-dealer shall be deemed to know or have reason to know that a person is a large trader and thus subject to reporting obligations related to Unidentified Large Traders under Rule 3h-1. Under the safe harbor, a registered broker-dealer is deemed not to know or have reason to know that a person is a large trader if the broker-dealer does not have actual knowledge that a person is a large trader and it establishes policies and procedures reasonably designed to identify customers whose transactions effected through an account or group of accounts carried by such broker-dealer or through which such broker-dealer executes transactions, as applicable, equal or exceed the identifying activity level and, if so, to treat such persons as Unidentified Large Traders and notify them of their potential reporting obligations under this Rule.[21]

[18] *See* Rule 13h–1(e).

[19] *See id.*

[20] *See id.*

[21] *See* Rule 13h–1(f).

C. Phased Implementation of Rule 13h–1

When the Commission adopted the Rule, it characterized the large trader reporting requirements as ''relatively modest steps'' to ''address the Commission's near-term need for access to more information about large traders and their trading activities. . . .''[22] After the Commission adopted the Rule, industry commenters began to identify specific implementation challenges and offered more detailed estimates of the cost of compliance for broker-dealers with the Recordkeeping and Reporting Responsibilities.[23] Such concerns led the Commission to implement the Recordkeeping and Reporting Responsibilities in phases.[24]

In Phase One, which began on November 30, 2012, the Commission temporarily exempted from the Recordkeeping and Reporting Responsibilities all broker-dealers, except clearing brokers for large traders (including the large trader itself if it is a self-clearing broker-dealer), with respect to large trader transactions that were either (1) proprietary trades by a U.S. registered broker-dealer, or (2) effected through a ''sponsored access'' arrangement.[25] In Phase Two, which began on November 1, 2013, the Commission further implemented the Rule by subjecting transactions effected pursuant to ''direct market access'' arrangements to the Recordkeeping and Reporting Responsibilities.[26] Specifically, Phase Two temporarily exempted broker-dealers, until November 1, 2015, from the Recordkeeping and Reporting Responsibilities, except for: (1) The clearing broker-dealer for a large trader, with respect to (a) proprietary transactions by the large trader broker-dealer; (b) transactions effected pursuant to a ''sponsored access'' arrangement; and (c) transactions effected pursuant to a ''direct market access'' arrangement; and (2) a broker-dealer that carries an account for a large trader, with respect to transactions other than those set forth above, and for Transaction Data other than the execution time.[27] In other words, the Recordkeeping and Reporting Responsibilities under Phase Two require capture and reporting of LTID numbers for all large traders, but require capture and reporting of execution time only for the three specific categories of large trader activity outlined above.

Phase Three, scheduled to commence on November 1, 2017, would require compliance with the entirety of the Recordkeeping and Reporting Responsibilities for all broker-dealers, covering the remaining types of large traders and transactions not covered by Phases One and Two.[28] Notably, implementation of Phase Three would require the capture and reporting of execution time for all large trader transactions, not just for the three specific categories of large trader activity already implemented through Phases One and Two.

D. Adoption of Rule 613 and Implementation of the CAT

The Commission adopted Rule 613 to create a CAT that would allow regulators to more efficiently and accurately track activity in NMS securities.[29] Rule 613 requires the SROs to jointly submit an NMS plan to create, implement and maintain a consolidated audit trail.[30] In November 2016, the Commission approved the SROs' proposed CAT NMS Plan.[31]

When the Commission adopted Rule 613 it stated that, while certain aspects of Rule 13h–1 are not addressed by Rule 613, Rule 613 may supersede certain of the broker-dealer Recordkeeping and Reporting Responsibilities of Rule 13h–1.[32] Specifically, the Commission stated ''[t]o the extent that . . . data reported to the central repository under Rule 613 obviates the need for the EBS system, the Commission expects that the separate [trade] reporting requirements of Rule 13h–1 related to the EBS system would be eliminated.''[33] Further, when it approved the CAT NMS Plan, the Commission noted that ''CAT will provide Commission Staff with much of

[22] *See* Large Trader Adopting Release, *supra* note 2, 76 FR at 46963.

[23] *See, e.g.,* Phase Three Extension Order, *supra* note 3, 80 FR at 68594.

[24] *See id. See also supra* note 3 (citing to the applicable releases).

[25] *See* Phase One Order, *supra* note 3, 77 FR at 25008–9. A ''sponsored access'' arrangement is an arrangement where a broker-dealer permits a customer to enter orders into a trading center without using the broker-dealer's trading system (*i.e.,* using the customer's own technology or that of a third party provider).

[26] *See* Phases Two and Three Order, *supra* note 3, 78 FR at 49559–60. *See also* Securities Exchange Act Release No. 63241 (November 3, 2010), 75 FR 69792, 69793 (November 15, 2010) (File No. S7–03–10) (''Generally, direct market access refers to an arrangement whereby a broker-dealer permits customers to enter orders into a trading center but such orders flow through the broker-dealer's trading systems prior to reaching the trading center.'').

[27] *See* Phases Two and Three Order, *supra* note 3, 78 FR at 49558–9.

[28] *See id.* at 78 FR at 49560; and Phase Three Extension Order, *supra* note 3.

[29] *See* Rule 613 Adopting Release, *supra* note 9.

[30] *See* Rule 613(a)(1).

[31] *See* CAT NMS Plan Order, *supra* note 8.

[32] *See* Rule 613 Adopting Release, *supra* note 9, 77 FR at 45734.

[33] *Id.* at text accompanying n.95.

the equity and option data that is currently obtained through equity and option cleared reports and EBS, including the additional transaction data captured in connection with Rule 13h–1 concerning large traders.'' [34]

III. Exemptive Relief

Pursuant to Section 13(h)(6) of the Exchange Act and Rule 13h–1(g) thereunder,[35] the Commission, by order, may exempt from the provisions of Rule 13h–1, upon specified terms and conditions or for stated periods, any person or class of persons or any transaction or class of transactions from the provisions of Rule 13h–1 to the extent that such exemption is consistent with the purposes of the Exchange Act.

As noted above, the Industry Organizations have requested that the Commission eliminate Phase Three of the implementation of the Rule.[36] In the alternative, FIF recommends postponing the compliance date for Phase Three for five years [37] or until November 1, 2020,[38] and SIFMA requested an extension of the compliance date until the earlier of full implementation of the CAT or November 1, 2022.[39] The Industry Organizations both expressed the view that granting exemptive relief would allow the industry to focus resources on implementing the CAT.[40] In addition, SIFMA asserted that ''the reporting structure that would ultimately be developed and implemented under Phase III would become redundant when the Consolidated Audit Trail (CAT) is instituted.'' [41] SIFMA further stated that ''[c]ertain aspects of Phase III implementation continue to be infeasible except at a prohibitive cost and involving significant industry coordination for the development of new operational flows and processing standards that is disproportionate to the anticipated relatively short-lived corresponding benefit. Specifically, with the progress on CAT . . . the useful life of a costly and specialized Phase III solution is now described in months.'' [42] FIF stated that the implementation of Phase Three would represent ''significant duplicative costs to the broker-dealer community because [the Phase Three] recordkeeping and reporting obligations are already included in the CAT.'' [43]

The Commission notes that there has been significant progress on the implementation of the CAT since it issued the Phase Three Extension Order on October 30, 2015. As noted above, the Commission approved the CAT NMS Plan submitted by the SROs on November 15, 2016,[44] and to date the SROs have taken a series of steps to implement the CAT in accordance with the CAT NMS Plan. Among other things, the Plan Processor for the CAT NMS Plan has been selected,[45] draft technical specifications for the SROs' submission of order and quote data to the CAT have been developed,[46] and compliance rules requiring SRO members to synchronize their business clocks used to report information required under the CAT NMS Plan to within 50 milliseconds of the time maintained by the National Institute of Standards and Technology have been adopted.[47] In addition, the SROs have adopted rules requiring member compliance with relevant portions of the CAT NMS Plan,[48] and they have filed proposed rule changes that are designed to eliminate systems that are duplicative of the CAT.[49]

In light of the fact that the CAT NMS Plan has now been approved and the CAT is being built and implemented, the Commission believes that it is appropriate to issue this temporary exemption so that broker-dealer resources can be focused on CAT.[50] Reporting pursuant to the CAT NMS Plan will provide the Commission with information concerning the trading in equity and listed options transactions of all types of large traders that would otherwise be reported pursuant to Rule 13h–1. In particular, the CAT will capture detailed information on each order, including the time of execution for orders executed in whole or in part [51] as well as information concerning allocation to subaccounts.[52] Accordingly, because the CAT will capture the order execution information that would be covered in Phase Three, the Commission believes that a temporary exemption is appropriate to defer the burdens that would be imposed on the industry to implement Phase Three and instead focus finite broker-dealer resources on completing and implementing the CAT in the near term. The Commission notes that, prior

[34] *See* CAT NMS Plan Order, *supra* note 8, 81 FR at 84777 (citations omitted).

[35] *See* 15 U.S.C. 78m and Rule 13h–1(g), respectively.

[36] *See* FIF I, *supra* note 6, at 2; and SIFMA Letter, *supra* note 6, at 3.

[37] *See* FIF I, *supra* note 6, at 2.

[38] *See* FIF II, *supra* note 6, at 3.

[39] *See* SIFMA Letter, *supra* note 6, at 3.

[40] *See* FIF I, *supra* note 6, at 1–2; and SIFMA Letter, *supra* note 6, at 2. *See also* FIF II, *supra* note 6, at 1 (stating that mandating implementation of Phase Three would ''divert scarce resources from the [i]mplementation of CAT'').

[41] SIFMA Letter, *supra* note 6, at 2. *See also* FIF II at 2 (expressing the view that the implementation of Phase Three ''would be redundant of the CAT initiative'').

[42] SIFMA Letter, *supra* note 6, at 2. SIFMA stated that it had previously described the significant implementation challenges that would need to be resolved to meet the compliance requirements of Phase Three. *Id.* at 1. Quoting its February 13, 2013, letter to the Commission, SIFMA stated that '''it would require a massive restructuring of most of the current execution and clearing flows and systems at considerable cost to aggregate all of [the relevant reporting] information at one broker-dealer' and that 'individual broker-dealers must make significant internal changes to their systems, the fundamental restructuring of certain industry standard clearing processes may be required, and concerted and coordinated development activities will be required throughout the broker-dealer industry.'' *Id.* at 1–2, citing Letter from Theodore R. Lazo, Managing Director and Associate General Counsel, SIFMA, to David S. Shillman, Associate Director, Division, Commission, dated February 13, 2013, *available at https://www.sec.gov/comments/s7-10-10/s71010-102.pdf.* SIFMA stated that ''[t]hese challenges continue to persist and are no less burdensome today,'' and asserted that the reporting structure that would be developed and implemented under Phase Three would become redundant when the CAT is instituted. SIFMA Letter, *supra* note 6, at 2. *See also* FIF II, *supra* note 6, at 2 (referencing FIF's previous descriptions of the implementation challenges associated with Phase Three).

[43] *See* FIF II, *supra* note 6, at 2.

[44] *See* CAT NMS Plan Order, *supra* note 8.

[45] *See* Letter from the Selection Committee of the CAT NMS Plan to Brent J. Fields, Secretary, Commission, dated January 18, 2017, *available at https://www.sec.gov/divisions/marketreg/rule613-info-notice-of-plan-processor-selection.pdf.*

[46] *See* CAT NMS Plan, Appendix C, Section 10(b).

[47] *See, e.g.,* NYSE Rules 6820(a) and 6895(b), CBOE Rules 6.86(a) and 6.96(b), and Nasdaq Rules 6820(a) and 6895(b). In accordance with an exemption to the CAT NMS Plan, the SROs' compliance rules require members that were capturing time in milliseconds on March 8, 2017, to have synchronized their business clocks on or before March 15, 2017. The compliance rules require members that did not capture time in milliseconds on March 8, 2017, to synchronize their business clocks on or before February 19, 2018. *See* Securities Exchange Act Release No. 80142 (March 2, 2017), 82 FR 13034 (March 8, 2017) (Order Granting Limited Exemptive Relief from the CAT NMS Plan requirement that members synchronize their business clocks no later than March 15, 2017).

[48] *See* Securities Exchange Act Release No. 80256 (March 15, 2017), 82 FR 14526 (March 21, 2017) (order approving File Nos. SR–BatsBYX–2017–02; SR–BatsBZX–2017–08; SR–BatsEDGA–2017–03; SR–BatsEDGX–2017–08; SR–BOX–2017–07; SR–C2–2017–007; SR–CBOE–2017–012; SR–CHX–2017–03; SR–ISE–2017–08; SR–IEX–2017–04; SR–ISEGemini–2017–04; SR–ISEMercury–2017–03; SR–MIAX–2017–03; SR–PEARL–2017–04; SR–NASDAQ–2017–008; SRBX–2017–007; SR–PHLX–2017–07; SR–NYSE–2017–01; SR–NYSEArca–2017–03; SR–NYSEArca–2017–04; SR–NYSEMKT–2017–02; and SR–NSX–2017–03).

[49] *See, e.g.,* Securities Exchange Act Release Nos. 80783 (May 26, 2017), 82 FR 2542 (June 1, 2017) (SR–FINRA–2017–13); 80789 (May 26, 2017), 82 FR 25492 (June 1, 2017) (SR–BOX–2017–17); 80813 (May 30, 2017), 82 FR 25820 (June 5, 2017) (SR–Nasdaq–2017–055).

[50] This order does not affect Rule 13h–1 requirements implemented in Phases One and Two.

[51] *See* Rule 613(c)(7)(v)(C) (requiring, for an order executed in whole or in part, ''[t]ime of execution''). *See also* CAT NMS Plan, *supra* note 8, at Section 6.3(d)(v).

[52] *See* CAT NMS Plan Order, *supra* note 8, 81 FR at 84777 (citations omitted); and CAT NMS Plan, *supra* note 8, at Section 6.4(d)(ii)(A)(1) (concerning Allocation Reports).

to the Commission's issuance of the Phase Three Extension Order, FIF and SIFMA requested a permanent exemption or alternatively a five year deferment of the compliance date for Phase Three.[53] In the Phase Three Extension Order, the Commission provided a two year exemption, until November 1, 2017. At that time, the Commission stated its belief that ''two years will give the Commission enough time to evaluate future developments, including any investment in or progress on a CAT.'' Further, FIF and SIFMA now have requested a permanent exemption, or alternatively a three or five year deferment of the compliance date for Phase Three.[54] The Commission believes at this time that an extension to November 15, 2018 responds to requests from FIF and SIFMA to extend the Phase Three compliance date, but having a short exemption instead will allow broker-dealers to focus on implementing the CAT in the near term and will allow the Commission to revisit the implementation of Phase Three as it evaluates future developments during this period, including progress in implementing the CAT.[55] During that time, the Commission will consider progress in implementing the CAT as it determines implementation of Phase Three.

Accordingly, the Commission finds that it is consistent with the purposes of the Exchange Act to extend the compliance date for Phase Three by temporarily exempting broker-dealers until November 15, 2018 from compliance with specified provisions of the Rule. Thus, the Recordkeeping and Reporting Responsibilities under Rule 13h–1 will continue to apply with respect to: (1) The clearing broker-dealer for a large trader, with respect to (a) proprietary transactions by a large trader broker-dealer; (b) transactions effected pursuant to a ''sponsored access'' arrangement; and (c) transactions effected pursuant to a ''direct market access'' arrangement; and (2) broker-dealers that carry an account for a large trader for Transaction Data other than execution time.

IV. Conclusion

It is hereby ordered, pursuant to Section 13(h)(6) of the Exchange Act and Rule 13h–1(g) thereunder, that broker-dealers are exempted temporarily until November 15, 2018 from the recordkeeping and reporting requirements of Rule 13h–1(d) and (e) except for: (1) Clearing broker-dealers for large traders with respect to (a) proprietary transactions by a large trader broker-dealer, (b) transactions effected pursuant to a ''sponsored access'' arrangement, and (c) transactions effected pursuant to a ''direct market access'' arrangement; and, for other types of transactions, (2) broker-dealers that carry an account for a large trader for Transaction Data other than execution time.

By the Commission.

Jill M. Peterson,

Assistant Secretary.

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[53] *See* Phase Three Extension Order at note 62 (*citing* Letter from Mary Lou VonKaenel, Managing Director, FIF, to Stephen Luparello, Director, Division, Commission, dated March 27, 2015, *available at http://www.sec.gov/comments/s7-10-10/s71010.shtml* and Letter from Theodore R. Lazo, Managing Director and Associate General Counsel, SIFMA to Stephen Luparello, Director, Division, Commission, dated April 9, 2015, *available at http://www.sec.gov/comments/s7-10-10/s71010.shtml*).

[54] *See supra* note 7 (citing to the SIFMA and FIF letters).

[55] The Commission notes that November 15, 2018 currently is the date by which large industry SRO members are required to begin reporting to the CAT central repository. *See* CAT NMS Plan Order, *supra* note 8, at Ex. A, Sec. 6.7(a)(v), 81 FR at 84963.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81986; File No. SR–NASDAQ–2017–088]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change To Amend Rule 4703(a) To Allow Members To Designate When an Order With a RTFY or SCAN Routing Order Attribute Will Be Activated

October 31, 2017.

On August 30, 2017, The Nasdaq Stock Market LLC (''Nasdaq'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend Nasdaq Rule 4703(a) to allow members to designate when an Order with a RTFY or SCAN routing Order Attribute will be activated. The proposed rule change was published for comment in the **Federal Register** on September 18, 2017.[3] The Commission has received no comment letters on the proposed rule change.

Section 19(b)(2) of the Act[4] provides that, within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day after publication of the notice for this proposed rule change is November 2, 2017. The Commission is extending this 45-day time period.

The Commission finds that it is appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[5] designates December 17, 2017, as the date by which the Commission shall either approve or disapprove or institute proceedings to determine whether to disapprove the proposed rule change (File Number SR–NASDAQ–2017–088).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[6]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–24046 Filed 11–3–17; 8:45 am]

BILLING CODE 8011–01–P

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 81579 (September 12, 2017), 82 FR 43584.

[4] 15 U.S.C. 78s(b)(2).

[5] 15 U.S.C. 78s(b)(2).

[6] 17 CFR 200.30–3(a)(31).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81991; File No. SR–ISE–2017–96]

Self-Regulatory Organizations; Nasdaq ISE, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rule 1614

October 31, 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 October 27, 2017, Nasdaq ISE, LLC (''ISE'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

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 the Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 1614, entitled ''Imposition of Fines for Minor Rule Violations,'' to make a non-substantive, clarifying change to the rule. [sic]

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 is proposing to amend Rule 1614, entitled ''Imposition of Fines for Minor Rule Violations,'' to make a non-substantive, clarifying change to the rule.[3] [sic] Rule 1614(d)(2) currently sets forth the fine schedule for the failure to file annual Financial and Operational Combined Uniform Single (''FOCUS'') Reports on Form X–17A–5 in accordance with Rule 17a–10[4] under the Act. The existing schedule in the Rule does not clearly reflect how a FOCUS Report that is received on the ninetieth day would be handled for purposes of assessing a fine. The Exchange therefore proposes to clarify in Rule 1614(d)(2) that FOCUS Reports received by the Exchange over ninety calendar days late will subject the member to formal disciplinary action. As such, the Exchange is proposing to change the reference to ''90 or more'' days in the sanction schedule to ''over 90'' days.

2. Statutory Basis

The Exchange is proposing to amend Rule 1614, entitled ''Imposition of Fines for Minor Rule Violations,'' to make a non-substantive, clarifying change to the rule.[5] [sic] Rule 1614(d)(2) currently sets forth the fine schedule for the failure to file annual Financial and Operational Combined Uniform Single (''FOCUS'') Reports on Form X–17A–5 in accordance with Rule 17a–10[6] under the Act. The existing schedule in the Rule does not clearly reflect how a FOCUS Report that is received on the ninetieth day would be handled for purposes of assessing a fine. The Exchange therefore proposes to clarify in Rule 1614(d)(2) that FOCUS Reports received by the Exchange over ninety calendar days late will subject the member to formal disciplinary action. As such, the Exchange is proposing to change the reference to ''90 or more'' days in the sanction schedule to ''over 90'' days.

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. As discussed above, the Exchange's proposal is a non-substantive, technical amendment to Rule 1614(d)(2), and is merely intended to add further clarification to the Exchange's rules and alleviate potential confusion.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act[7] and subparagraph (f)(6) of Rule 19b–4 thereunder.[8]

A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative before 30 days from the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[9] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest.

The Exchange has asked the Commission to waive the 30-day operative delay. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. Clarification of how a FOCUS Report will be handled for purposes of assessing a fine that is 90 calendar days late will reduce confusion caused by the ambiguity of the Rule as written before the Exchange filed this proposed rule change. The Commission believes no purpose is served in delaying such clarification. Therefore, the Commission hereby waives the 30-day operative delay and designates the proposed rule change to be operative upon filing with the Commission.[10]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–ISE–2017–96 on the subject line.

[3] The Exchange notes that Chapter 16 of the ISE Rulebook, including Rule 1614, is incorporated by reference into the rulebooks of Nasdaq GEMX (''GEMX'') and Nasdaq MRX (''MRX''). As such, the amendment to ISE Rule 1614 as proposed herein will also impact GEMX and MRX Rules 1614.

[4] 17 CFR 240.17a–10.

[5] The Exchange notes that Chapter 16 of the ISE Rulebook, including Rule 1614, is incorporated by reference into the rulebooks of Nasdaq GEMX (''GEMX'') and Nasdaq MRX (''MRX''). As such, the amendment to ISE Rule 1614 as proposed herein will also impact GEMX and MRX Rules 1614.

[6] 17 CFR 240.17a–10.

[7] 15 U.S.C. 78s(b)(3)(A)(iii).

[8] 17 CFR 240.19b–4(f)(6).

[9] 17 CFR 240.19b–4(f)(6)(iii).

[10] For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

Paper Comments

• Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–ISE–2017–96. 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. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ISE–2017–96, and should be submitted on or before November 27, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–24050 Filed 11–3–17; 8:45 am]

BILLING CODE 8011–01–P

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81988; File No. SR–IEX–2017–38]

Self-Regulatory Organizations; Investors Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Adopt New Rule 6.210 Related to Ex-Dates for Securities Listed or Traded on the Exchange

October 31, 2017.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on October 27, 2017, the Investors Exchange LLC (''IEX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Pursuant to the provisions of Section 19(b)(1) under the Securities Exchange Act of 1934 (''Act''),[4] and Rule 19b–4 thereunder,[5] Investors Exchange LLC (''IEX'' or ''Exchange'') is filing with the Commission a proposed rule change to adopt new Rule 6.210 (Ex-Dividend or Ex-Right Dates) related to ex-dates for securities listed or traded on the Exchange. The Exchange has designated this proposal as ''non-controversial'' and provided the Commission with the notice required by Rule 19b–4(f)(6)(iii) under the Act.[6]

The text of the proposed rule change is available at the Exchange's Web site at *www.iextrading.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statement may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

On June 17, 2016 the Commission granted IEX's application for registration as a national securities exchange under Section 6 of the Act including approval of rules applicable to the qualification, listing and delisting of companies on the Exchange. The Exchange plans to begin a listing program in early 2018 and is proposing to adopt Rule 6.210 related to ex-dates for securities listed on IEX.

IEX Rule 2.160(c)(4) requires in substance that an Exchange Member must be a Member of a registered clearing agency registered with the Commission pursuant to Section 17A of the Act or clear transactions executed on the Exchange through another Member that is a Member of a registered clearing agency. In addition, IEX Rule 6.110(a) provides that every Exchange Member who is a Member of a registered clearing agency shall implement comparison and settlement procedures under the rules of such entity. Further, IEX Rule 11.250(a) provides that the Exchange maintains connectivity and access to the Universal Trade Capture of the National Securities Clearing Corporation (''NSCC'') for the transmission of executed transactions. Pursuant to these provisions, all IEX Members are either Members of the NSCC or clear transactions executed on the Exchange through another Member that is a Member of NSCC. Thus, IEX Members must comply with NSCC comparison and settlement procedures for all transactions executed on the Exchange.

NSCC and other listing exchanges have rules related to securities settlement which specify the requirements and process for designation of so-called ''ex-dates'' in the event that the issuer of a security enters into certain types of corporate actions, including declaration of a dividend, and issuance of rights or warrants (*i.e.,* the corporate action consideration).[7] Generally, an issuer of securities will establish a record date to determine which security holders are entitled to the corporate action

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] 15 U.S.C. 78s(b)(1).

[5] 17 CRF 240.19b–4.

[6] 17 CFR 240.19b–4(f)(6)(iii).

[7] *See, e.g.,* NYSE Arca Equities Rule 7.4.

consideration—security holders of record on the record date are entitled to the corporate action consideration. Because virtually all securities transactions now settle on the second business day after trade date (''T+2'') pursuant to Rule 15c6–1 under the Act,[8] a purchaser of a security on the business day prior to the record date will not be the security holder of record on the record date. For example, if the record date for XYZ's issuance of a dividend is December 19, 2017, a purchaser on December 18, 2017 will not be the holder or record until December 20, 2017. The purchaser will not be the holder of record on December 19, 2017 and therefore will not be entitled to the dividend.

Thus, to provide certainty as to which security holder will receive the corporate action consideration it is necessary to establish ''ex-dates'' that denote the date on and after which a security will no longer trade with the corporate action consideration. Most listing exchanges, as well as the Financial Industry Regulatory Authority (''FINRA'') have such rules, which specify that generally a security will trade ''ex'' two [sic] business days [sic] prior to the record date. In the example above, XYZ would trade ''ex-dividend'' beginning on December 18, 2017.

Accordingly, in connection with the planned launch of its listing program, the Exchange proposes to adopt Rule 6.210 to specify when transactions in securities traded ''regular'' shall be ''ex-dividend'' or ''ex-rights'' as the case may be. As proposed, Rule 6.210 provides that transactions in securities traded ''regular'' shall be ''ex-dividend'' or ''ex-rights'' as the case may be, on the business day preceding the record date fixed by the company or the date of the closing of transfer books, except when the Board of Directors rules otherwise.[9] Should such record date or such closing of transfer books occur upon a day other than a business day Rule 6.210 shall apply for the second preceding business day.

As proposed, Rule 6.210 is substantially identical to NYSE Arca Rule 7.4–E with only a minor difference in that proposed Rule 6.210 refers to ''securities'' rather than ''stocks'' to be inclusive of listed securities that are not strictly speaking characterized as stocks (*e.g.,* rights and warrants).

In connection with their ''ex-date'' rules, other listing exchanges disseminate relevant information regarding such corporate actions by their listed companies to market participants.[10] Corporate action information regarding IEX listed companies will also be posted on the IEX Web site for viewing and download, without charge.

2. Statutory Basis

IEX believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[11] in general and furthers the objectives of Section 6(b)(5)[12] of the Act in particular, in that it is 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. The Exchange believes that the proposed rule change supports these objectives because it is designed to enable the Exchange to provide clarity to market participants on applicable ''ex-dates'' for securities listed on IEX in connection with corporate actions involving consideration to be paid or distributed to security holders.

Further, the Exchange believes that the proposed rule change is consistent with the protection of investors and the public interest because it provides authority to the Exchange to determine ex-dates in circumstances warranting a different ex-date than the business day preceding the record date fixed by the company or the date of closing of transfer books.

Finally, the Exchange believes that the proposed rule change will serve to promote clarity and consistency among market participants thereby facilitating investor protection and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

IEX does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. The proposed rule change is not designed to address any competitive issues but rather to provide for the appropriate determination and dissemination of ex-dates, to provide certainty as to which security holder will receive the corporate action consideration. The Exchange also believes that the proposed rule change will serve to promote clarity and consistency, as noted in the Statutory Basis section, thereby reducing burdens on competition and facilitating investor protection.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[13] and Rule 19b–4(f)(6) thereunder.[14]

A proposed rule change filed under Rule 19b–4(f)(6)[15] normally does not become operative for 30 days after the date of filing. However, pursuant to Rule 19b–4(f)(6)(iii),[16] the Commission may designate a shorter time if such action is consistent with the protection

[8] The Commission recently adopted amendments to Rule 15c6–1(a) under the Act to shorten the standard, regular-way settlement cycle from T+3 to T+2 or the second business day after trade date. *See,* Securities Exchange Act Release No. 34–80295 (March 22, 2016), 82 FR 15564 (March 29, 2017) (S7–22–16). The compliance date for the amendments was September 5, 2017.

[9] Exceptions would be expected to occur in circumstances where the listed company's corporate action consideration is relatively large (typically 25% or greater than the value of the security) or definitive information is not received by the Exchange sufficiently in advance of the record date, as required by IEX Rule 14.207(e)(6), to permit the designation of an ''ex-dividend'' or ''ex-rights'' date in accordance with Rule 6.210. In such cases, the ex-date would generally be on the first business day which is practical given the relevant circumstances.

[10] *See, http://www.nyxdata.com/Data-Products/NYSE-Corporate-Actions?rfrby=sum#* describing the NYSE Group Corporate Actions package of reports sold by NYSE Group regarding corporate actions for all equities listed on NYSE, NYSE MKT and NYSE Arca. *See also, http://www.nasdaqtrader.com/Trader.aspx?id=dailylistpd* describing the Nasdaq Daily List sold by Nasdaq that provides certain corporate action data for Nasdaq listed securities. *See also,* BAT BZX (''BATS'') Exchange corporate action reports available without charge at: *https://www.bats.com/us/equities/market_statistics/corporate_action/.*

[11] 15 U.S.C. 78f.

[12] 15 U.S.C. 78f(b)(5).

[13] 15 U.S.C. 78s(b)(3)(A).

[14] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[15] 17 CFR 240.19b–4(f)(6).

[16] 17 CFR 240.19b–4(f)(6)(iii).

of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay. The Commission believes that waiver of the operative delay is consistent with the protection of investors and the public interest because the Exchange's proposed rule change is substantially similar to a provision to another self-regulatory organization's rules,[17] and the Exchange's proposal does not raise any new or novel issues. Accordingly, the Commission hereby waives the 30-day operative delay requirement and designates the proposed rule change as operative upon filing.[18]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule 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–IEX–2017–38 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–IEX–2017–38. 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. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–IEX–2017–38, and should be submitted on or before November 27, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

Eduardo A. Aleman,

Assistant Secretary.

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BILLING CODE 8011–01–P

[17] *See* NYSE Arca Rule 7.4–E.

[18] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[19] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81987; File No. SR–NASDAQ–2017–091]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Order Granting Approval of Proposed Rule Change, as Modified by Amendments No. 1 and 2, To List and Trade Shares of the Calvert Ultra-Short Duration Income NextShares™ Under Nasdaq Rule 5745

October 31, 2017.

I. Introduction

On August 30, 2017, The NASDAQ Stock Market LLC (''Nasdaq'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to list and trade common shares (''Shares'') of the Calvert Ultra-Short Duration Income NextShares™ (''Fund'') under Nasdaq Rule 5745. The proposed rule change was published for comment in the **Federal Register** on September 18, 2017.[3] On September 15, 2017, the Exchange filed Amendment No. 1 to the proposed rule change.[4] On October 27, 2017, the Exchange filed Amendment No. 2 to the proposed rule change.[5] The Commission received no comments on the proposed rule change. This order grants approval of the proposed rule change, as modified by Amendments No. 1 and 2.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

II. Exchange's Description of the Proposed Rule Change

The Exchange proposes to list and trade the Shares of the Fund under Nasdaq Rule 5745, which governs the listing and trading of Exchange-Traded Managed Fund Shares, as defined in Nasdaq Rule 5745(c)(1). The Fund is a series of the Calvert Management Series (''Trust''). The Exchange represents that the Trust is registered with the Commission as an open-end investment company and that it has filed a registration statement on Form N–1A

[3] *See* Securities Exchange Act Release No. 81591 (September 13, 2017), 82 FR 43611 (''Notice'').

[4] Amendment No. 1 to the proposed rule change is a partial amendment in which the Exchange clarifies that: (i) In the event that (a) the Adviser registers as a broker-dealer or becomes newly affiliated with a broker-dealer, or (b) any new adviser or a sub-adviser to the Fund is a registered broker-dealer or becomes affiliated with a broker-dealer, it will not just implement but also maintain a fire wall with respect to its relevant personnel and/or such broker-dealer affiliate, if applicable; and (ii) the Financial Industry Regulatory Authority, Inc. (''FINRA''), on behalf of the Exchange, will communicate as needed with, and may obtain information from, other markets and entities that are members of the Intermarket Surveillance Group (''ISG'') regarding trading in the Shares, and in exchange-traded securities and instruments held by the Fund (to the extent those exchange-traded securities and instruments are known through the publication of the Composition File and periodic public disclosures of the Fund's portfolio holdings), and the Exchange may obtain such trading information from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement. Amendment No. 1 is available at: *https://www.sec.gov/comments/sr-nasdaq-2017-091/nasdaq2017091-2447435-161078.pdf.* Because Amendment No. 1 to the proposed rule change does not materially alter the substance of the proposed rule change or raise unique or novel regulatory issues, Amendment No. 1 is not subject to notice and comment.

[5] Amendment No. 2 to the proposed rule change is a partial amendment in which the Exchange clarifies that the name of the Fund will be Calvert Ultra-Short Duration Income NextShares. Amendment No. 2 is available at: *https://www.sec.gov/comments/sr-nasdaq-2017-091/nasdaq2017091-2656932-161387.pdf.* Because Amendment No. 2 to the proposed rule change does not materially alter the substance of the proposed rule change or raise unique or novel regulatory issues, Amendment No. 2 is not subject to notice and comment.

(''Registration Statement'') with the Commission with respect to the Fund.[6] Calvert Research and Management (''Adviser''), a wholly owned subsidiary of Eaton Vance Management, will be the Adviser to the Fund.[7]

Foreside Fund Services, LLC will be the principal underwriter and distributor of the Fund's Shares. State Street Bank and Trust Company will act as the accounting agent, custodian, and transfer agent to the Fund. ICE Data Services will be the intraday indicative value (''IIV'') calculator to the Fund.

The Exchange has made the following representations and statements in describing the Fund.[8] According to the Exchange, the Fund will be actively managed and will pursue the principal investment strategies described below.[9]

A. Principal Investment Strategies

The investment objective of the Fund is to seek to maximize income, to the extent consistent with preservation of capital, through investment in bonds and income-producing securities. The Fund will seek to achieve its investment objective by investing, under normal circumstances, at least 80% of its net assets (including borrowings for investment purposes) in a portfolio of floating-rate debt securities (*e.g.,* corporate floating-rate securities) and debt securities with durations of less than or equal to one year. The Fund will typically invest at least 65% of its net assets in investment grade, U.S. dollar-denominated debt securities, as assessed at the time of purchase. The Fund will invest principally in bonds issued by U.S. corporations, the U.S. Government or its agencies, and U.S. Government-sponsored enterprises such as the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation. The Fund may also invest up to 25% of its net assets in foreign debt securities.

B. Portfolio Disclosure and Composition File

Consistent with the disclosure requirements that apply to traditional open-end investment companies, a complete list of the Fund's current portfolio positions will be made available at least once each calendar quarter, with a reporting lag of not more than 60 days. The Fund may provide more frequent disclosures of portfolio positions at its discretion.

As defined in Nasdaq Rule 5745(c)(3), the ''Composition File'' is the specified portfolio of securities and/or cash that the Fund will accept as a deposit in issuing a creation unit of Shares, and the specified portfolio of securities and/or cash that the Fund will deliver in a redemption of a creation unit of Shares. The Composition File will be disseminated through the National Securities Clearing Corporation once each business day before the open of trading in Shares on that day and also will be made available to the public each day on a free Web site.[10] Because the Fund seeks to preserve the confidentiality of its current portfolio trading program, the Fund's Composition File generally will not be a pro rata reflection of the Fund's investment positions. Each security included in the Composition File will be a current holding of the Fund, but the Composition File generally will not include all of the securities in the Fund's portfolio or match the weightings of the included securities in the portfolio. Securities that the Adviser is in the process of acquiring for the Fund generally will not be represented in the Fund's Composition File until the purchase has been completed. Similarly, securities that are held in the Fund's portfolio but are in the process of being sold may not be removed from its Composition File until the sale is substantially completed. When creating and redeeming Shares in-kind, the Fund will use cash amounts to supplement the in-kind transactions to the extent necessary to ensure that creation units are purchased and redeemed at NAV. The Composition File also may consist entirely of cash, in which case it will not include any of the securities in the Fund's portfolio.[11]

C. Intraday Indicative Value

An estimated value of an individual Share, defined in Nasdaq Rule 5745(c)(2) as the IIV, will be calculated and disseminated at intervals of not more than 15 minutes throughout the Regular Market Session [12] when Shares trade on the Exchange. The Exchange will obtain a representation from the issuer of the Shares that the IIV will be calculated on an intraday basis and provided to Nasdaq for dissemination via the Nasdaq Global Index Service. The IIV will be based on current information regarding the value of the securities and other assets held by the Fund.[13] The purpose of the IIV is to enable investors to estimate the next-determined NAV so they can determine the number of Shares to buy or sell if they want to transact in an approximate dollar amount.[14]

D. NAV-Based Trading

Because Shares will be listed and traded on the Exchange, Shares will be available for purchase and sale on an intraday basis. Shares will be purchased and sold in the secondary market at prices directly linked to the Fund's next-determined NAV using a trading protocol called ''NAV-Based Trading.'' All bids, offers, and execution prices of Shares will be expressed as a premium/discount (which may be zero) to the

[6] *See* Post-Effective Amendment No. 86 to the Registration Statement on Form N–1A for CMS Trust dated July 20, 2017 (File Nos. 002–69565 and 811–03101).

[7] According to the Exchange, the Commission has issued an order granting Eaton Vance Management, Eaton Vance ETMF Trust, Eaton Vance ETMF Trust II and certain affiliates exemptive relief under the Investment Company Act of 1940 (''1940 Act''). *See* Investment Company Act Release No. 31361 (December 2, 2014) (File No. 812–14139) (''Order''). The Exchange states that the Adviser is a wholly-owned subsidiary of Eaton Vance Management and may rely on this exemptive order with respect to the Fund. In compliance with Nasdaq Rule 5745(b)(5), which applies to Shares based on an international or global portfolio, the application for the Order states that the Fund will comply with the federal securities laws in accepting securities for deposits and satisfying redemptions with securities, including that the securities accepted for deposits and the securities used to satisfy redemption requests are sold in transactions that would be exempt from registration under the Securities Act of 1933, as amended.

[8] The Commission notes that additional information regarding the Trust, the Fund, and the Shares, including investment strategies, risks, creation and redemption procedures, calculation of net asset value (''NAV''), fees, distributions, and taxes, among other things, can be found in the Notice, Amendments No. 1 and 2, and the Registration Statement, as applicable. *See supra* notes 3–6, respectively, and accompanying text.

[9] According to the Exchange, additional information regarding the Fund will be available on a free public Web site for the Fund (*www.calvert.com* and/or *www.nextshares.com*) and in the Registration Statement for the Fund.

[10] The Exchange represents that the free public Web site containing the Composition File will be at *www.calvert.com* and/or *www.nextshares.com*.

[11] In determining whether the Fund will issue or redeem creation units entirely on a cash basis, the key consideration will be the benefit that would accrue to the Fund and its investors.

[12] *See* Nasdaq Rule 4120(b)(4) (describing the three trading sessions on the Exchange: (1) Pre-Market Session from 4:00 a.m. to 9:30 a.m. Eastern Time (''E.T.''); (2) Regular Market Session from 9:30 a.m. to 4:00 p.m. or 4:15 p.m. E.T.; and (3) Post-Market Session from 4:00 p.m. or 4:15 p.m. to 8:00 p.m. E.T.

[13] The IIV disseminated throughout each trading day would be based on the same portfolio as used to calculate that day's NAV. The Fund will reflect purchases and sales of portfolio positions in its NAV the next business day after trades are executed.

[14] In NAV-Based Trading (as referenced herein), prices of executed trades are not determined until the reference NAV is calculated, so buyers and sellers of Shares during the trading day will not know the final value of their purchases and sales until the end of the trading day. The Exchange represents that the Registration Statement, Web site, and any advertising or marketing materials will include prominent disclosure of this fact. The Exchange states that although the IIV may provide useful estimates of the value of intraday trades, they cannot be used to calculate with precision the dollar value of the Shares to be bought or sold.

Fund's next-determined NAV (*e.g.,* NAV − $0.01, NAV + $0.01).[15] The Fund's NAV will be determined each business day, normally as of 4:00 p.m. E.T. Trade executions will be binding at the time orders are matched on Nasdaq's facilities, with the transaction prices contingent upon the determination of NAV. Nasdaq represents that all Shares listed on the Exchange will have a unique identifier associated with their ticker symbol, which will indicate that the Shares are traded using NAV-Based Trading.

According to the Exchange, member firms will utilize certain existing order types and interfaces to transmit Share bids and offers to Nasdaq, which will process Share trades like trades in shares of other listed securities.[16] In the systems used to transmit and process transactions in Shares, the Fund's next-determined NAV will be represented by a proxy price (*e.g.,* 100.00) and a premium/discount of a stated amount to the next-determined NAV to be represented by the same increment/decrement from the proxy price used to denote NAV (*e.g.,* NAV − $0.01 would be represented as 99.99; NAV + $0.01 as 100.01).

To avoid potential investor confusion, Nasdaq represents that it will work with member firms and providers of market data services to seek to ensure that representations of intraday bids, offers, and execution prices of Shares that are made available to the investing public follow the ''NAV − $0.01/NAV + $0.01'' (or similar) display format. Specifically, the Exchange will use the NASDAQ Basic and NASDAQ Last Sale data feeds to disseminate intraday price and quote data for Shares in real time in the ''NAV − $0.01/NAV + $0.01'' (or similar) display format. Member firms may use the NASDAQ Basic and NASDAQ Last Sale data feeds to source intraday Share prices for presentation to the investing public in the ''NAV − $0.01/NAV + $0.01'' (or similar) display format.

Alternatively, member firms may source intraday Share prices in proxy price format from the Consolidated Tape and other Nasdaq data feeds (*e.g.,* Nasdaq TotalView and Nasdaq Level 2) and use a simple algorithm to convert prices into the ''NAV − $0.01/NAV + $0.01'' (or similar) display format. Prior to the commencement of trading in the Fund, the Exchange will inform its members in an Information Circular of the identities of the specific Nasdaq data feeds from which intraday Share prices in proxy price format may be obtained.

III. Discussion and Commission Findings

After careful review, the Commission finds that the Exchange's proposal to list and trade the Shares is consistent with the Act and the rules and regulations thereunder applicable to a national securities exchange.[17] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[18] which requires, among other things, that the Exchange's rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Shares will be subject to Nasdaq Rule 5745, which sets forth the initial and continued listing criteria applicable to Exchange-Traded Managed Fund Shares. A minimum of 50,000 Shares and no less than two creation units of the Fund will be outstanding at the commencement of trading on the Exchange.

Nasdaq deems the Shares to be equity securities, thus rendering trading in the Shares subject to Nasdaq's existing rules governing the trading of equity securities. Every order to trade Shares of the Fund is subject to the proxy price protection threshold of plus/minus $1.00, which determines the lower and upper thresholds for the life of the order and provides that the order will be cancelled at any point if it exceeds $101.00 or falls below $99.00.[19] With certain exceptions, each order also must contain the applicable order attributes, including routing instructions and time-in-force information, as described in Nasdaq Rule 4703.[20]

Nasdaq also represents that trading in the Shares will be subject to the existing trading surveillances, administered by both Nasdaq and FINRA on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws.[21] The Exchange represents that these surveillance procedures are adequate to properly monitor trading of Shares on the Exchange and to deter and detect violations of Exchange rules and applicable federal securities laws. FINRA, on behalf of the Exchange, will communicate as needed with, and may obtain information from, other markets and entities that are members of the ISG regarding trading in the Shares and in exchange-traded securities and instruments held by the Fund (to the extent those exchange-traded securities and instruments are known through the publication of the Composition File and periodic public disclosures of the Fund's portfolio holdings). In addition, the Exchange may obtain information regarding trading in the Shares, and in exchange-traded securities and instruments held by the Fund (to the extent those exchange-traded securities and instruments are known through the publication of the Composition File and periodic public disclosures of the Fund's portfolio holdings), from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement. Moreover, FINRA, on behalf of the Exchange, will be able to access, as needed, trade information for certain fixed income securities held by the Fund reported to FINRA's Trade Reporting and Compliance Engine.

Prior to the commencement of trading in the Fund, the Exchange will inform its members in an Information Circular of the special characteristics and risks associated with trading the Shares. Specifically, the Information Circular will discuss the following: (a) The procedures for purchases and redemptions of Shares in creation units (and that Shares are not individually redeemable); (b) Nasdaq Rule 2111A, which imposes suitability obligations on Nasdaq members with respect to recommending transactions in the Shares to customers; (c) how information regarding the IIV and Composition File is disseminated; (d) the requirement that members deliver a

[15] According to the Exchange, the premium or discount to NAV at which Share prices are quoted and transactions are executed will vary depending on market factors, including the balance of supply and demand for Shares among investors, transaction fees, and other costs in connection with creating and redeeming creation units of Shares, the cost and availability of borrowing Shares, competition among market makers, the Share inventory positions and inventory strategies of market makers, the profitability requirements and business objectives of market makers, and the volume of Share trading.

[16] According to the Exchange, all orders to buy or sell Shares that are not executed on the day the order is submitted will be automatically cancelled as of the close of trading on that day. Prior to the commencement of trading in the Fund, the Exchange will inform its members in an Information Circular of the effect of this characteristic on existing order types.

[17] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[18] 15 U.S.C. 78f(b)(5).

[19] *See* Nasdaq Rule 5745(h).

[20] *See* Nasdaq Rule 5745(b)(6).

[21] The Exchange states that FINRA provides surveillance of trading on the Exchange pursuant to a regulatory services agreement and that the Exchange is responsible for FINRA's performance under this regulatory services agreement.

prospectus to investors purchasing Shares prior to or concurrently with the confirmation of a transaction; and (e) information regarding NAV-Based Trading protocols.

The Information Circular also will identify the specific Nasdaq data feeds from which intraday Share prices in proxy price format may be obtained. As noted above, all orders to buy or sell Shares that are not executed on the day the order is submitted will be automatically cancelled as of the close of trading on that day, and the Information Circular will discuss the effect of this characteristic on existing order types. In addition, Nasdaq intends to provide its members with a detailed explanation of NAV-Based Trading through a Trading Alert issued prior to the commencement of trading in Shares on the Exchange.

Nasdaq states that the Adviser is not a registered broker-dealer; however, it is affiliated with a broker-dealer and has implemented and will maintain a fire wall with respect to its affiliated broker-dealer regarding access to information concerning the composition of, and/or changes to, the Fund's portfolio.[22] In addition, personnel who make decisions on the Fund's portfolio composition must be subject to procedures designed to prevent the use and dissemination of material, non-public information regarding the open-end fund's portfolio. The Reporting Authority[23] will implement and maintain, or ensure that the Composition File will be subject to, procedures designed to prevent the use and dissemination of material non-public information regarding the Fund's portfolio positions and changes in the positions. In the event that (a) the Adviser registers as a broker-dealer or becomes newly affiliated with a broker-dealer, or (b) any new adviser or sub-adviser to the Fund is a registered broker-dealer or becomes affiliated with a broker-dealer, it will implement and maintain a fire wall with respect to its relevant personnel and/or such broker-dealer affiliate, as the case may be, regarding access to information concerning the composition of, and/or changes to, the Fund's portfolio, and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding the portfolio.

The Commission finds that the proposal to list and trade the Shares on the Exchange is consistent with Section 11A(a)(1)(C)(iii) of the Act,[24] which sets forth Congress' finding that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure the availability to brokers, dealers, and investors of information with respect to quotations for, and transactions in, securities. Information regarding NAV-based trading prices, best bids and offers for Shares, and volume of Shares traded will be continuously available on a real-time basis throughout each trading day on brokers' computer screens and other electronic services. All bids and offers for Shares and all Share trade executions will be reported intraday in real time by the Exchange to the Consolidated Tape[25] and separately disseminated to member firms and market data services through the Exchange data feeds.

The Commission notes that once a Fund's daily NAV has been calculated and disseminated, Nasdaq will price each Share trade entered into during the day at the Fund's NAV plus/minus the trade's executed premium/discount. Using the final trade price, each executed Share trade will then be disseminated to member firms and market data services via a File Transfer Protocol (''FTP'') file[26] that will be created for exchange-traded managed funds and will be confirmed to the member firms participating in the trade to supplement the previously provided information with final pricing.

The Exchange will obtain a representation from the issuer of the Shares that the NAV per Share will be calculated daily (on each business day that the New York Stock Exchange is open for trading) and provided to Nasdaq via the Mutual Fund Quotation Service (''MFQS'') by the fund accounting agent. As soon as the NAV is entered into the MFQS, Nasdaq will disseminate the NAV to market participants and market data vendors via the Mutual Fund Dissemination Service so that all firms will receive the NAV per share at the same time.

The Exchange further represents that it may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares. The Exchange will halt trading in the Shares under the conditions specified in Nasdaq Rule 4120 and in Nasdaq Rule 5745(d)(2)(C). Additionally, the Exchange may cease trading the Shares if other unusual conditions or circumstances exist that, in the opinion of the Exchange, make further dealings on the Exchange detrimental to the maintenance of a fair and orderly market. To manage the risk of a non-regulatory Share trading halt, Nasdaq has in place back-up processes and procedures to ensure orderly trading. Prior to the commencement of market trading in the Shares, the Fund will be required to establish and maintain a public Web site through which its current prospectus may be downloaded.[27] The Web site will include additional information concerning the Fund updated on a daily basis, including the prior business day's NAV, and the following trading information for that business day expressed as premiums/discounts to NAV: (a) Intraday high, low, average, and closing prices of Shares in Exchange trading; (b) the midpoint of the highest bid and lowest offer prices as of the close of Exchange trading, expressed as a premium/discount to NAV (''Closing Bid/Ask Midpoint''); and (c) the spread between highest bid and lowest offer prices as of the close of Exchange trading (''Closing Bid/Ask Spread.''). The Web site will also contain charts showing the frequency distribution and range of values of

[22] *See* Amendment No. 1, *supra* note 4. The Exchange further represents that an investment adviser to an open-end fund is required to be registered under the Investment Advisers Act of 1940 (''Advisers Act''). As a result, the Adviser and its related personnel are subject to the provisions of Rule 204A–1 under the Advisers Act relating to codes of ethics. This Rule requires investment advisers to adopt a code of ethics that reflects the fiduciary nature of the relationship to clients as well as compliance with other applicable securities laws. Accordingly, procedures designed to prevent the communication and misuse of non-public information by an investment adviser must be consistent with Rule 204A–1 under the Advisers Act. In addition, Rule 206(4)–7 under the Advisers Act makes it unlawful for an investment adviser to provide investment advice to clients unless such investment adviser has: (i) Adopted and implemented written policies and procedures reasonably designed to prevent violation, by the investment adviser and its supervised persons, of the Advisers Act and the Commission rules adopted thereunder; (ii) implemented, at a minimum, an annual review regarding the adequacy of the policies and procedures established pursuant to subparagraph (i) above and the effectiveness of their implementation; and (iii) designated an individual (who is a supervised person) responsible for administering the policies and procedures adopted under subparagraph (i) above.

[23] *See* Nasdaq Rule 5745(c)(4).

[24] 15 U.S.C. 78k–1(a)(1)(C)(iii).

[25] Due to systems limitations, the Consolidated Tape will report intraday execution prices and quotes for Shares using a proxy price format. Nasdaq has represented that it will separately report real-time execution prices and quotes to member firms and providers of market data services in the ''NAV − $0.01/NAV + $0.01'' (or similar) display format, and will otherwise seek to ensure that representations of intraday bids, offers and execution prices for Shares that are made available to the investing public follow the same display format.

[26] According to Nasdaq, FTP is a standard network protocol used to transfer computer files on the Internet. Nasdaq will arrange for the daily dissemination of an FTP file with executed Share trades to member firms and market data services.

[27] The Exchange represents that the Web site containing this information will be *www.calvert.com.*

trading prices, Closing Bid/Ask Midpoints, and Closing Bid/Ask Spreads over time.

The Exchange represents that all statements and representations made in the filing regarding: (a) The description of the portfolio or reference assets, (b) limitations on portfolio holdings or reference assets, (c) dissemination and availability of the reference asset or IIV, or (d) the applicability of Exchange listing rules shall constitute continued listing requirements for listing the Shares on the Exchange. The issuer has represented to the Exchange that it will advise the Exchange of any failure by the Fund to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Act, the Exchange will monitor for compliance with the continued listing requirements.[28] If the Fund is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures for the Fund under the Nasdaq 5800 Series.

This approval order is based on all of the Exchange's representations, including those set forth above, in the Notice, and Amendments No. 1 and 2,[29] and the Exchange's description of the Fund. In particular, the Commission notes that, although the Shares will be available for purchase and sale on an intraday basis, the Shares will be purchased and sold at prices directly linked to the Fund's next-determined NAV. Further, the Commission notes that the Fund and the Shares must comply with the requirements of Nasdaq Rule 5745 and the conditions set forth in this proposed rule change to be listed and traded on the Exchange on an initial and continuing basis.

For the foregoing reasons, the Commission finds that the proposed rule change, as modified by Amendments No. 1 and 2, is consistent with Section 6(b)(5)[30] and Section 11A(a)(1)(C)(iii)of the Act,[31] and the rules and regulations thereunder applicable to a national securities exchange.

[28] The Commission notes that certain other proposals for the listing and trading of Managed Fund Shares include a representation that the exchange will ''surveil'' for compliance with the continued listing requirements. *See, e.g.,* Securities Exchange Act Release No. 78005 (Jun. 7, 2016), 81 FR 38247 (Jun. 13, 2016) (SR–BATS–2015–100). In the context of this representation, it is the Commission's view that ''monitor'' and ''surveil'' both mean ongoing oversight of a fund's compliance with the continued listing requirements. Therefore, the Commission does not view ''monitor'' as a more or less stringent obligation than ''surveil'' with respect to the continued listing requirements.

[29] *See supra* notes 4 and 5.

[30] 15 U.S.C. 78f(b)(5).

[31] 15 U.S.C. 78k–1(a)(1)(C)(iii).

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[32] that the proposed rule change (SR–NASDAQ–2017–091), as modified by Amendments No. 1 and 2, be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[33]

Eduardo A. Aleman,

Assistant Secretary.

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[32] 15 U.S.C. 78s(b)(2).

[33] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81992; File No. SR–BatsEDGX–2017–43]

Self-Regulatory Organizations; Cboe EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Rule 20.6, Nullification and Adjustment of Options Transactions Including Obvious Errors

October 31, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 25, 2017, Cboe EDGX Exchange, Inc. (''EDGX'' or the ''Exchange'') (formerly known as Bats EDGX Exchange, Inc.) filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange has designated this proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(6) thereunder,[4] which renders it effective upon filing with the Commission. 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 filed a proposal to amend Rule 20.6, entitled ''Nullification and Adjustment of Options Transactions including Obvious Errors.'' Rule 20.6 relates to the adjustment and nullification of transactions that occur on the Exchange's equity options platform (''EDGX Options'').

The text of the proposed rule change is available at the Exchange's Web site at *www.bats.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Background

The Exchange proposes to amend Exchange Rule 20.6 to add Interpretation and Policy .04 (the ''Proposed Rule''). This filing is based on a proposal recently submitted by Cboe Exchange, Inc. (''Cboe Options'') and approved by the Securities and Exchange Commission (the ''Commission'').[5]

In 2015, the U.S. options exchanges adopted a new, harmonized rule related to the adjustment and nullification of erroneous options transactions, including a specific provision related to coordination in connection with large-scale events involving erroneous options transactions.[6] The Exchange launched an options exchange later that year, with the newly harmonized rule as part of the original rule set.[7] The Exchange believes that the changes the options exchanges implemented with the new, harmonized rule have led to increased transparency and finality with

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6).

[5] *See* Securities Exchange Act Release 80040 (February 14, 2017), 82 FR 11248 (February 21, 2017) (Order Approving SR–CBOE–2016–088).

[6] *See* Securities Exchange Act Release Nos. 74556 (March 20, 2015), 80 FR 16031 (March 26, 2015) (SR–BATS–2014–067); *see also* Securities Exchange Act Release No. 73884 (December 18, 2014), 79 FR 77557 (December 24, 2014) (the ''Initial Filing''); 81084 (July 6, 2017), 82 FR 32216 (July 12, 2017) (SR–BatsBZX–2017–35) (adopting subsequent harmonized provisions relating to the calculation of Theoretical Price).

[7] *See* Securities Exchange Act Release No. 75650 (August 7, 2015), 80 FR 48600 (August 13, 2015) (SR–EDGX–2015–18).

respect to the adjustment and nullification of erroneous options transactions. However, as part of the initial initiative, the Exchange and other options exchanges deferred a few specific matters for further discussion.

Specifically, the options exchanges continued working together to identify ways to improve the process related to the adjustment and nullification of erroneous options transactions as it relates to complex orders [8] and stock-option orders. The goal of the process undertaken by the options exchanges was to further harmonize rules related to the adjustment and nullification of erroneous options transactions. As described below, the Exchange believes that the changes the options exchanges proposed, and the Exchange now proposes, will provide transparency and finality with respect to the adjustment and nullification of erroneous complex order.[9] Particularly, the proposed changes seek to achieve consistent results for participants across U.S. options exchanges while maintaining a fair and orderly market, protecting investors and protecting the public interest.

The Proposed Rule is based on this coordinated effort and reflects discussions by the options exchanges whereby the exchanges that offer complex orders and/or stock-option orders agreed to universally adopt new provisions that the options exchanges collectively believe will improve the handling of erroneous options transactions that result from the execution of complex orders and stock-option orders. An exchange that does not offer complex orders and/or stock-option orders will not adopt these new provisions until such time as the exchange offers complex orders and/or stock-option orders. Although the Exchange was involved in the discussions by options exchanges to propose a uniform rule, the Exchange has not historically offered complex orders or stock-option orders, and thus, has not previously adopted rules applicable to such orders. The Exchange is filing this proposal at this time in anticipation of launching a complex order book that will accept complex orders in the near future.[10] The Exchange is not proposing to adopt changes to the obvious error rule related to stock-option orders at this time, as the Exchange does not currently accept stock-option orders and does not have a near term expectation to accept such orders.

The Exchange believes that the Proposed Rule supports an approach consistent with long-standing principles in the options industry under which the general policy is to adjust rather than nullify transactions. The Exchange acknowledges that adjustment of transactions is contrary to the operation of analogous rules applicable to the equities markets, where erroneous transactions are typically nullified rather than adjusted and where there is no distinction between the types of market participants involved in a transaction. For the reasons set forth below, the Exchange believes that the distinctions in market structure between equities and options markets continue to support these distinctions between the rules for handling obvious errors in the equities and options markets.

Various general structural differences between the options and equities markets point toward the need for a different balancing of risks for options market participants and are reflected in this proposal. Option pricing is formulaic and is tied to the price of the underlying stock, the volatility of the underlying security and other factors. Because options market participants can generally create new open interest in response to trading demand, as new open interest is created, correlated trades in the underlying or related series are generally also executed to hedge a market participant's risk. This pairing of open interest with hedging interest differentiates the options market specifically (and the derivatives markets broadly) from the cash equities markets. In turn, the Exchange believes that the hedging transactions engaged in by market participants necessitates protection of transactions through adjustments rather than nullifications when possible and otherwise appropriate.

The options markets are also quote driven markets dependent on liquidity providers to an even greater extent than equities markets. In contrast to the approximately 7,000 different securities traded in the U.S. equities markets each day, there are more than 500,000 unique, regularly quoted option series. Given this breadth in options series the options markets are more dependent on liquidity providers than equities markets; such liquidity is provided most commonly by registered market makers but also by other professional traders. With the number of instruments in which registered market makers must quote and the risk attendant with quoting so many products simultaneously, the Exchange believes that those liquidity providers should be afforded a greater level of protection. In particular, the Exchange believes that liquidity providers should be allowed protection of their trades given the fact that they typically engage in hedging activity to protect them from significant financial risk to encourage continued liquidity provision and maintenance of the quote-driven options markets.

In addition to the factors described above, there are other fundamental differences between options and equities markets which lend themselves to different treatment of different classes of participants that are reflected in this proposal. For example, there is no trade reporting facility in the options markets. Thus, all transactions must occur on an options exchange. This leads to significantly greater retail customer participation directly on exchanges than in the equities markets, where a significant amount of retail customer participation never reaches the Exchange but is instead executed in off-exchange venues such as alternative trading systems, broker-dealer market making desks and internalizers. In turn, because of such direct retail customer participation, the exchanges have taken steps to afford those retail customers—generally Priority Customers—more favorable treatment in some circumstances.

Complex Orders

As more fully described below, the Proposed Rule applies much of current Rule 20.6 (the ''Current Rule'') to complex orders.[11] The Proposed Rule deviates from the Current Rule only to account for the unique qualities of complex orders. The Proposed Rule reflects the fact that complex orders can execute against other complex orders or can execute against individual simple orders in the leg markets. When a complex order executes against the leg markets there may be different counterparties on each leg of the complex order, and not every leg will necessarily be executed at an erroneous price. In order to apply the Current Rule and account for the unique characteristics of complex orders, proposed Interpretation and Policy .04 is split into two parts—paragraphs (a) and (b).

First, proposed Interpretation and Policy .04(a) governs the review of complex orders that are executed

[8] *See* Rule 21.20(a)(5) (defining complex orders).

[9] The Exchange is not proposing to adopt changes to the obvious error rule related to stock-option orders at this time because it does not currently accept stock-option orders.

[10] *See* Securities Exchange Act Release No. 81891 (October 17, 2017) (SR–BatsEDGX–2017–29) (order approving rules for EDGX complex order book).

[11] In order for a complex order to qualify as an obvious or catastrophic error at least one of the legs must itself qualify as an obvious or catastrophic error under the Current Rule. See Proposed Rule .04(a)–(b).

against individual legs (as opposed to a complex order that executes against another complex order).[12] Proposed Interpretation and Policy .04(a) provides:

> If a complex order executes against individual legs and at least one of the legs qualifies as an Obvious Error under paragraph (c)(1) or a Catastrophic Error under paragraph (d)(1), then the leg(s) that is an Obvious or Catastrophic Error will be adjusted in accordance with paragraphs (c)(4)(A) or (d)(3), respectively, regardless of whether one of the parties is a Customer. However, any Customer order subject to this paragraph (a) will be nullified if the adjustment would result in an execution price higher (for buy transactions) or lower (for sell transactions) than the Customer's limit price on the complex order or individual leg(s). If any leg of a complex order is nullified, the entire transaction is nullified.

As previously noted, at least one of the legs of the complex order must qualify as an obvious or catastrophic error under the Current Rule in order for the complex order to receive obvious or catastrophic error relief. Thus, when the Exchange is notified (within the timeframes set forth in paragraph (c)(2) or (d)(2)) of a complex order that is a possible obvious error or catastrophic error, the Exchange will first review the individual legs of the complex order to determine if one or more legs qualify as an obvious or catastrophic error.[13] If no leg qualifies as an obvious or catastrophic error, the transaction stands—no adjustment and no nullification.

Reviewing the legs to determine whether one or more legs qualify as an obvious or catastrophic error requires the Exchange to follow the Current Rule. In accordance with paragraphs (c)(1) and (d)(1) of the Current Rule, the Exchange compares the execution price of each individual leg to the Theoretical Price of each leg (as determined by paragraph (b) of the Current Rule). If the execution price of an individual leg is higher or lower than the Theoretical Price for the series by an amount equal to at least the amount shown in the obvious error table in paragraph (c)(1) of the Current rule or the catastrophic error table in paragraph (d)(1) of the Current Rule, the individual leg qualifies as an obvious or catastrophic error, and the Exchange will take steps to adjust or nullify the transaction.[14]

To illustrate, consider a Customer submits a complex order to the Exchange consisting of leg 1 and leg 2—Leg 1 is to buy 100 ABC calls and leg 2 is to sell 100 ABC puts. Also, consider that Market-Maker 1 is quoting the ABC calls $1.00–1.20 and Market-Maker 2 is quoting the ABC puts $2.00–2.20. If the complex order executes against the quotes of Market-Makers 1 and 2, the Customer buys the ABC calls for $1.20 and sells the ABC puts for $2.00. As with the obvious/catastrophic error reviews for simple orders, the execution price of leg 1 is compared to the Theoretical Price [15] of Leg 1 in order to determine if Leg 1 is an obvious error under paragraph (c)(1) of the Current Rule or a catastrophic error under paragraph (d)(1) of the Current Rule. The same goes for Leg 2. The execution price of Leg 2 is compared to the Theoretical Price of Leg 2. If it is determined that one or both of the legs are an obvious or catastrophic error, then the leg (or legs) that is an obvious or catastrophic error will be adjusted in accordance with paragraphs (c)(4)(A) or (d)(3) of the Current Rule, regardless of whether one of the parties is a Customer.[16] Although a single-legged execution that is deemed to be an obvious error under the Current Rule is nullified whenever a Customer is involved in the transaction, the Exchange believes adjusting execution prices is generally better for the marketplace than nullifying executions because liquidity providers often execute hedging transactions to offset options positions. When an options transaction is nullified the hedging position can adversely affect the liquidity provider. With regards to complex orders that execute against individual legs, the additional rationale for adjusting erroneous execution prices when possible is the fact that the counterparty on a leg that is not executed at an obvious or catastrophic error price cannot look at the execution price to determine whether the execution may later be nullified (as opposed to the counterparty on single-legged order that is executed at an obvious error or catastrophic error price).

Paragraph (c)(4)(A) of the Current Rule mandates that if it is determined that an obvious error has occurred, the execution price of the transaction will be adjusted pursuant to the table set forth in (c)(4)(A). Although for simple orders paragraph (c)(4)(A) is only applicable when no party to the transaction is a Customer, for the purposes of complex orders paragraph (a) of Interpretation and Policy .04 will supersede that limitation; therefore, if it is determined that a leg (or legs) of a complex order is an obvious error, the leg (or legs) will be adjusted pursuant to (c)(4)(A), regardless of whether a party to the transaction is a Customer. The Size Adjustment Modifier defined in subparagraph (a)(4) will similarly apply (regardless of whether a Customer is on the transaction) by virtue of the application of paragraph (c)(4)(A).[17] The Exchange notes that adjusting all market participants is not unique or novel. When the Exchange determines that a simple order execution is a Catastrophic Error pursuant to the Current Rule, paragraph (d)(3) already provides for adjusting the execution price for all market participants, including Customers.

Furthermore, as with the Current Rule, Proposed Interpretation and Policy .04(a) provides protection for Customer orders, stating that where at least one party to a complex order transaction is a Customer, the transaction will be nullified if adjustment would result in an execution price higher (for buy transactions) or lower (for sell transactions) than the Customer's limit price on the complex order or individual leg(s). For example, assume Customer enters a complex order to buy leg 1 and leg 2.

- Assume the NBBO for leg 1 is $0.20–1.00 and the NBBO for leg 2 is $0.50–1.00 and that these have been the NBBOs since the market opened.
- A split-second prior to the execution of the complex order a Customer enters a simple order to sell the leg 1 options series at $1.30, and the simple order enters the Exchange's book so that the BBO is $.20–$1.30. The limit price on the simple order is $1.30.
- The complex order executes leg 1 against the Exchange's best offer of

[12] The leg market consists of quotes and/or orders in single options series. A complex order may be received by the Exchange electronically, and the legs of the complex order may have different counterparties. For example, Market-Maker 1 may be quoting in ABC calls and Market-Maker 2 may be quoting in ABC puts. A complex order to buy the ABC calls and puts may execute against the quotes of Market-Maker 1 and Market-Maker 2.

[13] Because a complex order can execute against the leg market, the Exchange may also be notified of a possible obvious or catastrophic error by a counterparty that received an execution in an individual options series. If upon review of a potential obvious error the Exchange determines an individual options series was executed against the leg of a complex order, proposed Interpretation and Policy .04(a) will govern.

[14] Only the execution price on the leg (or legs) that qualifies as an obvious or catastrophic error pursuant to any portion of Proposed Interpretation and Policy .04 will be adjusted. The execution price of a leg (or legs) that does not qualify as an obvious or catastrophic error will not be adjusted.

[15] *See* Rule 20.6(b) (defining the manner in which Theoretical Price is determined).

[16] *See* Rule 20.6(a)(1) (defining Customer for purposes of Rule 20.6 as not including a broker-dealer or Professional).

[17] *See* Rule 20.6(c)(4)(A) (stating that any non-Customer Obvious Error exceeding 50 contracts will be subject to the Size Adjustment Modifier defined in sub-paragraph (a)(4)).

$1.30 and leg 2 at $1.00 for a net execution price of $2.30.

• However, leg 1 executed on a wide quote (the NBBO for leg 1 was $0.20–1.00 at the time of execution, which is wider than $0.75).[18] Leg 2 was not executed on a wide quote (the market for leg 2 was $0.50–1.00); thus, leg 2 execution price stands.

• The Exchange determines that the Theoretical Price for leg 1 is $1.00, which was the best offer prior to the execution. Leg 1 qualifies as an obvious error because the difference between the Theoretical Price ($1.00) and the execution price ($1.30) is larger than $0.25.[19]

• According to Proposed Interpretation and Policy .04(a) Customers will also be adjusted in accordance with Rule 20.6(c)(4)(A), which for a buy transaction under $3.00 calls for the Theoretical Price to by adjusted by adding $0.15 [20] to the Theoretical Price of $1.00. Thus, adjust execution price for leg 1 would be $1.15.

• However, adjusting the execution price of leg 1 to $1.15 violates the limit price of the Customer's sell order on the simple order book for leg 1, which was $1.30.

• Thus, the entire complex order transaction will be nullified [21] because the limit price of a Customer's sell order would be violated by the adjustment.[22]

As the above example demonstrates, incoming complex orders may execute against resting simple orders in the leg market. If a complex order leg is deemed to be an obvious error, adjusting the execution price of the leg may violate the limit price of the resting order, which will result in nullification if the resting order is for a Customer. In contrast, Interpretation and Policy .02 to Rule 20.6 provides that if an adjustment would result in an execution price that is higher than an erroneous buy transaction or lower than an erroneous sell transaction the execution will not be adjusted or nullified.[23] If the adjustment of a complex order would violate the complex order Customer's limit price, the transaction will be nullified.

As previously noted, paragraph (d)(3) of the Current Rule already mandates that if it is determined that a catastrophic error has occurred, the execution price of the transaction will be adjusted pursuant to the table set forth in (d)(3). For purposes of complex orders under Proposed Interpretation and Policy .04(a), if one of the legs of a complex orders is determined to be a Catastrophic Error under paragraph (d)(3), all market participants will be adjusted in accordance with the table set forth in (d)(3). Again, however, where at least one party to a complex order transaction is a Customer, the transaction will be nullified if adjustment would result in an execution price higher (for buy transactions) or lower (for sell transactions) than the Customer's limit price on the complex order or individual leg(s). Again, if any leg of a complex order is nullified, the entire transaction is nullified.

Other than honoring the limit prices established for Customer orders, the Exchange has proposed to treat Customers and non-Customers the same in the context of the complex orders that trade against the leg market. When complex orders trade against the leg market, it is possible that at least some of the legs will execute at prices that would not be deemed obvious or catastrophic errors, which gives the counterparty in such situations no indication that the execution will later by adjusted or nullified. The Exchange believes that treating Customers and non-Customers the same in this context will provide additional certainty to non-Customers (especially Market-Makers) with respect to their potential exposure and hedging activities, including comfort that even if a transaction is later adjusted, such transaction will not be fully nullified. However, as noted above, under the Proposed Rule where at least one party to the transaction is a Customer, the trade will be nullified if the adjustment would result in an execution price higher (for buy transactions) or lower (for sell transactions) than the Customer's limit price on the complex order or individual leg(s). The Exchange has retained the protection of a Customer's limit price in order to avoid a situation where the adjustment could be to a price that a Customer would not have expected, and market professionals such as non-Customers would be better prepared to recover in such situations. Therefore, adjustment for non-Customers is more appropriate.

Second, proposed Interpretation and Policy .04(b) governs the review of complex orders that are executed against other complex orders. Proposed Interpretation and Policy .04(b) provides:

If a complex order executes against another complex order and at least one of the legs qualifies as an Obvious Error under paragraph (c)(1) or a Catastrophic Error under paragraph (d)(1), then the leg(s) that is an Obvious or Catastrophic Error will be adjusted or busted in accordance with paragraph (c)(4) or (d)(3), respectively, so long as either: (i) The width of the National Spread Market for the complex order strategy just prior to the erroneous transaction was equal to or greater than the amount set forth in the wide quote table of paragraph (b)(3) or (ii) the net execution price of the complex order is higher (lower) than the offer (bid) of the National Spread Market for the complex order strategy just prior to the erroneous transaction by an amount equal to at least the amount shown in the table in paragraph (c)(1). If any leg of a complex order is nullified, the entire transaction is nullified. For purposes of Rule 20.6, the National Spread Market for a complex order strategy is determined by the National Best Bid/Offer of the individual legs of the strategy (*i.e.,* the SNBBO under Rule 21.20).

As described above in relation to Proposed Interpretation and Policy .04(a), the first step is for the Exchange to review (upon receipt of a timely notification in accordance with paragraphs (c)(2) or (d)(2) of the Current Rule) the individual legs to determine whether a leg or legs qualifies as an obvious or catastrophic error. If no leg qualifies as an obvious or catastrophic error, the transaction stands—no adjustment and no nullification.

Unlike Proposed Interpretation and Policy .04(a), the Exchange is also proposing to compare the net execution price of the entire complex order package to the National Spread Market (''NSM'') for the complex order strategy.[24] Complex orders are exempt from the order protection rules of the options exchanges.[25] Thus, depending on the manner in which the systems of an options exchange are calibrated, a complex order can execute without regard to the prices offered in the complex order books or the leg markets of other options exchanges. In certain situations, reviewing the execution prices of the legs in a vacuum would make the leg appear to be an obvious or catastrophic error, even though the net execution price on the complex order is not an erroneous price. For example, assume the Exchange receives a

[18] *See* Rule 20.6(b)(3).

[19] *See* Rule 20.6(c)(1).

[20] *See* Rule 20.6(c)(4)(A).

[21] If any leg of a complex order is nullified, the entire transaction is nullified. *See* Proposed Interpretation and Policy .04(a).

[22] The simple order in this example is not an erroneous sell transaction because the execution price was not erroneously low. *See* Rule 20.6(a)(2).

[23] *See* Interpretation and Policy .02 to Rule 20.6.

[24] The NSM is the derived net market for a complex order package and is equivalent to the term SNBBO in Exchange Rule 21.20(a)(12). For example, if the NBBO of Leg 1 is $1.00–2.00 and the NBBO of Leg 2 is $5.00–7.00, then the NSM for a complex order to buy Leg 1 and buy Leg 2 is $6.00–9.00. The Exchange has proposed to retain the term NSM to retain consistency with other options exchanges that have already adopted uniform rules related to complex orders.

[25] *See* Rule 27.2(a)(8). All options exchanges have the same order protection rule.

complex order to buy ABC calls and sell ABC puts.

- If the BBO for the ABC calls is $5.50–7.50 and the BBO for ABC puts is $3.00–4.50, then the Exchange's spread market is $1.00–4.50.[26]
- If the NBBO for the ABC calls is $6.00–6.50 and the NBBO for the ABC puts is $3.50–4.00, then the NSM is $2.00–3.00.
- If the Customer buys the calls at $7.50 and sells the puts at $4.00, the complex order Customer receives a net execution price of $3.00 (debit), which is the expected net execution price as indicated by the NSM offer of $3.00.

If the Exchange were to solely focus on the $7.50 execution price of the ABC calls or the $4.00 execution price of the ABC puts, the execution would qualify as an obvious or catastrophic error because the execution price on the legs was outside the NBBO, even though the net execution price is accurate. Thus, the additional review of the NSM to determine if the complex order was executed at a truly erroneous price is necessary. The same concern is not present when a complex order executes against the leg market under proposed Interpretation and Policy .04(a). The Exchange permits a given leg of a complex order to trade through the NBBO provided the complex order trades no more than a configurable amount outside of the NBBO.[27]

In order to incorporate NSM, proposed Interpretation and Policy .04(b) provides that if the Exchange determines that a leg or legs does qualify as on obvious or catastrophic error, the leg or legs will be adjusted or busted in accordance with paragraph (c)(4) or (d)(3) of the Current Rule, so long as either: (i) The width of the NSM for the complex order strategy just prior to the erroneous transaction was equal to or greater than the amount set forth in the wide quote table of paragraph (b)(3) of the Current Rule or (ii) the net execution price of the complex order is higher (lower) than the offer (bid) of the NSM for the complex order strategy just prior to the erroneous transaction by an amount equal to at least the amount shown in the table in paragraph (c)(1) of the Current Rule.

For example, assume an individual leg or legs qualifies as an obvious or catastrophic error and the width of the NSM of the complex order strategy just prior to the erroneous transaction is $6.00–9.00. The complex order will qualify to be adjusted or busted in accordance with paragraph (c)(4) of the Current Rule because the wide quote table of paragraph (b)(3) of the Current Rule indicates that the minimum amount is $1.50 for a bid price between $5.00 to $10.00. If the NSM were instead $6.00–7.00 the complex order strategy would not qualify to be adjusted or busted pursuant to proposed Interpretation and Policy .04(b)(i) because the width of the NSM is $1.00, which is less than the required $1.50. However, the execution may still qualify to be adjusted or busted in accordance with paragraph (c)(4) or (d)(3) of the Current Rule pursuant to proposed Interpretation and Policy .04(b)(ii). Focusing on the NSM in this manner will ensure that the obvious/catastrophic error review process focuses on the net execution price instead of the execution prices of the individual legs, which may have execution prices outside of the NBBO of the leg markets.

Again, assume an individual leg or legs qualifies as an obvious or catastrophic error as described above. If the NSM is $6.00–7.00 (not a wide quote pursuant to the wide quote table in paragraph (b)(3) of the Current Rule) but the execution price of the entire complex order package (*i.e.,* the net execution price) is higher (lower) than the offer (bid) of the NSM for the complex order strategy just prior to the erroneous transaction by an amount equal to at least the amount in the table in paragraph (c)(1) of the Current Rule, then the complex order qualifies to be adjusted or busted in accordance with paragraph (c)(4) or (d)(3) of the Current Rule. For example, if the NSM for the complex order strategy just prior to the erroneous transaction is $6.00–7.00 and the net execution price of the complex order transaction is $7.75, the complex order qualifies to be adjusted or busted in accordance with paragraph (c)(4) of the Current Rule because the execution price of $7.75 is more than $0.50 (*i.e.,* the minimum amount according to the table in paragraph (c)(1) when the price is above $5.00 but less than $10.01) from the NSM offer of $7.00. Focusing on the NSM in this manner will ensure that the obvious/catastrophic error review process focuses on the net execution price instead of the execution prices of the individual legs, which may have execution prices outside of the NBBO of the leg markets.

Although the Exchange believes adjusting execution prices is generally better for the marketplace than nullifying executions because liquidity providers often execute hedging transactions to offset options positions, the Exchange recognizes that complex orders executing against other complex orders is similar to simple orders executing against other simple orders because both parties are able to review the execution price to determine whether the transaction may have been executed at an erroneous price. Thus, for purposes of complex orders that meet the requirements of Interpretation and Policy .04(b), the Exchange proposes to apply the Current Rule and adjust or bust obvious errors in accordance with paragraph (c)(4) (as opposed to applying paragraph (c)(4)(A) as is the case under proposed Interpretation and Policy .04(a)) and catastrophic errors in accordance with (d)(3).

Therefore, for purposes of complex orders under Proposed Interpretation and Policy .04(b), if one of the legs is determined to be an obvious error under paragraph (c)(1), all Customer transactions will be nullified, unless a Member submits 200 or more Customer transactions for review in accordance with (c)(4)(C) of the Current Rule.[28] For purposes of complex orders under Interpretation and Policy .04(b), if one of the legs is determined to be a catastrophic error under paragraph (d)(3) and all of the other requirements of Interpretation and Policy .04(b) are met, all market participants will be adjusted in accordance with the table set forth in (d)(3) of the Current Rule. Again, however, pursuant to paragraph (d)(3) where at least one party to a complex order transaction is a Customer, the transaction will be nullified if adjustment would result in an execution price higher (for buy transactions) or lower (for sell transactions) than the Customer's limit price on the complex order or individual leg(s). Also, if any leg of a

[26] The complex order is to buy ABC calls and sell ABC puts. The Exchange's best offer for ABC puts is $7.50 and Exchange's best bid for is $3.00. If the Customer were to buy the complex order strategy, the Customer would receive a debit of $4.50 (buy ABC calls for $7.50 minus selling ABC puts for $3.00). If the Customer were to sell the complex order strategy the Customer would receive a credit of $1.00 (selling the ABC calls for $5.50 minus buying the ABC puts for $4.50). Thus, the Exchange's spread market is $1.00–4.50.

[27] See Rule 20.20 [sic], Interpretation and Policy .04(f), which states: ''The Drill-Through Price Protection feature is a price protection mechanism applicable to all complex orders under which a buy (sell) order will not be executed at a price that is higher (lower) than the SNBBO or the SNBBO at the time of order entry plus (minus) a buffer amount (the ''Drill-Through Price''). The Exchange will adopt a default buffer amount for the Drill-Through Price Protection and will publish this amount in publicly available specifications and/or a Regulatory Circular. A Member may modify the buffer amount applicable to Drill-Through Price Protections to either a larger or smaller amount than the Exchange default . . . .''

[28] Rule 20.6(c)(4)(C) also requires the orders resulting in 200 or more Customer transactions to have been submitted during the course of 2 minutes or less.

complex order is nullified, the entire transaction is nullified.

Implementation Date

The Exchange anticipates launching its complex order book on October 23, 2017. Accordingly, the Exchange proposes to implement this rule immediately.

2. Statutory Basis

The Exchange believes that its proposal is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.[29] Specifically, the proposal is consistent with Section 6(b)(5) of the Act [30] because it would promote just and equitable principles of trade, remove impediments to, and perfect the mechanism of, a free and open market and a national market system, and, in general, protect investors and the public interest.

As described above, the Exchange and other options exchanges are seeking to adopt harmonized rules related to the adjustment and nullification of erroneous options transactions. The Exchange believes that the Proposed Rule will provide greater transparency and clarity with respect to the adjustment and nullification of erroneous options transactions. Particularly, the proposed changes seek to achieve consistent results for participants across U.S. options exchanges while maintaining a fair and orderly market, protecting investors and protecting the public interest. Based on the foregoing, the Exchange believes that the proposal is consistent with Section 6(b)(5) of the Act [31] in that the Proposed Rule will foster cooperation and coordination with persons engaged in regulating and facilitating transactions.

The Exchange believes the various provisions allowing or dictating adjustment rather than nullification of a trade are necessary given the benefits of adjusting a trade price rather than nullifying the trade completely. Because options trades are used to hedge, or are hedged by, transactions in other markets, including securities and futures, many Members, and their customers, would rather adjust prices of executions rather than nullify the transactions and, thus, lose a hedge altogether. As such, the Exchange believes it is in the best interest of investors to allow for price adjustments as well as nullifications.

The Exchange does not believe that the proposal is unfairly discriminatory, even though it differentiates in many places between Customers and non-Customers. As with the Current Rule, Customers are treated differently, often affording them preferential treatment. This treatment is appropriate in light of the fact that Customers are not necessarily immersed in the day-to-day trading of the markets, are less likely to be watching trading activity in a particular option throughout the day, and may have limited funds in their trading accounts. At the same time, the Exchange reiterates that in the U.S. options markets generally there is significant retail customer participation that occurs directly on (and only on) options exchanges such as the Exchange. Accordingly, differentiating among market participants with respect to the adjustment and nullification of erroneous options transactions is not unfairly discriminatory because it is reasonable and fair to provide Customers with additional protections as compared to non-Customers.

The Exchange believes that its proposal to adopt the ability to adjust a Customer's execution price when a complex order is deemed to be an Obvious or Catastrophic Error is consistent with the Act. A complex order that executes against individual leg markets may receive an execution price on an individual leg that is not an Obvious or Catastrophic error but another leg of the transaction is an Obvious or Catastrophic Error. In such situations where the complex order is executing against at least one individual or firm that is not aware of the fact that they have executed against a complex order or that the complex order has been executed at an erroneous price, the Exchange believes it is more appropriate to adjust execution prices if possible because the derivative transactions are often hedged with other securities. Allowing adjustments instead of nullifying transactions in these limited situations will help to ensure that market participants are not left with a hedge that has no position to hedge against.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Importantly, the Exchange believes the proposal will not impose a burden on intermarket competition but will rather alleviate any burden on competition because it is the result of a collaborative effort by all options exchanges to harmonize and improve the process related to the adjustment and nullification of erroneous options transactions. The Exchange does not believe that the rules applicable to such process is an area where options exchanges should compete, but rather, that all options exchanges should have consistent rules to the extent possible. Particularly where a market participant trades on several different exchanges and an erroneous trade may occur on multiple markets nearly simultaneously, the Exchange believes that a participant should have a consistent experience with respect to the nullification or adjustment of transactions. The Exchange understands that all other options exchanges that trade complex orders and/or stock-option orders have adopted rules that are substantially similar to this proposal.

The Exchange does not believe that the proposed rule change imposes a burden on intramarket competition because the provisions apply to all market participants equally within each participant category (*i.e.,* Customers and non-Customers). With respect to competition between Customer and non-Customer market participants, the Exchange believes that the Proposed Rule acknowledges competing concerns and tries to strike the appropriate balance between such concerns. For instance, the Exchange believes that protection of Customers is important due to their direct participation in the options markets as well as the fact that they are not, by definition, market professionals. At the same time, the Exchange believes due to the quote-driven nature of the options markets, the importance of liquidity provision in such markets and the risk that liquidity providers bear when quoting a large breadth of products that are derivative of underlying securities, that the protection of liquidity providers and the practice of adjusting transactions rather than nullifying them is of critical importance. As described above, the Exchange will apply specific and objective criteria to determine whether an erroneous transaction has occurred and, if so, how to adjust or nullify a transaction.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

[29] 15 U.S.C. 78f(b).

[30] 15 U.S.C. 78f(b)(5).

[31] 15 U.S.C. 78f(b)(5).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [32] and Rule 19b–4(f)(6) thereunder.[33]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act [34] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii) [35] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the Exchange may, as soon as possible, implement the changes proposed by this filing. The Exchange notes that the proposal will promote consistency between the Exchange and other options exchanges that accept complex orders. For this reason, the Commission believes the waiver of the operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the operative delay and designates the proposed rule change operative upon filing.[36]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

[32] 15 U.S.C. 78s(b)(3)(A).

[33] 17 CFR 240.19b–4(f)(6). As required under Rule 19b–4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

[34] 17 CFR 240.19b–4(f)(6).

[35] 17 CFR 240.19b–4(f)(6)(iii).

[36] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

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–BatsEDGX–2017–43 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–BatsEDGX–2017–43. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BatsEDGX–2017–43, and should be submitted on or before November 27, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[37]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–24051 Filed 11–3–17; 8:45 am]

BILLING CODE 8011–01–P

DEPARTMENT OF STATE

[Public Notice 10193]

Certification Pursuant to Section 7041(A)(L) of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2017

By virtue of the authority vested in me as Secretary of State pursuant to section 7041(a)(1) of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2017 (Div. J, Pub. L. 115–31), I hereby certify that the Government of Egypt is sustaining the strategic relationship with the United States and meeting its obligations under the 1979 Egypt-Israel Peace Treaty.

This determination shall be published in the **Federal Register** and, along with the accompanying Memorandum of Justification, shall be reported to Congress.

Dated: October 16, 2017.

Rex W. Tillerson,

Secretary of State.

[FR Doc. 2017–24091 Filed 11–3–17; 8:45 am]

BILLING CODE 4710–31–P

SURFACE TRANSPORTATION BOARD

[Docket No. AB 400 (Sub-No. 6X)]

Seminole Gulf Railway, L.P.—Abandonment Exemption—in Sarasota County, Fla.

Seminole Gulf Railway, L.P. (SGLR) has filed a verified notice of exemption under 49 CFR pt. 1152 subpart F—*Exempt Abandonments* to abandon a 1.71-mile segment of its line of railroad known as the Venice Branch, between milepost SW 890.29 and milepost SW 892.00 outside of the City of Sarasota, in Sarasota County, Fla. (the Line).[1] SGLR will also be abandoning a connecting industrial spur. The Line traverses

[37] 17 CFR 200.30–3(a)(12).

[1] This Line connects to a former line of railroad for which SGLR received abandonment authority in 2004, subject to environmental, public use, trail use, and standard employee protective conditions. *See Seminole Gulf Ry.—Aban. Exemption—in Sarasota Cty., Fla.,* AB 400 (Sub-No. 3X) (STB served Apr. 2, 2004.) That line was subsequently transferred to Sarasota County for interim trail use and rail banking and developed into a trail.

United States Postal Service Zip Codes 34233 and 34238.

SGLR has certified that: (1) No local or overhead traffic has moved over the Line for more than 10 years; (2) because the Line is not a through route, there is no overhead traffic on the Line; (3) no formal complaint filed by a user of rail service on the Line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the Line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the two-year period; and (4) the requirements at 49 CFR 1105.7(c) (environmental report), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on December 6, 2017, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[2] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[3] and interim trail use/rail banking requests under 49 CFR 1152.29 must be filed by November 16, 2017. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by November 24, 2017, with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to Eric M. Hocky, Clark Hill, PLC, One Commerce Square, 2005 Market Street, Suite 1000, Philadelphia, PA 19103.

If the verified notice contains false or misleading information, the exemption is void ab initio.

SGLR has filed a combined environmental and historic report that addresses the effects, if any, of the abandonment on the environment and historic resources. OEA will issue an environmental assessment (EA) by November 9, 2017. Interested persons may obtain a copy of the EA by writing to OEA (Room 1100, Surface Transportation Board, Washington, DC 20423–0001) or by calling OEA at (202) 245–0305. Assistance for the hearing impaired is available through the Federal Information Relay Service at (800) 877–8339. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), SGLR shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the Line. If consummation has not been effected by SGLR's filing of a notice of consummation by November 6, 2018, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our Web site at *WWW.STB.GOV.*

Decided: October 30, 2017.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.

Tammy Lowery,

Clearance Clerk.

[FR Doc. 2017–23963 Filed 11–3–17; 8:45 am]

BILLING CODE 4915–01–P

[2] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Office of Environmental Analysis (OEA) in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Serv. Rail Lines,* 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[3] Each OFA must be accompanied by the filing fee, which is currently set at $1,800. *See Regulations Governing Fees for Servs. Performed in Connection with Licensing & Related Servs.—2017 Update,* EP 542 (Sub-No. 25), slip op. App. C at 20 (STB served July 28, 2017).

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket Number USTR–2017–0022]

Applications for Inclusion on the Binational Panels Roster Under the North American Free Trade Agreement

AGENCY: Office of the United States Trade Representative.

ACTION: Invitation for applications.

SUMMARY: The North American Free Trade Agreement (NAFTA) provides for the establishment of a roster of individuals to serve on binational panels convened to review final determinations in antidumping or countervailing duty (AD/CVD) proceedings and amendments to AD/CVD statutes of a NAFTA Party. The United States annually renews its selections for the roster. The Office of the United States Trade Representative (USTR) invites applications from eligible individuals wishing to be included on the roster for the period April 1, 2018, through March 31, 2019.

DATES: USTR must receive your application by November 17, 2017.

ADDRESSES: You should submit your application through the Federal eRulemaking Portal: *http://www.regulations.gov,* using docket number USTR–2017–0022. Follow the instructions for submitting comments below. While USTR strongly prefers electronic submissions, you also may submit your application by fax, to Sandy McKinzy at (202) 395–3640.

FOR FURTHER INFORMATION CONTACT: Katherine Wang, Assistant General Counsel, *Katherine_E_Wang@ustr.eop.gov,* (202) 395–6214.

SUPPLEMENTARY INFORMATION:

Binational Panel AD/CVD Reviews Under the NAFTA

Article 1904 of the NAFTA provides that a party involved in an AD/CVD proceeding may obtain review by a binational panel of a final AD/CVD determination of one NAFTA Party with respect to the products of another NAFTA Party. Binational panels decide whether AD/CVD determinations are in accordance with the domestic laws of the importing NAFTA Party using the standard of review that would have been applied by a domestic court of the importing NAFTA Party. A panel may uphold the AD/CVD determination, or may remand it to the national administering authority for action not inconsistent with the panel's decision. Panel decisions may be reviewed in specific circumstances by a three-member extraordinary challenge committee, selected from a separate roster composed of 15 current or former judges.

Article 1903 of the NAFTA provides that a NAFTA Party may refer an amendment to the AD/CVD statutes of another NAFTA Party to a binational panel for a declaratory opinion as to whether the amendment is inconsistent with the General Agreement on Tariffs and Trade (GATT), the GATT Antidumping or Subsidies Codes, successor agreements, or the object and purpose of the NAFTA with regard to the establishment of fair and predictable conditions for the liberalization of trade. If the panel finds that the amendment is

inconsistent, the two NAFTA Parties must consult and seek to achieve a mutually satisfactory solution.

Roster and Composition of Binational Panels

Annex 1901.2 of the NAFTA provides for the maintenance of a roster of at least 75 individuals for service on Chapter 19 binational panels, with each NAFTA Party selecting at least 25 individuals. A separate five-person panel is formed for each review of a final AD/CVD determination or statutory amendment. To form a panel, the two NAFTA Parties involved each appoint two panelists, normally by drawing upon individuals from the roster. If the Parties cannot agree upon the fifth panelist, one of the Parties, decided by lot, selects the fifth panelist from the roster. The majority of individuals on each panel must consist of lawyers in good standing, and the chair of the panel must be a lawyer.

When there is a request to establish a panel, roster members from the two involved NAFTA Parties will complete a disclosure form that is used to identify possible conflicts of interest or appearances thereof. The disclosure form requests information regarding financial interests and affiliations, including information regarding the identity of clients of the roster member and, if applicable, clients of the roster member's firm.

Criteria for Eligibility for Inclusion on Roster

Section 402 of the NAFTA Implementation Act (Pub. L. 103–182, as amended (19 U.S.C. 3432)) (Section 402) provides that selections by the United States of individuals for inclusion on the Chapter 19 roster are to be based on the eligibility criteria set out in Annex 1901.2 of the NAFTA, and without regard to political affiliation. Annex 1901.2 provides that Chapter 19 roster members must be citizens of a NAFTA Party, must be of good character and of high standing and repute, and are to be chosen strictly on the basis of their objectivity, reliability, sound judgment, and general familiarity with international trade law. Aside from judges, roster members may not be affiliated with any of the three NAFTA Parties. Section 402 also provides that, to the fullest extent practicable, judges and former judges who meet the eligibility requirements should be selected.

Adherence to the NAFTA Code of Conduct for Binational Panelists

The ''Code of Conduct for Dispute Settlement Procedures Under Chapters 19 and 20'' (*see https://www.nafta-sec-alena.org/Default.aspx?tabid=99&language=en-US*), which was established pursuant to Article 1909 of the NAFTA, provides that current and former Chapter 19 roster members ''shall avoid impropriety and the appearance of impropriety and shall observe high standards of conduct so that the integrity and impartiality of the dispute settlement process is preserved.'' The Code of Conduct also provides that candidates to serve on chapter 19 panels, as well as those who are ultimately selected to serve as panelists, have an obligation to ''disclose any interest, relationship or matter that is likely to affect [their] impartiality or independence, or that might reasonably create an appearance of impropriety or an apprehension of bias.'' Annex 1901.2 of the NAFTA provides that roster members may engage in other business while serving as panelists, subject to the Code of Conduct and provided that such business does not interfere with the performance of the panelist's duties. In particular, Annex 1901.2 states that ''[w]hile acting as a panelist, a panelist may not appear as counsel before another panel.''

Procedures for Selection of Roster Members

Section 402 establishes procedures for the selection by USTR of the individuals chosen by the United States for inclusion on the Chapter 19 roster. The roster is renewed annually, and applies during the one-year period beginning April 1st of each calendar year.

Under Section 402, an interagency committee chaired by USTR prepares a preliminary list of candidates eligible for inclusion on the Chapter 19 roster. After consultation with the Senate Committee on Finance and the House Committee on Ways and Means, the United States Trade Representative selects the final list of individuals chosen by the United States for inclusion on the Chapter 19 roster.

Remuneration

Roster members selected for service on a Chapter 19 binational panel will be remunerated at the rate of 800 Canadian dollars per day.

Applications

Eligible individuals who wish to be included on the Chapter 19 roster for the period April 1, 2018, through March 31, 2019, are invited to submit applications. In order to be assured of consideration, USTR must receive your application November 17, 2017. Applications may be submitted electronically to *www.regulations.gov,* using docket number USTR–2017–0022, or by fax to Sandy McKinzy at 202–395–3640.

In order to ensure the timely receipt and consideration of applications, USTR strongly encourages applicants to make on-line submissions, using the *www.regulations.gov* Web site. To submit an application via regulations.gov, enter docket number USTR–2017–0022 on the home page and click ''search.'' The site will provide a search-results page listing all documents associated with this docket. Find a reference to this notice by selecting ''Notice'' under ''Document Type'' on the left side of the search-results page, and click on the link entitled ''Comment Now!.'' For further information on using the *www.regulations.gov* Web site, please consult the resources provided on the Web site by clicking on the ''How to Use *Regulations.gov*'' on the bottom of the page.

The *www.regulations.gov* Web site allows users to provide comments by filling in a ''Type Comment'' field, or by attaching a document using an ''Upload File'' field. USTR prefers that applications be provided in an attached document. If a document is attached, please type ''Application for Inclusion on NAFTA Chapter 19 Roster'' in the ''Upload File'' field. USTR prefers submissions in Microsoft Word (.doc) or Adobe Acrobat (.pdf). If the submission is in an application other than those two, please indicate the name of the application in the ''Type Comment'' field.

Applications must be typewritten, and should be headed ''Application for Inclusion on NAFTA Chapter 19 Roster.'' Applications should include the following information, and each section of the application should be numbered as indicated:

1. Name of the applicant.
2. Business address, telephone number, fax number, and email address.
3. Citizenship(s).
4. Current employment, including title, description of responsibility, and name and address of employer.
5. Relevant education and professional training.
6. Spanish language fluency, written and spoken.
7. Post-education employment history, including the dates and addresses of each prior position and a summary of responsibilities.
8. Relevant professional affiliations and certifications, including, if any, current bar memberships in good standing.
9. A list and copies of publications, testimony, and speeches, if any, concerning AD/CVD law. Judges or

former judges should list relevant judicial decisions. Only one copy of publications, testimony, speeches, and decisions need be submitted.

10. Summary of any current and past employment by, or consulting or other work for, the Governments of the United States, Canada, or Mexico.

11. The names and nationalities of all foreign principals for whom the applicant is currently or has previously been registered pursuant to the Foreign Agents Registration Act, 22 U.S.C. 611 *et seq.,* and the dates of all registration periods.

12. List of proceedings brought under U.S., Canadian, or Mexican AD/CVD law regarding imports of U.S., Canadian, or Mexican products in which the applicant advised or represented (for example, as consultant or attorney) any U.S., Canadian, or Mexican party to such proceeding and, for each such proceeding listed, the name and country of incorporation of such party.

13. A short statement of qualifications and availability for service on Chapter 19 panels, including information relevant to the applicant's familiarity with international trade law and willingness and ability to make time commitments necessary for service on panels.

14. On a separate page, the names, addresses, telephone and fax numbers of three individuals willing to provide information concerning the applicant's qualifications for service, including the applicant's character, reputation, reliability, judgment, and familiarity with international trade law.

Current Roster Members and Prior Applicants

Current members of the Chapter 19 roster who remain interested in inclusion on the Chapter 19 roster only need to indicate that they are reapplying and submit updates (if any) to their applications on file. Current members do not need to resubmit their applications. Individuals who have previously applied but have not been selected must submit new applications to reapply. If an applicant, including a current or former roster member, has previously submitted materials referred to in item 9, such materials need not be resubmitted.

Public Disclosure

Applications are covered by a Privacy Act System of Records Notice and are not subject to public disclosure and will not be posted publicly on *www.regulations.gov.* They may be referred to other federal agencies and Congressional committees in the course of determining eligibility for the roster, and shared with foreign governments and the NAFTA Secretariat in the course of panel selection.

False Statements

Pursuant to section 402(c)(5) of the NAFTA Implementation Act, false statements by applicants regarding their personal or professional qualifications, or financial or other relevant interests that bear on the applicants' suitability for placement on the Chapter 19 roster or for appointment to binational panels, are subject to criminal sanctions under 18 U.S.C. 1001.

Juan A. Millán,

Assistant United States Trade Representative for Monitoring and Enforcement, Office of the U.S. Trade Representative.

[FR Doc. 2017–24027 Filed 11–3–17; 8:45 am]

BILLING CODE 3290–F8–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Fifty Third RTCA SC–224 Standards for Airport Security Access Control Systems Plenary

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

ACTION: Fifty Third RTCA SC–224 Standards for Airport Security Access Control Systems Plenary.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of Fifty Third RTCA SC–224 Standards for Airport Security Access Control Systems Plenary.

DATES: The meeting will be held December 12, 2017 10:00 a.m.–1:00 p.m.

ADDRESSES: The meeting will be held at: RTCA Headquarters, 1150 18th Street NW., Suite 910, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Karan Hofmann at *khofmann@rtca.org* or 202–330–0680, or The RTCA Secretariat, 1150 18th Street NW., Suite 910, Washington, DC 20036, or by telephone at (202) 833–9339, fax at (202) 833–9434, or Web site at *http://www.rtca.org.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App.), notice is hereby given for a meeting of the Fifty Third RTCA SC–224 Standards for Airport Security Access Control Systems Plenary. The agenda will include the following:

1. Welcome/Introductions/ Administrative Remarks
2. Review/Approve Previous Meeting Summary
3. Report on TSA Participation
4. Report on Document Distribution Mechanisms.
5. Report on the New Guidelines and other Safe Skies Reports
6. Discussion on DO–230I Sections
7. TOR Changes
8. Action Items for Next Meeting
9. Time and Place of Next Meeting
10. Any Other Business
11. Adjourn

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to 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 October 31, 2017.

Mohannad Dawoud,

Management & Program Analyst, Partnership Contracts Branch, ANG–A17, NextGen, Procurement Services Division, Federal Aviation Administration.

[FR Doc. 2017–24030 Filed 11–3–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Thirty Sixth RTCA SC–213 Enhanced Flight Vision Systems/Synthetic Vision Systems (EFVS/SVS) Joint Plenary With EUROCAE Working Group 70

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

ACTION: Thirty Sixth RTCA SC–213 Enhanced Flight Vision Systems/ Synthetic Vision Systems (EFVS/SVS) Joint Plenary with EUROCAE Working Group 70.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of the Thirty Sixth RTCA SC–213 Enhanced Flight Vision Systems/Synthetic Vision Systems (EFVS/SVS) Joint Plenary with EUROCAE Working Group 70.

DATES: The meeting will be held December 04, 2017, 10:00 a.m.–12:00 p.m.

ADDRESSES: The meeting will be held at: RTCA Headquarters, 1150 18th Street NW., Suite 910, Washington, DC 20036 and a webex will be hosted.

FOR FURTHER INFORMATION CONTACT: Rebecca Morrison at *rmorrison@rtca.org*

or 202–330–0654, or The RTCA Secretariat, 1150 18th Street NW., Suite 910, Washington, DC 20036, or by telephone at (202) 833–9339, fax at (202) 833–9434, or Web site at *http://www.rtca.org.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App.), notice is hereby given for a meeting of the Thirty Sixth RTCA SC–213 Enhanced Flight Vision Systems/Synthetic Vision Systems (EFVS/SVS) Joint Plenary with EUROCAE Working Group 70. The agenda will include the following:

Monday, December 4, 2017 10:00 a.m.–12:00 p.m.

1. Welcome/Administrative Duties
2. IPR/Membership Call-Out and Introductions
3. Consider a Motion To Begin Open Consultation/Final Review and Comment for the CVS MASPS
4. New Business
5. Review Action Items
6. Adjourn

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to 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 October 4, 2017.

Mohannad Dawoud,

Management & Program Analyst, Partnership Contracts Branch, ANG–A17, NextGen, Procurement Services Division, Federal Aviation Administration.

[FR Doc. 2017–24031 Filed 11–3–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2017–0109]

Petition for Waiver of Compliance

Under part 211 of Title 49 of the Code of Federal Regulations (CFR), this provides the public notice that October 2, 2017, the Port Authority Trans-Hudson Corporation (PATH) petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR P§ 238.123. FRA assigned the petition docket number FRA–2017–0109.

PATH is requesting relief from the requirements of 49 CFR 238.123, *Emergency roof access,* which requires passenger cars ordered on or after April 1, 2009, or placed in service for the first time on or after April 1, 2011, to have two emergency roof access locations. Alternatively, PATH requests approval to install a single emergency roof access location on any new passenger car ordered from this date forward. PATH states that the basis of this petition is the unique nature of the PATH PA–5 vehicles and operation relative to typical railroad operations under FRA jurisdiction. The railcars used by PATH are more typical for urban rapid transit operations, and differ from other passenger rail equipment in dimension and design, such that it is not practicable to have two emergency roof access locations. PATH asserts that the emergency access windows and other exits that are available on its equipment provide a high level of safety that is appropriate to its operations.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov* and in person at the U.S. Department of Transportation's (DOT) Docket Operations Facility, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested parties desire an opportunity for oral comment and a public hearing, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- *Web site: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Avenue SE., Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by December 21, 2017 will be considered by FRA before final action is taken. Comments received after that date will be considered if practicable.

Anyone can search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). Under 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its processes. 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 *https://www.transportation.gov/privacy.* See also *https://www.regulations.gov/privacyNotice* for the privacy notice of regulations.gov.

Issued in Washington, DC, on October 30, 2017.

John K. Alexy,

Director, Office of Safety Analysis.

[FR Doc. 2017–24037 Filed 11–3–17; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Public Availability of the Department of Transportation FY 2016 Service Contract Inventory

AGENCY: Department of Transportation.

ACTION: Notice of Public Availability of FY 2016 Service Contract Inventory.

In accordance with Section 743 of Division C of the Consolidated Appropriations Act of 2010, Public Law 111–117, Department of Transportation is publishing this notice to advise the public of the availability of the FY 2016 Government-wide Service Contact Inventory data, the analysis of the FY 2015 Service Contract Inventory data and the plan for analyzing the FY 2016 data. This inventory provides information on service contract actions over $25,000 awarded in FY 2016. The information is organized by function to show how contracted resources are distributed throughout the agency.

The inventory has been developed in accordance with guidance issued on November 5, 2010 by the Office of Management and Budget's Office of Federal Procurement Policy (OFPP). OFPP's guidance is available at *http://www.whitehouse.gov/sites/default...052010.pdf.* Department of Transportation has posted its analysis of the FY 2015 Service Contact Inventory

data, the plan for analyzing the FY 2016 data, and the link to the FY 2016 Government-wide inventory on the Department of Transportation's homepage at the following link: *https://www.transportation.gov/assistant-secretary-administration/procurement/service-contract-inventory.* Questions regarding the Service Contract Inventory should be directed to Diane Morrison in the Office of the Senior Procurement Executive at 202–366–4960 or *diane.morrison@dot.gov.*

Dated: October 3, 2017.

Gregory Cate,

Deputy Director, Office of Senior Procurement Executive.

[FR Doc. 2017–24077 Filed 11–3–17; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF THE TREASURY

United States Mint

Renewal of Currently Approved Information Collection: Comment Request for Customer Satisfaction and Opinion Surveys, and Focus Group Interviews

AGENCY: United States Mint, Treasury.

ACTION: Notice and request for comments.

SUMMARY: The United States Mint, a bureau of the Department of the Treasury, invites the general public and other Federal agencies to take this opportunity to comment on currently approved information collection 1525–0012, as required by the Paperwork Reduction Act of 1995, The United States Mint is soliciting comments on the United States Mint customer satisfaction and opinion surveys, and focus group interviews.

DATES: Written comments should be received on or before November 30, 2017, to be assured of consideration.

ADDRESSES: Direct all written comments to Mary Ann Scharbrough, Records Officer, Office of the Director; United States Mint; 801 9th Street NW., Washington, DC 20220; (202) 384–5805 (this is not a toll-free number); *mary.scharbrough@usmint.treas.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection package should be directed to Mary Ann Scharbrough, Records Officer, Office of the Director; United States Mint; 801 9th Street NW.; Washington, DC 20220; (202) 384–5805 (this is not a toll-free number); *mary.scharbrough@usmint.treas.gov.*

SUPPLEMENTARY INFORMATION:

Title: United States Mint Customer Satisfaction and Opinion Surveys, and Focus Group Interviews.

OMB Number: 1525 0012.

Abstract: The proposed customer satisfaction and opinion surveys and focus group interviews will allow the United States Mint to assess the acceptance of, potential demand for, and barriers to acceptance/increased demand for current and future products, and the needs and desires of customers for more efficient, economical services.

Current Actions: The United States Mint conducts customer satisfaction and opinion surveys, and focus group interviews to measure customer opinion and assess acceptance of, the potential demand for, and barriers to acceptance/increased demand for United States Mint products, and to determine the level of satisfaction of United States Mint customers and the general public.

Type of Review: Renewal of a currently approved information collection.

Affected Public: The affected public includes serious and casual numismatic collectors, dealers, and persons in the numismatic business, and the general public.

Estimated Number of Respondents: The estimated number of annual respondents is 50,136.

Estimated Total Annual Burden Hours: The estimated number of annual burden hours is 15,564.

Requests for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Authority: Pursuant to 31 U.S.C. 5111, 5112, 5135, 5136, and 31 CFR 92.

Jean Gentry,

Chief Counsel, United States Mint.

SUPPORTING STATEMENT A

UNITED STATES MINT GENERIC CLEARANCE

(December 1, 2017–December 1, 2020) 1525–0012

A. JUSTIFICATION

A1. *CIRCUMSTANCES NECESSITATING THE COLLECTION OF INFORMATION*

This is a request for a three-year generic clearance to conduct customer satisfaction and opinion surveys, and focus group interviews. This clearance will allow the United States Mint to comply with Executive Order 12862 and assist the United States Mint in fulfilling its mission.

The mission of the United States Mint is to serve the American people by manufacturing and distributing the highest quality circulating coinage and national medals for the Nation to conduct its trade and commerce, and providing security over assets entrusted to the United States Mint.

The United States Mint is responsible for producing proof, uncirculated, circulated and commemorative coins, and medals, and platinum, gold and silver bullion coins in response to programs legislated by Congress in support of domestic trade and commerce, civic, philanthropic, and national organizations.

To effectively accomplish the goals of these programs, it is crucial for the United States Mint to know and maintain awareness of customer preferences and needs by continually monitoring customer satisfaction.

However, because the time period between program authorization, production, and product shipment is often short, the United States Mint has not always had adequate time to obtain needed information about customer preferences and market conditions.

Therefore, the use of generic clearance to conduct customer satisfaction and opinion surveys, and focus group interviews will allow the United States Mint to quickly obtain useful data to create more profitable programs and to provide better service and products to the American public.

The Supporting Statement contains authorization under which these data collections efforts are implemented. Supporting Statement B contains a list of anticipated projects that may be submitted for approval through the generic clearance process between

November 1, 2017 and November 1, 2020.

This clearance covers data collection efforts by the United States Mint Directorates. An internal review of all proposed data collections will be performed to ensure the following:

- Consistency with United States Mint mission and strategic objectives.
- Appropriate priority within United States Mint's Strategic Plan and/or United States Mint annual business plan.
- Technical adequacy in issues such as frame, sample selection, response rates, quality control in data gathering, recording, and analysis.
- Minimizes burden on respondents.
- Confidentiality of individual responses.
- Consistency with this generic clearance.
- Consistency with applicable laws and regulations.

A2. *USE OF DATA*

A variety of data collection methods will be employed, including web-based surveys, telephone CATI systems (computer-assisted telephone interviews), focus group interviews, and other appropriate means. The information will be used to:

- Determine customer opinions about the quality of products, pricing, delivery, and other services provided by the United States Mint.
- Determine customer needs and wants in regard to future products and services.
- Define the next steps/actions plans to improving customer satisfaction and United State Mint sales operations.

A3. *USE OF INFORMATION TECHNOLOGY TO REDUCE BURDEN*

- In past instances, the United States Mint has used CATI systems and web-based surveys (both provided by contractors) for data collection efforts. The CTI systems and web-based surveys increase efficiency and validity of surveys and decrease the time required for each interview and, consequently, the overall burden on respondents. These methodologies allow the computer to perform a number of critical quality assurance routines that are monitored by survey supervisors. These include tracking average interview length and refusal and termination rate.

A4. *EFFORTS TO IDENTIFY DUPLICATION*

Survey questions will address United States Mint related products and do not duplicate the efforts of other agencies/organizations. Our internal review and approval process ensures that duplication of data gathering within the United States Mint is eliminated.

Additionally, no other organization can conduct a survey of the United States Mint customers because our customer list is unique and secured by the United States Mint.

A5. *METHODS TO MINIMIZE BURDEN ON SMALL BUSINESSES OR OTHER SMALL ENTITIES*

The data collections for the most part will be targeted to individuals. Although some customers are coin and hobby dealers that may operate a small business, all information requests will be voluntary. In addition, respondents will rarely be required to consult or access their records for detailed factual information.

A6. *CONSEQUENCES OF LESS FREQUENT COLLECTION ON FEDERAL PROGRAMS OR POLICY ACTIVITIES*

The United States Mint would not be in compliance with Executive Order 12862 if some of the collection efforts were not undertaken. Also, with the United States Mint operating as a self-funding agency, the information and the changes resulting from data collections are crucial to United States Mint numismatic sales efforts.

A7. *SPECIAL CIRCUMSTANCE REQUIRING DATA COLLECTION TO BE INCONSISTENT WITH GUIDELINES IN 5 CFR 1320.6*

No special circumstances require the collection to be conducted in a manner inconsistent with the guidelines in 5 CFR 1320.6.

A8. *CONSULTATION WITH INDIVIDUALS OUTSIDE OF THE AGENCY ON AVAILABILITY OF DATA, FREQUENCY OF COLLECTION, CLARITY OF INSTRUCTION AND FORMS, AND DATA ELEMENTS*

The United States Mint collaborates with professional marketing firms and contractors with expertise in marketing research, statistical analysis, and customer driven marketing. Their assistance is utilized in development, administration, and analysis research.

A9. *EXPLANATION OF DECISION TO PROVIDE PAYMENT OR GIFT TO RESPONDENTS*

The United States Mint has compensated respondents only when it was necessary as an incentive for their extensive time or expertise. Specific justification has accompanied such requests. In the future, the United States Mint will use compensation for respondents only when it is deemed necessary.

A10. *ASSURANCE OF CONFIDENTIALITY OF RESPONSES*

Survey respondents contacted by mail, fax, Internet, or some other form of written communication will be advised on the survey form, cover letter, or other accompanying document that participation is voluntary and that the data provided will be secured. As part of the introduction to a data gathering effort during telephone or personal interviews, the interviewer will inform the respondents that the survey is voluntary and that each individual's responses will be secured. Focus group participants will verbally receive similar assurances during opening statements of the interview session.

A11. *JUSTIFICATION OF SENSITIVE QUESTIONS*

Not applicable. Sensitive information is not collected.

A12. *ESTIMATED BURDEN OF INFORMATION COLLECTION*

The following table is a breakdown of the estimated number of hours for a three-year generic clearance and estimated number of respondents for a three-year generic clearance.

However, due to changes in the market and possible new coin programs legislated by Congress, this figure could increase.

Research	Estimated number of hours (3 years)	Estimated number of respondents (3 years)
Naxion (Formally known as ''Nat'l Analysts Worldwide'') Customer Acquisition Research	5,451	12,000
Naxion (Formally known as ''Nat'l Analysts Worldwide'') General Analytics Research	3,357	25,200

Research	Estimated number of hours (3 years)	Estimated number of respondents (3 years)
Naxion (Formally known as ''Nat'l Analysts Worldwide'') Customer Satisfaction Tracking Research	2,700	10,800
Naxion (Formally known as ''Nat'l Analysts Worldwide'') Focus Group Research	3,840	1,920
Web Usability Research	216	216
Total	15,564	50,136

A13. *ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS*

Estimates of the cost burden to respondents is unknown at this time.

A14. *ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT*

The following table is a breakdown of the estimated cost to the United States Mint based on previous experience.

Research	Annual estimated cost	Total estimated—3 years
Naxion (Formally known as ''Nat'l Analysts Worldwide'') Customer Acquisition Research	$399,000	$1,197,000
Naxion (Formally known as ''Nat'l Analysts Worldwide'') General Analytics Research	400,000	1,200,000
Naxion (Formally known as ''Nat'l Analysts Worldwide'') Customer Satisfaction Tracking Research	240,000	720,000
Naxion (Formally known as ''Nat'l Analysts Worldwide'') Focus Group Research	415,000	1,245,000
Web Usability Research	100,000	300,000
Total	1,554,000	4,662,000

A15. *REASON FOR CHANGE IN BURDEN*

There is no change.

A16. *PLANS FOR TABULATION STATISTICAL ANALYSIS AND PUBLICATION*

Information from data collection will not be published for statistical purposes.

A17. *REASONS WHY DISPLAYING THE OMB EXPIRATION DATE IS INAPPROPRIATE*

Displaying the expiration date may cause problems with respondents for data collection programs that overlap the three-year authorization periods. In addition, respondents might be declined to refuse to participate if the form carries an authorization date that is expired or soon to expire.

A18. *EXCEPTIONS TO THE CERTIFICATION STATEMENT ON OMB FORM 83–1*

Not applicable. There are no exceptions for certification.

SUPPORTING STATEMENT B

UNITED STATES MINT GENERIC CLEARANCE

(December 1, 2017–December 1, 2020) 1525–0012

B. COLLECTION OF INFORMATION EMPLOYING STATISTICAL METHODS

B1. *UNIVERSE AND RESPONDENT SELECTION*

Surveys covered under this generic clearance will vary with regard to the universe and respondent selection. The potential universe for some surveys will include our active and inactive customers, while others may include far fewer.

However, because the United States Mint is attempting to expand its numismatic markets and practically all Americans are users of circulating coinage, the universe for some surveys may include the entire United States population base, with a statistically valid sample selected for research.

B2. *PROCEDURES FOR COLLECTING INFORMATION*

The specific method of data collection for each survey will be provided to OMB before each survey is conducted.

B3. *METHODS TO MAXIMIZE RESPONSE*

The United States Mint has found that by sending an advance notice letter to those customers participating in a telephone survey the rate of response can be increased and will employ this technically when possible and cost effective. The United States Mint will employ procedures to review and test questions by survey experts to ensure that questions and instructions are clear, relevant, and unambiguous. Surveys employing non-response follow-up techniques will use multiple contacts by telephone and/or additional mailing of the questionnaire to ensure an adequate response.

B4. *TESTING OF PROCEDURES*

In most cases, a pretest of the data collection instruments will be conducted prior to its use. Pretests will include review by knowledgeable United States Mint staff and consultants. In the case of telephone surveys, the pretest will include monitoring of interviewers and respondents by United States Mint staff and/or consultants prior to the actual survey. No pretest will include provisions for contacting more than nine respondents.

B5. *CONTACTS FOR STATISTICAL ASPECTS AND DATA COLLECTION*

The contact person for questions regarding any statistical aspects employed or data collection procedures used will be provided to OMB before each survey. Administrative questions regarding the Mint use of this generic clearance should be directed to Manoj Pillai; Numismatic and Bullion

Directorate, 5th Floor; United States Mint; 801 9th Street NW.; Washington, DC 20220.

[FR Doc. 2017–24087 Filed 11–3–17; 8:45 am]

BILLING CODE 4810–37–P

U.S.-CHINA ECONOMIC AND SECURITY REVIEW COMMISSION

Notice of Open Public Event

AGENCY: U.S.-China Economic and Security Review Commission.

ACTION: Notice of open public event.

SUMMARY: Notice is hereby given of the following open public event of the U.S.-China Economic and Security Review Commission.

The Commission is mandated by Congress to investigate, assess, and report to Congress annually on ''the national security implications of the economic relationship between the United States and the People's Republic of China.'' Pursuant to this mandate, the Commission will hold a public release of its 2017 Annual Report to Congress in Washington, DC on November 15, 2017.

DATES: The release is scheduled for Wednesday, November 15, 2017 from 9:00 a.m. to 10:00 a.m.

ADDRESSES: Hart Senate Office Building, Room 902, Washington, DC. Please check the Commission's Web site at *www.uscc.gov* for possible changes to the event schedule. *Reservations are not required to attend.*

FOR FURTHER INFORMATION CONTACT: Any member of the public seeking further information concerning the event should contact Leslie Tisdale, 444 North Capitol Street NW., Suite 602, Washington, DC 20001; telephone: 202–624–1496, or via email at *ltisdale@uscc.gov. Reservations are not required to attend.*

SUPPLEMENTARY INFORMATION:

Topics to Be Discussed: The Commission's 2017 Annual Report to Congress addresses the following topics:

- U.S.-China Economic and Trade Relations, including: Year in Review: Economics Trade; Chinese Investment in the United States; and U.S. Access to China's Consumer Market.
- U.S.-China Security Relations, including: Year in Review: Security and Foreign Affairs; China's Military Modernization in 2017; and Hotspots along China's Maritime Periphery.
- China and the World, including: China and Continental Southeast Asia; China and Northeast Asia; China and Taiwan; China and Hong Kong; and China's Domestic Information Controls, Global Media Influence, and Cyber Diplomacy.
- China's High-Tech Development, including China's Pursuit of Dominance in Computing, Robotics, and Biotechnology; and China's Pursuit of Advanced Weapons.

Authority: Congress created the U.S.-China Economic and Security Review Commission in 2000 in the National Defense Authorization Act (Pub. L. 106–398), as amended by Division P of the Consolidated Appropriations Resolution, 2003 (Pub. L. 108–7), as amended by Public Law 109–108 (November 22, 2005), as amended by Public Law 113–291 (December 19, 2014).

Dated: November 1, 2017.

Michael Danis,

Executive Director, U.S.-China Economic and Security Review Commission.

[FR Doc. 2017–24120 Filed 11–3–17; 8:45 am]

BILLING CODE 1137–00–P

DEPARTMENT OF VETERANS AFFAIRS

Privacy Act of 1974; System of Records

AGENCY: Department of Veterans Affairs.

ACTION: Rescindment of systems of records notices.

SUMMARY: The Department of Veterans Affairs (VA) is rescinding nine outdated systems of records.

DATES: VA has ceased maintaining the systems of records listed in this notice. Rescindment is effective November 6, 2017.

ADDRESSES: Written comments may be submitted through *www.Regulations.gov;* by mail or hand-delivery to Director, Regulation Policy and Management (00REG), Department of Veterans Affairs, 810 Vermont Ave. NW., Room 1064, Washington, DC 20420; or by fax to (202) 273–9026 (this is not a toll-free number). Comments should indicate that they are submitted in response to ''Rescindment of Systems of Records Notices''. All comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1063B, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except holidays). Please call (202) 461–4902 for an appointment (this is not a toll-free number.) In addition, comments may be viewed online at *www.Regulations.gov.*

FOR FURTHER INFORMATION CONTACT: VA Privacy Service (005P1A), Office of Privacy Information and Identity Protection, Office of Privacy and Risk, Office of Information and Technology, Department of Veterans Affairs, 810 Vermont Ave. NW., Washington, DC 20420, (202) 273–5070 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: The Privacy Act of 1974, U.S.C. 552a(e)(1) provides that an agency may only collect or maintain in its records information about individuals that is relevant and necessary to accomplish a purpose that is required by statute or executive order. VA has stopped maintaining the systems listed and expunged the records in accordance with the requirements in the System of Records Notices and the applicable records retention or disposition schedules approved by the National Archives and Records Administration.

System Names, Numbers and Histories

1. Department of Medicine and Surgery Engineering Employee Management Information Records—VA (07VA138). Categories of individuals covered by the system were VA engineering employees with the Department of Medicine and Surgery. Records in the system included personal identification information, data on cost center and hourly wage rate, and work location. System was published in the **Federal Register** prior to 1995 and was revised in part on October 19, 2009, at 74 FR 53585.

2. Individual Requests for Information from Appellate Records—VA (12VA01). Categories of individuals covered by the system included persons requesting information under the Freedom of Information Act and the Privacy Act. This system contained requests for information, responses to requests, and loose-leaf log books and was published in the **Federal Register** prior to 1995.

3. Personnel Registration under Controlled Substance Act—VA (28VA119). Categories of individuals covered by the system were health practitioners authorized to prescribe drugs under the Controlled Substance Act. Categories of records in the system were registration card records containing the information necessary for verification of employee control under the Controlled Substance Act; employee name, social security number, and signature; and Drug Enforcement Agency control number assigned by either the State or the VA, depending on local policy as required by the Act. This system was published in the **Federal Register** prior to 1995 and was revised in part on October 19, 2009, at 74 FR 53585.

4. Electronic Document Management System (EDMS)—VA (92VA045): Records were maintained in electronic

and paper form depending on the nature of the materials received, background information compiled, and/or response sent. Each may have included the names, social security numbers, mailing addresses, telephone numbers, and other personal identifiers routinely required to identify a correspondent or subject. Other record items maintained may have included personal facts about medical, financial, or memorial benefits related to the correspondent, Veteran or beneficiary. Internal VA records may have included, but were not limited to, VA administrative, financial, and personnel information. Records may have included scanned documents, letters, emails, faxes, Internet documents, tracking sheets, notes, and documentation of telephone calls and/or meetings with an individual. Records were also used to process replies to correspondence and other inquiries originating from Congress; other Federal agencies; state, local, and tribal governments; foreign governments; Veterans Service Organizations; representatives of private or commercial entities; Veterans and their beneficiaries; private citizens; and VA employees. The records were also used for some categories of correspondence and records internal to VA. This system was published in the **Federal Register** on May 2, 2000, at 65 FR 25534.

5. Enterprise Project Management (EPM) Tool—VA (122VA005P3). Categories of individuals covered by this system included current and former VA employees, contractors, or subcontractors acting in the capacity of project managers and project team members in Information Technology (IT) projects. The records were used to track, manage, and report on the development of IT systems within VA in order to make informed decisions and deliver projects on time through the capture and re-use of best practices. This system was published in the **Federal Register** on October 12, 2006, at 71 FR 60232.

6. Center for Veterans Enterprise (CVE) VA VetBiz Vendor Information Pages (VIP) (123VA00VE). Categories of individuals covered by this system included Veterans who had applied to have their small businesses included in the VetBiz database, and, if deceased, their surviving spouses. The records in this system included (1) identifying information on Veterans and their surviving spouses who applied to have their businesses listed in the VetBiz database, including names and social security numbers, and (2) information documenting the eligibility of Veterans to have their businesses listed in the VetBiz database, including service-connected status and information concerning ownership of the businesses listed in VetBiz, including certifications, and security clearances held. This system was published in the **Federal Register** on February 21, 2008, at 73 FR 9620.

7. Enterprising Veterans' Information Center (EVIC)—VA (124VA00VE). The system recorded the names and numbers of individuals calling the Center for Veterans Enterprise (CVE) for advice and assistance, as well as any voice messages. The system of records provided integrated customer service for the Center's telephone and operational business communication needs including, but not limited to, automated switchboard referral to CVE resource partners and automated electronic mail responses and referrals. This system was published in the **Federal Register** on July 21, 2003, at 68 FR 43258.

8. Chemical and Biological Agent Exposure Database—VA (128VA008A). Categories of individuals covered by this system included Veterans identified by the Department of Defense (DoD) or another government agency as having been exposed to any type of chemical (including psycho-chemical) and biological agents while on active duty. The records included personal identifiers, residential and professional contact data, population demographics, military service-related data, financial-related data, claims processing codes and information, and other VA and non-VA Federal benefit information. Additionally, some records may have contained DoD health care-related data or VA-originated health care information. The purpose of the system was to measure and evaluate on a continuing basis all programs authorized under title 38, United States Code, including analysis and review of policy and planning issues affecting VA programs, in order to support legislative, regulatory, and policy recommendations, initiatives, and decisions affecting VA programs and activities. This system was published in the **Federal Register** on April 19, 2007, at 72 FR 19770.

9. Inspector General Oversight Data Extracts—VA (154VA53C). The records in this system of records consisted of data, and extracts of data, provided from master databases under VA jurisdiction including, but not limited to, the Veterans Benefits Administration, Veterans Health Administration, and the National Cemetery Administration. Data extracts may also have been sourced from databases provided by DoD as well as other Federal and State agencies. The records may have included personal identifiers, residential and professional contact data, population demographics, military service-related data, financial-related data, claims processing codes and information, and other VA and non-VA information. The records in this system of records were used for qualitative, quantitative, and other analyses used to support Office of Inspector General (OIG) reviews, investigations, audits, and healthcare inspections. This system was published in the **Federal Register**, on March 16, 2009, at 74 FR 11190.

Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. John Oswalt, Executive Director, Privacy Service approved this document on for publication on November 1, 2017.

Dated: November 1, 2017.

Kathleen M. Manwell,

Program Analyst, VA Privacy Service, Office of Quality, Privacy, and Risk, Office of Information and Technology, Department of Veterans Affairs.

[FR Doc. 2017–24076 Filed 11–3–17; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Homeless Providers Grant and Per Diem Program

AGENCY: Veterans Health Administration, Department of Veterans Affairs.

ACTION: Notice of funding availability (NOFA).

SUMMARY: The Department of Veterans Affairs (VA) is announcing the availability of funds for assistance under the Per Diem Only component of VA's Homeless Providers Grant and Per Diem (GPD) Program. This Notice of Funding Availability (NOFA) encourages reapplication for those applicants who seek to continue providing ''Transition in Place'' (TIP) grants and new applicants that will serve the homeless Veteran population through a TIP housing model to facilitate housing stabilization. This Notice contains information concerning the program, funding priorities, application process, and amount of funding available.

DATES: An original signed, dated, and collated grant application (plus two completed collated copies) for assistance under VA's Homeless Providers GPD Program must be

received in the GPD Program Office, by 4:00 p.m. Eastern Time on Wednesday, February 21, 2018 (see Submission Dates and Times below for additional requirements).

In the interest of fairness to all competing applicants, this deadline is firm as to date and hour, and VA will treat as ineligible for consideration any application that is received after the deadline. Applicants should take this practice into account and make early submission of their material to avoid any risk of loss of eligibility brought about by unanticipated delays or other delivery-related problems.

ADDRESSES: An original signed, complete, and collated grant application (plus two copies) must be submitted to the following address: VA Homeless Providers Grant and Per Diem Field Office, 10770 N. 46th Street, Suite C–200, Tampa, Florida 33617.

FOR FURTHER INFORMATION CONTACT: Mr. Jeffery Quarles, Director, VA's Homeless Providers Grant and Per Diem Program, Department of Veterans Affairs, 10770 North 46th Street, Suite C–200, Tampa, Florida, 33617; (toll-free) (877) 332–0334.

SUPPLEMENTARY INFORMATION:

Funding Opportuity Description

This Notice announces the availability of per diem funds for assistance under VA's Homeless Providers GPD Program TIP Per Diem Only (PDO) for eligible entities. Applicants may apply for a minimum of 5 beds and up to a maximum of 25 beds under this NOFA as a part of the effort to end homelessness among our Nation's Veterans.

Housing Model Description

Transition in Place Model (TIP)

Targeted Population—Homeless Veterans who choose a supportive transitional housing environment providing services prior to entering permanent housing.

Model Overview—Provides transitional housing and a milieu of services that facilitate individual stabilization and movement of the Veteran to permanent housing in the residence as rapidly as clinically appropriate.

Characteristics & Standards—The TIP housing model offers Veteran residents housing in which support services transition out of the residence over time, rather than the resident. This leaves the resident in place at the residence and not forced to find other housing while stabilizing. It is expected that Veterans will transition in place in approximately 6 to 12 months. Extensions may be granted after 12 months but not to exceed 24 months. This model does not support discharge planning that would have the Veteran transition to Housing and Urban Development–VA Supportive Housing (HUD–VASH) as the HUD–VASH Program targets a Veteran population in need of specialized case management.

Scope of services should incorporate tactics to increase the Veteran's income through employment and/or benefits and securing the permanent housing in the Veteran's name. Services provided and strategies utilized by the applicant will vary based on the individualized needs of the Veteran and resources available in the community. Applicant specifies the staffing levels and range of services to be provided.

Applicants identify or convert existing suitable apartment-style housing where homeless Veteran participants would receive time-limited, supportive services optimally for a period of 6–12 months, but not to exceed 24 months. Upon completion, the Veteran must be able to ''transition in place'' by assuming the lease or other long-term agreement which enables the unit in which he or she resides to be considered the Veteran's permanent housing. Grantees are expected to replace units as they are converted to permanent housing to maintain the average number of bed days as stated in the application during the entire grant period. Once the Veteran assumes the lease or other long-term agreement, VA will no longer provide funding for the unit under this NOFA. For example, each time a Veteran assumes the lease or other long-term agreement for the apartment, the grantee must identify a new unit in which to place another Veteran. By program design, transition to permanent housing should occur as rapidly as possible, and grantees should continually be acquiring and coordinating with VA on the inspection of new units to maintain a steady number of Veterans served.

Applicants applying under this NOFA must own or lease apartments intended as permanent housing for an individual or single family. Apartments must meet the inspection standards outlined at title 38 Code of Federal Regulations (CFR) 61.80, and have the following characteristics:

1. Private access without unauthorized passage through another dwelling unit or private property;
2. Sanitary facilities within the unit;
3. Basic furnishings; and
4. Suitable space and equipment within the unit to store, prepare, and serve food in a sanitary manner (including, at a minimum, a refrigerator, freezer, sink, and stove). Note: Microwave ovens, hot plates, or similar items are not suitable substitutes for an operational stove.

Required Minimum Performance Metrics/Targets: VA has established performance metrics/targets for all successful applicants. Discharge to permanent housing is 75 percent; employment of individuals at discharge is 50 percent; and negative exits are less than 28 percent.

Participant Agreement Information

Lease Guarantors: When a third party (in this case the grantee) guarantees to pay the lease costs if the lessee (in this case the Veteran) defaults. This is not allowed under this program.

Sub-lease: The sub-lease is ''[a] lease by a lessee (in this case the grantee) to a third party (the Veteran) conveying the leased property for a shorter term than that of the lessee, who retains a reversion in the lease.'' For the sake of clarity, in a sub-lease TIP housing scenario, the landlord is the lessor, the grantee is the lessee, and the Veteran is the sub-lessee.

GPD TIP Grantees may use sub-leases during the transitional housing phase if the sub-lease has been approved by the GPD Program Office and the sub-lease must meet the following conditions:

1. Period of sub-lease must be less than entire period of the grantee's lease with the landlord.
2. Grantee lease renewal must be taken into consideration when stating the period of the sub-lease.
3. Sub-lease must be explicit that the grantee is the lessee, not the Veteran.
4. Sub-lease must revert back to the grantee lessee without sanctions to the Veteran should the Veteran leave prior to program completion and lease assumption.
5. Sub-lease may not contain requirements contrary to GPD regulations.
6. Security deposits may not be charged to Veterans. However, grantee lessees may take other available and appropriate legal steps in situations of property destruction.

Lease Assumption: When a third party (in this case the Veteran) assumes a lease, the original lessee does not retain any interest in the lease.

Low Income Housing Tax Credits: Grantees that use tax credit programs may request that Veterans fill out a tax credit application, as there is no prohibition in GPD regulation. The issues that could arise are operational and specific to GPD TIP. Here are two examples.

Example 1. Under the GPD TIP for which the grantee is funded, the Veteran

may not ''assume'' a lease until the transitional housing phase is complete. A sub-lease may be used as long as it meets the requirements above. If the grantee is not leasing from another landlord, it will make a difference. As the relationship changes, the grantee is the lessor and the Veteran becomes the lessee. This is not a sub-lease. In this case some other form of program agreement may have to be used that meets the elements of items 4, 5 and 6 above and meets tax credit requirements.

Example 2. Income under tax credits is calculated differently than in GPD. The grantee must follow GPD regulations during the transitional phase, and only the Veteran's income may be counted as defined in 38 CFR 61.82. When the Veteran completes the program and then ''assumes'' the lease, the calculation of income will revert to the tax credit requirements. The Veteran should be apprised of this prior to program entry so appropriate planning can be put into place

Eligibility Information: Existing nonprofit organizations recognized as section 501(c)(3) or 501(c)(19) nonprofit organizations by the United States Internal Revenue Service, existing state and local governments, Indian Tribal Governments, and faith-based and community-based organizations that are capable of creating and providing supported transitional housing for homeless Veterans are eligible under this NOFA. Organizations meeting the requirements above and located in the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, are also considered eligible entities (see definition of ''State'' in 38 CFR 61.1).

Authority: Funding applied for under this NOFA is authorized by 38 U.S.C. 2011, 2012, 2013.

Award Information

Overview: This NOFA announces the availability of per diem funds for assistance under the PDO component of VA's Homeless Providers GPD Program. This NOFA encourages reapplication for those applicants who seek to continue providing TIP grants and new applicants that will serve the homeless Veteran population through a TIP housing model to facilitate housing stabilization. VA expects to fund approximately 500 beds over a 2-year period under this NOFA. Approximately $25 million is available to support an average of 25 beds per night, per project.

Cost Sharing or Matching: None.

Funding Period: Funding awarded under this NOFA will be for a period of two-years.

Payment: VA payment is limited to the applicant's cost of care per eligible Veteran minus other sources of payments to the applicant for furnishing services to homeless Veterans up to the per day rate. Per diem will be paid in a method that is in accordance with VA and other Federal fiscal requirements. The per diem payment will be at a rate not to exceed 1.5 times the current VA state home program per diem rate for domiciliary care as set by the Secretary under 38 United States Code (U.S.C.)1741(a)(1). Awardees will be subject to requirements of this NOFA, GPD regulations, 2 CFR 200, and other Federal grant requirements. A full copy of the regulations governing the GPD Program is available at the GPD Web site at *http://www.va.gov/HOMELESS/GPD.asp.*

Funding Priorities: None.

Application Review Information: Of those eligible entities that are legally fundable, the highest-ranked applications for which funding is available will be conditionally selected for eligibility to receive a per diem only award in accordance with their ranked order until the approximate number of beds are reached (approximately 500).

A. *Criteria for Grants:* Rating criteria may be found at 38 CFR 61.13 & 61.32.

B. *Review and Selection Process:* Review and selection process may be found at 38 CFR 61.13, 61.32.

Allocation of Funds: Approximately $25 million is available for this grant component. The maximum amount of the per diem award any awardee receives may not exceed $1.25 million for the entire grant period. Funding for the entire grant period will be obligated at the time of the award and available for draw down by the grantee over the grant period. Monthly reimbursements will be issued for bed days of care provided based upon the project's approved per diem rate. VA will not award more than $50,000.00 per bed over the entire two-year grant period based on the average number of beds to be provided as stated in the grant application.

Funding Actions: Conditionally selected applicants will complete a grant funding agreement with VA in accordance with 38 CFR 61.61 and provide any additional information as required by VA. Upon signature by the Secretary or designated representative, final selection will be completed.

Grant Award Period: For the purposes of this NOFA, the award period will be approximately two (2) years beginning on October 1, 2018, and ending approximately on September 30, 2020. Specific start and end dates will be included in the grant agreement between final selectees and the Department of Veterans Affairs. The award period will not exceed 2 years.

All projects are expected to pass inspection and become operational within 90 days from the date of award. Failure to meet the 90-day milestone may result in the per diem award being terminated.

Funding Restrictions: No part of an award under this NOFA may be used to facilitate capital improvements or to purchase vans or real property. Questions regarding acceptability should be directed to VA's National GPD Program Office at the number listed in contact information. Applicants may not receive funding to replace funds provided by any Federal, state, or local Government agency or program to assist homeless persons.

Cost Sharing or Matching: None.

Application and Submission Information: Applicants should be careful to complete the proper application package. Submission of the incorrect or incomplete application package will result in the application being rejected. The package will consist of two parts. The first part will be the standard forms required for grants to include all required forms and certifications and will be provided by VA on the GPD Web Site. The second part will be provided by applicants completing the items as listed below (see Application Requirements). Applicants who are conditionally selected will be notified of any additional information needed to confirm or clarify information provided in the application. Applicants will then be notified of the deadline to submit such information. If an applicant is unable to meet any conditions for grant award within the specified time frame, VA reserves the right to not award funds and to use the funds available for other grant and per diem applicants.

Address To Obtain Standard Grant Forms for Application Package: Download the standard grant forms directly from VA's Grant and Per Diem Program web page at: *http://www.va.gov/HOMELESS/GPD.asp.* Questions should be referred to the GPD Program at (toll-free) 1–877–332–0334.

Content and Form of Application: Applications must arrive as a complete package. Materials arriving separately *will not* be included in the application package for consideration and may result in the application being rejected or not funded.

Applicants should ensure that they include all required documents in their

application and carefully follow the format described below. Submission of an incorrect, incomplete, or incorrectly formatted application package will result in the application being rejected. Applicants should ensure that the items listed in the ''Application Requirements'' section of this NOFA are addressed in their application.

Applicants should use a normal business format, single-spaced lines, typed, single sided pages, in Arial 12-point font. Applicants should write out the question first, followed by the respective response. The narrative outline should be labeled with the same titles and in the same order as this NOFA. Applicants should simply binder clip the application; do not staple, spiral bind, or fasten the application. Do not include brochures or other information not requested. The application consists of two parts. The first part will consist of Standard Forms and the second part will be provided by applicants and consist of a supporting documentation and project narratives and tables/spreadsheets in a standard business format.

Applicants should ensure that they include all required documents in their application, carefully follow the format, and provide the information requested and described below. Submission of an incorrect, incomplete, or incorrectly formatted application package will result in the application being rejected at the beginning of the process.

Application Documentation Required

1. Standard Forms (approximately 9 pages):

(a) SF 424 Application for Federal Assistance.

(b) SF 424 A Non-Construction Budget.

(c) SF 424 B Non-Construction Assurances.

2. Eligibility to Receive VA Assistance: (approximately 3 pages)

Nonprofit Organizations must provide documentation of accounting system certification and evidence of private nonprofit status by:

(a) Providing certification on letterhead stationery from a Certified Public Accountant or Public Accountant that the organization has a functioning accounting system that is operated in accordance with generally accepted accounting principles, or that the organization has designated a qualified entity to maintain a functioning accounting system. If such an entity is used, then their name and address must be included in the certification letter; and

(b) Providing evidence of their status as a nonprofit organization by submitting a copy of their IRS ruling providing tax-exempt status under the IRS Code of 1986, as amended.

3. Documentation of being actively registered in the System for Award Management (SAM) (approximately 1 page): Provide a printed copy of your agency's active registration in SAM to include the Data Universal Numbering System (DUNS) number which corresponds to the information provided on the Application for Federal assistance (SF424) and current Commercial and Government Entity (CAGE) code. Additionally, provide the complete legal business address that corresponds to the address registered with SAM to include the USPS five-digit zip code plus the four digit extension code.

4. State/Local Government Applicants: Applicants who are State or local governments must provide a copy of any comments or recommendations by approved State and (area wide) clearinghouses pursuant to Executive Order 12372.

5. Project Summary (approximately 1 page): Provide the following:

(a) Number of Beds to be provided under this TIP Model: _____

(b) Housing and services provided under this application will be located at:

Address: _____

City: _____

State: _____

Zip Code + 4 digit extension: _____

County the site is located in: _____

Additional Counties served by the project: _____

Congressional District: _____

6. Contact Information (approximately 4 pages): Where correspondence can be sent to the Executive Director/President/CEO.

(a) Please provide the following:

Agency Name: _____

Physical Address of Administrative Office (no PO Boxes): _____

City: _____

State: _____

Zip + 4 digit extension: _____

County: _____

Congressional District: _____

Telephone number: _____

Alternate Mailing Address (if you would prefer regular mail be sent to a PO Box):

City: _____

State: _____

Zip: _____

(b) Name and title of Executive Director/President/CEO; phone, fax and email address:

(c) Name and title of another management level employee and title, phone, fax and email address, who can sign commitments for the agency; and

(d) A complete listing of your agency's officers of the Board of Directors and their address, phone, fax, and email addresses.

7. Project Abstract: On not more than one page, provide a brief abstract of the project to include: The project design, supportive services committed to the project, types of assistance provided, and any special program provisions.

8. Detailed Project Plan: This is the portion of the application that describes your program. VA Reviewers will focus on how the project plan addresses the areas of outreach, project plan, model specific questions, ability, need, and coordination *in relation to the TIP model.*

VA expects applicants awarded under this NOFA will meet the VA performance metrics for the selected model. With those metrics in mind, please, in your agency's responses to the following sections, include your agency strategies to meet or exceed VA's national metric targets.

Applicants must address the following within the application:

(a) Outreach—In approximately 5 pages, describe your agency outreach plan by answering the following:

1. Outreach—describe your plan for selected Veteran population(s) living in places not ordinarily meant for human habitation (*e.g.* streets, parks abandon buildings, automobiles) and emergency shelters.

2. Outreach—identify where your organization will target its outreach efforts to identify appropriate Veterans for this program.

3. Outreach—Describe your involvement in the CoC's Coordinated Assessment/Entry efforts as it relates to your outreach plan.;

(b) Project Plan—VA wishes to provide the most appropriate housing based on the needs of the individual Veteran. In approximately 25 pages, provide the following:

1. Project Plan—Specifically, list the supportive services, frequency of occurrence and who will provide them, and how they will help Veteran participants achieve residential stability, increase skill levels and/or income, and increase self-determination (i.e., case management, frequency of individual/groups, employment services). Use a table or spreadsheet for this section. (See Example 3.)

Example 3:

Supportive service	Frequency of offering (daily, weekly, etc.)	Job title and credential required for the individual providing services	This service supports the achievement of residential stability, increase skill and income, or self-determination
Case management	Weekly	Case Manager—LCSW	Residential stability.
Financial Management Group	Bi-Weekly	Life Skills Educator—BA/BS	Increased Skills and Income.

2. Project Plan—VA places emphasis on lowing barriers to admissions; describe the specific process and admission criteria for deciding which Veterans are appropriate for admission.

3. Project Plan—Indicate whether you plan on serving a mixed gender population or individuals with children.

4. Project Plan—Provide a listing and explanation of any gender specific services.

5. Project Plan—How will the safety security and privacy of participants be ensured?

6. Project Plan—How, when, and by whom will the progress of participants toward meeting their individual goals be monitored, evaluated, and documented?

7. Project Plan—Provide your agency's Individual Service Plan (ISP) methodology and the core items to be addressed in the plan.

8. Project Plan—How will the transition to permanent affordable housing be identified in the ISP and made known to participants to plan for the participant taking on the lease?

9. Project Plan—Will your agency provide follow-up services? If yes, describe those services, how often they will occur, and the duration of the follow-up.

10. Project Plan—Describe how Veteran participants will have a voice and aid in the selection, operation, and maintenance of the housing.

11. Project Plan—Describe your agency's responsibilities, as well as any sponsors or contractors' responsibilities in operating and maintaining the housing (i.e. sub-recipients, leasing sites).

12. Project Plan—Describe program policies regarding a clean and sober environment. Include in the description how participant relapse will be handled and how these policies will affect the admission and discharge criteria.

13. Project Plan—Describe program polices regarding participant agreements, including any leases and sub-leases, if used.

14. Project Plan—Describe program polices regarding extracurricular fees.

15. Project Plan—If co-located with other types of housing, homeless populations, or with other non-grant and per diem projects, how will differences in program rules and policies be handled? (See example 2).

Example 2:

Your agency has permanent housing, bridge housing, and low demand housing. These all serve different populations and require different levels of policy to properly function. How will this be accomplished?

16. Project Plan—Describe how, using the TIP model, you will provide aid in increased income or benefits.

17. Project Plan—Address how your agency will facilitate the provision of nutritional meals for the Veterans. Be sure to describe how Veterans with little or no income will be assisted.

18. Project Plan—VA places great emphasis on placing Veterans in the most appropriate housing situation as rapidly as possible. In this section, provide a timetable and the specific services, to include follow-up, that support housing stabilization. Include evidence of coordination of transition services that your agency expects to have for Veterans.

19. Project Plan—Describe how you will facilitate transportation of Veteran participants with and without income to appointments, employment, and supportive services.

20. Project Plan—Describe when, and by whom, the progress of participants toward meeting their individual goals will be monitored, evaluated, and documented.

21. Project Plan—As this NOFA funding cannot be used for furnishings, describe how your agency will provide basic furnishings in the selected living quarters.

22. Project Plan—describe in this section how your agency will manage the conversion of the dwelling unit and the services provided to the participant from transitional phase to permanent housing and what follow-up services will be provided to the Veteran once converted to permanent housing. Additionally, describe the instrument that will be used (lease, program agreement, memorandum of understanding, etc.) to ensure the Veteran's permanent occupancy once the unit has converted. Moreover, include how this will enhance housing outcomes leading to more timely access to permanent housing.

23. Project Plan—Indicate whether shared apartments by unrelated individuals will be used; typically the TIP model is designed for an individual Veteran or a Veteran and family. However, if your agency plans to use a model in which roommates would share a living unit that would ultimately result in the roommates assuming the lease, your agency must describe how this process would be accomplished. The description must include the elements of section (n) above and the screening and selection process for roommates; responsibilities of each roommate, and how anomalies such as a roommate leaving or not meeting their responsibilities, will be addressed.

(c) Ability—In approximately 5 pages; describe your agency's experience regarding the TIP model and population.

1. Ability—Provide a table or spreadsheet of the staffing plan for this project. Do not include resumes.

Example 4:

Job title	Brief (1–2 sentence) description of responsibilities	Educational level	Hours per week allocated to GPD project	Amount of annual salary allocated to the GPD project ($)

2. Ability—Describe your agency's previous experience assessing and providing for the housing needs of homeless Veterans in transitional housing.

3. Ability—Describe your agency's previous experience assessing and providing supportive services to homeless Veterans in transitional housing.

4. Ability—Describe your agency's previous experience in assessing supportive service resources and entitlement benefits.

5. Ability—Describe your agency's previous experience with evaluating the progress of both individual participants and overall program effectiveness through using quality and performance data to make changes. Provide documentation of meeting past performance goals.

(d) Need—In approximately 5 pages, describe, using reliable data from survey of homes population or other reports or data gathering mechanisms, the substantial unmet needs particularly among your targeted Veteran population and those needs of the general homeless population. Also, describe why your agency chose this model of transitional housing. Include in your response how your agency determined the number of beds needed, or, for service centers, include how your agency determined the anticipated numbers of participation. How does this project model meet a need for the community and fit with the community's strategy to end homeless in the community?

(e) Coordination—In approximately 5 pages, describe and provide evidence of your agency's involvement in the homeless Veteran continuum.

1. Coordination—Provide documented evidence that your agency is part of an ongoing community-wide planning process.

2. Coordination—How is your process designed to share information on available resources and reduce duplication among programs that serve special need homeless Veterans (*i.e.* letter of support from your local continuum of care)?

3. Coordination—How is your agency part of an ongoing community-wide planning process that is designed to share information on available resources and reduce duplication among programs that serve homeless Veterans?

4. Coordination—How has your agency coordinated GPD services with other programs offered in the Continuum(s) of Care (CoC) they currently serve?

5. Coordination—Provide documented evidence that your agency consulted directly with the closest VA Medical Center Director regarding coordination of services for project participants; provide your plan to assure access to health care, case management, and other care services.

(f) Site Description—In one page, describe the availability of current housing stock in your community that would be appropriate for this program and would meet the standards required by Life Safety Code and 38 CFR 61.1–61.82. Describe whether the sites are scattered or in apartment complexes, provide a service area for the project, and, if available, provide a proposed or current address for the housing.

Applicants should be careful to complete the proper application package. Submission of an incorrect or incomplete application package will result in the application being rejected. Application packages must include all required forms and certifications. Selections will be made based on criteria described in the application, Final Rule, and NOFA.

Awardees will be required to support their request for payments with adequate fiscal documentation as to project income and expenses. Awardee agencies that have a negotiated Indirect Cost Agreement (IDC) must provide a copy of the IDC with this application if they wish to charge indirect costs to the grant. Without this document, only the de minims rate would be allowed for indirect costs. All other costs will be considered only if they are direct costs.

Applicants who are conditionally selected will be notified of any additional information needed to confirm or clarify information provided in the application. Applicants will then be notified of the deadline to submit such information. If an applicant is unable to meet any conditions for grant award within the specified time frame, VA reserves the right to ot award funds nd to use the funds available for other grant and per diem applicants.

Submission Dates and Times: An original signed, dated, completed, and application (plus two completed collated copies) and all required associated documents must be received in the GPD Program Office, VA Homeless Providers GPD Program Office, 10770 N. 46th Street, Suite C–200, Tampa, Florida 33617; by 4:00 p.m. Eastern Standard Time on Wednesday, February 21, 2018.

In the interest of fairness to all competing applicants, this deadline is firm as to date and hour, and VA will treat any application that is received after the deadline as ineligible for consideration. Applicants should take this firm deadline into account and make early submission of their material to avoid any risk of loss of eligibility as a result of unanticipated delays or other delivery-related problems. For applications physically delivered(.e.g., in person, or via United States Postal Service, FedEx, United Parcel Service, or any other type of courier), the VA GPD Program Office staff will accept the application and date stamp it immediately at the time of arrival. This is the date and time that will determine if the deadline is met for those types of delivery.

Applications must be received by the application deadline. Applications must arrive as a complete package to include VA collaborative partner materials (see application requirements). Materials arriving separately will not be included in the application package for consideration and may result in the application being rejected or not funded.

DO NOT fax or email the application, as applications received via these means will be ineligible for consideration.

Award Notice: Although subject to change, the GPD Program Office expects the announcement of grant awards during the late fourth quarter of fiscal year 2018 (September). The initial announcement will be made via news release, which will be posted on the GPD Web site at *www.va.gov/homeless/gpd.asp.* Following the initial announcement, the Grant and Per Diem Office will mail a notification letter to the grant recipients. Applicants that are not selected will be mailed a declination letter within 2 weeks of the initial announcement.

Administrative and National Policy: It is important to be aware that VA places great emphasis on responsibility and accountability. VA has procedures in place to monitor services provided to homeless Veterans and outcomes associated with the services provided in grant and per diem-funded programs. Applicants should be aware of the following:

All awardees that are selected in response to this NOFA must meet the requirements of the current edition of the Life Safety Code of the National Fire Protection Association as it relates to their specific facility. Applicants should note that all facilities are to be protected throughout by an approved automatic sprinkler system unless a facility is specifically exempted under the Life Safety Code. Applicants should consider this when submitting their grant applications, as no additional funds will be made available for capital improvements under this NOFA.

Each program receiving funding will have a liaison appointed from a nearby VA medical facility to provide oversight and monitor services provided to homeless Veterans in the program.

Monitoring will include, at a minimum, a quarterly review of each per diem program's progress toward meeting VA's performance metrics in helping Veterans attain housing stability, adequate income support, and self-sufficiency as identified in each per diem application. Monitoring will also

include a review of the agency's income and expenses as they relate to this project to ensure payment is accurate.

Each funded program will participate in VA's national program monitoring and evaluation, as these monitoring procedures will be used to determine successful accomplishment of housing, employment, and self-sufficiency outcomes for each per diem-funded program.

Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. David J. Shulkin, Secretary of Veterans Affairs, approved this document on October 31, 2017, for publication.

Dated: October 31, 2017.

Jeffrey Martin,

Office Program Manager, Office of Regulation Policy & Management, Office of the Secretary, Department of Veterans Affairs.

[FR Doc. 2017–24086 Filed 11–3–17; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0463]

Agency Information Collection Activity: Notice of Waiver of VA Compensation or Pension To Receive Military Pay and Allowances

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: Veterans Benefits Administration, Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before January 5, 2018.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov* or to Nancy J. Kessinger, Veterans Benefits Administration (20M33), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420 or email to *nancy.kessinger@va.gov.* Please refer to ''OMB Control No. 2900–0463'' in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Cynthia Harvey-Pryor at (202) 461–5870.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Authority: Public Law 104–13; 44 U.S.C. 3501–3521.

Title: Notice of Waiver of VA Compensation or Pension to Receive Military Pay and Allowances (VA Forms 21–8951 and 21–8951–2).

OMB Control Number: 2900–0463.

Type of Review: Extension of a currently approved collection.

Abstract: VA Forms 21–8951 and 21–8951–2 are used by reservists/guardsmen to file a waiver a VA disability benefits in order to receive active or inactive duty training pay.

Affected Public: Individuals and households.

Estimated Annual Burden: 3,500 hours.

Estimated Average Burden per Respondent: 10 minutes.

Frequency of Response: Once.

Estimated Number of Respondents: 21,000.

By direction of the Secretary.

Cynthia Harvey-Pryor,

Department Clearance Officer, Office of Quality, Privacy, and Risk, Department of Veterans Affairs.

[FR Doc. 2017–24058 Filed 11–3–17; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0772]

Agency Information Collection Activity: VA Cooperative Studies Program

AGENCY: Veterans Health Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: Veterans Health Administration, Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed reinstatement of a currently approved collection, and allow 60 days for public comment in response to the notice.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before January 5, 2018.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov* or to Brian McCarthy, Office of Regulatory and Administrative Affairs (10B4), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420 or email to *Brian.McCarthy4@va.gov.* Please refer to ''OMB Control No. 2900–0772'' in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Brian McCarthy at (202) 461–6345.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VHA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VHA's functions, including whether the information will have practical utility; (2) the accuracy of VHA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on

respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Authority: 38 U.S.C. part 1, Chapter 5, Section 527.

Title: VA Cooperative Studies Program (CSP); VA Form 10–10074, CSP Customer Satisfaction Survey; VA Form 10–10074a, Meeting Evaluation.

OMB Control Number: 2900–0772.

Type of Review: Reinstatement of a currently approved collection.

Abstract: The information collected will be used by VA Cooperative Studies Program (CSP) leadership to evaluate their Coordinating Centers' effectiveness in conducting meetings and interacting with participating study sites and other customers.

Affected Public: Individuals and households.

Estimated Annual Burden:

VA Form 10–10074—83 hours.

VA Form 10–10074a—83 hours.

Estimated Average Burden per Respondent:

VA Form 10–10074—10 minutes.

VA Form 10–10074a—10 minutes.

Frequency of Response: Annually.

Estimated Number of Respondents:

VA Form 10–10074—500.

VA Form 10–10074a—500.

By direction of the Secretary.

Cynthia Harvey-Pryor,

Department Clearance Officer, Office of Quality, Privacy and Risk, Department of Veterans Affairs.

[FR Doc. 2017–24057 Filed 11–3–17; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Funding Availability Under Supportive Services for Veteran Families Program

AGENCY: Department of Veterans Affairs.

ACTION: Notice of Fund Availability (NOFA).

SUMMARY: The Department of Veterans Affairs (VA) is announcing the availability of funds for supportive services grants under the Supportive Services for Veteran Families (SSVF) Program. This Notice of Fund Availability (NOFA) contains information concerning the SSVF Program, renewal supportive services grant application processes, and the amount of funding available. Awards made for supportive services grants will fund operations beginning October 1, 2018.

DATES: Applications for supportive services grants under the SSVF Program must be received by the SSVF Program Office by 4:00 p.m. Eastern Time on January 12, 2018. In the interest of fairness to all competing applicants, this deadline is firm as to date and hour, and VA will treat as ineligible for consideration any application that is received after the deadline. Applicants should take this practice into account and make early submission of their materials to avoid any risk of loss of eligibility brought about by unanticipated delays, computer service outages, or other submission-related problems.

For a Copy of the Application Package: Copies of the application can be downloaded from the SSVF Web site at *www.va.gov/homeless/ssvf.asp.* Questions should be referred to the SSVF Program Office via email at *SSVF@va.gov.* For detailed SSVF Program information and requirements, see part 62 of Title 38, Code of Federal Regulations (38 CFR part 62).

Submission of Application Package: Applicants must submit applications electronically following instructions found at *www.va.gov/homeless/ssvf.* Applications may not be mailed or sent by facsimile (FAX). Applications must be received in the SSVF Program Office by 4:00 p.m. Eastern Time on the application deadline date. Applications must arrive as a complete package. Materials arriving separately will not be included in the application package for consideration and may result in the application being rejected. See Section II.C. of this NOFA for maximum allowable grant amounts.

Technical Assistance: Information regarding how to obtain technical assistance with the preparation of a renewal supportive services grant application is available on the SSVF Program Web site at: *www.va.gov/HOMELESS/SSVF.*

FOR FURTHER INFORMATION CONTACT: Mr. John Kuhn, National Director, Supportive Services for Veteran Families, 151 Knollcroft Road, Lyons, NJ 07939, *SSVF@va.gov,* (908) 413–4259 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION:

Funding Opportunity Title: Supportive Services for Veteran Families Program.

Announcement Type: Initial.

Funding Opportunity Number: VA–SSVF–120517.

Catalog of Federal Domestic Assistance Number: 64.033, VA Supportive Services for Veteran Families Program.

I. Funding Opportunity Description

A. Purpose: The SSVF Program's purpose is to provide supportive services grants to private non-profit organizations and consumer cooperatives, who will coordinate or provide supportive services to very low-income veteran families who: (i) Are residing in permanent housing; (ii) are homeless and scheduled to become residents of permanent housing within a specified time period; or (iii) after exiting permanent housing within a specified time period, are seeking other housing that is responsive to such very low-income veteran family's needs and preferences. SSVF prioritizes the delivery of rapid re-housing services to homeless veteran households. Rapid re-housing is an intervention designed to help individuals and families quickly exit homelessness, return to housing in the community, and avoid homelessness again in the near term. The core components of a rapid re-housing program are housing identification, move-in and rent assistance, and rapid re-housing case management and services. These core components represent the minimum that a program must be providing to households to be considered a rapid re-housing program, but do not provide guidance for what constitutes an effective rapid re-housing program. Applicants should familiarize themselves with the Rapid Re-housing Performance Benchmarks and Program Standards found on at *www.va.gov/homeless/ssvf/index.asp.*

B. Funding Priorities: The principle goal for this NOFA is to provide support to those applicants who demonstrate the greatest capacity to end homelessness among veterans or, in communities that have already met US Interagency Council on Homelessness (USICH) Federal Criteria and Benchmarks, sustain the gains made in ending homelessness among veterans. Priority will be given to grantees who can demonstrate adoption of evidence-based practices in their application. Under Priority 1, VA will provide funding to those grantees with 3-year accreditation from the Commission on Accreditation of Rehabilitation Facilities (CARF) in Employment and Community Services: Rapid Rehousing and Homeless Prevention standards, a 4-year accreditation from the Council on Accreditation's (COA) accreditation in Supported Community Living Services standards, or a 3-year accreditation in The Joint Commission's (JC) Behavioral Health Care: Housing Support Services Standards. Priority 2 includes existing grantees seeking to renew their grants.

C. Definitions: Part 62 of title 38, Code of Federal Regulations (38 CFR part 62), contains definitions of terms used in the SSVF Program. In addition to the definitions and requirements described

in 38 CFR 62, this NOFA provides further clarification in this paragraph on the use of *Emergency Housing Assistance* (EHA). EHA may be provided by the SSVF grantee under 38 CFR 62.34(f) to offer transition in place when a permanent housing voucher, such as is offered through the Department of Housing and Urban Development's (HUD) Section 8 program, is available from any source, but access to the permanent housing voucher is pending completion of the housing inspection and administrative processes necessary for leasing. In such circumstances, the EHA payment cannot exceed what would otherwise be paid when the voucher is utilized.

D. Approach: Respondents to this NOFA should base their proposals and applications on the current requirements of Part 62. Grantees will be expected to leverage supportive services grant funds to enhance the housing stability of very low-income veteran families who are occupying permanent housing. In doing so, grantees are required to establish relationships with local community resources. Therefore, agencies must work through coordinated partnerships built either through formal agreements or the informal working relationships commonly found among successful social service providers.

As part of the application, all applicants are strongly encouraged to provide letters of support from their respective VA Network Homeless Coordinator (or their designee). In addition, applicants are strongly encouraged to provide letters of support from the Continuum of Care (CoC) where they plan to deliver services that reflect the applicant's engagement in the CoC's efforts to coordinate services. A CoC is a community plan to organize and deliver housing and services to meet the needs of people who are homeless as they move to stable housing and maximize self-sufficiency. It includes action steps to end homelessness and prevent a return to homelessness (CoC locations and contact information can be found at *www.hudhre.info/index.cfm?do=viewCocMaps.*

The CoC's letter of support should note if the applicant is providing assistance to the CoC in building local capacity to build Coordinated Entry Systems (CES) and the value and form of that assistance, whether support is direct funding or staffing. CES requires that providers ''operating within the CoC's geographic area must also work together to ensure the CoC's coordinated entry process allows for coordinated screening, assessment and referrals'' (HUD Notice: CPD–17–01). The CoC's letter of support should also describe the applicant's participation in the CoC's community planning efforts. Failure to provide a letter of support from the CoC as described will limit the maximum award to 90 percent of the award made in the previous fiscal year (as described in II.C.7).

In addition, any applicant proposing to serve an Indian Tribal area is strongly encouraged to provide a letter of support from the relevant Indian Tribal Government. The aim of the provision of supportive services is to assist very low-income veteran families residing in permanent housing to remain stably housed and to rapidly transition those not currently in permanent housing to stable housing. SSVF emphasizes the placement of homeless veteran families who are described in VA's regulations as (i) very low-income veteran families who are homeless and scheduled to become residents of permanent housing within 90 days, and (ii) very low-income veteran families who have exited permanent housing within the previous 90 days to seek other housing that is responsive to their needs and preferences. As a crisis intervention program, the SSVF Program is not intended to provide long-term support for participants, nor will it be able to address all of the financial and supportive services needs of participants that affect housing stability. Rather, when participants require long-term support, grantees should focus on connecting such participants to income supports, such as employment and mainstream Federal and community resources (*e.g.,* HUD–VA Supportive Housing program, HUD Housing Choice Voucher programs, McKinney-Vento funded supportive housing programs, Temporary Assistance for Needy Families (TANF), and Social Security Income/Social Security Disability Insurance (SSI/SSDI), etc.) that can provide ongoing support as required.

Assistance in obtaining or retaining permanent housing is a fundamental goal of the SSVF Program. Grantees must provide case management services in accordance with 38 CFR 62.31. Such case management should include tenant counseling, mediation with landlords, and outreach to landlords.

E. *Authority:* Funding available under this NOFA is authorized by 38 U.S.C. 2044. VA implements the SSVF Program through regulations in 38 CFR part 62. Funds made available under this NOFA are subject to the requirements of these regulations and other applicable laws and regulations.

F. Requirements for the Use of Supportive Services Grant Funds: The applicant's request for funding must be consistent with the limitations and uses of supportive services grant funds set forth in 38 CFR part 62 and this NOFA. In accordance with the regulations and this NOFA, the following requirements apply to supportive services grants awarded under this NOFA:

1. Grantees may use a maximum of 10 percent of supportive services grant funds for administrative costs identified in 38 CFR 62.70.

2. Grantees must use a minimum of 60 percent of the temporary financial assistance portion of their supportive services grant funds to serve very low-income veteran families who qualify under 38 CFR 62.11(b). (NOTE: Grantees may request a waiver to decrease this minimum, as discussed in section V.B.3.a.)

3. Grantees may use a maximum of 50 percent of supportive services grant funds to provide the supportive service of temporary financial assistance paid directly to a third party on behalf of a participant for child care, emergency housing assistance, transportation, rental assistance, utility-fee payment assistance, security deposits, utility deposits, moving costs, and general housing stability assistance (which includes emergency supplies), in accordance with 38 CFR 62.33 and 38 CFR 62.34.

G. Guidance for the Use of Supportive Services Grant Funds: Grantees are expected to demonstrate adoption of evidence-based practices most likely to lead to reductions in homelessness or, in communities that have successfully ended homelessness among veterans as defined by the USICH's Federal Criteria and Benchmarks or, alternatively, Community Solutions' Functional Zero (the latter can be found at *https://cmtysolutions.org/sites/default/files/final_zero_2016_metrics.pdf*), a capacity to sustain these gains. As part of their application, the applying organization's Executive Director must certify on behalf of the agency that they will actively participate in community planning efforts and operate the rapid re-housing component of their SSVF grant in a manner consistent with the Rapid Re-housing Performance Benchmarks and Program Standards found at *www.va.gov/homeless/ssvf/*. It is VA policy to support a ''Housing First'' model in addressing and ending homelessness. Housing First establishes housing stability as the primary intervention in working with homeless persons. The Housing First approach is based on research that shows that a homeless individual or household's first and primary need is to obtain stable housing, and that other issues that may

affect the household can and should be addressed as housing is obtained. Research supports this approach as an effective means to ending homelessness. Housing is not contingent on compliance with mandated therapies or services; instead, participants must comply with a standard lease agreement and are provided with the services and supports that are necessary to help them do so successfully.

Grantees must develop plans that will ensure that veteran participants have the level of income and economic stability needed to remain in permanent housing after the conclusion of the SSVF intervention. Both employment and benefits assistance from VA and non-VA sources represent a significant underutilized source of income stability for homeless veterans. Income is not a pre-condition for housing. Case management should include income maximization strategies to ensure households have access to benefits, employment, and financial counseling. The complexity of program rules and the stigma some associate with entitlement programs contributes to their lack of use. For this reason, grantees are encouraged to consider strategies that can lead to prompt and successful access to employment and benefits that are essential to retaining housing.

1. Consistent with the Housing First model supported by VA, grantees are expected to offer the following supportive services: Counseling participants about housing; assisting participants in understanding leases; securing utilities; making moving arrangements; providing representative payee services concerning rent and utilities when needed; and mediation and outreach to property owners related to locating or retaining housing. Grantees may also assist participants by providing rental assistance, security or utility deposits, moving costs, emergency housing, or general housing stability assistance; or using other Federal resources, such as the HUD's ESG, or supportive services grant funds subject to the limitations described in this NOFA and 38 CFR 62.34.

2. As SSVF is a short-term crisis intervention, grantees must develop plans that will produce sufficient income to sustain veteran participants in permanent housing after the conclusion of the SSVF intervention. Grantees must ensure the availability of employment and vocational services either through the direct provision of these services or their availability through formal or informal service agreements. Agreements with Homeless Veteran Reintegration Programs funded by the U.S. Department of Labor are strongly encouraged. For participants unable to work due to disability, income must be established through available benefits programs.

3. Per 38 CFR 62.33, grantees must assist participants in obtaining public benefits. Grantees must screen all participants for eligibility for a broad range of entitlements such as TANF, Social Security, the Supplemental Nutrition Assistance Program, the Low Income Home Energy Assistance Program, the Earned Income Tax Credit, and local General Assistance programs. Grantees are expected to access the Substance Abuse and Mental Health Services Administration's SSI/SSDI Outreach, Access, and Recovery (SOAR) program directly by training staff and providing the service or subcontracting services to an organization to provide SOAR services. In addition, where available, grantees should access information technology tools to support case managers in their efforts to link participants to benefits.

4. Grantees are encouraged to provide, or assist participants in obtaining, legal services relevant to issues that interfere with the participants' ability to obtain or retain permanent housing. (NOTE: Information regarding legal services provided may be protected from being released to the grantee or VA under attorney-client privilege, although the grantee must provide sufficient information to demonstrate the frequency and type of service delivered.) Support for legal services can include paying for court filing fees to assist a participant with issues that interfere with the participant's ability to obtain or retain permanent housing or supportive services, including issues that affect the participant's employability and financial security. Grantees (in addition to employees and members of grantees) may represent participants before VA with respect to a claim for VA benefits, but only if they are recognized for that purpose pursuant to 38 U.S.C. Chapter 59. Further, the individual providing such representation must be accredited pursuant to 38 U.S.C. Chapter 59.

5. Access to mental health and addiction services are required by SSVF; however, grantees cannot fund these services directly through the SSVF grant. Therefore, applicants must demonstrate, through either formal or informal agreements, their ability to promote rapid access to and engagement with mental health and addiction services for the veteran and family members.

6. VA recognizes that extremely low-income veterans, with incomes below 30 percent of the area median income, face greater barriers to permanent housing placement. Grantees should consider how they can support these participants.

7. When serving participants who are residing in permanent housing, the defining question to ask is: ''Would this individual or family be homeless but for this assistance?'' The grantee must use a VA-approved screening tool with criteria that target those most at-risk of homelessness. To qualify for SSVF services, a participant who is served under 38 CFR 62.11(a) (homeless prevention) must not have sufficient resources or support networks (*e.g.,* family, friends, faith-based or other social networks) immediately available to prevent them from becoming homeless. To further qualify for services under 38 CFR 62.11(a), the grantee must document that the participant meets at least one of the following conditions:

(a) Has moved because of economic reasons two or more times during the 60 days immediately preceding the application for homelessness prevention assistance;

(b) Is living in the home of another because of economic hardship;

(c) Has been notified in writing that their right to occupy their current housing or living situation will be terminated within 21 days after the date of application for assistance;

(d) Lives in a hotel or motel, and the cost of the hotel or motel stay is not paid by charitable organizations or by Federal, State, or local government programs for low-income individuals;

(e) Is exiting a publicly funded institution or system of care (such as a health care facility, a mental health facility, or correctional institution) without a stable housing plan; or

(f) Otherwise lives in housing that has characteristics associated with instability and an increased risk of homelessness, as identified in the recipient's approved screening tool.

8. SSVF grantees are required to participate in local planning efforts designed to end veteran homelessness. Grantees may use grant funds to support SSVF involvement in such community planning by sub-contracting with CoCs, when such funding is essential, to create or sustain the development of these data driven plans.

9. When other funds from community resources are not readily available to assist program participants, grantees may choose to utilize supportive services grants, to the extent described in this NOFA and in 38 CFR 62.33 and 62.34, to provide temporary financial assistance. Such assistance may, subject to the limitations in this NOFA and 38

CFR part 62, be paid directly to a third party on behalf of a participant for child care, transportation, family emergency housing assistance, rental assistance, utility-fee payment assistance, security or utility deposits, moving costs and general housing stability assistance as necessary.

II. Award Information

A. Overview: This NOFA announces the availability of funds for supportive services grants under the SSVF Program and pertains to proposals for renewal of existing supportive services grant programs.

B. Funding: The following funding priorities for this NOFA are as follows.

1. *Priority 1.* Under Priority 1, VA will provide funding to those grantees with 3-year CARF, 4-year COA accreditations, or 3-year JC accreditations. Proof of accreditation must be submitted with the application no later than the application due date. Grantees previously awarded a 3-year grant that is not scheduled to end by October 1, 2018, cannot apply under this NOFA but are required to submit a letter of intent (LOI) by the NOFA deadline indicating their intention of continuing SSVF services in FY 2019. Grantees submitting a LOI must include proof of continued accreditation, a letter of support from the CoC (see Section II.C.7.) and a proposed budget for FY 2019.

2. *Priority 2.* Priority 2 includes all other existing grantees seeking to renew their grants. Eligible applicants include those grantees who did not receive an award in FY 2018, but had been granted funding extensions on a previous SSVF award that extended program operations through the end of FY 2018 [NOTE: only extensions that lasted through September 30, 2018, will be considered as being eligible to apply as renewal applicants].

Both Priority 1 and 2 applicants must apply using the renewal application. To be eligible for renewal of a supportive services grant, the Priority 1 and 2 applicants' program concept must be substantially the same as the program concept of the grantees' current grant award. Renewal applications can request funding that is equal to or less than their current annualized award. Depending on funding availability, VA may reduce awards by an amount from 1 to 10 percent. Should such a decrease take place, it will be applied uniformly to all grant recipients regardless of their grant award. This decrease would be made after any reductions to awards based on Sections II.C.4 and II.C.7. If sufficient funding is available, VA may provide an increase of up to 2 percent from the previous year's award. Any percentage increase, if provided, will be awarded uniformly to all grant recipients regardless of their grant award.

C. Allocation of Funds: Funding will be awarded under this NOFA to existing grantees for a 1-year to 3-year period beginning October 1, 2018. The following requirements apply to supportive services grants awarded under this NOFA:

1. In response to this NOFA, only existing grantees can apply as Priority 1 or 2 grantees.

2. Each renewal grant request cannot exceed the current annualized award.

3. Applicants may request an amount less than their current award (this will not be considered a substantial change to the program concept).

4. If a grantee failed to use all of awarded funds in the previous fiscal year (FY 2017) or had unspent funds returned to VA in FY 2018, VA may elect to limit renewal award to the amount of funds used in the previous fiscal year or in the current fiscal year less the money swept.

5. If, during the course of the grant year, VA determines that grantee spending is not meeting the minimum percentage milestones below, VA may elect to recoup projected unused funds and reprogram such funds to provide supportive services in areas with higher need. Should VA elect to recoup unspent funds, reductions in available grant funds would take place the first business day following the end of the quarter.

(a) By the end of the first quarter (December 31, 2018) of the grantee's supportive services annualized grant award period, the grantee's cumulative requests for supportive services grant funds is fewer than 15 percent of total supportive services grant award. (During this same period, the grantee's cumulative requests for supportive services grant funds may not exceed 35 percent of the total supportive services grant award.)

(b) By the end of the second quarter (March 31, 2019) of the grantee's supportive services annualized grant award period, the grantee's cumulative requests for supportive services grant funds is fewer than 40 percent of total supportive services grant award. (During this same period, the grantee's cumulative requests for supportive services grant funds may not exceed 60 percent of the total supportive services grant award.)

(c) By the end of the third quarter (June 30, 2019) of the grantee's supportive services annualized grant award period, the grantee's cumulative requests for supportive services grant funds is fewer than 65 percent of total supportive services grant award. (During this same period, the grantee's cumulative requests for supportive services grant funds may not exceed 80 percent of the total supportive services grant award).

6. Applicants should fill out separate applications for each supportive services funding request.

7. Applicants who fail to provide a letter of support from at least one of the CoCs they plan to serve will be eligible for renewal funding at a level no greater than 90 percent of their previous award. Applicants are responsible for determining who in each serviced CoC is authorized to provide such letters of support. This requirement applies to all applicants, including existing multi-year grantees that are only required to submit a LOI in response to this NOFA. In order to meet this requirement and allow the applicant to be eligible for full funding, letters must include:

(a) A detailed description of the applicant's participation in the CoC's Coordinated Entry process or planning activities and overall community planning efforts (for instance, confirmation of applicant's active participation in planning coordinated entry, commitment to participating in coordinated entry, hours spent on CoC-sponsored committee or workgroup assignments and names of said committees or workgroups).

(b) The applicant's contribution to the CoC's coordinated entry process capacity building efforts, detailing the specific nature of this contribution (for instance, the hours of staff time and/or the amount of funding provided), if such SSVF capacity has been requested by the CoC or otherwise has shown to be of value to the CoC.

D. Supportive Services Grant Award Period: Grant awards are generally made for a 1-year period, although selected grants may be eligible for a 3-year award (see VI.C.6). All grants are eligible to be renewed subject to the availability of funding.

III. Eligibility Information

A. Eligible Applicants: For Priority 1 and 2, only eligible entities that are existing grantees with grants scheduled to end by September 30, 2018, can apply in response to this NOFA.

B. Cost Sharing or Matching: None.

IV. Application and Submission Information

A. Obtaining an Application Package: Applications can be at *www.va.gov/homeless/ssvf.asp.* Any questions regarding this process should be

referred to the SSVF Program Office via email at *SSVF@va.gov.* For detailed SSVF Program information and requirements, see 38 CFR part 62.

B. Content and Form of Application: Applicants must submit applications electronically following instructions found at *www.va.gov/homeless/ssvf.asp.*

C. Submission Dates and Times: Applications for supportive services grants under the SSVF Program must be received by the SSVF Program Office by 4:00 p.m. Eastern Time on January 12, 2018. Awards made for supportive services grants will fund operations beginning October 1, 2018. Applications must arrive as a complete package. Materials arriving separately will not be included in the application package for consideration and may result in the application being rejected. Additionally, in the interest of fairness to all competing applicants, this deadline is firm as to date and hour, and VA will treat as ineligible for consideration any application that is received after the deadline. Applicants should take this practice into account and make early submission of their materials to avoid any risk of loss of eligibility brought about by unanticipated delays, computer service outages, or other delivery-related problems.

D. Intergovernmental Review: This section is not applicable to the SSVF Program.

E. Funding Restrictions: Funding will be awarded for supportive services grants under this NOFA depending on funding availability (currently funding is only authorized to be appropriated for the SSVF program through FY 2019). Applicants should fill out separate applications for each supportive services funding request. Funding will be awarded under this NOFA to existing grantees for a 1-year to 3-year period beginning October 1, 2018.

1. Funding used for staff education and training cannot exceed 1 percent of the overall program grant award. This limitation does not include the cost to attend VA mandated training. All training costs must be directly related to the provision of services to homeless veterans and their families.

2. Expenses related to maintaining accreditation are allowable. Grantees are allowed to include expenses for seeking initial accreditation only once in a 5-year period. The expenses to renew full accreditation is allowed and is based on the schedule of the accrediting agency, for instance every 3 years for CARF and every 4 years for COA. Expenses related to the renewal of less than full accreditation are not allowed.

F. Other Submission Requirements:

1. Existing applicants applying for Priority 1 or 2 grants may apply only as renewal applicants using the application designed for renewal grants.

2. At the discretion of VA, multiple grant proposals submitted by the same lead agency may be combined into a single grant award if the proposals provide services to contiguous areas.

3. Additional supportive services grant application requirements are specified in the application package. Submission of an incorrect or incomplete application package will result in the application being rejected during threshold review. The application packages must contain all required forms and certifications. Selections will be made based on criteria described in 38 CFR part 62 and this NOFA. Applicants and grantees will be notified of any additional information needed to confirm or clarify information provided in the application and the deadline by which to submit such information. Applicants must submit applications electronically. Applications may not be mailed or sent by facsimile.

V. Application Review Information

A. Criteria:

1. VA will only score applicants that meet the threshold requirements described in 38 CFR 62.21.

2. VA will use the criteria described in 38 CFR 62.24 to score grantees applying for renewal (Priority 1 and 2) of a supportive services grant.

B. Review and Selection Process: VA will review all supportive services renewal grant applications in response to this NOFA according to the following steps:

1. Score all applications that meet the threshold requirements described in 38 CFR 62.21.

2. Rank those applications who score at least 75 cumulative points and receive at least one point under each of the categories identified for renewal applicants in 38 CFR 62.24. The applications will be ranked in order from highest to lowest scores in accordance with 38 CFR 62.25 for renewal applicants.

3. Utilize the ranked scores of applications as the primary basis for selection. However, VA will also utilize the following considerations in 38 CFR 62.23(d) to select applicants for funding:

(a) Give preference to applications that provide or coordinate the provision of supportive services for very low-income veteran families transitioning from homelessness to permanent housing. Consistent with this preference, where other funds from community resources are not readily available for temporary financial assistance, applicants are required to spend no less than 60 percent of all budgeted temporary financial assistance on participants occupying permanent housing as defined in 38 CFR 62.11(b). Waivers to this 60 percent requirement may be requested when grantees can demonstrate significant local progress towards eliminating homelessness in the target service area. Waiver requests must include data from authoritative sources such as USICH certification, that a community has ended homelessness as defined by Federal Benchmarks and Criteria or has reached Community Solution's Functional Zero. Waivers for the 60 percent requirement may also be requested for services provided to rural Indian tribal areas and other rural areas where shelter capacity is insufficient to meet local need. Waiver requests must include an endorsement by the impacted CoC explicitly stating that a shift in resources from rapid re-housing to prevention will not result in an increase in homelessness.

(b) To the extent practicable, ensure that supportive services grants are equitably distributed across geographic regions, including rural communities and tribal lands. This equitable distribution criteria will be used to ensure that SSVF resources are provided to those communities with the highest need as identified by VA's assessment of expected demand and available resources to meet that demand.

4. Subject to the considerations noted in paragraph B.3 above, VA will fund the highest-ranked applicants for which funding is available.

VI. Award Administration Information

A. Award Notices: Although subject to change, the SSVF Program Office expects to announce grant recipients for all applicants in the fourth quarter of FY 2018 with grants beginning October 1, 2018. Prior to executing a funding agreement, VA will contact the applicants, make known the amount of proposed funding and verify that the applicant would still like the funding. Once VA verifies that the applicant is still seeking funding, VA will execute an agreement and make payments to the grant recipient in accordance with 38 CFR part 62 and this NOFA.

B. Administrative and National Policy Requirements: It is VA policy to support a ''Housing First'' model in addressing and ending homelessness. Housing First establishes housing stability as the primary intervention in working with homeless persons. The Housing First approach is based on research that shows that a homeless individual or

household's first and primary need is to obtain stable housing, and that other issues that may affect the household can and should be addressed as housing is obtained. Housing is not contingent on compliance with services; instead, participants must comply with a standard lease agreement and are provided with the services and supports that are necessary to help them do so successfully. Research supports this approach as an effective means to ending homelessness.

Consistent with the Housing First model supported by VA, grantees are expected to offer the following supportive services: housing counseling; assisting participants in understanding leases; securing utilities; making moving arrangements; providing representative payee services concerning rent and utilities when needed; and mediation and outreach to property owners related to locating or retaining housing. Grantees may also assist participants by providing rental assistance, security or utility deposits, moving costs or general housing stability assistance, using other Federal resources, such as the ESG, or supportive services grant funds to the extent described in this NOFA and 38 CFR 62.34.

As SSVF grants cannot be used to fund treatment for mental health or substance use disorders, applicants must provide evidence that they can provide access to such services to all program participants through formal and informal agreements with community providers.

C. Reporting: VA places great emphasis on the responsibility and accountability of grantees. As described in 38 CFR 62.63 and 62.71, VA has procedures in place to monitor supportive services provided to participants and outcomes associated with the supportive services provided under the SSVF Program. Applicants should be aware of the following:

1. Upon execution of a supportive services grant agreement with VA, grantees will have a VA regional coordinator assigned by the SSVF Program Office who will provide oversight and monitor supportive services provided to participants.

2. Grantees will be required to enter data into a Homeless Management Information System (HMIS) Web-based software application. This data will consist of information on the participants served and types of supportive services provided by grantees. Grantees must treat the data for activities funded by the SSVF Program separate from that of activities funded by other programs. Grantees will be required to work with their HMIS Administrators to export client-level data for activities funded by the SSVF Program to VA on at least a monthly basis.

3. VA shall complete annual monitoring evaluations of each grantee. Monitoring will also include the submittal of quarterly and annual financial and performance reports by the grantee. The grantee will be expected to demonstrate adherence to the grantee's proposed program concept, as described in the grantee's application. All grantees are subject to audits conducted by the VA or its representative.

4. Grantees will be assessed based on their ability to meet critical performance measures. In addition to meeting program requirements defined by the regulations and applicable NOFA(s), grantees will be assessed on their ability to place participants into housing and the housing retention rates of participants served. Higher placement for homeless participants and higher housing retention rates for at-risk participants are expected for very-low income veteran families when compared to extremely low-income veteran families with incomes below 30 percent of the area median income.

5. Organizations receiving renewal awards and that have had ongoing SSVF program operation for at least 1 year (as measured from the start of initial SSVF services until November 6, 2017) may be eligible for a 3-year award. Grantees meeting outcome goals defined by VA and in substantial compliance with their grant agreements (defined by meeting targets and having no outstanding corrective action plans) and who, in addition, receive 3-year accreditation from CARF in Employment and Community Services: Rapid Rehousing and Homeless Prevention standards, a 4-year accreditation from COA accreditation in Supported Community Living Services standards, or a 3 year accreditation in The Joint Commission's Behavioral Health Care: Housing Support Services Standards are eligible for a 3-year grant renewal subject to funding availability. (NOTE: Multi-year awards are contingent on funding availability). If awarded a multiple year renewal, grantees may be eligible for funding increases as defined in NOFAs that correspond to years 2 and 3 of their renewal funding.

VII. Agency Contact

FOR FURTHER INFORMATION CONTACT: Mr. John Kuhn, National Director, Supportive Services for Veteran Families, 151 Knollcroft Road, Lyons, NJ 07939, *SSVF@va.gov,* (908) 413–4259 (this is not a toll-free number).

VIII. Other Information

A. VA Goals and Objectives for Funds Awarded Under This NOFA: In accordance with 38 CFR 62.24(c), VA will evaluate an applicant's compliance with VA goals and requirements for the SSVF Program. VA goals and requirements include the provision of supportive services designed to enhance the housing stability and independent living skills of very low-income veteran families occupying permanent housing across geographic regions and program administration in accordance with all applicable laws, regulations, and guidelines. For purposes of this NOFA, VA goals and requirements also include the provision of supportive services designed to rapidly re-house or prevent homelessness among people in the following target populations who also meet all requirements for being part of a very low-income veteran family occupying permanent housing:

1. Veteran families earning less than 30 percent of area median income as most recently published by HUD for programs under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) (*http://www.huduser.org*).

2. Veterans with at least one dependent family member.

3. Veterans returning from Operation Enduring Freedom, Operation Iraqi Freedom, or Operation New Dawn.

4. Veteran families located in a community, as defined by HUD's CoC, or a county not currently served by a SSVF grantee.

5. Veteran families located in a community, as defined by HUD's CoC, where current level of SSVF services is not sufficient to meet demand of Category 2 and 3 (currently homeless) veteran families.

6. Veteran families located in a rural area.

7. Veteran families located on Indian Tribal Property.

B. Payments of Supportive Services Grant Funds: Grantees will receive payments electronically through the U.S. Department of Health and Human Services Payment Management System. Grantees will have the ability to request payments as frequently as they choose subject to the following limitations:

1. During the first quarter of the grantee's supportive services annualized grant award period, the grantee's cumulative requests for supportive services grant funds may not exceed 35 percent of the total supportive services grant award without written approval by VA.

2. By the end of the second quarter of the grantee's supportive services annualized grant award period, the

grantee's cumulative requests for supportive services grant funds may not exceed 60 percent of the total supportive services grant award without written approval by VA.

3. By the end of the third quarter of the grantee's supportive services annualized grant award period, the grantee's cumulative requests for supportive services grant funds may not exceed 80 percent of the total supportive services grant award without written approval by VA.

4. By the end of the fourth quarter of the grantee's supportive services annualized grant award period, the grantee's cumulative requests for supportive services grant funds may not exceed 100 percent of the total supportive services grant award.

Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Gina S. Farrisee, Deputy Chief of Staff, Department of Veterans Affairs, approved this document on October 30, 2017, for publication.

Dated: October 30, 2017.

Jeffrey Martin,

Office Program Manager, Office of Regulation Policy & Management, Office of the Secretary, Department of Veterans Affairs.

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Part II

Department of Commerce

National Oceanic and Atmospheric Administration

50 CFR Part 648

Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Essential Fish Habitat; Proposed Rule

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 160301163–7971–01]

RIN 0648–BF82

Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Essential Fish Habitat

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

ACTION: Proposed rule; request for comments.

SUMMARY: This action proposes regulations to implement the New England Fishery Management Council's Omnibus Essential Fish Habitat Amendment 2. This rule would revise essential fish habitat and habitat area of particular concern designations, revise or create habitat management areas to protect vulnerable habitat from fishing gear impacts, establish dedicated habitat research areas, and implement several administrative measures related to reviewing these measures. This action is necessary to comply with the requirements of the Magnuson-Stevens Fishery Conservation and Management Act to periodically review essential fish habitat designations and the protection of such habitats. The proposed measures are intended to minimize to the extent practicable the adverse effects of fishing on essential fish habitat.

DATES: Comments must be received by December 5, 2017.

ADDRESSES: You may submit comments, identified by NOAA–NMFS–2017–0123, by either of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal eRulemaking Portal.

1. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2017-0123*;

2. Click the ''Comment Now!'' icon and complete the required fields; and

3. Enter or attach your comments.

- *Mail:* Submit written comments to John K. Bullard, Regional Administrator, National Marine Fisheries Service, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope, ''Comments on the Proposed Rule for OA2.''

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by us. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. We will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

Copies of the Omnibus Essential Fish Habitat Amendment 2, including the Environmental Impact Statement, the Regulatory Impact Review, and the Initial Regulatory Flexibility Analysis (EIS/RIR/IRFA) prepared by the New England Fishery Management Council in support of this action are available from Thomas A. Nies, Executive Director, New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950. The supporting documents are also accessible via the Internet at: *http://www.nefmc.org/library/omnibus-habitat-amendment-2* or *http://www.greateratlantic.fisheries.noaa.gov*.

FOR FURTHER INFORMATION CONTACT: Moira Kelly, Senior Fishery Program Specialist, phone: 978–281–9218, *Moira.Kelly@noaa.gov*.

SUPPLEMENTARY INFORMATION:

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1. General Background

This action would implement the management measures in the Omnibus Essential Fish Habitat Amendment 2 (OA2). The Council deemed the proposed regulations consistent with and necessary to implement OA2 in a March 27, 2017, letter from Council Chairman Dr. John Quinn to Regional Administrator John Bullard. Under the Magnuson-Stevens Fishery Conservation and Management Act, we are required to publish proposed rules for comment after preliminarily determining whether they are consistent with applicable law. The Magnuson-Stevens Act permits us to approve, partially approve, or disapprove measures proposed by the Council based only on whether the measures are consistent with the fishery management plan, plan amendment, the Magnuson-Stevens Act and its National Standards, and other applicable law. Otherwise, we must defer to the Council's policy choices. We are seeking comment on the Council's proposed measures in OA2.

OA2 was initiated in 2004 to review and update the essential fish habitat (EFH) components of all the New England Fishery Management Council's fishery management plans (FMP). OA2 was developed over several years. The first phase of OA2 development was dedicated to (1) updating the EFH designations, (2) considering and designating Habitat Areas of Particular Concern (HAPC), and (3) updating prey species lists and non-fishing habitat impacts. The remainder of the development focused on (1) revising the system of year-round closed areas that restrict some types of fishing gear in order to protect vulnerable habitat and (2) establishing a system of Dedicated Habitat Research Areas (DHRA). Prior to consideration of management area changes, the Council determined it was important to consider revisions to the year-round groundfish closures in conjunction with this action because of the substantial overlap with the habitat management closures. This action also includes revisions to the EFH and HAPC designations that were initially approved by the Council in 2007 as well as an update of the non-fishing impacts evaluation.

The Council established 10 goals and 14 objectives to guide the development of this action. Goals 1–8 were established in 2004 at the onset of the Amendment's development and focus on identification of EFH; fishing and non-fishing activities that may adversely affect EFH; and the development of measures and management programs to conserve, protect, and enhance EFH and to minimize to the extent practicable the adverse effects of fishing on EFH. The additional goals (9 and 10) were developed after the Council voted to incorporate revisions to the groundfish closures in the Amendment. These goals are focused on enhancing groundfish productivity, including protection of spawning groundfish, and maximizing the societal net benefits from groundfish stocks.

The 14 objectives map to one or more of the Amendment's goals and provide more guidance on achieving each goal. For example, the objectives include identifying new data sources upon which to base the EFH designations (Objective A), developing analytical tools for EFH designation, minimization of adverse impacts, and monitoring the effectiveness of measures (Objective D;

Goals 1, 3, and 5). Other objectives include modifying fishing methods to reduce impacts (Objective E; Goal 4), supporting the restoration of degraded habitat (Objective F; Goal 4), improving groundfish spawning protection, including protection of localized spawning contingents, and improving protection of critical groundfish habitats (Goals 9 and 10). Please see Volume 1, Section 3 of the EIS for more details on the goals and objectives of this Amendment.

2. Essential Fish Habitat Designations

The Magnuson-Stevens Act defines EFH as ''those waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity.'' The EFH regulations (50 CFR part 600, subpart J) require councils to describe and identify EFH in text that clearly states the habitats or habitat types determined to be EFH for each life stage of a managed species and in maps that display the geographic locations of EFH or within which EFH for each species and life stage is found. Further, FMPs should explain the physical, biological, and chemical characteristics of EFH and, if known, how these characteristics influence the use of EFH for the species/life stage. The EFH regulations state that councils should periodically review the EFH provisions of FMPs and revise or amend as warranted, based on available information, and that a complete review of all EFH information should be conducted at least once every five years. The Council initiated this review of EFH designations to comply with these requirements.

A full description of the updated EFH designations, including maps and text designations, can be found in Volume 2 of the EIS. In addition, a thorough discussion of the data sources and methods used to assemble the designations is provided in Appendix A to the EIS. Another appendix (Appendix B) includes supplementary EFH information (*e.g.,* prey species, temperature and salinity preferences) for each species and life stage not included in the EFH text descriptions in Volume 2 that may be considered when the potential effects of any fishing or non-fishing activity that could adversely affect EFH are evaluated. The quality and quantity of information varied by species, so a single approach for all Council-managed species and life stages was not possible. The Council relied upon the best available scientific information for each species and life stage. This rule proposes to approve all of the Council's recommendations for EFH designations.

3. Habitat Area of Particular Concern Designations

Habitat Areas of Particular Concern (HAPC) highlight specific types or areas of habitat within EFH that are particularly vulnerable to human impacts. An area's status as an HAPC should lead to special attention regarding the adverse effects from fishing or other activities in the designated area. An HAPC designation does not provide any specific habitat management measures, such as gear restrictions, and none are proposed as part of the HAPC designations in this amendment. Management measures are discussed under ''Spatial Management for Adverse Effects Minimization,'' #4 below.

HAPC designations should be based on one or more of the following criteria: (1) The importance of the ecological function provided by the habitat, including both the historical and current ecological function; (2) the extent to which the habitat is sensitive to human-induced environmental degradation; (3) whether, and to what extent, development activities are, or will be, stressing the habitat type; and (4) the rarity of the habitat type (50 CFR 600.815(a)(8)). The Council solicited and considered HAPC proposals from the public and added selection criteria, including whether the designation would improve fisheries management in the EEZ; whether it included EFH for more than one Council-managed species or specifically for juvenile cod; and whether it met more than one of the regulatory HAPC criteria listed above. Discussion of the areas considered and the degree to which they satisfied the eight criteria listed above can be found in Volume 2 of the EIS.

The Council is recommending that the current Atlantic Salmon HAPC and the Northern Edge Juvenile Cod HAPC remain as designated because they continue to meet the criteria listed above. In addition, the Council is recommending the following areas as new HAPCs: Inshore Juvenile Cod HAPC; Great South Channel Juvenile Cod HAPC; Cashes Ledge HAPC; Jeffreys Ledge/Stellwagen Bank HAPC; Bear and Retriever Seamount HAPC; and 11 canyon/canyon complexes. Maps and coordinates for the HAPC designations can be found in Volume 2 of the EIS. A summary of the rationale for each designation (or set of designations) is provided below. Detailed discussion of the rationale is provided in Volume 2, Section 3 of the EIS.

Inshore Juvenile Cod HAPC

The Inshore Juvenile Cod HAPC consists of the inshore areas of the Gulf of Maine and Southern New England between mean high water and a depth of 20 meters. Aside from some limited gaps, this HAPC is continuous along the coasts of Maine, New Hampshire, Massachusetts, and Rhode Island. The Council contends that the Inshore Juvenile Cod HAPC would meet all of the criteria listed above, except for rarity. The purpose of this HAPC is to recognize the importance of inshore areas to juvenile Atlantic cod. The coastal areas of the Gulf of Maine and Southern New England contain structurally complex rocky-bottom habitat that support a wide variety of emergent epifauna and benthic invertebrates. Although this habitat type is not rare in the coastal Gulf of Maine, it provides two key ecological functions for juvenile cod: Protection from predation; and readily available prey. Given its proximity to shore, it is especially subject to anthropogenic impacts, particularly non-fishing impacts.

Great South Channel Juvenile Cod HAPC

The Great South Channel Juvenile Cod HAPC consists of juvenile cod habitat on the western side of the Great South Channel within the boundaries specified in the EIS. This designation recognizes the importance of the area for its high benthic productivity and complex hard bottom habitats, which provide food and refuge from predation for cod and other managed species. Similar to the Inshore Cod HAPC, this HAPC meets all of the stated criteria, except rarity. This area is sensitive to anthropogenic stresses and contains habitat features that are sensitive to the adverse effects of bottom trawling, scallop dredging, and clam dredging. Some of the nearshore portions are also susceptible to non-fishing, coastal development stresses.

Cashes Ledge HAPC

This action would designate the existing Cashes Ledge Habitat Closure Area as an HAPC. This area differs from the proposed modified Cashes Ledge Habitat Management Area (see #4, below) in that the western boundary of the proposed new management area is shifted east, slightly reducing its size relative to the HAPC. The Council contends that this HAPC meets all of the criteria stated, including rarity. This designation highlights the unique characteristics of Cashes Ledge and its importance as habitat for a variety of

managed species. The benthic habitat features on Cashes Ledge are susceptible to anthropogenic stresses, particularly fishing impacts.

Jeffreys Ledge/Stellwagen Bank HAPC

The existing Western Gulf of Maine Habitat Closure Area would be additionally designated as the Jeffreys Ledge/Stellwagen Bank HAPC through this action. The purpose of this designation is to recognize the importance of the area as habitat for a variety of species and, similar to most of the other HAPCs proposed, it meets all the criteria, except for rarity. This area is vulnerable to a wide-range of human-induced impacts, including vessel discharges from cruise ships and cargo vessels, future sand and gravel mining operations, and fiber-optic cable and pipeline construction. It is also susceptible to future impacts from activities such as offshore aquaculture, wind energy facilities, and other energy-related infrastructure. Further, the habitat features within this area are sensitive to fishing gear impacts, particularly from mobile bottom-tending gears.

Canyon and Seamount HAPCs

Sixteen canyons and two seamounts would be designated as HAPCs. These HAPCs were designated because of their unique deep-water habitats, especially as they relate to deep-sea corals and the overall function of the ecosystem. The HAPCs would be as follows: Bear and Retriever Seamounts (to a depth of 2,000 m); Heezen Canyon, Lydonia, Gilbert, and Oceanographer Canyons; Hydrographer Canyon; Veatch Canyon; Alvin and Atlantis Canyons; Hudson Canyon; Toms, Middle Toms, and Hendrickson Canyons; Wilmington Canyon; Baltimore Canyon; Washington Canyon; and Norfolk Canyon. The table below shows how the canyon and seamount proposals meet the HAPC criteria.

TABLE 1—HAPC CRITERIA AND THE CANYON AND SEAMOUNT HAPCS

	Bear and retriever seamounts	Canyon HAPCs
Important ecological function	Yes	Yes.
Sensitive to anthropogenic stress	Yes	Yes.
Presence of current or future stress	No	Yes.
Rarity	Yes	No.
Improve fisheries management	Yes	Yes.
EFH for more than one species	No	Yes.
Juvenile cod EFH	No	Very slight overlap in Lydonia/Oceanographer HAPC.
More than one final rule criteria	Yes	Yes.

Seamount habitats are rare, but they are not currently subject to anthropogenic impacts, or expected to be in the near future. The biological communities within the canyons and on the seamounts are sensitive to anthropogenic disturbance. However, only the shallower and less steep parts of the canyons are generally accessible to fishing for species such as monkfish, squid, offshore hake, and others. Traps used to catch lobster and red crab are generally the only gears used in the deeper parts of the canyons themselves. Potential threats posed by non-fishing activities such as oil and gas exploration and drilling are not currently of concern.

As described in the EIS, the HAPCs are non-regulatory designations. The designations are intended to provide for increased attention when habitat protection measures are considered. HAPCs that are vulnerable to the potential impacts from fishing warrant special attention when determining appropriate management measures to minimize, compensate, or mitigate those impacts.

4. Spatial Management for Adverse Effects Minimization

The Magnuson-Stevens Act requires that fishery management plans evaluate and minimize, to the extent practicable, the adverse effects of fishing on EFH. The evaluation should consider the effects of each fishing activity on each type of habitat found within EFH. Councils must prevent, mitigate, or minimize any adverse effects from fishing on EFH, to the extent practicable, if there is evidence that a fishing activity adversely affects EFH in a manner that is more than minimal and not temporary in nature.

To evaluate the adverse effects of fishing on EFH, the Council spent a considerable amount of time developing the Swept Area Seabed Impact (SASI) model. The SASI model combines fishing effort and habitat vulnerability estimates into a spatial representation. Fishing effort across multiple gear types was converted to a common ''currency'' of swept area, *i.e.,* the amount of area impacted by the gear when the bottom is contacted during fishing operations. Habitat vulnerability is a relative measure of the magnitude of the susceptibility of bottom habitats to fishing and the recovery potential of affected geological and biological habitat features. It is based on the type and structural features of the habitat, and the degree of natural disturbance caused by bottom currents and storms. For example, an area that is exposed to a high degree of natural disturbance is more resilient to additional impacts from fishing gear than an area of similar habitat type that is exposed to a lower degree of natural disturbance. Estimates of susceptibility to fishing and how quickly individual habitat features recover from those impacts are also incorporated. These estimates are linked spatially to a substrate model grid, for which the final output is a sensitivity-adjusted area swept in km^2 for each grid cell and gear type. Running the model without any realized fishing effort data for any given gear type (*i.e.,* by setting the contact-adjusted swept area parameter to a constant in all grid cells) produced ''maps'' of simulated relative habitat vulnerability scores for the entire area where spatial management was considered in this amendment. The SASI model was reviewed at two separate times during its development: First by the Council's Scientific and Statistical Committee; and later by an independent peer review team. It was determined to be appropriate for use in fishery management decisions. A detailed discussion of the SASI model can be found in Appendix D to the EIS.

In order to translate the results of the SASI model into something that could be used in the fishery management process, the Council's Plan Development Team (PDT) ran a Local Indicators of Spatial Association (LISA) analysis on the outputs from the habitat vulnerability model runs for generic groundfish trawls. This analysis highlighted areas where the high

vulnerability results from the SASI model clustered together. The PDT then examined the clusters and made initial suggestions on where boundaries around the vulnerable habitat areas could be drawn for fishery management purposes.

The Council, primarily through its Habitat Committee, then developed a series of potential areas for habitat management. In some cases, the areas were existing management areas or relatively minor adjustments to those areas. In other cases, new areas were identified based on output from the SASI model, independent sources of topographical and substrate data, and/or input from fishermen or environmental groups.

In addition to specifying the area to be managed, there were several options for gear restrictions for each area within a sub-region, although not all management options were available for all areas. Those options included:

(1) Complete restriction on the use of mobile bottom-tending gear;

(2) Restrictions on the use of mobile bottom-tending gear, except hydraulic clam dredges;

(3) A requirement that bottom trawl vessels use ground cables modified with 20-centimeter (cm) diameter elevating discs, spaced at 5 fathoms, with a length side not to exceed 45 fathoms (no restriction on dredges);

(4) A requirement that bottom trawl vessels eliminate ground cables and to limit bridle lengths at 30 fathoms per side;

(5) Complete restriction on gears capable of catching groundfish (only applicable to Eastern Gulf of Maine alternative 2);

(6) Closure to all gear types managed under a Federal fishery management plan (only applicable to Ammen Rock);

(7) A requirement that trawls use ground gear no more than 12 inches (30.5 cm) in diameter (only applicable to the Western Gulf of Maine alternatives 7a and 7b);

(8) A restriction on the use of mobile bottom-tending gear, except shrimp trawls (only applicable to Western Gulf of Maine alternative 8); and

(9) A restriction on the use of mobile bottom-tending gear, except scallop vessels if allowed under a rotational fishing program, and groundfish gear in the area currently open to fishing (only applicable to Georges Bank alternative 10).

The Council determined that given the workload and expertise on the PDT, an additional technical team should be convened to develop potential habitat management areas focused on the two added groundfish-specific goals. This group, called the Closed Area Technical Team or CATT, was composed of staff of the Council, Greater Atlantic Regional Fisheries Office, Northeast Fisheries Science Center, and other technical staff. The CATT used a hotspot analysis of fishery independent survey data to locate areas where particularly vulnerable juvenile and spawning groundfish aggregate at different times of year. The CATT-based areas were incorporated into the SASI-based areas by modifying the boundary of a particular area or creating a new area entirely. The Council's Scientific and Statistical Committee reviewed the CATT's analysis and determined it was appropriate for use in fishery management decisions. A full description of the CATT's hotspot analysis can be found in Section 2.1 of Volume 5 and in Appendix E of the EIS.

Because these processes resulted in so many potential areas and combinations of areas, the Habitat Committee determined that sub-dividing the analyses and decision-making process would better represent the fishing stocks and areas involved. The sub-regions became Eastern Gulf of Maine, Central Gulf of Maine, Western Gulf of Maine, Georges Bank, and Great South Channel/Southern New England. The PDT and CATT held a series of joint meetings to develop initial ''packages'' of areas within each sub-region that were likely to achieve the stated goals and objectives of the amendment. These packages formed the basis for the many alternatives in the Amendment. In each sub-region, the Council considered eliminating all spatial habitat management in order to fully describe the range of impacts and to provide the ability to mix and match across sub-regions to find a practicable solution. The sub-regional packages were then modified by the Committee and the Council during a series of public meetings, until the Council took action in February 2014 to select initial preferred alternatives for public hearings. The Council held public hearings and accepted comments until January 2015 on these sets of preferred alternatives.

Following the public hearings and in response to the public comments, the Council selected its recommended measures over the course of two meetings in April and June 2015. The April meeting covered all recommendations, except for the Georges Bank habitat management areas and the Gulf of Maine and Georges Bank spawning alternatives (see #5 for more information). The Council's preferred alternatives and a brief description of the Council's rationale for its preferences are included below. For a thorough discussion of the other alternatives considered and the potential impacts from those alternatives, please see Volumes 3, 4, and 5 of the EIS. Coordinates and maps of all areas can be found in Volume 3 of the EIS.

Eastern Gulf of Maine

In the Eastern Gulf of Maine, the Council recommends establishing the Small Eastern Maine Habitat Management Area (HMA), closed to all mobile bottom-tending gears. (Note, the proposed regulations refer to this area as simply the ''Eastern Maine HMA.'') The EIS notes that the Council selected this area as preferred because it expects this alternative to protect habitats of similar species as the larger area that was considered, but with fewer economic impacts on the fishing industry. In terms of protection of vulnerable habitats and designated EFH coverage, the proposed area ranks towards the middle of the areas considered for this sub-region. Because there is currently no habitat management area in the eastern Gulf of Maine, implementing a mobile bottom-tending gear closure in any area represents an improvement in groundfish habitat protection in this sub-region. However, bottom trawls and dredges are used sparingly in any of the areas that the Council considered and lobster traps are not subject to any of the regulations in this amendment. Therefore, no short-term reductions in the adverse impacts of fishing in this sub-region are expected.

Central Gulf of Maine

In the Central Gulf of Maine, the Council recommends maintaining the existing Cashes Ledge Groundfish Closure Area and modifying the existing Jeffreys Bank and Cashes Ledge Habitat Closure Areas, with their current fishing restrictions and exemptions; establishing the Fippennies Ledge HMA, closed to mobile bottom-tending gears; and establishing the Ammen Rock HMA, closed to all fishing except lobster traps.

The EIS describes the variety of reasons that the Council selected these areas as preferred. Maintaining the existing Cashes Ledge Groundfish Closure Area with the existing management restrictions was a much-debated decision. Because the groundfish closure areas prohibit gears capable of catching groundfish, including those that have minimal impact on habitat, many felt that the groundfish areas in their entirety ought to be removed because there are other existing measures in the FMP designed

to control groundfish mortality. However, the Council is recommending that the Cashes Ledge Groundfish Closure Area remain closed to commercial gears capable of catching groundfish in order to support the goals and objectives of this action that were added to improve the protection of juvenile and spawning groundfish habitats. Maintaining this closure will also ensure that a more diverse array of bottom habitats that support a greater variety of species remain protected from fishing impacts. The other recommended actions in this sub-region are modifications to the existing Cashes Ledge and Jeffreys Bank habitat closures. These modifications were designed to more closely align with the location of the shallower, hard-bottom habitats and to increase fishery access to the deeper, less vulnerable mud and sand habitats that surround the ledges. Ammen Rock on top of Cashes Ledge is a unique feature within the Gulf of Maine and features kelp forest habitat that would benefit from enhanced protection, which is why there are additional management restrictions in that area. Fippennies Ledge is an additional hard bottom feature within the Cashes Ledge Groundfish Closure Area that would be protected by maintaining the status quo groundfish closure. However, the Council determined that in the event that the Cashes Ledge Groundfish Closure Area is modified or removed at some point in the future, Fippennies still warrants protection from the adverse effects of mobile bottom-tending gear. In terms of habitat protection and benefits to groundfish resources, both the proposed alternative and the existing habitat protection measures rank high.

Western Gulf of Maine

In the Western Gulf of Maine, the Council recommends maintaining the existing Western Gulf of Maine Habitat Closure Area, closed to mobile bottom-tending gears, and modifying the eastern boundary of the Western Gulf of Maine [Groundfish] Closure Area to align with the habitat closure area, while maintaining the current fishing restrictions and requirements. The Council also recommends creating an exemption area within the northwest corner of those closures for shrimp trawls and designating the existing Roller Gear Restricted Area requirements as a habitat protection measure.

The EIS describes the Council's rationale for these areas in greater detail. In summary, these areas were selected to maintain decades' worth of protections in this region, while modestly increasing access to the eastern edge of the area. The shrimp exemption was designed to minimize the economic impact on a fleet whose gear has minimal habitat impact, when authorized to operate. The roller gear restriction has been required for several years and was originally implemented through Framework Adjustment 27 to the Northeast Multispecies Fishery Management Plan to minimize cod mortality by preventing trawl gear from fishing over rocky substrate. As such, it has been a de facto habitat protection measure and the Council wanted to note it formally as such. The Council is recommending the removal of 23 percent of the existing Western Gulf of Maine Groundfish Closure Area, which was closed to all gears capable of catching groundfish in 1995, to make its eastern boundary align with the boundary of the habitat closure. The Council is making this recommendation because it concluded that this reduction would still provide sufficient conservation for cod and other depleted stocks, while increasing fishing access to the eastern side of the area. The EIS characterizes habitats in the long, narrow area that would be newly opened to fishing as deeper mud habitats that are less vulnerable to fishing, but notes the presence of Wildcat Knoll, a hard bottom feature located in shallower water near the southeast corner of the existing groundfish closure.

The proposed area includes comparable amounts of vulnerable and diverse habitats as the two smaller inshore Bigelow Bight areas. The Bigelow Bight Areas contain more EFH, particularly for overfished large-mesh groundfish species, and more juvenile groundfish hotspots. However, the Council concluded that it was impracticable to impose fishing prohibitions in either of the inshore areas because a significant amount of bottom trawling activity would be affected, particularly for the smaller boat fleet that would be less able to travel farther offshore to compensate for the reduction in access near shore. The Council concluded that its preferred alternative would have the same level of positive impacts on habitat and groundfish resources as the existing closures, with the same economic benefits.

Georges Bank

On Georges Bank, the Council recommends removing the year-round and habitat closures of Closed Areas I and II and replacing them with three new areas: (1) The Georges Shoal 2 HMA, closed to mobile bottom-tending gear, with a 1-year delay in closure to hydraulic clam dredges; (2) the Northern Edge Reduced Impact HMA, closed to mobile bottom-tending gear, with two exceptions described below; and (3) the Northern Edge Mobile Bottom-Tending Gear HMA, closed to mobile bottom-tending gear without any exceptions. Exemptions to the Reduced Impact HMA are scallop dredge fishing in accordance with the scallop rotational area program, and trawl fishing to the west of the existing western boundary of Closed Area II (67°20′W long.), in what is now the Eastern Georges Bank Special Access Program. In addition, any portions of the Closed Area II groundfish closed area north of 41°30′N lat. would be closed to scallop fishing between June 15 and October 31 of each year. The remainder of the existing Closed Area I Habitat and Groundfish Closure Areas and Closed Area II Groundfish Closure Area would be opened, except for seasonal spawning protection as described below in #5 (Groundfish Spawning Measures). Volume 3 of the EIS describes the Council's rationale in detail.

The Council's proposed changes would open an area that has been closed to mobile bottom-tending fishing gear for over 20 years. It would allow rotational scallop dredge fishing along the northern edge of Georges Bank. A portion of the Northern Edge HMA that would be opened to rotational limited access scallop dredging as part of the Council's preferred alternative includes the northern portion of an area designated as a Habitat Area of Particular Concern in 1998 and reaffirmed in this amendment due to the ecological importance and vulnerability of the area for juvenile cod.

The Council reasons that the potential economic benefits of allowing rotational scallop fishing on the northern edge outweigh the potential benefits to juvenile cod and cod stock recovery that would accrue from leaving the area closed. The scallop fishery has averaged over $490 million in revenue over the past 5 years. The potential increases in revenue for the scallop fishery from 2017–2039 range from $189 million ((3 percent discount rate) or $169 million using a 7-percent discount rate)) in 2018 to a decrease in value of $5 million ((3 percent discount rate) or $4 million using a 7-percent discount rate)) in 2020. The discount rate is the rate used to determine present value of current cash flows. Guidance for implementing the Regulatory Flexibility Act uses both a 3-percent discount rate and a 7-percent discount rate because, while 7 percent is a recent estimate of the

average before-tax rate of return to private capital, historically, the rate has averaged 3 percent. Volume 5, Section 6.2.2 of the EIS describes the economic effect of the Council's proposals on the scallop fishery in detail. The EIS uses 2015 constant dollars and the scallop fishery's established models for projecting biomass and revenue. The Council's proposed recommendations would result in a potential additional $60 million–$62 million (annualized in accordance with the Regulatory Impact Analysis Circular A–4, in 2016 dollars) to the scallop fishery.

In contrast, while there is a lot of uncertainty in the stock assessment, the Georges Bank cod stock is in poor condition. The Council concluded that the proposed alternative would be less beneficial to the groundfish resources in that sub-region than the existing closures, but would be moderately positive relative to no habitat protection measures.

The Council provides that the gear restrictions in the Georges Shoal HMA and the mobile bottom-tending gear closure south of the Northern Edge Reduced Impact HMA offset the increased impacts that would occur from opening the northern edge to rotational scallop fishing and special access bottom trawling activity in the future. The Council defines an area of reduced impact as being intermediate between full closure to mobile bottom-tending gear and open access fishing. The delayed closure for clam dredges in the Georges Shoal HMA was included to minimize the economic impact on the clam industry while exemptions in more specific areas of less vulnerable bottom habitat within the HMA could be developed. The scallop access program would rotate the dredge impacts according to the Scallop FMP's conditions for opening an area (generally based on the biomass of scallops within the area, overfishing definitions, and achievement of optimum yield). Groundfish trawling occurs already in the area to the west of the existing closure, but other gears, including scallop dredges outside of the access area program and clam dredges, would be prohibited. The seasonal closure for scallop vessels was included to mitigate gear conflicts with the lobster fishery.

The area that the Council is proposing to open to limited access scallop dredging has been closed to most types of bottom tending fishing gear for over 20 years. During this time, the biological community has fully recovered from any adverse effects of fishing that occurred prior to the closure, thus maximizing the habitat value of the area and its vulnerability to renewed gear impacts. A fully recovered community includes epifaunal species that are more susceptible to the first few passes of bottom-tending fishing gear than a recently disturbed community. For this reason, bottom habitats in the area are more at risk from the impacts of scallop dredges and bottom trawls than other areas that are currently open to these gears or have been protected for less time. Therefore, the potential impacts of even a limited amount of renewed bottom fishing in the proposed area need to be carefully evaluated.

As expressed several times throughout the Council decision process, NMFS has identified several significant concerns regarding the Council's preferred alternative in this sub-region. Our concerns focus on whether the proposals for this region support the requirement of the Magnuson-Stevens Act to minimize adverse effects from fishing; if the proposals achieve the Council's stated objectives of ''improved protection of critical groundfish habitats;'' and, if the impacts of scallop fishing in the more vulnerable portion of the Juvenile Cod HAPC were adequately considered and addressed when the preferred alternative was selected.

This amendment provides no habitat factors for considering the degree of scallop fishing that may be allowed in this area. While the area would be opened to scallop fishermen on a rotational basis, the extent and duration of the openings is otherwise unlimited. We are concerned about how this uncertain fishing effort will affect such a uniquely vulnerable area with such habitat importance to groundfish.

We are also concerned that there is no analysis showing that if the scallop fishery continues to have access only outside the existing Northern Edge HAPC that it would result in an actual cost to the industry. The analysis shows that there would continue to be opportunity costs from a lack of access to an area that contains scallops. However, continuing to prohibit mobile bottom-tending gear fishing along the northern edge is not expected to result in direct financial loss to the scallop industry because the area has been closed since 1995. The Scallop FMP allows increased fishing opportunities in open areas to compensate for lost access to biomass in closed areas, which can mitigate the economic impact from maintaining the current habitat protections in this area. This mitigation has been occurring since the closure in 1995 and would continue if the area continued to be closed to scallop fishing. Further, recruitment to the fishery of the large 2014 year class in open areas on Georges Bank and Southern New England is expected to increase landings and revenue in the scallop fishery starting in 2018.

We are concerned that the other two recommended areas on Georges Bank may not sufficiently compensate for the adverse impacts from opening the Northern Edge Reduced Impact HMA. The habitat value of the Georges Shoal HMA is low, judging from its high proportion of unstable sandy substrate and low EFH value. As described in Volume 3 of the EIS, the Georges Shoal HMA has one of the lowest EFH scores—a measure of how many species and life stages utilize the area—of any potential management area, despite its relatively large size. The primary mobile bottom-tending gear used in this area is the hydraulic clam dredge, a gear that would not be allowed to continue fishing in this area after a 1-year delay in effectiveness. There is no scallop fishing and very little bottom trawling activity in the area. It is not known whether clam dredges here are used in more vulnerable hard bottom habitats as they are east of Nantucket Island. If they are, then a prohibition on their use in the Georges Shoal HMA could reduce the adverse impacts of current fishing activity on EFH to some extent.

Bottom trawling by groundfish vessels would continue in the small portion of this area west of the current western boundary of Closed Area II. The area within Closed Area II that is located south of the HAPC, and includes a portion of the HAPC, contains a smaller percentage (but roughly the same amount) of the more stable and vulnerable hard bottom substrates that dominate the shallower portion of the northern edge where scallop fishing would be allowed. This area has been closed to mobile bottom-tending gears for over 20 years, and would continue to protect some vulnerable habitat on eastern Georges Bank, but without any improvement relative to the status quo protections that are already in place on Georges Bank.

A related concern with these areas is that the alternative does not appear to improve protection of critical groundfish habitats or improve refuge for critical groundfish life history stages in this sub-region—two of the Council's objectives of the amendment. The northern edge of Georges Bank is known to provide highly suitable gravel, cobble, and boulder habitat for small juvenile groundfish such as cod and haddock. This habitat type is particularly vulnerable to the adverse effects of mobile bottom-tending gear such as scallop dredges. As discussed

above, allowing this area to be fished without sufficiently compensating for the impacts of mobile bottom-tending gear would appear to reduce protections, not improve them.

Finally, the Council recognized the ecological importance and vulnerability of the northern edge in 1998 by designating the Northern Edge Juvenile Cod HAPC and re-affirming its status as a juvenile cod HAPC in this amendment. Because of this designation, special attention should be given to this area when developing management measures to minimize the adverse effects of fishing on EFH. However, we are concerned that appropriate consideration was not given to the impacts of scallop dredging on the specific habitat features that warrant designation as an HAPC.

The HAPC has been closed to mobile bottom-tending gear since January 1995. The habitat factors that favor the survival of juvenile cod and that should be considered when determining the degree to which this area would be subject to scallop dredging in the future are not defined in this action. Scallop access areas have generally been open for one or two years in a row, every third year. Research has shown that the recovery times for some vulnerable benthic organisms that inhabit the northern edge of Georges Bank exceed 5 years and complete recovery may take as long as 10 years. These recovery times appear to be incompatible with the standard rotational timeframe of the scallop access program.

NMFS is seeking comment on both the Council's rationale and our stated concerns. Specifically, we are focused on whether the Council's preferred alternatives minimize to the extent practicable the adverse effects of fishing; how the recommended measures meet the Council's stated goals and objectives of the Amendment; and whether the designation of an HAPC has been duly considered.

Great South Channel/Southern New England

In the Great South Channel, the Council recommends establishing the Great South Channel HMA. The northeast corner of the HMA (12.5 percent of the area) would be closed to all mobile bottom-tending gears. The effective date of the closure would be delayed by 1 year for hydraulic clam dredges throughout the remainder of the area. The Council is working to identify sub-areas that are less vulnerable to clam gear to determine if further exemptions are warranted and where they should be located in order to minimize impacts to EFH, but allow some amount of fishing to continue. The Council is also recommending establishing two small HMAs on Cox Ledge, closed to hydraulic clam dredges, and prohibiting ground cables on trawls fishing in the areas. No other mobile bottom-tending gears would be affected. The Nantucket Lightship Habitat Closure Area and the Nantucket Lightship Closed Area would be removed.

Throughout the development of the action, the Council's technical team expressed concern that the ground cable restriction measures would not minimize the habitat impacts of fishing. NMFS reiterated these concerns several times throughout the development of OA2 management measures. Ground cables account for a significant portion of a bottom trawl's seabed impact. However, the sediment clouds they create ''herd'' fish toward the opening of the net. The proposed gear modifications would reduce the effectiveness of the gear and, in all likelihood, cause vessels to fish longer in order to compensate for reduced catch rates. No studies of the trade-offs between reduced impacts of ground cable removal and the duration or frequency of bottom trawl tows were cited in the EIS for OA2.

The Council's recommendation of the Great South Channel HMA is a compromise between the larger Great South Channel East HMA (Alternative 3), located further to the east, and the slightly smaller Nantucket Shoals HMA (Alternative 5), located further to the west, closer to Nantucket Island. Bottom habitats in these areas are a mixture of less stable sand and more stable gravel, cobble, and boulder substrates and support fisheries for groundfish, clams, and scallops. The two most significant fisheries in the area are for surfclams and scallops. Scallop dredging is almost entirely restricted to deeper water along the western side of the Great South Channel and to an area east of Cape Cod. Clam dredging occurs in a large area of mixed bottom types in shallower water to the west. While the Council recognized the likelihood of negative economic impacts of these alternatives on the clam fishery, they were also concerned about the negative effects of hydraulic dredges on complex habitats occurring in the region.

There are two proposed HAPCs in this sub-region, the Inshore Juvenile Cod HAPC includes waters off the Massachusetts coast to 20 m deep, and overlaps slightly with the Nantucket Shoals and Nantucket Shoals West HMAs. The Great South Channel Juvenile Cod HAPC includes additional waters north and east of the HMAs to a depth of 120 m and partially overlaps the Council's preferred alternative in this sub-region.

Results of the habitat impact analyses in the EIS indicate that the Council's recommendation would have positive habitat impacts compared to leaving the habitat and groundfish closures in the Nantucket Lightship area in place, even with the 1-year delay in closure for clam dredges in most of the area. Impacts to groundfish resources would be approximately the same for both the existing and proposed measures. The proposed measures would have a slightly negative economic impact on the groundfish fishery, and a highly negative economic impact on the clam fishery after the 1-year delay expires.

5. Groundfish Spawning Measures

The Council has considered how to most effectively manage fishing during the spawning periods of key fish in several actions. During the development of this Amendment, the Council recommended, and NMFS implemented, several modifications to spawning protections for cod and other groundfish through Framework Adjustments 45 and 53. Because these measures were implemented prior to the completion of OA2, there was much debate over what should be done in this action. Ultimately, the Council is recommending adding a few minor protections to what is required currently.

Gulf of Maine

In the Gulf of Maine, the Council recommends establishing two new, relatively small, cod spawning protections. They include the Winter Massachusetts Bay Spawning Closure, which would be in effect from November 1–January 31 of each year. The area would be closed to all fishing vessels, with the same exemptions as the existing Gulf of Maine Cod Spawning Protection Area (*i.e.,* Whaleback), including vessels fishing in state waters that do not have a Federal Northeast multispecies permit; vessels fishing with exempted gears; charter/party and private recreational vessels, provided they are fishing with pelagic hook and line gear and there is no retention of regulated groundfish or ocean pout; and vessels that are transiting. In addition, the Council is recommending a 2-week closure (April 15–April 30) within statistical area 125, referred to as the Spring Massachusetts Bay Spawning Protection Area in the draft regulations below. This area would be closed to all vessels, except: Vessels fishing in state waters that do not have a Federal Northeast multispecies permit;

vessels fishing with exempted gears; vessels in the mid-water trawl and purse seine exempted fisheries; scallop vessels fishing with dredges on a scallop day-at-sea; vessels fishing in the scallop dredge exemption area; and charter, party, and recreational fishing vessels.

Georges Bank

On Georges Bank, the Council is recommending maintaining the existing Closed Area II Groundfish Closure Area and the Closed Area I North Habitat Closed Area as seasonal closures from February 1–April 15. The areas would be closed to all commercial and recreational vessels, except those that are transiting, fishing with exempted gears, participating in the mid-water trawl exempted fishery, and fishing with scallop dredges.

The Council is also recommending the removal of the May Georges Bank Spawning Closure. Sector vessels are exempted from this seasonal closure, rendering it virtually non-existent. Removing the closure would minimally reduce the administrative burden for sectors, as they would no longer have to request this exemption.

6. Dedicated Habitat Research Areas

In order to highlight research needs, particularly relating to evaluating the assumptions of the SASI model that the Council used as the basis for HMA development, the Council is proposing to establish two Dedicated Habitat Research Areas (DHRA). The Council is also recommending that the DHRAs would be in effect for 3 years, at which time the Regional Administrator would confer with the Council as to whether the designation should be retained. The Council developed a series of questions to assist in this future discussion that include consideration of where in the research development process an activity is, how well it aligns with the Council's stated habitat research priorities, and what role the DHRA designation plays in the research.

The Council recommends establishing the Georges Bank DHRA (footprint is the same as the existing Closed Area I South Habitat Closure) and the Stellwagen DHRA (footprint within the existing Western Gulf of Maine Habitat Closure). The Georges Bank DHRA would be closed to all mobile bottom-tending gear. The Stellwagen DHRA would be closed to all commercial mobile bottom-tending gear, commercial sink gillnet gear, and commercial demersal longline gear.

7. Framework Adjustments and Monitoring

The Council is recommending that the designation or removal of HMAs and changes to fishing restrictions within HMAs be considered frameworkable. In addition, the Council is proposing a review process to evaluate the performance of habitat and spawning protection measures. Finally, the Council is proposing to identify and periodically revise research priorities to improve habitat and spawning area monitoring.

8. Regulatory Changes

This rule proposes implementing measures for all of the Council's recommendations, as required. In order to improve clarity of the habitat-related management measures, we have reorganized § 648.81 to refer solely to year-round and seasonal closures designed for purposes of groundfish protection. All habitat-related measures, including the proposed HMAs and their accompanying regulatory text, the DHRAs and their accompanying text, and the Mid-Atlantic Fishery Management Council's Deep-Sea Coral Protection area can be found in a new subpart (Subpart Q). In addition, the Council stated that all areas currently closed to scallop dredging should remain closed upon the implementation of OA2 so that the Scallop Committee can better incorporate newly opened areas in the rotational management program. The existing EFH closures currently reside in both the groundfish (§ 648.81) and scallop (§ 648.61) regulations. We propose adding the groundfish closed areas that would otherwise be removed by this action to the scallop closure section (§ 648.61) to ensure that the restrictions on scallop fishing remain in place until a subsequent scallop action can modify them. The proposed regulations also update cross-references and definitions as needed. The Council deemed the regulations as necessary and appropriate, as required in the Magnuson-Stevens Act, on March 28, 2017.

Classification

Pursuant to section 304(a)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has made a preliminary determination that this proposed rule may be consistent with OA2, other provisions of the Magnuson-Stevens Act, and other applicable law. In making the final determination, we will consider the data, views, and comments received during the public comment period.

This proposed rule has been preliminarily determined to be not significant for purposes of Executive Orders (E.O.) 12866. For the reasons stated earlier and in the accompanying EIS/RIR/IRFA, we anticipate this rule will result in an annualized cost savings of approximately $60 million–$62 million, using a 3- and 7-percent discount rate, respectively.

This proposed rule does not contain policies with Federalism or ''takings'' implications as those terms are defined in E.O. 13132 and E.O. 12630, respectively.

An Initial Regulatory Flexibility Analysis (IRFA) was prepared for this proposed rule, as required by section 603 of the Regulatory Flexibility Act (RFA), 5 U.S.C. 603. The IRFA describes the economic impact that this proposed rule would have on small entities, including small businesses, and also determines ways to minimize these impacts. The IRFA includes this section of the preamble to this rule and analyses contained in OA2 and its accompanying EIS/RIR/IRFA. A copy of the full analysis is available from the Council (see **ADDRESSES**). A summary of the IRFA follows.

Description of the Reason Why Action by the Agency Is Being Considered and Statement of the Objective of, and Legal Basis for, This Proposed Rule

This action proposes management measures to comply with requirements of the Magnuson-Stevens Act to minimize to the extent practicable the adverse effects of fishing on EFH. A complete description of the action, why it is being considered, and the legal basis for this action are contained in OA2, and elsewhere in the preamble to this proposed rule, and are not repeated here.

Description and Estimate of the Number of Small Entities to Which the Proposed Rule Would Apply

The Small Business Administration (SBA) defines a small business as one that is:

- Independently owned and operated;
- Not dominant in its field of operation;
- Has annual receipts that do not exceed—
  - $20.5 million in the case of commercial finfish harvesting entities (NAIC [1] 114111)

[1] The North American Industry Classification System (NAICS) is the standard used by Federal statistical agencies in classifying business establishments for the purpose of collecting, analyzing, and publishing statistical data related to the U.S. business economy.

○ $5.5 million in the case of commercial shellfish harvesting entities (NAIC 114112)

○ $7.5 million in the case of for-hire fishing entities (NAIC 114119); or

• Has fewer than—

○ 750 employees in the case of fish processors

○ 100 employees in the case of fish dealers.

This proposed rule affects commercial and recreational fish harvesting entities engaged in fisheries throughout New England that utilize bottom-trawls (large and small mesh), longlines, rod and reel, gillnets, pots and traps, scallop dredges, and hydraulic clam dredges. The gears primarily affected by this action are two non-mutually exclusive fishing operations: Fishermen using gears capable of catching groundfish and fishermen using mobile bottom-tending gears. Individually permitted vessels may hold permits for several fisheries, harvesting species of fish that are regulated by several different FMPs. Furthermore, multiple-permitted vessels and/or permits may be owned by entities affiliated by stock ownership, common management, identity of interest, contractual relationships, or economic dependency. For the purposes of the Regulatory Flexibility Act analysis, the ownership entities, not the individual vessels, are considered the regulated entities.

Ownership entities are defined as those entities with common ownership personnel as listed on the permit application. Only permits with identical ownership personnel are categorized as an ownership entity. For example, if five permits have the same seven persons listed as co-owners on their permit application, those seven persons would form one ownership entity that holds those five permits. If two of those seven owners also co-own additional vessels, these two persons would be considered a separate ownership entity.

On June 1 of each year, NMFS identifies ownership entities based on a list of all permits for the most recent complete calendar year. The current ownership dataset used for this analysis was created based on calendar year 2014 and contains average gross sales associated with those permits for calendar years 2012 through 2014.

In addition to classifying a business (ownership entity) as small or large, a business can also be classified by its primary source of revenue. A business is defined as being primarily engaged in fishing for finfish if it obtains greater than 50 percent of its gross sales from sales of finfish. Similarly, a business is defined as being primarily engaged in fishing for shellfish if it obtains greater than 50 percent of its gross sales from sales of shellfish.

A description of the specific permits that are likely to be affected by this action is provided below, along with a discussion of the impacted businesses, which can include multiple vessels and/or permit types.

On December 29, 2015, NMFS issued a final rule establishing a small business size standard of $11 million in annual gross receipts for all businesses primarily engaged in the commercial fishing industry (NAICS 11411) for RFA compliance purposes only (80 FR 81194; December 29, 2015). The $11 million standard became effective on July 1, 2016, and is intended to be used in place of the SBA's current standards of $20.5 million, $5.5 million, and $7.5 million for the finfish (NAICS 114111), shellfish (NAICS 114112), and other marine fishing (NAICS 114119) sectors, respectively, of the U.S. commercial fishing industry in all NMFS rules subject to the RFA after July 1, 2016.

The Council took final action on OA2 in June 2015, and the analyses in support of this action were developed throughout the decision process and following the Council's action, but prior to July 1, 2016. This analysis was not updated to reflect a small business re-classification for all of the vessels affected by this amendment using our new size-standards because we have determined that this analysis provides a sufficient estimate of the number of small entities to which the proposed rule applies for purposes of determining this action's impacts on small entities and the considerations required under the RFA.

For most of the fisheries directly affected by this rule, RFA analyses have been completed on other actions since the implementation of the revised size standard. Table 2, below, shows the total number of entities from the last fishery management action analyzed under the SBA size standards and the first fishery management action analyzed under the revised NMFS policy standard. While the economic analyses in the Council's EIS included every federally permitted entity, examining the changes to just the key fisheries, including limited access scallop, groundfish, and the clam fisheries, is informative regarding the potential impact of the change in size.

Changes in the total number of entities year-to-year are generally a result of the timing of the data pull relative to permit renewals, regulatory changes, or inter-annual variation in ownership combinations. In terms of percentage of each of the major affected fisheries, the size standard change results in minimal changes in categories. For the limited access scallop, limited access general category scallop, and large-mesh groundfish fisheries, the size standard change results in less than a 1-percent change in category between large and small entities. For both the monkfish and surfclam/ocean quahog fisheries, the revised size standard shifts approximately 2 percent of entities from the large category to small. Note, the size standard for for-hire businesses did not change under the revision. The EIS analysis states that, in 2014, there were 4,071 small businesses (925 finfish, 2,713 shellfish, 433 for-hire), and 18 large businesses (all shellfish).

The revised size standard does not change the conclusions of the analysis or notably change the estimation of the impact on small entities from this action. As such, it is reasonable to rely upon the Council's economic analyses.

Regulated Commercial Fish Harvesting Entities

Table 3 describes revenue by business type (large or small) and Table 4 describes the total number of commercial business entities potentially regulated by the proposed action. As of the time of the Council's decision-making (2015), there were 4,071 small businesses (925 finfish, 2,713 shellfish, 433 for-hire) and 18 large businesses (all shellfish) potentially affected by this action. For fisheries utilizing mobile bottom-tending gear, the proposed action directly regulates potentially affected entities through restrictions on when and where vessels may fish to comply with the Magnuson-Stevens Act requirement to minimize to the extent practicable the adverse effects of fishing on essential fish habitat. For fisheries that use gears capable of catching groundfish, the proposed action additionally restricts location and timing of fishing to minimize impacts on spawning groundfish. According to the EIS, individuals fishing with mobile bottom-tending gear and midwater trawls tend to generate a substantial portion of their revenue from other gear types. The vast majority of individuals either fishing with mobile bottom-tending gear capable of catching groundfish or for-hire do not deviate from that mode, which could relate to the specialized nature of either the vessels or the captains' skills needed for these types of fishing.

In general, the overall changes the Council is proposing are relatively modest, particularly when compared to other alternatives considered. The majority of areas recommended in the Council's proposals are already closed

to fishing. The current open areas that would close include the Eastern Maine HMA, the Georges Shoal HMA, and the Great South Channel HMA. As described above, there is currently very little mobile bottom-tending gear fishing in the Eastern Maine HMA because groundfish stocks have decreased locally in that region. The Great South Channel HMA was designed to minimize impact to the scallop fishery, particularly the design of the eastern boundary. Scallops occur primarily at depths beyond the closure boundary. There is not a significant amount of trawl fishing in that area because of the high level of natural disturbance. The Great South Channel HMA would primarily affect hydraulic clam dredges, after the 1-year delay expires. As noted above, the Georges Shoal HMA has very little trawl or scallop dredge fishing in it now, despite the fact that nearby areas have been closed since 1995. Again, only clam dredge fishing would be expected to experience a notable displacement of fishing and only after the 1-year delay expires.

The Council's proposed measures that would increase fishing opportunities include: (1) Modifying the Western Gulf of Maine Groundfish Closure Area by aligning the eastern boundary with the Habitat Closure Area; (2) modifying the Jeffreys Bank Habitat Closure Area and exposing the deeper, northern portion to potential fishing; (3) opening the northern edge of Georges Bank to rotational scallop fishing; (4) eliminating the Nantucket Lightship Groundfish and Habitat Closure Areas; and (5) implementing Closed Area I North and Closed Area II as seasonal, versus year-round, closure areas. The partial opening of the areas in the Gulf of Maine are expected to result in modest increases in groundfish revenue. The opening of the Nantucket Lightship closure areas could result in increases in scallop fishing. The northern edge of Georges Bank, within the Reduced Impact HMA and the Juvenile Cod HAPC, contains a substantial amount of scallops, with biomass estimates of over 10,000 mt and long-term yield estimates ranging from 419 to 1,079 mt. Because the value of scallops is so high (averaging over $10 per pound since 2010), there is potential for large increases in scallop revenue if the area is opened as proposed and prices remain at or around this value. As described above, there are concerns that the proposed fishing impacts may not be consistent with requirements of the Magnuson-Stevens Act to minimize to the extent practicable the adverse effects from fishing or with the Council's designation of the area as an HAPC. Should the Council's proposal in this sub-region not be approved, there would be no direct revenue lost to the scallop fishery, as the regulations would remain status quo, and the Scallop FMP would continue to offset the scallop biomass in the closed areas with increased fishing in the open areas, including any newly opened areas.

TABLE 2—COMPARISON OF LARGE AND SMALL ENTITIES UNDER THE SBA AND NMFS SIZE STANDARDS

Fishery	SBA standard				NMFS standard			
	Total	Large	Small	Proposed rule with IRFA summary	Total	Large	Small	Proposed rule with IRFA summary
Scallop (LA)	166	152 (91.6%)	14 (8.4%)	Framework Adjustment 27 (81 FR 9151; 2/24/2016).	154	141 (91.6%)	13 (8.4%)	Framework Adjustment 28 (82 FR 6472; 1/19/2017).
Scallop (LAGC)	106	102 (96.2%)	4 (3.8%)	Framework Adjustment 27 (81 FR 9151; 2/24/2016).	87	84 (96.6%)	3 (3.4%)	Framework Adjustment 28 (82 FR 6472; 1/19/2017).
Monkfish	397	16 (4.0%)	381 (96.0%)	Framework Adjustment 9 (81 FR 6472; 6/23/2016).	390	8 (2.1%)	382 (97.9%)	Framework Adjustment 10 (82 FR 21498; 5/9/2017).
Groundfish	1,359	18 (1.3%)	1,341 (98.7%)	Framework Adjustment 55 (81 FR 15003; 3/21/2016).	1,505	10 (0.7%)	1,495 (99.3%)	Framework Adjustment 56 (82 FR 28447; 6/22/2017).
Groundfish C/P	425	0 (0.0%)	425 (100.0%)	Framework Adjustment 55 (81 FR 15003; 3/21/2016).	191	0 (0.0%)	191 (100.0%)	2017 Recreational Management Measures (82 FR 24086; 5/25/2017).
SC/OQ	406	20 (4.9%)	386 (95.1%)	Surfclam/Ocean Quahog Amendment 17 (81 FR 14072; 3/16/2016).	358	10 (2.8%)	348 (97.2%)	2017–2018 Surfclam/Ocean Quahog Specifications (82 FR 24086; 11/23/2016).

TABLE 3—BUSINESS REVENUE BY TYPE

Year	NAICS classification	Business type	Business revenue	Shellfish revenue	Finfish revenue	For-hire revenue
2012	Finfish	Small	$217,560,996	$33,546,543	$183,380,312	$634,141
2012	For-hire	Small	56,153,981	331,674	611,532	55,210,775
2012	Shellfish	Large	265,665,371	242,801,113	22,860,746	3,512
2012	Shellfish	Small	710,485,816	679,195,607	30,897,738	392,471
2013	Finfish	Small	191,870,635	25,008,297	166,326,851	535,487
2013	For-hire	Small	55,556,751	125,755	588,984	54,842,012
2013	Shellfish	Large	228,892,465	208,244,173	20,642,659	5,633
2013	Shellfish	Small	690,608,565	663,848,959	26,381,386	378,220
2014	Finfish	Small	209,370,022	23,888,931	185,335,274	145,817
2014	For-hire	Small	57,843,562	15,735	412,061	57,415,766
2014	Shellfish	Large	223,065,022	202,580,548	20,484,474	
2014	Shellfish	Small	741,518,137	717,031,087	24,316,466	170,584

TABLE 4—NUMBER OF BUSINESSES AND REVENUE GENERATED BY SMALL AND LARGE BUSINESSES, BY COMMERCIAL GEAR CLASSIFICATION

[MBTG=Mobile bottom-tending gear, Groundfish=gear capable of catching groundfish, Both=Both MBTG and Groundfish designation, Midwater = Midwater trawls, Clam = clam dredge. Note some data not presented for Privacy Concerns]

Year	Gear type	Business type	Number of businesses	VTR revenue
2012	Both	Large	17	$231,658,238
2012	Both	Small	574	580,827,338
2013	Both	Large	17	185,435,086
2013	Both	Small	539	445,971,382
2014	Both	Large	17	173,348,111
2014	Both	Small	528	396,470,511
2012	Clam	Large	5	31,160,893
2012	Clam	Small	42	27,738,596
2013	Clam	Large	4	30,008,134
2013	Clam	Small	47	27,874,110
2014	Clam	Large	2	.....
2014	Clam	Small	41	26,867,813
2012	Groundfish	Large	2	.....
2012	Groundfish	Small	668	74,103,358
2013	Groundfish	Large	2	.....
2013	Groundfish	Small	605	47,920,414
2014	Groundfish	Large	1	.....
2014	Groundfish	Small	592	48,959,328
2012	MBTG	Large	3	1,072,716
2012	MBTG	Small	125	6,120,800
2013	MBTG	Large	3	1,375,902
2013	MBTG	Small	87	2,940,183
2014	MBTG	Large	3	1,216,387
2014	MBTG	Small	26	2,857,405
2012	Midwater	Large	3	9,289,884
2012	Midwater	Small	14	22,865,976
2013	Midwater	Large	3	5,535,922
2013	Midwater	Small	13	26,214,983
2014	Midwater	Large	3	4,909,077
2014	Midwater	Small	14	25,058,119
2012	Other	Large	2	.....
2012	Other	Small	566	79,087,347
2013	Other	Large	4	.....
2013	Other	Small	539	80,355,177
2014	Other	Large	3	.....
2014	Other	Small	514	84,446,720

Description of the Projected Reporting, Record-Keeping, and Other Compliance Requirements of This Proposed Rule

The proposed action does not contain a collection-of-information requirement subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA).

Federal Rules Which May Duplication, Overlap, or Conflict With This Proposed Rule

The proposed action does not duplicate, overlap, or conflict with any other Federal laws.

Description of Significant Alternatives to the Proposed Action Which Accomplish the Stated Objectives of Applicable Statutes and Which Minimize Any Significant Economic Impact on Small Entities

The economic impacts of each proposed measure is discussed in more detail in Volumes 3, 4, and 5 of the EIS. Because the primary objective of the Amendment is to comply with the Magnuson-Stevens Act requirement to minimize to the extent practicable the adverse effects of fishing on EFH, a variety of combinations of areas could have achieved those goals. The EFH and HAPC designations are primarily administrative in nature and are not expected to result in any direct economic impacts to the fisheries; although, indirect positive affects stocks are expected.

Habitat Management Measure Alternatives

In the Eastern Gulf of Maine, the Council recommends establishing the Small Eastern Maine Habitat Management Area (HMA), closed to all mobile bottom-tending gears. (Note, the proposed regulations refer to this area as simply the ''Eastern Maine HMA.'') Other alternatives considered would have continued with no habitat management in this sub-region or implemented one or more additional area. The Toothaker Ridge HMA, the Large Eastern Maine HMA, the Machias HMA, and the Small Eastern Maine were assembled into two alternatives.

In the Central Gulf of Maine, the Council recommends maintaining the existing Cashes Ledge Groundfish Closure Area, modifying the existing Jeffreys Bank and Cashes Ledge Habitat Closure Areas, with their current fishing restrictions and exemptions, and establishing the Fippennies Ledge HMA, closed to mobile bottom-tending gears, and the Ammen Rock HMA, closed to all fishing except lobster traps. Other alternatives considered would have various combinations of eight total areas. In addition to the areas recommended as preferred, the Council considered habitat management in the existing Jeffreys Bank and Cashes Ledge habitat closure areas, two areas on Platts Bank and a small area on the top of Fippennies Ledge. The Council did not recommend the areas on Platts Bank

because of the concern regarding the displacement of current fishing and the economic impact to a sub-set of the fleet.

In the Western Gulf of Maine, the Council recommends maintaining the existing Western Gulf of Maine Habitat Closure Area, closed to mobile bottom-tending gears, and modifying the eastern boundary of the Western Gulf of Maine [Groundfish] Closure Area to align with the Habitat Closure Area, while maintaining the current fishing restrictions and requirements. The Council also recommends creating an exemption area within the northwest corner of those closures for shrimp trawls and designating the existing Roller Gear Restricted Area requirements as a habitat protection measure. Other alternatives would have established a large (Alternatives 3 and 4) or small (Alternative 5) version of a closure area along the state waters boundaries of New Hampshire and Maine covering Bigelow Bight, which was deemed by the Council to have overly severe economic impacts. Still other options included consideration of breaking up the existing Western Gulf of Maine Habitat Closure Area to focus on the most vulnerable sections of Jeffreys Ledge and Stellwagen Bank, either in two smaller combinations (Alternatives 4 and 5) or only a larger section of the Stellwagen Bank area (Alternatives 3 and 6). Finally, one option would have implemented the roller gear restriction over only the footprint of the other proposed habitat management areas (Alternative 7b).

On Georges Bank, the Council recommends removing the year-round and habitat closures of Closed Areas I and II and replacing them with three new areas: (1) The Georges Shoal 2 HMA, closed to mobile bottom-tending gear, with a 1-year delay in closure to hydraulic clam dredges; (2) the Northern Edge Reduced Impact HMA, closed to mobile bottom-tending gear, with two exceptions described below; and (3) the Northern Edge Mobile Bottom-Tending Gear HMA, closed to mobile bottom-tending gear without any exceptions. Exemptions to the Reduced Impact HMA are scallop dredge fishing in accordance with the scallop rotational area program, and trawl fishing to the west of the existing western boundary of Closed Area II (67°20′W long.), in what is now the Eastern Georges Bank Special Access Program. In addition, any portions of the Closed Area II groundfish closed area north of 41°30′N lat. would be closed to scallop fishing between June 15 and October 31 of each year. The remainder of the existing Closed Area I Habitat and Groundfish Closure Areas and Closed Area II Groundfish Closure Area would be opened, expect for seasonal spawning protection.

Various combinations of 19 areas, including the 5 existing habitat and groundfish closed areas, were considered for this sub-region. When combined, these areas covered nearly the entire Bank area from the Hague Line up to the Great South Channel. Some areas were deemed too costly from an economic standpoint because of their size or specific location. These areas included the two alternatives across the majority of the bank: The Northern Georges mobile bottom-tending gear closure (Alternative 8) and the Northern Georges gear modification area (Alternatives 5). Various options of smaller areas on Georges Shoal, namely the Georges Shoal 1 (Alternative 5), Georges Shoal Gear Modification Area (Alternative 4), Georges Shoal 2 (Alternative 7), and Western HMA (Alternative 9), were also considered. Further variations focused more on the northern edge, included the Northern Edge HMA in Alternatives 3 and 4; two variations of expanding the existing Closed Area II habitat closure (Alternatives 6A and 6B); the EFH South HMA as part of Alternative 7; the Eastern HMA and a Mortality Closure in Alternative 9.

In the Great South Channel, the Council recommends establishing the Great South Channel HMA, closed to mobile bottom-tending gear, except hydraulic clam dredges for one year, outside of the northeast corner of the area. The Council is also recommending establishing two HMAs on Cox Ledge, closed to hydraulic clam dredges, and requiring no ground cables on trawls fishing in the areas. The Nantucket Lightship Habitat Closure Area and the Nantucket Lightship Closed Area would be removed. Other alternatives were variations around the proposed alternative, some extending farther to the east, and some extending farther to the west. The Council also considered a single box to cover both Cox Ledge areas.

Groundfish Spawning Measure Alternatives

In the Gulf of Maine, the Council is recommending establishing two new, relatively small cod spawning protections. They include the Winter Massachusetts Bay Spawning Closure, which would be in effect from November 1–January 31 of each year. The Council also recommends a 2-week closure (April 15–April 30) within statistical area 125. Other alternatives considered would have reinstated or added to existing rolling closures in the Western Gulf of Maine.

On Georges Bank, the Council is recommending maintaining the existing Closed Area II Groundfish Closure Area and the Closed Area I North Habitat Closed Area as seasonal closures from February 1–April 15. The Council is also recommending the removal of the May Georges Bank Spawning Closure. The Council considered making all of the existing Closed Area I groundfish closure area a seasonal spawning closure, but instead chose just the subset of that area in the northern portion.

Management alternatives in both regions included all commercial gears capable of catching groundfish (recreational fishing exempted), all commercial and recreational gears capable of catching groundfish, and an exemption for scallop dredges.

Dedicated Habitat Research Area Alternatives

The Council is proposing to establish two DHRAs. The DHRAs would be effective for 3 years, at which time the Regional Administrator would confer with the Council as to whether the designation should be retained. The Council considered three potential DHRAs, with varying management restrictions within them. The Council is recommending establishing the Georges Bank DHRA (footprint is the same as the existing Closed Area I South Habitat Closure) and the Stellwagen DHRA (footprint within the existing Western Gulf of Maine Habitat Closure). The Council considered two ''reference areas'' within the Stellwagen DHRA that would have prohibited all fishing, including recreational groundfish fishing. The Council is proposing the Stellwagen DHRA with no reference area. The Georges Bank DHRA would be closed to all mobile bottom-tending gear. The Stellwagen DHRA would be closed to all mobile bottom-tending gear, sink gillnet gear, and demersal longline gear.

Framework Adjustments and Monitoring

The Council is recommending that the designation or removal of HMAs and changes to fishing restrictions within HMAs be considered in a framework adjustment. In addition, the Council is proposing a review process to evaluate the performance of habitat and spawning protection measures. Finally, the Council is proposing to identify and periodically revise research priorities to improve habitat and spawning area monitoring. Alternatively, the Council considered not implementing a new

process for habitat and spawning protection measures review and modification and using the existing ad-hoc process under its authority currently.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Recordkeeping and reporting requirements.

Dated: October 27, 2017.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons stated in the preamble, 50 CFR part 648 is proposed to be amended as follows:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

■ 1. The authority citation for part 648 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

§ 648.2 [Amended]

■ 2. Amend § 648.2 follows:
■ a. Revise the definition of ''bottom-tending mobile gear,''
■ b. Add a definition for ''bridles,'' in alphabetical order,
■ c. Revise the definition of ''gillnet gear capable of catching multispecies,''
■ d. Add a definition for ''ground cables,'' in alphabetical order, and
■ e. Revise the definition of ''Open areas.''

* * * * *

Bottom-tending mobile gear, means gear in contact with the ocean bottom, and towed from a vessel, which is moved through the water during fishing in order to capture fish, and includes otter trawls, beam trawls, hydraulic dredges, non-hydraulic dredges, and seines (with the exception of a purse seine).

* * * * *

Bridles connect the wings of a bottom trawl to the ground cables. The ground cables lead to the doors or otter boards. The doors are attached to the towing vessel via steel cables, referred to as wires or warps. Each net has two sets of bridles, one on each side.

* * * * *

Gillnet gear capable of catching multispecies means all gillnet gear except pelagic gillnet gear specified at § 648.81(b)(2)(ii) and (d)(5)(ii) and pelagic gillnet gear that is designed to fish for and is used to fish for or catch tunas, swordfish, and sharks.

* * * * *

Ground cables on a bottom trawl run between the bridles, which attach directly to the wings of the net, and the doors, or otter boards. The doors are attached to the towing vessel via steel cables, referred to as wires or warps.

* * * * *

Open areas, with respect to the Atlantic sea scallop fishery, means any area that is not subject to restrictions of the Sea Scallop Rotational Areas specified in §§ 648.59 and 648.60, the Northern Gulf of Maine Management Area specified in § 648.62, EFH Closed Areas specified in §§ 648.61 and 648.370, Dedicated Habitat Research areas specified in § 648.371, or the Frank R. Lautenberg Deep-Sea Coral Protection Area described in § 648.372.

* * * * *

■ 3. Amend § 648.11 by revising paragraph (m)(1) to read as follows:

* * * * *

(m) *Atlantic herring observer coverage*—(1) *Pre-trip notification.* At least 48 hr prior to the beginning of any trip on which a vessel may harvest, possess, or land Atlantic herring, a vessel issued a Limited Access Herring Permit or a vessel issued an Areas 2/3 Open Access Herring Permit on a declared herring trip or a vessel issued an All Areas Open Access Herring Permit fishing with midwater trawl gear in Management Areas 1A, 1B, and/or 3, as defined in § 648.200(f)(1) and (3), and herring carriers must provide notice of the following information to NMFS: Vessel name, permit category, and permit number; contact name for coordination of observer deployment; telephone number for contact; the date, time, and port of departure; gear type; target species; and intended area of fishing, including whether the vessel intends to engage in fishing in the Northeast Multispecies Closed Areas (Closed Area I North (648.81(c)(3)), Closed Area II (648.81(c)(4)), Cashes Ledge Closure Area (648.81(a)(3)), and Western GOM Closure Area (648.81(a)(4))) at any point in the trip. Trip notification calls must be made no more than 10 days in advance of each fishing trip. The vessel owner, operator, or manager must notify NMFS of any trip plan changes at least 12 hr prior to vessel departure from port.

* * * * *

§ 648.14 [Amended]

■ 4. Amend § 648.14 as follows:
■ a. Revise paragraph (b)(10),
■ b. Add paragraphs (b)(11) and (12),
■ c. Revise paragraphs (i)(1)(vi)(A)(*1*) and (*2*),
■ d. Revise paragraph (k)(6)(i)(E),
■ e. Revise paragraph (k)(6)(ii)(A)(5),
■ f. Revise paragraphs (k)(7)(i)(A) and (B),
■ g. Revise paragraphs (k)(7)(i)(C)(*1*) through (*3*),
■ h. Revise paragraph (k)(7)(i)(D),
■ i. Remove and reserve paragraphs (k)(7)(i)(E), (F), and (G),
■ j. Remove and reserve paragraph (k)(7)(ii)(A),
■ k. Revise paragraph (k)(12)(iii)(B),
■ l. Revise paragraph (k)(16)(iii)(B), and
■ m. Revise paragraphs (r)(2)(v) and (vi).

The revisions to read as follows:

§ 648.14 Prohibitions.

* * * * *

(b) * * *

(10) Fish with bottom-tending gear within the Frank R. Lautenberg Deep-sea Coral Protection Area described at § 648.372, unless transiting pursuant to § 648.372(d), fishing lobster trap gear in accordance with § 697.21 of this chapter, or fishing red crab trap gear in accordance with § 648.264. Bottom-tending gear includes but is not limited to bottom-tending otter trawls, bottom-tending beam trawls, hydraulic dredges, non-hydraulic dredges, bottom-tending seines, bottom longlines, pots and traps, and sink or anchored gill nets.

(11) *Habitat Management Area* Restrictions. If fishing with bottom-tending mobile gear, fish in, enter, be on a fishing vessel in, the EFH closure areas described in § 648.371, unless otherwise exempted.

(12) Unless otherwise exempted, fish in the Dedicated Habitat Research Areas defined in § 648.371.

* * * * *

(i) * * *
(1) * * *
(vi) * * *
(A) * * *

(*1*) Fish for scallops in, or possess or land scallops from, the EFH Closed Areas and Habitat Management Areas specified in § 648.61 and 648.370, respectively.

(*2*) Transit or enter the EFH Closure Areas or Habitat Management Areas specified in § 648.61 and 648.370, respectively, except as provided by § 648.61(b).

* * * * *

(k) * * *
(6) * * *
(i) * * *

(E) Use, set, haul back, fish with, possess on board a vessel, unless stowed and not available for immediate use as defined in § 648.2, or fail to remove, sink gillnet gear and other gillnet gear capable of catching NE multispecies, with the exception of single pelagic gillnets (as described in § 648.81(b)(2)(ii) and (d)(5)(ii)), in the areas and for the times specified in § 648.80(g)(6)(i) and (ii), except as provided in § 648.80(g)(6)(i) and (ii), and § 648.81(b)(2)(ii) and (d)(5)(ii), or

unless otherwise authorized in writing by the Regional Administrator.

* * * * *

(ii)

(A)

(5) Enter, fail to remove sink gillnet gear or gillnet gear capable of catching NE multispecies from, or be in the areas, and for the times, described in § 648.80(g)(6)(i) and (ii), except as provided in §§ 648.80(g)(6)(i) and 648.81(i).

* * * * *

(7) * * *

(i) * * *

(A) Enter, be on a fishing vessel in, or fail to remove gear from the EEZ portion of the areas described in § 648.81(a)(3), (a)(4), and (d)(3), except as provided in § 648.81(a)(2), (d)(2), and (i).

(B) Fish for, harvest, possess, or land regulated species in or from the closed areas specified in § 648.81(a) through (d) and (n), unless otherwise specified in § 648.81(c)(2)(iii), (d)(5)(i), (d)(5)(iv), (d)(5)(viii) and (ix), (i), (b)(2), or as authorized under § 648.85.

(C) *Restricted Gear Areas.* (*1*) Fish, or be in the areas described in § 648.81(f)(3) through (6) on a fishing vessel with mobile gear during the time periods specified in § 648.81(f)(1), except as provided in § 648.81(f)(2).

(*2*) Fish, or be in the areas described in § 648.81(f)(3) through (5) on a fishing vessel with lobster pot gear during the time periods specified in § 648.81(f)(1).

(*3*) Deploy in or fail to remove lobster pot gear from the areas described in § 648.81(f)(3) through (5), during the time periods specified in § 648.81(f)(1).

(D) *Georges Bank Seasonal Closure Areas.* Enter, fail to remove gear from, or be in the areas described in § 648.81(c) during the time periods specified, except as provided in § 648.81(c)(2).

* * * * *

(12) * * *

(iii) * * *

(B) Enter or fish in Closed Area II as specified in § 648.81(c)(4), unless declared into the area in accordance with § 648.85(b)(3)(v) or § 648.85(b)(8)(v)(D).

* * * * *

(16) * * *

(iii) * * *

(B) Fail to comply with the requirements specified in § 648.81(d)(5)(v) when fishing in the areas described in § 648.81(b)(3), (b)(4), and (d) during the time periods specified.

* * * * *

(r) * * *

(2) * * *

(v) Fish with midwater trawl gear in any Northeast Multispecies Closed Area, as defined in § 648.81(a), without a NMFS-approved observer on board, if the vessel has been issued an Atlantic herring permit.

(vi) Slip or operationally discard catch, as defined at § 648.2, unless for one of the reasons specified at § 648.202(b)(2), if fishing any part of a tow inside the Northeast Multispecies Closed Areas, as defined at § 648.81(a).

* * * * *

§ 648.27 [Removed].

■ 5. Remove § 648.27

■ 6. Add § 648.58 to read as follows:

§ 648.58 Closed Area II Seasonal Scallop Closure.

Closed Area II Seasonal Scallop Closure. From June 15 through October 31 of each year, no fishing vessel may fish with scallop dredge gear in the portion of Closed Area II, as specified in section 648.61(c)(4) and section 648.81(c)(4), north of 41°30′ N. lat.

■ 7. In § 648.59, revise paragraph (a) to read as follows:

§ 648.59 Sea Scallop Rotational Area Management Program and Access Program requirements.

(a) The Sea Scallop Rotational Area Management Program consists of Scallop Rotational Areas, as defined in § 648.2. Guidelines for this area rotation program (*i.e.,* when to close an area and reopen it to scallop fishing) are provided in § 648.55(a)(6). Whether a rotational area is open or closed to scallop fishing in a given year, and the appropriate level of access by limited access and LAGC IFQ vessels, are specified through the specifications or framework adjustment processes defined in § 648.55. When a rotational area is open to the scallop fishery, it is called an Access Area and scallop vessels fishing in the area are subject to the Access Area Program Requirements specified in this section. Areas not defined as Scallop Rotational Areas specified in § 648.60, EFH Closed Areas specified in § 648.61 and 648.370, Dedicated Habitat Research Areas specified in 648.371, or areas closed to scallop fishing under other FMPs, are governed by other management measures and restrictions in this part and are referred to as Open Areas.

■ 8. In § 648.60, revise paragraph (c)(1) and footnote 1 to read as follows:

§ 648.60 Sea Scallop Rotational Areas.

* * * * *

(c) *Closed Area I Scallop Rotational Area.* (1) The Closed Area I Scallop Rotational Area is defined by straight lines connecting the following points in the order stated (copies of a chart depicting this area are available from the Regional Administrator upon request), and so that the line connecting points CAIA3 and CAIA4 is the same as the portion of the western boundary line of Closed Area I, defined in § 648.61(c)(3), that lies between points CAIA3 and CAIA4:

Point	N. lat.	W. long.	Note
CAIA1	41°26′ N.	68°30′ W.	
CAIA2	40°58′ N.	68°30′ W.	
CAIA3	40°54.95′ N.	68°53.37′ W.	(1)
CAIA4	41°04′ N.	69°01′ W.	(1)
CAIA1	41°26′ N.	68°30′ W.	

[1] From Point CAIA3 to Point CAIA4 along the western boundary of Closed Area I, defined in § 648.61(c)(3).

■ 9. In § 648.61, revise the section heading and add paragraph (c) to read as follows:

§ 648.61 EFH and Groundfish Closed Areas.

* * * * *

(c) *Groundfish Closure Areas.* No vessel fishing for scallops, or person on a vessel fishing for scallops, may enter, fish in, or be in the Closure Areas described in paragraphs (c)(1) through (5) of this section, unless otherwise exempted in the scallop access area program, described in § 648.59. A chart depicting these areas is available from the Regional Administrator upon request.

(1) *Western Gulf of Maine Closure Area.* The Western Gulf of Maine Closure Area is defined by straight lines

connecting the following points in the order stated:

WESTERN GULF OF MAINE CLOSURE AREA

Point	N. lat.	W. long.
WGM1	42°15′	70°15′
WGM2	42°15′	69°55′
WGM3	43°15′	69°55′
WGM4	43°15′	70°15′
WGM1	42°15′	70°15′

(2) *Cashes Ledge Closure Area.* The Cashes Ledge Closure Area is defined by straight lines connecting the following points in the order stated:

CASHES LEDGE CLOSURE AREA

Point	N. lat.	W. long.
CL1	43°07′	69°02′
CL2	42°49.5′	68°46′
CL3	42°46.5′	68°50.5′
CL4	42°43.5′	68°58.5′
CL5	42°42.5′	69°17.5′
CL6	42°49.5′	69°26′
CL1	43°07′	69°02′

(3) *Closed Area I.* Closed Area I is defined by straight lines connecting the following points in the order stated:

CLOSED AREA I

Point	N. lat.	W. long.
CI1	41°30′	69°23′
CI2	40°45′	68°45′
CI3	40°45′	68°30′
CI4	41°30′	68°30′
CI1	41°30′	69°23′

(4) *Closed Area II.* Closed Area II is defined by straight lines connecting the following points in the order stated:

CLOSED AREA II

Point	N. lat.	W. long.
C1I1	41°00′	67°20′
C1I2	41°00′	66°35.8′
G5	41°18.6′	66°24.8′ [1]
C1I3	42°22′	67°20′ [1]
C1I1	41°00′	67°20′ [1]

[1] The U.S.-Canada Maritime Boundary.

(5) *Nantucket Lightship Closure Area.* The Nantucket Lightship Closure Area is defined by straight lines connecting the following points in the order stated:

NANTUCKET LIGHTSHIP CLOSURE AREA

Point	N. lat.	W. long.
G10	40°50′	69°00′
CN1	40°20′	69°00′
CN2	40°20′	70°20′
CN3	40°50′	70°20′

NANTUCKET LIGHTSHIP CLOSURE AREA—Continued

Point	N. lat.	W. long.
G10	40°50′	69°00′

* * * * *

§ 648.80 [Amended]

■ 10. Amend § 648.80 as follows:
■ a. Revise paragraph (a)(9)(i)(A),
■ b. Revise paragraph (a)(11) introductory text and paragraph (a)(11)(i)(C),
■ c. Revise the introductory texts in paragraphs (a)(13), (14), (15), (16), (18), and (19),
■ d. Remove paragraph (b)(11)(ii)(D),
■ e. Revise the introductory text for paragraph (d)(2) and revise paragraph (d)(2)(i),
■ f. Revise paragraph (d)(5), and
■ g. Revise paragraphs (g)(6)(i) and (ii).

The revisions to read as follows:

* * * * *

(a) * * *

(9) *Small Mesh Area 1/Small Mesh Area 2.*

(i) *Description.*

(A) Unless otherwise prohibited in § 648.81, § 648.370, or § 648.371, a vessel subject to the minimum mesh size restrictions specified in paragraphs (a)(3) or (4) of this section may fish with or possess nets with a mesh size smaller than the minimum size, provided the vessel complies with the requirements of paragraphs (a)(5)(ii) or (a)(9)(ii) of this section, and § 648.86(d), from July 15 through November 15, when fishing in Small Mesh Area 1; and from January 1 through June 30, when fishing in Small Mesh Area 2. While lawfully fishing in these areas with mesh smaller than the minimum size, an owner or operator of any vessel may not fish for, possess on board, or land any species of fish other than: Silver hake and offshore hake, combined, and red hake—up to the amounts specified in § 648.86(d); butterfish, Atlantic mackerel, or squid, up the amounts specified in § 648.26; spiny dogfish, up to the amount specified in § 648.235; Atlantic herring, up to the amount specified in § 648.204; and scup, up to the amount specified in § 648.128.

* * * * *

(11) *GOM Scallop Dredge Exemption Area.* Unless otherwise prohibited in § 648.81, § 648.370, or § 648.371, vessels with a limited access scallop permit that have declared out of the DAS program as specified in § 648.10, or that have used up their DAS allocations, and vessels issued a General Category scallop permit, may fish in the GOM Regulated Mesh Area specified in paragraph (a)(1) of this section, when not under a NE multispecies DAS, providing the vessel fishes in the GOM Scallop Dredge Exemption Area and complies with the requirements specified in paragraph (a)(11)(i) of this section. The GOM Scallop Dredge Fishery Exemption Area is defined by the straight lines connecting the following points in the order stated (copies of a map depicting the area are available from the Regional Administrator upon request):

* * * * *

(i) * * *

(C) The exemption does not apply to the Cashes Ledge Closure Area or the Western GOM Area Closure specified in § 648.81(a)(3) and (4), respectively.

* * * * *

(13) *GOM/GB Dogfish and Monkfish Gillnet Fishery Exemption Area.* Unless otherwise prohibited in § 648.81, § 648.370, or § 648.371, a vessel may fish with gillnets in the GOM/GB Dogfish and Monkfish Gillnet Fishery Exemption Area when not under a NE multispecies DAS if the vessel complies with the requirements specified in paragraph (a)(13)(i) of this section. The GOM/GB Dogfish and Monkfish Gillnet Fishery Exemption Area is defined by straight lines connecting the following points in the order stated:

* * * * *

(14) *GOM/GB Dogfish Gillnet Exemption.* Unless otherwise prohibited in § 648.81, § 648.370, or § 648.371, a vessel may fish with gillnets in the GOM/GB Dogfish and Monkfish Gillnet Fishery Exemption Area when not under a NE multispecies DAS if the vessel complies with the requirements specified in paragraph (a)(14)(i) of this section. The area coordinates of the GOM/GB Dogfish and Monkfish Gillnet Fishery Exemption Area are specified in paragraph (a)(13) of this section.

* * * * *

(15) *Raised Footrope Trawl Exempted Whiting Fishery.* Unless otherwise prohibited in § 648.370 or § 648.371, vessels subject to the minimum mesh size restrictions specified in paragraphs (a)(3) or (4) of this section may fish with, use, or possess nets in the Raised Footrope Trawl Whiting Fishery area with a mesh size smaller than the minimum size specified, if the vessel complies with the requirements specified in paragraph (a)(15)(i) of this section. This exemption does not apply to the Cashes Ledge Closure Areas or the Western GOM Area Closure specified in § 648.81(a)(3) and (4), respectively. The Raised Footrope Trawl Whiting Fishery Area (copies of a chart depicting the area are available from the Regional

Administrator upon request) is defined by straight lines connecting the following points in the order stated:

* * * * *

(16) *GOM Grate Raised Footrope Trawl Exempted Whiting Fishery.* Unless otherwise prohibited in § 648.370 or § 648.371, vessels subject to the minimum mesh size restrictions specified in paragraphs (a)(3) or (4) of this section may fish with, use, and possess in the GOM Grate Raised Footrope Trawl Whiting Fishery area from July 1 through November 30 of each year, nets with a mesh size smaller than the minimum size specified, if the vessel complies with the requirements specified in paragraphs (a)(16)(i) and (ii) of this section. The GOM Grate Raised Footrope Trawl Whiting Fishery Area (copies of a chart depicting the area are available from the Regional Administrator upon request) is defined by straight lines connecting the following points in the order stated:

* * * * *

(18) *Great South Channel Scallop Dredge Exemption Area.* Unless otherwise prohibited in § 648.370 or § 648.371, vessels issued a LAGC scallop permit, including limited access scallop permits that have used up their DAS allocations, may fish in the Great South Channel Scallop Dredge Exemption Area, as defined under paragraph (a)(18)(i) of this section, when not under a NE multispecies or scallop DAS or on a sector trip, provided the vessel complies with the requirements specified in paragraph (a)(18)(ii) of this section and applicable scallop regulations in subpart D of this chapter.

* * * * *

(19) *Cape Cod Spiny Dogfish Exemption Areas.* Unless otherwise prohibited in § 648.370 or § 648.371, vessels issued a NE multispecies limited access permit that have declared out of the DAS program as specified in § 648.10, or that have used up their DAS allocations, may fish in the Eastern or Western Cape Cod Spiny Dogfish Exemption Area as defined under paragraph (a)(19)(i) through (a)(19)(ii) of this section, when not under a NE multispecies or scallop DAS, provided the vessel complies with the requirements for the Eastern or Western area, specified in paragraph (a)(19)(i) and (a)(19)(ii) of this section, respectively.

* * * * *

(d) * * *

(2) When fishing under this exemption in the GOM/GB Exemption Area, as defined in paragraph (a)(17) of this section, the vessel has on board a letter of authorization issued by the Regional Administrator, and complies with the following restrictions:

(i) The vessel only fishes for, possesses, or lands Atlantic herring, blueback herring, or mackerel in areas north of 42°20′ N. lat. and in the areas described in § 648.81(c)(3), and (c)(4); and Atlantic herring, blueback herring, mackerel, or squid in all other areas south of 42°20′ N. lat.; and

* * * * *

(5) To fish for herring under this exemption, a vessel issued an All Areas Limited Access Herring Permit and/or an Areas 2 and 3 Limited Access Herring Permit fishing on a declared herring trip, or a vessel issued a Limited Access Incidental Catch Herring Permit and/or an Open Access Herring Permit fishing with midwater trawl gear in Management Areas 1A, 1B, and/or 3, as defined in § 648.200(f)(1) and (3), must provide notice of the following information to NMFS at least 72 hr prior to beginning any trip into these areas for the purposes of observer deployment: Vessel name; contact name for coordination of observer deployment; telephone number for contact; the date, time, and port of departure; and whether the vessel intends to engage in fishing in Closed Area I, as defined in § 648.81(c)(3), at any point in the trip; and

* * * * *

(g) * * *

(6) *Gillnet requirements to reduce or prevent marine mammal takes*—(i) *Requirements for gillnet gear capable of catching NE multispecies to reduce harbor porpoise takes.* In addition to the requirements for gillnet fishing identified in this section, all persons owning or operating vessels in the EEZ that fish with sink gillnet gear and other gillnet gear capable of catching NE multispecies, with the exception of single pelagic gillnets (as described in § 648.81(b)(2)(ii) and (d)(5)(ii)), must comply with the applicable provisions of the Harbor Porpoise Take Reduction Plan found in § 229.33 of this title.

(ii) *Requirements for gillnet gear capable of catching NE multispecies to prevent large whale takes.* In addition to the requirements for gillnet fishing identified in this section, all persons owning or operating vessels in the EEZ that fish with sink gillnet gear and other gillnet gear capable of catching NE multispecies, with the exception of single pelagic gillnets (as described in § 648.81(b)(2)(ii) and (d)(5)(ii)), must comply with the applicable provisions of the Atlantic Large Whale Take Reduction Plan found in § 229.32 of this title.

* * * * *

■ 11. Revise § 648.81 to read as follows:

§ 648.81 NE multispecies year-round and seasonal closed areas.

(a) *Year-round groundfish closed areas.* (1) No fishing vessel or person on a fishing vessel may enter, fish, or be in, and no fishing gear capable of catching NE multispecies may be used or on board a vessel in, the Cashes Ledge or Western Gulf of Maine Closure Areas, unless otherwise allowed by or exempted under this part. Charts of the areas described in this section are available from the Regional Administrator upon request.

(2) *Exemptions.* Unless restricted by the requirements of subpart (P) or elsewhere in this part, paragraph (a)(1) of this section does not apply to a fishing vessel or person on a fishing vessel when fishing under the following conditions:

(i) Fishing with or using exempted gear as defined under this part, except for pelagic gillnet gear capable of catching NE multispecies, unless fishing with a single pelagic gillnet not longer than 300 ft (91.4 m) and not greater than 6 ft (1.83 m) deep, with a maximum mesh size of 3 inches (7.6 cm), provided that:

(A) The net is attached to the boat and fished in the upper two-thirds of the water column;

(B) The net is marked with the owner's name and vessel identification number;

(C) No regulated species or ocean pout are retained; and

(D) No other gear capable of catching NE multispecies is on board;

(ii) Fishing in the Midwater Trawl Gear Exempted Fishery as specified in § 648.80(d);

(iii) Fishing in the Purse Seine Gear Exempted Fishery as specified in § 648.80(e);

(iv) Fishing under charter/party or recreational regulations specified in § 648.89, provided that:

(A) A letter of authorization issued by the Regional Administrator is onboard the vessel, which is valid from the date of enrollment until the end of the fishing year;

(B) No harvested or possessed fish species managed by the NEFMC or MAFMC are sold or intended for trade, barter or sale, regardless of where the fish are caught;

(C) Only rod and reel or handline gear is on board the vessel; and

(D) No NE multispecies DAS are used during the entire period for which the letter of authorization is valid.

(3) *Cashes Ledge Closure Area.* The Cashes Ledge Closure Area is defined by straight lines connecting the following points in the order stated:

CASHES LEDGE CLOSURE AREA

Point	N. lat.	W. long.
CL1	43°07′	69°02′
CL2	42°49.5′	68°46′
CL3	42°46.5′	68°50.5′
CL4	42°43.5′	68°58.5′
CL5	42°42.5′	69°17.5′
CL6	42°49.5′	69°26′
CL1	43°07′	69°02′

(4) *Western Gulf of Maine Closure Area.* The Western Gulf of Maine Closure Area is defined by straight lines connecting the following points in the order stated:

WESTERN GULF OF MAINE CLOSURE AREA

Point	N. lat.	W. long.
WGM1	42°15′	70°15′
WGM2	42°15′	69°55′
WGM3	43°15′	69°55′
WGM4	43°15′	70°15′
WGM1	42°15′	70°15′

(b) *Gulf of Maine spawning groundfish closures.* (1) Unless allowed in this part, no fishing vessel or person on a fishing vessel may enter, fish, or be in, and no fishing gear capable of catching NE multispecies may be used or on board a vessel in, the spawning closure areas described in paragraphs (b)(3) and (b)(4), during the times specified in this section. Charts depicting the areas defined here are available from the RA upon request.

(2) *Exemptions.* Paragraph (b)(1) of this section does not apply to a fishing vessel or person on a fishing vessel:

(i) That has not been issued a NE multispecies permit that is fishing exclusively in state waters;

(ii) That is fishing with or using exempted gear as defined under this part, excluding pelagic gillnet gear capable of catching NE multispecies, except for a vessel fishing with a single pelagic gillnet not longer than 300 ft (91.4 m) and not greater than 6 ft (1.83 m) deep, with a maximum mesh size of 3 inches (7.6 cm), provided:

(A) The net is attached to the vessel and fished in the upper two-thirds of the water column;

(B) The net is marked with the vessel owner's name and vessel identification number;

(C) No regulated species or ocean pout are retained; and

(D) No other gear capable of catching NE multispecies is on board;

(iii) That is fishing as a charter/party or recreational fishing vessel, provided that:

(A) With the exception of tuna, fish harvested or possessed by the vessel are not sold or intended for trade, barter, or sale, regardless of where the species are caught;

(B) Any gear other than pelagic hook and line gear, as defined in this part, is properly stowed and not available for immediate use as defined in § 648.2; and

(C) No regulated species or ocean pout are retained; and

(iv) That is transiting pursuant to paragraph (e) of this section.

(3) *GOM Cod Spawning Protection Area.* Except as specified in paragraph (b)(2) of this section, from April through June of each year, no fishing vessel or person on a fishing vessel may enter, fish, or be in, and no fishing gear capable of catching NE multispecies may be used or on board a vessel in, the GOM Cod Spawning Protection Area, as defined by straight lines connecting the following points in the order stated:

GOM COD SPAWNING PROTECTION AREA

Point	N. latitude	W. longitude
CSPA1	42°50.95′	70°32.22′
CSPA2	42°47.65′	70°35.64′
CSPA3	42°54.91′	70°41.88′
CSPA4	42°58.27′	70°38.64′
CSPA1	42°50.95′	70°32.22′

(4) *Winter Massachusetts Bay Spawning Protection Area.* Except as specified in paragraph (b)(2) of this section, from November 1 through January 31 of each year, no fishing vessel or person on a fishing vessel may enter, fish, or be in, and no fishing gear capable of catching NE multispecies may be used or be on board a vessel in, the Massachusetts Bay Spawning Protection Area, as defined by a straight line connecting the following points along the Massachusetts state waters boundary:

WINTER MASSACHUSETTS BAY SPAWNING PROTECTION AREA

Point	N. latitude	W. longitude
1	42°23.6′	70°39.2′
2	42°07.7′	70°26.8′

(1) Western/southern boundary at Massachusetts state waters

(5) *Spring Massachusetts Bay Spawning Protection Area.* (i) From April 15 through April 30 of each year, no fishing vessel or person on a fishing vessel may enter, fish, or be in, and no fishing gear capable of catching NE multispecies may be used or on board a vessel in the thirty- minute block defined by straight lines connecting the following points in the order stated:

SPRING MASSACHUSETTS BAY SPAWNING PROTECTION AREA

Point	N. latitude	W. longitude
1	42°00′	70°30′
2	42°30′	70°30′
3	Massachusetts coastline south of Duxbury and 42°00′ N.	
4	Massachusetts coastline near Marblehead and 42°30′ N.	

(ii) Unless otherwise restricted in this part, the Block 125 closure does not apply to a fishing vessel or person on a fishing vessel that meets the criteria in paragraphs (d)(5)(ii) through (vi) and (d)(5)(x) of this section (listed under the exemptions for the GOM Cod Protection Closures). This includes recreational vessels meeting the criteria specified in paragraphs (d)(5)(v)(A) through (D) of this section.

(c) *Georges Bank Spawning Groundfish Closures.* (1) Unless otherwise allowed in this part, no fishing vessel or person on a fishing vessel may enter, fish, or be in, and no fishing gear capable of catching NE multispecies may be used on board a vessel in the spawning closure areas described in paragraphs (b)(3) and (b)(4), and during the times specified in this section. Charts depicting the areas defined here are available from the RA upon request.

(2) Exemptions. Paragraph (c)(1) of this section does not apply to a fishing vessel or person on a fishing vessel:

(i) That is fishing with or using exempted gear as defined under this part, excluding pelagic gillnet gear capable of catching NE multispecies, except for vessels fishing with a single pelagic gillnet not longer than 300 ft (91.4 m) and not greater than 6 ft (1.83 m) deep, with a maximum mesh size of 3 inches (7.6 cm), provided:

(A) The net is attached to the vessel and fished in the upper two-thirds of the water column;

(B) The net is marked with the vessel owner's name and vessel identification number;

(C) No regulated species or ocean pout are retained; and

(D) No other gear capable of catching NE multispecies is on board;

(ii) That is fishing for scallops consistent with the requirements of the scallop fishery management plan, including rotational access program requirements specified in § 648.59.

(iii) That is fishing in the mid-water trawl exempted fishery

(iv) That is transiting pursuant to the requirements described in § 648.2.

(3) *Closed Area I North.* Except as specified in paragraph (c)(2) of this section, from February 1 through April 15 of each year, no fishing vessel or person on a fishing vessel may enter, fish, or be in; and no fishing gear capable of catching NE multispecies may be used or on board a vessel in, Closed Area I North, as defined by straight lines connecting the following points in the order stated:

CLOSED AREA I—NORTH

Point	N. lat.	W. long.
CI1	41°30′	69°23′
CI4	41°30′	68°30′
CIH1	41°26′	68°30′
CIH2	41°04′	69°01′
CI1	41°30′	69°23′

(4) *Closed Area II.* Except as specified in paragraph (c)(2) of this section, from February 1 through April 15 of each year, no fishing vessel or person on a fishing vessel may enter, fish, or be in, and no fishing gear capable of catching NE multispecies may be used or on board a vessel in, Closed Area II, as defined by straight lines connecting the following points in the order stated:

CLOSED AREA II

Point	N. lat.	W. long.
C1I1	41°00′	67°20′
C1I2	41°00′	66°35.8′
G5	41°18.6′	66°24.8′ [1]
C1I3	42°22′	67°20′ [1]
C1I1	41°00′	67°20′ [1]

(d) *GOM Cod Protection Closures.* (1) Unless otherwise allowed in this part, no fishing vessel or person on a fishing vessel may enter, fish, or be in, and no fishing gear capable of catching NE multispecies may be used or on board a vessel in, GOM Cod Protection Closures I through V as described, and during the times specified, in paragraphs (d)(4)(i) through (v) of this section.

(2) The New England Fishery Management Council shall review the GOM Cod Protection Closures Areas specified in this section when the spawning stock biomass for GOM cod reaches the minimum biomass threshold specified for the stock (50 percent of SSB_{MSY}).

(3) *Seasons.* (i) GOM Cod Protection Closure I is in effect from May 1 through May 31.

(ii) GOM Cod Protection Closure II is in effect from June 1 through June 30.

(iii) GOM Cod Protection Closure III is in effect from November 1 through January 31.

(iv) GOM Cod Protection Closure IV is in effect from October 1 through October 31.

(v) GOM Cod Protection Closure V is in effect from March 1 through March 31.

(4) *GOM Cod Protection Closure Areas.* Charts depicting these areas are available from the Regional Administrator upon request.

(i) *GOM Cod Protection Closure I.* GOM Cod Protection Closure I is the area bounded by the following coordinates connected in the order stated by straight lines:

GOM COD PROTECTION CLOSURE I

[May 1–May 31]

Point	N. latitude	W. longitude
CPCI 1	43°30′ N.	([1])
CPCI 2	43°30′ N.	69°30′ W.
CPCI 3	43°00′ N.	69°30′ W.
CPCI 4	43°00′ N.	70°00′ W.
CPCI 5	42°30′ N.	70°00′ W.
CPCI 6	42°30′ N.	70°30′ W.
CPCI 7	42°20′ N.	70°30′ W.
CPCI 8	42°20′ N.	([2]) ([3])
CPCI 1	43°30′ N.	([1]) ([3])

[1] The intersection of 43°30′ N. latitude and the coastline of Maine.

[2] The intersection of 42°20′ N. latitude and the coastline of Massachusetts.

[3] From Point 8 back to Point 1 following the coastline of the United States.

(ii) *GOM Cod Protection Closure II.* GOM Cod Protection Closure II is the area bounded by the following coordinates connected in the order stated by straight lines:

GOM COD PROTECTION CLOSURE II

[June 1–June 30]

Point	N. latitude	W. longitude
CPCII 1	([1])	69°30′ W.
CPCII 2	43°30′ N.	69°30′ W.
CPCII 3	43°30′ N.	70°00′ W.
CPCII 4	42°30′ N.	70°00′ W.
CPCII 5	42°30′ N.	70°30′ W.
CPCII 6	42°20′ N.	70°30′ W.
CPCII 7	42°20′ N.	([2]) ([3])
CPCII 8	42°30′ N.	([4]) ([3])
CPCII 9	42°30′ N.	70°30′ W.
CPCII 10 ..	43°00′ N.	70°30′ W.
CPCII 11 ..	43°00′ N.	([5]) ([6])
CPCII 1	([1])	69°30′ W.[6]

[1] The intersection of 69°30′ W. longitude and the coastline of Maine.

[2] The intersection of 42°20′ N. latitude and the coastline of Massachusetts.

[3] From Point 7 to Point 8 following the coastline of Massachusetts.

[4] The intersection of 42°30′ N. latitude and the coastline of Massachusetts.

[5] The intersection of 43°00′ N. latitude and the coastline of New Hampshire.

[6] From Point 11 back to Point 1 following the coastlines of New Hampshire and Maine.

(iii) *GOM Cod Protection Closure III.* GOM Cod Protection Closure III is the area bounded by the following coordinates connected in the order stated by straight lines:

GOM COD PROTECTION CLOSURE III

[November 1–January 31]

Point	N. latitude	W. longitude
CPCIII 1 ...	42°30′ N.	([1])
CPCIII 2 ...	42°30′ N.	70°30′ W.
CPCIII 3 ...	42°15′ N.	70°30′ W.
CPCIII 4 ...	42°15′ N.	70°24′ W.
CPCIII 5 ...	42°00′ N.	70°24′ W.
CPCIII 6 ...	42°00′ N.	([2]) ([3])
CPCIII 1 ...	42°30′ N.	([1]) ([3])

[1] The intersection of 42°30′ N. latitude and the Massachusetts coastline.

[2] The intersection of 42°00′ N. latitude and the mainland Massachusetts coastline at Kingston, MA.

[3] From Point 6 back to Point 1 following the coastline of Massachusetts.

(iv) *GOM Cod Protection Closure IV.* GOM Cod Protection Closure IV is the area bounded by the following coordinates connected in the order stated by straight lines:

GOM COD PROTECTION CLOSURE IV

[October 1–October 31]

Point	N. latitude	W. longitude
CPCIV 1 ...	42°30′ N.	([1])
CPCIV 2 ...	42°30′ N.	70°00′ W.
CPCIV 3 ...	42°00′ N.	70°00′ W.
CPCIV 4 ...	42°00′ N.	([2]) ([3])
CPCIV 1 ...	42°30′ N.	([1]) ([3])

[1] The intersection of 42°30′ N. latitude and the Massachusetts coastline.

[2] The intersection of 42°00′ N. latitude and the mainland Massachusetts coastline at Kingston, MA.

[3] From Point 4 back to Point 1 following the coastline of Massachusetts.

(v) *GOM Cod Protection Closure V.* GOM Cod Protection Closure V is the area bounded by the following coordinates connected in the order stated by straight lines:

GOM COD PROTECTION CLOSURE V

[March 1–March 31]

Point	N. latitude	W. longitude
CPCV 1	42°30′ N.	70°00′ W.
CPCV 2	42°30′ N.	68°30′ W.
CPCV 3	42°00′ N.	68°30′ W.
CPCV 4	42°00′ N.	70°00′ W.
CPCV 1	42°30′ N.	70°00′ W.

(5) The GOM cod protection closures specified in this section do not apply to a fishing vessel or person on board a

fishing vessel under any of the following conditions:

(i) No multispecies permit has been issued and the vessel is fishing exclusively in state waters;

(ii) Fishing with or using exempted gear as defined under this part, except for pelagic gillnet gear capable of catching NE multispecies, unless fishing with a single pelagic gillnet not longer than 300 ft (91.4 m) and not greater than 6 ft (1.83 m) deep, with a maximum mesh size of 3 inches (7.6 cm), provided that:

(A) The net is attached to the boat and fished in the upper two-thirds of the water column;

(B) The net is marked with the owner's name and vessel identification number;

(C) No regulated species are retained; and

(D) No other gear capable of catching NE multispecies is on board;

(iii) Fishing in the Midwater Trawl Gear Exempted Fishery as specified in § 648.80(d);

(iv) Fishing in the Purse Seine Gear Exempted Fishery as specified in § 648.80(e);

(v) Fishing under charter/party or recreational regulations specified in § 648.89, provided that:

(A) A vessel fishing under charter/party regulations in a GOM cod protection closure described under paragraph (f)(4) of this section, has on board a letter of authorization issued by the Regional Administrator that is valid from the date of enrollment through the duration of the closure or 3 months duration, whichever is greater;

(B) No harvested or possessed fish species managed by the NEFMC or MAFMC are sold or intended for trade, barter or sale, regardless of where the fish are caught;

(C) Only rod and reel or handline gear is on board; and

(D) No NE multispecies DAS are used during the entire period for which the letter of authorization is valid;

(vi) Fishing with scallop dredge gear under a scallop DAS or when lawfully fishing in the Scallop Dredge Fishery Exemption Area as described in § 648.80(a)(11), provided the vessel does not retain any regulated NE multispecies during a trip, or on any part of a trip;

(vii) Fishing in the Raised Footrope Trawl Exempted Whiting Fishery, as specified in § 648.80(a)(15), or in the Small Mesh Area II Exemption Area, as specified in § 648.80(a)(9);

(viii) Fishing on a sector trip, as defined in this part, and in the GOM Cod Protection Closures IV or V, as specified in paragraphs (f)(4)(iv) and (v) of this section; or

(ix) Fishing under the provisions of a Northeast multispecies Handgear A permit, as specified at § 648.82(b)(6), and in the GOM Cod Protection Closures IV or V, as specified in paragraphs (f)(4)(iv) and (v) of this section.

(x) Transiting the area, provided it complies with the requirements specified in paragraph (e) of this section.

(e) *Transiting.* (1) Unless otherwise restricted or specified in this paragraph (e), a vessel may transit the Cashes Ledge Closed Area, the Western GOM Closure Area, the GOM Cod Protection Closures, and the GOM Cod Spawning Protection Area, as defined in paragraphs (a)(3), (a)(4), (d)(4), (b)(3), of this section, respectively, provided that its gear is stowed and not available for immediate use as defined in § 648.2.

(2) Private recreational or charter/party vessels fishing under the Northeast multispecies provisions specified at § 648.89 may transit the GOM Cod Spawning Protection Area, as defined in paragraph (b)(3) of this section, provided all bait and hooks are removed from fishing rods, and any regulated species on board have been caught outside the GOM Cod Spawning Protection Area and has been gutted and stored.

(f) *Restricted Gear Areas.* (1) *Restricted Gear Area Seasons.* No fishing vessel with mobile gear on board, or person on a fishing vessel with mobile gear on board, may fish or be in the specified Restricted Gear Areas, unless transiting, during the seasons below. No fishing vessel with lobster pot gear on board, or person on a fishing vessel with lobster pot gear on board, may fish in, and no lobster pot gear may be deployed or remain in the specified Restricted Gear Areas. Vessels with lobster pot gear on board may transit during the seasons below.

	Mobile gear	Lobster pot gear
Restricted Gear Area I	October 1–June 15	June 16–September 30.
Restricted Gear Area II	November 27–June 15	June 16–November 26.
Restricted Gear Area III	June 16–November 26	January 1–April 30.
Restricted Gear Area IV	June 16–September 30	n/a.

(2) Vessels with mobile gear may transit this area, provided that all mobile gear is on board the vessel while inside the area, and is stowed and not available for immediate use as defined in § 648.2.

(3) *Restricted Gear Area I.* Restricted Gear Area I is defined by straight lines connecting the following points in the order stated:

Point	N. latitude	W. longitude
Inshore Boundary		
to 120		
69	40°07.9′	68°36.0′
70	40°07.2′	68°38.4′
71	40°06.9′	68°46.5′
72	40°08.7′	68°49.6′
73	40°08.1′	68°51.0′
74	40°05.7′	68°52.4′
75	40°03.6′	68°57.2′
76	40°03.65′	69°00.0′
77	40°04.35′	69°00.5′
78	40°05.2′	69°00.5′
79	40°05.3′	69°01.1′
80	40°08.9′	69°01.75′
81	40°11.0′	69°03.8′
82	40°11.6′	69°05.4′
83	40°10.25′	69°04.4′
84	40°09.75′	69°04.15′
85	40°08.45′	69°03.6′
86	40°05.65′	69°03.55′
87	40°04.1′	69°03.9′
88	40°02.65′	69°05.6′
89	40°02.00′	69°08.35′
90	40°02.65′	69°11.15′
91	40°00.05′	69°14.6′
92	39°57.8′	69°20.35′
93	39°56.65′	69°24.4′
94	39°56.1′	69°26.35′
95	39°56.55′	69°34.1′
96	39°57.85′	69°35.5′
97	40°00.65′	69°36.5′
98	40°00.9′	69°37.3′
99	39°59.15′	69°37.3′
100	39°58.8′	69°38.45′
102	39°56.2′	69°40.2′
103	39°55.75′	69°41.4′
104	39°56.7′	69°53.6′
105	39°57.55′	69°54.05′
106	39°57.4′	69°55.9′
107	39°56.9′	69°57.45′
108	39°58.25′	70°03.0′
110	39°59.2′	70°04.9′
111	40°00.7′	70°08.7′
112	40°03.75′	70°10.15′

Point	N. latitude	W. longitude
115	40°05.2′	70°10.9′
116	40°02.45′	70°14.1′
119	40°02.75′	70°16.1′
to 181		
Offshore Boundary		
to 69		
120	40°06.4′	68°35.8′
121	40°05.25′	68°39.3′
122	40°05.4′	68°44.5′
123	40°06.0′	68°46.5′
124	40°07.4′	68°49.6′
125	40°05.55′	68°49.8′
126	40°03.9′	68°51.7′
127	40°02.25′	68°55.4′
128	40°02.6′	69°00.0′
129	40°02.75′	69°00.75′
130	40°04.2′	69°01.75′
131	40°06.15′	69°01.95′
132	40°07.25′	69°02.0′
133	40°08.5′	69°02.25′
134	40°09.2′	69°02.95′
135	40°09.75′	69°03.3′
136	40°09.55′	69°03.85′
137	40°08.4′	69°03.4′
138	40°07.2′	69°03.3′
139	40°06.0′	69°03.1′
140	40°05.4′	69°03.05′
141	40°04.8′	69°03.05′
142	40°03.55′	69°03.55′
143	40°01.9′	69°03.95′
144	40°01.0′	69°04.4′
146	39°59.9′	69°06.25′
147	40°00.6′	69°10.05′
148	39°59.25′	69°11.15′
149	39°57.45′	69°16.05′
150	39°56.1′	69°20.1′
151	39°54.6′	69°25.65′
152	39°54.65′	69°26.9′
153	39°54.8′	69°30.95′
154	39°54.35′	69°33.4′
155	39°55.0′	69°34.9′
156	39°56.55′	69°36.0′
157	39°57.95′	69°36.45′
158	39°58.75′	69°36.3′
159	39°58.8′	69°36.95′
160	39°57.95′	69°38.1′
161	39°54.5′	69°38.25′
162	39°53.6′	69°46.5′
163	39°54.7′	69°50.0′
164	39°55.25′	69°51.4′
165	39°55.2′	69°53.1′
166	39°54.85′	69°53.9′
167	39°55.7′	69°54.9′
168	39°56.15′	69°55.35′
169	39°56.05′	69°56.25′
170	39°55.3′	69°57.1′
171	39°54.8′	69°58.6′
172	39°56.05′	70°00.65′
173	39°55.3′	70°02.95′
174	39°56.9′	70°11.3′
175	39°58.9′	70°11.5′
176	39°59.6′	70°11.1′
177	40°01.35′	70°11.2′
178	40°02.6′	70°12.0′
179	40°00.4′	70°12.3′
180	39°59.75′	70°13.05′
181	39°59.3′	70°14.0′
to 119		

(4) *Restricted Gear Area II.* Restricted Gear Area II is defined by straight lines connecting the following points in the order stated:

Point	N. latitude	W. longitude
Inshore Boundary		
to 1		
49	40°02.75′ N.	70°16.1′ W.
50	40°00.7′ N.	70°18.6′ W.
51	39°59.8′ N.	70°21.75′ W.
52	39°59.75′ N.	70°25.5′ W.
53	40°03.85′ N.	70°28.75′ W.
54	40°00.55′ N.	70°32.1′ W.
55	39°59.15′ N.	70°34.45′ W.
56	39°58.9′ N.	70°38.65′ W.
57	40°00.1′ N.	70°45.1′ W.
58	40°00.5′ N.	70°57.6′ W.
59	40°02.0′ N.	71°01.3′ W.
60	39°59.3′ N.	71°18.4′ W.
61	40°00.7′ N.	71°19.8′ W.
62	39°57.5′ N.	71°20.6′ W.
63	39°53.1′ N.	71°36.1′ W.
64	39°52.6′ N.	71°40.35′ W.
65	39°53.1′ N.	71°42.7′ W.
66	39°46.95′ N.	71°49.0′ W.
67	39°41.15′ N.	71°57.1′ W.
68	39°35.45′ N.	72°02.0′ W.
69	39°32.65′ N.	72°06.1′ W.
70	39°29.75′ N.	72°09.8′ W.
to 48		
Offshore Boundary		
to 49		
1	39°59.3′ N.	70°14.0′ W.
2	39°58.85′ N.	70°15.2′ W.
3	39°59.3′ N.	70°18.4′ W.
4	39°58.1′ N.	70°19.4′ W.
5	39°57.0′ N.	70°19.85′ W.
6	39°57.55′ N.	70°21.25′ W.
7	39°57.5′ N.	70°22.8′ W.
8	39°57.1′ N.	70°25.4′ W.
9	39°57.65′ N.	70°27.05′ W.
10	39°58.58′ N.	70°27.7′ W.
11	40°00.65′ N.	70°28.8′ W.
12	40°02.2′ N.	70°29.15′ W.
13	40°01.0′ N.	70°30.2′ W.
14	39°58.58′ N.	70°31.85′ W.
15	39°57.05′ N.	70°34.35′ W.
16	39°56.42′ N.	70°36.8′ W.
21	39°58.15′ N.	70°48.0′ W.
24	39°58.3′ N.	70°51.1′ W.
25	39°58.1′ N.	70°52.25′ W.
26	39°58.05′ N.	70°53.55′ W.
27	39°58.4′ N.	70°59.6′ W.
28	39°59.8′ N.	71°01.05′ W.
29	39°58.2′ N.	71°05.85′ W.
30	39°57.45′ N.	71°12.15′ W.
31	39°57.2′ N.	71°15.0′ W.
32	39°56.3′ N.	71°18.95′ W.
33	39°51.4′ N.	71°36.1′ W.
34	39°51.75′ N.	71°41.5′ W.
35	39°50.05′ N.	71°42.5′ W.
36	39°50.0′ N.	71°45.0′ W.
37	39°48.95′ N.	71°46.05′ W.
38	39°46.6′ N.	71°46.1′ W.
39	39°43.5′ N.	71°49.4′ W.
40	39°41.3′ N.	71°55.0′ W.
41	39°39.0′ N.	71°55.6′ W.
42	39°36.72′ N.	71°58.25′ W.
43	39°35.15′ N.	71°58.55′ W.
44	39°34.5′ N.	72°00.75′ W.
45	39°32.2′ N.	72°02.25′ W.
46	39°32.15′ N.	72°04.1′ W.
47	39°28.5′ N.	72°06.5′ W.
48	39°29.0′ N.	72°09.25′ W.
to 70		

(5) *Restricted Gear Area III.* Restricted Gear Area III is defined by straight lines connecting the following points in the order stated:

Point	N. latitude	W. longitude
Inshore Boundary		
to 49		
182	40°05.6′ N.	70°17.7′ W.
183	40°06.5′ N.	70°40.05′ W.
184	40°11.05′ N.	70°45.8′ W.
185	40°12.75′ N.	70°55.05′ W.
186	40°10.7′ N.	71°10.25′ W.
187	39°57.9′ N.	71°28.7′ W.
188	39°55.6′ N.	71°41.2′ W.
189	39°55.85′ N.	71°45.0′ W.
190	39°53.75′ N.	71°52.25′ W.
191	39°47.2′ N.	72°01.6′ W.
192	39°33.65′ N.	72°15.0′ W.
to 70		
Offshore Boundary		
to 182		
49	40°02.75′ N.	70°16.1′ W.
50	40°00.7′ N.	70°18.6′ W.
51	39°59.8′ N.	70°21.75′ W.
52	39°59.75′ N.	70°25.5′ W.
53	40°03.85′ N.	70°28.75′ W.
54	40°00.55′ N.	70°32.1′ W.
55	39°59.15′ N.	70°34.45′ W.
56	39°58.9′ N.	70°38.65′ W.
57	40°00.1′ N.	70°45.1′ W.
58	40°00.5′ N.	70°57.6′ W.
59	40°02.0′ N.	71°01.3′ W.
60	39°59.3′ N.	71°18.4′ W.
61	40°00.7′ N.	71°19.8′ W.
62	39°57.5′ N.	71°20.6′ W.
63	39°53.1′ N.	71°36.1′ W.
64	39°52.6′ N.	71°40.35′ W.
65	39°53.1′ N.	71°42.7′ W.
66	39°46.95′ N.	71°49.0′ W.
67	39°41.15′ N.	71°57.1′ W.
68	39°35.45′ N.	72°02.0′ W.
69	39°32.65′ N.	72°06.1′ W.
70	39°29.75′ N.	72°09.8′ W.
to 192		

(6) *Restricted Gear Area IV.* Restricted Gear Area IV is defined by straight lines connecting the following points in the order stated:

Point	N. latitude	W. longitude
Inshore Boundary		
193	40°13.60′ N.	68°40.60′ W.
194	40°11.60′ N.	68°53.00′ W.
195	40°14.00′ N.	69°04.70′ W.
196	40°14.30′ N.	69°05.80′ W.
197	40°05.50′ N.	69°09.00′ W.
198	39°57.30′ N.	69°25.10′ W.
199	40°00.40′ N.	69°35.20′ W.
200	40°01.70′ N.	69°35.40′ W.
201	40°01.70′ N.	69°37.40′ W.
202	40°00.50′ N.	69°38.80′ W.
203	40°01.30′ N.	69°45.00′ W.

Point	N. latitude	W. longitude
204	40°02.10′ N.	69°45.00′ W.
205	40°07.60′ N.	70°04.50′ W.
206 to 119	40°07.80′ N.	70°09.20′ W.
Offshore Boundary		
69	40°07.90′ N.	68°36.00′ W.
70	40°07.20′ N.	68°38.40′ W.
71	40°06.90′ N.	68°46.50′ W.
72	40°08.70′ N.	68°49.60′ W.
73	40°08.10′ N.	68°51.00′ W.
74	40°05.70′ N.	68°52.40′ W.
75	40°03.60′ N.	68°57.20′ W.
76	40°03.65′ N.	69°00.00′ W.
77	40°04.35′ N.	69°00.50′ W.
78	40°05.20′ N.	69°00.50′ W.
79	40°05.30′ N.	69°01.10′ W.
80	40°08.90′ N.	69°01.75′ W.
81	40°11.00′ N.	69°03.80′ W.
82	40°11.60′ N.	69°05.40′ W.
83	40°10.25′ N.	69°04.40′ W.
84	40°09.75′ N.	69°04.15′ W.
85	40°08.45′ N.	69°03.60′ W.
86	40°05.65′ N.	69°03.55′ W.
87	40°04.10′ N.	69°03.90′ W.
88	40°02.65′ N.	69°05.60′ W.
89	40°02.00′ N.	69°08.35′ W.
90	40°02.65′ N.	69°11.15′ W.
91	40°00.05′ N.	69°14.60′ W.
92	39°57.8′ N.	69°20.35′ W.
93	39°56.75′ N.	69°24.40′ W.
94	39°56.50′ N.	69°26.35′ W.
95	39°56.80′ N.	69°34.10′ W.
96	39°57.85′ N.	69°35.05′ W.
97	40°00.65′ N.	69°36.50′ W.
98	40°00.90′ N.	69°37.30′ W.
99	39°59.15′ N.	69°37.30′ W.
100	39°58.80′ N.	69°38.45′ W.
102	39°56.20′ N.	69°40.20′ W.
103	39°55.75′ N.	69°41.40′ W.
104	39°56.70′ N.	69°53.60′ W.
105	39°57.55′ N.	69°54.05′ W.
106	39°57.40′ N.	69°55.90′ W.
107	39°56.90′ N.	69°57.45′ W.
108	39°58.25′ N.	70°03.00′ W.
110	39°59.20′ N.	70°04.90′ W.
111	40°00.70′ N.	70°08.70′ W.
112	40°03.75′ N.	70°10.15′ W.
115	40°05.20′ N.	70°10.90′ W.
116	40°02.45′ N.	70°14.1′ W.
119 to 206	40°02.75′ N.	70°16.1′ W.

* * * * *

§ 648.87 [Amended]

■ 12. Amend § 648.87 by revising paragraphs paragraphs (c)(2)(i) and (c)(2)(ii)(B).

* * * * *

(c) * * *

(2) * * *

(i) *Regulations that may not be exempted for sector participants.* The Regional Administrator may not exempt participants in a sector from the following Federal fishing regulations: Specific times and areas within the NE multispecies year-round closure areas; permitting restrictions (*e.g.,* vessel upgrades, etc.); gear restrictions designed to minimize habitat impacts (*e.g.,* roller gear restrictions, etc.); reporting requirements; and AMs specified in § 648.90(a)(5)(i)(D). For the purposes of this paragraph (c)(2)(i), the DAS reporting requirements specified in § 648.82, the SAP-specific reporting requirements specified in § 648.85, VMS requirements for Handgear A category permitted vessels as specified in § 648.10, and the reporting requirements associated with a dockside monitoring program are not considered reporting requirements, and the Regional Administrator may exempt sector participants from these requirements as part of the approval of yearly operations plans. For the purpose of this paragraph (c)(2)(i), the Regional Administrator may not grant sector participants exemptions from the NE multispecies year-round closures areas defined as Habitat Management Areas as defined in § 648.370; Closed Area I North and Closed Area II, as defined in § 648.81(c)(3) and (c)(4), respectively, during the period February 16 through April 30; and the Western GOM Closure Area, as defined at § 648.81(a)(4), where it overlaps with GOM Cod Protection Closures I through III, as defined in § 648.81(d)(4). This list may be modified through a framework adjustment, as specified in § 648.90.

(ii) * * *

(B) The GOM Cod Protection Closures IV and V specified in § 648.81(d)(4)(iv) and (v).

§ 648.89 [Amended]

■ 13. In § 648.89, revise paragraphs (e)(1)(i) and (ii) and remove and reserve paragraph (e)(2) to read as follows:

* * * * *

(e) *Charter/party vessel restrictions on fishing in GOM closed areas.*

(1) *GOM Closed Areas.*

(i) A vessel fishing under charter/party regulations may not fish in the GOM closed areas specified in § 648.81(a)(3), (a)(4), and (d)(4) during the time periods specified in those paragraphs, unless the vessel has on board a valid letter of authorization issued by the Regional Administrator pursuant to § 648.81(d)(5)(v) and paragraph (e)(3) of this section. The conditions and restrictions of the letter of authorization must be complied with for a minimum of 3 months if the vessel fishes or intends to fish in the GOM cod protection closures; or for the rest of the fishing year, beginning with the start of the participation period of the letter of authorization, if the vessel fishes or intends to fish in the year-round GOM closure areas.

(ii) A vessel fishing under charter/party regulations may not fish in the GOM Cod Spawning Protection Area specified at § 648.81(b)(3) during the time period specified in that paragraph, unless the vessel complies with the requirements specified at § 648.81(b)(2)(iii).

(2) *Reserved.*

§ 648.202 [Amended]

■ 14. Amend § 648.202 by revising paragraph (b)(1) to read as follows:

* * * * *

(b) *Fishing in Northeast Multispecies Closed Areas.*

(1) No vessel issued an Atlantic herring permit and fishing with midwater trawl gear, may fish for, possess or land fish in or from the Closed Areas, including the Cashes Ledge Closure Area and the Western GOM Closure Area, as defined in § 648.81(a)(3) and (a)(4), respectively, unless it has declared first its intent to fish in the Closed Areas as required by § 648.11(m)(1), and is carrying onboard a NMFS-approved observer.

* * * * *

§ 648.203 [Amended]

■ 15. Amend § 648.203 by revising paragraph (a) to read as follows:

(a) Midwater trawl gear may only be used by a vessel issued a valid herring permit in the GOM/GB Exemption Area as defined in § 648.80(a)(17), provided it complies with the midwater trawl gear exemption requirements specified under the NE multispecies regulations at § 648.80(d), including issuance of a Letter of Authorization.

* * * * *

■ 16. Add Subpart Q consisting of §§ 648.370 through 648.372 to read as follows:

Subpart Q—Habitat-Related Management Measures

Subpart Q—Habitat-Related Management Measures

§ 648.370 Habitat management areas.

Unless otherwise specified, no fishing vessel or person on a fishing vessel may fish with bottom-tending mobile gear in the areas defined in this section. Copies of charts depicting these areas are available from the Regional Administrator upon request.

(a) *Eastern Maine Habitat Management Area.* The Eastern Maine HMA is defined by straight lines connecting the following points in the order stated:

EASTERN MAINE HMA

Point	N. latitude	W. longitude
1	44°02.5′	68°06.1′
2	43°51.0′	68°33.9′
3*	43°56.6′	68°38.1′
4*	44°07.6′	68°10.6′

*Landward boundary at state waters. Only endpoints provided.

(b) *Jeffreys Bank Habitat Management Area.* The Jeffreys Bank HMA is defined by straight lines connecting the following points in the order stated:

JEFFREYS BANK HMA

Point	N. latitude	W. longitude
1	43°31′	68°37′
2	43°20′	68°37′
3	43°20′	68°55′
4	43°31′	68°55′

(c) *Cashes Ledge Habitat Management Area.* The Cashes Ledge HMA is defined by straight lines connecting the following points in the order stated:

CASHES LEDGE HMA

Point	N. latitude	W. longitude
1	43°01.0′	69°00.0′
2	43°01.0′	68°52.0′
3	42°45.0′	68°52.0′
4	42°45.0′	69°00.0′

(d) *Fippennies Ledge Habitat Management Area.* The Fippennies Ledge HMA is defined by straight lines connecting the following points in the order stated:

FIPPENNIES LEDGE HMA

Point	N. latitude	W. longitude
1	42°50.0′	69°17.0′
2	42°44.0′	69°14.0′
3	42°44.0′	69°18.0′
4	42°50.0′	69°21.0′

(e) *Ammen Rock Habitat Management Area.* (1) The Ammen Rock HMA is defined by straight lines connecting the following points in the order stated:

AMMEN ROCK HMA

Point	N. latitude	W. longitude
1	42°55.5′	68°57.0′
2	42°52.5′	68°55.0′
3	42°52.5′	68°57.0′
4	42°55.5′	68°59.0′

(2) No fishing vessel, including private and for-hire recreational fishing vessels, may fish in the Ammen Rock HMA, except for vessels fishing exclusively with lobster traps, as defined in § 697.2.

(f) *Western Gulf of Maine Habitat Management Area.* (1) The Western GOM HMA is defined by the straight lines connecting the following points in the order stated:

WESTERN GULF OF MAINE HMA

Point	N. latitude	W. longitude
WGM4	43°15′	70°15′
WGM1	42°15′	70°15′
WGM5	42°15′	70°00′
WGM6	43°15′	70°15′

(2) *Western Gulf of Maine Shrimp Exemption Area.* Vessels fishing with shrimp trawls under the Small Mesh Northern Shrimp Fishery Exemption specified at § 648.80(a)(5) may fish within the Western Gulf of Maine HMA Shrimp Exemption Area which is defined by the straight lines connecting the following points in the order stated:

WESTERN GULF OF MAINE SHRIMP EXEMPTION AREA

Point	N. latitude	W. longitude
1	43°15′	70°
2	43°13′	70°
3	43°13′	70°05′
4	43°09′	70°05′
5	43°09′	70°08′
6	42°55′	70°08′
7	42°55′	70°15′
8	43°15′	70°15′

(h) *Georges Shoal Habitat Management Area.* (1) The Georges Shoal HMA is defined by the straight lines connecting the following points in the order stated:

GEORGES SHOAL HMA

Point	N. latitude	W. longitude
1	41°46′	67°46′
2	41°39′	67°40′
3	41°30′	67°40′
4	41°30′	68°10′
5	41°41′	68°10′

(2) *Hydraulic Clam Dredge Exemption.* Surfclam and ocean quahog permitted vessels may fish with hydraulic clam dredges in the Georges Shoal HMA until [*Insert date 1 year from the effective date of the final rule.*].

(i) *Northern Edge Habitat Management Area.* The Northern Edge HMA is defined by the straight lines connecting the following points in the order stated:

NORTHERN EDGE HMA

Point	N. latitude	W. longitude
1	42°02′00″	67°02′14.205″
2	41°50′00″	66°52′01.383″
3	41°50′00″	67°20′00″
4	42°02′00″	67°20′00″

(j) *Northern Edge Reduced Impact Habitat Management Area.* (1) The Northern Edge Reduced Impact HMA is defined by the straight lines connecting the following points in the order stated:

NORTHERN EDGE REDUCED IMPACT HMA

Point	N. latitude	W. longitude
1	42°10′00″	67°09′18″
2	42°02′00″	67°02′14.205″
3	42°02′00″	67°20′00″
4	42°00′00″	67°20′00″
5	42°00′00″	67°26′00″
6	42°05′30″	67°26′00″

(2) *Scallop Dredge Exemption.* Atlantic sea scallop permitted vessels may fish with scallop dredges in the Northern Edge Reduced Impact HMA as authorized under the sea scallop area rotation program as described in § 648.59.

(3) *Eastern US/CA Haddock Special Access Program (SAP) Exemption.* Vessels fishing under the Eastern US/CA Haddock special access program, as defined in § 648.85(b)(8), may use bottom trawls in the Northern Edge Reduced Impact HMA west of 67°20′ W.

(k) *Great South Channel Habitat Management Area.* (1) The Great South Channel HMA is defined by the straight lines connecting the following points in the order stated:

GREAT SOUTH CHANNEL HMA

Point	N. latitude	W. longitude
1	41°30.3′	69°31.0′
2	41°0.00′	69°18.5′
3	40°51.7′	69°18.5′
4	40°51.6′	69°48.9′
5	41°30.2′	69°49.3′

(2) *Hydraulic Clam Dredge Exemption.* (i) Except for the portion of the Great South Channel HMA defined in paragraph (iii) of this section, surfclam and ocean quahog permitted vessels may fish with hydraulic clam dredges in the Great South Channel HMA.

(ii) The Hydraulic clam dredge exemption is effective until [*Insert date 1 year from effective date*]. After which, no vessels fishing with hydraulic clam dredges may fish within the Great South Channel HMA.

(iii) The hydraulic clam dredge exemption does not apply in the area defined as the straight lines connecting the following points in the order stated:

Point	N. latitude	W. longitude
GSC 1	41°30.3′	69°31.0′
MBTG 2	41°21.0′	69°27.2′
MBTG 3	41°21.0′	69°43.0′
MBTG 4	41°30.0′	69°43.0′

(l) *Cox Ledge Habitat Management Areas.* (1) *Cox Ledge 1 Habitat Management Area.* The Cox Ledge 1 HMA is defined by the straight lines connecting the following points in the order stated:

COX LEDGE HMA 1

Point	N. latitude	W. longitude
1	41°05.0′	71°03.0′
2	41°00.0′	71°03.0′
3	41°00.0′	71°14.0′
4	41°05.0′	71°14.0′

(2) *Cox Ledge 2 Habitat Management Area.* The Cox Ledge 2 HMA is defined by the straight lines connecting the following points in the order stated:

COX LEDGE HMA 2

Point	N. latitude	W. longitude
1	41°12.0′	70°55.0′
2	41°07.5′	70°55.0′
3	40°07.5′	71°01.0′
4	41°12.0′	71°01.0′

(3) *Gear restrictions.* (i) No vessel may fish in the Cox Ledge HMAs with a hydraulic clam dredge.

(ii) Vessels may fish in the Cox Ledge HMAs with bottom trawls, provided the gear is configured such that there are no ground cables and the bridle length is less than or equal to 30 fathoms per side.

(m) *Transiting.* Unless otherwise restricted or specified in this paragraph (m), a vessel may transit the habitat management areas described in this section provided that its gear is stowed and not available for immediate use as defined in § 648.2.

(n) *Other Habitat Protection Measures.* (1) The Inshore Gulf of Maine/Georges Bank Restricted Roller Gear Area described in § 648.80 (a)(3)(vii) is considered a habitat protection measure and the restrictions outlined in that section apply to all bottom trawl gear.

(o) *Review of Habitat Management Measures.* The New England Fishery Management Council will develop a strategic process to evaluate the boundaries, scope, characteristics, and timing of habitat and spawning protection areas to facilitate review of these areas at 10-year intervals.

§ 648.371 Dedicated Habitat Research Areas.

(a) *Dedicated Habitat Research Area Topics.* The areas defined in this section are intended to facilitate coordinated research on gear impacts, habitat recovery, natural disturbance, and productivity.

(b) *Stellwagen Dedicated Habitat Research Area.* (1) The Stellwagen DHRA is defined by the straight lines connecting the following points in the order stated:

STELLWAGEN DHRA

Point	N. latitude	W. longitude
1	42°15.0′	70°00.0′
2	42°15.0′	70°15.0′
3	42°45.2′	70°15.0′
4	42°46.0′	70°13.0′
5	42°46.0′	70°00.0′

(2) Vessels fishing with bottom-tending mobile gear, sink gillnet gear, or demersal longline gear are prohibited from fishing in the Stellwagen DHRA, unless otherwise exempted.

(c) *Georges Bank Dedicated Habitat Research Area.* (1) The Georges Bank DHRA is defined by straight lines connecting the following points in the order stated:

GEORGES BANK DHRA

Point	N. latitude	W. longitude
CIH3	40°55′	68°53′
CIH4	40°58′	68°30′
CI3	40°45′	68°30′
CI2	40°45′	68°45′

(2) Vessels fishing with bottom-tending mobile gear are prohibited from fishing in the Georges Bank DHRA, unless otherwise exempted.

(d) *Transiting.* Unless otherwise restricted or specified in this paragraph (d), a vessel may transit the Dedicated Habitat Research Areas of this section provided that its gear is stowed and not available for immediate use as defined in § 648.2.

(e) *Dedicated Habitat Research Areas Review.* (1) The Regional Administrator shall initiate a review of the DHRAs defined in this section three years after implementation.

(2) After initiation of the review and consultation with the New England Fishery Management Council, the Regional Administrator may remove a DHRA. The following criteria will be used to determine if DHRA should be maintained:

(i) Documentation of active and ongoing research in the DHRA area, in the form of data records, cruise reports or inventory samples with analytical objectives focused on the DHRA topics, described in paragraph (a) of this section; and

(ii) Documentation of pending or approved proposals or funding requests (including ship time requests), with objectives specific to the DHRA topics, described in paragraph (a) of this section.

(3) The Regional Administrator will make any such determination in accordance with the APA through notification in the **Federal Register**.

§ 648.372 Frank R. Lautenberg Deep-Sea Coral Protection Area

(a) No vessel may fish with bottom-tending gear within the Frank R. Lautenberg Deep-Sea Coral Protection Area described in this section, unless transiting pursuant to paragraph (d) of this section, fishing lobster trap gear in accordance with § 697.21 of this chapter, or fishing red crab trap gear in accordance with § 648.264. Bottom-tending gear includes but is not limited to bottom-tending otter trawls, bottom-tending beam trawls, hydraulic dredges, non-hydraulic dredges, bottom-tending seines, bottom longlines, pots and traps, and sink or anchored gillnets. The Frank R. Lautenberg Deep-Sea Coral Protection Area consists of the Broad and Discrete Deep-Sea Coral Zones defined in paragraphs (b) and (c) of this section.

(b) *Broad Deep-Sea Coral Zone.* The Broad Deep-Sea Coral Zone is bounded on the east by the outer limit of the U.S. Exclusive Economic Zone, and bounded on all other sides by straight lines connecting the following points in the order stated (copies of a chart depicting this area are available from the Regional Administrator upon request). An asterisk (*) in the Discrete Zone column means the point is shared with a Discrete Deep-Sea Coral Zone, as defined in paragraph (c) of this section.

BROAD ZONE

Point	Latitude	Longitude	Discrete zone
1	36°33.02′ N.	71°29.33′ W.	
2	36°33.02′ N.	72°00′ W.	
3	36°33.02′ N.	73°00′ W.	
4	36°33.02′ N.	74°00′ W.	
5	36°33.02′ N.	74°42.14′ W.	
6	36°34.44′ N.	74°42.23′ W.	
7	36°35.53′ N.	74°41.59′ W.	
8	36°37.69′ N.	74°41.51′ W.	
9	36°42.09′ N.	74°39.07′ W.	
10	36°45.18′ N.	74°38′ W.	
11	36°45.69′ N.	74°38.55′ W.	
12	36°49.17′ N.	74°38.31′ W.	
13	36°49.56′ N.	74°37.77′ W.	
14	36°51.21′ N.	74°37.81′ W.	
15	36°51.78′ N.	74°37.43′ W.	
16	36°58.51′ N.	74°36.51′ W.	(*)
17	36°58.62′ N.	74°36.97′ W.	(*)
18	37°4.43′ N.	74°41.03′ W.	(*)
19	37°5.83′ N.	74°45.57′ W.	(*)
20	37°6.97′ N.	74°40.8′ W.	(*)
21	37°4.52′ N.	74°37.77′ W.	(*)
22	37°4.02′ N.	74°33.83′ W.	(*)
23	37°4.52′ N.	74°33.51′ W.	(*)
24	37°4.4′ N.	74°33.11′ W.	(*)
25	37°7.38′ N.	74°31.95′ W.	
26	37°8.32′ N.	74°32.4′ W.	
27	37°8.51′ N.	74°31.38′ W.	
28	37°9.44′ N.	74°31.5′ W.	
29	37°16.83′ N.	74°28.58′ W.	
30	37°17.81′ N.	74°27.67′ W.	
31	37°18.72′ N.	74°28.22′ W.	
32	37°22.74′ N.	74°26.24′ W.	(*)
33	37°22.87′ N.	74°26.16′ W.	(*)
34	37°24.44′ N.	74°28.57′ W.	(*)
35	37°24.67′ N.	74°29.71′ W.	(*)
36	37°25.93′ N.	74°30.13′ W.	(*)
37	37°27.25′ N.	74°30.2′ W.	(*)
38	37°28.6′ N.	74°30.6′ W.	(*)
39	37°29.43′ N.	74°30.29′ W.	(*)
40	37°29.53′ N.	74°29.95′ W.	(*)
41	37°27.68′ N.	74°28.82′ W.	(*)
42	37°27.06′ N.	74°28.76′ W.	(*)
43	37°26.39′ N.	74°27.76′ W.	(*)
44	37°26.3′ N.	74°26.87′ W.	(*)
45	37°25.69′ N.	74°25.63′ W.	(*)
46	37°25.83′ N.	74°24.22′ W.	(*)
47	37°25.68′ N.	74°24.03′ W.	(*)
48	37°28.04′ N.	74°23.17′ W.	
49	37°27.72′ N.	74°22.34′ W.	
50	37°30.13′ N.	74°17.77′ W.	
51	37°33.83′ N.	74°17.47′ W.	
52	37°35.48′ N.	74°14.84′ W.	
53	37°36.99′ N.	74°14.01′ W.	
54	37°37.23′ N.	74°13.02′ W.	
55	37°42.85′ N.	74°9.97′ W.	
56	37°43.5′ N.	74°8.79′ W.	
57	37°45.22′ N.	74°9.2′ W.	(*)
58	37°45.15′ N.	74°7.24′ W.	(*)
59	37°45.88′ N.	74°7.44′ W.	(*)
60	37°46.7′ N.	74°5.98′ W.	(*)
61	37°49.62′ N.	74°6.03′ W.	(*)
62	37°51.25′ N.	74°5.48′ W.	(*)
63	37°51.99′ N.	74°4.51′ W.	(*)
64	37°51.37′ N.	74°3.3′ W.	(*)
65	37°50.63′ N.	74°2.69′ W.	(*)
66	37°49.62′ N.	74°2.28′ W.	(*)
67	37°50.28′ N.	74°0.67′ W.	(*)
68	37°53.68′ N.	73°57.41′ W.	(*)
69	37°55.07′ N.	73°57.27′ W.	(*)
70	38°3.29′ N.	73°49.1′ W.	(*)
71	38°6.19′ N.	73°51.59′ W.	(*)
72	38°7.67′ N.	73°52.19′ W.	(*)

BROAD ZONE—Continued

Point	Latitude	Longitude	Discrete zone
73	38°9.04′ N.	73°52.39′ W.	(*)
74	38°10.1′ N.	73°52.32′ W.	(*)
75	38°11.98′ N.	73°52.65′ W.	(*)
76	38°13.74′ N.	73°50.73′ W.	(*)
77	38°13.15′ N.	73°49.77′ W.	(*)
78	38°10.92′ N.	73°50.37′ W.	(*)
79	38°10.2′ N.	73°49.63′ W.	(*)
80	38°9.26′ N.	73°49.68′ W.	(*)
81	38°8.38′ N.	73°49.51′ W.	(*)
82	38°7.59′ N.	73°47.91′ W.	(*)
83	38°6.96′ N.	73°47.25′ W.	(*)
84	38°6.51′ N.	73°46.99′ W.	(*)
85	38°5.69′ N.	73°45.56′ W.	(*)
86	38°6.35′ N.	73°44.8′ W.	(*)
87	38°7.5′ N.	73°45.2′ W.	(*)
88	38°9.24′ N.	73°42.61′ W.	(*)
89	38°9.41′ N.	73°41.63′ W.	
90	38°15.13′ N.	73°37.58′ W.	
91	38°15.25′ N.	73°36.2′ W.	(*)
92	38°16.19′ N.	73°36.91′ W.	(*)
93	38°16.89′ N.	73°36.66′ W.	(*)
94	38°16.91′ N.	73°36.35′ W.	(*)
95	38°17.63′ N.	73°35.35′ W.	(*)
96	38°18.55′ N.	73°34.44′ W.	(*)
97	38°18.38′ N.	73°33.4′ W.	(*)
98	38°19.04′ N.	73°33.02′ W.	(*)
99	38°25.08′ N.	73°34.99′ W.	(*)
100	38°26.32′ N.	73°33.44′ W.	(*)
101	38°29.72′ N.	73°30.65′ W.	(*)
102	38°28.65′ N.	73°29.37′ W.	(*)
103	38°25.53′ N.	73°30.94′ W.	(*)
104	38°25.26′ N.	73°29.97′ W.	(*)
105	38°23.75′ N.	73°30.16′ W.	(*)
106	38°23.47′ N.	73°29.7′ W.	(*)
107	38°22.76′ N.	73°29.34′ W.	(*)
108	38°22.5′ N.	73°27.63′ W.	(*)
109	38°21.59′ N.	73°26.87′ W.	(*)
110	38°23.07′ N.	73°24.11′ W.	
111	38°25.83′ N.	73°22.39′ W.	
112	38°25.97′ N.	73°21.43′ W.	
113	38°34.14′ N.	73°11.14′ W.	(*)
114	38°35.1′ N.	73°10.43′ W.	(*)
115	38°35.94′ N.	73°11.25′ W.	(*)
116	38°37.57′ N.	73°10.49′ W.	(*)
117	38°37.21′ N.	73°9.41′ W.	(*)
118	38°36.72′ N.	73°8.85′ W.	(*)
119	38°43′ N.	73°1.24′ W.	(*)
120	38°43.66′ N.	73°0.36′ W.	(*)
121	38°45′ N.	73°0.27′ W.	(*)
122	38°46.68′ N.	73°1.07′ W.	(*)
123	38°47.54′ N.	73°2.24′ W.	(*)
124	38°47.84′ N.	73°2.24′ W.	(*)
125	38°49.03′ N.	73°1.53′ W.	(*)
126	38°48.45′ N.	73°1′ W.	(*)
127	38°49.15′ N.	72°58.98′ W.	(*)
128	38°48.03′ N.	72°56.7′ W.	(*)
129	38°49.84′ N.	72°55.54′ W.	(*)
130	38°52.4′ N.	72°52.5′ W.	(*)
131	38°53.87′ N.	72°53.36′ W.	(*)
132	38°54.17′ N.	72°52.58′ W.	(*)
133	38°54.7′ N.	72°50.26′ W.	(*)
134	38°57.2′ N.	72°47.74′ W.	(*)
135	38°58.64′ N.	72°48.35′ W.	(*)
136	38°59.3′ N.	72°47.86′ W.	(*)
137	38°59.22′ N.	72°46.69′ W.	(*)
138	39°0.13′ N.	72°45.47′ W.	(*)
139	39°1.69′ N.	72°45.74′ W.	(*)
140	39°1.49′ N.	72°43.67′ W.	(*)
141	39°3.9′ N.	72°40.83′ W.	(*)
142	39°7.35′ N.	72°41.26′ W.	(*)
143	39°7.16′ N.	72°37.21′ W.	(*)
144	39°6.52′ N.	72°35.78′ W.	(*)

BROAD ZONE—Continued

Point	Latitude	Longitude	Discrete zone
145	39°11.73′ N.	72°25.4′ W.	(*)
146	39°11.76′ N.	72°22.33′ W.	
147	39°19.08′ N.	72°9.56′ W.	(*)
148	39°25.17′ N.	72°13.03′ W.	(*)
149	39°28.8′ N.	72°17.39′ W.	(*)
150	39°30.16′ N.	72°20.41′ W.	(*)
151	39°31.38′ N.	72°23.86′ W.	(*)
152	39°32.55′ N.	72°25.07′ W.	(*)
153	39°34.57′ N.	72°25.18′ W.	(*)
154	39°34.53′ N.	72°24.23′ W.	(*)
155	39°33.17′ N.	72°24.1′ W.	(*)
156	39°32.07′ N.	72°22.77′ W.	(*)
157	39°32.17′ N.	72°22.08′ W.	(*)
158	39°30.3′ N.	72°15.71′ W.	(*)
159	39°29.49′ N.	72°14.3′ W.	(*)
160	39°29.44′ N.	72°13.24′ W.	(*)
161	39°27.63′ N.	72°5.87′ W.	(*)
162	39°28.26′ N.	72°2.2′ W.	(*)
163	39°29.88′ N.	72°3.51′ W.	(*)
164	39°30.57′ N.	72°3.47′ W.	(*)
165	39°31.28′ N.	72°2.63′ W.	(*)
166	39°31.46′ N.	72°1.41′ W.	(*)
167	39°37.15′ N.	71°55.85′ W.	(*)
168	39°39.77′ N.	71°53.7′ W.	(*)
169	39°41.5′ N.	71°51.89′ W.	
170	39°43.84′ N.	71°44.85′ W.	(*)
171	39°48.01′ N.	71°45.19′ W.	(*)
172	39°49.97′ N.	71°39.29′ W.	(*)
173	39°55.08′ N.	71°18.62′ W.	(*)
174	39°55.99′ N.	71°16.07′ W.	(*)
175	39°57.04′ N.	70°50.01′ W.	
176	39°55.07′ N.	70°32.42′ W.	
177	39°50.24′ N.	70°27.78′ W.	
178	39°42.18′ N.	70°20.09′ W.	
179	39°34.11′ N.	70°12.42′ W.	
180	39°26.04′ N.	70°4.78′ W.	
181	39°17.96′ N.	69°57.18′ W.	
182	39°9.87′ N.	69°49.6′ W.	
183	39°1.77′ N.	69°42.05′ W.	
184	38°53.66′ N.	69°34.53′ W.	
185	38°45.54′ N.	69°27.03′ W.	
186	38°37.42′ N.	69°19.57′ W.	
187	38°29.29′ N.	69°12.13′ W.	
188	38°21.15′ N.	69°4.73′ W.	
189	38°13′ N.	68°57.35′ W.	
190	38°4.84′ N.	68°49.99′ W.	
191	38°2.21′ N.	68°47.62′ W.	

(c) *Discrete Deep-Sea Coral Zones.* (1) *Block Canyon.* Block Canyon discrete deep-sea coral zone is defined by straight lines connecting the following points in the order stated (copies of a chart depicting this area are available from the Regional Administrator upon request). An asterisk (*) in the Broad Zone column means the point is shared with the Broad Deep-Sea Coral Zone, as defined in paragraph (b) of this section.

BLOCK CANYON

Point	Latitude	Longitude	Broad zone
1	39°55.08′ N.	71°18.62′ W.	(*)
(2)	39°55.99′ N.	71°16.07′ W.	(*)
3	39°49.51′ N.	71°12.12′ W.	
4	39°38.09′ N.	71°9.5′ W.	
5	39°37.4′ N.	71°11.87′ W.	
6	39°47.26′ N.	71°17.38′ W.	
7	39°52.6′ N.	71°17.51′ W.	
1	39°55.08′ N.	71°18.62′ W.	(*)

(2) *Ryan and McMaster Canyons.* Ryan and McMaster Canyons discrete deep-sea coral zone is defined by straight lines connecting the following points in the order stated (copies of a chart depicting this area are available from the Regional Administrator upon request). An asterisk (*) in the Broad Zone column means the point is shared with the Broad Deep-sea Coral Zone, as defined in paragraph (b) of this section.

RYAN AND MCMASTER CANYONS

Point	Latitude	Longitude	Broad zone
1	39°43.84′ N.	71°44.85′ W.	(*)
2	39°48.01′ N.	71°45.19′ W.	(*)
3	39°49.97′ N.	71°39.29′ W.	(*)
4	39°48.29′ N.	71°37.18′ W.	
5	39°42.96′ N.	71°35.01′ W.	
6	39°33.43′ N.	71°27.91′ W.	
7	39°31.75′ N.	71°30.77′ W.	
8	39°34.46′ N.	71°35.68′ W.	
9	39°40.12′ N.	71°42.36′ W.	
1	39°43.84′ N.	71°44.85′ W.	(*)

(3) *Emery and Uchupi Canyons.* Emery and Uchupi Canyons discrete deep-sea coral zone is defined by straight lines connecting the following points in the order stated (copies of a chart depicting this area are available from the Regional Administrator upon request). An asterisk (*) in the Broad Zone column means the point is shared with the Broad Deep-sea Coral Zone, as defined in paragraph (b) of this section.

EMERY AND UCHUPI CANYONS

Point	Latitude	Longitude	Broad zone
1	39°37.15′ N.	71°55.85′ W.	(*)
2	39°39.77′ N.	71°53.7′ W.	(*)
3	39°39.55′ N.	71°47.68′ W.	
4	39°30.78′ N.	71°36.24′ W.	
5	39°27.26′ N.	71°39.13′ W.	
6	39°28.99′ N.	71°45.47′ W.	
7	39°33.91′ N.	71°52.61′ W.	
1	39°37.15′ N.	71°55.85′ W.	(*)

(4) *Jones and Babylon Canyons.* Jones and Babylon Canyons discrete deep-sea coral zone is defined by straight lines connecting the following points in the order stated (copies of a chart depicting this area are available from the Regional Administrator upon request). An asterisk (*) in the Broad Zone column means the point is shared with the Broad Deep-sea Coral Zone, as defined in paragraph (b) of this section.

JONES AND BABYLON CANYONS

Point	Latitude	Longitude	Broad zone
1	39°28.26′ N.	72°2.2′ W.	(*)
2	39°29.88′ N.	72°3.51′ W.	(*)
3	39°30.57′ N.	72°3.47′ W.	(*)
4	39°31.28′ N.	72°2.63′ W.	(*)
5	39°31.46′ N.	72°1.41′ W.	(*)
6	39°30.37′ N.	71°57.72′ W.	
7	39°30.63′ N.	71°55.13′ W.	
8	39°23.81′ N.	71°48.15′ W.	
9	39°23′ N.	71°52.48′ W.	
1	39°28.26′ N.	72°2.2′ W.	(*)

(5) *Hudson Canyon.* Hudson Canyon discrete deep-sea coral zone is defined by straight lines connecting the following points in the order stated (copies of a chart depicting this area are available from the Regional Administrator upon request). An asterisk (*) in the Broad Zone column means the point is shared with the Broad Deep-Sea Coral Zone, as defined in paragraph (b) of this section.

HUDSON CANYON

Point	Latitude	Longitude	Broad zone
1	39°19.08′ N.	72°9.56′ W.	(*)
2	39°25.17′ N.	72°13.03′ W.	(*)

HUDSON CANYON—Continued

Point	Latitude	Longitude	Broad zone
3	39°28.8′ N.	72°17.39′ W.	(*)
4	39°30.16′ N.	72°20.41′ W.	(*)
5	39°31.38′ N.	72°23.86′ W.	(*)
6	39°32.55′ N.	72°25.07′ W.	(*)
7	39°34.57′ N.	72°25.18′ W.	(*)
8	39°34.53′ N.	72°24.23′ W.	(*)
9	39°33.17′ N.	72°24.1′ W.	(*)
10	39°32.07′ N.	72°22.77′ W.	(*)
11	39°32.17′ N.	72°22.08′ W.	(*)
12	39°30.3′ N.	72°15.71′ W.	(*)
13	39°29.49′ N.	72°14.3′ W.	(*)
14	39°29.44′ N.	72°13.24′ W.	(*)
15	39°27.63′ N.	72°5.87′ W.	(*)
16	39°13.93′ N.	71°48.44′ W.	
17	39°10.39′ N.	71°52.98′ W.	
18	39°14.27′ N.	72°3.09′ W.	
1	39°19.08′ N.	72°9.56′ W.	(*)

(6) *Mey-Lindenkohl Slope.* Mey-Lindenkohl Slope discrete deep-sea coral zone is defined by straight lines connecting the following points in the order stated (copies of a chart depicting this area are available from the Regional Administrator upon request). An asterisk (*) in the Broad Zone column means the point is shared with the Broad Deep-Sea Coral Zone, as defined in paragraph (b) of this section.

MEY-LINDENKOHL SLOPE

Point	Latitude	Longitude	Broad zone
1	38°43′ N.	73°1.24′ W.	(*)
2	38°43.66′ N.	73°0.36′ W.	(*)
3	38°45′ N.	73°0.27′ W.	(*)
4	38°46.68′ N.	73°1.07′ W.	(*)
5	38°47.54′ N.	73°2.24′ W.	(*)
6	38°47.84′ N.	73°2.24′ W.	(*)
7	38°49.03′ N.	73°1.53′ W.	(*)
8	38°48.45′ N.	73°1′ W.	(*)
9	38°49.15′ N.	72°58.98′ W.	(*)
10	38°48.03′ N.	72°56.7′ W.	(*)
11	38°49.84′ N.	72°55.54′ W.	(*)
12	38°52.4′ N.	72°52.5′ W.	(*)
13	38°53.87′ N.	72°53.36′ W.	(*)
14	38°54.17′ N.	72°52.58′ W.	(*)
15	38°54.7′ N.	72°50.26′ W.	(*)
16	38°57.2′ N.	72°47.74′ W.	(*)
17	38°58.64′ N.	72°48.35′ W.	(*)
18	38°59.3′ N.	72°47.86′ W.	(*)
19	38°59.22′ N.	72°46.69′ W.	(*)
20	39°0.13′ N.	72°45.47′ W.	(*)
21	39°1.69′ N.	72°45.74′ W.	(*)
22	39°1.49′ N.	72°43.67′ W.	(*)
23	39°3.9′ N.	72°40.83′ W.	(*)
24	39°7.35′ N.	72°41.26′ W.	(*)
25	39°7.16′ N.	72°37.21′ W.	(*)
26	39°6.52′ N.	72°35.78′ W.	(*)
27	39°11.73′ N.	72°25.4′ W.	(*)
28	38°58.85′ N.	72°11.78′ W.	
29	38°32.39′ N.	72°47.69′ W.	
30	38°34.88′ N.	72°53.78′ W.	
1	38°43′ N.	73°1.24′ W.	(*)

(7) *Spencer Canyon.* Spencer Canyon discrete deep-sea coral zone is defined by straight lines connecting the following points in the order stated (copies of a chart depicting this area are available from the Regional Administrator upon request). An asterisk (*) in the Broad Zone column means the point is shared with the Broad Deep-Sea Coral Zone, as defined in paragraph (b) of this section.

SPENCER CANYON

Point	Latitude	Longitude	Broad zone
1	38°34.14′ N.	73°11.14′ W.	(*)
2	38°35.1′ N.	73°10.43′ W.	(*)
3	38°35.94′ N.	73°11.25′ W.	(*)
4	38°37.57′ N.	73°10.49′ W.	(*)
5	38°37.21′ N.	73°9.41′ W.	(*)
6	38°36.72′ N.	73°8.85′ W.	(*)
7	38°36.59′ N.	73°8.25′ W.	
8	38°28.94′ N.	72°58.96′ W.	
9	38°26.45′ N.	73°3.24′ W.	
1	38°34.14′ N.	73°11.14′ W.	(*)

(8) *Wilmington Canyon.* Wilmington Canyon discrete deep-sea coral zone is defined by straight lines connecting the following points in the order stated (copies of a chart depicting this area are available from the Regional Administrator upon request). An asterisk (*) in the Broad Zone column means the point is shared with the Broad Deep-sea Coral Zone, as defined in paragraph (b) of this section.

WILMINGTON CANYON

Point	Latitude	Longitude	Broad zone
1	38°19.04′ N.	73°33.02′ W.	(*)
2	38°25.08′ N.	73°34.99′ W.	(*)
3	38°26.32′ N.	73°33.44′ W.	(*)
4	38°29.72′ N.	73°30.65′ W.	(*)
5	38°28.65′ N.	73°29.37′ W.	(*)
6	38°25.53′ N.	73°30.94′ W.	(*)
7	38°25.26′ N.	73°29.97′ W.	(*)
8	38°23.75′ N.	73°30.16′ W.	(*)
9	38°23.47′ N.	73°29.7′ W.	(*)
10	38°22.76′ N.	73°29.34′ W.	(*)
11	38°22.5′ N.	73°27.63′ W.	(*)
12	38°21.59′ N.	73°26.87′ W.	(*)
13	38°18.52′ N.	73°22.95′ W.	(*)
14	38°14.41′ N.	73°16.64′ W.	(*)
15	38°13.23′ N.	73°17.32′ W.	(*)
16	38°15.79′ N.	73°26.38′ W.	(*)
1	38°19.04′ N.	73°33.02′ W.	(*)

(9) *North Heyes and South Wilmington Canyons.* North Heyes and South Wilmington Canyons discrete deep-sea coral zone is defined by straight lines connecting the following points in the order stated (copies of a chart depicting this area are available from the Regional Administrator upon request). An asterisk (*) in the Broad Zone column means the point is shared with the Broad Deep-Sea Coral Zone, as defined in paragraph (b) of this section.

NORTH HEYES AND SOUTH WILMINGTON CANYONS

Point	Latitude	Longitude	Broad zone
1	38°15.25′ N.	73°36.2′ W.	(*)
2	38°16.19′ N.	73°36.91′ W.	(*)
3	38°16.89′ N.	73°36.66′ W.	(*)
4	38°16.91′ N.	73°36.35′ W.	(*)
5	38°17.63′ N.	73°35.35′ W.	(*)
6	38°18.55′ N.	73°34.44′ W.	(*)
7	38°18.38′ N.	73°33.4′ W.	(*)
8	38°19.04′ N.	73°33.02′ W.	(*)
9	38°15.79′ N.	73°26.38′ W.	(*)
10	38°14.98′ N.	73°24.73′ W.	(*)
11	38°12.32′ N.	73°21.22′ W.	(*)
12	38°11.06′ N.	73°22.21′ W.	(*)
13	38°11.13′ N.	73°28.72′ W.	(*)
1	38°15.25′ N.	73°36.2′ W.	(*)

(10) *South Vries Canyon.* South Vries Canyon discrete deep-sea coral zone is defined by straight lines connecting the following points in the order stated (copies of a chart depicting this area are available from the Regional Administrator upon request). An asterisk (*) in the Broad Zone column means the point is shared with the

Broad Deep-Sea Coral Zone, as defined in paragraph (b) of this section.

SOUTH VRIES CANYON

Point	Latitude	Longitude	Broad zone
1	38°6.35′ N.	73°44.8′ W.	(*)
2	38°7.5′ N.	73°45.2′ W.	(*)
3	38°9.24′ N.	73°42.61′ W.	(*)
4	38°3.22′ N.	73°29.22′ W.	
5	38°2.38′ N.	73°29.78′ W.	
6	38°2.54′ N.	73°36.73′ W.	
1	38°6.35′ N.	73°44.8′ W.	(*)

(11) *Baltimore Canyon.* Baltimore Canyon discrete deep-sea coral zone is defined by straight lines connecting the following points in the order stated (copies of a chart depicting this area are available from the Regional Administrator upon request). An asterisk (*) in the Broad Zone column means the point is shared with the Broad Deep-Sea Coral Zone, as defined in paragraph (b) of this section.

BALTIMORE CANYON

Point	Latitude	Longitude	Broad zone
1	38°3.29′ N.	73°49.1′ W.	(*)
2	38°6.19′ N.	73°51.59′ W.	(*)
3	38°7.67′ N.	73°52.19′ W.	(*)
4	38°9.04′ N.	73°52.39′ W.	(*)
5	38°10.1′ N.	73°52.32′ W.	(*)
6	38°11.98′ N.	73°52.65′ W.	(*)
7	38°13.74′ N.	73°50.73′ W.	(*)
8	38°13.15′ N.	73°49.77′ W.	(*)
9	38°10.92′ N.	73°50.37′ W.	(*)
10	38°10.2′ N.	73°49.63′ W.	(*)
11	38°9.26′ N.	73°49.68′ W.	(*)
12	38°8.38′ N.	73°49.51′ W.	(*)
13	38°7.59′ N.	73°47.91′ W.	(*)
14	38°6.96′ N.	73°47.25′ W.	(*)
15	38°6.51′ N.	73°46.99′ W.	(*)
16	38°5.69′ N.	73°45.56′ W.	(*)
17	38°6.35′ N.	73°44.8′ W.	(*)
18	38°2.54′ N.	73°36.73′ W.	
19	37°59.19′ N.	73°40.67′ W.	
1	38°3.29′ N.	73°49.1′ W.	(*)

(12) *Warr and Phoenix Canyon Complex.* Warr and Phoenix Canyon Complex discrete deep-sea coral zone is defined by straight lines connecting the following points in the order stated (copies of a chart depicting this area are available from the Regional Administrator upon request). An asterisk (*) in the Broad Zone column means the point is shared with the Broad Deep-Sea Coral Zone, as defined in paragraph (b) of this section.

WARR AND PHOENIX CANYON COMPLEX

Point	Latitude	Longitude	Broad zone
1	37°53.68′ N.	73°57.41′ W.	(*)
2	37°55.07′ N.	73°57.27′ W.	(*)
3	38°3.29′ N.	73°49.1′ W.	(*)
4	37°59.19′ N.	73°40.67′ W.	
5	37°52.5′ N.	73°35.28′ W.	
6	37°50.92′ N.	73°36.59′ W.	
7	37°49.84′ N.	73°47.11′ W.	
1	37°53.68′ N.	73°57.41′ W.	(*)

(13) *Accomac and Leonard Canyons.* Accomac and Leonard Canyons discrete deep-sea coral zone is defined by straight lines connecting the following points in the order stated (copies of a chart depicting this area are available from the Regional Administrator upon request). An asterisk (*) in the Broad Zone column means the point is shared with the Broad Deep-Sea Coral Zone, as defined in paragraph (b) of this section.

ACCOMAC AND LEONARD CANYONS

Point	Latitude	Longitude	Broad zone
1	37°45.15′ N.	74°7.24′ W.	(*)
2	37°45.88′ N.	74°7.44′ W.	(*)
3	37°46.7′ N.	74°5.98′ W.	(*)
4	37°49.62′ N.	74°6.03′ W.	(*)
5	37°51.25′ N.	74°5.48′ W.	(*)
6	37°51.99′ N.	74°4.51′ W.	(*)
7	37°51.37′ N.	74°3.3′ W.	(*)
8	37°50.63′ N.	74°2.69′ W.	(*)
9	37°49.62′ N.	74°2.28′ W.	(*)
10	37°50.28′ N.	74°0.67′ W.	(*)
11	37°50.2′ N.	74°0.17′ W.	
12	37°50.52′ N.	73°58.59′ W.	
13	37°50.99′ N.	73°57.17′ W.	
14	37°50.4′ N.	73°52.35′ W.	
15	37°42.76′ N.	73°44.86′ W.	
16	37°39.96′ N.	73°48.32′ W.	
17	37°40.04′ N.	73°58.25′ W.	
18	37°44.14′ N.	74°6.96′ W.	
1	37°45.15′ N.	74°7.24′ W.	(*)

(14) *Washington Canyon.* Washington Canyon discrete deep-sea coral zone is defined by straight lines connecting the following points in the order stated (copies of a chart depicting this area are available from the Regional Administrator upon request). An asterisk (*) in the Broad Zone column means the point is shared with the Broad Deep-Sea Coral Zone, as defined in paragraph (b) of this section.

WASHINGTON CANYON

Point	Latitude	Longitude	Broad zone
1	37°22.74′ N.	74°26.24′ W.	(*)
2	37°22.87′ N.	74°26.16′ W.	(*)
3	37°24.44′ N.	74°28.57′ W.	(*)
4	37°24.67′ N.	74°29.71′ W.	(*)
5	37°25.93′ N.	74°30.13′ W.	(*)
6	37°27.25′ N.	74°30.2′ W.	(*)
7	37°28.6′ N.	74°30.6′ W.	(*)
8	37°29.43′ N.	74°30.29′ W.	(*)
9	37°29.53′ N.	74°29.95′ W.	(*)
10	37°27.68′ N.	74°28.82′ W.	(*)
11	37°27.06′ N.	74°28.76′ W.	(*)
12	37°26.39′ N.	74°27.76′ W.	(*)
13	37°26.3′ N.	74°26.87′ W.	(*)
14	37°25.69′ N.	74°25.63′ W.	(*)
15	37°25.83′ N.	74°24.22′ W.	(*)
16	37°25.68′ N.	74°24.03′ W.	(*)
17	37°25.08′ N.	74°23.29′ W.	
18	37°16.81′ N.	73°52.13′ W.	
19	37°11.27′ N.	73°54.05′ W.	
20	37°15.73′ N.	74°12.2′ W.	
1	37°22.74′ N.	74°26.24′ W.	(*)

(15) *Norfolk Canyon.* Norfolk Canyon discrete deep-sea coral zone is defined by straight lines connecting the following points in the order stated (copies of a chart depicting this area are available from the Regional Administrator upon request). An asterisk (*) in the Broad Zone column means the point is shared with the Broad Deep-Sea Coral Zone, as defined in paragraph (b) of this section.

NORFOLK CANYON

Point	Latitude	Longitude	Broad zone
1	36°58.51′ N.	74°36.51′ W.	(*)
2	36°58.62′ N.	74°36.97′ W.	(*)
3	37°4.43′ N.	74°41.03′ W.	(*)
4	37°5.83′ N.	74°45.57′ W.	(*)
5	37°6.97′ N.	74°40.8′ W.	(*)
6	37°4.52′ N.	74°37.77′ W.	(*)
7	37°4.02′ N.	74°33.83′ W.	(*)

NORFOLK CANYON—Continued

Point	Latitude	Longitude	Broad zone
8	37°4.52′ N.	74°33.51′ W.	(*)
9	37°4.40′ N.	74°33.11′ W.	(*)
10	37°4.16′ N.	74°32.37′ W.	
11	37°4.40′ N.	74°30.58′ W.	
12	37°3.65′ N.	74°3.66′ W.	
13	36°57.75′ N.	74°3.61′ W.	
14	36°59.77′ N.	74°30′ W.	
15	36°58.23′ N.	74°32.95′ W.	
16	36°57.99′ N.	74°34.18′ W.	
1	36°58.51′ N.	74°36.51′ W.	(*)

(d) *Transiting.* Vessels may transit the Broad and Discrete Deep-Sea Coral Zones defined in paragraphs (b) and (c) of this section, provided bottom-tending trawl nets are out of the water and stowed on the reel and any other fishing gear that is prohibited in these areas is onboard, out of the water, and not deployed. Fishing gear is not required to meet the definition of ''not available for immediate use'' in § 648.2, when a vessel transits the Broad and Discrete Deep-Sea Coral Zones.

[FR Doc. 2017–23752 Filed 11–3–17; 8:45 am]

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FEDERAL REGISTER

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Part III

Department of Defense

General Services Administration

National Aeronautics and Space Administration

48 CFR Chapter 1
Federal Acquisition Regulations; Final Rules

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Chapter 1

[Docket No. FAR 2017–0051, Sequence No. 1]

Federal Acquisition Regulation; Federal Acquisition Circular 2005–96; Introduction

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Summary presentation of a final rule.

SUMMARY: This document summarizes the Federal Acquisition Regulation (FAR) rule agreed to by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) in this Federal Acquisition Circular (FAC) 2005–96. A companion document, the *Small Entity Compliance Guide* (SECG), follows this FAC. The FAC, including the SECG, is available via the Internet at *http://www.regulations.gov.*

DATES: For effective date see separate document, which follows.

FOR FURTHER INFORMATION CONTACT: Ms. Zenaida Delgado, Procurement Analyst, at 202–969–7207 for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at 202–501–4755. Please cite FAC 2005–96, FAR Case 2017–015.

RULE LISTED IN FAC 2005–96

Subject	FAR case	Analyst
Removal of Fair Pay and Safe Workplaces Rule	2017–015	Delgado.

SUPPLEMENTARY INFORMATION: Summary for the FAR rule follows. For the actual revisions and/or amendments made by this FAR case, refer to the specific item number and subject set forth in the document following this item summary. FAC 2005–96 amends the FAR as specified below:

Removal of Fair Pay and Safe Workplaces Rule (FAR Case 2017–015)

This final rule rescinds the final rule at 81 FR 58562 (August 25, 2016). This was FAR Case 2014–025, Fair Pay and Safe Workplaces, which was a significant rule under Executive Order (E.O.) 12866 and a major rule under 5 U.S.C. 804. Because of a Federal court injunction, the only provision or clause that had gone into effect was FAR 52.222–60, Paycheck Transparency (Executive Order 13673), which was included in solicitations starting on January 1, 2017. On March 27, 2017, Public Law 115–11 disapproved the rule under the Congressional Review Act. Therefore, by law, the rule has no force or effect, including the FAR 52.222–60 clause. Also on March 27, 2017, E.O. 13782, Revocation of Federal Contracting Executive Orders, rescinded the E.O.s that originally authorized the rule. All steps should be taken to ensure that no sections, provisions, or clauses of the final rule are implemented.

Dated: October 11, 2017.

William F. Clark,

Director, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Governmentwide Policy.

Federal Acquisition Circular (FAC) 2005–96 is issued under the authority of the Secretary of Defense, the Administrator of General Services, and the Administrator for the National Aeronautics and Space Administration.

Unless otherwise specified, all Federal Acquisition Regulation (FAR) and other directive material contained in FAC 2005–96 is effective November 6, 2017.

Dated: October 23, 2017.

Shay D. Assad,

Director, Defense Pricing/Defense, Procurement and Acquisition Policy.

Dated: October 11, 2017.

Jeffrey A. Koses,

Senior Procurement Executive/Deputy CAO, Office of Acquisition Policy, U.S. General Services Administration.

Dated: October 3, 2017.

William P. McNally,

Assistant Administrator, Office of Procurement National Aeronautics and Space Administration.

[FR Doc. 2017–23589 Filed 11–3–17; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Chapter 1

[Docket No. FAR 2017–0051, Sequence No. 1]

Federal Acquisition Regulation; Federal Acquisition Circular 2005–96; Small Entity Compliance Guide

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Small Entity Compliance Guide.

SUMMARY: This document is issued under the joint authority of DOD, GSA, and NASA. This *Small Entity Compliance Guide* has been prepared in accordance with section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996. It consists of a summary of the rule appearing in Federal Acquisition Circular (FAC) 2005–96, which amends the Federal Acquisition Regulation (FAR). An asterisk (*) next to a rule indicates that a regulatory flexibility analysis has been prepared. Interested parties may obtain further information regarding this rule by referring to FAC 2005–96, which precedes this document. These documents are also available via the Internet at *http://www.regulations.gov.*

DATES: November 6, 2017.

FOR FURTHER INFORMATION CONTACT: Ms. Zenaida Delgado, Procurement Analyst, at 202–969–7207 for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at 202–501–4755. Please cite FAC 2005–96, FAR Case 2017–015.

RULE LISTED IN FAC 2005–96

Subject	FAR case	Analyst
Removal of Fair Pay and Safe Workplaces Rule	2017–015	Delgado.

SUPPLEMENTARY INFORMATION: Summary for the FAR rule follows. For the actual revisions and/or amendments made by this FAR case, refer to the specific item number and subject set forth in the document following this item summary. FAC 2005–96 amends the FAR as specified below:

Removal of Fair Pay and Safe Workplaces Rule (FAR Case 2017–015)

This final rule rescinds the final rule at 81 FR 58562 (August 25, 2016). This was FAR Case 2014–025, Fair Pay and Safe Workplaces, which was a significant rule under Executive Order (E.O.) 12866 and a major rule under 5 U.S.C. 804. Because of a Federal court injunction, the only provision or clause that had gone into effect was FAR 52.222–60, Paycheck Transparency (Executive Order 13673), which was included in solicitations starting on January 1, 2017. On March 27, 2017, Public Law 115–11 disapproved the rule under the Congressional Review Act. Therefore, by law, the rule has no force or effect, including the FAR 52.222–60 clause. Also on March 27, 2017, E.O. 13782, Revocation of Federal Contracting Executive Orders, rescinded the E.O.s that originally authorized the rule. All steps should be taken to ensure that no sections, provisions, or clauses of the final rule are implemented.

Dated: October 11, 2017.

William F. Clark,

Director, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Governmentwide Policy.

[FR Doc. 2017–23598 Filed 11–3–17; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1, 4, 9, 17, 22, 42, and 52

[FAC 2005–96; FAR Case 2017–015; Docket No. 2017–0002; Sequence No. 1]

RIN 9000–AN52

Federal Acquisition Regulation; Removal of Fair Pay and Safe Workplaces Rule

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: DoD, GSA, and NASA are issuing a final rule amending the Federal Acquisition Regulation (FAR) to implement a public law that disapproved the final rule, Fair Pay and Safe Workplaces (FAR Case 2014–025), and an Executive Order (E.O.) dated March 27, 2017, that rescinded the prior Executive orders authorizing that rule.

DATES:

Effective date: November 6, 2017.

Applicability dates: See section I.F of the **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Ms. Zenaida Delgado, Procurement Analyst, at 202–969–7207 for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat Division at 202–501–4755. Please cite FAC 2005–96, FAR Case 2017–015.

SUPPLEMENTARY INFORMATION:

I. Background

A. The FAR Rule Implementing E.O. 13673

FAR Case 2014–025 implemented E.O. 13673, Fair Pay and Safe Workplaces, dated July 31, 2014 (79 FR 45309, August 5, 2014), amended by section 3 of E.O. 13683, dated December 11, 2014 (79 FR 75041, December 16, 2014) and E.O. 13738, dated August 23, 2016 (81 FR 58807, August 26, 2016).

The FAR Case final rule was published in the **Federal Register** on August 25, 2016, at 81 FR 58562. It was to be effective on October 25, 2016. Certain aspects of the rule were to be phased in. For example, the clause at FAR 52.222–60, Paycheck Transparency (Executive Order 13673), was to be inserted in solicitations starting January 1, 2017, if the estimated value of the resultant contract was to exceed $500,000.

The Department of Labor (DOL) published ''Guidance for Executive Order 13673, 'Fair Pay and Safe Workplaces''' on the same day as the FAR final rule was published (81 FR 58653).

B. Injunction and Federal Acquisition Regulatory Council Memorandum

On October 7, 2016, the Associated Builders and Contractors of Southeast Texas, Inc., the Associated Builders and Contractors, Inc., and the National Association of Security Companies filed a lawsuit in the United States District Court for the Eastern District of Texas (Civil Action No. 1:16–CV–425) seeking to overturn the final rule. On October 13, 2016, the plaintiffs filed an ''Emergency Motion for Temporary Restraining Order and Preliminary Injunction.''

On October 24, 2016, the District Court issued a ''Memorandum and Order Granting Preliminary Injunction.'' The Court Order (on page 31) stated: ''Defendants are enjoined [from] implementing any portion of the FAR Rule or the DOL Guidance relating to the new reporting and disclosure requirements regarding labor law violations as described in E.O. 13673 and implemented in the FAR Rule and DOL Guidance. Further, Defendants are enjoined from enforcing the restriction on arbitration agreements.''

The Court Order did not enjoin the Paycheck Transparency clause, FAR 52.222–60. Starting January 1, 2017, this clause was prescribed for solicitations if the estimated value of the resultant contract would exceed $500,000.

On October 25, 2016, the Federal Acquisition Regulatory Council issued a memorandum to the Chief Acquisition Officers, Senior Procurement

Executives, Defense Acquisition Regulations Council, and Civilian Agency Acquisition Council directing that all steps necessary be taken to ensure that the enjoined sections, provisions, and clauses of the final rule would not be implemented until such time as the injunction is terminated. The Council enumerated specific steps to be taken at a minimum, including the following:

1. Ensure that new solicitations do not include representations or clauses that the enjoined coverage of the rule would have required—*i.e.,* the representation at FAR 52.222–57 and its commercial items version at paragraph(s) of 52.212–3, 52.222–58 and 52.222–59, which would have directed disclosure of labor law violation decisions by offerors or contractors, and 52.222–61, which would have required an offeror or contractor to agree to restrict the use of mandatory pre-dispute arbitration agreements.

2. If a solicitation had been issued with representations or clauses listed in the previous paragraph 1, amend those solicitations immediately to remove those representations and clauses. Additionally, agencies were directed not to take any action on information, if any, submitted in response to those representations and clauses.

3. Ensure that contracting officers do not implement the procedures in FAR 22.2004–2, 22.2004–3, 22.2004–4, or associated changes in FAR parts 9 and 42.

The FAR Council requested that agencies share these instructions widely among their workforces and posted the Memorandum online. Also, the DOL re-posted the Memorandum at the top of its then-existing information page on the Fair Pay and Safe Workplaces E.O.

In further compliance with the terms of the Court Order, as explained by the FAR Council in its October 25, 2016 Memorandum, GSA's Integrated Award Environment immediately ceased all actions to release the changes for the System for Award Management (SAM) that would have supported bidder and contractor submission of information on labor law violation decisions, as well as the changes that would have supported public disclosure of this information in the Federal Awardee Performance and Integrity Information System (FAPIIS).

C. FAR Rule Implementing the Injunction

As an additional step to ensure full awareness of, and compliance with, the Court Order, DoD, GSA, and NASA, on behalf of the FAR Council, took a more comprehensive administrative action to amend the August 25, 2016, final rule to include caveats throughout the rule for each section, provision, and clause that was enjoined by the terms of the Court Order. On December 16, 2016, the rule implementing the injunction was published as a final rule (81 FR 91636).

The Court Order did not enjoin implementation of the coverage on paycheck transparency; therefore, the December 16, 2016, amendments did not impact this aspect of the rule. Starting January 1, 2017, this clause was prescribed for solicitations if the estimated value of the resultant contract was to exceed $500,000.

D. H.J. Res. 37 (Pub. L. 115–11)

In March 2017, under the Congressional Review Act (5 U.S.C. chapter 8), Congress passed House Joint Resolution 37 (Pub. L. 115–11), which stated the following:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Congress disapproves the rule submitted by the Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration relating to the Federal Acquisition Regulation (published at 81 FR 58562 (August 25, 2016)), and such rule shall have no force or effect.

On March 27, 2017, House Joint Resolution 37 was signed into law and became Public Law 115–11.

Under 5 U.S.C. 801(b)(1), a rule shall not take effect or continue if the Congress enacts a joint resolution of disapproval, described under 5 U.S.C. 802. Under 5 U.S.C. 801(f), any rule that takes effect and later is made of no force or effect by enactment of a joint resolution under section 802 shall be treated as though such rule had never taken effect.

Congress disapproved the entire FAR rule that was published on August 25, 2016.

As a result, the rule being published today removes that entire rule including the amendments published on December 16, 2016.

By statute, the rule shall be treated as if it had never taken effect. Only FAR 52.222–60, Paycheck Transparency (Executive Order 13673), had gone into effect; it was authorized to be included in solicitations starting on January 1, 2017, and may have been included in recently awarded contracts. This and all other Fair Pay and Safe Workplaces provisions and clauses are unenforceable. See the Applicability paragraph under Dates at the beginning of this preamble for instructions to contracting officers on removal of the clause.

E. Executive Order 13782

On March 27, 2017, the same date on which H.J. Res 37 was signed, President Trump signed E.O. 13782 (82 FR 15607, March 30, 2017). This E.O. revoked E.O. 13673, section 3 of E.O. 13683, and E.O. 13738, which were the authority for the Fair Pay and Safe Workplaces rule. E.O. 13782 also directed reconsideration of existing rules, regulations, guidance, guidelines, or policies implementing or enforcing E.O. 13673, section 3 of E.O. 13683, and E.O. 13738. The rule published today also implements E.O. 13782.

Public Law 115–11 and E.O. 13782 did not specifically address the DOL Guidance. However, that Guidance has no legal effect in the absence of the FAR rule. Accordingly, the DOL is publishing its own notice rescinding the DOL Guidance pursuant to Public Law 115–11 and E.O. 13782.

F. Applicability

This rule applies to solicitations issued and contracts awarded before, on, or after October 25, 2016—*i.e.,* the effective date of the final FAR rule published in the **Federal Register** at 81 FR 58562 on August 25, 2016. All clauses identified in the final FAR rule are unenforceable by law and considered to have never taken effect, even if they were included in a contract. Contracting officers are directed to modify, to the maximum extent practicable, existing contracts to remove any solicitation provisions and contract clauses related to the Fair Pay and Safe Workplaces rule because they are unenforceable by law. Since the FAR 52.222–60 clause, Paycheck Transparency (Executive Order 13673), had gone into effect, starting on January 1, 2017, that clause will need to be removed if it was included. Other provisions, *i.e.,* paragraph (s) of FAR 52.212–3, 52.222–57, 52.222–58, 52.222–59, and 52.222–61, had been enjoined by a Court order prior to their effective date and should not have been incorporated into contracts.

II. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. The rule being removed (FAR Case 2014–025) was a significant regulatory action and, therefore, was subject to review under Section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. It was a major rule under 5 U.S.C. 804.

This rule being published today is a significant regulatory action and, therefore, was subject to review under Section 6(b) of E.O. 12866; it has been determined to be a major rule under 5 U.S.C. 804. This rule removes a prior rule that had been considered a major rule.

The Regulatory Impact Analysis (RIA) that included a detailed discussion and explanation about the assumptions and methodology used to estimate the cost of the final rule under FAR Case 2014–025 is available at *https://www.regulations.gov* as a supporting document under FAR–2014–0025–0933. Exhibit 8 of the RIA presented a summary of the first-year, second-year, and annualized quantifiable costs of implementing the disclosure and paycheck transparency requirements of the final rule to contractors and subcontractors, as well as the estimated Government costs. The chart below shows the total monetized cost in the first and second year, and annualized costs with a 3 and 7 percent discount to contractors and the Government.

	Monetized year 1 costs	Monetized year 2 costs	Annualized costs, 3% discounting	Annualized costs, 7% discounting
Total employer costs	$458,352,949	$413,733,272	$398,541,816	$400,939,861
Government costs	15,772,150	10,129,299	10,944,157	11,091,474
Total	474,075,099	423,862,572	409,535,973	412,031,335

Most of the 2016 final rule's provisions were preliminarily enjoined before compliance would have been required. (In addition, on March 27, 2017, under E.O. 13782, the President rescinded E.O. 13673, the Order that served as the underpinning of the rule. On the same day, the President signed the Joint Resolution that Congress passed under the Congressional Review Act disapproving the final rule.) Therefore, if the impacts of this final rule are assessed relative to current (and anticipated future) practice, the resulting impacts are negligible. If, on the other hand, this final rule's effects are assessed relative to a baseline in which regulated entities comply with the 2016 final rule, the costs summarized in the preceding table (minus the relatively small portion that may already have been incurred as entities prepared to comply with the regulatory provisions that were not enjoined) would be eliminated as a result of this rulemaking's removal of the 2016 final rule.

III. Executive Order 13771

Consistent with E.O. 13771 (82 FR 9339, February 3, 2017), Reducing Regulation and Controlling Regulatory Costs, and the Office of Management and Budget (OMB) guidance on implementing E.O. 13771 (April 5, 2017), the annualized cost savings of $412 million (with a 7 percent discount rate) associated with this final rule have been estimated, as shown in section II, above. (Of particular relevance is the statement in OMB's guidance that costs associated with ''regulatory actions overturned by subsequently enacted laws . . . such as disapprovals of rules under the Congressional Review Act'' qualify as cost savings under E.O. 13771.) This rulemaking constitutes a deregulatory action under E.O. 13771.

IV. Regulatory Flexibility Act

The Regulatory Flexibility Act does not apply to this rule because this final rule does not constitute a significant FAR revision within the meaning of FAR 1.501–1, and 41 U.S.C. 1707 does not require publication for public comment. However, the rule reduces the burden on small entities as it rescinds the August 25, 2016, Fair Pay and Safe Workplaces (FAR Case 2014–025), major rule.

V. Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C. Chapter 35) applies to this rule, because this rule removes information collection requirements currently cleared by the Office of Management and Budget (OMB) under OMB clearance 9000–0195, Fair Pay and Safe Workplaces. The final rule, published August 25, 2016, contained the following summary table of the annual estimated cost to the public of the reporting burden:

TABLE 3—SUMMARY OF TABLE 1 ANNUAL ESTIMATED TOTAL COST TO THE PUBLIC OF REPORTING BURDEN

Number of respondents	24,183
Responses per respondent	17.3
Total annual responses	417,808
Hours per response	5.19
Total hours	2,166,815
Rate per hour (average)	$61.43
Total annual cost to public	$133,109,793

The requirements that would impose these burden hours are now removed from the FAR and OMB clearance 9000–0195 has been discontinued.

List of Subjects in 48 CFR Parts 1, 4, 9, 17, 22, 42, and 52

Government procurement.

Dated: October 11, 2017.

William F. Clark,

Director, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Governmentwide Policy.

Therefore DoD, GSA, and NASA amend 48 CFR parts 1, 4, 9, 17, 22, 42, and 52 as set forth below:

■ 1. The authority citation for 48 CFR parts 1, 4, 9, 17, 22, 42, and 52 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

PART 1—FEDERAL ACQUISITION REGULATIONS SYSTEM

1.106 [Amended]

■ 2. Amend section 1.106, by removing FAR segments ''52.222–57'', ''52.222–58'', ''52.222–59'' and ''52.222–60'' and their corresponding OMB Control Number ''9000–0195'', and the Note to 1.106.

PART 4—ADMINISTRATIVE MATTERS

4.1202 [Amended]

■ 3. Amend section 4.1202 by removing paragraph (a)(22), and Note to paragraph (a)(22), and redesignating paragraphs (a)(23) through (34) as paragraphs (a)(22) through (33), respectively.

PART 9—CONTRACTOR QUALIFICATIONS

9.104–4 [Amended]

■ 4. Amend section 9.104–4 by removing paragraph (b), and Note to paragraph (b), and redesignating paragraph (c) as paragraph (b).

9.104–5 [Amended]

■ 5. Amend section 9.104–5 by removing paragraph (d), and Note to paragraph (d), and redesignating paragraph (e) as paragraph (d).

■ 6. Amend section 9.104–6 by—
■ a. Revising paragraph (b)(4), and removing Note to paragraph (b)(4); and
■ b. Removing paragraph (b)(6), and Note to paragraph (b)(6).

The revision reads as follows:

9.104–6 Federal Awardee Performance and Integrity Information System.

* * * * *

(b) * * *

(4) Since FAPIIS may contain information on any of the offeror's previous contracts and information covering a five-year period, some of that information may not be relevant to a determination of present responsibility, *e.g.,* a prior administrative action such as debarment or suspension that has expired or otherwise been resolved, or information relating to contracts for completely different products or services.

* * * * *

9.105–1 [Amended]

■ 7. Amend section 9.105–1 by removing paragraph (b)(4), and Note to paragraph (b)(4).

9.105–3 [Amended]

■ 8. Amend section 9.105–3 by removing from paragraph (a) ''9.105–2(b)(2)(iii) and''.

PART 17—SPECIAL CONTRACTING METHODS

17.207 [AMENDED]

■ 9. Amend section 17.207 by—
■ a. Removing from paragraph (c)(6) ''considered;'' and adding ''considered; and'' in its place;
■ b. Removing from paragraph (c)(7) ''ratings; and'' and adding ''ratings.'' in its place; and
■ c. Removing paragraph (c)(8), and Note to paragraph (c)(8).

PART 22—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

■ 10. Revise section 22.000 to read as follows:

22.000 Scope of Part.

This part—

(a) Deals with general policies regarding contractor labor relations as they pertain to the acquisition process;

(b) Prescribes contracting policy and procedures for implementing pertinent labor laws; and

(c) Prescribes contract clauses with respect to each pertinent labor law.

■ 11. Amend section 22.102–2 by—
■ a. Revising the section heading and paragraph (c)(1); and
■ b. Removing paragraph (c)(3), and Note to paragraph (c)(3).

The revision reads as follows:

22.102–2 Administration.

* * * * *

(c)(1) The U.S. Department of Labor is responsible for the administration and enforcement of the Occupational Safety and Health Act. The Department of Labor's Wage and Hour Division is responsible for administration and enforcement of numerous wage and hour statutes including—

(i) 40 U.S.C. chapter 31, subchapter IV, Wage Rate Requirements (Construction);

(ii) 40 U.S.C. chapter 37, Contract Work Hours and Safety Standards;

(iii) The Copeland Act (18 U.S.C. 874 and 40 U.S.C. 3145);

(iv) 41 U.S.C. chapter 65, Contracts for Materials, Supplies, Articles, and Equipment Exceeding $15,000;

(v) 41 U.S.C. chapter 67, Service Contract Labor Standards.

* * * * *

22.104 [Removed]

■ 12. Remove section 22.104.

Subpart 22.20—[Removed and Reserved]

■ 13. Remove and reserve Subpart 22.20.

PART 42—CONTRACT ADMINISTRATION AND AUDIT SERVICES

42.1502 [Amended]

■ 14. Amend section 42.1502 by removing paragraph (j), and Note to paragraph (j).

42.1503 [Amended]

■ 15. Amend section 42.1503 by—
■ a. Removing from paragraph (a)(1)(i) ''agency labor compliance advisor (ALCA) office (see subpart 22.20),'' and removing Note to paragraph (a)(1)(i);
■ b. Removing from paragraph (a)(1)(ii) ''ALCA,'' and removing Note to paragraph (a)(1)(ii); and
■ c. Removing paragraph (h)(5), and Note to paragraph (h)(5) introductory text.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 16. Amend section 52.204–8 by—
■ a. Revising the date of the provision;
■ b. Removing paragraph (c)(1)(xvi), and Note to Paragraph (c)(1)(xvi); and
■ c. Redesignating paragraphs (c)(1)(xvii) through (xxv) as (c)(1)(xvi) through (xxiv), respectively.

The revision reads as follows:

52.204–8 Annual Representations and Certifications.

* * * * *

https://www.youtube.com/watch?v=B-OFXUaMIv8Annual Representations and Certifications (NOV 2017)

* * * * *

■ 17. Amend section 52.212–3 by—
■ a. Revising the date of the provision;
■ b. Removing from paragraph (a), the following definitions ''Administrative merits determination'', ''Arbitral award or decision'', ''Civil judgment'', ''DOL Guidance'', ''Enforcement agency'', ''Labor compliance agreement'', Labor laws'', and ''Labor law decision'';
■ c. Removing Note to paragraph (a); and
■ d. Removing and reserving paragraph (s), and removing the Note to paragraph (s).

The revision reads as follows:

52.212–3 Offeror Representations and Certifications—Commercial Items.

* * * * *

Offeror Representations and Certifications—Commercial Items (NOV 2017)

* * * * *

■ 18. Amend section 52.212–5 by—
■ a. Revising the date of the clause;
■ b. Removing paragraphs (b)(35), Note to paragraph (b)(35), and (b)(36), and redesignating paragraphs (b)(37) through (61) as (b)(35) through (59), respectively;
■ c. Removing paragraphs (e)(1)(xvii), Note to paragraph (e)(1)(xvii), and (e)(1)(xviii), and redesignating paragraphs (e)(1)(xix) through (xxii) as (e)(1)(xvii) through (xxi), respectively; and
■ d. Amending Alternate II by—
■ i. Revising the date of the Alternate; and
■ ii. Removing paragraphs (e)(1)(ii)(P), Note to paragraph (e)(1)(ii)(P), and (e)(1)(ii)(Q) of Alternate II, and redesignating paragraphs (e)(1)(ii)(R) through (U) as (e)(1)(ii)(P) through (S), respectively.

The revisions read as follows:

52.212–5 Contract Terms and Conditions Required to Implement Statutes or Executive Orders—Commercial Items.

* * * * *

Contract Terms and Conditions Required To Implement Statutes or Executive Orders—Commercial Items (NOV 2017)

* * * * *

Alternate II (NOV 2017). * * *

* * * * *

■ 19. Amend section 52.213–4 by revising the date of the clause and paragraph (a)(2)(viii) to read as follows:

52.213–4 Terms and Conditions—Simplified Acquisitions (Other Than Commercial Items).

* * * * *

Terms and Conditions—Simplified Acquisitions (Other Than Commercial Items) (NOV 2017)

* * * * *

(a) * * *

(2) * * *

(viii) 52.244–6, Subcontracts for Commercial Items (NOV 2017)

* * * * *

52.222–57 through 52.222–61 [Removed and Reserved]

■ 20. Remove and reserve sections 52.222–57 through 52.222–61.

■ 21. Amend section 52.244–6 by—

■ a. Revising the date of the clause; and

■ b. Removing paragraphs (c)(1)(xiv), Note to paragraph (c)(1)(xiv), and (c)(1)(xv), and redesignating paragraphs (c)(1)(xvi) through (xx) as (c)(1)(xiv) through (xviii), respectively.

The revision reads as follows:

52.244–6 Subcontracts for Commercial Items.

* * * * *

Subcontracts for Commercial Items (NOV 2017)

* * * * *

[FR Doc. 2017–23590 Filed 11–3–17; 8:45 am]

BILLING CODE 6820–EP–P

FEDERAL REGISTER

Vol. 82 Monday,
No. 213 November 6, 2017

Part IV

The President

Federal Register
Vol. 82, No. 213
Monday, November 6, 2017

Presidential Documents

Title 3—

The President

Proclamation 9665 of October 31, 2017

Critical Infrastructure Security and Resilience Month, 2017

By the President of the United States of America

A Proclamation

During Critical Infrastructure Security and Resilience Month, we emphasize the importance of safeguarding our Nation's infrastructure. Critical infrastructure systems are those physical and virtual assets that are essential to our physical security, economic security, or public health. We need resilient, well-maintained critical infrastructure so that all Americans have access to safe food, reliable electricity, clean water, convenient transportation systems, quality public health and medical services, and instant communication every day.

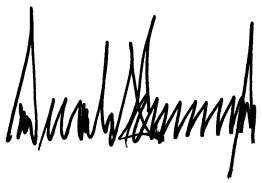
The natural disasters our country has experienced in recent months provide a sobering reminder of the necessity for secure, reliable, and resilient infrastructure. Damage from wind, flood, and fire has ravaged communities and industries, damaging electric grids and transmission lines, dams, roads, cellular towers, hospitals, nursing homes, and businesses. America's critical infrastructure is among the most secure and resilient in the world, but as recent events have shown, we must continue to invest in research and development to ensure the vital services it provides withstand complex and dynamic threats.

Our critical infrastructure also faces threats from capacity-induced strain, terrorist attacks, accidents, pandemics, space weather, and cyberattacks. To confront these diverse challenges systematically, we must take steps to enhance our Nation's economic, intellectual, and technological leadership. My Administration will help our businesses invest in needed capital and research and development by reducing burdensome regulations and enacting comprehensive tax reform. We will also renew our Nation's focus on ensuring that the next generation has the education and training, particularly in science, technology, engineering, and math, required to meet the known and unknown threats of the future.

This month, we recommit ourselves to keeping America strong, prosperous, and resilient. We highlight the importance of infrastructure in our daily lives and challenge all Americans to help protect, preserve, and strengthen these indispensable national capabilities.

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 November 2017 as Critical Infrastructure Security and Resilience Month. I call upon the people of the United States to recognize the importance of protecting our Nation's infrastructure and to observe this month with appropriate measures to enhance our national security and resilience.

IN WITNESS WHEREOF, I have hereunto set my hand this thirty-first day of October, 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. 2017–24278
Filed 11–3–17; 11:15 am]
Billing code 3295–F8–P

Presidential Documents

Proclamation 9666 of October 31, 2017

National Adoption Month, 2017

By the President of the United States of America

A Proclamation

Every year, generous and loving families adopt thousands of children and provide them with the affection, attention, and opportunity they deserve. Adoption is a true blessing that greatly enriches the lives of parents and children alike. During National Adoption Month, we celebrate the thousands of families who have expanded through adoption, and we acknowledge the strength and resiliency of the children who are still waiting to find their forever home.

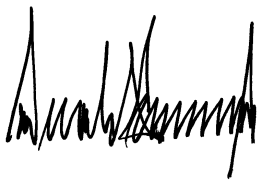
My Administration recognizes the profound importance of adoption for the American family. Adoption is a life-changing and life-affirming act that signals that no child in America—born or unborn—is unwanted or unloved. Adoptive parents are a selfless and loving part of God's plan for their future children. As a Nation, we extend sincere appreciation and gratitude to those families who have welcomed a young person into their hearts and homes, sharing the precious gift of family and a lifetime of support.

We must continue to remove barriers to adoption whenever we can, so that the love and care of prospective adoptive parents can be directed to children waiting for their permanent homes. This year's National Adoption Month, we focus on our commitment to helping older youth experience the transformative value of permanency and love. A child is never too old for adoption. A supportive family can provide the critical direction that older children need as they enter adulthood, helping them attain educational and employment goals, and, in certain cases, avoid homelessness or incarceration. We never outgrow the need for family, and older youth who are adopted are more likely to finish high school and feel emotionally secure than those who age out of foster care without a permanent family.

This month, let us celebrate the gift of adoption—an act of love that provides deserving young people with the foundation they need to achieve their potential and pursue the American Dream.

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 November 2017 as National Adoption Month. I encourage all Americans to observe this month by helping children in need of a permanent home secure a more promising future with a forever family, so they may enter adulthood with the love we all deserve.

IN WITNESS WHEREOF, I have hereunto set my hand this thirty-first day of October, 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. 2017–24289
Filed 11–3–17; 11:15 am]
Billing code 3295–F8–P

Presidential Documents

Proclamation 9667 of October 31, 2017

National Entrepreneurship Month, 2017

By the President of the United States of America

A Proclamation

National Entrepreneurship Month celebrates one of our Nation's proudest qualities: our innovative, hardworking, entrepreneurial spirit. American entrepreneurs invent and sell fascinating and endlessly useful new products and services, creating millions of jobs and driving American global leadership along the way. This month, we emphasize the importance of creating and maintaining an economic and regulatory environment that helps new businesses thrive and inspires generations of entrepreneurs for the future.

For America to be the land of opportunity, we must ensure that entrepreneurs have access to the capital, markets, and networks they need to get off the ground, to finance and build helpful innovations, and to export their products and services around the world. My Administration will continue its work to eliminate unnecessary, burdensome regulations and to fight for a simpler, fairer tax code that eases burdens on doing business and enhances access to capital. We want entrepreneurs to spend less time dealing with red tape and more time growing their businesses.

The American Dream should be within reach of all those who work hard. For too long, women, despite hard work and a drive to succeed, faced significant barriers in achieving their economic vision. Today, we celebrate that women entrepreneurs are growing their businesses all over the country. The number of women-owned firms is growing much faster than the national average for all firms. Our Nation has more than 11 million women-owned businesses that employ nearly 9 million people and generate more than $1 trillion in revenue. My Administration is committed to expanding opportunities for women entrepreneurs, including by expanding women's access to needed capital and networks, because our economy and our communities thrive when women are empowered.

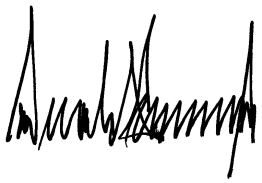
For our entrepreneurs to thrive, we must protect their innovations, which are the result of their long hours of work and years of training. My Administration is committed to ensuring that American and global intellectual property regimes firmly protect American innovations at home and abroad. Our entrepreneurs have already done great things with that research and innovation—like bringing us the smartphones that connect us more closely, the medicine that keeps us and our loved ones healthy for longer than ever before, and the myriad other technologies that make our lives better, at home and at work. Our researchers deserve their investments of time and effort—their property—to be protected against theft and unfair practices.

Entrepreneurship has played an important part of my life and the lives of my family members. I know that starting and growing a business takes tremendous grit and that facing the unknown requires determination. I also know that taking on that risk makes our Nation and our world a better place. Entrepreneurship is the fuel of our Nation's economic engine, and this month, I call upon Americans to recognize the entrepreneurs who strengthen our economy, drive creativity, and increase the vibrancy of our great Nation.

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 November 2017 as National Entrepreneurship Month. I call upon all Americans to commemorate this month with appropriate programs and activities and to celebrate November 21, 2017, as National Entrepreneurs' Day.

IN WITNESS WHEREOF, I have hereunto set my hand this thirty-first day of October, 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. 2017–24293
Filed 11–3–17; 11:15 am]
Billing code 3295–F8–P

Presidential Documents

Proclamation 9668 of October 31, 2017

National Family Caregivers Month, 2017

By the President of the United States of America

A Proclamation

Every day, compassionate Americans devote time, energy, and resources to ensure that family members who are disabled, elderly, chronically ill, or injured can remain in the stability and comfort of familiar surroundings. During National Family Caregivers Month, we honor those whose extraordinary selflessness provides others with independence and comfort.

The unselfish devotion of family caregivers affirms the importance of respecting the dignity of life in all stages and underscores the importance of the family unit. Family caregivers empower their spouses, parents, and siblings to maintain ties with family, friends, and community. They also enable their loved ones to live with a measure of independence, sense of security, and peace of mind.

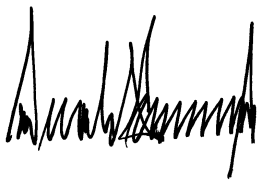
Many family caregivers provide innumerable services to people in need, including meal preparation, shopping, finance management, transportation, and companionship. In addition, they often manage both simple and complex healthcare issues, and coordinate medical appointments to ensure continuity of care. Caregivers must often be available around the clock, which can require them to forgo or postpone priorities for their own lives. Through sacrificial love, caregivers endure emotional, physical, and financial strain for the sake of another.

My Administration proudly supports community efforts and programs across the country that equip caregivers to navigate emotionally complex situations. The Administration for Community Living, through the National Family Caregiver Support Program and Lifespan Respite Care Program, facilitates services for eligible caregivers, including counseling, training, support groups, and respite care. The Caregiver Support Program within the Department of Veterans Affairs helps address the specific needs of those who provide critical support to our Nation's veterans, offering education, financial assistance, peer support mentoring, and respite care services to eligible family members.

Each November we acknowledge the commitment of exceptional Americans who embody the compassion and spirit of our Nation. We support the life-affirming work of our Nation's caregivers and thank them for the sacrificial devotion that improves the lives and honors the dignity of their loved ones.

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 November 2017 as National Family Caregivers Month. I encourage all Americans to acknowledge, and express our gratitude to, all who provide compassionate care to enhance the lives of their loved ones in need.

IN WITNESS WHEREOF, I have hereunto set my hand this thirty-first day of October, 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. 2017–24294
Filed 11–3–17; 11:15 am]
Billing code 3295–F8–P

Presidential Documents

Proclamation 9669 of October 31, 2017

National Native American Heritage Month, 2017

By the President of the United States of America

A Proclamation

American Indians and Alaska Natives are inextricably linked with the history of the United States. Beginning with the Pilgrims' arrival at Plymouth Colony and continuing until the present day, Native American's contributions are woven deeply into our Nation's rich tapestry. During National Native American Heritage Month, we honor and celebrate the first Americans and recognize their contributions and sacrifices.

Native Americans have influenced every stage of America's development. They helped early European settlers survive and thrive in a new land. They contributed democratic ideas to our constitutional Framers. And, for more than 200 years, they have bravely answered the call to defend our Nation, serving with distinction in every branch of the United States Armed Forces. The Nation is grateful for the service and sacrifice of all American Indians and Alaska Natives.

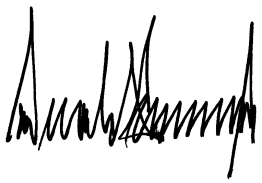
My Administration is committed to tribal sovereignty and self-determination. A great Nation keeps its word, and this Administration will continue to uphold and defend its responsibilities to American Indians and Alaska Natives. The United States is stronger when Indian Country is healthy and prosperous. As part of our efforts to strengthen American Indian and Alaska Native communities, my Administration is reviewing regulations that may impose unnecessary costs and burdens. This aggressive regulatory reform, and a focus on government-to-government consultation, will help revitalize our Nation's commitment to Indian Country.

In addition to adopting policies to enhance economic well-being of Native American communities, my Administration will always come to the aid of Native American people in times of crisis. In the wake of Hurricane Irma, I signed the first Presidential Emergency Declaration for a tribal nation. We will ensure the Seminole Tribe of Florida has access to the resources it needs to rebuild. As part of our American family, Native Americans will never be left behind under this Administration. Together, we will strengthen the relationship between the United States Government and Native Americans.

Native Americans are a testament to the deep importance of culture and vibrancy of traditions, passed down throughout generations. This month, I encourage all of our citizens to learn about the rich history and culture of the Native American people.

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 November 2017 as National Native American Heritage Month. I call upon all Americans to commemorate this month with appropriate programs and activities and to celebrate November 25, 2017, as Native American Heritage Day.

IN WITNESS WHEREOF, I have hereunto set my hand this thirty-first day of October, 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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FEDERAL REGISTER

Vol. 82 Monday,
No. 213 November 6, 2017

Part V

The President

Proclamation 9670—National Veterans and Military Families Month, 2017

Federal Register
Vol. 82, No. 213
Monday, November 6, 2017

Presidential Documents

Title 3—

The President

Proclamation 9670 of November 1, 2017

National Veterans and Military Families Month, 2017

By the President of the United States of America

A Proclamation

During National Veterans and Military Families Month, we honor the significant contributions made by American service members, their families, and their loved ones. We set aside this month surrounding Veterans Day to hold observances around the country to honor and thank those whose service and sacrifice represent the very best of America. We renew our Nation's commitment to support veterans and military families. They deserve it.

Our veterans are our heroes. Our Armed Forces have preserved the security and freedom that allow us to flourish as a Nation. They have braved bitter winters, treacherous jungles, barren deserts, and stormy waters to defend our Nation. They have left their families to face danger and uncertainty, and they have endured the wounds of war, all to protect our Nation's interests and ideals established during the Founding.

Our military families endure many hardships along with those who defend our Nation. They are separated from their loved ones for months on end and frequently relocated across the country and around the world. They often live far from their extended families, and they know what it is like to celebrate holidays and milestones with an empty seat at the table. Many military spouses face the task of making ends meet while their loved ones are away and of securing new employment with each change in duty station. Children of service members often grow up living a nomadic life—periodically calling a new place ''home'' and adjusting to different schools, trying out for new sports teams, and making new friends. In these lives of frequent change and transition, however, our incredible military families not only survive, they thrive.

It is our patriotic duty to honor veterans and military families. As part of our efforts to answer President Lincoln's charge to care for those who have ''borne the battle,'' I have asked the Department of Veterans Affairs (VA) to lead the Nation in a month of observances across the country to honor our veterans.

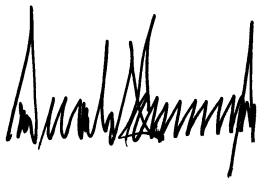
As veterans and military families attend these events, they will see the reforms and improvements that we have made at the VA. Over the last 9 months, we have made important changes that enable better service for our veterans. We have increased accountability and enhanced protections for whistleblowers. We have improved transparency, customer service, and continuity of care. We are working every day to ensure a future of high quality care and timely access to the benefits veterans have earned through their devoted service to a grateful Nation.

This month, in which Americans traditionally pause to give thanks for our blessings, it is fitting that we come together to honor with gratitude our extraordinary veterans and military families and their service to our country. May God continue to bless our Armed Forces and those families that love and support them.

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 November 2017

as National Veterans and Military Families Month. I encourage all communities, all sectors of society, and all Americans to acknowledge and honor the service, sacrifices, and contributions of veterans and military families for what they have done and for what they do every day to support our great Nation.

IN WITNESS WHEREOF, I have hereunto set my hand this first day of November, 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. 2017–24299
Filed 11–3–17; 11:15 am]
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